VOLUME 11

Settlement Reports 1872 – 1900 (I)

Russell's Sambalpur Settlement Report, 1872 · Maddox's Final Report on the Survey and Settlement of Orissa, 1890–1900, Vol. I

11

COMPILED BY

Upendra Luha, OAS

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is the difference between Sanskrit and Tamil. General Briggs finds that the aboriginal languages are so closely allied to the Tartaric dialects of Thibet and Bhutan that they must have a common origin, called Scythian by Professor Rask. In fact, he proves to his own satisfaction that "all the *vernacular* dialects of India owe their origin to Scythian tongues rather than to the Sanskrit of their conquerors". He concludes by endeavouring to trace the origin of the aboriginal tribes, and finds that the Assamese are Chinese, while the other tribes (including the ancient inhabitants of Orissa) are of the Thibetan branch, "probably north men of the Scythic stem".

Area occupied by Aborigines.

213. In order that I may not seem to have set forth at too great length the account of the aboriginal tribes, I would call attention to the fact that, although we have now to deal with a temporarily-settled area of only 5,000 square miles, the area administered for revenue purposes by Raja Man Singh as lately as the end of the sixteenth century was 13,935 square miles. Deducting the area of the Khurda Government Estate (about 1,000 square miles) and the southern portion of the Midnapore and Singhbhum Districts, (about 1,000 square miles) some 7,000 square miles of the latter mediaeval kingdom of Orissa was and is still occupied to a very large extent by aboriginal tribes. Even in the Government Estate of Khurda we find more distinct traces of aboriginal offices and institutions than in the other temporarily-settled areas under report (cf. Captain Macpherson's Article, Vol XVII, Part I., Bengal Asiatic Journal, and Lieutenant Frye's Article in the same Volume with Mr. W. C. Taylor's Khurda Selections, and the paragraph on Khurda in Moffat Mills' Minute).

From the evidence which we have before us the aboriginal inhabitants of Orissa seem to have been the Savars and Khonds (or more properly Kandhs). The earliest known were the Kalingas of the Mahabharata, and in later days "the Suari of Pliny and the Sabarae of Ptolemy," both these words being no doubt variants of Savar. It is well known also that a close connection exists between these tribes and the Bhuiyas.

Epochs of the history of Orissa.

214. Hunter's Orissa, Vol I, page 188, gives us an accout of the next stage.

The ancient annals of Orissa divide themselves into three long chapters, one of which is wholly obliterated by time, and the other two are more or less effaced. The first begins with the legendary Aryan conquest, when one of the five sons of the northern sage hived forth from the Sanskrit pale and founded the kingdom of Kalinga, probably atleast eight centuries before Christ. The second dates from the death of Buddha, 543 B. C. (477) and consists of Ceylonese legends of the sacred tooth, and a more or less mythical account of the first settlement of Budhism in Orissa. The third opens with the publication of Asoka's edicts, about 250 B. C., and closes with the accession of the Long-haired or Lion Dynasty in A. D. 274.

The caves at Khandagiri and Udaigiri represent says Hunter, ten centuries of human existence, in the course of which the ascetic character of Budhism passed into the ceremonial phase, and ended in the fashionable phase. He complains that Indian literature tells us nothing about the cave dwellers of Orissa, but finds evidence from the sacred books of Ceylon to show that in 543 B. C. (477) the tooth of Buddha was received by the King of Kalinga. After this the next authentic date is 250 B. C , the date of the inscription on the Daauli Rock near Sardaipur on the Puri road. Buddhism is by this time surely established. The race which is supposed, according to the temple Palm Leaf Records to have come to Orissa between 538 and 421 B. C. and to have conquered it, are incorrectly described as Yavans (Hunter, pages 201 and 214). Hunter considers the Yavans to have been Ionian Greeks, and dates their conquest of Orissa as between 306 and 57 B. C.

Antiochus is mentioned in the inscription at Dhauli, and Antiochus Theos was in fact at the height of his fame between 261 and 246 B. C. Hunter considers that Orissa received its Buddhism from the middle valley of the Ganges, and was under its influence till 473 A. D.

The passages in Hunter, Vol. I, pages 201 and 238 may well be read in this connection.

The Yavanas*.

215. Most authorities seem to agree that all the nations who have conquered Orissa came from the north, and if they were not Yavanas the enterprise and desire for

* See also Asiatic Society Journal, Vol. LXI, Part I, pages 58-59, "Graeco-Roman influence on the civilization of India" by Mr. V.A. Smith.

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conquest was inspired by the Yavanas or foreigners. It seems that Yavana is a very indistinct term, and it appears to represent nothing more than the people whose tongue meant *ya-ba* to those with whom they came in contact, in exactly the same way as *barbarian* meant the people who talked in the language of bar-bar or gibberish. I may add that Hunter sometimes seems to feel doubts about the identity of the Yavans with the Ionian Greeks, as the following passage shows :—

I hope that in my anxiety to tract the Greeks through India I have not been led to make the record more complete than the evidence will bear.

Maritime enterprise.

216. The general results of the information which we have, shows us that between 477 B. C. and 500 A. D. Orissa (*i. e.*, the plains of Orissa) was dominated by a people who professed the Buddhist religion, but do not resemble the Hindus of the present day in several important respects. Perhaps the most striking is the love of maritime enterprise, as shown in the port of Tamluk and in the harbour of the Chilka, and perhaps most of all in the colonisation of Java and Bali. There is no doubt that this colonisation did take place from Orissa. Bali, it may be noted, is the husband of the queen to whom the Rishi gave five sons, one of whom was Kalinga. We may add that the mode of payment of village officials and the village communities in Java are very similar to those of India (see Philips' Tagore lectures and his quotation of M. de Laveleye). It is also to be remembered that many invaders from the sea came into the country during the early part of the Christian era, *e.g.*, we have a very graphic account of the invasion of Red Arm (now considered to be a Singhalese pirate) and others generally called Yavans in the Palm Leaf Records of the Puri Temple.

Mediaeval history.

217. From 473 A. D. Orissa came under Aryan and Brahmanical influence, *i e.*, from the date of the first Lion King Yayati Kesari. Buddhism lost ground steadily, and in 657 A. D. the principal temple of Bhubaneswar was completed in honour of Siva. We know also that a body of Brahmans, whose numbers were said (probably with much exaggeration) to have been 10,000 were imported from Oudh (Kanauj) about 500 A. D. By such importations and invasions the plains of Orissa came finally and permanently under Aryan influence. The development of the political relations between the tribes and their conquerors is well described by Captain S. C. Macpherson in his paper on the Religion of the Khonds. He shows us that—

Feudal system.

The Orissa form of policy may be broadly defined to have been a despotic monarchy limited by a military aristocracy, while theocratic influences predominated. The body of territorial nobles were highly elevated in respect of rank, power, and possessions. They all bore the title of Raja. From their exclusive relations with unsubdued portions of the primitive races, enabling them to command their rude valour, they derived considerable power; and they mainly wielded the great distinctive institution of Orissa—its *Paiks*, or hereditary landed militia, an army numbering from 150,000 to 300,000 foot soldiers.

The more important of the petty principalities are possessed by families which trace their descent from the royal houses of Orissa or from the principal stocks of Rajputana. A considerable number were originally planted by the Orissa sovereigns among the hill frontier of their State dominion, for its protection from the incursions of the dispossessed races. In some quarters portions of the ancient population, where still unsubdued, formed zamindaris by inviting junior members of influential zamindari houses to become their Rajas.

Assimilation of Aborigines.

Captain Macpherson goes on to show the positions which the aboriginal races occupied. In the State domain, they became serfs; in the partially cleared tracts they remained in a simi servile condition under the rules of "vettiah", or as it is now generally called *betia, i. e.*, labour without hire. In the more inaccessible parts they were free tenants paying rent or giving service in lieu of rent—

They have everywhere tended—and the process goes on daily by the most curious steps—to become assimilated to their conquerors in manners and religion; and the Khonds, in particular, have formed by intermixture with them new castes, many of which hold a respectable place within the pale of Hindu society.

Dr. Rajendralal Mitra speaks of the coming of Vratya or degraded Kshatriyas amongst the Uriyas at a very much earlier date. A new impulse to progress was given :—

Two such markedly dissimilar forms of humanity as the ancient aboriginal Uriya and the Hindu could not abide together without causing a ferment; the strong must have told

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upon the weak, and it is to be presumed that thereupon, as in other parts of India, the history of Aryan civilisation repeated itself, driving the more obstinate and resolute from their homes to the shelter of hill-sides and forests and amalgamating, though partially, with the more docile and tractable, by admitting them into the pale of Hinduism as a servile race. The intercourse thus established led to extensive miscegenation, and the result was a mixed race who professed forms of Aryan religion tinctured more or less with the ancient faith of the country.

Stirling also at great length describes the relations between the tribes and their conquerors. His picture of the feudal system is considered by Captain Macpherson to be somewhat overdrawn, but Stirling seems to have been the earliest writer on the subject, and his account of the three tracts, the Eastern and Western Rajwara and the central tract or Khalisch, may well be perused. A curious survival of the incidents which attached to the hill and coast zamindaries still remains in the right of primogeniture. This right is till recognised in several of the best families in the old Rajwara tract, and occasionally even in the present temporarily-settled area.

218. So far I have endeavoured to show that from a nation composed of rude aborigines the Uriya people were transformed and are being transformed into an Aryan community.

At the beginning of this section I have set forth what appear to be the most important dates in the history of Orissa, and from 500 A. D. onwards the actual history of the Province may be read in the works of Stirling, Hunter, and Toynbee. The fiscal divisions and revenue administration of the Hindus and of their conquerors will be found in a later portion of the report.

To very briefly recapitulate: The aboriginal peoples appear to have been of what is known vaguely as Scythic stock. At the time of the Mahabharata they constituted a kingdom and were known as Kalingas. The kings of the Lunar dynasty asserted a vague suzerainty over them, and they were under Aryan influences which were strengthened by the ascendancy of Buddhism. It was not still the end of the fifth century that they came under effective Hindu domination, and after conquest by the Muhammedans in the end of the 16th century, and by the Mahrattas in the middle of the eighteenth, they came under British rule in the beginning of the nineteenth century.

(D)— The people of Ancient Orissa.

Castes of Orissa.

219. I give below a table of castes in Orissa arranged accordiug to their numerical importance. The figures are taken from the census returns of 1891.

Table of Castes in Orissa (1891) arranged according to their numerical importance.

I. Upwards of a lakh—			
Khandaits	600,000		
Brahmans	400,000		
Chasas	430,000		
Goalas	250,000		
Pans	160,000		
Kandras	135,000		
Tanti	132,000		
Karans	123,000		
Keots	122,000		
		2,352,000	
II. Less than a lakh and more than half a lakh—			
Barhis	87,000		
Bandharis	76,000		
Sudras (not defined)	75,000		
Dhobas	74,000		
Bauris	69,000		
		381,000	
Mohammedans		75,000	

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III. Thirty-nine to fifty thousand—

Goalas	....	....	47,000	
Savars	....	....	44,000	
Kumhars	....	....	42,000	
Rarhis	....	....	41,000	
Rajus	....	....	41,000	
Banias	....	....	40,000	
Gokhas	....	....	39,000	
				294,000

IV. More than ten thousand—

Kamars	....	....	33,800	
Kaibarttas	....	....	28,200	
Sonars	....	....	26,800	
Chamars	....	....	25,300	
Haris	....	....	20,800	
Malakaras	....	....	18,700	
Rajputs	....	....	15,800	
Telhis	....	....	14,500	
Kansaris	....	....	13,400	
Baisya	....	....	11,400	
				208,700

V. Others — small castes— persons described by religion, profession and nationality, about 400,000

Total, *nearly* 3,750,000

It would be out of place for me now to discuss fully the castes in Orissa. I should like to say enough to stimulate the interest of scholars and of others who have more leisure to study than myself. Probably the population of the three districts is now nearly four millions. I merely wish to say a few words about the Brahmans and Goalas, as two of the castes which represent the more Aryan types, the Khandaits as representing ancient Ksattriyas or warriors, the Chasas as a peaceful offshoot of the warriors, the Kandras and Pans (and Bhuiyas) as representing the rank and file of the army of which the Khandaits were chiefs, and lastly the Savars, Bauris, and Gokhas who still represent the aboriginal tribes. I hope that this very brief account of nearly three-quarters of the population may encourage further enquiries. There is especially one point on which inquiries may well be made. Every caste, whether literate or illiterate, has its different "*santak*" or caste mark which is affixed by the illiterate to documents in place of signature. Connection between castes and community of origin may perhaps be traced by further enquiry.

220. The process by which the superstitions and habits of the aboriginal tribes are superseded by Aryan customs is described in Mr. Risley's ethnological work. Illustrations of the fictions by means of which one caste or sub-caste may climb into another, and the devices by means of which non-Aryan castes have obtained the services of priests and even Brahmans to perform their ceremonies, are to be found plentifully in Orissa, and the different stages of development are perhaps more interesting (because they are more noticeable) than in almost any part of Bengal. We find in Mr. Risley's work the following :—

The Brahman who serves the Bhumij zamindar as a family priest takes a higher place than the casual Brahman who ministers to the spiritual needs of the ordinary cultivator.

As an illustration of the use of Brahmans may be mentioned the fact that the (true) karans, the most reputable caste after Brahmans in Orissa, will only employ Utkala Brahmans. The Principal step in bringing Orissa under Aryan influence was, as has been already mentioned, the importation of Brahmans from Oudh. Their attitude towards the local priests (the potatogrowers) described by Hunter is very remarkable. The number of Brahmans at present is about four lakhs. Of the castes which rank high in Orissa, as compared with the rank they obtain elsewhere, we may mention the Goalas.

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The Orissa Goalas affect a high standard of ceremonial purity, and look down upon the Behar and Bengal divisions of the caste. The Mathurabasis lay stress on the duty of making occasional pilgrimages to the home of the caste at Brindaban. The Jaduparia Goalas cherish the tradition that their ancestors came to Orissa from Jadupur. (Risley).

In 1891 we find that Goalas amounted to 2½ lakhs. Thus we have two of the most respected castes in Orissa (Brahmans and Goalas), amounting to 6½ lakhs, or more than one-sixth of the entire population. In both cases traditions remain regarding their ancient homes.

Mr. Risley's account of the Chasas, Pans, Bhuiyas and Khandaits* may well be persued. Out of the present population in the three districts with which we have to deal, more than one-third, *i. e.*, 1,300,000, consist of Khandaits, Chasas, Kandras, and Pans—all descendants of the old militia. As regards the Chasas, though they number more than 427,000 in the three districts, they are said to be Orh-Khandaits, a sub-caste of Khandaits. "Jana" is found as the "*surname*" of some of the lowest Chasas in Orissa, also of Pans, also of Kandras and also Khandaits. The Kandras and Pans are well known as having formed the rank and file of the ancient militia of the Province, and the leader of the paiks was a *khandait* or swordsman *i. e.*, the wearer of the khanda or sword.

In Orissa the Khandaits exhibit every variety of type from the high Aryan of good social position to the semi-aboriginal mongrel taken from the dregs of the people. (*Risley*)

The land-owning Khandaits in Orissa pretend to be Rajputs and affect strict conformity with orthodox usage. A Srestha Khandait assumes the sacred thread at the time of his marriage, a practice not uncommon among castes of dubious orgin who are pressing to be counted among the number of the twice-born. The Chasa Khandaits do not wear the thread, but Brahmans will take water from their hands and they occasionally intermarry with the Karan castes.

To my mind a study of the origin of the Khandaits in Orissa would throw great light on the history of the people. In paragraph 200 above we learn that Manu says that—

The Paundrakas, Odras, and Dravidas and various well-known nations on the north and north-western confines of India were Ksattriyas and sank generally to the rank of Sudras by reason of the neglect of sacred rites and the absence of Brahmans.

This was of course written long before 437 A. D., and shows that Orissa was then occupied by a military race. There seems to be no doubt that these Ksattriyas are the ancestors of the modern Khandaits. I simply put forward my belief that they were a military race who subdued the aboriginal tribes. It is impossible to say that they were Aryans, but at least they were known as Ksattriyas, *i. e.*, a warrior tribe (see also Dr. Rajendralal Mitra, as quoted in paragraph 217).

Furthermore, as we have seen, the Khandaits recruited their army from the Kandras and Pans, while they maintained the leadership as Khandaits or Swordsmen.

Owing to community of occupation, *i. e.*, service in the army, the Khandaits, Kandras, and Pans all bore the name of Jana. In the later stages Khandaits must have become a mixed race; the lower branches depended on cultivation only and became Chasas, and the higher branches, as their military duties became lighter, have also become cultivators or proprietors of estates.

We have seen that the highest Khandaits are still regarded as Rajputs, that the wealthy may intermarry with Karans, and that many Khandaits only wear the sacred thread after their marriage. In addition to all this, Chasas are generally known as Khandaits, and the wealthiest of them actually become so.

This elasticity (if it may be called so) bears out Mr. John Beames, who says that —

The Khandaits appear to be a heterogeneous group, made up at the one end of Aryan immigrants from Upper India, and at the other of recruits from a number of indigenous non-Aryan tribes.

Mr. Risley considers the Khandaits to be "Bhuiyans of the southern tribe". He has found :—

* Khandaits	...	600,000 (In 1891).
Chasas	...	427,000
Pans	...	156,000
Kandras	...	135,000
Total	...	1,318,000

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First, that the Khandaits of the Chota Nagpur Division who say that they immigrated from Orissa twenty generations ago, and many of them still speak Uriya, regulate their marriages by the totemistic sections characteristic of the southern Bhuiyans and call themselves Bhuiya-Paiks, *Secondly*, that among the numerous titles of Khandaits in Orissa we find the very singular names *Uttar, Dakkin*, and *Paschim-Kapat*, which are assumed by the Bhuiyas of Singhbhum. *Thirdly*, that as lately as 1825 (Stirling) the term Bhuiya was current as a synonym for Khandait even in Orissa, where it now seems to have fallen into disuse.

Again, speaking of Bhuiyas, Mr. Risley says :—

The main body of southern colonists furnished the tribal militia of Orissa, and have now sunk the Bhuiya in the Khandait or swordsman- a caste of admitted respectability in Orissa, and likely in course of time to transform itself into some sort of Rajput.

Another theory has been advanced as to the meaning of the name Khandait. It is suggested that Khandait may mean merely a *settler* instead of a swordsman. *Khanda* means a portion or portion of land as in Nahakhand and Bisalkhand (names of parganas) and in Khandpati. Khandait would then have a meaning analogous to Bhuiya.

In conclusion, I do not think we can accept as proved any more substantive facts than that, before the Aryans came in the fifth and sixth ceturies A. D., a warrior race now known as Khandaits had already conquered Orissa. Former tradition called them Ksattriyas. Stirling, too, frequently speaks of Khetris or Khandaits as synonymous and quotes the speach of Raja Anang Bhim Deo from the Puri Temple Records to show the ancient conquerors.

By the grace of Sri Jaggannath the Ganga Vansa Princes have after conquering the Khetris and Bhuinyas added to the kingdom .....

Dr. Mitra, however, (see paragraph 217) distinctly calls the Khetris, Hindus. They organised an army and enrolled some of the aboriginal tribes (Pans, Kandras, and Bhuiyas) in the rank and file and some as watchmen. The Bhuiyas as a tribe or caste have disappeared from the Orissa census list. Bhuiya survives as a very honourable title retained by the lords of the mountain-border. The connection between the religion of the Bhuiyas (tribe or caste) and that of the Khonds and of the dwellers on the western border of Orissa is alluded to in pargraph 223.

In the census of 1891 nearly 6 lakhs of persons have been recorded as Khandaits (excluding 10,000 in the Tributary Estates) and more than 4½ lakhs as Chasas. If to these be added Pans and Kandras we have a total of nearly 13¼ lakhs or more than a third of the population of the three districts.

The Pans, notwithstanding the strength they may have acquired by belonging to the militia have remained to this day a very low caste, and are not regarded as Hindus.

The Kandras rank somewhat higher than the Pans. I cannot find any account of the Kandras by Mr. Risley; the Pans are said to be of Dravidian origin, and Mr. Pargiter thinks they are the Parna-Savaras (leaf-wearing Savars) who are mentioned in Sanskrit books.

The professed religion of the Pans is a sort of bastard Hinduism, varying with the locality in which they happened to be settled, In Orissa and Singhbhum they incline to Vaishnavism. This veneer of Hinduism, however, has only recently been laid on, and we may discern underneath it plentiful traces of the primitive animism common to all the Dravidian tribes.

More than 156,000 Pans were found in Orissa in 1891 excluding 110,000 in the Tributary States, while Kandras in Orissa number 135,000. As regards aboriginal tribes, there are still 113,000 Bauris and Savaras in the plains of Orissa, and Gokhas make up 40,000. It is known also that the Keots are a very mixed race. They number 122,000.

221. I do not find in the literature on the subject of castes in Orissa any mention of the powers which the zamindar has of bestowing *"padita"* names but such a custom does exist and no doubt it is a very ancient one. In one case I found an elder brother Laksham Mahapatra and a younger brother Ram Jana, both living in the same village. The title of Mahapatra (Patra-a vessel, a fit and capable person, a chief) was bestowed by the zamindar.

It is true that the zamindar claimed to be a lineal descendent of Raja Man Singh, being one of the so-called Rajas of Agrapara (Tappa Pursand, Balasore), but

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an enquiry showed that for services rendered the title of Mahapatra was not infrequently bestowed by the zamindar in the neighbourhood. We know, too, that in the village the zamindar is often spoken of as "Sirkar" and his *nijjote* land as *Sirkari*. We know also that the Raja of Khurda is still regarded as the fountain of honour (*cf.* Captain Macpherson). Amongst the titles bestowed by him is that of "Paharaj". The derivation of this title, given me by a great a authority (Mr. R. Cornish, for many years Collector of Balasore), is as follows :—The Raja of Puri (Khurda) cannot die. On the death of one Raja and until his successor is put on the throne various chiefs are styled Raja in local areas. They bear the name of *Paharaj*, which is said to mean Raja for a "prahar". It must be added that many authorities believe that only the Zamindars of ancient lineage have powers to bestow *padita* names. Mr. James Taylor tells me that in the Tributary States of Baramba every other Pan or Hari is a "Singh", the Raja having distributed these titles for a few rupees. He tells me that in addition to the powers possessed by Government and Rajas to grant titles, an entry in the Settlement records is considered to constitute a valid claim to a title. "Many (titles) were granted at the last Settlement and during the present Settlement operations many wealthy or educated men of the lower castes have been promoted to higher castes by the grant of superior titles or surnames. With respect to the castes into which they have been received all scruples have been allayed by money payments, feasts, religious ceremonies, etc." I may add of my own experience that, among others, Government servants, honorary magistrates, and temporary muharrirs have improved their position. A few instances will suffice, *e. g.*, the substitution of Chaudhuri and of Samanta for Babu as a prefix; and of Mahapatra for Patra, or Patnaik for Naik as an affix. There is also a case of a Bengali zamindar, a Sunri, described in the Settlement papers as "Bengali" by caste. He hopes, I understand some day to be described as a Kayasth.

(E)—The Peoples of Ancient Orissa—their Religions

222. We have already seen that the earliest religion in Orissa was that of the aboriginal races inhabiting the forests and hills; next came Buddhism from the fifth century B. C., to the fifth century A. D. After this we find the worship of Siva, and lastly the worship of Vishnu (revived as it is said) in the twelfth century. It is, however, fairly certain that at Jajpur and elsewhere a form of Hindu religion existed before the advent of Buddhism. The number of Muhammadan converts is small, and of Christians inappreciable.

The Khonds.

223. The best account of the religion of the Khonds is to be found in Asiatic Society, Vol. XIII, Part II, Article XII, "An account of the Religion of the Khonds in Orissa," by Captain S. C. Macpherson. He describes a "distinct theism with a subordinate demonology. The superme being, the sole source of good, the God of light, created for himself a consort—the earth Goddess, the source of evil—and thereafter he created the earth with all it contains and man. The god of light and his rebel consort contended for superiority until the elements of good and evil became thoroughly commingled in man and throughout nature. Other deities were created by the supreme being to teach men the arts of life, etc. A god is Generally known as Pennu and a priest as Janni." Janni is probably the sacrificial priest, the *sebait* is the Deori (called Dehri, by Captain Macpherson).

It is also noteworthy that the name of the supreme God is Boora Pennu among the Khonds, while Colonel Dalton tells us of the Bhuiyas in Chota Nagpur that "Boram is the sun, the first and greatest of Gods and the creator."

"They (the Bhuiyas) have their own priests, called Deoris."

In every village in the plains of Orissa we find a village Goddess; her priest is generally a *Bhandari* or barber, and along the western frontier we still find forest deities presided over by *Deoris* (the *Dehri* priests of the Khonds), described by Mr. Risley as *Sudhas* but really I think, a class of *Malis*. These *Deoris* wear the sacred thread in Orissa. For accounts of the human sacrifices performed by the Khonds and for early instances of the connection between Khonds and Uriyas in the matter of religion as well as political arrangements, not only is Captain Macpherson's article above referred to full of information, but the Asiatic Society's Journal, part II, Vol. XVII, Article I, "On the Uriya and Khond Population of Orissa," by Lieutenant J. P. Frye may be perused.

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Mr. A. C. Sen, I. C. S., (letter No. 276 of 22nd February 1896, from the Magistrate of Puri to the Commissioner) offers some conjectures on "Early History of the District of Puri". He believes that a race of *Ods* or cultivators came from the south, spread over the plains of Orissa, drove the aboriginal into the hills (except the few fishing tribes), and with the help of Kama Brahmans colonised Orissa. I cannot find reference to the Kama Brahmans or to the *Ods* of the south in any work of authority, nor do either appear to be mentioned in any Sanskrit work. These conjectures are opposed to what Mr. Pargiter has collected from Sanskrit books in his paper but Mr. Sen derives his information from local tradition in Puri and I must allude to what he has said before introducing the very interesting information he gives us on the subject of the evolution of the religions of Orissa. Besides, we know that the kingdom of Orissa stretched down towards the Godaveri and that invasions from the south frequently appear in the palm leaf records of the Puri Temple.

It is worthy of note also (see Risley) that among the Brahamans of Orissa "unquestionable traces may be found of the totemistic beliefs which are common among the Dravidian and semi-Dravidian groups..... they may be due to the adoption by immigrant Brahmans of Dravidian beliefs and observances; or they may show that the Brahmans of Orissa are themselves Dravidians or have undergone a considerable infusion of Dravidian blood."

Mr. Sen introduces us to the Khonds and Savars inhabiting the sandstone hills of Dhauli, Khandagiri, Udaigiri, Rameswar, and Niladri. The above tribes lived in caves any worshipped forest deities, and we know that the earliest Buddhist monks found their way to these places. Not only do the village deities *(gram debati)* still exist, but we often find in the middle of cultivation rude shrines (generally a slab of stone smeared with red) still the object of adoration by the lower classes of the village community as the abode of a forest deity.

It does not appear that temples were erected to the aboriginal Gods or rather Goddesses; they were not seen, and they are even now supposed to live inside the cracks and crevices of the roots of trees and in stones. (See also Macpherson and Frye).

The Buddhists.

224. Dr. J. Stevenson, Asiatic Society's Journal, Article I, Vol. XIII, in a paper read on 21st November 1840, gives us an account of "The intermixture of Buddhism with Brahmanism in the religions of the Hindus of the Dekkan."

A reference may be made to this most interesting paper because it was one of the first of many enquiries. He describes Buddhism as "eminently a religion of reason; it rejects all that reason does not comprehend; and makes its constant appeal to *(buddhi)* the human intellect, as the supreme judge in religious things." I merely make this quotation here to show how such a religion must have influenced the superstitious Khonds and Savars in such parts of the plains of Orissa as came under the influence of the Buddhist monks.

There is, however, evidence to show that some colonisation from the north had already taken place. The Buddhists found "a priestly class already existing whom it was impossible to extirpate and unwise to ignore.....". "Doubtless the preceding waves of Aryan settlers who had from time to time made their way into Orissa formed the upper ranks of the Buddhist community." The edict of Asoka inscribed on the Dhauli rock also enjoins reverence to Brahmans. Moreover in Jajpur there are traces of the settlement of Brahmans in very early times and the alleged visit of the Pandavas to Virajatirtha (Jajpur, see paragraph 201) would show that there was an early settlement of Aryan religious ascetics in that place. As we have already seen the Buddhist religion flourished from 447 B. C. till 473 A. D. The accounts of the earliest settlements are mythical, but by 250 B. C., the date of the Asoka edicts, the religion was well established.

The Kama Brahmans.

225. To return to Mr. Sen: he conjectures that Kama Brahmans dealt the death below to the Buddhists. The Kamas, he says, were the first reformere of Orissa :—

Originally worshippers of Lingam (the *linga*) or the male generative organ, they had probable from their Study of the Vedas and the Upanishads and the philosophy of the Aryans, purified their religion from all sensual ideas and made it into a monotheistic religion of the creative energy of the deity. The most common name of their God was Mahadeva, the great god or the god of gods. They also gave to their god some of the best names yet

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known to the worshippers of any religion. He was called the Parameswar, or the lord of lords; the Bhubaneswar, lord of the world; Lokenath, the lord of the people, and Biswanath, the lord of the universe. They created beautiful temples and dedicated them to their god all over the Province, selecting the most beautiful sites existing in it, with the instinct of true lovers of nature. They built villages on the most advanced sanitary principles. They excavated magificent tanks and sank beautiful wells. They were great cultivators, and with the help of the Odis reclaimed almost the whole of the culturable waste land of the province. They were the first to make embankments and to raise roads in Orissa.

These are indeed glowing periods.

Sankara Acharjya.

In support of Mr. Sen's story of the Kama Brahmans we may turn to Dr. Stevenson's paper already alluded to. We find that under Buddhist influence the killing of cows and other objectionable rites were prohibited, and then we find that "Brahmanism as first established, or afterwards revived, in the Mahratta country, is universally by the natives traced to Sankara Acharjya, whom they deem an avatar of Siva raised up to put down the Buddhists. He is generally supposed to have flourished at Kalapur at the commencement of the ninth century of the Christian religion". Perhaps, therefore, the disciples of Sankara Acharjya found their way into Orissa from the south, but the date is three or four centuries to late.

Disappearance of Buddhism.

226. Mr. Sen's conjectures on the subject of the disappearance of Buddhism are still more circumstantial than the information given by Hunter or the other authorities. After showing the manner in which each succeeding religion compromises with the other, he continues :—

Even in the most elaborate caves of Udaigiri not a single figure of worship can be seen. The lingam (the *linga*) was the only idol of the first Kama temples. But in the caves of Khandagiri, separated from Udaigiri only by a slight depression, we first see the figures of Buddha in contemplation. Underneath these figures were afterwards carved figures of Thakurani, a female deity among the hill people, who was afterwards Hinduised into Sakti and Parbati. It is noteworthy that they have all been made on the model of the Buddha's figure. At the gates of the largest of these caves was afterwards added the figure of the Mahabir (the greatest hero) or Hanuman (the monky god), another aboriginal object of worship.

Derivation from Buddhism of the worship of Jagannath.

227. The Buddhists were ultimately driven out to the west and built the temple at Niladri in Khurda. It was here that they began to carry Buddha's tooth along a broad road or ***baradanda*** in solemn procession. This ceremony is admitted to be the origin of the ***Rath Jatra*** or car festival of Jagannath. Dr. Stevenson also writes as early as 1840 :—

To my mind, however, the most singular result of the influence of Buddhism upon Brahmanism is the transformation of two Buddhist or probably Jain devotees, a male and female, into a Hindu god and goddess. Within the precincts of the temple at Pandarpur there is no distinction of caste. Vethal, the proper name of the god, means—He who receives the ignorant; at least, so his votaries interpret it. This is another feature of Buddhism directly opposed to the Brahmanical religion.

While reflecting on this subject, it has occurred to me that many of the arguments I have used will apply also to Jagannath in Orissa and that the worship of that god, also, is derived from Buddhism, since—

1st—There is no distinction of caste within the holy territory of Jagannath.

2nd—Buddhism anciently prevailed in the Province of Orissa, as appears from the Buddhist remains still existing.

3rd—The *Rath Jatra*, just immediately preceding the Sayana Ekadasi, or season of sacred rest, is probably the remains of a triumphal entry, with which the sages were welcomed on returning from their peregrinations, to hold the *Wasso*.

4th—The image of Jagannath is said, and universally believed by his votaries, to contain the bones of Krishna. Now every one conversant with the opinions of the Hindus, knows that it forms no part of the Brahmanical religion to collect and adore dead men's bones. The doctrine of the *Gita* on this subject is that at death elements separate; the spirit returns to its parent spirit, the air to air, and the earth to earth. On the other hand, it is a most meritorious act among the Buddhists to collect and preserve the relics of departed saints, and the places that contain them are esteemed peculiarly holy.

Bhubaneswar.

288. It is worthy of note that Mr. Sen attributes the Bhubaneswar temple to the Kama Brahmans, but I have again failed to identify the source from which he has drawn his information.

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Hunter tells us that "from time to time great migrations of Brahmans radiated to the south ward from Hindustan, bringing with them the modern or Hindu form of the Aryan religion and imposing it upon a recently Buddhistic population." He quotes the palm leaf records of the Puri Temple to show that in A. D. 500, the founder of the Lion Kings imported 10,000 Brahmans and planted them round Jajpur. The latter became the metropolis of the priests, and Bhubaneswar the political capital of the Sivait Dynasty of Orissa (Hunter, Vol-I, page 200). Mr. Sen, however, is very emphatic on one point—

These Aryan kings were the great Sakti-worshippers, and not worshippers of Siva as Hunter wrongly supposed though like many other Hindus of old they absorbed Sivaism into their form of worship.

Mr. Sen adds as regards Bhubaneswar that in order to compromise with the "aboriginal followers of Buddha the ***yoni*** (***pudendum mulicbre***) was added to the lingam (the ***linga***) at first only as the female energy, but afterwards as Parbati the wife of Mahadeva. From this union sprung thousands of gods and goddesses". This is very doubtful.

In the face of such progress Buddhism decayed, and Buddha's tooth was taken first to Tamluk (Tamralipta) and then to Ceylon, while the Niladri temple fell into ruins.

Siva worship.

229. The worship of Siva does not appear to have ever been the religion of the country. Buddhism "melted not into Sivaism but into the Vishnuvite rites of Jagannath."

The imported priests, "true to the orthodox instincts of Brahmanism, continue Siva worshippers to this hour; they represented no spontaneous or natural outcome of the religious cravings of the people, but an exotic of royalty which flourished upon the crown lands. While therefore the story of Jagannath is interwoven with the religious history of the Province, the annals of Siva-worship in Orissa deal with little else than the building of temples and grants of lands to the priests." From 1132 A. D. onwards the reigning dynasty were followers of Vishnu. This dynasty produced the present temple of Jagannath at Puri (1198) and the temple of Kanarak (1282) on the coast 20 miles north of Puri. An account of the worship of the Sun in Orissa is given in pages 283 to 286, Volume I, of Hunter. I cannot do better than close this account by an extract from Hunter on the present popular religion in Orissa :—

Buddhism, Sivaism, Sun-worship, each in turn became the prominent faith of the Province, and after a time gave place to some other creed. Jagannath was destined to hold a more permanent sway; and his priests, by skilfully working upon the Indian passion for pilgrimage, have for six centuries made Orissa a *terra sancta* of the Hindus. He owes his long reign to that plasticity which admits the whole Hindu pantheon within his walls, and which during six hundred years has ever instinctively accommodated itself to the changing spirit of the times. In the very act of superseding Sun-worship and Sivaism, his priests built temples to the wife of the All-Destroyer and to the Sun within his sacred courts. A truly Aryan deity, he commanded the adoration of the upper classes. At the same time he enlisted the sympathies of the low castes by the equal sacrament of the Holy Food, and by a mythology which exalted a despised fowler into the revealer of the God. By the ingenious device of successive incarnations, Vishnu has made himself the centre of a whole cycle of religious systems, and secured the adoration of many races, belonging to widely separated stages of civilisation. Without losing his own identity he assimilated the attributes of nine of the most popular gods, and his priests keep a tenth incarnation in their hands; a weapon which they may yet utilise to bring the gross superstitions of the people into accord with the theism which English education has now disseminated among the upper classes.

Jagannath has assimilated to himself a wider range of attributes than any of the gods of Rome or Greece.

While on the intellectual and spiritual side of his nature he claims to be identical with Buddha, the ninth incarnation of Vishnu, he stands forth the hero of the Warrior caste, as Rama in his seventh incarnation; and has drawn to himself the sympathies of the pastoral races, as Krishna the eighth appearance of Vishnu upon earth. Krishna, the divine Herdsman, is the incarnation which specially appeals to woodland or pastoral peoples, and which has chiefly attracted them to Vishnu-worship. These races have always ranked below the Aryans, and are now despised as aborigines or inferior castes; yet their allegiance to Vishnuism has been skilfully obtained by identifying one of their national deities with the bright Aryan God.

Jains.

230. The Jain religion in Orissa does not appear to require special notice. We know that the Ganga Kings built a temple to Mahadeva on the top of Khandagiri hill and adorned it with an attenuated figure of Buddha, and that about a hundred years ago

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(according Mr. Sen) "a Cuttack merchant of the Jain sect created a Jain temple here out of the materials of the temple of Mahadeva."

Mahomedans.

231. Mahomedans and Afghans made few converts in Orissa; the last census shows about 75,000 persons described as Mahomedans. We find settlers in nearly all the large towns and hamlets along the trunk road and along some of the oldest routes into the Tributary States. The Mahomedans do not appear to have collected in large numbers except in Cuttack town. Some Parganas contain none at all. In Pargana Ambohatta (Balasore) I found one Mahomedan household, the descendants of a zamindar's *barkandaz*. The most curious instance of converts to Islam is that of the family of the Government Pleader of Balasore. All members of his family are still known as Bhuian (Bhuinhar or Bhupati). They were chief priests of the Raja of Puri and received their estate of Garpada from the Raja. For fear of the Moghul emperors they turned Mahomedans rather than lose their estate, their family residence however, is still called Uriya Sasan, and their Hindu family idols are still preserved and some religious worship goes on.

Christianity.

232. Christianity has not set its mark on the Province. In the famine of 1866 the missions in Orissa saved the lives of hundreds of starving orphans and adopted them. The religions of Orissa share with us many legends and miracles. Two may be mentioned by way of example. (1) The rout of Red Arm and his host (see paragraph 18) by the waters of the Chilka, which receded and stood up till they came close and then descended and drowned the impious invaders. (2) The troubling of the waters of the well at Bhubaneswar on the first day of the *Rath Jatra*. The water acquires special healing efficacy on that day, so much so that the first pot drawn sold for Rs. 500 a few years ago, the second pot for less, and so on.

No doubt the religious history of other parts of India has developed in the same way as that of Orissa-for an almost exact paralled I may refer to the Asiatic Society's Journal, Volume XIII, Article XII, "On the modern deities worshipped by the Hindus in the Dekkan," by Dr. Stevenson:—

> The religion of the Hindus of the Dekkan seems to me to contist of four constituent parts: first, *pure Brahmanism* as contained in the Vedas and Puranas; second, An *ante Brahmanical worship* consisting in the adoration of painted stones, which are not acknowledged as objects of worship by the Brahmans but considered as the representatives of demons; third, *Buddhism* or that modification of it which subsists among the Jains, and under which head falls the worship of the Pandnarpur Vitthoba; fourth, A *local superstition* based on Brahmanism, and consisting of the worship of remarkable persons who have arisen in the Mahratta country in times comparatively modern.

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CHAPTER X.

EARLY REVENUE SETTLEMENT.

A earliest accounts.

233. Stirling in the early part of this century gives us an account of the Province. He tells us of the legend that under the sovereign at Delhi was a great kingdom held by feudal lords who were dependent on and owed service to the lord paramount. The most powerful lords of this empire were the *Gajapati, Aswapati, Chhatrapati* and *Narapati.* These lords in the course of time threw off their allegiance and became independent monarchs ruling over numerous inferior *Khetris* or *Cshetriyas* (both spellings are found in Stirling). Thus the *Gajapti* became Lord of Orissa.

Stirling divides the Province of Orissa into three portions—

(1) **The marshy woodland tract extending along the seashore from the Black Pagoda to the Subarnarekha.**

(2) **The plain and open country between this and the hills.**

(3) The hill country.

The first and third are known as the Eastern and Western Rajwara or Zamindara, that is, the country occupied by the ancient feudal chieftains, Khandaits, Zamindars or poligars of Orissa, the second as the Mogulbandi or Khaliseh, or Kot, being that from which the indigenous sovereigns and Mogul conquerors of the country derived the chief part of their revenue and which at present pays a rent to the British Government of sicca Rs. 12,64,370, whilst the tribute yielded by the other extensive portion is fixed in perpetuity at the low sum of sicca Rs. 1,20,411.

In the above items the *jama* of Khurda is not included.

The rulers of the Rajwara were *Khetris* (*Kshetriyas*), or *Khandaits* (wearers of the *Khanda* or national sword), or *Bhuiyas* (*Bhupati*, lord of the soil), or *Poligars* (from *Pollam*, a fief in Telugu), or *sawants* (chief lords), or *Sevakan Arni Das* (hereditary servants holding lands); or, lastly *zamindars.*

A noticeable point appears to be that the title of *zamindarā* was applied only to the Rajwara and never to the Khaliseh.

The present location of chiefs in the hills and on the coast was, according to Stirling, made by Raja Anang Deo, who created 16 *sawants* in the twelfth century. They were placed so as to repel the attacks of the aboriginal savages. "In this point of view their situations and duties resembled much that of the Lords of the Marshes in Europe." Under these lords, who lived in *garhs* or *killas,* were military retainers—*Naiks, Dallais, Dulbehras* and *Khandaits,* holding subordinate fiefs, and under these again were the *paiks,* both soldiers and cultivators.

The domains reserved for the Crown were of course the most valuable and fertile, "and it was the uniform policy of the strong Government of the Mahomedans constantly to enlarge this share by the gradual subjugation and usurpation of the lesser chiefs and princes."

Hindu revenue system.

234. The early Hindu rulers of Orissa recognised no middlemen between them and their subjects and every cultivator was in theory bound to pay to his sovereign a share* variously estimated at from one-twelfth to one-fourth of the gross produce of his land. The nominal proportion was one-sixth (*sastansha*) at the outside, but in fact was often more. Phillips (Tagore lectures) says :—

One-twelfth in prosperity and one-fourth in time of urgent necessity. We find two parties primarily interested in the land so far as its produce is concerned. These are the king and the cultivator, and there are no independent intermediate interests.

The residents of each village paid their quota through a headman (*padhan*) who, in consideration of his services in collecting the revenue, was allowed to hold free of all payment a certain share (*heta*) not exceeding one-twentieth, of the total land in cultivation, and probably also retained some part of his collections as a perquisite of his office. The village accounts were checked by the accountant (*bhoi*) who was also paid by the grant of a few acres free of assessment. These

* See Lord W. Bentinck's Minute of 1833, paragraphs 6 to 10.

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villages were grouped into large divisions (***khand*** or ***bisi***) of 10 to 50 square miles, the prototype of the modern Pargana, many of which are still known by their old Hindu names as ***Nahakhand, Derabisi***. Over each of these divisions was an executive officer or ***Khandpati*** who acted as the representative of the sovereign, and with the assistance of the Divisional Accountant (***bhoimul*** or ***bisoi***) collected the revenue, and handed it on to the head of the district, ***desadhipati***.

We find that in parts of the Deccan the same description of officers still exist and are called *Des Mukh* and *Des Pandia*, terms of precisely corresponping import (Stirling).

This was the system in the regulation provinces of the Hindu Kingdom, but along the hill borders and on the scantily populated littoral the land was held by military chiefs* who paid a tribute to their suzerain, and were independent as regards the internal administration of their properties.

Akbar's settlement.

235. The first regular settlement of the province was begun in A. D. 1582 by Akbar's victorious general Todar Mull and concluded in 1591 by Raja Man Singh. He for the most part left untouched the border chieftains; and Khurda, together with the estates of Lembai, Chaubiskud, Rahang and Sarai, he assigned to the Hindu prince Ram Chandra Deo and to the Temple of Jagannath, ***i. e.***, the Raja of Khurda received the rank of Commander of 3,500, and under his control were placed thirty-one "zamindaris of Hindu sirdars, containing 129 ***killas***" (***i. e.*** thirty zamindaris and his own estate of Khurda).

To the two sons of the old independent chief Telinga Makund Deo were given the rank of Commander of 500, ***i. e.***, the Raja of Sarangarh (Patia) received under his control thirty-one zamindaris (including Patia and Balunta his own property) containing 38 *Killas*, while the Raja of Aul received (including his own zamindari and ***killa***) twenty-four zamindaris containing 42 ***killas***.

We find in the above zamindaris several of the present Tributary States, ***e. g.***, Baramba and Dhenkanal under Khurda, also Banki now a part of Cuttack and Angul; also Gumsar and Kalikote, now in the Madras Presidency.

"The more distant zamindars were separated from the control of the superior Raja and placed under seven principal zamindars or ***sawants***, viz., Keonjhar, Mohurbhunj, Bishanpur, Fattiabad, Naraingarh, Kawangher, and Nag or Bagbhum." The last four are now in Midnapur.

Under these chiefs we find Ragri and Balarampur (under Kenojhur) and Nilgiri and Jamkunda (under Mohurbhanj). Ragri and Balarampur are now known as ***Killajats, i. e.*** they are in the temporarily settled area and have been separately treated in the present settlement (see paragraph (610). Nilgiri is now a Tributary State, while Jamkunda is an ordinary temporarily-settled revenue-paying estate. It may also be noted that Manbhum and Singhbhum are included under Bishanpur. A perusal of the lists given by Stirling in page 68, ***et seq.***, will be found most interesting to the District Officer.

In the central and most highly cultivated portions of the present districts of Cuttack and Balasore and part of Midnapur south of the Subarnarekha, Raja Todar Mal made a detailed settlement fixing the rates of rents in every village. He confirmed in possession the hereditary Hindu officials of the Pargana (***Khand or Bisi***), the ***Khandpatis*** and ***Bhoimuls*** becoming ***Chaudhris*** and ***kanungos*** and being entrusted with the collection of revenue and the other rights and liabilities of zamindars for the portion of the Pargana or ***taluk*** † under their direct management. The village headmen he maintined under the appellation of ***muqaddam*** an Arabic word meaning headman, commuting their customary right to hold one acre in twenty free of assessment to a grant of a definite quantity of land‡. Where there were no hereditary headman or, where the *padhan* had been dispossessed, collections were often made through an agent (***karji***) or farmer (***sarbarakar*** or ***mustajir***) appointed by the ***talukdar***, and many of these developed into hereditary tenure-holders with rights almost equal to these of the ***muqaddams***.

Allowance for collection of revenue.

236. The ***talukdars*** were remunerated by grants of land (***nankar***) for their support, and by deductions of 5 per cent., (***rusum***) from the gross collections of the villages

* ***Khandaits*** and ***Bhuian, Sawants, Shebaks.***

† ***Taluk***- an Arabic word that may be translated "sphere of influence. Sometimes also called Tappa"

‡ ***Jagir, petrali***–ancestral.

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in their charge, as well as by permission to collect what they could in the form of octroi, market dues and other extras (*sair wasiwat*). Mr. Trower * reported that under the Mahomedans the land-owners got a deduction of 10 per cent., besides one-twentieth on the total collections in the form of rent-free land. Nominally 1 in 20 was the customary deductions, but it was probably greater in the case of zamindars than in that of *chaudhris*, and less still for the *kanungos*. For the supervision of these landholders Raja Man Singh grouped the Parganas into three *sirkars* of Cuttack, Bhadrak, and Jaleswar, each under charge of a chief executive officer called an '*Amel*' and of a checking revenue officer or *Sadar Kanungo* † with several subordinate collecting agents (*gumashta*); paid originally by a percentage on the collections.

Talukdars.

237. The *talukdars* and superior officers were nominally appointed by the sovereign or his representative, and were so far officials that they acted jointly in making or sanctioning alienations and assignments of the land or its revenues, and were removable for bad conduct; but under the two centuries of misrule and revolt that followed Akbar's reign their hold on the land grew stronger, and the right to appoint lapsed into a purely formal custom of confirmation of the heir of the deceased officials, and even the *Amil* and the *Sadar kanungo* came to hold large estates, stepping into the shoes of dispossessed *talukdars* for whom they stood security. Their office was abolished by the Mahrattas, who appointed *Amils* and *sadar kanungos* of their own, and at the British conquest these ex-officials were found only as holders of large and valuable estates. The subdivisions of *taluks* appears also to have been allowed, for in one Pargana there were often more than one *taluk chaudhri* or *kanungo*, each being distinguished by the name of the particular landholder. So we find in the Mahratta revenue roll of Pargana Randia Orgara :—

(1) Taluk Sadar, Kishen Persad Rai Mahashai (the Sadar kanungo).
(2) „ Kanungo Wilayati Jasamant Rai.
(3) „ Fakir Chaudhri.
(4) „ Bip Charan Chaudhri.

Similarly in Pargana Khandi Bisi the Pargana registers of the Maharattas showed four taluk kanungos and one taluk chaudhri.

Stirling gives us the following summary regarding these officers of State :—

To control and superintend the local officers of the old *regime* and to maintain the principles of the old settlement inviolate, the offices of Sadar kanungo and Sadar Chaudhri were instituted by Akbar, or rather by his Dewan. The Sadar Chaudhris, Kanungos and their establishments should be carefully distinguished from the *vilaiti* or local and country chaudhris and kanungos, the officers of the former Hindu Government. Whilst the latter were all Uriyas, the newly created officers were invariably filled by natives of Bengal.

Zamindars,

238. Besides the *talukdars*, there were also a few landholders in possession of whole Parganas. They alone were officially styled dependent Hindu sirdars or zamindars, and were generally either descendants of the old reigning princes, as in the case of the zamindar of Utikan, who was the Raja of Kanika, or the zamindar of Saibir, who was the Raja of Patia, or were border chiefs (*khandait* or *bhuiyan*) such as those of Darpan, Madhupur, Balarampur, Chausatpara, Ambo.

Besides these two classes, a good many superior officials were appointed zamindars in return for special services. Such was Trilochan Patnaik, the Amil, who was appointed zamindar of Kotdes and the neighbouring lands.

It appears that the Mahrattas recognised sixteen of these zamindars in the Cuttack district ‡ and one in Puri. Like the *talukdars*, they all held under deeds of appointment, and though their position was more honourable, their rights and liabilities did not in any way differ from those of the Pargana officials.

It is easy to see from the foregoing account of hereditary zamindars, officials, and officially-Created Zamindars that a general fusion of rights and titles must inevitably take place.

Stirling gives the following reasons for general extension of the term "zamindar" in Orissa :—

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* See Babu Ranga Lal Banerjee's report on the Cuttack Tenures.

† *Lit.* chief expounder of the law; he was some-times called a "Mahashai" = Master.

‡ Babu Ranga Lal Banerjee's Note on the Cuttack Tenures, paragraph 36.

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(1) The lack of distinction between the ancient Zamindars and the talukdars created by the Moguls with hereditary offices.
(2) The confused and inaccurate application of the term by the zamindars.
(3) The failure to distinguish between the inheritance and sale of an office and the inheritance and sale of the land with which that office was connected.

Whilst *talukdars* became exalted to the rank of zamindar, the proper zamindars mounted a step higher and styled themselves Rajas. Every hill and jungle zamindar of Orissa has been pleased invariably to adopt the style and title of Raja.

Mahratta System.

239. In 1742 occurred the first invasion of the Mahrattas. From 1751 A. D. Orissa became a Mahratta Province under the management of a *Subahdar*. The new conquerors made in theory no change in the fiscal organisation, but recognised the people whom they found in possession of the land without asking inconvenient questions. Orissa, the most peaceful part of their dominions, they looked upon solely as a source of revenue, and to this end appointed 32 *amils* to look after the collections, and under them distraint officers (*krok sazawal*) to squeeze the uttermost farthing out of the people. Defaulting *talukdars* they unhesitatingly dispossessed, and where they found a village headman strong enough to be independent of the Pargana official, they allowed him to pay his revenue direct into the treasury. To some extent this had been the practice in the later days of the Mogul *regime*, when numerous independent estates* were created by grants to ministers † of State or for the maintenance of the Nawab's household.‡ These estates consisted generally of numerous small parcels of land in different villages, an inconvenient arrangement in many ways, but perhaps intended to give these officials an interest in touring or to provide them with a foothold in the different villages. The accounts were kept separately as direct collections (*hazur tahsil*) and were credited to the support of special departments. The origin of the *tahsilalahida* zamindaris or Parganas of Jainabad and Saidabad is peculiar. It is said that they were created for the support of Jaini Bibi and Saidi Bibi, the sisters-in-law of the Mahratta Dewan, who compelled every *talukdar* under his control to contribute their quota of land. To the category of petty separate revenue units were subsequently added the alienated estates known as *Kharidagi*§ and the resumed *jagirs* or torch bearers (*masalchi*) or yeomanry *(dograi)*: while, as before-mentioned, the Mahrattas also accepted direct payment from many village headmen. All these estates were known as *mazkuri*, or specified, and their holders were treated as having exactly the same rights as *talukdars*, though the position was one of less dignity.

Mazkuri estates.

Mahratta extortion.

240. During the fifty years of Mahratta rule, or rather misrule, the position of cultivator and payer of revenue (*malguzar*) was one of extreme difficulty. Lists of estates for farming leases were put up to auction in Nagpur and were bought sometimes by two or three persons, all of whom came to Orissa and tried to levy what they could. These persons, known as *asamis*, were responsible for the collections of revenue. The Mahratta demands knew no limit, default in payments subjected the *talukdar* to dispossession, imprisonment, and fine, and when all other means failed, the Mahratta cavalry harried the country and plundered the villages. The *talukdars*, when pressed, retaliated on the people by levying extraordinary cesses and so-called voluntary contributions, and their exactions were only limited by the fear of driving the tenantry to abandon the village and leave the land uncultivated. When the Mahratta cavalry appeared the villagers would fly to the woods driving their cattle before them, only to return when the troops had retired; and sometimes a border zamindar was strong enough to meet force with force and beat back the invader or at least compel him to accept reasonable terms.

Along the sea coast and in the mountainous regions on the west known as the Rajwara the old organisation survived unchanged. This tract included the territories of some of the feudal chieftains who ruled over the barbarous races of the hills, and the lands assigned in Todar Mal's and Raja Man Singh's settlements to

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* *Mazkuri*=Specified (*i. e.*, in the rent-roll.)

† *e. g.*, the *nankar mahals*.

‡ *e. g.*, *Har Nawabi, Khansamani*.

§ *i. e.*, *bought*: they were often known as "*kharidagi bazi asamean*," *i. e.*, "bought lands of various tenants.

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the descendants of the Hindu kings. The Raja of Khurda bought some peace from the Mahrattas by the cession of his Parganas of Dalang, Rahang, Serai, and Chaubiskud, and many petty rajas along the coast were reduced to the position of ordinary zamindars, but to the last the hill chieftains resisted even the Mahrattas with some success. They were periodically plundered, but it was only by a considerable show of force that the Mahrattas could compel payment, and amidst the inhospitable wilds and forests the horsemen were at a disadvantage and were as often defeated as victorious.

Mahratta Revenue.

241. With all their extortion the Mohrattas appear to have collected annually about 11 to 12 lakhs of rupees from the Province * which is less than the estimated revenue of the Moghuls; and this was to be expected, for the very rapacity of the conquerors defeated its own intentions by discouraging thrift and throwing large areas out of cultivation.

First British Settlement.

242. Such was the state of affairs when the British Commissioners in the end of the Year 1803 A. D. found themselves confronted with the necessity of making a settlement of revenue for the Province.

They determined to cancel all balances outstanding from the demands of former years and to base the demand for the current year on the receipts for previous payments making suitable deductions on account of ***abwabs*** and excessive assessments, and on account of any sums collected in advance by the Mahrattas.

For the ascertaining of the revenue due on these terms they had at their disposal the revenue rolls of the ***Sadar Kanungo*** of Cuttack, Narendra Ray Mahashai, and the accounts of the record-keeper, Gopal Pandit.

The zamindars officials, proprietors, and quasi-proprietors whom they found in possession were the following:—

(1) The ancient zamindars of the ***killa*** estates.
(2) Zamindars of Mogul and Mahratta creation, ***e g.,*** Kotdes and Utikan.
(3) ***Chaudhri*** and ***kanungo talukdars.***
(4) ***The Mazkuri muqaddams.***
(5) Village accountants, ***sarbarahkars, karjis.***
(6) Headmen of ***patnas*** known as ***pursethidars.*** A ***patna*** means primarily homestead rather than arable lands.
(7) Holders of alienated lands (***Kharida***) originally sold under the fiction that they were waste (***banjar kharij ama***), also resumed ***jagirs*** and service lands.

Settlement of 1804-1805.

243. The proposals of the Commissioners for the subsequent settlement of the Province were set forth in a proclamation of the 15th September 1804 which was afterwards embodied in Regulation XII of 1805, and I cannot do better than quote it her as a complete exposition of the principles and intentions of the officers who made the first settlement of Orissa:—

First.— Whereas it is the intention of the British Government to adopt at the expiration of the present *Amli* year such a plan for the settlement of the landed revenue of the province of Cuttack as may be most conducive to the prosperity of the country and to the happiness of the inhabitants; and whereas it is of the utmost consequence to the success of the measure, as well as to the interest of the zamindars, talukdars, and all others concerned, that the nature and terms thereof should be made known as early as possible, notice is hereby given:

Second.—That at the commencement of the *Amli* year 1212 (1804-1805), the sayer of every denomination will be separated from the mal or land revenue and a Settlement for the latter only concluded in all practicable cases which the zamindars or other actual propritors of the soil (unless when disqualified by notoriously bad character or other good and sufficient cause) for a period of one year, it being understood that all zamindars and other landholders, and all candytes shall for the present, and during the pleasure of Government, continue to perform the same duties of police for the prevention of robberies, murders, and crimes of that nature, and for the preservation of peace and good order within their respective limits and to be subject to the same responsibility, as heretofore:

Third.—That at the expiration of the year 1212 another settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the

* See paragraph 54 of Mr. Ewer's Report of 1818 printed at page 22 of the Khurda Selections. (For further details see Chapter XXII, paragraph 547, etc.)

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satisfaction of Government) for three years, at a fixed equal annual *jama*, which *jama* shall be formed upon a just and moderate consideration of the receipts in the year 1212 and former years.

Fourth—That at the expiration of the fourth year a new settlement will be made with the same persons (if willing to engage and they shall have conducted themselves to the satisfaction of Government) for a further period of four years, at a fixed equal annual *jama*, formed by adding to the annual rent of the preceding lease of three years, two-thirds of the nett increase of revenue during any one year of that period:

Fifth—That at the end of the lease for four years (which will be in *Umil* year 1219 *i. e.*, 1812) a further Settlement for the period of three years will be concluded with the persons in possession (if willing to engage and they shall have conducted themselves to the satisfaction of Government) at a *jama* to be formed by adding to the annual rent of the preceding lease of four years, three-fourths of the nett increase of revenue during any one year of that period:

Sixth—That at the end of these eleven years, which will be in 1222, a permanent settlement will be concluded with the same persons (if willing to engage and they have conducted themselves to the satisfaction of Government, and if no others who have a better claim shall come forward) for such lands as may be in a sufficiently improved state of cultivation to warrant the measure, on such terms as Government shall deem fair and equitable:

Seventh—The *nankar* lands of those zamindars who may decline entering into engagements for their estates as also of those whose offers may be rejected by Government, will be subject to the payment of revenue equally with other lands in the district: but such zamindars shall for the present continue to receive in money an equivalent for what they have hitherto received as *nankar* from the Mahratta Government:

Eight—That with respect to such zamindaris as may have been mortgaged or transferred in security and possession thereof actually given to the mortgagees or securities, the settlement will be made with the person in possession of the land as the temporary representative of the proprietor, leaving the latter to obtain possession either by a private settlement of accounts or by a judicial process:

Ninth—That the settlement of such small taluks or zamindaris as may be only nominally included in large zamindaris in the sadar *jama* of which their *jama* may be comprehended, will be made separately and distinctly with the proprietor of such small estates, and they will be allowed to pay their revenue directly to the Collector or the person appointed by him to receive it; and in all cases where the revenue of a village has for upwards of five years past been paid direct to Government by the hereditary *muqadum* the settlement for such village will be made with the hereditary *muqadum*:

Tenth—That with respect to such lands as are without proprietors, or the proprietors of which decline entering into engagements, a village settlement shall be made, and a preference given to the hereditary *muqadum* of those villages to which the lands belong, but no settlement is to be made with a *muqadum* for lands not included in this *muqadumi*:

Eleventh—That in the event of naither proprietors, *muqaddams*, nor other respectable ryots being forthcoming such lands as are in that predicament will be held khas:

Twelfth—That all authorised abwabs are to be consolidated and incorporated with the land rent and expressed in the Pattahs and Kabulyats, that nothing but what is there expressed shall be collected from the ryots or under-renters:

Thirteenth—That all persons who may enter into engagements for the Settlement must bind themselves by written obligations to grant pattahs of the above description to other raiyats and under-renters:

Fourteenth—That all persons who may enter into engagements with Government must previously give security for the fulfilment thereof in an amount equal to the largest kist of their annual *jama*:

Fifteenth—Several of the tributary Rajas have been accustomed to furnish guards and be responsible for all robberies committed within the Mogulbundy lands bordering on their respective territories, and for which they have formerly been allowed to levy a tax called Choupunny or Mongumkhandity: those Rajas are to continue to furnish the usual guards and be subject to the same responsibility as heretofore; but, instead of being permitted to levy the above-mentioned tax, the said Rajas will, until further arrangements can be made, receive an equivalent in money from Government:

Sixteenth—Such being the provisions made for the preservation of the rights of the zamindars, raiyats, & C., &c., and for the effectual prevention of undue exaction, there cannot be a doubt that confidence in the protection of Government will be established amongst all ranks of people, that cultivation will be extended, and that the general prosperity of this province will rapidly increase.

It is to be observed that the proclamation admitted the distinction between Zamindars and Talukdars, * but the former at least were considered to be actual proprietors of the soil and were in 1815 A. D. to be allowed a permanent settlement. Meantime, by sections 33 and 34 of Regulation XII of 1805, the

* See also section 13, Regulation XII; "zamindars, talukdars, farmers and other holders of land",

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jama of the *Khandaiti* estates of Darpan, Sukinda, and Madhupur was fixed in perpetuity, and the quit rent (*Peshkas*) of the big estates of Al, Kujang, Kanika, Khurda, Harispur, Bishunpur, Mirichpur, and Patia, exempted from enhancement. The same regulation exempted the Tributary States from the operation of the revenue laws and provided for registration of and enquiry into all claims to hold land free of revenue.

Collections continued to be made through the Mahratta officials, but a punctuality and completeness in the payment of revenue was required to which the Uriya proprietors had never been accustomed, and nearly a third of the estates came under the direct management of the British Collectors. *

First Triennial Settlement.

244. In Chapter XXII, paragraphs 548, &c., an attempt is made to give the revenues settled from time to time in the area which forms the subject of this report. The figures given in the concluding paragraphs of this chapter refer generally to the whole of Orissa and include the *Garhjat* States and (often) permanently-settled areas and even Khurda. The triennial settlement of 1805-8 brought an increase of Rs. 1,20,529 to the revenue; made, it must be confessed, with very little justification. The Collectors had no information as to the real assets of the estates, for the zamindars and *amils* combined to withhold all papers, and they had to proceed on a very rough estimate of quantity of land in cultivation and on the reports of interested subordinates as to the circumstances of the proprietors. Arrears rapidly accumulated, and in 1806 began the system of putting up defaulting estates for sale in Fort William, a policy that proved the ruin of many old Uriya families and allowed Bengali speculators to buy valuable properties at very low prices. In this year were sold 17 estates with a revenue of over Rs. 50,000 and in 1807 A. D. 266 estates paying over 3 lakhs as revenue came to the hammer. Among these was the Noanand estate in Balasore sold for Rs. 5,013, but again sold up in 1818 A. D. and bought by Government for Re. 1.

A drought in 1806-7 further aggravated the hardship of our revenue system, but Government blindly proposed † to anticipate by ten years the date originally fixed for the permanent settlement, and it was declared that a settlement of one years should be made for 1808-9, to be followed by another triennial settlement, and that the assessment, which should be made in the year 1812, should remain fixed for ever *if the arrangement received the approval of the Hon'ble Court of Directors*. ‡

Settlement of 1807-8.

245. The Settlement of 1808 produced a revenue of Rs. 14,38,912 (including the present Khurda Government estate, the *Garhjat* estates and the permanently-settled areas). Ninety-five per cent. of the revenue was collected with the sale for arrears of only 91 estates, bearing a *jama* of Rs.21,410. This was a decided improvement on the previous settlement, during which the average annual sales were 142 with an average total *jama* of Rs. 1,66,213 while even by such severe measures only 94 per cent. of the demand was realised.

Second Triennial Settlement.

246. The next settlement produced a large increase of revenue and collections fell off to 84 per cent. inspite of the sale in three years of 271 estates with an annual *jama* of Rs. 2,04,482.

Meanwhile the Court of Directors had refused their sanction to the proposed permanent settlement, and a settlement for one year was made in 1812-13, to be followed by another triennial settlement §, during which enquiries were to be made with a view of ascertaining what lands were in a sufficiently advanced state to admit of a permanent settlement of their revenue.

Settlements 1812-13.

247. The one year's settlement of 1812-13 proved a failure. It brought an increase of the demand, but the people were disheartened at the constant alterations of the revenue, and many left their estates to be held *khas* by the Collectors, who either managed them through tahsildars who embezzled the revenues, or farmed them out

* For the meterials for the following paragraphs I am Chiefly indebted to Mr, Toynbee's "sketch of the History of Orissa from 1803 to 1828".

† See Regulation x of 1807, modified by Regulation VI of 1808,

‡ See section 4, Regulation VI of 1808.

§ *Vide* Regulation I of 1813,

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to speculators who rack-rented the tenants. Collections fell to 70 per cent., and the next settlement, which was for two years, added only Rs. 23,359 to the demand. Matters did not, however, improve, and only 72 per cent. could be collected, and that by selling up 108 estates with a jama of Rs. 60,172. At the close of this settlement it was extended, by Regulation III of 1815. for another two years, after which yet another settlement was to be made for three years, and a conditional promise was again given that after the expiry of this period, *i.e.*, in 1816, the zamindars of such estates as were in a sufficiently advanced condition would be given the benefit of the oft-repeated promise of a permanent settlement. The Court of Directors however, ruled otherwise, and in a despatch of the 16th June, 1815 wrote:—

Settlement 1813-15.

There cannot in our opinion be a more indefensible proceeding than finally to decide on the rights of individuals and the interests of Government in a state of declared ignorance regarding both.

248. Accordingly, another settlement for three years was made under Regulation VI of 1816 at a slightly increased *jama* but the people had been driven to desperation by over-assessment and mismanagement, and in 1817 the the country broke out in rebellion and the revenue system was temporarily disorganised.* The revolt was soon quelled, but it had served to bring home to the authorities in Calcutta the very real nature of the discontent and grievances of the Uriyas.

Settlements 1815-22.

Mr. Ker was sent as Commissioner of the Division, and Mr. Ewer was appointed as special Commissioner to enquire into the State of affairs in Cuttack. His report † gives a most interesting picture of the errors into which the Government had been dragged by their greed of revenue, and by their general ignorance of the resources, wants and prejudices of the people over whom they ruled. He states, as the chief grounds of complaint of the Uriya landholding and cultivating classes, the inequality of the assessment, the severity and inelasticity of the system of realising the public dues, the selling of estates in Calcutta, whereby foreign speculators and adventurers had been induced to buy them, the hardship of having to pay revenue in the restricted silver currency and the salt tax and monopoly. The deferment of the permanent settlement had not in his opinion influenced the Uriya proprietors, though it might well have caused annoyance to speculating purchasers, and he recommended a detailed enquiry into rents and rights in land to be followed by a twenty or thirty years' settlement.

Mr, Ewer's Reports of 1818.

The Collector of Cuttack, Mr. Trower, had about this time reported that so far from the Province being over-assessed, the revenue was susceptible of considerable increase, and had ascribed the large arrears to the perversity of the *malguzars*. This was the accepted opinion, but Mr. Ewer, estimating the assessment at 10 annas per *bigha* of cultivated land—it must have been a good deal nearer double—writes:—‡.

Perhaps the calculation attempted above may be allowed to strengthen in some measure the opinion that there is no sufficient reason to believe the district *generally speaking* over-assessed. The *jama* of Cuttack has, however, notoriously been fixed or at least augmented at hazard without any satisfactory ascertainment whatever of the real value and capabilities of the estates from which an increase has been levied, and in consequence of the defective information on which the Revenue authorities have hitherto proceeded, the unequal apportionment and distribution of the whole demand may have produced much of the evil of over-assessment, without any corresponding advantage to Government. I must here express my decided opinion that some grievances do exist connected with the Government demand from land, either of actual general excess, or of great inequality of assessment.

Such opinions could not fail to have weight, and in next three years' settlement§ the *jama* was reduced by more than a lakh of rupees and during its currency only 18 small estates were sold for arrears. Further information on this head may be found in paragraphs 548 to 552 of this report.

249. Regulation VII of 1822 marks the beginning of a new epoch in the history of the Province, for while extending for five years the existing settlement—with an increase of

Regulation VII of 1822.

* A full account of this rebellion will be found at pages 12 to 23 of Mr. Toynbee's History.

† Printed in Volume I of the Khurda Selections.

‡ Paragraphs 74 and 75 of his Report.

§ From 1818-19 to 1821-22 under Regulation XIII 1818.

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Rs. 75,000 in the demand—it set forth the intention of Government to ascertain, settle and record the rights, interests, privileges and properties of all persons owning, occupying, managing, or cultivating the land, or gathering or disposing of its produce, or collecting or appropriating the rent or revenue payable on account of land, or the produce of land, or paying or receiving any cesses, contributions or perquisites to or from any person resident in, or owning, occupying or holding parcel of any village or *mahal*. This Regulation was also silent on the subject of a permanent settlement.

At the close of the five years' settlement the proprietors' engagements were extended, and no further change in the revenue of any *mahal* occurred until the completion of the detailed measurement and settlement of its lands.

No provision was at first made for the appointment of special settlement officers or for relieving Collectors of the routine duties of their offices, and the natural consequence was that up to 1831 only Taluk Delang in Puri, and Kishnanandpur, Eranch and Kakar in Cuttack, and Siari in Balasore had been settled. In that year the Board addressed twenty-one questions* to the local officers with the view of obtaining the information necessary to commencing operations more vigorously. During the next few years the large estate of Khurda and a few *mahals* in the neighbourhood of Cuttack were settled, but there was no uniformity in the system, no professional Survey, and no resumption of invalid revenue-free claims, so that in 1833 when Lord William Bentick's celebrated Minute threatened to revolutionise the whole system, the Settlement was still quite in its infancy.

Lord William Bentick's Minute of 1833,

250. A few remarks on the subject of this Minutes are necessary to complete my account of the settlement of Orissa. The Governor-General after reviewing the theories of the State to share in the produce of the land and the results of past settlements proceeded to record his dissent from the principle of a detailed enquiry into private rights and interests such as was enjoined by Regulation VII of 1822. He formulated the following principles, which were submitted to a Board of experts at Allahabad and were adopted by them as the groundwork of a revised settlement law :—

1. The Professional Survey to be substituted for the Native Amin establishment.

2. The assessment to be fixed on an ascertainment in the aggregate of the cultivated area of each estate, and a general acquaintance with the advantages possessed by each village as regards fertility, position, population, and any other matters which require to be taken into consideration when regulating the Government demand.

3 The appointment in detail of the assessment so fixed to be left to the village communities or the zamindars, and the preparation of the records of lands in detail to be exacted from the village accountants.

4. The exercise of judicial powers by settlement officers to be limited to cases in which the cause of action may have arisen within the period of one year, and also to be limited to matters affecting the settlement, general questions of property being left to the Courts. The above restriction should not, however, be held to apply to claims once entertained and actually pending, or to those which may have been, when preferred, postponed to the period of the settlement; the parties having already been told that their claims would then be determined by the Collector.

5. Existing institutions to be maintained and prevailing systems of village management not to be interfered with except for special reasons.

6. All parties to be secured in the enjoyment of whatever rights and privileges they may be in possession of, or establish a claim to subject to the limitations above noted, but no new rights to be created, and all cultivators who hold as mere tenants at will, to be left to make their own bargains as heretofore.

7. The Patwaris *dutter* to be put upon an efficient footing, under the superintendence and responsibility of the kanungoes and tahsildars.

These orders were sent to the Orissa officers with a view to such modifications of the law as would be necessary to give effect to them, but one and all—Mr. Commissioner Hunter, Mr. Collector Wilkinson of Puri, Mr. Collector Ricketts in Balasore, protested so strongly against the proposed changes that they were allowed to have their own way and to continue to make detailed field to field enquiries and record all rights and interests without the check of a professional survey. Mr. Wilkinson further objected so decidedly to the appointment of native Deputy Collectors on settlement that none were for the time being sent to Puri.

* Printed as an appendix to Mr. Toynbee's "History of Orissa," paragraph LXXIX.

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Beginning of the Orissa Settlement, 1834-43.

251. In 1834 the first definite rules of practice were sanctioned and with the help of the new Deputy Collectors the settlement work was pushed on. Progress, however, was very slow, and by 1835 experience had shown the necessity of a professional survey, so from 1836 to 1843, the whole Province was surveyed and mapped on a 4-inch scale. The survey officers in turn required the preliminary demarcation of village boundaries and the appointment of a special Officer to decide boundary disputes. About the same time the resumption proceedings began, and from 1836 onwards were made *pari passu* with the settlement of the *hasilat* lands of the estates in which the tenures were included. In 1840 the resumption rules were modified in favour of the *lakhirajdars* and all previous decisions revised accordingly, without waiting for the parties to apply. In 1837 special Deputy Collectors were appointed to dispose of the resumption cases, and in 1840 a Special Commissioner, Mr. Ricketts, with the powers of a Board of Revenue, was appointed as the ultimate court of appeal in resumption cases in Orissa.

Another important advance, described by Mr. Ricketts * as "an alteration the like to which was never in so short a time attempted" was the promotion of the native Deputy Collectors from the subordinate task of making preliminary enquiries and reports to the responsible work of completing the settlement of *mahals* and making their own proposals for revenue. The experiment—for such it was—proved successful, and the native assistants amply justified the confidence placed in them, though for some time they continued to work with less rapidity and confidence than their European colleagues.

Procedure for Settlement.

252. The procedure finally adopted for the survey and settlement from the beginning to the end of the operations was as follows:—

In the first instance a special Deputy Collector was appointed in each district for the demarcation of village boundaries. His work being completed, the Survey Department measured each village, extracting the total area of cultivated, culturable and uncultivated land separately for every estate and *tahsilalahida* † within its periphery. They also prepared maps on a 4-inch scale showing the main physical features and divisions of the soil in the estates and villages under survey, *i. e., tahsilalahidas* appear as mere spots on the map without internal detail. On receipt of the revenue survey maps and measurements the native surveyors (*amins*) were sent to measure the village with the pole, ‡ which they did by starting from a fixed point and measuring the length and breadth of each field in continuous succession recording these measurements, the estimated area, the nature of the tenure, and the name of the tenant, in the field-book (*bhauria*). From the field book was prepared a statement (*warija*) intended to show at one glance all the lands held by a single tenant, and this and the field—book formed the basis of the Deputy Collector's enquiries. Armed with these he proceeded to take up the settlement of the particular estates entrusted to him.

His first care was to prepare a list of *lakhiraj* claims and to send these to the Collector to be numbered and registered, the number so given being what is now known as the 'general' number of the revenue-free lands. He then instituted suits for the resumption of all these lands and called upon the *lakhirajdars* to appear with the receipts held by them for the *sanads* filed in the Collector's Office. Very great pains were taken to obtain the attendance of the claimants, but if they failed to appear the lands were resumed; if they appeared the *sanads* were sent for and examined and a decision given on the validity of the title.

The next step was to call on the *kharidadars, muqaddams, sarbarahkars, pursethis, padhans,* and other claimants of subordinate interests in the land to appear and prove their title, and while these investigations were in progress the columns for soil and crop hitherto left blank in the field-book were filled up by *amins* under the supervision of the Deputy Collector.

This done he proceeded to enquire into the real assets of the village, examining the zamindar's statement of demand and collections, the former revenue, and any other sources of information available, and comparing the rates so deduced

* See paragarph 70 of his Progress Report for 1837.

† See Paragraph 410.

‡ *Padika*, a bamboo pole of 7 to 12 feet in length see paragraph 124.

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with those of neigobouring estates and with his own ideas as to the fair assessment of the village having regard to the quality of the soil and the crops grown.

Rates being fixed and the amount of land under each class of crop known, the total assessment of the revenue-paying lands * was easily arrived at, and to this was added the assessment of the resumed tenures. This being done a rent roll *bhian* for each estate or portion of an estate in the village was made out, showing in detail the lands held and the rents payable by *thani* or resident raiyats, *chandinadars* and all tenureholders and owners of resumed lands, but giving only a lump assessment on lands in the occupation of the proprietors or of *pahi* raiyats. The rates for these latter were in practice generally assumed as four annas per rupee less than those of *thani*, which could more easily be ascertained. The proceedings were on completion of the settlement of the estate described in a vernacular report (*ruidad*) giving an account of the history, the lands, the subordinate tenures, the resumptions and the assessments and the proposals for the new revenue, illustrated by elaborate figured statements.

This, with an English covering report, was submitted to the Collector-engagements being in the mean-time taken from the proprietors, tenureholders and cultivators, and leases given them in return. The Collector modified or confirmed the revenue, altering at his discretion rents or rates of allowance, and in turn forwarded the reports to the Commissioner who passed final orders or sent the reports on the Board of Revenue. Alterations were given effect to by a note of the change (*tarmim*) in the *ruidad*, and sometimes but by no means always a new rent-roll was prepared. In some cases—I may instance Gopinathpur Taluk-extensive alterations made by the Collector only resulted in a reduction of the revenue, neither raiyat nor tenureholder getting any of the intended benefit. While the estates were being thus dealt with the resumption proceedings were submitted to the scrutiny of the special Deputy Collector who tried any cases left pending, and if he differed from the assessing officer, referred the case for orders to the Collector who disposed of it subject only to an appeal to the Special Commissioner.

Results of the Settlement.

253. The settlement so made began practically in 1835 and was concluded in 1845. It cost Rs. 20,36,348 and resulted in an increase to the revenue of only Rs. 34,980.* Nothing is more striking to a student of the literature of this great settlement than the distinterested zeal for the welfare of the people and the tender sympathy with their prejudices and weaknesses that is shown in every line of the letters of such men as Mills, Ricketts and Wilkinson; and the marked appreciation of their services and the deference to their opinion shown by the governing bodies in Calcutta. There was no attempt to realise the pound of flesh that might be the due of Government; the terms allowed to dis-siezed *lakhirajdars* were far more lenient than the strict letter of the law enjoined, and where there was reason to suspect the revenue of any estate to be burdensome, it was unhesitatingly reduced. The great fear of the local officers was, from first to last that they would, on the ground of expense, be compelled to revert to the aggregate to detail system of the North-Western Provinces. In his Operation Report for 1837-38 Mr. Commissioner Ricketts wrote†—I have omitted some sentences :—

> In the 226 mahals reported the rights and interests of every party connected with the land have been ascertained and recorded. Undefined, intricate and confused as those interests were, their adjustment was alone worth the outlay. The more experience in the Province I acquire, the more convinced I am that the aggregate to detail system is impracticable here. The Board have seen enough of Cuttack to judge what sort of a settlement it would be if all the relative rights of *kharidadars* of the first class, *kharidadars* of the second class, *maquddams*, *sarbarahkars*, and *thani raiyats* were to be left unadjusted; and I rely on their not proposing any alteration in the detail of the proceedings. It happens that I have charge of a large settled district as well as of the unsettled Province of Cuttack, and I have continued opportunities of comparing the two systems. The Midnapore district occupies more of my time than the Cuttack Province. It is Midnapore that is unsettled, and it is my belief that in several parganas of that district a survey and settlement on the Cuttack plan will ultimately be necessary.

The Board strongly endorsed the opinion thus expressed; and again in 1841, Mr. Commissioner Mills writes :—

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* *Khalisa* or *hasilat. i. e.*, lands other than *lakhiraj*.

* Mr. Mill's Report of 1847. This is up to April 1845. In a statement of 9th Dec. 1950, the nett increase is shown as Rs. 42,165.

† Operation Report. 1837-38, paragraph 102.

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It was agreed (at the conference) that any alteration in the present system of making the Settlement and of preparing these papers (Settlement records) was unadvisable; and abounding as Cuttack does with such a variety of under tenures, I think the aggregate to datail system of the Upper provinces could not well be introduced, and sure am I that its introduction would cause great and general dissatisfaction to the country, while, as regards the rents to be paid by the ***ex-lakhirajdars, kharidadars,*** and others, who before held their lands at a quit-rent, or free of rent charges, it would in practice be found to retard the settlement operations; the settlement officers must fix the rents to be imposed on these holdings.

How completely experience has justified the contentions of these officers is obvious to any person who compares the agrarian condition of Orissa and Bengal. To the officer deciding disputes as to possession in a permanently-settled village of Bengal, the first and commonest stumbling block is the absence of any admitted basis of enquiry. In Orissa such a basis may always be found in the settlement papers, which if every mistrusted are now at least looked to with the most unquestioning faith. Their efficacy is shown by the security of tenure of all who hold settlement leases as compared with the slow development of the rights of the ***pahi*** raiyats, and affords proof, if such were wanting, of the possibility of controlling and modifying the development of rights by means of a record.

The one great want was that of a cadastral map, but, owing to the system of measurement, the field-book to a great extent supplied its place.

Extension of Settlement.

254. The settlement was originally made for thirty years, and expired in September, 1867. For two years previously the Province had suffered from the most disastrous famine on record, and it was thought inexpedient to attempt a re-settlement until time had been allowed it for recovery. Accordingly, Act X of 1867 was passed and continued the existing settlement to the end of the ***Amli*** year 1304, corresponding to the 7th day of the month of September 1897 A. D.

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CHAPTER XI.

LAND TENURE.

Classes of Land Tenure.

255. In this chapter I propose to show what are the rights and liabilities of the various classes in occupation of the land, how those rights have developed and changed during this century, and how they may in all probability be affected by the present settlement and the actual or proposed alterations in the land laws. A good deal of what is here written is necessarily repeated elsewhere in the chapters on settlements of rent and revenue, but the two subjects have been kept separate as far as it was possible to do so without too great a sacrifice of completeness.

The classes whom we find possessing, or drawing an income from, the land fall generally under one or other of the following heads :—

(1) The so-called 'proprietors' directly responsible to the State for the revenue of the land they own, *i. e. malguzars* or *zamindars*.
(2) The tenureholder with *quasi*-proprietary rights, holding under the proprietors, viz., *muqaddams, padhans* and *sarbarahkars*.
(3) The revenue-free proprietors, holding their lands free of revenue in perpetuity, *i. e., lakhiraj bahaldars*.
(4) Holders of resumed revenue free tenures or *bazyaftidars*.
(5) Purchasers of waste lands, now reclaimed and settled : or, *kharidadars*.
(6) Resident cultivators, whose right to hold at a rent fixed for the term of Settlement has been recognised, viz., *thani* and *chandina* raiyats.
(7) Cultivators who have not such recognised rights, *i. e., pahi* raiyats occupancy and non-occupancy.
(8) Persons holding land free of rent in consideration of their services to an individual or to the community, *i. e., jagirdars*.
(9) Under tenants of classes (4) to (8).

The landed proprietors.

256. An account of the several classes of persons who under the Mogul and Mahratta rule were directly responsible for the payment of the revenue has been given in the preceding chapter dealing with the early history of the land settlement in Orissa. Here I need only say that on the conquest of Orissa in 1803 the Commissioners appointed for the settlement of the Province found middlemen intermediate between the cultivator and the State and having a recognised right to the collection and payment into the Treasury of the public revenue.

In paragraph 183 I have enumerated the following :—

(1) Ancient Zamindars of Rajas of the *Killa* estates.
(2) Zamindars of Mogul or Mahratta creation.
(3) *Chaudhri* and *Kanungo Talukdars*.
(4) *Mazkuri Muqaddams*.
(5) *Mazkuri Sarbarahkars* and *Karjis*.
(6) *Pursethis* of *Patnas*.
(7) Holders of *Khariḍagi* (purchased) lands

To these may be added holders of the following estates :—

(8) *Dograi mahals*, grants of land to bodies of *Dogras* or yeomen in return for their services, which had been resumed and assessed, one or two of the principal men being allowed to engage for the revenue, the others holding as their dependants.
(9) *Nankar* and other *jagir* estates, consisting generally of scattered villages or portions of villages assigned for the support of high officials, or of friends and dependants of the sovereign.

It is not to be supposed that the rights of these very different classes were indentical, but it seems clear that none of them, except only the zamindars and *khanduits* of the border, had before the British conquest any recognised proprietary right. There had, indeed, grown up a custom of hereditary succession, but cases of removal were not infrequent, and all the larger holders found it convenient to obtain a *sanad* of appointment, or say of confirmation, on succeeding

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to their inheritance. Their tenures were also to a certain extent transferable, but to complete the validity of the transaction, the counter signature of the *amil* or *sadar kanungo* was necessary. Further, Mr. Stirling states that, except in the case of waste lands, he was unable to discover any instance in which the sale did not purport to be made for the liquidation of balances of the public assessment.

For failure to pay their quota of revenue the *malguzars* were liable to imprisonment and to the forced sale of the whole of portions of their lands; but so long as they remained in possession they were entitled to collect all they could from the raiyats, and to take the profits arising from the assessment of waste lands and to levy tolls and miscellaneous imposts. Further, they were generally allowed a *rusum* or deduction from the valuation of the estate amounting to not less than one-twentieth of the total in land or money.

Mr. Stirling's account of the Proprietors.

257. Much that is of the greatest interest has been written concerning the rights of these *malguzars* and I might fill my report with extracts; but it would be of little use now to go over this old and debatable ground, and I shall content myself with quoting the conclusions arrived at by Mr. Stirling as given in the 59th paragraph of his Minute.*

In discussing the real nature of the rights and privileges of the Zamindars, *talookdars* and *maquddams*, according to the former sense of the country, it is much easier to say what they were not, than what they actually were. It is my decided opinion, that from the hereditary character pervading so remarkably all the institutions of the Hindus, they at all times possessed an imperfect title of property in their offices, which was distinctly admitted and recognised by the practice of the Mogul Government, as evinced by the numerous authentic deeds of sale extant, bearing the countersignature of the chief kanungo or his deputy. The following is an imperfect sketch of the functions and emoluments attaching to those offices. They had the right of collecting the Government revenue assessed on the land according to certain fixed rates, or determined proportions of the crop settled by Raja Toder Mull, whose general Settlement was unquestionable the basis of all subsequent revenue management, if not the only one known in the Province of Orissa. The *chowdree* and *canangoe talookdars* collected direct from the raiyats of the *pahikasht* villages, and through the *moquddams* from the *moquddami* ones. Both classes of hereditary Collectors and Managers were maliks of the *Nafa* and *Noqsan* within the limits specified, that is, they appropriated profits or surplus collections, and in return were responsible for deficiencies, unless they could show them to be the result of some great and overwhelming calamity of season. These profits would obviously arise from persuading the raiyats to cultivate the more valuable products in preference to those on which the *jama* was originally assessed, and from encouraging the resort of *pahi* or the extension of tillage by *thani* raiyats by judicious arrangements in leasing out land that was waste, unoccupied, and uncultivated, but fit for cultivation at the period of the great general Settlement, or which had subsequently become reduced to that state. The privilege exercised of selling as well as leasing out portions of the waste and jungly, or *bunjur kharij jama* land has before been noticed. The *muqaddams* sold in his own village, with the knowledge and sanction of his superior, and the *talukdar* in his tenure at large with the sanction of the sudder kanungo, and the concurrence of his colleagues. They had both a share of the sayer duties or *furoiat ruqm*, and of certain taxes on trade and artisans mentioned always in the bills of sale, as the '*Kool haboobat*' and '*Mohterfa*', likewise perquisites or tithes on fisheries, pasture grounds, gardens, woods, bamboo jungles, and the plains called *Benapat*, producing the grass universally used for thatching in this district (*Andropogon muricatum*). As far as I can understand, the resident raiyats of each village were each entitled to a share of the firewood, bena grass, etc., sufficient for their home consumption, and to graze their own cattle on the plains fit for the purpose, without paying to anybody; but when a question arose as to disposing of produce to a stranger or admitting strange cattle to graze, the *talukdar* or *muqaddam* (according to circumstances) would be the *Malik* and conclude the bargain and arrangement. The above article did not, I believe in general form a part of the public assessment, unless in cases where their value and amount were considerable. They were allowed also ground for building, or khanaberi, and cultivated certain portion of land free of assessment for their substances, the nankar of the *talukdar* being called khomar or nij-jote, and that of the *muqaddam pitraleh*, or *wutun*. They levied further established *rusum*, the *muqaddam* from the ryots of his own village and the *talukdar* from the *muqaddams* and the *pahikasht* villages. Being responsible jointly with the khandiat and chokoyans for the police of the country, they must of course have derived advantages from fines, forfeitures, bribes, etc, all of which with taxes on marriage, so regularly taken under the Mahrattas as to have become an avowed impost in the revenue accounts, are rather of the nature of illicit perquisites according to the proper constitution of the country.

Treatment of proprietors at the Conquest.†

258. On the acquisition of the Province by the British, engagements for the payment of revenue were taken from the holders of the several classes of estates already mentioned

* Pages I to LX of the Appendices to Mr. Toynbee's "History of Orissa".

† See Regulation XII of 1805, and Chapter X *supra*.

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and borne on the revenue roll of the Mahrattas; also from the holders of the small *taluks* and zamindaris only nominally included in large estates, and from hereditary *muqaddams* who for five years past had paid their revenue directly into the public treasury. To these were subsequently added the holders of lands of more than 75 acres in extent which were alleged to have been held rent free or on a quit-rent but were resumed and assessed during the general enquiry into the validity of revenue free titles. Though not expressly so stated all these persons appear to have been regarded as "actual proprietors of the land", (*vide* section VI of Regulation XII of 1805) where mention is made of "zamindars, independent talukdars, and other actual proprietors of lands."

In Section IV of Regulation VII of 1822, it is declared "that it was in no degree the intention of Government to compromise private rights or privileges, or to vest the *Sadar Malguzars* with any rights not previously possessed by them;" but in fact, either purposely or owing to a misunderstanding of their true position, it appears that these collectors and payers of revenue were allowed all the rights of freehold proprietors, subject only to the liability to sale of their estates for default and to dispossession for improper conduct; and their various titles of *Chaudhri, Kanungo,* and *Muqaddam,* soon merged into the more honorific appellation of Zamindar allowed to them all under the British *regime*.

They have been permitted to enjoy a right of inheritance according to the Hindu law, and not according to the law of primogeniture which was in force previous to the British conquest. They have an almost unlimited right of partition; an absolute right of sale and transfer; and even on default receive the balance of the sale money after liquidating their debts to Government.

If they refuse or are not allowed settlement they still draw an income from the lands, and when they are in possession are not required to perform the police duties that formerly belonged to their office; some even live apart in other districts or provinces as mere devourers of the rent, almost without use or obligations.

Incidents of Zamindari right.

259. The incidents of the zamindar's right in a temporarily-settled estate as it has grown up under nearly a century of British rule are as follows :—

(1) Right to inherit according to the personal law of the proprietor.

(2) Right to transfer the whole or any portion of the estate.

(3) Right to partition, subject to the limitations of the partition Law* for the security of the revenue.

(4) Fixity of the revenue demand for the term of settlement subject only to reductions for acquisition of land by Government. No abatements or remissions can be claimed as of right for any calamity.

(5) Right to the rents fixed in the settlement and, in villages not assigned to sub-proprietors, to all the profits of new cultivation and to the lawful increment in rents.

(6) Right to all profits from the jungle waste, and other unassessed areas, and from fisheries in villages not assigned to sub-proprietors, subject to the prescriptive rights of the community to fuel, pasturage, common lands, and roadway.

(7) Right to grant leases and create intermediate tenures, though such are only binding for the term of settlement.

(8) Right to compensation for land required by Government.

(9) Right of co-sharer to open a separate account and pay his revenue separately into the treasury.

(10) Right to engage for the revenue in-re-settlement, subject to the proviso that Government may exclude any person on the ground that his admission to or continuance in the management would endanger the public tranquillity or otherwise be seriously detrimental (section III, Regulation VII of 1822).

(11) Right of recusant or excluded proprietor to *malikana* (section V, Regulation VII, of 1822).

(12) Obligation to treat ryots well and not to collect unauthorised cesses (Regulation VIII of 1793 and section 74 of Act VIII of 1885).

* Act VIII (BC)., of 1876 as amended by Act V (BC), of 1897.

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(13) Obligation to give information to the police of any breach of the peace and certain cognisable offences (Code of Criminal Procedure).

(14) Obligation to pay the revenue according to the Kists prescribed (Act XI of 1859).

(15) Liability of the estate for sale in the event of failure to pay revenue before the latest day, the balance of the purchase money after satisfaction of all demands of Government going to the proprietors (Act XI of 1859).

(16) Obligation to maintain ***patwaris*** and ***chaukidars*** where provided for in a settlement, and where not so provided to perform the duties of ***patwaris*** (Regulation XII of 1817).

(17) Obligation to supply ***rasad*** (Regulation XI of 1806).

Fixity of land Revenue.

260. Under the rule of the Moguls and Mahrattas the persons whom we recognised as proprietors of the soil were, in theory at least, officers of Government, responsible to it for the revenue they collected as at the present day any tahsildar or collector of a district, and that being so, they were of course not entitled to any remission. But when there was drought or serious floods the cultivator did not pay his rent, and there is every reason to believe, as is commonly alleged, that the Native rulers recognised such calamities as a valid excuse for short payments, so that the actual collections always fell short of the full demand. When we first conquered the Province the Bengal Regulations were extended to it, and the assessment, which under the Mahrattas had included a considerable margin for remissions and deductions, became a fixed and invariable debt to be discharged to the day on pain of loss of the property. The Bengal Regulations, unlike those of the temporarily-settld western provinces, recognise no claim to remissions on the part of the ***malguzars,*** and Orissa is a province peculiarly liable to suffer from the extremes of drought and flood.

The consequences of the attempt to engraft the rigid administration of the permanently-settled province on a country and people wholly unsuited to it, how one after another the estates of the oldest families of Orissa were sold up and passed into the hands of Bengali adventurers, how even these failed to meet the revenue demand, and collections fell as low as 65 percent and the paiks rose in rebellion, has already been described in paragraphs 243 to 248. In later years the Government was more liberal; in 1834-35 Rs. 1,86,942 or an eighth of the total revenue was remitted on account of floods.* In 1836-37 a severe drought desolated the Province and Rs. 4,52,432 was remitted. In 1837-38 a similar calamity occurred causing a further remission of Rs. 5,87,146. In 1842-43 the Province a third time suffered from an early cessation of the periodical rains and Rs. 4,86,625 of the revenue was remitted. Mr. Commissioner Mills gave it as his opinion that under the just and liberal terms of the Settlement of 1837 zamindars ought to bear all ordinary losses, but that where damage was extensive, it would be ruinous to the sufferers to refuse remissions commensurate with the injury sustained. He strongly deprecated suspensions of the demand, urging the advantages of absolute remissions to the extent of even a fourth of the loss sustained. After this was written the remissions down to 1866 were not so large as in the years already referred to, but altogether in that period of thirty-six years upwards of 45 lakhs or three years' revenue was remitted, as shown in the following statement † :—

	Cuttack.		Puri.		Balasore.	
	No. of years	Total amount.	No. of years.	Total amount.	No. of years.	Total amount.
		Rs.		Rs.		Rs.
For inundation....	8	8,08,876	24	5,39,619	14	6,25,844
For drought	5	14,25,006	6	5,35,736	9	6,18,660
Total	13	22,33,882	30	10,75,355	23	12,44,504

Since 1866 no remissions of land revenue have been made, though certain sums have been written off in the Government Khas mahals; *e. g.*, from 1884 to 1897 remissions in the Khurda Khas mahal amounted to a little over 4 per cent.

* Figures from Mr. Mills' Note of 1847.

† See Report of Committee on Inundation of 1866.

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per annum, the annual demand being less than 3 lakhs. Probably there has been no such urgent necessity for relief, the resources of the province having largely increased while the land revenue remained stationary, and at the same time the construction of canals and the improvement of the embankment system must have greatly decreased the liability to injury from the vicissitudes of the season, in Cuttack if not in the other districts.

When the form of ***kabuliyat*** was under consideration the question was raised whether it would not be well to make some special legislative provision for temporarily-settled areas in which the relative incidence of land revenue in naturally higher than in permanently-settled Bengal. It appeared, however, very doubtful whether any condition whereby zamindars should be debarred from collecting rents for a particular period would be acceptable to or observed by them, and in a letter No. 3429, dated the 20th November, 1897 from the Government of Bengal to the Secretary to the Board of Revenue it was ruled that suspensions and remissions should be entirely in the option of Government, and granted when necessary, as of grace. These orders are embodied in clauses 2 and 5 of the ***kabuliyat***, which are as follows :—

Clause 2.— I hereby admit that I have no right or claim to any abatement of revenue on the ground of inundation and drought or other calamities of season.

Clause 5.— I recognise and admit that Government has the right to maintain or abandon any public embankments or drainage works upon my estate or on neighbouring land, and that payment of the land revenue of my estate is not to be dependant upon such maintenance or to be affected by such abandonment. *

Right to receive rents for new cultivation.

261. It is to be noted that it is only in villages or portions of villages in the direct possession of the zamindar, ***i. e., hastabud,*** that he can claim rents on newly cultivated lands. In villages in the possession of sub-proprietors, ***i. e., muqaddams,*** etc., the latter have the right to all the profits from waste lands. The right is declared in clause 6 of the ***kabuliyat.***

Right to profits from waste lands.

262. The profits from waste lands include those from surface quarries, or from brick making, lime-burning etc., but do not include the right to metals that are mined. There has been a good deal of doubt and uncertainty as to the respective rights of the Government and the land owners to minerals in Bengal. In Orissa there are no mines, and the profits from sandstone and laterite quarries have been allowed to zamindars; but it has now been authoritatively decided by the Supreme Government that the right to minerals in all temporarily-settled areas belongs to Government, and this decision has been embodied in the ***kabuliyat,*** limestone and laterite being expressly excepted. The Clause (No. 7) runs—

I admit that Government has the right to all minerals in my estate, including laterite and limestone, and that in case minerals are found Government is entitled to them and to right of way, and to all other reasonable facilities for working and carrying away such minerals.

Rights to profits from jungle, etc.

263. The zamindar has the sole right in his ***hastabud*** villages to the sale of ***timber*** on uncleared lands, but the resident tenants have in general a prescriptive right to take for their own use firewood in scrub jungle, and grass for thatching, and to graze their cattle upon some or all of the waste lands of the village (***vide*** paragraph 474 ***infra***).

In most estates this right is admitted, but this has not always been the case, and the National Society of Balasore have raised objections to the record made in this Settlement of the rights of the community, and so long ago as 1821 Mr. Stirling wrote in paragraph 79 of his Minute, that one of the evils consequent on the recognition of the proprietary right was that the great zamindars had pretty generally assumed the whole produce of the jungles, the thatching grass and the grazing grounds to be their exclusive property, and refused to allow the resident raiyats of adjoining villages to share in these natural advantages. There is, however, abundant evidence that the right existed, and if in some villages it was not exercised this was because the zamindars strong enough to withhold from the tenants their customary privileges. We have therefore set apart and exempted from assessment lands whereon the tenants of a village may graze their cattle without let or charge, and also a bit of common land for the cremation or interment of the

* See also paragraph 561 and Appendix A as to the form of *Kabuliyat.*

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dead. These lands have been protected by clause 6 of the kabuliyat, which runs as follows:—

I hereby bind myself to preserve as grazing grounds, cremation grounds, and reserved tanks the plots specified in the schedule hereunto annexed, and not to allow any person to cultivate such plots or any portion thereof, and I will not collect any rent on account thereof so long as this lease continues in force. I also bind myself not to collect any money as grazing charge in respect of any of the aforesaid plots and to take action in the Courts to eject trespassers from the plots hereby reserved, if the Collector require me to do so.

It is to be understood that this provision is not intended to deprive the proprietors of the right to take payment for the grazing of cattle of other villages on these or other pasture lands. In some estates a considerable income is derived from the herds of buffaloes brought to graze on the *palanda* lands, though these are of greatest value in the permanently-settled estates on the sea coast. In the *bhils* of Tikan and Kalamatia the practice was so general that it was thought fit to assess the profits, but as a rule the policy has been to ignore all rent charges for grazing. The right of the zamindar to the fruit and timber of trees on leased lands is discussed in treating of tenant right, paragraph 342 of this chapter. The right to thatching grass on the prairies (*benapat*) is a frequent cause of disputes between landlords and tenants; the former find it more profitable to keep the land under grass, for which there is always a large demand, while the tenants naturally want possession of the land, as it is easily reclaimed and generally fertile, and then they plough and sow without permission until the zamindar intervenes and they find themselves in the civil or criminal courts.

Right to grant Leases and create intermediate tenures.

264. It is doubtful whether under Mogul or Mahratta rule the zamindars of the plains had any right to create permanent intermediate tenures between themselves and their raiyats. Mr. Stirling says in his Minute that he doubts the existence of *muqaddams* appointed temporarily by zamindars except under our Government; and certainly such cases were very rare, though in Taluk Bisnabar at least Mr. Mills has recorded that the *muqaddams* were created by the zamindar. The latter tried to make out that the tenures were not really *muqaddami*, but the decision was against him. *Sarbarahkars* were more commonly appointed, but they were in their inception of the nature rather of collecting agents or farmers than of permanent tenure-holders. *Kharida* tenures, on the other hand were created by sales of waste lands which were *ex-hypothesi* untenanted before.

The early regulations limited the term for which tenures might be created to ten years (Regulation XLIV of 1793). This rule was abrogated by Regulation V of 1812, but by the very nature of a temporary settlement any under-tenure could only be valid as against Government for the term of the settlement and sections 191 and 192 of the Bengal Tenancy Act recently extended to Orissa expressly reserve the power of assessing at a fair rent, on re-settlement, and tenure created by a zamindar in a temporarily-settled area. Such tenures were, under the regulations, voidable on sale for arrears of revenue, and under Section 52 of Act XI of 1859, the purchaser of an estate now acquires it free from all encumbrances imposed upon it after the time of Settlement with certain exceptions.

This section indeed goes so far as to provide for the annulling of agreements with raiyats if made since the settlement, and for taking a higher rent in cases where persons held their lands under engagements stipulating for a lower rent than would have been justly demandable. This would enable the purchaser to resume all rent free or quit rent grants not recognised in the Settlement.

Obligation to treat raiyats well and not to collect unauthorised cesses.

265. The zamindar was originally a representative of the ruling power and by no means the last of his duties was to keep the raiyats prosperous and contented: and this was so is clear from the following extracts of *sanads*, taken from those printed with Mr. Stirling's Minute:

Sanad of appointment of Chaudhri,—Since we have appointed you to the above *khidmat* (service) of Chauduri.....it is ordered therefore that you adopt measures for extending the cultivation of the lands, keep the raiyats prosperous and contented, and discharge without fail to revenue of the Government.

Sanad of appointment of Wilaiti Kanungo Talukdar,—He must in future discharge all the duties of his station faithfully pay regularly the revenue of the several villages kist by kist. keep the raiyats happy and contented, so exert himself, that the signs of improving cultivation become daily more and more perceptible, take care that *zeraiti* land shall not fall out of cultivation nor inferior products be sown in the place of the more valuable ones, and should any

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thefts or robberies occur he will assist in tracing out the offenders and recovering the property; he will also abstain from levying *abwabs*.

Sanad of appointment of Zamindar Muqaddam.—It will be the duty of the aforesaid grantee to discharge the duties of his office with honesty and fidelity, to keep the raiyats prosperous and contented, to exert himself in improving the lands, not to suffer productive land to become waste, not to attempt to bring into cultivation ground that is utterly unfit for tillage, to pay the public dues regularly according to *kistbundi*, to appropriate to himself whatever profit may result from the management of the zamindari and *muqaddam* in question, and to respect the *devottar, brahmottar, khairat*, and other rent-free tenures which have existed from ancient times.

Such were the duties of the old ***talukdars***, and the proclamation of 15th September 1804 expressly continued to them the same responsibilities and provided that all authorised ***abwabs*** should be incorporated with the land rent and that nothing but what was there expressed should be taken.

This has ever since been, and is still the law, though there are most discrepant rulings as to what are authorised and what are not authorised cesses. Collections on account of markets, ferries, etc., are not ***abwabs*** though they probably come under the head of *Sair* and are as such forbidden by Section XXXI of Regulation XII of 1805. In the following paragraphs I deal with the collections other than rent made by landlords from their tenants.

Cesses and other miscellaneous collections.

266. The cases recognised by law are (1) Road cess at 2 pice per rupee; (2) Public works cess at 2 pice per rupee; (3) Zamindari dak cess at one pice per rupee. These cesses are paid by the Zamindars who under Act IX (B.C.) of 1880 are entitled to recover half an anna in the rupee from their tenants and under Act VIII (B. C.) of 1862 as much of the dak cess as tenants agree to pay. In fact they collect more, and an attempt has been made in this Settlement to ascertain the amounts actually taken in different forms.

It is difficult to make any general statement as to the amount of the illegal collections. They vary from district to district, from estate to estate, and from village to villlage; indeed, one may almost say that they vary from raiyat to raiyat, for the weak will pay when the stronger do not. For the district of Puri Mr. H. McPherson gives following account of the exactions recognised :—

The most common forms of exaction were the following :—

Abwabs in the Puri District.

Road and Public Works Cess, collected at higher than authorised rates.—The raiyat should have paid six pies on the rupee of rent. The contribution varied from six pies to two annas per rupee.

Zamindari Dak Cess was similarly levied from raiyats instead of being borne by the zamindar.

Sunia Salami or Bheti.—A present of usually one rupee per village made to the zamindar or *muqaddam* on New Year's day (August-September).

Dakhhil-Kharij Rasam.—A mutation fee for record of name on transfer of holding, calculated usually on the amount of consideration money as a rule As. 2 per rupee in *thani* land. As. 4 per rupee on *pahi* and *lakhiraj* land. This if confined within these limits is not an illegal cess, but if the charges are more extravagant, the mutation fee really becomes a form of extortion.

Chandan Jatra Kharcha or Gandi.—A cess of three pies per rupee of rent levied by the zamindar to meet the expenses of the *Chandan Jatra*.

Patita Paban Kharcha.—A similar cess of two annas per house levied at the *Doljatra* in the southern Parganas.

Purnima Kharcha.—A levy in kind made from the goala caste every full moon-usually one-eight seer of *ghee*.

Bibha Tavana or China or Magan.—A present levied by the zamindar on the occasion of marriage ceremonies said to be taken also at funerals. When taken in cash, it is usually As. 8 for a son, As. 6 or As. 4 for a daughter. When taken in kind, it consists of varying quantities of betel leaves and nuts-usually 100 of the former and 10 of the latter. The *Hatwa* (merchant) class give instead one or two cloths.

Bisodhani.—A fee paid by the raiyat at the time of getting aquittance receipt for the year's rent. The fee varies from three pies to one anna per rupee of rent. It is usually paid at the November kist collection. *Kharada pani* and *Gomastah kharch* do not seem to differ much from *Bisodhani* except that they are taken at both kists and are usually less than the *Bisodhani*.

Piada Kharcha.—A similar exaction to the above, usually of three pies rupee of rent made nominally to cover the cost of maintaining collection peons.

Rafa Kharch is still another name or another form of the *bisodhani* imposition.

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Sewai or "Extras" is the expression sometimes used to cover all the foregoing excess collections, but it in some cases denotes the addition taken to cover interest on arrears of rent, arrears are often charged at 25 per cent.

In addition to the above, the zamindar has many other ways of aggrandising himself at the expense of his raiyats. When he constructs a small irrigation *bandh* for them, he levies more than the cost by a cess which he calls "*Panikar*" or water rent. When he allows a raiyat to break up new land he takes in advance a "*patta salami.*" When the amount is small, say Re. 1 per acre, the transaction is of no importance. If it is large, it really takes the place of rent. It came to light in the *dalua* tract of the Sar lake that the *salami*, thus *annually* levied was Re. 1 per acre. In no other part of the district did there seem to be ground for suspecting that true rents were being concealed under this disguise,—In the *khatians* of resettlement the amount of road and public works cesses has been clearly noted below the rent, and it has been declared in the margin that the zamindar has no title to collect more than the total thus made up. How far the record will protect the raiyat from illegal exactions remains to be seen. The raiyat during re-settlement operations has received a sound education and acquired an acquainttance with his rights that he has never before possessed. It is to be hoped that the way of the despotic zamindar has at least been made more difficult.

Abwabs in the Cuttack District,

In Cuttack the exactions may be grouped under three heads :—

(1) Lawful cesses collected at unauthorised rates.

(2) Cesses connected with the granting of rent receipts and forming one of the perquisites of the collecting agency.

(3) Miscellaneous collections on special occasions.

First, ***Road and Public Works cess:***—This is lawfully recoverable at the rate of six pies per rupee of rent from raiyats; at one anna per rupee from rent-free holders, and at intervening rates from tenure-holders. In practice it is generally recovered at one anna the rupee from all tenants, except in the estates of the larger zamindars. Where it is taken at more that one anna per rupee it generally includes zamindari dak cess and other unspecified *abwabs.*

Second, *Zamindari Dak Cess* or *"dak dehati"*. This is levied from zamindars at the rate of one pice per rupee of rental to pay for the carriage of letters in the mufassal, and is not legally recoverable from the raiyat except with his consent. In practice, it is generally collected from the raiyat either separately or else as part of the road and public works cess.

The following table, compiled from some of the completion reports, shows how great the variation in the practice is :—

PARGANA.	ROAD AND PUBLIC WORK CESS : RATE PER RUPEE†				ZEMINDARI DAK CESS: HOW LEVIED]
	From		To		
	As.	P.	As.	P.	
Asureswar ...	0	6	0	6	Not collected.
Ahyas ...	0	6	0	6	
Benahar ...	1	0	2	0	Included in road cess.
Beruan ...	1	0	1	0	Three pies.
Balubisi ...	0	6	0	6	Nil.
Dalijora ...	0	6	0	6	Three pies.
Dolgram ...	1	0	1	0	Included in road cess.
Kodinda ...	0	6*	1	0	Generally included in road cess.
Kuhunda Jaipur ...	0	6	1	0*	
Hariharpur ...	0	6	0	6	
Paina ...	1	0	1	0	
Katia ...	0	6	0	6	Three pies.
Tisania ...	1	0	1	0	
Karimul ...	1	0	1	0	Six pies.
Kanchikhand ...	0	6	...	†	
Tappankhand ...	0	6			
Tikan ...	0	6	0	6	
Chaudakulat ...	0	6	0	6	

Of the cesses connected with the collection of rent the most common are—

(1) *Kharrapani.*—A payment of one to two pice per rupee of rent made to the *gomasta* who grants *pauti* or receipt. This is almost universal, and forms a large part of the remuneration of the collecting agency.

* The higher rate is generally for *bazyafti* lands only.

† At one anna for *bazyafti* only.

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(2) ***Bisodhani***—A payment of a few annas for the ***Bisodhani*** acquaintance in full, not very common.

(3) ***Kist-Khilat Siwai.***—A collection as six annas per rupee on arrears. This is not common, as no interest is usually charged on arrears; it is mentioned in Beruan only.

(4) ***Bata.***—At one anna per rupee for payments made in copper. It appears to be almost obsolete.

(5) ***Piada Kharcha.***—Generally a pice per ruppee, payable to the peon sent to collect arrears. It may be regarded as a process-fee and is very general; it does not however find any place in the accounts.

(6) ***Magan.***—Taken on payments of produce rent. Recorded in Chauda-kulat at 3 seers per ***bharan*** of paddy.

The following abstract from the completion reports show the amounts ascertained to be collected :—

PARGANA.	KHARRAPANI.	BISODHANI.	PIADA KHARCHA.
Asureswar	2 pice per Re. 1	....	....
Beruan	Ditto	....	....
Balubisi	Ditto	on pice (***pauti Kharch***).	....
Dolgram	....	1 anna to 4 annas	....
Katia	(***Fard Shikar***) 2 pice per Re. 1	....	....
Hatimunda	1 to 2 pice per Re. 1	4 annas	....
Kuhunda Jaipur	1 pice per Re. 1	....	....
Kodinda	2 pice per Re. 1	....	1 pice per Re. 1.
Hariharpur	Ditto	....	....
Kate	Ditto	....	....
Karimul & Padampur....	Ditto	....	....
Kerualkhand and Ranchikhand	Ditto	....	....
Tappankhand	Ditto	....	....
Tikan-Chaudakulat	1 to 1½ pice per Re. 1.	....	2 to 6 pice.

Miscellaneous collections.

(1) ***Sunia Bheti*** or ***Sunia Salami.***—This is a payment to the zamindar on the first day of the agricultural year. It is made generally by the well-to-do raiyats, and the manufacturing and artisan classes, and consists of a small payment in money or kind in return for a feast given by the zamindar. A well-to-do ***thani*** raiyat may pay from one anna to two rupees; the sweet-meat-seller will give sweet-meats, the cowherd a dish of curds, the blacksmith a knife, the sweeper a basket, and so on, each after his kind. In some parts, again, the villagers club together and make a lump payment, but this is not common. The practice is very general, but the amount and form of payments varies from estate to estate and from village to village; indeed, it is hardly a compulsory payment anymore than a Christmas box or an Easter egg, but rather a present to retain the goodwill of the landlord.

(2) ***Bahachina, Bibahapan*** or ***Bibahataina*** is a present to the zamindar made on the occasion of a wedding in the ***hatua*** or trading classes, and some times in the lower class of cultivators, in return for which the zamindar presents them with the firewood that they require. The amount varies very widely—in Pargana Kate we find four annas paid by the bride's father and eight annas for the bride-groom; in Kodinda the payments are from eight annas to one rupee; in Katia as high as Re. 1 to Rs. 4 paid only by bridegrooms of the ***hatua*** class; the same in Tisania and Dolgram; in Karimul and Padampur as high as two rupees eight annas for a son, and one rupee four annas for a daughter.

(3) ***Kuanar Purnima.***—A payment in kind of the same nature as the ***Sunia Bheti*** made on the first full moon after the ***Dasahara.***

(4) ***Hadi Kharcha.***—Four annas to one rupee per tenant to meet the expenses of religious festivities.

(5) ***Holi Jatra***—At one pice per rupee of rent for the expenses of the ***Holi*** festival.

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(6) *Rasad Kharcha.*—At one pice per rupee to meet the expense of finding supplies, (*rasad*) for any high official touring in the neighbourhood.

(7) *Magan* or *Mathout* or *Channa.*—Subscriptions or cesses levied for special purposes. Such are taken on the occasion of the zamindar's wedding; for the founding of a school; for the promotion of an agricultural show. In fact, it may be said that, with a few honourable exceptions, whenever a zamindar comes forward with a liberal subscription to a public fund the raiyats contribute towards it in the form of a special cess.

(8) *Hatkar,* or market dues, form another source of income, though these will hardly come under the head of *abwabs.* Generally a zamindar farms out the *hat,* but if he does not. he realises a small ground rent from any merchant with a permanent shop, and also takes a handful of grain from each purchaser and a few pice on every sale of livestock or merchandise.

(9) *Mutation Fees* are commonly taken on the occasion of all changes of tenancy. In the event of sale I find that in Kodinda the vendor pays a *salami* of a couple of rupees, while the vendee in the case of a *thani* or *pahi* holding pays one-fourth of the purchase money to the zamindar. Generally Re. 1 is the least amount taken on any sale, and the new tenant has to make good all outstanding arrears before he obtains recognition. A fee called *patta salami* is generally collected as premium on every new lease of land.

(10) *Embankment Cess.*—This is collected in Sailo at one pice per rupee for the maintenance of the zamindari embankments. I am not aware of its being taken in any other pargana.

Abwabs **in Balasore.**

It is in Balasore that these extra collections are most prevalent, and have probably prevented the rise of the rents up to the level they would naturally have reached. Mr. Kingsford in his report estimates the total of the regular cesses at four to five annas on the rupee of rent, while powerful zamindars are able to extort about two annas more per rupee in the form of extraordinary demands, and their tendency is to increase, the imposition of a new cess being attended with less difficulty than the enhancement of rents. He instances the following regular demands :—

(*a*) *Road and public Works cess* is realised nearly always at the rate of one anna in the rupee, and sometimes one-and-a-half annas are taken on this account and three pies per rupee of rent as dak cess. The legitimate demand being only six pies, the result is that the tenants defray the whole of the cess.

(*b*) *Bisodhani*—This is paid at the rate sometimes of six pies, but generally of one anna for the holding on receipt by the tenant of a *bisodhan* or quittance in full for the year's rent. A portion of this fee goes to the amla.

(*c*) *Bibahachina or Bahachina*—A marriage due paid by the father of the bride or by the parents of both parties separately. The amount varies, but the father of the bridegroom is generally mulcted from Rs. 2 to Rs. 4, and the father of the bride from Re. 1 to Rs. 2/-. Some *mahaprasad* and betelnuts accompany the fee. Sometimes the better class pay the due in cloths and eatables only, and occasionally they are altogether exempted. The due is in reality a description of registration fee and ensures that the zamindar will not deny knowledge of the marriage in a possible dispute regarding inheritance.

(*d*) *Suniabheti*—Paid on the first day of the year as an acknowledgment of the zamindar's authority. It varies with the raiyat's circumstances. *Thani* raiyats and collecting *sarbarahkars* pay sums varying from two annas to several rupees, while to the zamindar they offer presents, the Brahman a pair of threads or a cocoanut, the blacksmith a knife, the Teli some turmeric, and the chaukidars and cultivators fruits and vegetables. The zamindar, however, gains little profit on this occasion, since he has to distribute cloths to his servants, to feed the villagers and to hold an expensive *puja.* In some estates the fee has been commuted to a cash payment made with the rent.

(*e*) *Magan.*—These are miscellaneous subscriptions raised for meeting various expenses of the zamindar, and include *bibaha-magan* for

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marriage in his family, *karma magan* for a funeral, and *Magans* for the festivals of *Durga Puja, Dol jatra, Chandan jatra* and *Rahas jatra* or for the purpose of erecting a shrine. This due varies from three pies to four annas per rupee of rent or per acre of land, or from eight annas to Rs. 2 for every plough, according to the caprice of the zamindar, but cases occurred before the present settlement operations of sums varying from Rs. 5 to Rs. 10 per acre being realised. A list is always drawn up showing the amount which each tenant is to pay.

(*f*) *Salami* or *Nazarana* :—These are impositions for which any pretext suffices. A *salami* called *Paria, Uthia* or *Charbast* varying from Rs. 2 to Rs. 10 is paid by a tenant desirous of cultivating new land. Another is exacted when the zamindar first visits his estate or comes to it after a long interval, or when the raiyat pays his first visit to the landlord or invites the latter to his home. A tenant who has bettered his circumstances and perhaps returned from Calcutta with savings is not allowed to enjoy them without purchasing the complaisance of the zamindar. The domestic servant returning from Calcutta to his home on leave is always bled to some purpose. These *salami* vary in amount from eight annas to Rs. 50 and more, according to the circumstances of the tenant and the strength and capacity of the zamindar. The latter never travels in an extensive zamindari without recouping himself for much more than the expenses of his journey. I have been told by an eye-witness of an Uriya zamindar visiting Calcutta and holding a levee of the coolies and *sardars* from his estate at work in Calcutta. Each *sardar* was called on to pay Rs. 10 while one rupee was taken from every coolie, and to add dignity to the ceremony it was insisted that the payments should be enclosed in purses and presented finally by the *sardars*. Where a tenant's circumstances have so far improved that he is able to build himself a house in exchange for a but, he is not allowed to do so without some method being devised by his zamindar for exacting a fine upon his property. Thus in one case when the house had been duly built, and the neighbours and Brahmans invited to the occasion of house-warming (if such a term is applicable in this country), the landlord issued orders to the Brahmans that they were not to attend; but the absence of these honoured guests would have robbed the function of all ceremony and state, and sooner than undergo such a mortification the tenant by a donation of Rs. 50 to the zamindar secured the withdrawal of the obnoxious order. Lately a certain influential zamindar proposed, it is said, to procure an elephant, and his tenants, were mulcted in Rs. 700 towards the cost of the purchase. It is not stated that every zamindar practises these extortions; they vary in proportion with his ability to exact them and his power of inflicting punishment for refusal. The methods of dealing with refractory tenants exhibit both brutality and ingenuity. Besides being rendered subject to the attention and touch of low-caste peons, they are declared *niapaniband*, that is, debarred from fire and water, which no villager may supply to them without incurring the zamindar's displeasure. They are denied the aid of the village servants, and can obtain neither the *dhoba* to wash for them nor the *bhandari* to shave them. It is not surprising that they usually end in purchasing comfort by submission to the demand.

(*g*) *Dakhil Kharoj* or *Mutation* :—The fees have been already noted in paragraph 161 *supra*.

(*h*) *Tahasil Kharcha* or *Tahari*.—A fee varying from half an anna to two annas in the rupee of rent, levied annually for the maintenance of a collection staff.

(*i*) *Piyadamiadi* or *Talabana*.—Varying from one-and-a-half to three annas per *diem* and realised from a tenant by the peon sent either to demand rent or to summon him to the zamindari *cutcherry*. A portion of this fee goes to the pocket of the peon, and it varies with the number of days he is engaged. Very often a peon goes each day to a

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raiyat's house to demand arrears, and when the *talabana* thus reaches a considerable sum a portion of it is remitted.

(*j*) *Jarimana.*—Petty cases are often enquired into and disposed of on complaint by either of the parties or by agreement between them to refer the matter to the zamindar. A fine varying in amount is inflicted on the aggressor; I believe a number of cases are thus disposed of and in many respects this jurisdiction of the zamindars is of service. The fines inflicted often reach a considerable annual sum.

(*k*) *Patsala Kharach.*—To defray the cost of maintenance of a school at the zamindar's residence, generally three pies per head.

(*l*) *Nach Salami.*—To enable the zamindar to keep a party of *nautch* girls, the same amount.

(*m*) *Bahadari* is the cost of sending remittances to the Treasury under escort; the same amount.

(*n*) *Thani Kharcha* paid by the *thani* raiyats as a fee to retain the services of the *gumashta* and *amin* for the purpose of remeasuring his holding or laying down the boundary. This amounts to two or three annas per holding.

To some of these cesses there is no great objection; a tenant is more likely to get a receipt punctually if there is a fixed small payment to be made for it, and the giving of occasional presents to the zamindar tends to preserve amicable relations. In some cases the *kharcha* is really a part of the rent devoted to a particular purpose and has in this Settlement been incorporated with the rent as provided by Regulation XII of 1805. Rents have in the present Settlement been fixed at what it was thought right that the tenants should pay, and for the future it is undesirable that any *abwabs*, except perhaps the fee for rent receipts and the *sunia-bheti* should be allowed. Clause 3 of the *kabuliyat* deals with this part of a zamindar's obligation, and runs :—

I hereby bind myself to respect the rights of all tenure-holders, under-tenure-holders raiyats, under-raiyats, and other tenants as recorded in the Settlement papers, and not to collect from them any higher rents than those recorded in the present settlement proceedings otherwise than after legal enhancement.

Obligation to maintain *patwaris*, etc.

267. The *Patwari* or village accountant (*the Bhoi* of the early Hindu period) was once a recognised member of the village community and was paid by a grant in land. He was a subordinate of the Pargana officials to whom he submitted his returns, and when the officials became proprietors the natural tendency was for the *patwari* to lapse into the position of their servant.

As early as 1803 regulations were made for the better control of these village accountants, and Regulation XII of 1817 defined their position and duties, and made full provision for their appointment and dismissal. The principle of *laissez-faire* in all that concerned the domestic and social economy of the people led to a neglect of the *patwari*, and by the time of the last Settlement it would appear that the *patwaris* had come to be the zamindars' servants, and were grouped by estates rather than by villages. At the last Settlement the principle followed was in large estates (paying more than Rs. 500 as Government revenue), to allow a grant of land for the maintenance of the *patwari*, but in small estates all *patwari jagir* were resumed and the zamindar left to make his own arrangements for the maintenance of a *patwari* under Regulation XII of 1817. The result of these orders was that, except in a small number of the larger estates, *patwaris* ceased to exist; little use was made of those who survived, and the power of making zamindars submit the returns prescribed for *Patwaris* (section 36, Regulation XII of 1817) was scarcely used at all. The obligation, however, remains, and though the present settlement has removed the last of the existing *patwaris*, care has been taken to recapitulate in the *kabuliyat* the zamindar's obligation to file papers when called upon. The clause runs :—

I hereby engage to file in such public office as may be prescribed, any measurement, collection, or zamindari papers that may be from time to time called for from me by the Collector, or by any officer duly empowered under the rules framed by the Board of Revenue for the maintenance and correction of survey and settlement records : and to obey all the instructions contained in these rules without any objections so long as this lease continues in force.

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Penalty for breach of the obligations.

268. For failure to pay the revenue demand kist by kist the former remedy was a personal one by a warrant (*dastak*) against the person and property of the defaulter, and long after this practice had been declared illegal it continued to be commonly employed in Orissa. Under the present law, however, the estate is hypothecated for the revenue and for failure to pay is liable to sale out and out under Act XI of 1859.

For other breaches of obligations there are two possible remedies, either exclusion from engagement, or, if the breach is also a breach of the criminal law, prosecution in the criminal courts.

The dispossession for notoriously bad conduct and the exclusion from engagement of dangerous characters appear to be contemplated by clause 2 of the Proclamation of 15th September 1803, and by section III of Regulation VII of 1822, but I am not aware that these provisions have ever been used except in such extreme cases as that of the rebellion of the Raja of Khurda, and the provision in clause II of the new *kabuliyat* appears to go beyond anything contemplated by the framers of these regulations. It practically places the proprietors in the position that they occupied before the conquest, but is of course intended to be used with the very greatest moderation and to provide the executive authorities with an ultimate power of compulsion, if a zamindar deliberately persists in riding rough-shod over his obligations. The clause runs as follows :—

On breach of the above conditions, or on failure to perform any of the duties imposed upon me by the above ten clauses, I hereby acknowledge on behalf of myself, my heirs, and representatives that, in addition to any other penalties to which I may be liable, the Collector may, with the sanction of the Board of Revenue, take my estate under *khas* management and pay me *malikana* as provided in sections III and V, Regulation VII of 1822.

Number and classification of estates.

269. The number of temporarily-settled estates in the Province is shown in the following table :—

NAME OF DISTRICT.	From Re. 0 to Rs. 10.		Rs. 11 to Rs. 50.		Rs. 51 to 100.		Rs. 100 to Rs. 1,000.		Rs. 1,000 to Rs. 5,000.		Rs. 5,000 to Rs. 10,000.		over Rs. 10,000.		Total.	
	No.	Revenue.	No.	Revenue.	No.	Revenue.	No.	Revenue.	No.	Revenue.	No.	Revenue.	No.	Revenue.	No.	Revenue.
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.		Rs.
Cuttack.	981*	5,209	1,457	37,512	594	42,654	1,204	3,82,508	186	3,07,542	22	1,53,884	5	1,00,606	4,449†	10,89,415
Balasore.	146	796	383*	10,540	238	17,559	523	1,62,713	101	2,08,362	15	1,08,820	6	1,15,017	1,412‡	6,24,607
Puri.	46	311	106	3,011	78	6,085	211	63,483	37	74,504	2	13,630	5	2,15,604	485	3,76,628
Total	1,173	6,316	1,946	51,063	910	66,298	1,938	6,08,704	324	6,50,008	39	2,75,834	16	4,40,827	6,346	20,99,650
Khas Mahals																
Cuttack.	...	...	1	38	...	.....	1	102	...	.....	...	.....	...	.....	2	140
Balasore.	9	23	1	13	4	241	1	337	2	3,293	...	.....	1	31,457	18	35,372
Puri.	....	....	1	48	...	.....	1	662	1	4,174	...	.....	....	.....	3	4,884

* Excluding 2 petty *Bahal Tanki* estates Tauzi, Nos. 1852 and 1853, the revenue of which is Rs. 16 and Rs. 6, respectively.

† Excludes killas Ragri, Chaussipara and Balarampur in Cuttack and killas Ambo and Mangalpur in Balasore. Under the orders of Government containd in Government orders no. 1862 dated 5th April 1900, and No. 416 T. R., dated 18th May. 1900, these estates have been assessed to the following sums as Revenue; viz, Ragri at Rs. 1535, Chausatpara at Rs. 607, Balarampur at Rs. 1,453, Ambo at Rs. 449, and Mangalpur at Rs. 1,130. See paragraph 610 for an account of these killas.

‡ Excludes one estate in Ankura which is wholly waste and pays no revenue.

The average size and the average revenue of an estate in each of the three districts is :—

DISTRICTS.		Area in Acres.	Revenue.
		Rs.	Rs.
Cuttack	....	263	247
Puri	....	1,079	777
Balasore	....	678	442
	Average	417	331

The estates are therefore largest in Puri and smallest in Cuttack.

In Puri, large estates with a revenue of over Rs. 10,000 occupy more than half the area; in Cuttack they form but a tenth of the total, and in Balasore rather more than a sixth; while the number of small *khoridagi* and *mazkuri* estates with a revenue of less than Rs. 100 is much larger in Cuttack than in the other two districts.

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Division of estates.

270. Originally the revenue-paying unit was the ***Bisi***, corresponding more or less to the present Pargana.

Under the Mahammadans the Pargana was divided into the *taluks* of the principal officials and alienations by *talukdars* and grants by the ruling power added largely to the number of estates. The process of disintegration proceeded still more rapidly under the Mahrattas, and at the British conquest the number of revenue-paying units was 2,361. The English Government recognised the right to partition of estates, and at the last settlement the number had risen to 3,571 and now stands excluding ***peskas mahals*** at 6,377.

An idea of the manner in which Parganas have been formed and divided may be obtained from examining a typical case. Jajpur Pargana consists of lands originally acquired by five Brahmans from 36 Parganas of Cuttack and Balasore. By partition these five estates have become 141, of which eight have been transferred to Balasore, and gifts, sales, and assignments for charitable and religious purposes have given rise to 323 other estates.

This is of course an extreme case, the average revenue of an estate in Jajpur being only Rs. 100; but throughout the northern Parganas of the Cuttack District petty estates abound and partition has been carried to great lengths.

It is not even the case that the estates have, as might have been expected, been more compact, for it is commonly found that in partitioning an estate having lands in a number of villages, a portion of each block has been assigned to each co-sharer. Indeed, there was often much difficulty in separating out the lands of the partitioned estates at the time of attestation, in consequence of the very inconvenient division made.

Division of proprietary right.

271. Inheritance to landed property follows, except in a few of the ***peskas*** mahals and *killas*, the Hindu law, and the natural tendency is for the number of proprietors to increase.

Alienations of portions of estates for liquidation of debts is also very common. For instance, in *taluk* Gopinathpur, Pargana Jainabad, there were when the settlement began only two proprietors; since then they have, to raise money, sold the whole or portions of 56 villages, thus raising the number of recorded proprietors to 130. By these two methods, division among heirs and sales to strangers, the number of recorded proprietors in the three districts has been raised since the last settlement as shown in the following table :—

DISTRICT.	No. at last Settlement.	No. Now Recorded.
Cuttack	5,400	31,900
Puri	Not available	3,000
Balasore	1,500	7,500

The average number of recorded proprietors in an estate is in Cuttack about seven, in Balasore over five, and in Puri over six.

Transfers of estates.

272. The changes of proprietorship prior to the last settlement are set forth in the *ruidads*,* and in the case of all the principal estates the history has been brought up to date in the special report.

It is thus possible to obtain a complete account of the transfers in the case of all the large *taluks*, but the history of the petty estates is necessarily very incomplete, and where there are many proprietors, it is often difficult to ascertain how they all acquired their interests.

In Balasore, out of 1,414 estates, Mr. Kingsford reports that 584 have descended wholly by inheritance to the heirs of the proprietors at the last Settlement; of 284 a part only has been alienated, 432 whole estates have been sold privately, 76 for arrears of revenue, and 38 under Civil Court decrees.

Complete figures are not available for Cuttack, but in the 503 principal estates it is found that, between the year 1805 and the last settlement, 204 transfers are recorded, of which 88 were on sale for arrears of revenue; since then there have been 451 transfers, of which only 24 were on sale for arrears of revenue. The shares recorded as still held by descendants of the original proprietors and their heirs only amount to the equivalent of 167 whole estates, so that two-thirds would

* Vernacular completion reports.

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appear to have been transferred; but this figure must be accepted with caution as it is difficult to identify all the heirs by enquiry or from an examination of the records, and my own experience would lead me to estimate that not more than a third had been transferred by sale.

The following figures are taken from the returns of the land registration department and, as all sales of estates are registered, are fairly complete :—

DISTRICT.	Period.	WHOLE ESTATE SOLD.			SALES OF PORTIONS OF ESTATES.						
						Purchaser.					
		No.	Revenue.	Purchase money.	No.	*Mahajans.*	Zamindars.	*Bazyafts, dars, &c.*	Raiyats.	Others.	Purchase money.
1	2	3	4	5	6	7	8	9	10	11	12
Cuttack....	1890—99	34	Rs. 11,787	Rs. 1,73,073	Rs. 5,127	Rs. 246	Rs. 3,192	Rs. 1,099	Rs. 121	Rs. 469	Rs. 3,28,625*
Balasore....	1889—98	13	1,535	43,947	2,018	127	1,814	496	164	63	10,04,576
Puri	1896—99†	6	....	9,075	144	31	31	47	15	41	72,000

* Last two years only. † Figures for only three years.

This shows that estates and shares of estates to the value of over Rs. 55,000 are annually sold in Cuttack; in Balasore the annual sales amount to Rs. 1,05,000, and in Puri to only Rs. 7,000.

If we take the price to be fifteen years' purchase of the revenue, this would give the revenue payable on the estates sold annually at over Rs. 12,000, and even if we take it at ten years' purchase, the revenue will only be about Rs. 18,000, so that not more than one per cent. of the zamindari appears to change hands by private sale every year.

The pruchasers are generally of the land-holding classes, zamindars or *lakhiraj dars*. Only about one in twenty is a *mahajan*. 'Others' probably includes pleaders and town people.

Dispossession of old proprietors.

273. It has been related how the Maharatta regime and the revenue policy of the first British rulers led to the ruin of many of the Old Uriya families, and it will be interesting to see how far this process of substitution of alien for native proprietors has continued to the present day.

It may at once be said that since about the year 1830 very few estates have passed into the possession of aliens, and, on the other hand, while but few of the Bengali proprietors have lost there estates, several have become practically naturalised in Orissa.

A general idea of the extent to which estates are in the possession of Bengalis and others may be obtained from the following table :—

DISTRICT.	NATIONALITY OF PROPRIETORS.							
	Percentage at last Settlement.				Percentage at the present Settlement.			
	Hindu Uriyas.	Mahomedans.	Bengalis.	Others.	Hindu Uriyas.	Mahomedans	Bengalis.	Others.
1	2	3	4	5	6	7	8	9
Cuttack	78	7	15	less than 1 P.C.	90	5	4	1
Puri	...	...	...	...	95	2	2	1
Balasore	78	10	12	less than 1 P. C.	81	7	12	less than 1. P.C.

It will be seen that the proportion of Uriya Hindu has increased, but this, I fear, does not mean that the Bengalis have lost possession of many of their estates, but rather that the subdivision of proprietary rights has proceeded more rapidly in the small estates, which are almost all in the hands of Uriyas.

The most marked changes of proprietorship have been :—In Puri, the passing of estates into the hands of the *mahants* and the big *mahajan* families. In south Cuttack the gradual absorption of all the small estates by the *mahajan* families, the Chowdhris of Bhinjapur and Gajrajpur and by *mahant* Raghunanandan Das. In central and estern Cuttack the Tagores, the family of Raja

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Digumber Mitter, a Bengali lady Srimati Arna Purna Debya, a Mahomedan family of Jessore, and other Bengali zamindars own almost all the big estates, and there have been comparatively few changes of proprietorship in the last fifty years.

In northern Cuttack the zamindars are for the most part Uriyas, and the most noticeable feature is the tendency of the estates to pass into the hands of proprietors drawn from the cultivating classes with infinite subdivision of lands and shares.

The big *mahajan* zamindars of Balasore have also obtained possession of considerable property in the Jajpur subdivision.

To complete the account of the non-Uriya zamindars the following table prepared for all the principal estates with a revenue of over Rs. 6,000/- (temporarily-settled) in the province may be interesting :—

District.	Name of estate.	Land revenue.	Nationality of proprietor.	Resident or non-resident.	REMARKS.
1	2	3	4	5	6
Cuttack	Taluk—Patamundai ...	Rs. 42,756	Bengali	Non-resident	Bought at execution sale in 1865 after several changes of ownership.
	Pandua ...	20,436	Ditto	Ditto	Bought at private sale in 1811.
	Birsuti ...	12,054	Ditto	Ditto	Bought in 1833.
	Saibir ...	22,798	Uriya	Resident	Bought in 1847 at a revenue sale from a Bengali purchaser.
	Tappa—Shahjehanpur	8,583	Ditto	Ditto	Bought in 1818 at a revenue sale.
	Taluk—Krishanpur	7,796	Bengali	Non-resident.	Bought in 1816 at a revenue sale.
	Mirpur	6,235	Uriya	Resident	Bought after last Settlement.
	Radhamohan Parshad	7,889	Bengali	Ditto	Bought in execution sale 1855.
	Naharapur	6,181	Uriya	Ditto	Partly by inheritance.
	Dhaneswar	8,954	Ditto	Ditto	A number of proprietors, all recent purchasers.
	Bari ...	9,545	Bengali	Ditto	Purchased from the Raja of Aul in 1868.
	Narayanpur	9,701	Uriya	Ditto	Bought from the Raja of Aul.
	Narendrapur	6,888	Bengali	Non-resident.	
	Tappa—Gopalpur	9,363	Uriya	Resident	Bought at a revenue sale 1805.
	Taluk—Govind Prasad	6,689	Ditto	Ditto	Bought in 1807 at a revenue sale, was again sold up in 1818 but bought back in 1814.

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District.	Name of estate.	Land revenue.	Nationality of proprietor.	Resident or non-resident.	REMARKS.
1	2	3	4	5	6
Puri ...	Taluk—*concld.* Kotdes	Rs. 1,04,319	Uriya	Resident	This is largest estate in Orissa and only passed out of the hands of the old proprietors in 1896; being bought in by the creditors. They are now recusant.
	Rahang ...	34,252	Bengali	Non-resident.	These three estates were bought in 1809 by the ancestors of the present proprietors, who since 1813 have been recusant.
	Krishnachandra. ...	13,792			
	Krishnagar. ...	19,692			
	Delang	43,464	Uriya	Resident.	The property of the Raja of Puri, restored to him in 1807.
	Kotsahi	7,320	Bengali	Non-resident.	Bought in 1813 at a revenue sale.
Balasore	Arang	5,954	Ditto	Resident.	These three formed originally one estate of which half was sold in 1838 and half is still owned by the old proprietors.
	Radhashyampur ...	6,109	Uriya	Ditto	
	Bidyadharpur ...	11,200	Ditto	Ditto	
	Padmalochanpur.	15,795	Bengali	Non-resident.	Originally one estate but by a Bengali before the last settlement. Half was sold and the partition made in 1875.
	Prestapura	18,341	Ditto	Ditto	
	Mubarakpur	23,949	Ditto	Ditto	Bought at a revenue sale in 1838.
	Shyamraipur	9,718	Ditto	Resident	Ditto
	Kalida	9,559	Uriya	Non-resident	
	Jagannath Prasadh	8,590	Bengali	Resident.	Purchased in 1812 at a revenue sale; had been several times sold for arrears.

The table shows that of 29 of the principal estates 15 are owned by Bengalis. In Cuttack and Balasore the preponderance of Bengali proprietors is more marked than in the Puri district.

Non-resident proprietors.

274. A country is necessarily at a disadvantage when the principal land owners live and spend their money abroad, and though the estates of Bengali proprietors are in general well managed by their resident managers, yet most of these Zamindars live in Bengal and only rarely pay a personal visit to their estates. The following statement shows the number of absentee zamindars (*vide* Appendix):—

		Cuttack.	Puri.	Balasore.
Hindu	....	76	12	271
Mahomedan	....	47	5	
Christian	....	Nil	3	....
Total	....	123	20	271

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It will be observed that but a small proportion of the Bengalis are recorded as absentees. Many, such as Lakhsmi Narayan Ray Choudhury and the various zamindar-pleaders have made themselves homes in Orissa; but the most important, the Tagores, the Mitters, Arnapurna Debya and Nagendranath Ray Choudhury all live in Calcutta. It is been the fassion to decry the Bengali zamindar, but however much we may deplore the ruin of old families (there were really very few old families in Orissa outside the Rajwarah) it can hardly be said that the country as a whole is a loser. Probably the most mismanaged estates in the province are those of the Raja of Puri, and though he has given way before the ***Mahantas*** or the ***Mahajans*** these in their turn cannot pretent to such good management as is to be found in the large estates of the Tagores or the Mitters. The most oppressive Zamindar near Cuttack is an Uriya of old family, while in the property of his Bengali neighbours the raiyats are treated with much consideration. So, too, the history of the estates of Kujang, Kanika and Aul show the native management at a great disadvantage as compared with that of the zamindaris of Tiran, Harispur, or Utikan.

The growth of petty proprietorship in the north of the district must doubtless tend to increase the average welfare of the population, though it gives trouble to the Collector and complicates revenue accounts.

In Balasore I have had fewer complaints from the estates belonging to the Mandals of Chinsura than from those owned by Uriya zamindars. Several prominent zamindars of Orissa at the beginning of the settlement proceedings spared no pains to oust raiyats from their lands in order to get as large a record of ***nijchas*** as possible.

To award the palm for management is invidious, but setting aside the Government ***Khas mahals*** and the Wards' estates the best managed estates in the districts undoubtedly belong to Babu Kailash Chandra Rai Mohashai of Dehurda.

In Puri little can be said about management. Half the area was held ***khas*** during the term of Settlement owing to the recusancy of the Paikpara Raja in Serai, Chaubiskud, and Rahang. The mismanagement by the Raja of Puri in Lembai and by the old zamindrs of Kotdes have been noticed elsewhere in the report.

Working of Revenue Sale laws.

275. Since the last Settlement the greatest moderation has been shown in the working of the Revenue Sale law, and the practice has been grown up of accepting payment even at the eleventh hour, until default has come to be regarded almost as a matter of course.

The number of sales in different decennial periods is as follows :—

PERIOD.	NUMBER OF SALES.			REVENUE OF ESTATE SOLD.		
	Cuttack.	Puri*.	Balasore.	Cuttack.	Puri.	Balasore.
				Rs.	Rs.	Rs.
1845-54	....	5	11†	....	2,823	....
1855-65	34	2	18‡	12,258	478	....
1866-75	18	1	....	1,857	155	....
1876-85	45	3	22	2,948	1,387	2,968
1886-95	109	16	17	16,233	87,514	3,159
1896-99	79	....	8	9,301	....	217

The figures have been complied in the Collector's Offices, and though the actual number of sales is at no period very large, the great increase towards the end of the century is very remarkable, and I am unable to account for it satisfactorily.

I can only suggest that it is due to the multiplication of proprietors, estates being brought to sale because one or two of the co-sharers have defaulted. Probably also proprietors with encumbered estates have found that they get a better price at a sale under Act XI of 1859 than they would if they had to sell it privately.

* For Puri the periods are 1858-67, and &c, down to 1888-97.

† From 1842 to 1855.

‡ From 1855 to 1868.

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There is no doubt also that proprietors feared the new settlement. They had no reason to suppose that Government would take less than 65 per cent. of the assets in ordinary areas, *i. e.*, areas having no special disabilities, and 60 per cent. in flooded areas; with these expectations, zamindars looked with dismay on the curtailment of their incomes. The unlooked-for liberality of Government and the Secretary of State in not only taking 50 to 55 per cent. as revenue, but in making the term thirty years, has given great confidence to the zamindars. It is possible that if this liberality could have been announced ten years ago, some zamindars might have struggled on to the end of the Settlement.

Value of proprietary right.

276. Nothing shows more clearly the increased security of tenure and the lighter assessment enjoyed by the land-holding classes under British, as compared with native, rule than the price paid on sales of proprietary right.

Mr. Stirling* tells us that after carefully examining a vast number of bills of sale of old date, he could confidently affirm that from one-fourth to one-half of the *jama* was the ordinary selling-price of a zamindari or *taluk*.

For a few years after the accession of the British the numerous sales occasioned a glut in the market, and valuable estates changed hands for absurdly low sums, but after 1809 the market began to recover, and prices rose steadily. Mr. Stirling says that in 1821 the average selling-price was from 50 to 100 per cent. on the *sadar jama*, or from fifteen to twenty years' purchase of the recognised profits, and some estates fetched much larger prices.

On the conclusion of the thirty years' settlement prices rose rapidly, and from 1840 to 1849, 94 estates brought to sale for arrears of revenue fetched an average of four-and-a-half times the *sadar jama*, or about ten years' purchase of the admitted profits.† In Balasore, between 1829 and 1842, the five estates sold realised only three times their *sadar jama*, while eleven estates sold between 1842 and 1855, fetched nine-and-a-half times the *sadar jama*.

The prices paid at revenue sales from 1855 to the present date are as follows, the price being expressed in multiples of the *sadar jama* :—

YEAR.			Cuttack.	Puri.	Balasore.
1855-65	....	....	12	15	9
1865-75	....	....	20	18	Not available.
1876-85	....	....	10	10	30
1886-95	....	....	8	2‡	14
1896-98	....	....	8	....	26

The falling off in prices in later years is difficult to account for, unless the reason was insecurity.

In the period from 1886 onwards it is natural to account for it by the expectation of the coming resettlement, but I cannot belive that this can have been an important factor so far back as 1876, and I can only suggest that many sales made in the last few years were of estates of which the fertility had, from various causes, been impaired and of which the *sadar jama* left a comparatively small margin of profit. It must be borne in mind that ten years' purchase of the *sadar jama* means twenty times the gross annual profit left to the zamindars at the last settlement, and it is by no means a low price; and we know that in some instances the estates sold had been seriously affected by deposits of sand.

In Puri the low price in 1880-95 is due to the inclusion of figures for the Kotdes estate, the greater part of which is *maurasi*, so that twice the revenue meant nearly ten times the zamindar's profits even if he collected all dues from the *sarbarakhars* and *muqaddams*.

In Cuttack five estates for which the new revenue had been settled were sold for arrears of revenue in March, 1899. The revenue was Rs. 139 and the price realised, Rs. 2,245, or nearly fifteen times the *sadar jama*.

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* Paragraph 84 of his minute.

† Mr. Collector Gouldsbury's report of 4th December, 1850.

‡ Owing to the low price for Kotdes.

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277. The above figures are for forced sales, but they are borne out by the recorded prices for private sales. In Balasore the average prices expressed in the number of years' purchase of the Government revenue were :—

Prices paid at private sales.

1840-50	....	....	7	1871-80	....	....	31
1850-60	....	....	18	1881-90	....	...	24
1861-70	....	....	20	1891-96	....	....	16
After execution of *kabuliyat*				....	....	....	22

It will be seen that here, as in the case of revenue sales, there was a falling off during the last few years of the settlement due to the natural anticipation of the enhancement of revenue and curtailment of profits, but that after execution of *kabuliyats* there was a recovery due to the lenient terms offered.

In Cuttack figures are not so complete, but it is found that in the 503 principal estate sales * involving the transfer of Rs. 2,04,000 of Government revenue are recorded, and the average price is one and-three-quarter times the revenue. Since the settlement twelve times the land revenue has been paid in sales of shares with an aggregate revenue of Rs. 96,000.

The prices paid in Cuttack have not been much affected by the anticipation of enhancement at the new settlement, some of the highest prices having been given in the last few years.

Figures compiled at attestation show that since 1885 estates and portions of estates, with a total area of 17,414 acres, changed hands for Rs. 1,35,999, or about Rs. 7-13 per acre (say ten times the *sadar jama*), and the number of years' purchase for such of these estates as figures were available for is over 13½. The big estate of Padmalabhpur, in Dihi Arakhpur, was recently sold at an execution sale for Rs. 69,000, or twenty times the revenue, while a three anna nine pie share of taluk Gopinathpur has, in the last five years, been sold for Rs. 19,013, or thirty-five times the *sadar jama*.

The registration returns quoted in paragraph 272 show the average price paid for whole estate in Cuttack from 1890 to 1896 to be over seventeen years' purchase, and since then over eleven years' purchase of the *sadar jama*.

Mr. MacPherson tells us that in Puri 21 estates with a revenue of Rs. 3,385 have been sold, chiefly in the last twenty years, for Rs. 55,510 or at about sixteen and-a-half years' purchase of the *sadar jama*, and that these estates are mostly in the worst parts of the district.

I conclude that during the latter part of the settlement the selling value of the larger estate varied from ten to twenty times the *sadar jama*, and that small portion of estates containing much *nij-chas* land might fetch thirty to forty times, the old revenue.

278. It is too soon to tell the effect of the enhancements of the revenue on the selling price of landed property. There is, however, no doubt but that much more severe enhancement was expected, and that the lenient terms accorded have strengthened the market. In Balasore, Mr. Kingsford instances the case *Killa* Patna sold in 1897 for Rs. 90,000 or one hundred and eighty eight times the revenue. This is, however, hardly a fair example as the estate until it changed hands was a "Killajat" (see Chapter XXIV, Paragraph 610) and the revenue had not been altered since the begining of the century. The revenue even after enhancement is only Rs. 2,406. Three other estates with an aggregate revenue of Rs. 1,033 have also been sold for twenty-two times the new revenue.

Sales since the Settlement of the new revenue.

Under the Hindu rulers every village was a complete social and political unit with its own half hereditary and half elective officers, who administered its internal affairs with the assistance of the council of elders and acted as its spokesmen in all dealings with the higher officers of Government. A village without a head or a corporation was occasionally found but this was only where for want of suitable house sites or other reason, no respectable cultivators cared to make it thus permanent resident; such villages were known as *pahikasht* or cultivated by migratory raiyats, or as *bechapuri*, *i. e.*, without houses.

Village Tenureholders.

* Includig forced sales.

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The most important of these village officers was the headman or ***padhan*** whose office was generally hereditary but who appears sometimes to have been elected by his co-villagers. He was responsible for the payment of the village revenues to his superior, the divisional head,* and in return was supposed to hold a twentieth of the land in cultivation free of assessment,† and probably collected small contributions from his co-villagers. With him was associated the village accountant‡ who was similarly paid by a grant of land.

Under the Moghul settlement as the superior officers crystallised into *talukdars* so the village headmen and accountants tended to become land-holders, and they are now found in many villages as proprietary tenureholders under the names of (1) ***Muqaddams,*** (2) ***Padhans,*** (3) ***Pursethis,*** (4) ***Sarbarahkars.***

Their tenures, as also those of the more recently created ***kotkharidadars*** and ***shikmi*** zamindars. I shall describe in the following paragraphs. They must be understood to be applicable only to the ***Moghulbandi*** or ***khalisa*** area.

Muqaddams.

279. The ***Muqaddams***§ are the old Hindu village headmen or ***padhans,*** under a Mahomedan name. They are of three Classes : (1) ***Maurasi*** or hereditary, (2) ***Kharidadars,*** those who purchased an hereditary right from the *talukdar* or, *maqaddam* (3) or ***Zati, i. e.,*** appointed by the people of a village as their representative, or, sometimes, created by a zamindar.

The right of these *muqaddams* are thus described by Mr. Stirling paragraph 45 of his Note of 1821.

"The natives of this district have still unquestionably a deep-rooted feeling that the hereditary or *Malik Muqaddams* had rights which ought not to have been suffered to pass away unnoticed and unprovided for. They are emphatically called *watundars* (*i. e.*, holders of their own land) and *boonyad wals* (men of the foundation); their *jagir* or *nankar* lands are in many parts termed *pitraleh* or ancestral, and what is of more importance than names the fact cannot be denied that they exercised precisely the same rights in selling or mortgaging the whole or a part of their *muqaddami,* in creating the *khuridaghi* tenure on a small scale, and granting inconsiderable portions of charity lands as the *talukdars* did, though the countersignature of the latter to their *kabala* was, perhaps, necessary. In the bills of sale, too, disposing of a *muqaddami,* all the rights arising from the village management, the perquisites on pasture grounds, gardens fisheries, timber & c., taxes on trades, &c., are transferred as fully and absolutely as on the seale of a *talukdari.* The hereditary *muqaddams* if now asked how they can prove that they have any right, will answer : our *muqaddami* tenure is *maurasi.* We have inherited it from our ancestor from time immemorial. We have transferred and bought shares. We have sold pieces of ground and granted land free of rent. The *Kharidadars* and *Khyatdars* are forthcoming. Let them be asked from whom they obtained their land."

Treatment of ***muqaddams***.

280. Of these tenures may were separated from the control of the *talukdars* either as a special favour or on payment of some consideration, or because of extortion or abuse of his authority by the ***talukdar;*** such separated tenures were known as '***Mazkuri***' (mentioned) and their holders being allowed to engage directly with Government for the payment of revenue have now been merged in general body of zamindars.

For the rest the ***muqaddams*** were, during the early years of British rule somewhat neglected, the revenue officers being generally imbued with the idea of the complete proprietorship of the ***malguzar*** and unable to concieve of any participation in his rights by an inferior tenureholder.

In 1804 we find Mr. Collector Hunter writing that there is very little distinction between a zamindar and ***muqaddam***; and so well were the incidents of the latter tenure understood that in deeds creating a ***muqaddami*** tenure no further description was considered necessary than the name afforded, the only qualification being an occasional reservation of the right of alienation.

Between 1804 and 1820 the ***talukdars*** were doing their best to get rid of the intermediate tenureholders, and as the latter's rights were undefined and they were always referred for redress to the Civil Courts they generally went to the wall.

Mr. Stirling, however in 1821, and after him the distinguished officers who made the last settlement strongly advocated the claims of the ***muqaddam*** and in that settlement their rights were recognised and finally determined.

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* ***Bisoi.***

† His "***Heta***".

‡ ***Bhoi,*** also under other names as Kothkaran, Baithkaran, Sethi.

§ An Arabic word meaning 'Headman'.

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The respective rights of the zamindars and dependent *talukdars* of the Province were discussed in the replies to the Board's twenty-one questions of 1831 and afterwards in the orders on the Settlement reports: and after conference held in Calcutta in 1834 the following principles were accepted *: —

The first principle laid down was that village proprietors, who paid through a superior at the Session and have since similarly paid through a superior; shall continue so to pay until they prove their right to separation in a Court of Justice, the rules prescribed in Section XVI, Regulation VII or 1822 being duly observed in each case by the officer who makes the settlement under any modifications subsequently imposed upon those rules.

"Principle second. That the *muqaddam* who shall be found in possession of a fixed tenure shall receive such proportion of the assets of the village (either in land, money, or kind according to usage as in the judgement of the Revenue authorities shall be considered a fair allowance, he paying a full equitable rent to the party under engagements with Government for all the land within the tenure.

"Principle third. That the party under the engagements with Government shall reserve the *malikana* allowance on the nett *jama* prescribed by the Regulation and such further allowance on account of risks and expenses not exceeding (*malikana* included) 20 per cent on the nett *jama*, as may be judged right by the Revenue authorities, unless under special circumstances, to be reported for the sanction of the sadar Board and Government."

As a rule the *muqaddam* received 20 per cent. of the gross collection from the ***khalisa***† lands or sometimes, where a village was exposed to inundation or drought, 25 per cent., and in the case of the ***lakhiraj*** tenures resumed and assessed at half-rates he was allowed half of the total proprietary allowance of 15 per cent. the balance going to the zamindar.

Incidents of the *muqaddami* tenure.

281. No distinction was made between the three classes-hereditary, purchased, and appointed-provided only that the tenure had been in existence before the British conquest; and the incidents, as recognised in the Settlment and now modified by Act X of 1859, are—

(1) The tenure is hereditary.

(2) It is divisible, subject to the limitation that no zamindar is required to admit to registry or give effect to any distribution or division of the rent payable on account of any such tenure. ‡ A division of rent allowed in writing by a zamindar is binding as against his successor in interest, but not as against an auction purchaser.

(3) It is transferable.

(4) The *muqaddam* is entitled to collect the rents fixed at the settlement and to any lawful increase in the rental.

(5) The *muqaddam* is entitled to the possession of all lands in the village not leased to any tenant, and to all profits derived during the term of settlement from the reclamation of the waste lands.

(6) The *muqaddam* exercises within his village all other functions and privileges of a zamindar.

(7) He is liable to the payment of a fixed annual sum to the superior zamindar, and the amount so payable is only liable to alteration when the revenue payable by zamindar is revised.

(8) On default in payment the zamindar must sue the *muqaddam* for the amount due under Act X of 1859 and if all the landlords join in the suit, the tenure may be sold in execution of the decree, the balance of the purchase money after the satisfaction of the claim going to the defaulter.

(9) On such sale the *muqaddams* are liable to be ousted from the lands in their possession, even though forming part of their ancestral *pitrali* land.§

(10) On recusancy they are entitled to *malikana* of 5 per cent., but not to re-entry at the next settlement.

(11) On purchase by the superior landlord the tenure does not lapse but remains separate and distinct.

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* Letter No 1 of 2nd February, 1835 from the Secretary to the Board of Revenue to the Secretary to Government.

† That is, lands in the possession of proprietors and their tenants.

‡ Section 105 of Act X of 1859. For the effect of the Tenancy Act, *vide* paragraph 354 *infra*.

§ See proclamation of 15th September, 1804, clause 7, and Board's orders of 8th November, 1805 as to the *Padhans* of Lembai. *Per contra* in practice they are difficult to dispossess.

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Miali muqaddams.

282. Beside these *muqaddami* tenures in which the right to possession was fully established, we find also others where, though the claimant failed to prove a good title, he was, as being actually in possession, recorded in the settlement papers and given an allowance, but his tenure made voidable on sale of the estate for arrears of revenue or under the decree of a Civil Court. Such is the case with *muqaddami mauza* Jaganathpur in Pargana Nahakhand, District Cuttack; also with several of the tenures in Parganas Sujanagar and Saidabad, and in Taluk Bisnabar which were created by the zamindar after the conquest. As a rule the temporary tenure-holders received the same allowances as *maurasi muqaddams*, but in a few instances only 10 per cent. was given.

Padhani.

283. The old Hindu name of the village headman was *padhan*, but most of this class became absorbed as *muqaddams* into the Mahomedan system; the survivors being for the most part in Lembai and the other Parganas of Puri allotted to the Raja of Khurda. Their position differed from that of the *muqaddams* in two points* :—

(1) That, unlike the *muqaddams* who held a fixed amount of *jagir* land, the *padhan* had a customary right to hold one *man* in every 20 *mans* of raiyati land in cultivation free of assessment as his *"pitrali"* or ancestral land.

(2) That in default or sale of the tenure, the *muqaddam* retained his *jagir*, but the *padhan* was ousted from his *"pitrali"*.

At the settlement of 1837 they received exactly the same treatment as *muqaddams*, with this exception, that while to the latter the right of re-entry after recusancy was disallowed, to *padhans* it was conceded.

Sarbarahkari.

284. The following account of the origin and incidents of the *sarbarahkari* tenure has been taken with some modifications from Mr. H. McPherson's report on the Puri District :—

The nature of the *sarbarahkari*† rights, its origin and the principles to be followed in disposing of *sarbarahkari* claims were the subject of much correspondence at last settlement. As to the origin of the fight, I may quote paragraph 3 of Mr. Commissioner Ricketts' No. 1131, dated 23rd April, 1838, to the Board of Revenue :—

"Some of these *sarbarahkars* were originally mere servants of the zamindars who collected rents from the cultivators and enjoyed *jagirs*. Some part obtained possession of their villages as farmers only, but the tenure having descended for several generations from father to son, a prescriptive right has been created. Some were *Sirdar Paiks* who, with their subordinates, were bound to attend the summons of their chiefs to the fields. They paid rent for that part of their village lands not occupied as *jagir*. All classes now claim equal privileges, continued possession of their villages, paying the *jama* which at the last Settlement may be assessed."

A curious instance of the creation of the *sarbarakari* right is recorded in the last settlement Report of Pargana Serai (Taluk Krishnanagar).

Mr. Wilkinson took engagements from village headmen who had otherwise no claim to be considered *sarbarahkars* on the ground that it was expedient to maintain these men in their immunities and perquisites that they may not be driven to acts of violence, and because their removal would impair the high state of cultivation in which these *mahals* were. In the Patamundai ‡ estate of Cuttack, too, the Settlement Officers were accused of not upholding but creating *sarbarahkari* tenures which had not previously existed, and eventually is was decided not to recognise any of their tenures.

Incidents of Sarbarahkari tenures.

285. Such being the diversity of origin of the *sarbarahkari* tenures, there was naturally the greatest variety in the rights and liabilities of the many claimants to admission at the last settlement, and after a great deal of correspondence § and some rather

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* Vide Mr. Stirling's Minute, paragraph 52.

† *Sarbarakar* (P.), a steward, one who manages supplies.

‡ Letter No. 1769 of the 25th September, 1838, from the Secretary to Government to the Secretary to the Board of Revenue,

§ Commissioner to Board, No. 1131 of 23rd April, 1838, and the Settlement papers of taluks Noanund Saibir, Patamundai, and Bamanpur.

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contradictory orders the following principles were laid down by Government for the guidance of the local officers, and may be accepted as an authoritative declaration of the rights and incidents of the tenure *:—

Firstly.— That the *sarbarahkari* tenure is recognized as one of the existing under-tenures of the Province".

"*Secondly.*— That the Collector at the time of making a settlement must, as in the case of *muqaddams*, fix the share of the existing rental to be allowed to a *sarbarahkar* and the amount payable by him for the village under his management to the zamindar".

Thirdly.— That if a *sarbarahkari* tenure be found at the time of Settlement in the possession of several joint-*sarbarahkars*, the Collector, with the concurrence of the zamindar, may select one or more of the body to be recorded manager of the *sarbarakar*".

"*Fourthly.*— That *sarbarakars* so selected and recorded cannot be ousted from their tenures, except for default of payment of rent or for mismanagement proved to the satisfaction of the Collector".

Fifthly.— That the tenure should never be admitted at the time of Settlement as a hereditary property *maurasi sarbarakari* unless it has been held as such uninterruptedly from a period antecedent to the British accession, *i. e.*, antecedent to 14th October, 1803, and unless the claimant be in possession of the tenure at the time or within a year previous to the time of Settlement."

"*Sixthly.*— That in cases in which hereditary succession or uninterrupted occupation cannot be shown, but the claimant himself has been long in possession and is in possession at the time of Settlement, the Collector may, in consideration of occupancy and according to its duration and circumstances, propose a temporary admission of the tenure *(miadi sarbarakari)* for such term and on such condition as the case may seem to require."

"*Seventhly.*— That no admitted *sarbarakari* tenure, hereditary or temporary, can be alienated or subdivided without the consent of the zamindar."

In the correspondence on the settlement of taluk Bamanpur† it was further laid down that in cases of default in payment of the *jama* fixed the rights of the *sarbarahkars* should revert to the zamindar.

Miadi Sarbarakari tenures.

286. In the case of the *miadi sarbarahkars* admitted under the sixth provision of the rules quoted the term fixed was usually that of the settlement; in other cases ‡ they were given only a life right, the tenure lapsing to the zamindar on the death of the incumbent.

Besides the restriction of the term of settlement the temporary tenures differered only from the hereditary or *maurasi sarbarahkaris* in that, on sale of the parant estate for arrears of revenue, or under the decree of a Civil Court, the former were voidable. Mr. McPherson is of opinion that there is the further distinction that while the *maurasi sarbarakhar* has a legal claim to admission at this present and any subsequent Settlement the *miadi sarbarahkar* could only have a reasonable expectation of being allowed to engage; but I am unable to find any authority for this distinction; it appears to me that the tenure if admitted though only for a term, at the last settlement and still subsisting has acquired a right to recognition under Clause 6 of the Government Rules. It does not appear that the zamindars have often availed themselves of the powers given them of extinguishing these encumbrances. Originally non-payment of the rent involved the forfeiture of the tenure, and on the passing of the first rent law the tenure-holder, whether permanent or temporary, continued to be liable to ejectment as his tenure was not legally transferable§ In practice, however, these tenures are invariable brought to sale as though they were *muqaddami* and are some times bought in by zamindars themselves who continue to hold them as separate properties. For instance, in Saibir all the *sarbarahkari* tenures but one are now held, in whole or part, by the zamindars, though some were only confirmed for the life time of the incumbents.

In the present settlement no distinction except in name has been made in the engagements taken from temporary and permanent *sarbarahhars* and their tenures are protected for the next thirty years.

Ejectment of *sarbarahkars*.

287. Section 65 of the Bengal Tenancy Act, which has been extended to Orissa, protects from eviction for arrears of rent all permanent tenure holders, such as *maurasi*

* Government to Board No. 1769 of 25th September, 1838.

† Government Order No. 492 of the 2nd April, 839.

‡ As in Taluk Saibir of Cuttack.

§ Section 22, Section 78, and Section 100, Ac X of 1859,

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sarbarahkars and though Section 11 which makes permanent tenures transferable has not been extended, the effect of the change of law will be to crystallise the practice of putting up to sale *murasi sarbarahkaris*. With the *miadi sarbarahkaris* the case is different. Had temporary engagements been taken from the holders they would doubtless have continued to be liable to eviction, but custom can make a tenure permanent, and for many years it has been the custom to treat *miadi sarbarahkars* as though they held heritable, permanent and transferable tenures, and now in this settlement their status has been tacitly acknowledged to be the same as that of their *murasi* brethren. It cannot be prophesied what the Civil Courts will hold, but there is at least room to surmise that no distinction will henceforward be made between the two classes.

Pursethis.

288. The *pursethis* are not a common class of proprietary tenure-holders, and I cannot find any better account of them than that given by Mr. Mills, which I here quote:- *

"The word Pursethis is of Sanskrit derivation and means the headman of the *patna*. There are two classes of *Pursethis*. The first and the most numerous are *Pursethis* of a particular class of *Patnas* appointed by the founder of the *patna* or the village community. His office which depends on the will and pleasure of his superior, is to collect the rents, superintend the cultivation, settle raiyats in the village and perform all other functions of a purely ministerial nature. His emoluments are, in part, lands at low rates and in part a profit on the collections, varying in proportion to the extent of the village. The proprietors in some instances allow them to engage for the revenue of the village, in which case they are bound to pay a fixed sum as rent, and are allowed to enjoy whatever they can realise over and above that amount.

"The other class are *Pursethis* who have purchased or acquired from the zamindar a grant of land and established a village on it which is designated patna. The rights of these very nearly assimilate to those of the *muqaddams*, they can alienate their property which is hereditary, bequeath it to others, and may in every respect be considered like *muqaddams* proprietors of the land contained in the *patna* subject to a certain fixed demand. I cannot ascertain whether they pay any *russoom* to the zamindar, the present incumbents do not, but it is customary to make a trifling present at the auspicious *soonia*."

To the second class belong the *Pursethi muqadams* taluk Abdulabad of Assureswar and of Pargana Bakhrabad in Cuttack, who received exactly the same treatment as *muqaddams*. †

Of the former class was the *pursethis* of Chauliagung *patna* who at the last settlement was found so incompetent that the Collector dismissed him and appointed in his place one of the numerous proprietors of this village, allowing him 10 per cent. for the expenses of collection from the raiyats and co-sharers. He was subsequently ousted by the villagers and his heir has not been recognised in this settlement. Here therefore the *Pursethi* was of the nature of a "reportdar" in a *sasun* village, the other proprietors becoming *shikmi* zamindars.

Kharida tenure.

289. It was customary in the days of the Moghuls and Mahrattas for the superior Revenue officers to recognise a species of sale by which those who engaged for the revenue whether as zamindars, *talukdars* or *muqaddams* transferred small areas of waste land ‡ and jungle to persons who undertook to bring it under cultivation or to found villages. The areas were understood to be small and worthless but fraud was practised in many cases and valuable lands were alienated for a large consideration which was pocketed by the transferor. A peculiarity of the *Kharida* (or purchased) lands was that they frequently consisted of scattered patches spread over the whole pargana or district §. The origin of the scattered tenures is obscure but the probability appears to be that the tenures were originally not one but many held by various persons (often servants) who for convenience were all subordinated to one or two of the principal men among them. *Patna* Bagh Brindaban and *Patna* Ghulam Ali are the two most remarkable instances; the latter stretches from Kotdes in Puri to Bhadrak in Balasore, and the former from Balasore to the Subarnarekha. The lands had, as a rule, a small rent assessed on them ¶ which they continued to pay through the

* Report of 13th July, 1835 on taluk Bisnabar.

† Extract from Board's proceedings of 11th August, 1837. *Per contra*, Mr. Mills states that they were treated as "*Sarbarakar* but this is not the case.

‡ *Arazi banjar kharij jama.*

§ *Kharidagi baze-i-zamins.*

¶ *Tanki* or *Sarbarahkari Kharida.*

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zamindar of the parent estate. In some cases they were rent free and were then called *ma'afi Kharida*.

At the conquest it was found that some 800 *kharida* holdings were paying revenue direct to the Mahrattas. These were continued as separate estates, and the *Kharidadars*, or in some instances only their representative were allowed to engage for the payment of revenue.

These purchasers acquired all rights of the *talukdars* or *muqaddams* from whom they derived their title and had at least as good a right to be considered actual proprietors of the soil.

Treatment of *Kharidadars*.

290. The proper method of treating them was a problem that it took the Revenue Officers a long time to solve, but in 1837 it was finally decided to divide all *kharidadars* into two classes * —first class, those who had derived their title from zamindars; second class, those who had derived the title from *muqaddams* and other tenure holders. The first class were allowed a deduction of 30 per cent. from the assets, the zamindar through whom they paid getting 5 per cent. Their claim to *malikana* was allowed. The second class were allowed a deduction of 20 per cent. from the assets, 15 per cent. being given to the zamindars or divided between him and the *muqaddam* where the rent was payable through the latter. They were not allowed *malikana* on recusancy. The titles of *ma'afi kharidadars* to hold without payment of rent were enquired into in the same way as those of *lakhirajdars*—that is, their lands were assessed or allowed to remain rent free according as the tenure would have been invalid or valid if held under a grant instead of a deed of purchase, and in the event of the tenure being found invalid they came under the ordinary rules for *kharidadars* of the first and second class. †

The tenures assessed are classed in the Settlement papers as *pursethi kharida, koth kharida, shikmi kharida,* and *kharida jamabandi*. The last two tenures are practically identical, though the term *kharida jamabandi* is generally applied to the pettier class and the *shikmi kharida* often closely approaches the *pursethi* in its nature. The latter are found in but a few places, and I give here a description of the tenure as it exists in *patna* Bagh Brindaban of Balasore. This estate consisted of parcels of land in 72 villages, all of which had been purchased by private individuals who paid their revenue through the *thana daroga*. On the British conquest the *daroga* for the time being was one of these purchasers and was allowed to engage as zamindar, ‡ the holders of the other parcels being recorded as *shikmi kharidadars*, and in the case of the founders of hamlets of "*patnas*" as *pursethi kharidadars* receiving 20,25, or 30 per cent. as allowances. These latter, 17 in number, besides 22 *shikmi kharidadars* found in possession of entire villages, have been recognised as proprietary tenure-holders and allowed to execute *kabuliyats*.

In Cuttack one such tenure has been recognised in *mauza* Kumaripatna Pargana Dalijora which was really a *kharida jamabandi* tenure of the second class, but consists of an entire village of which rent, but not the lands, is divided between 5 estates, and another in Khairang Tumbha Andaisahi in tauzi-No. 2740; *kabuliyats* have also been taken from *koth kharidadars* of Tiran; (see para 292) but for the bulk of *shikmi kharida* and kharida *jamabandi* tenures rents have been settled under the Tenancy Act for the term of the settlement (See paragraph 476).

Sikmi zamindars.

291. The most curious of all the subordinate proprietary tenures is the *sikmi* (*i. e.*, "included") zamindary, which is found in all 3 districts.

Unlike the *muqaddami* and *padhani* tenures the *sikmi* zamindari appears to be of recent creation and to have arisen in one of the following three ways :—

The first and perhaps the most common case is that of resumed service tenures, such as the dograi *mahals* and resumed *jagir* villages, where one or two of the *jagirdars* were permitted to engage for the payment of the revenue, the others being recorded as *sikmi zamindars* paying through the recorded *malguzars* who

* Government to Board No. 983 of 27th June, 1837 and other papers of taluk Malipur; and also Mr. Commissioner Ricketts' No. 2453 of 25th October, 1837, to the Collectors.

† Collector to Commissioner, No. 382 of 27th October 1837; Commissioner to Collectors No. 2540 of 31st October, 1837.

‡ See paragraphs 8 and 9 of letter No. 905 of 18th April, 1837 from Mr. Commissioner Ricketts' to the sadar Board of Revenue and the papers of taluk Malipur.

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got as a rule ten per cent. for collection expenses. Thay were recorded in this manner and not as co-sharers may best be explained by quoting the opinions of the officers who made the settlements, and I therefore make no apology for here reproducing paragraphs 72 to 74 of Mr. Ricketts' reply to the Boards 20-1 questions in 1831 :—

"Such for instance, besides others, are Dograi Mahals. The right of no individual Dogra was originally superior to that of the rest; each Dogra had possession, on payment of revenue, of the land which before it was resumed constituted his *jagiri*. At the conquest the name of one Dogra only was recorded, the others retaining possession of their lands, but paying through him; this was an arrangement made by themselves, and not directed by any authority. Before this voluntary surrender of privilege, the rights of all were equal, what relation the non-recorded Dogras hold with those recorded is now matter of dispute. One of these Dogra mahals was sold by auction for arrears for revenue. The auction purchaser wished to oust all the Dogras on the plea that, being all sharers, the interests and rights had been sold with those of the recorded proprietor. The Dogras pleaded right of possession as under-holders. As acting judge of Cuttack. I upheld the possession of the Dogras as holders under the auction purchaser; in fact, decided that they should not be considered as having been joint sharers, but shikmi *taluk holders* of the recorded proprietor. I considered this question of great general interest, and so certified to the Superior Court. A special appeal was admitted, and on trial my decision being upheld, the non-recorded Dogras are still in possession of their tenures, the revenue of which they pay through the auction purchaser. There are no three suits pending in the Civil Court at Cuttack instituted by three Dogras of another Dogra mahal, the circumstances of which are precisely the same, excepting that it has not been sold for arrears, in which they claim equal privileges with the dogra recorded, and demand to be registered with him as *sadur malguzars:* the sums at which the suits are laid being, respectively, Rs. 37, Rs. 17, Rs. 2 As, 12 and Rs. 2 As. 15.

"There is not a doubt that their rights were equal to those of the Dogra recorded that they were precisely the same; but had I to decide the cases, I should most certainly notwithstanding my conviction of what their rights were formerly, declare them to be under-tenants and refuse their prayer to be admitted as *sodar malguzars*. Some uniformity of principle is necessary; they must either be superior holders or under-holders; the privileges of both connot be allowed them; persons of the same class cannot be permitted to claim whichever denomination may be suited to the occasion—to be sharers before a *sale*, and under-holders after one. Their situation ought to be, but is not, defined."

This case it will be seen is very similar to that of the ***Kharidagi baze-i-zamin*** estates in which the principal purchaser was allowed to engage for the revenue and the others recorded as ***shikmi Kharidadars*** getting 20 or 30 per cent. as allowances.

The second case is that in which lands had been assigned* by a ***malguzar*** for the support of his near relatives. The relative, if not admitted to separately engage was recorded as a ***shikmi*** zamindar and generally received the whole of the ***malikana*** allowance.

Such was the origin of the five ***shikami*** tenures in taluk Mirpur Pargana Tisania, which were grants to relatives of the Chaudhri. The tenure-holders were, at the last Settlement left to make their own terms with zamindars and have enjoyed the whole of the allowances †.

In taluk Sundi, Pargana Benahar, the ***Shikami*** zamindar was similarly left to make his own terms and got 70 per cent. out of a total allowance of 40 per cent. His agreement was challenged in the Civil Court by a purchaser of the estate, but was upheld by the Court as valid, and has been recognised in this Settlement, an allowance of 40 per cent. given to him.

A third class is that alienations of one or two villages of an estate previous to the last settlement, when the purchaser was sometimes recorded as a ***shikmi*** zamindar getting the whole allownces instead of as a co-sharers. Such is the case in mauza Olatpur, pargana Sujanagar, and in several tenures in Sailo.

In taluk Sayyadapur, pargana Tisania, there is a ***sikmi*** zamindar Tenure; the tenure holder claimed to hold the land as ***Kharida*** zamabandi, but the purchase having been made since the last settlement his claim was disallowed; he was however, recorded ***sikmi*** zamindar and got 30 per cent., the zamindar getting only five per cent., so that he was left rather better off if any thing than if his title had been good.

The same was the case with ***mauza*** Chackrapur in taluk Mirpur.

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* As "Khorak Posak" or "Baradaran Jagir".

† In this Settlement also they have been left to make their own terms.

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292. In a few very uncommon instances we find more than one subordinate proprietary right in taluk Abdulabad pargana Assuresware there is a *sikmi pursethi* tenure under Pursethi *Patna* Bengi. It has been recognised in this settlement, the intermediate sub-proprietor getting only five per cent. allowances.

Subordinate proprietary tenures.

The most complicated case is however that of the *Koth kharida* tenures of Tiran. It appears that in the early years of the present century the Raja of Kujang had forcibly possessed himself of several villages belonging to revenue paying estates in the *moghulbandi*, and at the last Settlement claimed to hold them as a separate *mahal*. This claim was rejected and the lands were settled with him as *Koth kharida* and an allowance of 20 per cent. of his collections given to him.

In some of these villages there were sarbarahkars getting allowances of 20 per cent., under whom again were in some cases *bazyaftidars* paying only half of the rent they realised from the *muqaddams* who themselves retained 20 per cent. of the raiyati assets. In this way 29 per cent. of the gross rental found its way into the pockets of the zamindars and 25 per cent. was paid into the Government Treasury. In the present Settlement fair rents were settled under Section 7 of the Bengal Tenancy Act for the *sub-muqaddams* and *bazyaftidars*, and the payments of the latter were divided in the ratio of 18 per cent. to the *sarbarahkar* 12 per cent. to the *Koth kharidadar*, and the balance (70 per cent.) less certain temporary concessions, divided in the ratio of 15 to 25 between the zamindar and Government.

Another case is that of taluk Danardanpur of Pargana Barpolla in which *muqaddams* were found holding under *bazyaftidars* and in turn collecting rents from *shikmi bazyaftidars*. In these estate fair rents were settled for all the tenures under the Tenancy Act.

All these tenure holders except the *shikmi kharida* and *kharida jumabandi* have in the present Settlement been treated as sub-prorpietors*. Rents have not been settled in their case under the Tenancy Act, but they have been allowed to retain a share of the proprietary allowances, and have been generally given the whole benefit of any reduction in the proportion of the gross assets taken as revenue.† They have executed *kabuliyats* for the payment of the revenue assessed in much the same orm as the zamindars, and no attempt has been made to curtail or define any of their existing rights and privileges except in so far as they are setforth in the *kabuliyat*. ‡

Treatment in this Settlement.

With few exceptions no tenures of this nature obtained recognition unless mention of them was found in the papers of the last Settlement.

An instance of departure from this rule is to be found in *taluk* Mansara in Pargana Tisania where two tenures not recognised in the last Settlement were decreed by the Civil Court and given an allowance of 10 per cent., which has been continued to them in this Settlement.

There are also a few cases in which tenure holders other than *muqaddams, sarbarahkars, padhans and pursethis*, and *shikmi* zamindars have been treated as sub-proprietors. I have already mentioned the case of the *shikmi kharida* and *koth kharida* tenures and besides these there are some *tankidars*,§ in possession of entire villages who have, from motives of policy and convenience, been given a share of the proprietary allowances and allowed to execute *Kabuliyats*. In two other cases tenures found to be existing at the last Settlement but not recognised have continued throughout the period of Settlement. In one of these cases a *maurasi muqaddami* has been granted with the permission of the Board where the *jama* of the tenure had not altered (see report of estate No. 62 of Puri), and in another case a *sarbarahkari* right has been recognised (*mauza* atto, *taluk* Talpara, tauzi No. 43 of Balasore).

293. All these classes of tenure-holders are, as regards their relations with their tenants, in exactly the same position as zamindars, and what has been said of the latter will apply to these also.

General position of proprietary tenure-holders.

* *i. e.*, "dependant *talukdars*" in the language of the regulations.

† *See infra* paragraph 558.

‡ For form of *kabuliyat* see Appendix C.

§ Two in taluk Balbhadrapur and one in taluk Birsuti of Pargana Tikan.

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As regards their relations with their land-lords and their own circumstances the points of which I propose to treat specially are —

(1) Right to *malikana* and re-entry.
(2) Subdivision of proprietary tenures.
(3) Transfer of proprietary tenures.
(4) Collections from proprietary tenure-holders.
(5) Effect of the recent Settlement and of the introduction of the Tenancy Act.

This last heading is inevitably somewhat mixed up with those preceding it.

Right to *Malikana* and Re-entry.

294. The *muqaddams* and *padhans* were considered to have a *quasi* proprietary right in the soil and were generally allowed 5 per cent. as *malikana* besides 15 to 20 per cent. for the expenses of collection,* while the *sarbarahkars* got only the latter amount. Mr. Lewis of the Board of Revenue laid down the distinction in the clearest terms. He wrote †:—

"Muqadams stand on a different footing (*i.e.*, from sarbarahkars); they have a right of property apparently in the soil, which having been conceded, is of course a saleable property; and in considering the allowance made to them the difference here noted should never be lost sight of. The surbarkar I would allow 10 per cent. for the risk and trouble of collecting, the muqadam 5 per cent. more on account of his partial proprietary rights."

The *padhans* retained in the event of recusancy 5 per cent. upon the *jama*, and were conceded the right of re-entry on the renewal of the Settlement ‡ whereas in the event of a *muqaddam* or *sarbarahkar* refusing to hold his village at the *jama* assessed at a Settlement he would be dispossessed and his village taken *hastabud*. The reason for this exaltation of the *padhan* above the *muqaddam* is unfathomable, but such were the decisions of Government. *Kharidars* enjoyed the rights of the persons from whom they purchased. As proprietors of the soil they obtained all the *malikana* which the zamindar if the tenure was of the first, or the *muqaddam* if it was of the second class, would have had; and the zamindar or *muqaddam* received only collection expenses. In the event of recusancy a *kharidadar* of the first class was entitled to a *malikana* of 5 per cent., while the zamindar was placed in possession and got 25 per cent. and he had a right to re-entry at the next Settlement; but a second class tenure was destroyed‡.

Number of proprietary tenures.

295. The following table shows the number of tenures and the number of recorded co-sharers in the three districts at the last and present Settlements. §

NAME OF TENURE.	Cuttack.				Puri.				Balasore.			
	No. of tenures.		No. of tenure holders.		No. of tenures.		No. of tenure holders.		No. of tenures.		No of tenure holders.	
1	2	3	4	5	6	7	8	9	10	1	12	13
	Last.	Present	Last.	Present	Last.	Present	Last.	Present	Last.	Present	Last.	Present.
Muqaddmi	537	593	791	6,850	491	486	3,000	680	...	113	...	329
Sarbarahkari	339	281	420	2,314	198	211	...	1,184	...	731	...	2,525
Padhani	1	2	1	8	279	259	600	3,507	...	...	...	...
Pursethi	11	18	24	86	...	...	...	...	...	...	...	...
Kharida	2	2	2	11	...	...	...	...	...	39	...	188
Shikmi												
Zamindari	241	166	103	1,293	...	5	...	27	...	2	...	15
Other	7	69	19¶	36	...	...	...	...	...	...	...	...
Total	1,138	1,131	1,366	10,598	968	961	3,600	11,563	...	1885	...	3,557

* An attempt is generally made in the vernacular accounts of the last Settlement to reserve the term *malikana* to *muqaddams'* allowances while *sarbarahkars'* allowances are recorded as *kharcha*.

† Procedings of Board of Revenue of 12th January 1838 in *Taluk* Bamanpur.

‡ Commissioner to Collector, No. 2453 of 25th October 1837.

§ See Appendix H. A.; H. B.; H. C.

¶ *Tanki* 3, *Koth Kharida* 16.

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Muqaddami tenures are most common in the Kotdesh Pargana of Puri, which contain 356, in Kate and other Parganas along the Katjuri, and in Banchas in Balasore District, but are very generally distributed. ***Sarbarakari*** tenures are also most numerous in Kotdesh and Banchas Parganas, but are found through the Province.

The ***Padhani*** tenures are almost confined to parganas Lambai, Serai Rahang, and Chaubiskud of Puri; there being also two in Cuttack Haveli. The ***Pursethi*** tenures are confined to Bakhrabad and Asureswar Parganas in Cuttack.

Figures showing the number of tenures at the last settlement in Puri are taken from the late Babu Nandakishore Das' report and those for Cuttack have been compiled afresh from the ***ruidads***, but the figures in Mr. Fiddian's report on Balasore cannot be reconciled with those now found.

In Cuttack it will be seen that, owing to partition, the number of ***muqaddami*** tenures has increased from 537 to 593, while the number of ***maquddam*** has risen from 791 to 6,850; a few ***Sarbarahkars*** have been dispossessed and their number of tenures reduced from 339 to 281. The number of ***shikmi zamindari*** tenures has been largely reduced as they are for the most part very petty and the holders have often been dispossessed. At the last settlement several ***shikmi zamindari*** tenures were often settled with one person, so that the number of tenure holders is less than that of tenures.

In Puri their has been but little change in the total number of tenures, there being now 961 against 968 at the last Settlement, and the decrease in ***muqaddami*** and ***Padhani*** and increase in ***sarbarahkari*** is perhaps due to confusion in the classification. In south Balasore there has been an enormous increase in the number of tenures, which in Senaut has, by partition of estates and sale of portions of tenures, been raised from 100 to 493. In north Balasore there has been less division.

Multiplication of Proprietary tenure-holders.

296. As long ago as 1831 Mr. Ricketts, the Collector of Balasore wrote :—

"Inheritance according to Hindu law was not acknowledged as a privilege of *sarbarakars* and *moqudams* before the conquest; and since having been as often disallowed it is still open to adjustment. A recognition of such a privilege is, in my opinion, not only injurious to the interests of the State, but to those of the zamindars, raiyats, and the *moqadams* themselves."

I find from the ***ruidads*** that it was the general rule to enter in the papers of the last Settlement only the head or ***kartas*** of the family. I find in three Parganas 158 tenures with altogether 236 tenure-holders names recorded, but the entry "Oger" (and others) frequently occurring shows these to have been only the principal co-sharers. Now the natural effect of the Hindu law of inheritance is seen in the multiplication of tenure-holders which all the excellent principles enunciated by the Collectors and higher revenue officers have proved powerless to check, so that the average number of co-sharers in a ***maurasi*** village is, at the present day, nine, and in the case of ***sarbarahkari***, in its origin purely service tenure, is eleven.

To the tenure-holder himself the result is to reduce him to the level of the ordinary raiyat, and though I am personally far from regarding this as a serious evil so long as the tenure-holders are able to retain possession of their property, yet I agree with the opinion expressed by Mr. Nathan in his note on Kotdes that this subdivision has in many instances been the ruin of the ***muqadams*** and has been a source of much trouble to the proprietors.

Division of Proprietary tenures.

297. That the ***sarbarahkari*** tenure was not transferable or divisible has been shown in a previous paragraph, but even at the last Settlement the number of ***sarbarahkars*** was considerable, and that Government was fully alive to the necessity of putting a stop to the multiplication of co-sharers will be made clear by the following quotation from the Board's proceedings on the Settlement of ***taluk*** Bamanpur :—

"I entirely concur with him in thinking that the multiplication of these hereditary subordinate collectors, entitled *sarbarakars*, is to be by every possible means avoided. There may have been difficulties in the way of undoing what had already been done, and restoring to their original integrity in the hands of one man this duty of making the collection in particular villages; but the further subdivision of these rights by sale or gift should be pronounced illegal; and in all cases where the law of inheritance has operated, or may in future operate, to subdivide them they should be held in an ijmali form and recognised by Government only as an unity. The whole thing is an anomaly and should be kept within the narrowest limits possible".

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In the case of *muqaddami* or *padhani* tenures the right to sell a share in the tenure was undeniable, but Mr. Mills held* that by such sale only a right to participation in the profits passed, and not a right to collection of rents or to possession of land; he further stated it as his opinion that no admitted *padhani* or *muqaddami* tenure could be divided without the consent of the zamindar.

While the natural tendency is for the number of tenure-holders to multiply, the law † does not compel the zamindar to recognise any division of the rent or lands, and it is rare to find a case where such division has been allowed. Instances of exceptions to the general rule are *muqaddami mausa* Dagam in *taluk* Nagpur, Pargana, Benahar, which was divided into three under the decree of a Civil Court, and the two *pursethi* tenures *Patna* Bengi and *Patna* Hanupur now divided into ten tenures all in different villages; both divisions obtaining recognisation at this Settlement.

Even when a mahal was divided into two or more estates under the Partition law, the Deputy Collector did not ordinarily made any actual division of the lands of *maurasi* villages. ‡ He would enter a certain share of the total area and rent as belonging to one of the estates, but on the ground he made no partition, and indeed without the consent of the *muqaddams* or *sarbarahkars* he would have no right to do so.

Occasionally, however, a tenure has been split up, and it is not uncommon to find that after the partition of an estate under the Batwara law the tenure-holders have divided their lands between the newly-formed estates, and the division, even if not originally binding on the zamindars and Government, has been stereotyped in the present Settlement.

Alienation of Proprietary tenures.

298. It has been pointed out that the natural result of the Hindu law of inheritance was to cause a multiplication and consequent impoverishment of the village sub-proprietors and the recognition of their right to transfer their property placed in their hands the instrument of their own destruction.

All along the basin of the Katjuri river, where the largest number of these tenures were admitted at the last Settlement, the *muqaddams* and *sarbarakars* have been in contact with some of the biggest and most powerful zamindars of the Province § and in times of bad harvests and scarcity have been unable to resist the pressure brought on them to sell their birthright, *i. e.*, not only a right to participation in the profits, but a right to collect a share or the whole of the rent, and to hold and cultivate, the *nijjot* land and we now find that a very large number of the tenures are held by the zamindars and by well-to-do *mahajans* of Cuttack.

It would be difficult without very minute enquiries to ascertain how all the present shareholders acquired their interests, but Mr. Nathan in Kotdes has left on record the following note of his investigations and conclusions:—

"The experience of the last sixty years shows that the undisputed rights of succession and the freedom of transfer which the *muqadam* has gradually acquired and which we have finally recognised, are a fatal gift which is gradually undermining his existence. The devolution of property obeys in Orissa the Mitakshyara law".

"The constant splitting up of shares which this system involves has a continual tendency to make the tenure insufficient to support the family. When this pressure begins to be severely felt, one of two things happens, either the *muqadams* succeed in gradually ousting the raiyats and by cultivating the lands themselves support their families and pay the rent or they find the struggle hopeless and are forced to sell their ancestral rights. Sometimes they disappear altogether, more frequently they remain in the village, cultivating their ancestral *paitrali* lands as raiyats of the new purchasers. In 43 villages in which I have made enquiries on this point, I find that the total number of *muqadams* has increased from 156 to 401, *i. e.*, by more than 140 per cent. and this not withstanding that the natural increase has been checked by extensive sale. In 31 of the villages I find 105 heirs and 91 purchasers, whilst in 35 (dividing each village into 16 shares or *pans*), the number of shares held by heirs is 232 *pans*, 17 *gandas* 3 *keras*, and by purchasers 291 *pans*, 2 *gandas* 1 *kora*, the heirs thus holding 44·4 per cent. to 55·6 per cent. held by the purchasers. These *muqadams* interests are never sold by the original *muqadams* except through necessity, and therefore the transfer of half the *muqadami* rights shows that the old *muqadams* are finding it hard to maintain their position. Many of the villages are bought up by large mahajans and by the land owners."

* From the Commissioner to Collector of Puri, No. 3617 of 30th November, 1838.

† Section 27, Act X of 1859, and section 88, Act VIII of 1885.

‡ Villages, the rents of which are Collected by proprietary tenure-holders.

§ Especially the Chaudhris of Binjharpur, zamindars of *taluk* Saibir and of most of Sailo, and their cousins of Gajrajpur.

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In Cuttack an examination of the *khewats* of three large Parganas containing many proprietary tenures give the following results :—

PARGANA.	No. OF TENURES IN THE PARGANA. At last Settlement.	At present Settlement.	Number of tenures in which the Zamindars hold shares.	Aggregate of Zamindars' Share. Rs. A. P.
Asureswar ...	75	106	13†	7 13 6
Kate	94	120	68†	36 11 5
Saibir ...	14	11*	11	9 13 9

The figures quoted show only alienation to the proprietors of the superior estate and illustrate the great difference between the village tenure-holders of the protected Parganas of the interior, such as Asureswar, who have for the most part maintained their independence, and those of the flooded tracts of south Cuttack such as Kate and Saibir, who are to a great extent in the hands of the zamindars.

An idea of the total number of transfers of proprietary tenures may be obtained from the following abstract of the returns of the Registration Department for the last ten years :—

DISTRICT.	Average yearly number of registered sale of the whole or portion.	PROFESSION OF PURCHASERS. Traders and money lenders.	Zamindars.	Tenure holders.	Raiyats.	Others.	Total amount paid as consideration.
1	2	3	4	5	6	7	8
Cuttack ...	2,095 *	112	358	1,128	118	379	32,075
Puri ...	380 †	48	15	228	103	52	67,206
Balasore...	221	10	51	84	37	39	2,040
Total ...	2,696	170	424	1,440	258	470	1,01,321

* Nine years figures only. † Three years' figures only.

The figures are those shown under the head "intermediate tenures of all kind", and appear to include *Kharida jamabandi* and other-non-proprietary tenures. Some sales of portions of proprietary tenures also fall under the head of 'other' tenures, which are not shown here. The figures show no marked increase or decrease in the number of transactions since the commencement of the Settlement.

When a share of a tenure is thus transferred the purchaser may or may not obtain actual possession of the land. In case of an amicable sale the deed usually specifies the *nijiot* or *raiyati* land transferred, and where the purchaser is a raiyat or cultivator he will sometimes be content with the possession of his share of such land. Oftener both a share of such land and of the right to collect rent passes, and in the case of sales to a mahajan or non-resident zamindar the latter gets generally only a share of the rents and the vendor holds on as a cultivator.

At the risk of being accused of want of sympathy I would say that the dispossession of the middlemen is on the whole, a result to be desired. As landlord the *muqaddam* generally collects higher rents than the big zamindars; and while he and his relations enjoy complete security of tenure in the best lands, he recognises no right of occupancy in his other tenants, and extorts from them the uttermost farthing. As a raiyat he is still strong enough to resist unfair enhancements, and with the help of the Khatians he has been given may be trusted to enjoy the rights of occupancy which the law allows him.

One more point deserves special notice and that is the fact that the law of merger has never been applied to these tenures. Indeed in Orissa, such a principle has never been understood, and even in the papers of the last Settlement one may find the same man recorded as zamindar, as *muqaddam*, and as his own

* In the other three the zamindars have dispossessed the tenure-holders and hold the lands.

† Most of these shares are held by the Chaudhris of Binjharpur and Gajrajpur.

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thani raiyat; and since then zamindars have even bought *miadi sarbarahkari* tenures in their own estates and held them as separate subordinate properties.

Had the principle of merger been enforced, the security of the revenue would have been much increased, for it is obvious that where one man is both *muqaddam* and zamindar, the value of the estate is decreased and the 'cover' of revenue is only so much of the allowance as the proprietor gets *qua* zamindar.

299. Mr. McPherson who made special enquiries into this matter in connection with his report on the Kotdes estate writes :—

Difficulty experienced in realising rents from proprietary tenure-holders.

"It is the universal complaint of zamindars in whose estates there is a large *maurasi* area that the proprietary allowance granted to them in respect of the *maurasi jama* is quite insufficient to cover the expenses of collection and to safeguard the Government revenue. They state that the *muqadams, padhans,* and *sarbarakars* seldom pay their shares of the revenue until compelled by the institution of a suit in the Revenue Court, and that on account of minute subdivision of *maurasi* interests there is an infinite amount of delay and expense incurred first in securing a decree and second in executing it".

"I have discussed this subject in the special report on Kotdes estate because that estate comprises the bulk of the *muqadami* area, and one of the causes of the downfall of the old zamindars was alleged to be the difficulty of collecting from the *muqadam.* Three suggested alterations in the law were also discussed: (1) The extension of the Patni Regulation, (2) The extension of the Rent Sections of the Bengal Tenancy Act, and (3) the establishment of Special Court for the more speedy disposal of rent suits".

"That the difficulty is not so universal as represented may be gathered from the following figures :—

"There are in the district, in all, 637 proprietary tenures in estates managed by zamindars. I exclude the *khas mahals* because the procedure in their case is different. The number of suits instituted by zamindars against proprietary tenure-holders for rent was 102 in 1894-95,76 in 1895-96-67 in 1896-97: average 92. That is zamindars found it necessary to bring suits against 14 per cent. Only of the tenure-holders."

"In many cases these suits were brought not against the whole body of tenure-holders but against individual sharers. For convenience of reference I include in this report a copy of what I wrote in the report of Kotdes".

"300. The relations existing between zamindars and *muqadams* are governed by the provisions of Act X of 1859 and particularly by the provisons of sections 27,32,105, and 106 of the Act. Section 27 compels the *muqadam* to register in the zamindar's *sherista* all transfers of, successions, to or divisions of, the tenure, and while obliging the zamindar to recognise such transfers, &c., empowers him to refuse recognition to any distribution or divison of the rent payable on account of the tenure. In other words, whatever subdivision the tenure may be subjected to, the zamindar is enabled for collection purposes to keep the rent of the tenures undivided on his rent-roll. That is, he may refuse to accept a portion of the rent from any particular sharer whose name is registered. If he is wise he will leave it entirely to the *muqadams* to arrange amongst themselves for the joint payment of the full demand. If he does otherwise, he will find himself involved in legal difficulties when he attempts to realise the balance from other share-holders. If the demand is not paid up in full on the due date, the zamindar has recourse to a summary suit before the Collecter. Granted that the zamindar's *sherista* is kept with ordinary care he will speedily and easily secure a decree for the arrear rent. He need only sue the parties, who have taken advantage of the provisions of section 27 and had their names registered in his own *sherista*. Having obtained his summary decree for the rent, the zamindar next proceeds to have it executed under the provisions of sections 105 and 106 of the Act. The tenure is sold by the summary process prescribed in Section 4, *et seq.* of Act VIII (B. C.) of 1865. Nothing can be simpler or more effective than the above machinery for realisation from defaulters; nevertheless, it is alleged that the difficulty of collecting muqadami rents has been one of be principal causes of the downfall of the old Kotdes zamindars. The description which has already been given of the system of management or rather of mismanagement practised by the old zamindars will at once raise a suspicion that it was no defect in the law that led to their difficulties. The difficulties were of their own manufacture. In the first place, their *sherista* was in a condition of indescribable confusion. Being always in a state of hopeless indebtedness they accepted rent from any one who offered it, and their acceptance of rent then deprived them of the chance of proceeding against the tenure-holders jointly. They did not insist on due compliance with the regisration provision of section 27. Not being able to ascertain from their *sherista* the names of actual holders of the tenures, they were compiled, before filing a suit, to ascertain these by local enquiries in the villages and by reference to the books in the Registrar's office. When suits were filed there were thus constant adjournments and dismissals on the plea of misjoindor, and, when successful, fresh obstacles, originating in the same confusion, arose at the execution stage."

Extract from the special report on Kotdes, Paragraph 5.

"The creation of two independent collection establishments was a second and still more fertile cause of difficulty. It not only added to the confusion of the *sherista* as regards registration of names, but increased a hundredfold the difficulty of realising arrears from

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defaulters. The Act makes a radical distinction at the stage of execution between decrees obtained by the sole zamindar or the whole body of the zamindars and decrees obtained by a sharer in the estate. In the former case, the tenure itself may at once be sold by the summary process laid down in Act VIII (B. C.) of 1865, section 4, *et seq.* In the latter case, it is necessary to proceed first against the movable property of the judgement-debtor and failing this the under-tenure may be brought to sale "in the same manner as any other movable property may be sold in execution of a decree for money under the provisions of the two next following sections" (*i. e.*,, according to the rules for the execution of decrees for demands, other than those of arrears of rent).

"The sale in such cases is conducted according to the provisions of the Civil Procedure Code, and there arise complicated questions as to the exact effect of the sale; whether for example, the tenure itself, or only the right, title and interest of the judgement-debtor are passed. These questions around which a whole mass of case law has grown up, open out opportunities for all manner of delay, fraud and chicanery.

Suggested alteration in the law governing the relation of *muqaddams* and zamindars.

"It only remains to consider whether the machinery of registration and rent collection, simple and effective through it is, is capable of improvement."

"Three suggestions have been made :—

"(1) The extension of the Patni Regulations (VIII of 1819, I of 1820, and (B. C.) Act VIII of 1865) to the proprietary tenures of Orissa.

"(2) The application to Orissa of certain sections of the Bengal Tenancy Act not yet extended.

"(3) The establishment of a special court for the more speedy disposal of rent suits.

"The chief advantages which the extension of the Patni Regulations would secure to the zamindar are two in number : *(a)* He would be enabled on the occasion of tranfers not only to secure a fee of 2 per cent. for the trouble of registration, but also to take security for half a year's rent ; *(b)* he would be in a position, twice a year, without the institution of a suit, to bring the tenure to sale after a very summary fashion, leaving the tenure-holder if aggrieved to bring a suit for the reversal of sale."

"An objection to all this is that the Patni tenure in its origin and incidents has nothing in common with the proprietary tenure of Orissa. The rights of a *muqadam* are only second to those of the zamindar himself, and the extension of the Patni Regulation seems to place him too much at the mercy of the superior landlord. It is true that the zamindar is responsible to Government for the land revenue of the tenure; and it is only right that as a collector of revenue he should be placed in a position independent of the action or default of the tenure-holder. His responsibility will be, however, adequately safeguarded, and his independence secured, if he can invoke the aid of the Revenue Court on a sufficiently early date. For this it is only necessary to arrange that the rent of the *muqadami* tenure be payable on dates slightly in advance of those fixed for the payment of land revenue. If the zamindar has his *sherista* in reasonable order, to secure a decree and to execute it need not take more than three months, and as Government has hitherto granted the zamindar for his latest day of payment a respite of nearly six* months, and there appears to be no prospect of this period being curtailed, the difficulty seems to vanish."

"The portions of the Bengal Tenancy Act which have any application to the question under discussion are sections 12-17, sections 88,93,100, Chapters XIII and XIV."

"Sections 12-17 provide a more elaborate system of registration than is supplied by section 27 of Act X of 1859. They avoid the necessity of a suit before the Collector in case of the landlord's refusal to register and the landlord is compensated for his trouble by the relief of a fee. How far success has attended the scheme of late years in Bengal is not known to me, but up to 1888 it was not working satisfactorily. It is also a question whether, if the proposed system for the maintenance of land records in Orissa is introduced, any zamindari registration is called for. Arrangements will as a matter of course be made for the periodical revision of the tenure-holder's *khewat* and the zamindars will find no difficulty in ascertaining against whom a suit for rent should lie. The extension of section 88 of the Bengal Tenancy Act to Orissa is surrounded with difficulty. Certain Orissa tenures, the *muqadami* for instance, may be legally divided without the zamindar's consent. Again, section 27, Act X of 1859, already prohibits the division or distribution of the rent of the tenure without the consent of the zamindar".

"Sections 93 to 100, Bengal Tenancy Act, arrange for the appointment of managers in case of disputes between co-owners of estates and tenures. Their extension to Orissa would, I think, confer an extraordinary benefit on all classes of tenures. It has been shown above to what minute subdivison some of the tenures of Kotdesh have been subjected and how the interests of the well-doing and solvent are imperilled by the default of the careless and impecunious. The extension of these sections would appear to offer a solution of the difficulty".

"The extension to Orissa of Chapters XIII and XIV of the Bengal Tenancy Act would seem to be of doubtful utility. The procedure therein laid down for the disposal of rent suits is much less simple than already available in the provisions of Act X of 1859. It transfers

* Annas 8 of the demand becomes an "arrear of revenue according to the old *kistbandi* by the 1st February and the latest day of payment is 28th April; the balance becomes an "arrear" by 1st July and is payable on 8th November.

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rent suits from the Collector, who as the officer responsible for the land revenue of the district has most interest in the speedy disposal of the claims brought by zamindars against tenure-holders and raiyats to the Civil Court, which has no such interest. It applies the provisions of the Civil Procedure Code to the execution of the decrees and would do away with the special facilities afforded by section 4, Act VIII (B. C.) of 1865."

"The only advantage which it would seem to secure to the zamindar lies in the abolition of the distinction between suits brought by sole or joint owners of the estate and suits brought by one of the co-sharers in the estate, a distinction which, as I have shown above, leads to difference at the execution stage. The advantage is in my opinion for the present very much outweighed by the disadvantages".

"A promising suggestion than either of the foregoing is that of establishing a Special Court for the disposal of rent-suits. So long as the rent suits have to be disposed of in the leisure moments of an over-worked Deputy Collector, there are found to be numerous adjournments and much delay in the disposal of claims".

"Whether there should be a Central Court at Cuttack for the whole division or whether there is work enough to absorb the attention of an officer at the head-quarters of each district are matters of executive consideration."

Proposal to apply the Patni Regulations.

301. The above account sets forth very fully the difficulties alleged by the zamindars of Kotdes and the means by which they may be met. And the same remarks apply more or less to all the large *maurasi** areas in the three Districts.

There can be no doubt but that the law provides very reasonable facilities for the recovery of rents and that the difficulties are due chiefly to disagreement between co-sharers in the estates, owing to which they cannot sue jointly and to failure to insist on proper registration. If a zamindar would only take the trouble to keep a register of his dependant *talukdars*, as required by section 27 of Act X of 1859, the difficulty of joining all necessary parties in the plaint could not arise; but they do not do so, and in Balasore Mr. Kingsford tells us that of 453 *sarbarahkars* in one estate only half had caused their names to be registered in the zamindar's *sherista*. Yet another cause of the difficulty is the unwillingness of the zamindar to bring the village to sale. If the zamindar is a sharer in the tenure as is often the case he could not sell it up without losing his own interest also unless prepared to buy it in, and therefore he is often reduced to suing for a share of rent only and proceeding against the personal property of the defaulter.

As to the proposed remedies, the most drastic is no doubt the introduction of the Patni Regulations.

So long ago as 1831 Mr. Commissioner Stockwell pointed out the necessity for a more summary law of sale than then existed, and though he did not recommend the extension of the Patni Regulations themselves, he recommended that some analogous provision should be made. I do not myself share Mr. McPherson's objection to the Patni Regulations it is true that the dependant *taluks* of Orissa are supposed to be of more ancient origin than the estates within which they lie; but the estates are liable to summary sale on default, and the tenures which under Regulation (XII of 1805 were admitted to separate engagements have the same liability and there does not appear to be any reason why a similar law should not apply also so the tenures still dependant.

On the other hand it is by no means certain that such strong measures are necessary. The number of suits against *muqaddams* and *sarbarahkars* for the recovery of rents in the Cuttack and Puri Districts are shown in the following tables :—

Year.		Cuttack.		Puri. (†)
1894-95	....	156	....	102
1895-96	....	143	....	76
1896-97	....	207	....	97
	Total	506		257
	Average	168		92
Total number of tenures.		874		657

† Excluding Khas *mahals*.

* The term *maurasi* is applied to the area of proprietary tenureholders as opposed to *hastalud* the area in which the zamindar collects direct from his tenants.

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The percentage of suits on the total number of tenures is 17 and of these suits many are for a share in the rent only; a very large proportion come from the estates of the Chaudhris of Binjharpur, the number of suits in the Kendrapara and Jajpur subdivisions of Cuttack averaging only 19 per annum.

The procedure in these cases is extremely simple. The new settlement records provide the zamindar with a record of the amount recoverable and of the persons liable for it, and he should have no difficulty in getting a decree for arrears; and the sale is made under Act VIII (B.C.) of 1865 as summarily as in the case of a *patni taluk*. As an alternative the zamindar can proceed against the person or movable property of the judgment-debtor.

He may also, under Act X of 1859, apply for the ejectment of the sub-proprietors, but perhaps this right has been taken away by the extension to Orissa of Section 65 of the Bengal Tenancy Act.

On the whole I do not consider that the difficulty of the present law or the number of suits is such as to require fresh legislation of the form of the Patni Regulations. Regulations VIII of 1819 could not well be extended as Sections 3 and 4 do not apply to the dependent *taluks* of Orissa : the provision which would probably be of the greatest use is that of Section 5 for the recovery of a fee on mutations.

Application of Bengal Tenancy Act to proprietary tenures.

302. The second of the suggested remedies is the extension to Orissa of certain provisions of the Tenancy Act. These fall under five groups :—

(1) Sections 12 to 17 dealing with the registration of mutations.
(2) Chapter VIII dealing with the paymet of rent.
(3) Sections 83 to 88, sub-letting relinquishment, or division of tenures.
(4) Section 97 to 100, appointment of common managers.
(5) Chapter XIII, rent suits.

Before dealing with these I must refer to the question whether these sub-proprietors are indeed tenureholders within the meaning of Section 5 (1) of the Bengal Tenancy Act. Mr. W. C. Mcpherson, the Director of Land Records and Agriculture, when on special duty, set forth his views in the following terms*:—

"In supersession of the view expressed in paragraph 2 of my letter No. 1510 S., dated 9th June 1897, to the effect that it is necessary, under the provisions of Chapter X of the Tenancy Act, to settle judicial rents in the case of proprietary tenure-holders. I now wish to express the opinion that the *muqaddams, padhans, maurasi sarbarakars* and *maurasi purseths* of Orissa are not tenure-holders within the meaning of Section 5 (1) of the Bengal Tenancy Act VIII of 1885. A perusal of the old settlement literature will, I think convince that the *muqaddams, padhans, maurasi sarbarakars* and *Purseths* did not acquire their rights from the *talukdars, chaudhris* and others on whom the status of zamindar and proprietor was conferred† by Regulation XII of 1805. It will be remembered that Section 5 (1) of the Bengal Tenancy Act says that "tenureholder means primarily a person who has acquired from a proprietor," &c., also, that it is explained by cammentators on the Act that the definition of tenure-holder given in this section is not exhaustive. It may be argued that as the *muqaddams* and other classes named are not proprietors within the meaning of Section 3 (2) of the Bengal Tenancy Act, they must be tenure-holders. On the whole, however, subject to the instruction of higher authority and subject to any ruling which may be given by the special Judge, should the question be taken before him on appeal. I would recommend that the rents payable by the *muqaddams, padhans, maurasi sarbarakars*, and *maurasi purseths* should not be settled judicially under Section 101 (2) *(a)* and Section 107 of the Tenancy Act, but that they should be settled in the same proceeding with the settlement of the revenue payable by the proprietors".

The validity of the opinions here expressed has not been tested in the Courts; but in accordance with the suggestions made by the Director under the orders of Government and of the Board the payments to be made by these sub-proprietors or proprietary tenure-holders have been fixed under the regulations and *kabuliyats* taken from them as from zamindars.

The effect of the application of the Bengal Tenancy Act to these tenures is however discussed in the following paragraphs on the supposition that it will govern them.

The provisions of Sections 12 to 17 of the Bengal Tenancy Act, regulating the registration of mutations in the landlord's books are more complete than those of Section 27 of Act X of 1859, and have the advantage of providing for

* Letter No. 140T. S., dated the 13th July 1897, to the Secretary to the Board of Revenue, Lower Provinces.

† This is generally true, but as I have shown that some at least of these tenures were created by *talukdars*.

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the payment of a fee, and as such their extension to this Province has been recommended by most of the Assistant Settlement Officers consulted. On the other hand they are more complicated and, as far as my information goes, their success in Bengal is scarcely such as to justify any great expectations from their application in Orissa.

Chapter VIII of the Tenancy Act has been extended to this Province and its effect, if any, is to strengthen the position of the tenure-holder rather than that of the landlord, by taking away the latter's powers of ejectment (Section 65) and giving additional facilities for the depositing of rents in Court (Section 61). The power to award damages (Section 68) might, however, be used with advantage.

Chapter IX of the Act contains a number of provisions as to tenant right. Section 80 has already been extended; the early Sections 76-79 may be extended and Sections 81-82 and 83 are necessary to Section 80. Sections 84 to 92 are some-what contrary to local custom. Sections 93 to 100 provide for the appointment of common managers and as the multiplicity of co-sharers both in the zamindari right and in the proprietary tenure is at the root of all the trouble, I am convinced that the application of these provisions should go far towards removing the difficulties.

Chapter X is in force in Orissa and only prescribes the procedure for Settlements.

Chapter XI which deals with the record of proprietors' private lands makes no provision for the lands held as ***nijjot*** by the village sub-proprietors of Orissa.

Chapter XII which amends the law of distraint would not apply to recovery of rent from these tenure-holders.

Chapter XIII and XIV transfer the trial of rent suits from Revenue to Civil Courts and prescribe a very simple and summary procedure. They enable execution to be taken out at the same time as judgment, but on the other hand sales must be made under the provisions of the Civil Procedure and room is allowed for legal difficulties which have no place under Act VIII of 1865. It appears, however,* that it would still be open to the zamindars to bring tenures to sale under that Act even though the Tenancy Act had been extended to Orissa in its entirety.

The third remedy, the establishment of a Special Court, seems to be scarcely justified by the amount of work, and there does not appear to be at present any serious delay in disposing of cases.

The following figures show the average duration in days of original suits and appeals in the Revenue Courts of the Cuttack District :—

YEAR.	IN LOWER COURTS.		In Appellate Courts
	Contested.	Uncontested.	
1894	71·9	44·71	38·93
1895	58·71	38·84	38·61
1896	66·3	42·7	37·8

Effect of ***kabuliyats*** taken in this Settlement.

303. The general provisions of the ***kabuliyat*** are the same as for zamindars and affect the position of the sub-proprietors to exactly the same extent. Two of the clauses only, the 1st and the 11th, have any effect on the recovery of arrears by the zamindar.

In clause 1 is entered the ***kistbandi*** and it has been provided that the ***muqaddam*** or other proprietary tenure—holder shall pay in the same instalments—generally half and half—as the zamindar, but a month earlier, *i. e.*, the first eight annas is recorded as due in February and is recoverable in March, and the second is recorded as due in September and recoverable in October.

At the last Settlement the kists were very variable and were often not entered but those most commonly found are—

$\frac{4}{16}$ in *Kartik* (November)
$\frac{4}{16}$ *Magh* (February)
$\frac{4}{16}$ in *Chaitra* (March)
$\frac{4}{16}$ in *Byakh* (April)

* *Vide* Mr. Justice Rampini's Tenancy Act, second edition, page 232.

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Thus twelve annas of the rent would be payable and eight annas generally collected before the latest day for payment of the revenue of the first half year; the whole amount could be collected within six months. Under the *kistbandi* now entered half will probably be paid without any trouble in March, but the other half will fall due before the second half of the raiyats' rents can be called in and will probably not be paid until November, and that with difficulty. The disadvantage of the old *kistbandi* was that the zamindar had to meet half his revenue in November when he had spent most of what had been collected the disadvantage of the new system is that the *muqaddam* may find it difficult to pay the second kist at the time fixed.

If the ratio of instalments of revenue be altered as proposed to twelve annas and four annas the difficulty will disappear.

Clause 11 of the *kabuliyat* provides that on breach of the conditions of the former clauses the Collector may of his own motion or on that of the zamindar take over and manage the tenure. This rule is probably wide enough to cover the case of habitual default in payment, though it is not to be expected that a Collector will often find it advisable to have recourse to this provision in such cases.

Suggestation as to *sarbarahkars*

304. Besides these proposed and actual remedies there is yet another which might have been, though it has not been, tried. I allude to the right to select one or more of the *sarbarahkars* as the recorded manager of the village and to take engagements from him only, which was at the last Settlement laid down in the following terms* :—

"That if a *sarbarakari* tenure be found at the time of Settlement in possession of several joint *sarbarakas*, the Collector, with the concurrence of the zamindar, should select one or more of the body to be recorded manager of the *sarbarakari*. The *sarbarakars* selected and recorded cannot be ousted from their tenure, except for default of payment of rent, or for mismanagement proved to the satisfaction of the Collector".

This power has not generally been exercised in making the present Settlement, and in most estates all the numerous co-sharers have been allowed to join in executing *kabuliyats*; but I have lately been so strongly impressed with the difficulty felt by zamindars in realising the demand from these petty tenure-holders that I have recommended† that all the *kabuliyats* should be cancelled and fresh engagements taken from one or two of the principal *sarbarahkars*, who would be held liable for payment of the whole *jama* and in the settlement of Parganas Saidabad and Jainabad the *kabuliyats* have been signed only by the *sarbarakars* nominated by the zamindar.

It is only in the case of *sarbarahkars* that this right has been authoritatively declared, but it appears that Mr. Wilkinson made a similar selection in respect of the *padhans* of the Puri District ‡ and I have the greatest faith in the efficacy of such a course.

Summary of proposed amendments.

305. On the whole, therefore, I beg to recommend—(1) extension of Sections 12 to 17 (inclusive) and 93 to 100 (inclusive) of the Tenancy Act to Orissa. (2) That Government may pass orders as to cancelment of the recently executed *sarbarahkari kabuliyats* and may direct the *kabuliyats* be executed by one or more nominees of the zamindar (provided the nominees are recorded sharers). There will be no difficulty in doing this as *Kabuliyats* have been taken by me in anticipation of and subject to orders of higher authority (see clause 9 of the *Kabuliyat*). (3) That the attention of Collectors be drawn to clause 11 of the tenureholder's kabuliyat, and that they be directed to manage *khas* the tenures of habitual offenders. (4) That a complete record of all sharers in tenures having now been made, there is no reason for immediate action, but that Government should call for a detailed enquiry after five years with a view to legislation if necessary.

The subject is closely bound up with the introduction of the Tenancy Act in its entirety (see Chapter XIII).

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* Letter No. 1769, dated 25th September 1838, from the Secretary to Govt, to the Secretary to the Sadar Board of Revenue.

† Letter No. 351 of 31st May 1899 to the Commissioner of the Division.

‡ paragraph 44 of the late Babu Nundkishore Das' report on Land Tenures in Puri.

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Answers to questions asked by the Director of Land Records & Agriculture in 1897.

306. Certain questions submitted by the Director of Land Records and Agriculture and the replies given by the Government Pleader of Cuttack are annexed to this portion of the report :—

Questions put by the Director of Land Records to the Government Pleader of Cuttack on 6th August, 1897.

Will the Government Pleader of Cuttack kindly advise on the following questions :—

(1) Under what law and in what courts do zamindars recover rents or the revenue demands from *muqaddams*, hereditary *sarbarahkars* and the like proprietary tenure-holders ?

(2) Do any special difficulties attend such suits ? *i.e.*, in obligation to sue all co-sharers or take into execution against all co-sharers for separate sums or otherwise ?

Answers to the queries of the Director of Land Records, &c., sent with the demi-official letter of Settlement Officer of Orissa on 6th August, 1897.

(1) The *muqaddams*, hereditary *sarbarahkars* and the like proprietary tenure-holders are all sued in the Revenue Court for recovery of arrears of rent under clause 4, section 23 of Act X, 1883.

(2) The hereditary *sarbarahkari* tenures are not transferable and under the conditions attached to such tenures by the Government orders, dated 25th April, 1838 (*vide* the correspondence referred to in Mr. Toynbee's History of Orissa, Appndix P. CLXIX) the hereditary *sarbarahkars* forfeit their *sarbarakari* if they fall into arrears. So there is not much difficulty in recovering rents from them. And as such tenures are liable to forfeiture if the sarbarahkars sell or subdivide them without the consent of the zamindar, the sarbarahkars for the time being cannot introduce any co-sharer into the *sarbarahkari* without the knowledge of the zamindar. Consequently the zamindar has not got to find out who are the persons to be made defendants in suit for recovery of the arrears of rent. And as the zamindar can apply for their eviction from the *sarbarahkari* in the same suit for arrears, as provided for in section 78 of the said Act, a provision which he never fails to avail himself of, all the arrears are realised within fifteen days of the passing of the decree, as the *sarbarahkar* to prevent eviction generally pays up all the arrears within the said period prescribed by that section. But in the case of *muqaddams* and other proprietary tenure holders the difficulty of realizing the rent is vary great indeed. Such tenures being what are called transferable ones, that is to say can be sold against the will of the zamindars. Whenever there is a transfer, neither the vendor nor the vendee cares to have the transfer registered in the zamindar's *sherista*. These tenure-holders are not required to obtain the zamindar's consent for subdividing their tenures, so the number of co-sharers are always on the increase, and when the zamindar has got to file a suit for arrears he must hunt up the books of the Registrar of Deeds and Assurances to find out the transfers since the last suit, if he does not do so, a plea of non-joinder is taken and then the zamindr has got to find out the names of the transferees. In cases in which the zamindar succeeds in making all the transferees, parties, sometimes it so happened that the return of the serving peon showed that some of the transferees were dead, then the zamindar has to find out in the best way he can the names of the legal representatives of the deceased co-sharers. Again where there are co-sharers, if the zamindar sues them all, some one or all of them take the plea that they paid their rents separately, hence the joint suit was bad, but when the zamindar sues them separately, the plea that he paid rent jointly with some one or more of the co-sharers is raised. In some cases in which the zamindar

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succeeded in getting an *ex parte* decree, and then proceeded to sell the transferable tenure, for which the arrears were due, a host of objections appeared in the execution department and objected to the sale, and in some cases compelled the zamindar to go to the Civil Court for having the judgement-debtor's interest in such tenure determined.

(3) Would it be advisable to make the provisions of the Bengal *Patni* Regulation applicable to recovery of rents by zamindars in Orissa from *muqaddams* and the like proprietary tenure-holdrs ?

(3) It would be certainly a great boon to the zamindars to make the *Patni* Regulations applicable to the hereditary transferable tenures which can be sold and subdivided without the zamindar's consent.

(4) Are *maqaddami* and *maurasi sarbarahkari* rights held by the courts to be divisible without the consent of the zamindars ? Must notice of division be given to the zamindars ?

(4) *Maurasi sarbarahkari* tenures have been held by the High Court to be non-transferable and non-divisible without the consent of the zamindar, and liable to forfeiture in case of defaults of payment of rent. The defaulting *sarbarahkar* can be evicted not only by an action under section 78 of Act X of 1859, but also by a regular civil suit. In the case of succession, if the successors do not get their names registered in the zamindar's *sherista*, a suit brought in the name of the deceased registered *sarbarahkar* was held not to be bad. The zamindars' interest is safe so far as the *maurasi* or temporary *sarbarahkars* are concerned. But *muqadami kharida jammubandi, padhani sarbarahkari*, and similar other proprietary tenures have been held to be transferable and divisible without the consent of the zamindar. From what I have said above it is evident that no notice of any succession or transfer is ever given to the zamindar, and there is no law at present which makes it compulsory.

(5) Should section 88 of the Tenancy Act be made applicable to *maqaddami* and *maurasi sarbarahkari* tenure ?

(5) It would be only just and proper to make the section 88 of the Bengal Tenancy Act applicable to *muqaddami* tenures with similar incident rights as to alienation and subdivision.

(6) Should the settlement Department take *kabuliyats* for payment of the revenue demand from all the co-sharers in *muqaddami* and *maurasi sarbarahkari* rights or only from those recorded in the zamindar's *sherita*, or may the Collector select particular *muqaddams* or *sarbarahkars* as persons with whom the settlement is to be made ?

(6) In the case of the *maurasi* or temporary *sarbarahkars* the orders of Government during the last settlement were to take the engagement from one or more of the co-sharers as may be selected by the Collector, and the same thing may be done now. But such a thing, however desirable, would be inapplicable and illegal in the case of *muqaddami* and similar other tenures. So, as regards them, the whole body of co-sharers must engage for the tenure as in the case of zamindaris.

(7) Will the Government Pleader please advise generally on this subject ?

(7) For the tenures with proprietary rights, I think permission, similar to that contained in Act VIII (B.C.) of 1876, affecting the zamindaris should be made, and some rule or law giving facility to the zamindar for realising rents from the holders thereof should be framed and made binding on the tenure-holders.

Value of proprietary tenures.

307. It is difficult to give accurate figures as to the value of proprietary tenures. In most cases definite plots are sold and the price depends on the extent and quality of the *nijchas* and may be very high. Where only the right to collect a share of the rents is sold the price is generally small. Mr. H. McPherson found that 19 *muqaddami* villages of Kotdes paying a *jama* of Rs. 6,627 sold for Rs. 91,840, *i. e.*, for every Rs. 80 of *jama* representing an original allowance of Rs. 20 over Rs. 1,100 was paid. As a matter of fact assets had so increased that the profit left with the *muqaddam* averaged Rs. 54 per Rs. 80 of *jama* besides all extras realised in the form of cesses and contributions.

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In ten *muqaddami* villages of Kotrahang the price paid was Rs. 1,153 for every Rs. 80 of *jama*. In 12 *padhani* villages of Lambai the average was Rs. 778; in 16 *padhani* villages of Chaubiskud Rs. 470; and in 17 *padhani* villages of Serai only Rs. 263 per Rs. 80 of *jama*.

The collections in the last two Parganas are uncertain. The price in the *padhani* villages is generally fixed at so much per *padhani bati* (= 20 *mans*, or 8 acres) and in *muqaddami* villages at so much per *pan* ($=\frac{1}{16}$th share.)

In Cuttack, figures compiled at attestation show an average price of Rs. 60 per acre, or about forty times the *jama*; this high price being of course paid for the *nijchas*. The figures in the completion reports are scarcely sufficient to generalise from.

Assessment of Proprietary tenures.

308. It has been said that the proprietary tenure-holders were at the last settlement allowed to participate in the proprietary allowances, and the division between them and the zamindar in an ordinary estate in which 65 per cent. of the assets was taken as revenue was generally as follows :—

CLASS OF TENURE.	To tenure-holder.	To Zamindar.
muqaddam	20	15
Sarbarahkar (*Maurusi*)	15	20
„ (*Miadi*)	10	25
Shikmi Zamindars (*a*)	35	Nil
„ „ (*b*)	25	10
Padhan	20	15
Kharidadar, first class	30	5
„ second „	20	15

There were exceptions, as for instance in the case of some *miadi muqaddams* treated like *miadi sarbarhkars*, but the above shows the usual division.

If the allowances were only 30 per cent. the zamindar generally got 5 per cent. less; if it was 40 per cent. sometimes the additional 5 per cent. was given to the zamindar and sometimes to the tenure-holder.

In the present settlement the general rule has been, first to give to the tenure-holder the benefit of any increase in the rate of allowances on the estate; secondly, to allow some further reductions in his payments so as to prevent a loss of more than 20 per cent. of his income in the first two years, and after that 36 per cent.

The assests and revenue of the proprietary tenures are summed up in the following statement :—

DISTRICT.	MUFASSAL JAMA.			AMOUNT PAYABLE TO ZAMINDAR.				
	At last Settlement.	Existing.	Now settled.	At last Settlement.	In 1305 Amli (1898).	In 1306 Amli (1899).	In 1307 Amli (1900)	Final in 1310 etc. (Amli 1903 etc.)
1	2	3	4	5	6	7	8	9
Cuttack	1,28,600	2,04,400	2,38,900	1,02,700	1,21,600	1,49,800	1,51,500	1,62,300
Balasore	65,100	1,03,700	1,19,400	54,100	69,300	78,800	79,100	85,800
Puri	2,11,600	2,67,200	2,92,500	1,70,900	2,06,100	2,15,600	2,21,700	2,24,000
Total	4,05,300	5,75,300	6,50,800	3,27,700	3,97,000	4,44,200	4,52,300	4,72,100

It will be observed that at the last settlement the proprietary tenure-holders enjoyed a nominal income of only Rs. 77,600 or 19 per cent. of the *mufassal jama*, before the revision of the settlement their profits had risen to Rs. 2,47,600 or had been more than trebled. They have now been reduced to Rs. 1,78,700 or 27½ per cent. on the *mufassal jama*, the reduction being spread over an interval of some five years, though the greater part was made in the first two.

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The assets of the tenures represent about 16 per cent. of the total *mufassal jama* of the temporarily settled estates of the province.

Mustajirs.

309. ***Mustajirs, i. e.*** the holders of an *ijara* or farming lease, are mere temporary farmers of a village and their rights are limited by the terms of the contract under which they hold.

Such a tenure is usually created for a specific period after which the farmer's connection with the land ceases, and even during the term of his possession he is liable to ejectment for failure to carry out terms of the contract.

In large estates the leasing of villages to farmers for a term is very common, notable instances being found in *Killa* Aul, in Pargana Dalijora under all zamindars, in Sailo and Deogaon under the Chaudhris of Binjharpur and in the Khas Mahals of Puri and the Ward's estate of Kanika. In Balasore the *ijara* system is usually found in the estates bordering on the sea-face.

As a rule *mustajirs* have not been recognised in the Settlement papers, or if they have it is only by a note of the fact that the village is temporarily in the possession, (*hal dakhal*), of such and such a *mustajir.*

Perhaps the most important application of the system of management by *mustajirs* in the area dealt with in this report occurs in the Khas Mahals of the Puri District and I here quote Mr. McPherson's description of the tenure and its treatment :—

In the Khas Mahals * (Rahang, Serai, and Chaubiskud) *mustajirs* have commonly had their names entered in the record of right, because the exac nature of their relation to Government, the temporary proprietor of these estates, was not quite understood by the revenue officer engaged in assessment. The entry of their names of course confers no right and does not entitle them to a renewal of their leases in the present Settlement. The Collector as manager of the estates in the event of continued recusancy, or the former recusant proprietor in the event of his engaging for the new revenue, is at liberty either to hold the villages in question *hustabud or* to continue the farming arrangement whichever may be the more convenient.

Of the manner in which these *mustajirs* have originated in the Khas Mahals I have written as follows in the Khas Mahal report.

It will here be convenient to notice a class which has in the course of settlement become numerous in all three estates—the class of *mustajirs*. *Mustajirs* are individuals to whom villages have been farmed out at a sum which leaves them a certain margin for collection and ordinary profits. They are in no sense of the term proprietary tenure-holders. It is a mere temporary arrangement of convenience. *Mustajirs* have sprung up in the following ways :—

(1) In two villages of Chaubiskud and in seven villages of Rahang there were *mustajirs* at last settlement.
(2) In certain villages the admitted *padhans* and *sarbarahkars* of last settlement refused to execute *kabuliyats.* They lost their rights and the villages were afterwards farmed out to others.
(3) In certain villages the *sarbarahkars* were dismissed for default and other reasons and the villages were granted on lease to others.
(4) Some hastabud villages of last settlement have since been for convenience of collection let out in farm.
(5) Some new villages have been created by alluvion, &c., and farmed out.
(6) The person to whom fishery leases have been granted for specific periods have usually been denominated *mustajirs.*

In Cuttack, outside the permanently-settled estates but few have been recognised.

In Taluk Nagpur one *'istimrari mustajiri'* tenure (Mauza Anka) was recognised at the last settlement and treated as a *sarbarahkari* which it virtually is. In the same estate occurs another *mustajiri* tenure, *Mauza* Gopalpur, of which the holder claimed *sarbarahkari* rights at the last settlement but had them disallowed. As he had held ever since at an unchanged rent he has been recognised as *mustajir* and his rent has been settled at two-thirds of the assets of the village.

* Properly speaking, not Khas Mahals, but recusant estates. They have been engaged for by the proprietor in the present Settlement.

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In *Killa* Aul, a permanetly-settled estate, nearly all villages were let out farm to *mustajirs*, whose engagements were renewable every fifth year. They had no right to the profits of new cultivation nor to the control of rent-free and *jagir* tenures, but made their own terms with the raiyats. Within the last few years they have been dispossessed and the whole estate is held *hastabud* by the Raja. In Dalijora also during the settlement operations nearly all the *mustajirs* were turned out.

In the Balasore District; in Taluk Shergarh Batitanki, the tenure of the Pandas of Khantapara has been upheld against the zamindars by the High Court and recognised in this Settlement.

I have examined the collection papers of the *mustajirs* in Ankura and Bhera. They appear to take from the zamindar an agreement for five years to pay the full demand, *e. g.*, the product of the whole cultivated area and a rate of not less than Rs. 2-2 per acre. In a good year the *mustajir* exacts Rs. 2-6 per acre from the raiyats and pays Rs. 2-2 to the zamindar. In a bad year the raiyats pay at least Rs. 2-2 per acre and any arrears are carried over till they can be realised in the next good year. The mustajir has to pay Rs. 2-2 per acre to the zamindar all years, good or bad.

In the Khas Mahals of Bichitrapur and Noanand certain intermediate tenures have been created; the former for the reclamation of jungle lands, and the latter owing to disputes with neighbouring estates.

Farmers and all middlemen who are not hereditary headmen, almost invariably rack-rent the tenants; and it is very undesirable that the practice of creating such intermediate tenures should receive any countenance from the action of the State in its Khas Mahals.

Revenue free proprietors.

310. Primarily all lands within the *moghulbandi* were liable to pay their quota of the Government revenue, but Hindu princes and Mahomedan emperors, and to some extent their deputies and representatives, exercised the right of assigning grants of land to temples shrines, holy men, old servants, and others to be held free of revenue temporarily or in perpetuity.

The British Government, on their conquest of the province, respected the claims of persons holding under grants from duly constituted authority, or with long possession, and after elaborate enquiries during the period 1836 to 1845 about 3,22,000* acres were confirmed as revenue free to the holders, who are known as *lakhiraj bahaldars* or confirmed revenue-free holders. A full account of the origin and nature of these grants is given in Chapter XXIII of this report; here it is sufficient to describe the incidents of the tenures.

Primarily, the grants are divided into classes; absolute gifts to individuals and gifts of land to be held in trust for a religious or charitable purpose. I will treat of them separately :—

A. Grants to individuals such as, *Brohmottar, Pirottar, Dan, Muafi Kharida* & c.

1. The property is permanent, and not liable to any contribution to the public revenues, except in the form of cesses, which it pays equally with revenue-paying estates.

2. It is heritable according to the personal law of the proprietor.

3. It is transferable, and divisible without restriction.

4. The proprietors can create permanent or temporary tenures, and their relations with their tenants are subject to the same law as those of zamindars of revenue-paying estates.

B. Grants in trust, such as *Debottar, Amrita Manahi, Ekhrajat, Khairat*. These grants are mostly held under the Hindu law, but there are also not a few under the Mahomedan law of *wakf*.

The incidents of the Mahomedan and Hindu properties do not appear to differ very greatly; in either case the land is usually regarded as the property of the shrine, temple, mosque, or *dharmashala* for the maintenance of which it was granted. The lands are managed and the fruits thereof enjoyed by a *marfatdar*,

* Taken from the reports on Orissa tenures, excluding Peskas Mahals, Khurda, and Panchgarh.

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or agent, who has a permanent and heritable interest, subject only to the obligation to discharge the duties of the trust. The lands are neither partible nor transferable.

In the case of a Hindu temple the place of the ***marfatdar*** is usually taken by a ***shebait*** or priest, whose office descends to his disciples. Sometimes there is both a ***marfatdar*** and a ***shebait***, in which case the latter is simply priest and the profits of the land over and above the temple charges go to the former. It is common, too, to find a zamindar entered as ***karjyadhaykhya*** or 'supervisor of the work,' the only effect of the entry being a power to remove a dishonest trustee or compel him to spend the money properly. Such a power was probably inherent in all the superior ***talukdars*** and zamindars and has been exercised by village headmen, but in the majority of cases more supervision is needed if the profits of the land are to be put to the purposes for which they were intended.

Though in law these lands are neither partible or saleable, they are in practice transferred by deeds called ***Samarpanpatra*** or 'deads of trust' which without any transfer of the land itself convey to the purchaser the title and interest of the vendor.

When not attached to a place of special sanctity it is common to find a large number of ***marfatdars*** in separate possession of different portions of the land, which they treat as their freehold property.

These trust lands are, like those which are the absolute property of the grantee, permanently exempted from the payment of land revenue but liable to pay the cesses prescribed by law. On failure of heirs both classes of estates escheat to Government.

Hitherto both classes of revenue-free estates have been considered to form part of the ***taluks*** out of which they were carved, though the only practical application of this theory was that the road and public works cess was recovered by Government through the zamindar of the ***taluk***[1], but in the present settlement they have been treated as independent estates. The total areas in acres of such properties in each of the three districts as recorded in the papers of this settlement are as follows :—

DISTRICT.	Debottar.[2] Acres.	Brahmottar. Acres.	Pirottar. Acres.	Others.[3] Acres.	TOTAL. Acres.
Cuttack ...	65,400	41,700	4,900	21,400	1,33,400
Balasore ...	60,000	34,000	4,700	10,200	1,08,900
Puri ...	71,700	11,300	2,000	7,600	92,600
Total ...	1,96,100	87,000	11,600	39,200	3,34,900

***Tanki* tenures.**[4]

311. In addition to the revenue-free properties found in existence at the last settlement there were numerous tenures held at a quit rent or ***tanki*** of one to three rupees per ***bati***[5]. They consist of both ***brahmottar*** and ***debottar*** land and were generally held by Brahmans who enjoyed, subject only to the payment of the trifling rent, all the privileges of ***lakhirajdars***. It is commonly asserted[6] that these tenures were originally rent-free and were assessed by the Rajas when they were hard up for money, or by the Moghuls and Mahrattas. This however was probably not always the case, and I have heard it said that the founders of Brahman villages had some religious objection to making the grants wholly free of assessment. Be that as it may, the tenures were at the British conquest paying a quit rent, and at the last settlement their title to refuse enhancement was enquired into on exactly the same lines as were claims to hold land revenue free, the most marked difference being that with but very few exceptions[7] no tanki tenure, resumed or confirmed, was made into a separate estate. In the resumed or ***tanki bazyafti*** tenures the rents were fixed nominally at half rates, the proprietor through

1. Act IX. (B. C.) of 1880, Chapter VI.
2. Includes *Amrita Manahi*.
3. Mostly *khairat*.
4. The late Babu Nandakishore Das' report on The Puri Tenures, paragraphs 88-94.
5. ***Bati*** = 20 ***mans*** = from 8 to 20 acres Tanki is said by stirling to mean ***assignment*** Possibly a Corruption of ***Tankwal*** the word used in Todar Mals' assessment.
6. Mr. Wilkinson settlement report of Khurda (paragraph 15).
7. I find taluk Harekrishnapur Pargana Rahang, and two permanently settled estates bearing ***Tauzi*** nos. 1852 and 1853 in Cuttack.

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whom it was paid getting 10 per cent. for the cost of collection. The position of these tenure-holders is exactly the same as that of the *lakhiraj bazyaftidars*, who will be more fully described in paragraph 313. The *tanki bahaldars* whose tenures were confirmed hold and will continue to hold at the quit rent they were found to be paying at the time of the conquest. They are permanent tenure-holders having a heritable and transferable right, and can sell or mortgage the whole or any part of their tenure and exercise over it all other proprietary rights, subject to the general limitations to the treatment of trust lands where the land was granted for the support of a religious or charitable institution. They cannot however divide the rent without the consent of the landlord,[8] and for failure to pay the rent the tenure is liable to be sold up under section 105, Act X of 1859.

Mr. McPherson gives the following account of two small classes which have been treated in the same way as *bazyafti tankidars* :—

They are *heta tankidars* and *khandait tankidars*. The origin of the *heta tankidars* tenure is somewhat obscure. It occurs only in the four Parganas[9] in which the tanki baziafti tenure is common. The Padhans and Bhois of these Parganas at one time held jagirs instead of getting money commission on collections. In Some villages where the services of the Padhans and Bhois were dispensed with, they were allowed to continue in possession of the jagir lands, but the lands were settled with them as Padhans. That is, the lands were assessed, the parties in possession were allowed a deduction of 20 to 25 per cent. and the Padhani right was conceded to them. In other cases the resumed lands were included in other padhanis. The khandait tanki tenure occurs only in Pargana Chaubiskud, taluk Krishnachandra. There is a village called Rendha adjoining the sandy belt which stretches from Puri Town to the mouth of the Chilka. The *khandait* of Rendha was an officer who enjoyed a large quit-rent *jagir* situated Rendha, in return for which he had to perform police and *chaukidari* duties along the sands belt. The old road from Ganjam to Puri used to pass along this. The *Khandait* had *paiks* under him who held portions of the *jagir* as their remuneration. The *jagir* has now been resumed.

Sasan villages.

312. Another class of *tanki* tenures known as *rafa-tanki* * appear to be confined to the Khurda subdivision and need not be here described, but some account must be given of the *Sasan* † villages that form so interesting a feature of the Puri land system.

These villages appear to have been founded by groups of Brahmans from the west who were brought to Orissa by the Hindu kings and continued to hold the villages at a *tanki* rent on *sanads* from the Raja of Khurda or the Mahrattas.

The assessment made was on the total cultivated area of the village, and so long as the whole amount was paid into the treasury the village community were at liberty to make their own arrangements for its distribution. They paid the revenue through elected representatives called *reportdars* who at the last settlement entered into engagements with the Government on behalf of the individual tenure holders, but on default the whole village was liable to be brought to sale.

These *Sasans*, or Brahman settlements, appear to have existed in the Pargana of Jajpur and around Bhadrak as well as in the Puri District, but it was only in the parganas of Lembai, Serai Chaubiskud, and Rahang that we find them officialy recognised at the last settlement. The head of the *Sasan* and keeper of its title deeds rent receipts etc., is generally known as the *Panigrahi*.

The Parganas Serai, Chaubiskud and Rahang have for the most part been for eighty years managed by Government on behalf of the recusant proprietors and the tenures still subsist through the *reportdari* system has fallen into disuse and the Collector deals directly with the tenants. About twenty years ago *tahsil amins* were appointed by the Collector in some villages with the consent of the *tankidars*. They collected the quit rent proportionately from the *tankidars* and with it a small additional sum to cover the cost of collection, and were empowered to take out certificates against defaulters. The system was, however, found to lead to to delay in realisation of the rents and complicated accounts, and after a few years was abolished.

8. Section 27, Act X, 1859.

9. Lembai, Chaubiskud, Serai and Rahang.

* Tankidars who agreed (by *rafa*) to have their rents enhanced at every settlement by as many annas in the rupee as the rents of raiyats were enhanced.

† See my letter No. 238. dated 27th January, 1899 to the Commissioner.

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In the present settlement separate rents for each tenant have been fixed in the *bazyafti tanki* villages and the lands and rents of *bahal tankidars* recorded, and it has been decided to abandon the right to sell the whole village for default and to make collections from individual *tankidars*.*

Bazyaftidars.

313. When the British took over the Province all persons claiming to hold property *lakhiraj*, or free of payment of revenue, were invited to register their claims in the office of the Collector with a view to an investigation of their title under section 18 of Regulation XII of 1805. Over 150,000 claims were registered, but there was no machinery capable of dealing with them, and it was not until the settlement of 1838 that systematic proceedings began to be taken under the Resumption Regulations XII of 1805, II of 1819 and XIV of 1825.

The terms to be offered to the holders of the resumed lands formed the subject of much correspondence between the local and the central authorities, the former urging the claim of the people to lenient treatment and the Government, while deprecating any undue severity, insisting on the proper investigation of all titles under the Resumption Regulations. The substantive provisions of the law are to be found in Sections 18 to 29 of Regulation XII of 1805 and may be summed up as follows :

(1) That no grant, by whatever authority made, was valid unless possession had been obtained before the 14th October, 1803.

(2) That all grants made before the 14th October 1791 were to be deemed valid.

(3) That all royal grants made before the 14th October 1803 and all grants expressly recognised or admitted by Government before that date were to be deemed valid.

(4) That grants of land not exceeding 10 *bighas* of which the proceeds were *bonafide* devoted to religious or charitable purposes should be confirmed.

(5) The revenue assessable on all lands not adjudged to be lawfully held free of revenue under the above provisions was declared to belong to Government and was to be regulated by the rules in this and the Subsequent Settlement regulations.

The right to hold at half rates in perpetuity granted to the holders of resumed lands in permanently-settled parts of the Province by Section 8 of Regulation XIX of 1793 did not extend to Orissa, but in order to reconcile the people to the sudden resumption of their lands, it was decided that all who had been in possession since the date of the conquest might be allowed to hold at half rates for the term of the thirty years' settlement.

In letter No. 178 of the 7th February 1837 to the Government of India, the Deputy Governor of Bengal declared his policy in the following terms :

On the Governor's judgement, the just rights of the State will be most easily reconciled with consideration for the claims or feelings of those whose lands are annexed to the rent-roll of the Province by the operation of the Resumption laws, by allowing to all parties who have enjoyed long possession of immunities of the nature in question, and whose tenures have been held in good faith, very indulgent terms of assessment during the thirty years' settlement which it is proposed to form, provided always that such indulgences may be withheld from parties who by frivolous appeal or litigious conduct oppose themselves to this lenient assertion of the just rights of Government.

In order to encourage such acquiescence by a definite tender of favourable terms, it might be publicly notified throughout the Province that for the period of Settlement above mentioned only half the rent paid by raiyati land of the same quality in the same mahal will be demanded from lakhirajdars not excluded by the above proviso.

Such a declaration on the part of Government would doubtless go far to quite apprehension and to induce cheerful sumbission, and the sacrifice of revenue would be confined to thirty years, a less term than has passed since our acquisition of the Province, all such temporary reductions will of course be carefully recorded, in order to its enhancement, i necessary, at the close of the period of settlement, without involving the necessity of fresh measurements and general assessments.

A still greater modification in the direction of leniency was made by the rules of 1841,† which allowed the privilege of holding at half rates to all who

* Government to Board No. 520T—R, dated 14 June 1899.

† See Paragraph 567.

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could prove possession since the conquest, and greatly lessened the strictness of proof required from claimants to a *lakhiraj* title, and the rules were given retrospective effect and former resumption proceedings revised.

Inclusion of resumed tenures in revenue paying estates.

314. Under the Bengal Regulations, * rents assessed on all resumed lands of less than 100 acres in extent belong to the proprietors of the permanently-settled estates within which such lands were situated. This provision however did not extend to Cuttack, and Regulation XII of 1805 and section 3 of Regulation II of 1819 clearly showed the revenue assessed to belong to Government. For convenience however it was decided that the revenue assessed on all resumed tenures having an area of less than 75 acres should be payable through the zamindar (and the *muqaddams* if any) of the Mahal within which the lands lay, and that the latter should receive exactly the "same pecuniary immunities" as they were entitled to in the case of raiyati lands.

The following extract from the Government orders passed in connection with the settlement of Taluk Malipara † will show the opinion of the authorities at the time of the last Settlement :—

The Governor does not agree with Mr. Mills, nor altogether with Mr. Commissioner Ricketts in regard to the claims of the zamindar to malikana, and of the *muqaddams* to compensation on resumed *lakhiraj* lands.

At the same time it is evident that with respect to small patches of land not exceeding a few *bighas* in extent, it is most desirable, that the revenue Government should be collected from the dissezed *lakhirajdars* and paid in the public treasury by the party responsible for the revenue of the estate within the general area of which such petty holdings are situated; and it is equally clear that though *malikana* be ostensibly denied in the first instance as that to which the sudder *malguzar* in the supposed case has no lawful claim, such an allowance must be made to that party for the trouble and risk of collection as may make it both worth his while to undertake it and may enable him to stand up against the contingency of untoward seasons.

Further, it seems certain that ere the period of the settlement now about to be made has expired all distinction between resumed *lakhiraj* and common raiyati lands will be lost.

In accordance with these orders the proprietors and *muqaddams* received on the rents of resumed lands assessed at full rates the same percentage of allowance as on the raiyati lands of the estate. In the case of lands assessed at half rates, they received 30 per cent. on the half-rent; this allowance being divided in equal shares, or in the proportion of one-third to two-third between the zamindar and the *muqaddam* or *sarbarahkar*, if any.

Zamindars and *muqaddams* were not entitled on recusancy to any *malikana* in respect of the rents of these resumed lands, and in the case of estates settled previously to the completion of the resumption proceedings were allowed to refuse to take settlement of the resumed land. From 1838 onwards, however, when the settlement and resumption proceeded simultaneously, the zamindar was required to undertake for all *khalisa* ‡ lands old and new (*i. e.*, resumed) in a lump or to recuse altogether §

The tenures assessed at half rate are called *adhajama* or *nisfi bazyafti*¶ or vulgarly simply *bazyafti*; those paying full rents are called *pura jama* (full rent) or *Kamil* (perfect, or complete) *bazyafti* and the holders are commonly described as *kamildars*.

Present position of *bazyaftidars*.

315. The *bazyaftidars* are for the most part Brahmans, and look upon themselves as proprietors rather than as tenants, and indeed to this day often describe themselves as *lakhirajdars*. They can sell the whole or any part of their property, can plant trees, build houses, and exercise all ordinary proprietary rights, but without the zamindar's consent they cannot divide the rent or the liability for it, and many zamindars exact a mutation fee before recognising a new purchaser. Compensation for acquisition of the land for public purposes has hitherto been paid only to the *bazyaftidar* and not to the zamindar.

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* Section 22, Regulation XIX of 1793.

† Governor to Board No. 1749, dt. 29th November, 1836.

‡ *Khalisa*-lands in the possession of the zamindar as opposed to *lakhiraj* and alienated lands.

§ Board to Government No- 542 of 11th September, 1838.

¶ The two names mean the same, i. e., 'half rent resumed' the former being the Hindi the letter the Persian name.

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They form the village aristocracy and are most undesirable tenants, as they do not generally cultivate the land themselves and are most remiss in the payment of rent, while the sanctity of their caste makes the petty zamindar unwilling to proceed to extremes and sell up the tenure; the big non-resident landowners have fewer scruples and generally collect the rent except where the amount is very petty.

To a very great extent the difficulty is in the case of estates still in the hands of the original proprietors nominal, for they and their relatives will generally be found in possession of a large number of the ***bazyafti*** tenures, which they value almost more highly than their zamindari right; and even if the estate is sold for arrears of revenue they continue to hold the ***bazyafti*** land and are then the most troublesome of all tenants.

The ***Kamildars,*** where they are Brahmans, are in a very similar position and for the most part have, contrary to the expectations formed at the last settlement, kept themselves wholly distinct from the cultivating raiyats; but the more highly assessed tenures owned by persons of less sanctity or with weaker claims, and the resumed jagirs held by men of the cultivating and artisan castes, have to a great extent merged in the general body of the raiyati land.

Number of Resumed tenures.

316. Separate figures have not been compiled for all the different classes of privileged tenures, but they have been generally classed under three men heads—those who formerly held at half rates, those who held at nominal full rates, and those who got intermediate allowance as the ***kharida*** tenure-holders.

The enhancement in the present Settlement has pratically obliterated the distinction. The following statement shows the particulars of these tenures at the last and the present Settlements :—

CLASS OF TENURES.	LAST SETTLEMENT.			PRESENT SETTLEMENT.			
	Area.	Rent.	Incidcant.	Number.	Area.	Rent.	Residence.
	Acres.	Rs.	Rs. A.		Acres	Rs.	Rs. A.
Kharida Jamabandi	45,400	43,800	0 15	27,000	47,400	65,500	1 5
Nisfi bazyafti and *Tanki*	2,21,300	94,100	0 7	1,83,500	2,32,400	2,38,500	1 0
Kamil and *Jagir Bazyafti* & other tenures.	80,900	69,000	0 13	50,000	58,000	66,700	1 5

Incidents of Resumed tenures.

317. The incidents of the ***Kharidas Jamabandi*** the ***bazyafti*** and the ***tanki*** tenures are thus summed up by Mr. McPherson.

(1) They are heritable.
(2) They are transferable. *
(3) They are divisible but no division of rent is binding on the landlord without his consent (Section 27 Act X of 1859).
(4) The tenure-holders have the same rights over waste land included in their tenures as zamindars have in the waste land of their estates—that is a full right to the jungle produce and to the profits of reclaimed lands. Any lands brought under cultivation in the course of the settlement are of course liable to assessment at next settlement.
(5) The rent payable is fixed for the term of settlement.
(6) In default of payment the tenure may be brought to sale under section 105 Act X of 1859. The balance of the purchase money after paying the arrear rent goes to the defaulter.
(7) These tenures do not on purchase by the zamindar or other landlord merge in the superior right, but by the custom of the country survive, and are not rendered void by the sale of the zamindari.

Transfers of Resumed tenures.

318. Separate figures are not available for ***bazyafti***, ***kharida*** and ***tanki*** lands those compiled in the settlement camps during attestation being too meagre to form a safe basis for any conclusion; neither can they be easily had from the returns of the Registration Department, as they are inextricably confused with revenue free properties and proprietary tenures. In Balasore Mr. Kingsford gives the following figure, and for Cuttack and Puri I roughly estimate the transfers of ***bazyafti*** at one-third of the total number shown under the head of revenue free :—

* Subject to the legal restrictions on alienation of *Debottar* land.

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DISTRICT.	Average number of transfers per annum.	STATES OF PURCHASERS					Total purchase money.
		Mahajans and money lenders.	Zamindars	Propritary tenure-holders and bazyaftidars	Raiyats.	Others	
Cuttack...	470	27	63	272	20	78	7,800
Balasore...	836	45	139	453	136	63	58,360
Puri...	120	7	12	32	12	57	18,700
Total ...	1,426	79	214	757	168	198	84,860

It will be seen that the transactions are very numerous and that they involve the payment of large sums. About half the sales are to other prasons in the same class, a good many purchases being also made by zamindars, but comparatively by money-lenders or traders.

There does not appear to have been any marked increase in the number of transactions during the last decennial period, and it may be assumed that the Settlement has had but little effect. Figures as to the price paid per acre are not available in the registration returns; but from the figures compiled during re-attestation I find that the price paid varies in Cuttack from Rs. 27 to Rs. 141 per acre and averages Rs. 69 for *bazyafti* and Rs. 97 for *kharida jamabandi* lands.

In Balasore Mr. Kingsford puts the average price before the recent enhancement of *bazyafti* rents at Rs. 40 to Rs 80 per acre, and now at Rs. 50 to Rs. 55 per acre.

Thani Raiyats.

319. In the earliest times of which we have any Historical knowledge we find the cultivators broadly divided into two groups—the *Thani* or resident and the *pahi* or non-resident. *Thani* raiyats * were the burgesses of the village. Their houses they held rent free; for their ancestral lands they paid a fixed rent determined by custom or the decree of the ruling power. They had a voice in the distribution of land by the headmen, and could take up and cultivate at privileged rates any field lying waste or in the possession of a non-resident raiyat. In the case of rent-free grants situated within his village, the property of priests or others who could not hold the plough themselves the *thani* raiyat had generally the preference as under-tenant or *metayer*. He had in common with his brother guildsmen, the right to use the pastures, the thatching grass and the fire-wood jungle. His right of occupancy was hereditary, and his credit with the village money-lender stood higher than that of the nomadic raiyat who had nothing to lose by absconding. For all these privileges the *thani* raiyat paid very highly as it was on him that every increase in the land revenue ultimately fell. The *pahi* raiyat in these days when land was plentiful could oppose a demand for an increased rent by simply throwing up his holding. This the *thani* raiyat could not do without forfeiting his home, his position and all that was most dear to him so that he generally stayed and paid unless he was strong enough to resist the claim for enhancement. In this connection I would quote the following passage from Mr. Stirling's Minute paragraph 66 on the land tenures of Orissa :—

It appears to me a clear established principle in Cuttack and it is scarcely denied by any whose notions of landed property have not been altogether newly modelled by the British laws and regulations, that the superior holder, whether *maquddum* or *talugdar*, has no shadow of a right to dispossess the *thani* raiyat from his land so long as he pays the rent demandable, and also that that rent was formerly fixed by Act of the Government on consideration of the quantity of soil tenanted by each, its produce and value in reference to which the zamindar's payments have been adjusted and consequently that he has no title whatever to require an increase. The unprosperous state of the raiyats, however, for a long series of years must necessarily have introduced numerous alterations and fluctuations. Where a resident cultivator has broken down from misfortune or oppression, the zamindar must of course lower his rents temporarily, if he wishes to prevent his absconding or starving, a relief which would render him liable to an equivalent subsequent increase; and when a cultivator cannot or will not pay his rent, it has been at all times customary to make over temporarily his lands to any other person who may be willing to take charge of them. The interests of the raiyats are too little understood in Cuttack to enable me to say what period of recusance to cultivate or inability to pay would involve a final forfeiture of the title of fixed occupancy, supposing it could ever be the interest of the zamindar to impose such a penalty. With respect, too, to the payment of a fixed *jamabandi* or quantum of rent for the same quantity of land, the advantage is merely nominal, as the person who collects has long exercised the power of imposing additional

* From the Sanskrit *Sthaniya*=the place. Also known as "*Khudkasht*"

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burthens in a variety of shapes and names, which the raiyat cannot resist the payment of, and many of which become in the course of years consolidated with his established rates.

The British conquest made no difference to his rights, and the settlement of 1836 only stereotyped them by supplying an accurate record of the ***thani*** lands and of the rent that could be lawfully demanded for them.

An attempt was made in the early stages of that settlement to adjsut the rents with reference to the quality and productive power of the land, the fair rent being assumed to be half the net value of the produce; but after much correspondece this attempt was abandoned and existing rents were generally accepted enquires being made into the case specially high or specially low rents. In some estates * too where the rents appeared exorbitant their whole level was altered by the higher authorities and a fair average rate fixed by a stroke of the pen. So every raiyat was given a lease showing his lands, his rent, the period for which it was fixed and the land left unassessed (***minha***) and the possession of his ***patta*** gave to the holder almost entire immunity from illegal demands or dispossession.

The general result of the last settlement (so far as ***thani*** raiyats are concerned) was summed up by Mr. Mills in 1847 as follows :—

There was no difficulty in ascertaining the actual rent paid by the *thanis*, as it was notorious that they were almost invariably assessed at a rate infinitely higher than the produce of their lands or other concomitant advantages of residence could enable them to pay.

(See my No. 2776 of 31-12-97, Appendix A, No. 13 to this report).

The next step in the development of the rights of tenants was the passing of Act X of 1859, which was intended to substitute for the old division between ***Khud kasht*** and ***Pahi kasht*** that of resident and non-resident raiyats, giving to all who could prove occupation for twelve years a right of continued occupancy. This however the ***thani*** raiyat already possessed, and the Act only affected him in so far as it defined the procedure to be followed by his landlord for the recovery of arrears of rent.

320. The incidents of the tenure as they stood after the passing of this Act appear to have been as follows :—

Incidents of the *Thani* tenure.

(1) Right of occupancy so long as the rent was regularly paid. If at the end of the year the rent remained in arrears the zamindar could bring a suit for the tenant's ejectment, and turn him out if the arrears were not paid within fifteen days of the date of the decree (sections 21 and 78, Act X of 1859),

(2) Right to the produce of all crops and the fruit of all trees growing on his land.

(3) Right to the use of the village pasture land and to take fuel from jungle.

(4) Fixity of rent for the term of settlement: this was secured them by their leases.

(5) Right of inheritance according to the Hindu law. The land could be divided among the heirs, but the landlord was not bound to recognise any division of the rent (Section 27, Act X of 1859).

(6) The tenure was not transferable by sale or gift.

(7) The raiyat could surrender his holding by giving notice of his intention in writing to the landlord or his authorised agent, before the month of ***Chaitra*** of the year preceding that in which the relinquishment was to take effect. If he failed to give such notices he was liable for the rent of the land for the ensuing year (Section 19, Act X of 1859).

(8) He was not entitled to remission of rent on account of damage by flood, drought, or other calamity, unless a provision to that effect was entered in his lease. Such provisions were found in Parganas Rahang, Serai, Chaubiskud, and Lembai of Puri.

(9) The tenure was not vitiated by sale of the parent estate for arrears of revenue or otherwise, and could only be terminated by the relinquishment of the raiyat, by his ejectment, by his accepting a permanent reduction of rent, or by unauthorised alienation of the land. These conditions subsist

* As in taluk Chaudakulat and Pargana Jaipur.

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practically unchanged up to the present day, and the only conditions that are open to discussion or require any special comment are the sixth and ninth. The right to the fruit of trees and the use of pasture lands will be considered when treating of raiyats in general. As regards the eighth condition Mr Wilkinson is responsible for the existence of the provision referred to. We find it also in Khurda.

Transfer of *Thani*.

321. In paragraph 67 of his Minute of 1821, Mr. Stirling Writes :-

After the most careful enquiry I have been unable to discover any instances of a royt selling or mortgaging his lands, nor can I meet with any one who thinks they possess such a right, or is aware that such has ever been exercised in practice.

No enactment has ever given to the raiyats the power of alienation that they did not then possess, but sales are very common indeed, and several Assistant Settlement Officers have expressed an opinion that they can be made without the zamindar's consent. Mr. Stevenson when Collector of Cuttack, expressed the opinion that ***thani*** holdings are now transferable, basing his conclusion on the Cuttack District Judge's order in Appeal Case No. 33 of 1873 and on paragraph 6 of the Bengal Government's letter No. 1166 of the 21st May 1874*, Mr. McPherson, Assistant Settlement Officer in charge of Puri, writes as follows :-

But the transfer of *thani* rights had become a matter of every day occurrence even before resettlement operations began. Babu Nandakishore Das (paragraph 104 of his report) notes that transfer was particularly common in the Khas Mahals probably on account of the proximity of the Government estate of Khurda, in which the right of transfer was admitted by Government order No. 2553 of 17th December, 1874. Babu Akshoy Kumar Sen, Assistant Settlement Officer, found that it was similarly common in Paragana Lembai, which also adjoins Khurda Subdivision. In Kotdes Mr. Nathan found in 1890-92 that "the sale of *thani* lands was a matter of daily practice and that as a rule without any reference to *Mugadaams* or zamindars". There was, however, always a tacit admission that the landlord's consent was legally necessary to such a transfer and this was expressed in the shape of a fee, usually amounting to two annas per rupee of purchase-money, paid when the new purchaser applied to have his name entered in the zamindar's rent roll".

In Cuttack, ***thani*** rights appear to be commonly sold without the previous sanction of the proprietor, and the latter appears in most parts to invariably recognise the new tenant on payment of the customary mutation fees. As the subject is of importance I here quote the opinions recorded by some of the most experienced Settlement Officers in that district :—

Name of officer.	Pargana where working.	opinion.
Babu Jotendra Mohan Sinha	Deogaon, &c. ...	The landlord's consent is not necessary at the time of sale, but when the mutation is recorded in his *sherista* a mutation fee is charged.
Babu Nabin Ch. Kar ...	Matkatnagar, &c. ...	*Thani* rights are transferred, and the zamindar usually consents.
Maulavi Mahamed Chainuddin. ...	Kuhunda Jaipur, &c. ...	*Thani* holdings can be sold with the zamindar's permission.
Babu Beni Madhab Chatterji. ...	Benahar ...	Rights of occupancy of *thani* raiyats are not transferable without the zamindar's consent, but they are freely sold and purchased by actual cultivators.
Babu Jogendra Narayan Mitra. ...	Assureswar ...	Rights of *thani* raiyats are transferable with or without the consent of the landlord.
Babu Sriram Ch. Bose ...	Utikan, &c. ...	*Thani* holdings are not transferable without the zamindar's consent.
Babu H.C. Rai ...	Balubisi ...	*Thani* cannot transfer without the zamindar's consent; purchasers of *thani* are recorded as *pahi*.
Mr. Taylor ...	Bakhrabad ...	*Thani* lands are sold without the zamindar's consent but the zamindar refuses to record mutation without the usal fees though he will take the the rent from anyone who brings it

* Collector to Commissioner, No. 2318 G., dated 12th November, 1892.

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Babu J. M. Das	...	Jajpur	... In practice *thani* raiyats often sell their lands without the zamindar's consent. The transferee, however, subsequently purchases the zamindar's consent either by cash payment or otherwise. The zamindars are well aware of their right and always refuse to recognise such transfers unless they are paid.

My experience is that ***thani*** is freely sold and that it is only in a few Parganas that the purchasers are recorded as ***pahi***. Indeed, there are many cases in which ***thani*** holdings have been sold by civil courts in execution of decrees and the new tenant has been perforce recognised by the zamindar. In all cases of voluntary sale the zamindar before recognising the transfer requires that all arrears of rent should be paid up in full, and further demands from the vendee a ***nuzur*** that may amount to one-fourth of the price. In some cases as in Kodinda he also takes from the vendor a ***salami*** of a couple of rupees. In other parts the zamindars generally are contented with the payment of the arrears and a couple of rupees as ***dakhil kharij salami*** from either party.

In conclusion, we may say that ***thani*** is now-a-days transferred, but that the zamindar does not record the transferee in his ***sherista*** as ***thani*** raiyat without a fee.

Creation and destruction of the *thani* rights.

322. Whether any length of prescriptive possession could ever turn a ***pahi*** into a ***thani*** raiyat history does not tell us; my own impression is that by entries in settlement records from time to time the number of ***thani*** raiyats was increased and that the village community and the ***padhan*** in the earliest times and in later times, the ***muqaddam*** or zamindar decided the matter. On this point Mr. Stirling had to confess ignorance, and it is fairly certain that since his day no few acquisition of the ***thani*** right otherwise than by the acquisition of a ***thani*** raiyat's lands has been recognised. On the other hand many causes, notably the great famine of 1865-66, have combined to destroy pre-existing ***thani*** rights in large areas.

The assessment of ***thani*** lands at the last settlement was high*, averaging in Cuttack Rs. 2-13-0 in Puri Rs. 2-1-3 and in Balasore Rs. 1-10-10 per acre. Rents are estimated to have absorbed from one-half to one-third of the produce of an average harvest and as cultivation extended and the people multiplied the privilege of taking up other lands at low rates was necessarily curtailed. Even before the zamindars had executed their ***kabuliyats*** for the thirty years' settlement many raiyats† had surrendered their ***thani*** rights rather than bind themselves in perpetuity to payment of the high rates fixed, and in the famine years of 1866-67 very large numbers were forced to throw themselves on the mercy of zamindar. Some abandoned their lands and fled, and came back later on to be re-admitted as ***pahi*** raiyats; others gave up their ***thani pattas*** in return for advances; others no doubt-though of this there is less record-were ejected altogether from there lands on failure to pay their rents. The wonder is not that the area held by the thani raiyats should have decreased, but that so much should survive to the present day. Taking the three districts we find the change to have been as follows‡ :—

DISTRICT.	At last settlement.	Pure *thani* now recorded.	Area of *thani pahi*.	The sum of column 3 and half of column 4	Percentage of column 5 on column 2.
	Acres.	Acres.	Acres.		
Cuttack ...	133,700	41,700	84,200	83,800	62
Puri ...	96,900	35,200	63,000	66,700	66
Balasore ...	107,100	45,900	*Nil*	45,900	43
Total ...	337,700	122,800	147,200	196,400	...

The survival of an area of ***thani*** comparatively so small in the Balasore District is due to the enormous extension of cultivation, on account of which the separate area and rent of ***thani*** tends to disappear also to the strength of the zamindars and to the severity of the famine of 1866 in that district.

* See also Appendix A (13).

† As in Olas Pargana and parts of Sailo.

‡ See Appendix AA, BA, CA. One-half of the area in Column 4 is probably pure *thani*.

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Thani—pahi,

323. Besides his ancestral ***thani*** lands and the lands temporarily cultivated and paid for at the ordinary ***pahi*** rates or in kind the ***thani*** raiyat commonly held a large area of land in his own village called ***thani-pahi,*** for which he paid at an intermediate rate*.

I have not found any mention in the papers of the last settlement of the Cuttack and Puri districts of such a status as '***thani-pahi***', but it is probably identical with the ***karpahi*** lands of resident raiyats.

The rights of the holder of ***thani-pahi*** and ***karpahi*** lands appear to have differed only from those of a ***thani*** raiyat in that the latter was entitled to his house rent-free, while the former was not, but paid a very high rent for any homestead held in addition to the ***thani minha***; in fact, we find in Balasore that ***thani pattas*** were given to persons who already held ***chandina***. I cannot ascertain whether the same right to fixity of rent was recogni ed as in the case of thani lands, but it appears certain that there was a right of occupancy. After the Settlement 1836 ***thani*** raiyats continued to take up ***pahi*** land at lower rates and in many instances the two clas es of land became inextricably confused, thus giving rise to the mixed ***thani-pahi*** tenancy as recorded in the papers of this settlement. Unfortunately the term ***thani-pahi*** has been loosely used to designate holdings composed of perfectly separate and distinct ***thani*** and ***pahi*** lands for which rents are separately paid, as well as holdings in which the lands are so mixed that the raiyat cannot separate them, and the landlord has taken a lump rent for both and enhanced or reduced it as if the whole holding were ***pahi.*** In either case separate rents have been fixed for ***thani*** and ***pahi*** and the incidents of the ***thani*** tenure declared to belong to the ***thani*** portion; but when the lands are indistinguishable the whole is practically the holding of an ordinary settled raiyat of the village, as defined in the next and suceeding paragraphs.

Pahi Raiyats.

324. ***Pahi*** raiyats originally meant non-residents cultivating lands in villages other than the villages in which they lived, but in course of time the term ***pahi*** came to be used of all lands that were neither ***thani*** nor privileged, ***i. e., bazyafti,*** nor held by the headmen or servants of the village community as ***jagir.*** These lands when taken up and tilled by a ***thani*** raiyat were generally called ***karpahi*** or ***thani pahi*** and the holder acquired in them a right of occupancy; when tenanted by a resident of another village they were called ***upper-pahi,*** and the tenant had practically no rights beyond those secured him by the ***pattah*** or lease that he received. Mr. Stirling says that summary claims for recovery of arrears from ***pahi*** raiyats were commonly grounded on ***kabuliyats*** or counterpart leases, and that it was the custom to give leases for ***pahi*** lands. Mr. Ricketts, however, ten years later ***i. e.,*** in 1831, writes of the Balasore District that inter change of ***pattas*** and ***kabuliyats*** was very rare with any class of raiyats, but that in practice ***pahi*** raiyats frequently held for years at an unvarying rent, and that self interest prevented undue exactions on the part of the landlord, though no length of possession was considered to confer any right of occupancy and when the land was wanted by a ***thani*** raiyat the ***pahi*** tenant had to give it up. When the thirty years' Settlement began, all the local officers, and more especially Mr. Wilkinson, were strongly in favour of granting to all raiyats leases defining their rents and rights. † In the earliest settlements this was done, and ***pattas*** giving to ***pahi*** raiyats fixity of rent for the term of settlement were actually distributed in Parganas Lembai, Serai, and Chaubiskud of the Puri District, in Bakhrabad, Kodinda and other Parganas of Cuttack, and in a few villages of Balasore. However, this procedure did not meet with the approval of the higher authorities; and in paragraph 8 of letter No. 1199 of the 22nd August, 1837 from the Secretary to the Government of Bengal to the Officiating Additional Secretary to the Sadar Board of Revenue it was laid down—

"That *pattahs* should never be given by the assessing officer to *pahi* cultivators; such a proceeding necessarily creates a false and mischievous impression of a right of occupancy and it is clearly at variance with the tenor of paragraph 2 of the letter of the Secretary to the Sadar Board of Revenue at Allahabad dated the 8th of March, and appended to the Board's cirular of the 12th November, 1833".

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* Mr, Ricketts' reply to the Board's twenty-one questions of 1831, paragraph 51.

† See answers to Board's twenty-one questions of 1831, printed as an appendix to Mr. Toynbee's History of Orissa.

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Apparently on receipt of these orders the granting of ***pattas*** was discontinued, and the settlement left the great mass of the ***pahi*** cultivators exactly as it found them, a simple record of the names of the cultivators found in possession being made in the field book and the whole of the ***pahi*** land recorded as in charge of the zamindar.* The rent was generally considered to be four annas in the rupee less than the rent of ***thani*** raiyats.

Development of rights of *Pahi* raiyats.

325. Act X of 1859 marks the introduction of the next epoch in the history of raiyats' rights. It divided them into two classes those who had held their lands continuously for twelve years, and those who had not. The latter it left as it found them-mere tenants-at-will; the former it secured in possession of their holdings as long as they continued to pay their rent.

The rent was fixed subject only to enhancement on the specific grounds laid down in Section 17 of the Act, viz.—

That the rate of rent was below the prevailing rate paid by the same class of raiyats for lands of a similar description, and with similar advantages and places adjacent;

That the value of the produce of the productive powers of the land have been increased otherwise than by the agency or at the expense of the raiyat;

That the quantity of land held by the raiyat has been proved by measurement to be greater than the quantity for which rent has previously been paid.

On the other hand the raiyat could under section 18 claim reduction of the rent in the event of diminution of the productive power of the land otherwise than by his fault, or for the loss of land by diluvion.

The incidents of the tenure of a ***pahi*** raiyat having occupancy rights under Act X of 1859 were—

(1) Right to occupy the holding until evicted under a decree of a competent court.

(2) Right to demand a ***patta*** at a fair and equitable rent.

(3) Right to fixity of rent subject to alterations made under Sections 17 or 18 of the Act.

(4) Liability to distraint of growing crops for arrears of rent.

(5) Liability to ejectment, or to sale of movable or real property, under a decree for rent.

(6) Right to surrender the holding by a notice given to the landlord or his agent in the month of ***Chaitra*** in the year preceding that in which the relinquishment was to take effect.

(7) The tenure was not transferable.

(8) The tenure was not voidable on a sale of the parent estate for arrears of revenue or otherwise.

(9) The tenure was heritable according to the Hindu law, but the landlord was not bound to recognise a division of the rents.

Tenants without occupancy rights were practically untouched by the Act, and remained liable as before to enhancement of rent (after due notice) and to eviction for non-payment subject to the terms of any written lease or other contract.

Though the law thus protected a large body of the raiyats they continued for many years in almost total ignorance of their rights, or if they knew them were not strong enough to enforce them.

Even down to the time of the present settlement this continued to be the case in the Balasore District, and in the north-eastern part of the Cuttack District. The zamindars were powerful, cultivation was extending fast, there was a rush for new lands and a few raiyats could prove uninterrupted possession

* **Pahi *zimma* zamindar.**

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for twelve years of their holdings. This state of change contributed to the insecurity of the raiyat's tenure, and the large number of petty proprietors in the estates along the Baitarni is attributed to to the purchase by raiyats of the proprietary right over their own holdings in order to protect themselves from eviction. In the more settled parts of the Cuttack and Puri Districts the raiyat had, however, some security of possession.

I have found raiyats holding *pattas*, sometimes at quite inadequate rents, who had for a generation successfully resisted all attempts of the zamindar to evict them or enhance the rent. In Shergarha and other Parganas on the west many *pahi* tenants hold rent free homesteads and have been practically admitted to the position of *thani* raiyats and *thani-pahi* tenants are always recognised as having a right of occupancy in both *thani* and *pahi* land.

The poorer and non-resident raiyat is however a mere tenant-at-will. If he falls into arrears he is summarily evicted, and any man willing to pay up the balance of the rent is installed in his place. This is not so common now that nine years of settlement operations have taught the people the nature of their rights, but to this day the smaller proprietors have not become reconciled to the limitation of their customary right of eviction.

The more intelligent zamindars deliberately try to prevent the growth of occupancy rights. I have known cases in which fields were exchanged every few years, thus destroying the continuity of the possession; but the most ingenious system that I have met with was that practised in Haldia Khandaiti (Khurda) where the lands are not leased but mortgaged subject to the payment of an annual share of the produce the mortgage being paid off and another executed whenever a new tenant offers better terms.

Extent of *pahi* holding.

326. The following statement comparers the area in acres, past and present, of *pahi* holdings*:—

DISTRICT.	Last Settlement.	Present Settlement occupancy raiyats.	*Add* non-occupancy raiyats.	*Add* one-half of *Thani Pahi*.	Totals of columns 3,4, and 5.	Percentage of increase of column 6 on column 2
	Acres	Acres	Acres	Acres	Acres	
Cuttack ...	268,900	419,200	8,100	42,100	469,400	74
Puri ...	82,920	128,600	1,600	31,500	161,700	95
Balasore ...	219,100	434,500	13,400	*Nil*	447,900	104
Total ...	570,900	982,300	23,100	73,600	1,079,000	99

Chandina.

327. Tenants other than the *Khushbash* or respectable *thani* and resident raiyats have always paid rent for their homestead lands. In the case of the cultivating classes such lands were generally part of the *pahi* holding, but the shopkeepers artisans, and labouring classes, who, having no arable land in the village, pay rent for homestead lands only, are called *chandinadars* and their tenure *chandina*. *Pahi* raiyats also, who having their home in one village hold also house or homestead in other, are sometimes known as *chandinadars* of the latter village. The term originally implied inferiority, as on this class fell the obligation of supplying forced labour or postage when required by any Government official; but this obligation having fallen into disuse, the unpopularity of the term has passed away and the word *Chandina* has come to be used for all homestead land paying rent separately from the arable lands. At the last settlement *chahdinadars* were given leases securing to them fixity of rent for the term of settlement, and the incidents of the tenure do not materially differ from those of *thani* raiyats except that they are governed by the Contract Act and not by Act X of 1859.

Chandina tenancies have to a great extent merged in *pahi*, and on the other hand new *chandina* tenancies have been recognised, especially in *patnas* or villages consisting solely of homestead and in the suburbs of towns.

Transfers of raiyat holdings.

328. I have already discussed the right of the *thani* raiyat to sell his holding without the permission of his landlord. In the case of *pahi* holdings I do not think that sales were ever allowed until very recent years, but in the *khas mahals* of Puri and the Parganas adjoining Khurda sales are now common, and since the *khanapuri*

* See Appendix AA., BA., CA., etc.

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began, such transfers have been often made in various parts of the Province, and are generally recognised by the zamindar on payment of a sufficient *salami*. An attempt was made at the time of attestation to obtain statistics of the number of transfers since the passing of the Tenancy Act, but the figures are very incomplete. In Cuttack* out of 1,090 villages only 1, 264 cases of purchase of occupancy right were recorded, and of these, 37 only were by *mahajans* who were not cultivators. This gave rather less than 1 per cent. of the occupancy raiyats as having purchased their right within the last ten years; a figure that is certainly below the mark.

In Balasore 151† transfers (142 *thani* and 9 *pahi*) were recorded, the average area sold being over 2¼ acres and the average price over Rs. 16-12 per acre. More figures were at the same time obtained from the Sub-Registrar showing in five years 2,464 transfers. In 1,082 cases the purchasers were unspecified; of the remainder 92 were *mahajans* and 95 landlords of the vendor.

I would now supplement these figures with the statistics obtained from the registry offices of the three districts for the last ten years. These may be summarised as follows :—

DISTRICT.	Class of holding.	Average annual number of transection.	STATUS OF PURCHASERS.					Rent.	Area sold in acres.	Price paid.
			Money-lenders, &c.	Landlords of the holding.	Other landlords.	raiyats.	Others including unspecified.			
1	2	3	4	5	6	7	8	9	10	11
								Rs.		
Cuttack...	*Thani*	596	40	44	97	103	312	1,655	774·87	26,891
	Others	581	41	30	75	123	312	3,269	606·94‡	31,671‡
Balasore...	*Thani*	210	19	...	73	73	45	...	388·09	11,374
	Others	1,008	100	...	354	446	108	...	876·69	37,368
Puri § ...	*Thani*	1,439	104	...	63	247	1,025	...	...	1·40,786
	Others	5,664	646	5	677	3,423	913	...	5,326·61	3·81,237

"Others" in this statement comprise *pahi* holdings as will as *chandina* and houses, and probably *kamil bazyafti* and *tanki*.

It is curious that the number of transfers, especially of *pahi* holdings, is much smaller in Cuttack than in either of the other districts. In Puri the much larger number is due to the freedom of transfer in the *khas mahals* and especially in Khurda; and partly also to the fact that figures for the last three years only have been supplied. It is likely that a good deal of *tanki* is included in the Puri figures. If these statistics be taken as fairly complete, we find that the proportion of the *thani* lands that annually changes hands by sale varies from rather less than 1 per cent. in Cuttack or Balasore to at least 2 per cent. in Puri. "Others", supposing it to include everything except *thani* and *nisfi lakhiraj bazyafti*, represents in Puri an annual transfer of over 2 per cent. of the assessed area; in Cuttack less than one in a thousand; and in Balasore less than two per thousand.

Of course these figures are exclusive of a good many transfers made without registration of the deeds but even making considerable allowances on this account it is very difficult to account for the greater number of transfers in Balasore than Cuttack and the vastly greater number in Puri.

In all three districts there has been an enormous increase in the number of transfers since the commencement of the settlement operations; and since their close sales and mortgages of holdings and portions of holdings have become so common as to arouse the apprehensions of zamindars and district officers.

* *Vide* letter No. 1331 of 12th July 18 6 from the Settlement Officer, Orissa, to the Director of the Department of Land Records and Agriculture.

† Letter No 7248. of 7th March, 18.6 from the Settlement Officer, Balasore, to the Director of the Department of Land Records and Agriculture.

‡ Figures for last four years only.

§ Figures for three years only.

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I think that the attention of sub-registrars should be drawn to the rules published at pages 325 to 328, Part I of the *Calcutta Gazette*, dated March 23rd, 1898; and that although sections 12 and 18 of the Bengal Tenancy Act have not been extended to Orissa, the same care should be exercised in refusing to admit to registration deeds purporting to transfer fractions of holdings without the landlord's consent. The idea appears to be fast springing up that the land-lords have no power to prevent the sale or division of holdings and I understand that sales of portions of even *pahi* holdings are freely registered throughout the Province. It should be impressed on sub-registrars and all revenue officers that the settlement has in no way altered the previous rights of raiyats and that the Bengal Tenancy Act contains even more strict provisions against subdivision of tenancies than did Act X of 1859.

In 1890 in Cuttack the number of recorded transactions was 305 in the case of *thani*, and 58 in the case of other raiyati holdings; in 1898 the numbers had risen to 743 and 1,782.

In Balasore the number of sales of *pahi* lands in 1897-98 was about 3,000, or three times the average of the decennial period.

In Puri over 8,000 *pahi* holdings and nearly 1,400 *thani* holdings changed hands in 1897-98 and figures obtained from the Puri and Pipli sub-registries show the number of transactions to have trebled in the last three years. The areas transferred are not small, the average being between three and four *bighas*,* say 1 to 1⅓ acres, so that comparatively few sales of individual plots have been registered. I may add that it has been brought to my notice that zamindars (especially in Balasore) are inducing raiyats to execute registered mortgages of holdings in their (the zamindars') favour and that sub-registrars are registering such mortgages without objection.

Value of tenant right.

329. Figures were compiled in the fair rent camps to show the price for which *thani* and *pahi* lands sell in different localities.

In Cuttack the prices of *thani* land range from Rs. 17 in Kate, a Pargana much subject to inundation, to Rs. 83 in the irrigated tract of Matkatnagar, and give a general average of about Rs. 40 per acre. For *pahi* the figures are almost too small to generalise from but give a general average of Rs. 25 to Rs. 30 per acre.

In Balasore the price is said to be from Rs. 40 to Rs. 50 per acre for *thani*, and from Rs. 20 to Rs. 25 for *pahi*.

These figures differ somewhat from those obtained from the registration returns abstracted in the preceding paragraph, which give the following prices per acre :—

District.	Thani.	Others.
Cuttack ...	35	51
Balasore ...	29	42
Puri ...	...	71

In the statements obtained from the Puri sub-registry office the prices in different years vary only from Rs. 11 to Rs. 14 per *bigha* and at Pipli from Rs. 15 to Rs. 18, so that Rs. 17 per acre, the figure obtained from the Puri Sadar returns converting at 3 *bighas* to the acre, is too high.

Figures showing the rent reserved are only available for Cuttack and the sub-registry office at Puri. From them we find that, in Cuttack, the average rent reserved on *thani* lands is Rs. 2-2 per acre, on "other" holdings Rs. 5-5, and the price in either instance averages sixteen times and ten times the rent reserved. The figures obtained from the Puri sub-registry office show the average rent reserved on raiyati holdings to be about 9 annas a *bigha*, or from Re. 1-8 to Rs. 2 per acre, and the price is about twenty-three times the rent reserved.

The Bengal Tenancy Act. †

330. So far I have considered the position and rights of tenants prior to the present settlement proceedings, and it remains to show the changes caused by the extension to Orissa of certain sections of the Tenancy Act and by the settlement of rents.

* Figures are expressed in *bighas* equal to a third of a *man*. It would be much simpler in future to record them in acres.

† See also Chapter XIII.

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The following portions of the Bengal Tenancy Act have since the beginning of the Settlement, been extended in this Province :—

Chapter.	Section.	Others extending.
I.	3	Government Notification, dated 10th September, 1891.
II.	4-5	
	7	
V.	19-26	
	27-38 —	Government Notification No. 2448 L. R., dated 27th June 1892.
	39-40 —	See below.
VI.	41-47	Government Notification, dated 10th September, 1891.
VII.	48-49	
	52	See below.
III.	53-75	Government Notification, dated 10th September, 1891.
IX.	80	Government Notification No. 2448 L. R., dated 27th June 1892.
X.	101-15	Government Notification, dated 10th September, 1891.
XVII.	189-90	Government Notification No. 115 L. R., dated 5th January, 1893.
	191-92	Government Notification, dated 10th September, 1891. For 192 see below.
	39	Government Notification No. 99 L. R., dated, 7th June 1896.
	7,40,52 and 192	Government Notification No. 971 T. R., dated 17th, October, 1896.

Sections 3 to 5 contain only definations of terms in the Act.

Sections 19 to 21 introduce a new law as to the acquisition of occupancy rights in supersession of section 6 of Act X of 1850. The important differences are these—

(*a*) That in order to acquire occupancy rights it is not, under the new law, necessary that the same land should have been held for twelve years; it is sufficient if any land in the village has been so held. This is perhaps the most important from the raiyats' point of view, of all the changes in the law.

(*b*) That a settled raiyat, *i.e.*, an occupancy raiyat acquiring his right by possession for twelve years or by inheritance, acquires at once occupancy rights in any fresh land taken by him in the village.

(*c*) That there is a legal presumption that every raiyat is an occupancy raiyat.

Section 22 defines the law of merger, previously little recognised in Orissa. It has been given effect to in this settlement in the case of zamindars and village headmen who have tried to acquire occupancy rights in their own lands by purchases from tenants, *benami* or otherwise. In the case of *thani* lands it has not always been held to apply, *e.g.*, in cases where at the last settlement the zamindar had *thani* lands and *bazyafti* lands recorded in his own name.

Section 24 and 26 do not appear to make any difference in the existing law.

Section 25 limits the right of a landlord to eject an occupancy raiyat and does away with the right of ejectment for arrears of rent given by section 21 of Act X of 1859.

Sections 27 to 38 of the Tenancy Act deal with the enhancement and reduction of rents of occupancy raiyats, and greatly amplify the provisions of sections 13,14,17, and 18 of Act X of 1859. The principal changes effected are—

(*a*) Limitation of enhancement by agreement to a maximum of two annas per rupee made under a contract in writing and registered.

(*b*) The fixing for fifteen years of the rent of an occupancy raiyat where it is enhanced under any of these sections.

(*c*) The abolition of the necessity for the notice of enhancement required by section 13 of Act X of 1859.

(*d*) Limitation of enhancement on the ground of increase of the productive power of the land to the cases given in clauses (*c*) and (*d*) of section 30.

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This prevents enhancement on the ground of improvement by irrigation or protective works of Government.

Section 39 does not affect tenant right, but provides for evidence of rise in prices.

Section 40 provides for commutation of produce rents It was extended to Orissa in 1896, but has been little used. Landlords generally object to commutation, and the rent calulated on the average value of the payments was so high as to deter applicants.

Sections 41 to 47 define the rights of raiyats who have not got occupancy rights. Under the old law these raiyats had no rights except such as they obtained under a contract, and were only tenants-at-will holding from year to year. The present law limits the right of ousting the tenant to ejectment on the expiry of a written and registered lease, or for failure to pay an arrear of rent or for refusal to execute an agreement to pay an enhanced rent at a fair and equitable rate. Such ejectment can only be made in execution of the decree of a competent Court, and after every enhancement the raiyat is entitled to hold for five years at the rent agreed upon. These provisions are quite opposed to the previous custom of the Province.

Sections 48 and 49 of the Tenancy Act limit the rent recoverable from an under-raiyat to 25 per cent. (50 per cent. under a registered lease) in excess of that paid by the landlord-raiyat, and provide for his ejectment [in execution of a decree of a Court] on the same terms as in the old law. The first provision has no counterpart in Act X, and is quite opposed to the existing state of things in Orissa.

Section 52 [as amended by Act III (B. C.) of 1898] provides for the enhancement of the rent of a raiyat found to be holding land in excess of that for which he is paying rent (Section 17 of Act X 1859, modified.)

Sections 53 to 55 deal with the time for, and apportionment of payments of rent. The provision for apportionment is not found in Act X of 1859, but is taken from the Indian Contract Act, which probably applied. In any case it is not likely to be made use of.

Section 56 to 60 relate to the granting of receipts for rent, and are of very great importance. Section 10 of Act X only laid down that the receipt should specify by the year or years on account of which the payment was made, and this is about all that the ordinary *"pauti"* contains. Under the Tenancy Act, however, it is provided that the receipt shall be given in a prescribed form and a counterfoil kept, and that every receipt not containing the particulars required shall be presumed, until the contrary is shown, to be an acquittance in full, and failure to comply with the provisions of the law renders the landlord liable both to a suit for damages by the tenant, and to fine at the hands of the Magistrate. The provision as to fine is new. The enforcing of these provisions would go far towards securing tenants in the possession of the privileges attaching to their recorded status, but I fear that at present they are almost a dead-letter. To enable these sections to be given effect to, it is, in the first instance, necessary to prescribe a very simple form of receipt, as that authorised for Orissa is far too complex.

It shold also be provided that any Revenue or Civil Court should have the power to take cognisance of any offence under section 58 *(3)* and either punish it itself or commit to a Magistrate. There appears to be much doubt at present as to the proper manner of instituting proceedings in such cases. The Collector of Cuttack has recently brought this point specially to my notice.

Sections 61 to 64 provide for the payment of rent in certain cases through a civil court. These sections make a considerable change in the law (section 4 of Act VI of 1862), and entitle the tenant to deposit the money in court *(i)* when landlord refuses to receive and grant a receipt, or *(ii)* when he has reason to believe that the landlord will so refuse, or *(iii)* when he canont obtain a valid acquitance, or *(iv)* when he does not know to whom the rent is payble. Formerly it was only in the first of these alternatives that rent could be deposited.

Sections 65 and 66 supersede sections 21 and 105 of Act X of 1859 as regards the execution of decrees for arrears of rent. On the one hand they take away the right to sue for ejectment (section 78 of Act X) in the case of occupancy

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raiyats, raiyats at fixed rates, and permanent tenure-holders; on the other they simplify the sale of the tenure, if transferable, and take away the restriction on sale provided by section 108 of Act X in the case of decrees in favour of a sharer.

Section 67 of the Tenancy Act supersedes section 20 of Act X and prevents any written agreement from taking away the landlord's right to interest at 12 per cent. on arrears of rent.

Section 68 of the Tenancy Act gives courts a discretionary power to award damages (sections 2 and 3, Act VI of 1862) in suits for arrears of rent.

Sections 69 to 71 introduce a new provision for the appraisement and division of produce rents.

Section 72 and 73 deal with the effect of transfers of the landlords' or tenants' interest on the rent charge. They do not appear to alter the existing law.

Sections 74 and 75 re-enact the provisions of the regulations and of section 10 of Act X of 1859, but in the case of petty exactions provide a much heavier penalty than that in the old law.

Section 80 provides for the registration of landlords' improvements. It is a corollary to section 133, but not likely to be much used.

Sections 101 to 115 as amended by Act III (B.C.) of 1898 provide the machinery for the preparation of a record-of-rights and settlement of rents.

The important provisions form the point of tenant—right are —

(*a*) that settlements of rents and decisions of disputes under section 106 prior to the 1st November 1898 and decisions under sections 105 and 106 after that date are final;

(*b*) that rents settled under section 104 of the amending Act are to be presumed to be fair and equitable;

(*c*) that the rents of occupancy raiyats are fixed (subject to section 113) for fifteen years and those of non-occupancy raiyats and under-raiyats for five years.

Sections 189 and 190 only provide for making and publishing rules under the Act.

Sections 191 and 192 make provision for enhancing rents in the face of invalid grants or leases by landlords.

Summary of important alterations effected by the Bengal Tenancy Act.

331. It will be seen that the sections extended have improved the position of tenants chiefly—

(1) by extending the right of occupancy to many who could not have claimed it under Act X of 1859.
(2) by limiting the right of ejectment for arrears of rent;
(3) by limiting the right of landlords to oust or enhance the rents of non-occupancy raiyats;
(4) By giving some fixity of rent to under-raiyats;
(5) By providing for the granting of proper receipts;
(6) By providing for the payment of rent into court where this was not formerly possible;
(7) By giving a right to obtain commutation of produce rents.

The introduction of the Bengal Tenancy Act has been made piece-meal, and important gaps have been left, *e. g.*, section 183 is necessary to save local customs not inconsistent with the Act; section 178, to prevent raiyats from contracting themselves out of occupancy rights under section 7 of Act X of 1859; sections 155 and 156, to complete the provisions as to ejectment.

Even more important than the mere extension to the Province of a few sections of the Tenancy Act has been the preparation of a record-of-rights and the settlement of rents under Chapter X.

By the first process we have ascertained and assured to each tenant the status to which, under the Tenancy Act, he is entitled. To all settled tenants, occupancy, non-occupancy and under-raiyats, even to tenants holding proprietor's private land, has been given a statement of the lands they hold and the rent they pay or are to pay. In the case of the large majority of raiyats this rent is fixed

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for fifteen years, for non-occupancy and under-raiyats in temporarily-settled estates for five years. To *thani* raiyats, *bazyaftidars*, *chandinadars* and *kharidadars* an entry in the *khatian* has secured fixity of rent for the term of settlement.

Khandaits and *Paiks.*

332. There are no terms in use in Orissa more ambiguous in their meaning than *khandait* and *paik*. The name *khandait* was used by some of the *Garhjat* chieftains, and in their case is said to be derived from *khanda*, meaning a local division or hill fort. It is, however, more generally derived from *khanda*, meaning a sword, and it is probably in this sense that it is applied to the border zamindars and to the *killajat* rajas of the sea coast. It is also the name of one of the principal agricultural castes, and was used of the watchmen in charge of the zamindars' *cutcherries*. * In this paragraph, however, it is only as the heads of the *paiks* that we have to consider them. The word *paik* † also is applies both to the remnants of the old frudal militia serving under *khandait* chiefs and to the footmen and messengers of the zamindars in the *moghulbandi* and to the village watchmen.

The most reasonable theory on which we may account for this diversity of meaning is that the feudal organisation was at one time for more widely spread, and that all over the country there were swordsmen and footmen holding the land on semi-military tenure, cultivating it in time of peace, but bound to rally to their leader's standard when called upon to do so; and this theory is more than probable, as we know that in the sixteenth century Abul Fazl estimated the number of *paiks* at 100,000, and that the rural militia was strong enough to beat back the Muhammadans more than once. Later on the bulk of them must have settled down as peaceful cultivators forming the present *Khandait, Pan* and *Kandra* castes ‡, while the old organisation survived under the *khandait* zamindars and rajas of the borders.

Under the Moghul and Mahratta rule these latter continued to be responsible for the internal administration of their estates, but throughout the *moghulbandi* the *paiks* were placed under the control of *sardars* and *khandaits* and attached to Thanas. § Every zamindar and *talukdar* was primarily responsible for the peace of his estates, but the Mahrattas, to a great extent, disregarded the *talukadars*, and the *amil* managed the rural police through his assistant the *kotwal*. Regulation XIII of 1805 provided that a register of the *jagir* lands of the *khandaits, sardar paiks* and inferior *paiks* should be opened, that their lands should be protected in perpetuity from resumption, and that where the zamindars had not been specifically deprived of their control of the rural police, they should be appointed as *darogas*, or given powers of police officers in subordination to the *daroga*, and that if the zamindars had been deprived of the control of the police *sardar, paiks* and *khandaits* should be vested with the immediate maintenance of the peace and the duty of apprehending offenders. It appears, however, that the whole regulation ¶ was based on a misapprehension of the nature of the Mahratta police, or that it was misinterpreted by the local officers, and that up to the time of the Khurda rebellion little or nothing had been done towards giving effect to its provisions. Consequently the zamindars dispossessed many of the *paiks* of their lands and those who remained tended to become mere zamindari servants. I may instance Ambohatta, in which during the first thirty-five years of British rule the area of the *paik jagirs* was reduced from 4,000 to 2,000 acres. £ This Pargana, it is to be remembered, was under Keonjhur till the beginning of the century.

At the last settlement those *khandaits, sardar paiks* and *paiks* who had not been dispossed of their lands were confirmed in possession, and an attempt was made to use them as a body of military police under the direct control of the Commissioner. This attempt was abandoned, and when the present settlement

* Mr. Ewer's report, paragraph 242.

† Sanskrit padalika=footman=Spanish, *peon;* Hindi, *piada*.

‡ *Vide* paragraph 220,

§ *Vide* Mr. Fiddian's report on the Balasore tenures, paragraph 48.

¶ Mr. Ewer's report, paragraph 225.

£ Mr. Kingsford's report on Balasore, paragraph 153.

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began they were for the most part engaged in ordinary police duties—attending at the Thanas, patrolling roads and assisting in the arrest of criminals; but they were found to be too independent to be of much value, and with their consent their *jagirs* have now been assessed and the occupants have been relieved of all police duties and allowed the status of *thani* raiyats with the further concession that the present incumbents will pay only half rents for the term of their lives*.

One large *jagir*, that of the Chandbali *khandait*, has been made into a separate estate with a revenue of Rs. 341 under the name of ***Thukura Paikali Jagir Bazyafti***. So, too the lands of the *khandait* of Chandpur, in the Puri District have been settled with him as a separate estate, ***Arazi Jagir Bazyafti Jagubandhupur*** with a revenue of Rs. 125. The villages of Rendha and Sipasurbali have been settled with the *khandait* of Rendha at a half rent of Rs. 374 during his life-time and included in *taluk* Krishnachandra. This *khandait* used to patrol the sandy wastes on the fore shore and held a large portion of the cultivated land in Rendha as his *jagir* and was in possession of the remainder as farmer. The total area now recorded in his name is 10,379 acres, of which only 901 are cultivated. The other important *jagirs* are those of Jadumani Paikra, ***sardar khandait*** of Cuttack, in whose name 353 acres in Pargana Deogaon and 29 acres in the Puri District have been recorded. He appears to have obtained most of this land by usurpation, but was confirmed in possession of it at the last settlement and made over a quarter of the *jagir* to ten ***naib khandaits*** who attended the Thana and did all the police work. Another large ***khandaiti jagir*** is that of Arakhpur, held by two ***sardars*** and eight assistants who patrolled the Grand Trunk Road near Barchanna. They are recorded as being in possession of 205 acres, which are assessed at As. 12-6 per cultivated acre under a special agreement. Altogether the figures for *khandaits* and *paiks* may be summed up as follows :—

DISTRICT.	NUMBER—		AREA OF *Jagir*, IN ACRES.		INCIDENCE, &c.	
	At last Settlement.	At present Settlement.	Last Settlement.	Present Settlement.	Half rent assessed. Rs.	Incidence per acre. Rs.
Cuttack ...	496	520	1,580	2,000	2,330	1·3
Puri ...	146	121	800	310	360	1·2
Balasore ...	815	792	4,400	4,600	2,400	0·8
Total ...	1,457†	1,433	6,780	6,910	5,090	0.12

The above figures exclude the Chandbali *jagir* and that of the *khandait* of Rendha, but include lands held by those *rahbars*‡ and *nahabars* who, being of the *khandait* caste, have been treated in the same way.

Chaukidars.

333. The *Chaukidar* or village watchman is the direct descendant of the *chatia*§ and *danduasi*¶ of the Hindu village communities Their duties were to guard the rice fields of the villagers, to help in collecting rents, to measure lands in case of disputes, and to report to the zamindar or village headman all crimes and unusual occurrences. They were never even under the Mahrattas so directly subordinated to the amil as were the khandaits, but continued to fill a triple position as servants of State the zamindar and the village, and were remunerated by small grants of land and by certain payments from the villagers. In the ***Moghulbandi*** they took the name of *chaukidar* or *chaukia*, but in Khurda and other parts of the ***Rajwareh*** many retain to this day their old designation.

At the conquest we found a varied assortment of ***chaukias danduasis, chatias, nahabars, paiks*** and ***khandaits***, performing the duties of village watchmen, and while Regulation XIII of 1805 brought the last two classes under the immediate control of the *darogas* of Thanas it left the rest as the servants of the zamindars. Regulation XX of 1817 secured the village watchmen in possession of their *jagir* and subjected them to the control of the *darogas*; their appointment was, however, still left to the zamindar. The last settlement still further strengthened the Government control over these rural police. Where an

* Government order No. 866 J. of 6th February, 1997.

† Figures taken from the reports on Orissa Tenures.

‡ Road patrols.

§ Derivations of *Chatia* are various. It is generally taken to mean a "whipper" from the Uriya *Chatibaro*, but more probably it is from "*Chati*", a road side village or halting stage.

¶ Staff bearer.

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excessive number were found in any village, their *jagir* lands were resumed and they became ordinary raiyats or zamindar's servants; to the rest were assigned an average of 3 acres each as *jagir*. These lands are registered in the police books; the *Chaukidar* for the time being has an interest in them that terminates in his death or removal from office, and the tenure is neither heritable nor partible. The zamindar had no power to oust the *chaukidar* from his *jagir* land, or to cut down any trees standing on it, or to take their fruit; but where the *jagir* was small or there was no *jagir* (as in the case of a new village) the zamindar was often induced to allow to the *chaukidar* a small plot of land, rent-free or at a low-rent. For watching the crops of the villagers, the *chaukidar* also collected from every cultivator a small contribution, consisting of one or two *gaunis* (five to ten seers) of paddy, or a couple of sheaves of corn (*halabira*) for every man of arable land.

In the present settlement all the *jagirs* in the temporarily-settled area have been resumed, and the *chaukidars* for the time being recorded as *thani* raiyats in respect of such lands.

They will, as soon as Act VI (B. C.) of 1870 is put into force in any part of Orissa* be relieved of their police duties unless re-appointed under that Act. They will at the same time become liable for the payment of the rents settled, and acquire in their lands all the rights of *thani* raiyats.

The number and area of the resumed *jagirs* is as follows :—

DISTRICT.	Number of *Chaukidars* †	Number of parcels of *jagir*.	Area.	Rent settled.
			Acres.	Rs.
Cuttack ...	5,118	7,300‡	10,200	25,400
Puri ...	1,451	2,300	2,800	5,200
Balasore ...	2,060	2,500	7,200	12,400
Total ...	8,629	12,100	20,200	43,000

Patwaris. §

334. Next to the village watchman, the accountant or *bhoi* was the most important of the village officials. He it was who had to keep all accounts of the payments of individual raiyats under the system of direct dealing with the cultivators which prevailed in Hindu times. Under the *talukdari* system established by the Mahomedans his services became less valuable, and in many villages he was dispossessed of his lands. The first British rulers believed in the policy of not interfering in the internal affairs of the people, and made but little use of the *patwaris'* services until the failure of their attempts at Settlement showed the necessity for more accurate information.

Regulation XII of 1817 was then passed for the better control of *patwaris*, but the provisions of this regulation were not enforced in Orissa. At the last settlement it was only in the large estates that the *patwari* was allowed to retain his *jagir*, and even in these he was rather a zamindar's than a Government servant. In a *good* many estates the *patwaris* were remunerated not by *jagirs*, but by allowances in cash, included, with or without separate mention, in the allowances of the zamindars.

They continued to file annual statements of demand of collection until the passing of Act X of 1859, when the practice was, in accordance with the orders of the Board of Revenue,¶ discontinued. Between 1876 and 1879 further attempts were made to utilise the *patwaris*, but the attempt failed, and though since then they have, at least in the Puri and Balasore districts, continued to file papers as required by the Board's rules, no use has been made of the returns, and the *patwari* had, at the beginning of the present settlement, degenerated into a short of general assistant to the *chakla kanungo*. £

* Its extension to Cuttack, Puri and Balasore from the 1st June 1899 was sanctioned in notification No. 514 T.D. dated 25th May 1899.

† Includes all *chaukidars* holding *jagir* lands; see letter No. 309 J., dated 30th April 1896, from the Commissioner to the Government of Bengal.

‡ This includes all *jagirs* attached to estates borne on the revenue-roll of Cuttack, though the land be in Puri or Balasore.

§ See paragraph 405.

¶ No. 74 of 13th July 1859.

£ Bengal Government to Board, No. 2769-1125 L. R., dated 30th December 1879 : and Rules at section 13 of Revenue Officers' Manual of 1888.

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In the present settlement the *jagirs* of *patwaris* have been resumed and assessed at full rates. They have been treated as *thani* raiyats, and have ceased to be liable to render any service to the State, village, or zamindar. *

The number of *patwaris* and the area and rent of the resumed *jagirs* in the three districts are as follows :—

DISTRICT.	Number of *Patwaris*.	Area of resumed *jagir*.	Rent of resumed *jagirs*.
		Acres.	Rs.
Cuttack	100	2,100	5,000
Balasore	56	1,400	1,000
Puri	89 †	450	760
Total ...	245	3,950	6,760

The village servants.

335. (1) The *Bhandari* or *Napit* is the village barber, a very important personage indeed. On all ceremonial occasions the Hindu requires to be shaved, and the barber acts also as a go-between at the time of negotiations for marriage. He is found in almost every village, and is frequently the *shebait* of the bocal *thakurani*, and holds a bit of land rent free on that account.

(2) The *Dhoba* is the washerman, also a Hindu, and a person of considerable importance. Found in most villages.

(3) *Barhai* is the carpenter.

(4) *Kamar* is a blacksmith. He and the carpenter make and mend the plough, carts and agricultural instruments.

(5) *Kumbhar* is the village potter.

(6) The *Nayak* or *Jyotish* is an astrologer, who prepares horoscopes, indicates lucky or unlucky days, and prophesies good or bad harvests as the occasion demands.

(7) *Abadhans* or teachers are of two classes, *patpara* or school-masters, and *nayak* or astrologer.

(8) *Ghat Manjhi* or *Nauris* are the ferrymen.

(9) *Mehtars* or *Haris* are sweepers.

(10) The *purohit* or priest is of two kinds, the *Despurohit* or priest appointed the zamindar, and the *Kulpurohit* or hereditary chaplain of a respectable family. He performs purificatory rights after deaths and officiates at marriages.

The first five classes as also the ferrymen are commonly found in possession of *jagir* lands, the others more rarely.

They are all, though nominally the servants of the community, in the habit of receiving small fixed payments from the villagers, besides fees on special occasions. The following are the payments recorded :—

(1) The *Chaukidar.*—One or two measures (*gauni*) of paddy, or one to seven sheaves of unthreshed corn (*kachra dhan*) per *man*.

(2) Washerman and *barber* from 2 to 4 *gaunis* of paddy every year or two to four annas in cash, from each married couple among their clients; besides, an extra payment at each wedding.

(3) The *Balcksmith* and *carpenter* get from 2 to 4 *gaunis* (say 10 seers) of paddyper plough made or repaired, or a corresponding amount in *kachra dhan*.

(4) The Potter sells his wares to the villagers at a *pag* of five pots for a *gauni* of grain.

(5) The *Ferryman* generally takes payment from the people he crosses or compounds for a lump payment from the village.

(6) The *Astrologer, Schoolmaster* and *Priest* are paid by presents and subsriptions, according to the position of their clients.

* Government order No. 2604 of 10th May 1894 and No. 3742 L. R., dated 9th December, 1897.

† The number of *patwaris* in Puri is 262 (an earlier statement shows 321), but only some of them held *jagirs*.

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Miscellaneous *jagirs.*

336. Besides the above, a certain number of miscellaneous ***jagirs*** are held by the following classes:—

(1) *Bethia Bauri*; labourers bound to render service when called upon.
(2) *Bhat* or village bards.
(3) *Nagarda bajudar* (drum beaters), *Turiya bharangiya* (trumpeters), *Mahuriya, sararchi* (flute players). These are musicians to whom grants of land were assigned by zamindars.
(4) *Mangatjan* or dancing girls, who, in large estates received land for their maintenance.
(5) *Dihidar* and *Simanadar* or keepers of the marches.
(6) *Gaurs* or village cowherds.
(7) *Baishnabs* or religious mendicants.
(8) *Adhikari*—head priest of temples.
(9) *Madhia Brahman*—ceremonial assistant.
(10) *Malis* or gardeners, often incharge of village shrines.
(11) *Barua*, a village headman; found only in north Balasore.
(12) *Rathbahak*, car-pullers of Jagganath.
(13) *Sasamal*, or head bearer of the Raja of Puri.

These ***jagirs*** are few in number and small in extent, and some found only in permanently-settled areas. Most of them were resumed at the last settlement and are to be found among the *jagir bazayfti* tenures.

Resumed *jagirs.*

337. Other *jagirs* resumed, except in Khurda and the permanently-settled areas are—

(1) Zamindar's ***Nankar.***
(2) ***Mugaddm's*** and ***Padhan's, Pitrleh*** or ***Watan.***
(3) ***Jagirs*** of ***sarbarahkars*** or rent-collectors; of ***baithkarans, amins, kotkarans, dalkarans*** and ***bhoimuls,*** old Hindu revenue officers answering to the ***Kanungo.***
(4) ***Dalais*** and ***tandkars,*** who are servants of the above and similar to *paiks.*
(5) ***Degrai,*** or belonging to the old feudal retainers yielding military service.

Areas confirmed as *jagir.*

338. In the following statement the areas in acres confirmed as ***jagirs*** are compared with those at the last settlement, as shown in the reports on Orissa Land Tenures :—

DISTRICT.	ACRES AT LAST SETTLEMENT.						ACRES AT PRESENT SETTLEMENT.					
	Barber.	Washer man.	Black-smith.	Carpen-ter.	Others	Total.	Barber.	Washer man.	Black-smith.	Carpen-ter.	Others	Total.
1	2	3	4	5	6	7	8	9	10	11	12	13
Cuttack ...	2,600	2,800	1,300	1,800	400	8,900	1,260	1,230	590	800	330	4,210
Balasore ...	640	660	360	380	240	2,280	520	50 0	240	290	190	1,740
Puri ...	1,600	1,670	630	730	110	4,800	960	900	340	330	70	2,600
Total ...	4,840	5,130	2,350	2,910	750	15,980	2,740	2,630	1,170	1,420	590	8,550

The difference is due chiefly to the dispossession by the zamindars of the ***jagirdars*** whose services are no longer so essential to the village community or who have in any way made themselves unpopular, and partly to the resumption at this settlement of the lands of village servants proved not to perform their duties.

Under the head 'Others' the principal areas are held by ***ghat-manjhis*** or ferrymen (some 200 acres), potters (about 100 acres), sweepers and astrologers.

The confirmed ***jagirs*** are tenable only so long as the service for which they are granted is performed. They are by custom heritable but cannot be partitioned or transferred, though cases have been brought to light where this has been done.

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Under-tenants.

339. Under-tenants include all classes of persons occupying land included within the tenure or holding of a tenant, other than a proprietary tenure-holder or farmer. They may be divided into (1) Tenants holding under *bazyaftidars* and other privileged tenure-holders; (2) Tenants of raiyats, *thani* or *pahi* and of *jagirdars*; (3) Under-tenants of under-tenants and of raiyats of *lakhirajdars*. There can be little doubt but that by the custom of the country all three classes were considered to be mere tenants-at-will, the only exception being that in certain areas—I may instance Pargana Balubisi in Cuttack—*thani* and other resident raiyats of the village cultivating the lands of *bazyaftidars* and Brahmans on a cash rent were considered to have a right of occupancy. A few cases are also found where the under-tenants have their houses on the holding portions of which they cultivate. It is, however, common to find the same man holding as under-tenant for many years together, though the particular fields sublet to him may vary.

The effect of the present settlement proceedings has been to substitute a new division. It was held that Brahamans who do not hold the plough themselves and *quasi* proprietors such as *kharida jamabandidars* were tenure—holders and not raiyats, and all the latter class and nearly all *bzayaftidars* who sublet their lands have been given the status of tenure holders. They themselves indeed claimed to be proprietors or dependant talukdars, and resented being styled raiyats, but the result of the compromise by which they were called tenure-holders is that many of their tenants acquire occupancy rights which custom did not accord them.

The under-tenants of *bazyaftidars* and *tankidars* who are raiyats of *thani* or *pahi* raiyats, and of raiyats under *lakhirajadrs* or tenure-holders, are now slyled under-raiyats with the rights attaching to that status under Chapter VII of the Bengal Tenancy Act; the principal difference thus made in their position being that the mount of rent recoverable by legal means is limited by Section 48 of the Act. The under-tenants are therefore divided into four classes; (1) Raiyats of tenure-holders with rights of occupancy; (2) Raiyats of tenure-holders with non-occupancy rights; (3) Under-raiyats with rights of occupancy—very rare, being found only in a few Parganas; (4) Under-raiyats liable to eviction for failure to pay rent, or at the end of the year after service of due notice.

It is to be observed that the rents of this last class within revenue-paying estates have been fixed in most cases for five years, but the tenants are nevertheless liable to eviction before the close of that period.

Under-tenants of *jagirdars* are strictly speaking raiyats, but do not acquire rights of occupancy.

Numbers of under-tenants.

340. Figures have been tabulated for the districts of Cuttack and Balasore which show that there within the revenue-paying estates, including under-tenants of under-tenants and of raiyats of *nij-jot*, 2,18,097* under-tenants holding 1,35,879 acres.

Details of the figures are as follows :—

DISTRICT.	Raiyats holding under tenureholders.		Number of under-raiyats of *bazyaftidars* who are raiyats.		Number of under raiyats of rights and *jagirdars*.		Number of under-raiyats of under-tenants and of raiyats of *nij-jot*.	
	No.	Area.	No.	Area.	No.	Area.	No.	Area.
Cuttack ...	74,017	39,196	21,910	10,047	24,117	13,238	No figures.	
Balasore ...	71,130	57,510	125	110	26,798	15,788	2,600	1,755
Total ...	145,147	96,706	22,035	10,157	50,915	29,026	2,600	1,755

It is to be feared that the numbers in columns 2, 3, 4 and 5 are not to be trusted. The dividing line between the hired labourer and the under-raiyat is difficult to follow and many low-class cultivators have not caused their names to be recorded. Taking the figures as they stand, the percentage of under-raiyats on the number of raiyati holdings (excluding *bazyafti*) is 6·9 and be area held by them is in Cuttack $2\frac{1}{2}$ and in Balasore about 3 per cent. of the total area. In other words 7 per cent. of raiyats other than *bazyaftidars* sublet portions of their holdings amounting in the aggregate to $2\frac{1}{4}$ per cent. In Puri no separate figures are available, but the total number of tenants, raiyats and under-raiyats

* Appendices K. A., K. B. The figures for Balasore require some explanation. In order to exhibit tenancies paying produce rents a holding had sometimes to be shown twice over with the result that the number of tenancies for which detailed figures are given appears to be 1,03,460 but is in fact estimated to be only 99,830 deducting the number shown twice over.

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not paying direct to the proprietors is 55,684. Nearly all such under-raiyats have other lands of their own, *pahi* or *thani*, either in the same or in some neighbouring village. Respectable cultivators take up and cultivate lands held by Brahmans, or small patches required for sugarcane and tobacco which the raiyat himfelf cannot or is unwilling to grow; but the tenants paying produce rents are oftener men of low caste whose position differs but very little from that of the hired servants.

The area held by tenure-holders in Balasore is 93,030 acres. In Cuttack tenure-holders have not been separated from *bazyaftidars* who are raiyats, but the area may be estimated at 59,000 acres, assuming half the *bazyafti* lands to be treated as tenure-holdings. At this computation tenure-holders sublet 62 per cent. of their lands in Balasore, and in Cuttack 44 per cent. Like the under-raiyats, these men also may be divided into respectable raiyats cultivating for their own convenience and low-class men paying produce rents; but the former largely predominate.

Rents of under-tenants.

341. In Balasore figures as to the rent paid have been compiled for about a lakh of under-tenants, whereas in Cuttack statistics are only available for 450* villages.

The result may be summarised as follows :—

DISTRICT AND CLASS.	Paying rent in cash		PAYING RENT IN KIND. Under the *Dhulibhag* system. †		Under the *Sanja* System. †	
	No.	Area.	No.	Area.	No.	Area.
Cuttack.						
Raiyats of tenure-holders.	7,815	4,760	2,220	1,295	5	11
Under-raiyats ...	5,036	2,501	2,363	1,463	3	3
Total ...	12,851	7,264	4,583	2,758	8	1
Balasore.						
Raiyats of tenure-holders.	68,120	51,460	5,660	4,140	250	294
Under-raiyats of raiyats of the *mahal.* ..	16,410	9,630	4,980	3,525	20	200
Under-raiyats of under-tenants. ...	2,305	1,325	590	420	5	5
Total ...	86,835	62,415	11,230	8,085	275	315

These figures do not include the area held rent free or on service tenures, amounting to 1,980 acres in Balasore, and in Cuttack to 322 acres; or about 3 per cent. in either district. They show *dhulibhag* rents to be paid by less than half the under-tenants, and, as was to be expected, more by under-raiyats than by raiyats of tenure-holders. Of the produce rents, I shall treat elsewhere;† here the incidence of the cash rents is to be considered.

In Balasore the rents of tenure-holders' raiyats average Re. 1-11-8 per acre, those of under-raiyats Re. 1-15-8 per acre, and those of under-raiyats in the second degree, only Re. 1-10-8 per acre. The first point to be noticed is that the rents of the tenure-holders themselves average a little less than Re. 1 per acre, so that the average profit may be taken at 12 annas per acre. Before the recent enhancement of *bazyafti* and *kharida jamabandi* rents, these classes of tenure-holders must respectively have made a profit of about Re. 1-4 and Re. 1 per acre of land sublet.

Thani rents average Re. 1-12-11 and *pahi* rents Re. 1-14-8 per acre, so that the margin of profit would appear to be only one to four annas per acre, or from 4 to 12 per cent.

In Cuttack the incidence of rents works out to Rs. 2-11-4 per acre for tenure-holders' raiyats, and to Rs. 3-1-7 in the case of under-raiyats. The incidence of the tenure-holders' rents may be taken at the mean of the average *kharida-jamabandi* and *bazyafti* rents or Re. 1-4 per acre, and that of *thani* and other settled raiyats' rents is Rs. 2-14 per acre. Tenure-holders, thereofre, still draw a profit of about Re. 1-7 per acre, or nearly as much again as the rents they pay, while raiyats make about four annas or 10 per cent.

* Fifty in each Thana It may be explained that the compilation of these figures being a tedious process could not be completed for the Province.

† See Chapter XXII Paragraph 533, where the terms *dhulibhag* and *sanja* are explained.

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Mr. Kingsford thinks that the real incidence of the rents must be higher, or raiyats would not sublet as they do. He seeks to account for the comparatively low rate by pointing out that in many cases a portion of the holding only pays a money rent, the remainder being held for service or on a produce rent. In fact, the low cash rent is offered as an inducement to the under-tenant to take up the land. Another explanation is that in many cases the sub-letting is a family arrangement for the assignment of particular lands for the support of individual members, and that the area retained is not for the sake of profit so much as an assertion of right, and to prevent false claims to the tenancy.

My own opinion is that, with the exception of lands held by Brahmans, holdings are generally too small to require under-tenants. It has been my experience in *khanapuri* and attestation either that lands held by widows and minors are cultivated by under-raiyats, or that in a very large number of cases under-raiyats are poor relations. In such cases as these rents are nominal. The general apathy of tenants in regard to the enhancement of the rents of their under-tenants might also support this view, except that apathy towards enhancement is also characteristic of zamindars in Orissa

Rights in trees.

342. The zamindar is primarily the owner of every timber tree on his estate. The lands given by him or by any superior authority in revenue-free or *tanki* grants, or sold to form a *kharida* tenure, were absolutely alienated from his estate, and we therefore find *lakhirajdars, tazyaftidars, tankidars* and *kharidadars* sole owners of all trees on their lands. Not so with the ordinary raiyat. Even though the tree has been planted by him on his own holding he is but a part owner, and in many estates has only a usufructuary property in it.

Custom varies the respective rights of landlord and tenant from District to District, from Pargana to Pargana, and even from Village to Village. In every Village Note the rights of tenants in trees formed one of the subjects for enquiry, and when reporting on the assessment of the Pargana, most Assistant Settlement Officers have put on record their conclusions as to the customary rights of the raiyats.

In Cuttack the general result of the enquiries made is—

Cuttack.

(1) That all raiyats can cut bamboos, canes and non-timber trees standing on their holdings.

(2) That both *thani* and *pahi* raiyats take the fruit of all trees on their lands.

(3) That in the case of a tree on *thani* land neither zamindar nor raiyat can cut down the tree without the other's consent, and that when it dies or is cut down each is entitled to half the wood.

(4) That a *Pahi* tenant has no right whatever in the wood of a tree on his land unless planted by himself, in which case he is generally considered a half owner.

The principal variations found are—

(*a*) That in some villages where the tenants are strong and the landlord weak, an absentee, or indifferent, trees are cut down by *thani* raiyats and the whole wood appropriated without the zamindar's consent; such a custom is only found in a few villages, and is nowhere admitted by the zamindar as the tenant's right.

(*b*) That in many estates it is customary to take a rent or half the produce before allowing a *pahi* raiyat the fruits of trees on his land. Such a practice is mentioned in the reports on Hatimunda, Deogaon, Kodinda and Kuhunda Jaipur, but it is more common for the zamindar to take only a small present of fruit as the price of his formal consent to the tenant taking the remainder. Where a rent is taken for the fruit-trees planted by the raiyat himself, they are generally excepted, but this is not always the case, for in village Berhampore, in Pargana Bakhrabad, Mr. Taylor found the zamindar taking rent for all trees alike.

(*c*) In some villages it is customary, when a tree falls even on a *pahi* holding, to allow the raiyat a quarter or half the wood, but this appears to be rare and rather a matter of grace than of right, unless the tree was planted by the raiyat.

Puri

In the Puri District Mr. H. McPherson has recorded the following note of the main differences that he found :—

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(1) In many *hastabud* villages of Kotdes it is said that *thani* raiyats have full rights to plant, enjoy and cut trees in their own lands.

(2) In many *muqaddami* villages of Kotdes it was admitted (by *thani* raiyats) that they could not cut any tree without the permission of the *muqaddams*.

(3) In a great number of villages the *muqaddams* and raiyats did not agree as to the extent of the latter's right.

(4) In most villages it was found that the *pahi* raiyats had no right to cut any tree without permission, but in some cases their right to bamboos grown on their homestead lands was admitted.

(5) In Lembai two Assistant Settlement Officers, Babu Akhoy Kumar Sen and Babu Shyama Charan Sen, gave it as their finding that *thani* raiyats enjoy the produce of, and may cut down trees grown on their own lands without permission, but that *pahi* raiyats can only enjoy the produce and may not cut trees growing on their own lands without permission, except bamboos and trees of small value.

(6) In other Parganas there is diversity of record. I quote some cases.

Mauza Balpur, Pargana Kotrahang.—*Thani* and *Pahi* raiyats may enjoy the produce, but the trees belong to the zamindars :—

Mouza.	*Pargana.*	
Inchole.	Oldhar.	Raiyats (*thani* and *pahi* are not distinguished) enjoy the produce, but cannot cut, except bamboos or trees they have planted themselves.
Astrong.	Astrang.	
Madhipur.	Damarkhand.	
Kantapara.	Tappa Kamaan.	

Various villages of Pargana Banchas—*Lakhiraj* and *thani* raiyats cut and enjoy without permission.

"Ichhapur, Pargana Paschimduai—*Thani* raiyats, may cut and enjoy without permission, *pahi* raiyats, may not. All may plant without permission.

"In some *hastabud* villages of Kotdes the raiyats claimed rights over trees standing on the waste lands of the village.

"In *mouza* Jaipur of Pargana Rahang the raiyats claimed in a section 106 case before Babu Sudarsan Das, Assistant Settlement Officer, to have exercised the right of taking the fruits and cutting the timber of trees standing on waste lands of the village. Their claim was rejected. An appeal was lodged before the special judge, but I have not heard with what result."

In the village note of *mouza* Pratapprasan Mr. Nathan has quoted the opinion of Nitai Mahanti, one of the chief *muqaddams* of Kotdes. He said that it was the general custom of the Pargana that no tree was cut without permission of the zamindar or *muqaddam*; that in *hastabud* villages this rule was always observed up to the death of Bhagban Ryat Singh, the former zamindar; that since the quarrel of his two sons who succeeded as zamindars and the general mismanagement of the estate by inefficient servants, the rule had fallen into disuse. In *muqaddami* villages, he said, it depended on the relations of the *muqaddams* and raiyats; if they were no good terms, the *muqaddams* did not insist on their permission being obtained.

Another cause for the diversity of custom I find to be the following: Where the zamindar or tenure-holder is strong, he has usually been able to maintain the old custom which necessitated the obtaining of his permission to cut trees. He has also been able to insist on getting the whole or a share of the produce of trees standing on the *pahi* lands. But where the landlord has been weak or an absentee and the raiyats wealthy or powerful through combination the tables have been turned. *Thani* raiyats have exercised full rights to plant, enjoy and cut trees. *Pahi* raiyats have enjoyed the produce and been able, without permission, to cut all but the big fruit trees.

Balasore.

In the Balasore district *thani* and *pahi* raiyats enjoy the fruits of trees on their lands without payment, but they may cut down no trees without the permission of the zamindar. On *thani* lands half the value of a tree cut down belongs to the zamindar; on *pahi* lands the zamindar takes the full value, unless the tree has been planted by the raiyat when he takes half. A *thani* raiyat may cut bamboo for domestic and other uses from the clumps in his homestead without payment. He may also cut wood from the trees in his homestead for agricultural purposes only, *e. g.* for making ploughs, but not for fuel. In many parts similar privileges are enjoyed by *pahi* raiyats. For the purposes of a funeral a raiyat may cut wood (branches, not trunks) without permission, but the zamindar generally levies a fine and thus recoups himself.

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CHAPTER XII.

RENT DEMAND AND COLLECTION.

Zamindari system of assessment.

343. The earliest account that I have seen of the system under which the rent to be demanded from each tenant is ascertained is in Mr. Ricketts' reply to the Board's twenty-one questions in 1831, from which I here quote:—

"*Paragraph 55*.—The system according to which the sum to be paid by each raiyat is adjusted is as follows: In the month of *Jeyt* or *Assar*, that is to say, six months after the crops have been reaped, the *bheean* and *jama-wasilbaki* are prepared. The zamindar in person, where there is no intermediate tenant, or his *gomastah* or *patwaree—in muqaddami* villages the *muqaddam* and in *sarberakari* the *surberakar*—taking with him the papers of the past year, summons the raiyats; each is questioned as to the quantity of land he cultivated in the past season; if the answer be that he tilled the same as in former years, and there is no reason for supposing he tilled more, that quantity is entered. If it be supposed that a raiyat tilled more than he acknowledges, the *degwar* and other raiyats are appealed to; if they confirm the larger quantity, that is entered in the *bheeam*. If a raiyat acknowledges having tilled particular fields, but denies their containing the quantity of land estimated, or if he denies altogether having cultivated, the extent is ascertained by measurement. The rates demanded for *thani* and *thani-pahi* land are regulated by the *bheeans* of former years. This is the prevailing rule, but all are not guided by it, for all are not honest and considerate, nor are all wise enough to see by what conduct their interests will be best consulted. The rent demanded for *pahi* land and land newly broken up is regulated by the rate generally paid for such land, the extent of the *bigha*, and the crop it is capable of producing. The total demandable being thus determined the raiyat is questioned as the amount discharged, and his receipts for the same examined; and on any balance appearing it must be paid or an *ikkranamah* written by an early date."

"*Paragraph 56*.—If a raiyat,—be he *thani*, *pahi* or tenant-at-will,—persists in refusing to pay the sum demanded, either on the plea that he did not cultivate or that the rates demanded are too high, a summary suit for the arrear is instituted under Regulation VII of 1799, and of all my duties, the most unsatisfactory and harassing is the trial of these suits".

No difference was made by the last settlement, except that the demand for ***thani, chandina,*** and certain other tenants was fixed. Act X of 1859 made the rents of occupancy raiyats a fixed amount variable only by agreement, or by enhancement or reduction on certain specific grounds.

The actual system by which in practice the demand is ascertained varies very much in different localities and estates. In theory, the basis of the assessment is in every case a field-to-field measurement or ***bhauria maran*** with the local ***padika***. The results of this are entered in a ***bhauria***, or measurement paper, showing the length and breadth of each field, its computed area, the nature of soil or crop, and the tenants name. From the ***bhauria*** is prepared the ***bhian*** or rent-roll, showing against each tenant the area of each class of land held by him, the rate of assessment, and the total rent, as well as the cesses and other extra payments due from him.

An abstract of the ***bhian*** showing only the total demand against each tenant and called of an ***ekpadia,*** is also commonly prepared. The rates are determined as a rule by compromise, and are based on those entered in the last settlement papers, and it is very common to allow a small remission (***char***) by a deduction from the calculated rent or by entering a smaller area than has really been found. In most estates the ***bhian,*** when once prepared, is re-written only after considerable intervals, though a measurement (***parsal bhauria***) to ascertain the extension of cultivation is made every one to ten years, more often after five or six. Rates are only altered when all other means of obtaining an enhancement are exhausted and even then it is rather by a re-classification of the soil than by increasing the nominal rates that the addition is made. In a few estates enhancements have been made at so much in the rupee all round, ***e. g.***, I recall to mind the estate of the Mandals, near Tanghi. This is done when the zamindar does not wish for a re-measurement of all the lands.

These remarks apply generally to the large restates; many petty zamindars and village headmen are for ever re-measuring, altering rates and rents, end in some estates notably in those of the Chaudhris of Bhinjarpur it is the exception to find a rent-roll that represents the present demand. They are all either obsolete

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or not admitted by the tenants, and the rent is just as much as the landlords or their farmers and agents can screw out of the raiyat.

In the case of riverside alluvial or ***pal*** lands of which the fertility varies from year to year, and sometimes also in the case of rice lands in flooded tracts, the rent is fixed by annual measurment and assessment at certain rates. The same custom is also found in parts where the ***rabi*** crop, ***harar, mandia, Kulthi,*** etc., is inferior and can only be grown under favourable conditions. It is especially common with ***dalua*** rice, which is only cultivated when the winter crop fails.

In the riverside lands of the Utikan Pargana this parctice was recognised though for the last few years the zamindar, being on bad term with his raiyats, had simply continued to collect the most recent admitted demand; and in some villages of Deogaon it was found that the assessment was simple in the extreme-Rs. 3-2 per acre for all paddy and Rs. 12-8 per acre for all tobacco-growing lands In such villages there is no great fixity of holdings, and the zamindars generally claim that the tenures are ***utbati.*** As a rule however, the same tenant cultivates more or less the same lands year after year, but the sand and silt obliterate the field divisions, and at the time when ploughing commences the ***gumashta*** measures up the lands in the possession of each tenant, and if one bit is more fertile than another will frequently insist upon an exchange so as to get the maximum area cultivated with valuable crops.

A second measurement is made at harvest time, when the rates for the year are fixed according to the crop grown.

In the case of ***pal*** lands the assessment so made is often treated as an extra and not entered in the rent roll, or put into a separate one; but in the large flooded areas where tobacco and ***rabi*** crops form the chief support of the people the rent for these are entered in the ***bhian.***

Rent *kists.*

344. Having ascertained his demand, the next province of the landlord is to collect it, and first to deal with the time at which collections are made.* At the last Settlement the ***kist*** in which rents were payable were in a few instances fixed by entries in the ***pattas*** and ***kabuliyats,*** but they vary from Pargana to Pargana and no orders or correspondence on the subject have been found. Probably they were ***kists*** established by use, and as such they vary from one to nine in number.

In 1850† it was laid down that the rent ***kists*** should be entered in the raiyats' ***pattas*** and that the ***kists*** should be regulated by the means and character of the raiyats and the season of the chief harvest. The orders however came too late to be given effect to in Orissa, and the ***kists*** continued to be regulated by custom along.

The subsequent rent laws, section 20, Act X of 1859 and section 53, Act VIII of 1885, extended to Orissa in 1891, made no difference as they left the instalments to be determined by agreement or established usage, ***i. e.,*** the usage of the Pargana or other local area. An attempt has been made to ascertain what that usage is, and the ***kists*** nominally existing have been recorded in the village notes prepared during the present settlement. In the old ***kabuliyats*** the instalments most commonly entered are—

	Pans.
Ashin (october)	4 (one quarter),
Agrahan (December)	4
Magh (February)	4
Chaitra (April)	4

But the natural tendency has been for the rent ***kists*** to adapt themselves to the payments of revenue which in the large majority of estates, are made in two equal instalments in April and November, and we find that in most villages the dates recognised are the 1st ***Baisakh*** or 15th April and the 1st ***Kartik*** or 15th November, half the rent being due on either occasion. The other recognised ***Kists*** are—

	Pans.		*Pans.*
Ashin (October)	4	or *Baisakh* ...	4
Kartik (Novmder)	4	or *Kartik* ...	8
Magh (February)	4	or *Magh* ...	4
Baisakh (May)	4		

* See also paragraph 565 and appendix, P. A. as to Revenue ***Kists.***

† Board's Circular No. 838, dated 19th November, 1850.

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In 1893, and again in 1897, enquiries were made to ascertain how far these ***Kists*** were observed in practice, and there is a consensus of experience that while the ***Kist*** days determine the date of suits for recovery of arrears, the practice is to take rent whenever it can be got, and then about a fortnight before the latest date for the payment of revenue to turn every available man, even temporary hands, on to the collection of the share of the rent necessary to meet the revenue. It is also agreed that the payment of half the rent in November entails great hardship on the raiyat. The staple crop of the district is the winter rice, of which the early (***laghu***) variety is reaped in November-December, and the late (***guru***) in December-January. Before either of these is reaped, threshed, and in the market, a month or two must elapse, so that the raiyat cannot realise on them before February or March. He is thus thrown back on the spring (***biali***) rice and the ***bhadai*** crop of cotton or ***mandia***, which together form in most Parganas a very insignificant part of his harvest, and are besides required to feed him for the three months from September to December. The result is that the raiyat is forced to borrow, and does so as a rule on the ***karhia*** system, the conditions being that the raiyat will repay the money in February with interest in kind at the rate of two ***gaunis*** (six to ten seers Cuttack weight) of paddy per rupee of the loan.

On the other hand there is an apparent absurdity in the proposal to afford relief to a tenant by anticipating four annas of the rent by six months, and it has been said that in the case of the larger raiyats, the effect of so doing will be to force him to sell at the cheap season the grain that he would otherwise have held up for better prices in September-October.

It is indeed difficult to fix instalments which shall be equally suitable to all classes of tenants and to all parts of the district, but it is generally admitted that not more than a quarter of the rent should be paid out of the ***biali*** and ***bhadoi*** crops, and that the remaining three-fourths should be paid between February and May out of the winter rice and the ***rabi*** harvest.

The dates recommended by the most experienced officers consulted have been—

	Annas.
Mr. Nathan—	
1st November	4
1st January	4
15th February	4
1st June (from the ***dalua*** rice crop)	4
Mr. Maude—	
End of December	4
End of February	8
Middle of April	4
Babu Jamini Mohan Das—	
15th November	4
15th March	12

Mr. Stevenson, when Collector of Cuttack recommended,* four ***kists*** viz.—

			Annas.
In *Agrahan*	=	1st December	4
In *Pus*	=	1st January	4
In *Magh*	=	1st February	4
In *Chaitra*	=	1st April	4

In this office letter No. 2349 of 3rd November, 1897 I expressed my opinion that the most desirable instalments would be—

	Annas.
Due on 15th November or 1st December ...	4
Do. 1st January	4
Do. 1st March	4
Do. 15th April	4

The first ***kist*** would be met from the sales of ***biali*** rice and the ***bhadoi*** crop; the second from early sales of winter rice; the third from the winter rice, and the fourth from the late ***rabi*** or the ***dalua*** crop. The division would be of

* Letter No. 2629 of 9th February, 1893 to the Commissioner.

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great benefit to the raiyat, but its introduction is almost certainly impracticable unless the proportions in which revenue is payable are likewise altered and three-fourths demanded in April. It must also be borne in mind that in villages in the possession of sub-proprietors the rents should be in the hands of the latter at least one month before the latest day of payment of revenue. Assuming, then, the present revenue ***kists*** to be maintained, the revenue being payable half before the 28th April and the balance before the 8th November, I would suggest as the ***kist*** days—

				Annas.
Magh	=	15th February	....	8
Baisakh	=	15th May	...	4
Ashin	=	15th October	...	4

Procedure for collection.

345. When a zamindar begins collecting his usual procedure is to summon the raiyats to his nearest cutcherry (or office) where he or one of his servants sits. Each tenant's payment is noted in the daily cash book (***siaha***) and on payment of a small fee [***kharara spani*** of one or two pice per rupee, a receipt (***pauti*** or ***kharara***)] is given. This receipt is generally on palm-leaf and merely sets forth the amount received and the account on which it was paid. In a few estates of Cuttack the practice of giving receipts on paper and keeping counterfoils has of late years been introduced, but it is unusual to find full details as to the holding and the rent entered.

At the end of the year the payments of each tenant entered in the daily cash book are carried into the ledger (***rokar*** or ***jamakhareh***); and from this is prepared a statement (***jamawasilbaki***) of demand, collection, and arrears, for each tenant. This in big estates is made up every year, but very often in smaller or ill-managed estates the tenant's account runs on for several years without any attempt to strike a balance. Then the tenant is called up and after some haggling, and probably a very small concession to the tenant by way of remission of the miscellaneous collections (***kharcha***), the parties come to an agreement (***rafa***), and on payment of a few pice and the balance of his rent the tenant can obtain an acquittance in full (***bisodhan***).

If a tenant is refractory and will not pay, the zamindar has various means of compelling him. In the first instance he sends a peon to the tenant's house and the latter has to feed the peon and pay a small fee (***piyada miyadi***) of one to six pice per visit. If he still declines to pay, the landlord can distrain the standing crop, and may require the aid of the Collectorate ***kanungo*** in so doing; and a powerful zamindar may deprive a raiyat of the services of the village barber and washerman. Finally, the landlord can bring a summary suit under Section 32 of Act X of 1859, and having got a decree may take out execution against the person or movable property of the judgement debtor, or if the tenure be transferable may apply for its sale: and he might, under the old law, either separately or at the same time as he brings a suit for the arrears due, apply for the ejectment of the tenant.

In the case of a raiyat without rights of occupancy, the landlord may for arrears due summarily eject the tenant under Section 21 of the Act, and where the zamindar is strong and the raiyats weak, this provision is practically applied to all tenants who are not protected by ***pattas*** on ***kabuliyats***.

Amount of collections.

346. It has always been admitted that the zamindars in Orissa do not collect in full the rents nominally payable and the enquiries made in this Settlement have been complicated by the difficulty of ascertaining what the real rent is.

In 1895 I expressed my opinion that the rents recorded in our ***khatians*** were, to a great extent fair rents ascertained by Assistant Settlement Officers on the best evidence they could get.

Since then the settlement of fair rents has added greatly to our knowledge of the payments actually made by raiyats, and it has been made clear that in the greater part of the province the rents recorded in the ***khatians***, and forming the basis of the settlement, are actually those recognised by zamindar and raiyat. The cases in which they are not such are either where, as in Balasore, large recent enhancements have led to bad feeling between the raiyats and their landlord, so

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that they cannot come to terms and rents have had to be ascertained by striking the mean of the parties' statements, or where landlord and tenant have combined to show lower rents than are actually collected. Sometimes it has been possible to determine the true rent by an examination of receipts, but this is very difficult, and more often the rent recorded is a fair rent. Striking instances of the first class of cases were to be found in some villages of Saibir, where for years practically no rents had been paid, as the tenants refused to admit the landlord's demand to be correct; here soil maps were prepared, the tenants agreed to certain rates, and rents were attested accordingly. Some of these disputes have brought to light an unexpected stubbornness on the part of the raiyats. I have found a village (Jobra) near to Cuttack where most of the tenants held palm-leaf ***pattas***, dating generally from just after the great famine, and assigning lands at very low rents. Despite all efforts of the zamindars, the tenants had successfully resisted enhancement, and attempts to get more rent had only resulted in the withholding even of that admitted to be due, and in the present settlement they contested vigorously, and with much success, the attempts to enhance their rents.

These extreme instances are, however, uncommon, and the understating of rents, by tenants and landlord in combination was both more common and more troublesome. The chief offenders were the ***muqaddams*** and ***sarbarahkars*** who were themselves raiyats and relatives of raiyats and depended rather on the profits of cultivation, than on the collection of rents for their livelihood. Petty resident zamindars, such as the Mastan Brahmins of Deogaon, were on the same footing, and perhaps the greatest offenders of all were farmers of out-of-the way villages, the property of non-resident zamindars, who realised to their advantage the principles of the unjust steward. The practice of understating rents was common in the unprotected tracts of all three districts, but was most serious in Puri owing to the comparatively small increase in the assets, whereas in the other two districts rents, even if understated, showed a great increase since the last settlement and the zamindars would have been the real gainers by recording higher rents. Great pains however were taken to check the rent rolls with actual collection papers, and I do not think that the rents attested are often lower than the average collections, though no doubt much less than the nominal demand.

To ascertain whether the rents recorded are actually realised all proprietors were asked to file their original collection papers at the time when they preferred objections to the revenue proposed for their estates, but only a small number complied with the request, and of the papers filed, the majority were copies and very many obvious fabrications. From the figures accepted by Assistant Settlement Officers in Cuttack, the following abstract has been prepared for 82 of the principal estates; the figures show from five to ten years demand :—

			Rs.
Opening balance	....	....	1,65,404
Demand	....	....	10,95,642
	Total	....	12,61,046
Collections	....	....	10,29,368
Remissions	....	....	31,642
Arrears	....	....	2,00,036

It will be seen that the collections are 94 per cent. of the admitted demand; that the outstanding arrears increased by Rs. 34,632, and that Rs. 31,642 were remitted. The total amount out of pocket was Rs. 66,274, or 6 per cent., and this included the very bad year of 1895-96 in which there was both flood and drought. Generally collection vary from 90 to 98 per cent., but fall as low as 43 per cent. in the flooded parganas of Kuhunda Jaipur. I do not believe this last figure to be correct, but collections have been bad owing to a succession of floods from 1891 to 1896. Bad collections in Sargara are chiefly due to disputes between zamindar and raiyats, and in Suhang and Kodinda to floods and damage by sand.

On the whole, I assume for Cuttack that 95 to 100 per cent. of the demand may be collected in the protected and irrigated Parganas; and not less than 90 per cent. in the Parganas exposed to flood and drought, except in villages damaged by sand. For the most heavily-flooded tracts, the demand is of a more or less fluctuating nature* but I think that 90 per cent. of our settled assets will on an average be easily collected.

* See Paragraph 343

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Statement showing the collections in the Estates with Revenue exceeding Rs. 1,000 in the District of Cuttack.

Name of Pargana.	No. of Estates for which information is available.	No. of years for which figures are given.	Opening balance.	Current Demand.	Remission.	Collection.	Closing balance.	
1	2	3	4	5	6	7	8	9
			Rs.	Rs.	Rs.	Rs.	Rs.	P.C.
Matkatnagar	6	...	7,192	54,325	545	53,231	7,741	98
Saraswati ...	2	...	2,871	27,745	42	26,726	3,848	96
Painda ...	4	...	10,629	83,944	57	80,458	14,058	95
Kanchikhand	1	10	307	8,956	152	8,769	342	98
Tiran ...	3	5	42,185	1,26,069	51	1,35,637	32,566	107
Kate ...	4	5	...	9,236	...	8,044	1,192	87
Hariharpur...	7	...	21,387	87,367	...	85,488	23,266	98
Kodinda ...	4	...	4,780	72,043	829	63,559	12,385	81
Kuhunda Jaipur ...	1	3	5,646	9,739	...	4,153	11,232	43
Sargara ...	1	3	...	603	...	388	215	64
Hatimunda ...	1	10	3,908	69,281	1,254	66,085	5,580	95
Kerualkhund	1	8	950	17,568	...	16,403	2,115	94
A'pila ...	1	5	3,602	14,881	636	14,466	2,381	98
Suhang ...	1	3	3,041	7,008	1,750	4,320	3,979	61
Cuttack Haveli ...	1	4	...	1,617	58	1,238	321	77
Khandi ...	6	5	6,805	35,884	58	35,749	6,882	99
Kurnia ...	1	5	1,279	5,774	Not given.	5,382	1,671	94
Bardiala ...	1	5	11,052	27,324	1,570	28,660	8,146	105
Alti ...	9	...	22,886	3,07,741	24,417	2,72,976	33,234	91
Padampur ...	6	...	9,093	56,188	137	51,529	13,615	92
Karimul ...	5	...	2,637	27,814	...	25,572	4,879	92
Benahar ...	14	5	5,204	36,940	86	34,381	7,677	92
Bakhrabad ...	3	5	Nil	7,595	Not shown	6,154	1,441	82
District Total	83	...	1,65,404	10,95,642	31,642	10,29,368	2,00,036	94

Collections in Puri.

348. Mr. McPherson in his reports on the Puri District gives the following account of his enquiries:—

"An elaborate examination was at the time of completion report work made of a large number of old *patwari* papers brought from the Puri Collectorate. The papers were more or less selected at random. They ranged over many years from 1880 onwards.

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"The results of the examination are detailed below. The bazyafti figures are entered separately and printed in bold figures.

"Name of Pargana.	Total demand (arrear included).	Total collection (arrear included).	Percentage of collection.	Remarks.
1	2	3	4	5
"Kotrahang ...	48,387 **8,140**	46,032 **7,720**	96 **89**	
"Paschimudai ...	97,885 **1,766**	94,318 **1,548**	96 **87**	
"Kotdes ...	1,10,000 **8,732**	98,000 **8,416**	90 **96.4**	Excluding *Killa* Balianti, where I suspected the accuracy of the returns.
"Lembai ...	42,039	45,495	101	
"Chaubiskud ...	15,917 **4,704**	14,437 **4,467**	90·1 **95**	
"Serai ...	25,431 **1,867**	22,265 **1,832**	87·5 **98**	
"Rahang	32,042	29,447	92	
"Total ...	3,71,701 **25,209**	3,50,044 **23,983**	90·2 **95**	

Collections in Balasore.

349. In Balasore Mr. Kingsford * estimates the proportion of the demand realised as varying from 70 percent. in the case of small estates belonging to non-resident landlords to 90 per cent. in the case of large and well-managed properties; and 80 to 85 percent. as the minimum for the average estate in the District.

This appears to be very poor considering how much lower rents are in Balasore than in the other districts, and that the zamindars are considered to be more powerful and arbitrary in their dealings with the raiyats. In Balasore however, the demand is not in many estates fixed or even known to the tenants. I am therefore inclined to think that on the whole 87½ per cent. or 14 annas in the rupee of demand is collected.

Collections from proprietary tenures.

350. I have already alluded† to the alleged difficulty in collecting from proprietary tenure-holders, and some interesting figures have been filed by Rai Hariballabh Bose Bahadur relative to the collections from *muqaddams* and *sarbarahkars* in Balasore. The figures relate to 87 tenures and to a total demand of (including cesses) Rs. 1,00,887; of this 91 per cent. has been collected, while the expenses incurred in rent suits are 1½ per cent of the demand. Thus only some 90 per cent. of the demand was realised; a very poor result seeing that the zamindars allowances are only from 10 to 20 per cent. of the gross assets of these villages and not more than a quarter to a third of the amount to be collected from the *sarbarahkars*. This matter however, does not properly belong to this chapter, in which I am only concerned with collections from raiyats.

Some guide to the percentage that may reasonably be expected to be realised may be obtained from a comparison with the figures of the estates under Government management. In Kujang and Kanika, which are liable to suffer both from drought and inundation, the collections during five years have reached an average of 92 per cent. practically the whole demand being realised except after the flood and drought of 1896. In Madhupur the collections average 96 per cent. their having been a very bad year in 1893 when little more than two-thirds of the rents were paid.

In Khurda for the last fifteen years collections have averaged more than 94 per cent. and in the recusant estates of Serai, Chaubiskud, and Rahang only 90 per cent. has been collected on an average in the last ten years. It is to be remembered

* Paragraph 214 of Balasore report.

† Paragraph 299.

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however that the bulk of remissions were made for lands near the Chilka in Khurda (zilla Balbhadrapur) as well as in Serai and Chaubiskud.

Putting together all the figures thus compiled I think that we shall not be far wrong in assuming collections as varying from 87½ to 94 per cent. in unprotected tracts and from 92 to 100 per cent. in protected and irrigated villages; or, on an average, 90 per cent. for the unprotected and 95 per cent. for protected estates.

Cost of collection.

351. It is a universal complaint of all landlords that it costs more to collect rents than it did formerly, and the expenses, under this head are variously stated at from 10 to 20 per cent. of the *mufassal jama*.

To the petty resident zamindar with a compact estate the cost is practically nothing, and even if he does not collect himself he can get one of the tenants to act as his *gumashta* for a trifling consideration. If however the estate consists of many scattered parcels of land or if the small zamindar, by which I mean a proprietor with *mufassal* collections of Rs. 500 or less, resides at a distance he is absolutely at the mercy of the men whom he appoints to act for him. He cannot afford to pay a *tahsildar* for his whole time and must be content to collect through a resident village headman or well-to-do raiyat, generally a *Karan* by caste, in each village, paying him amounts small in themselves but large in proportion to the rental; otherwise, he must go round himself from village to village and do a little work for his living, which is just what he (in many cases) does not want to do. On the whole however I do not think the petty zamindar has any right to complain. If he looks after his property and makes his own collections he will realise the most if not the whole of the demand at a most trifling cost; if he does not choose to take this trouble, he must be prepared to surrender a considerable portion of his income in return for the luxury of ease.

The larger estates have a much more elaborate organisation, and it is in their case that the complaint of expense is most strongly pressed.

The best managed are generally those of the Bengali proprietors who appoint capable *naibs* to look after their interests. The large estate of Utikan belonging to Rai Manomatha Nath Mitter, and the estates of the Tagores in Hariharpur, and those of Umesh Chandra Mandal in Balasore and Cuttack are excellently managed; so too are the estates of Babu Kailash Chandra Rai Mahashai and of Rai Hariballabh Bose Bahadur, the Government pleader of Cuttack; but many of the oldest families, such as Kritibas Das Chaudhri of Binjharpur and Balaram Bhramarbar Ray have no proper system of control or collection.

Mr. Kingsford Writes :—

"The estates of Raja Baikuntha Nath De and Babu Radha Charan Das of Balasore Rai Hari Bullabh Bose of Cuttack and Narendra Narayan Rai Mahashai are amongst the most efficiently managed. The late Abdul Manan Mian of Bhadrak displayed considerable energy and ability in this direction, his sons take little interst in the property. Among proprietors who have enjoyed some commercial training like Babu Hemendra Chandra Mondal, or who have business instincts like those above noted, there is naturally a propensity for systematic organisation and for an efficient method of accounts. The Lakshman Nath Mahashai already referred to preserves an excellent system of accounts and closely supervises the management of his estates. But with others who have come less into contact with commercial ideas and exhibit a preference for obsolete standards, whose only recommendation is their age, there is often to be observed sheer absence of organisation coupled with a system of accounts intelligible only to the *tahsildar*."

It is quite impossible to give any estimate of the cost of collecting where there is neither system nor supervision and where a number of jealous co-sharers are wrangling with one another over their respective rights, but I have made some enquiries as to the establishment required in a well-managed property of fair size.

Mr. Kingsford gives the following establishment for the estates of Babu Radha Charan Das with a *mufassal jama* of Rs. 11,000 :—

	Per month. Rs.	A.	P.
One *naib*	12	0	0
One „	8	0	0
Two *muharrirs* at Rs. 5	10	0	0
Two *muharrirs* at Rs. 4-8	9	0	0
Two *cutcherry* guards at Rs. 2-4	4	8	0
Five *chatias* and *nagdis* at Rs. 2-8	12	8	0
Contingencies	1	0	0
Total	57	0	0

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The annual cost is thus Rs. 684 or 6 per cent. excluding recourse to litigation which is not usually an item of considerable expense. But such a staff is not only engaged in collecting rents. In addition to miscellaneous work they manage the paddy-lending business of the zamindars, which is a source of income often almost as important as that derived from the zamindari proper. Debiting the cost of maintaining the *cutcherry* and of a portion of the establishment at Balasore to the account of the "*mahajani*" business, 6 per cent. will still be somewhat more than should be fairly taken as the cost of rent collection. Probably no increase of staff will be necessary to collect the settled rents, but litigation may occasionally prove requisite, and on the whole the cost is not likely to decrease.

This seems to me a fair estimate of the cost of collecting rents in a large and compact property. In an estate such as the Patamundai *taluk* the cost would probably be about 5 per cent. and might be as high as 10 per cent. in smaller estates with a demand of Rs. 1,000 to Rs. 5,000. Of course in some estates the expenses are heavier. In the Gopinathpur *taluk*, which consists of lands scattered over several villages in six Parganas with a total *mufassal jama* of Rs. 8,000 raised by this settlement to Rs. 9,300 odd the staff for collection is —

			Per month. Rs.
One manager	....	....	25
Six *muharrirs*	at Rs. 4 each	....	24
Six *tahasildars*	at Rs. 7 each	....	42
Five *chaprassies*	at Rs. 2 each	....	10
Two *muharrirs*	at Rs. 5 each	....	10
		Total	111

or Rs. 1,332 per annum.

They make collections for this estate and some petty estates worth Rs. 500 so that the establishment alone swallows up 16 per cent. of the rental. This is of course an extreme case, and may be taken to represent the highest level of cost of collection.

Profits of proprietors.

352. Adding cost of collection and litigation to the amount irrecoverable by reason of default and remissions the deductions to be made may be assumed at from 12½ to 25 per cent. and on an average about 19 per cent. in unprotected and partially protected estates. It would be difficult to give figures to bear out this estimate, but it is certainly not for wrong. Collection expenses alone vary from 5 to 10 per cent. in ordinary estates, and I have assumed that collections vary from 87½ to 100 per sent. Expenses of litigation, though a great deal is said about them, are small except where a landlord is a bad manager or unpopular, and after the tenants have become accustomed to the new rents should not exceed 2 per cent. The minimum profit that reaches the proprietors pocket may therefore be taken at 70 per cent. (*i. e.*, allowing collections of 88 per cent.,—16 per cent., for ordinary collection expenses, and 2 per cent., for litigation), and in a vast majority of cases the nett collections should be not less than 80 per cent. of the *mufassal* demand.

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CHAPTER XIII.

INTRODUCTION OF THE TENANCY ACT.

Preface.

353. By way of preface I would wish to express my obligation to Babu Srigopal Bhattacharjya, Deputy Collector and lately an Assistant Settlement Officer, for the valuable assistance he has given me on this subject. In two places I have already dealt with the Tenancy Act, *i. e.*, under—

(1) Proprietary tenureholders. (Chaper XI paragraphs 301 to 304).

(2) Raiyats. (Chapter XI, paragraphs 330 and 331.)

It seems worth while to go briefly through the Act and consider whether so much having now been indroduced, it is advisable to introduce the whole Act or nearly the whole. I may say that when I came to Orissa seven years ago the Collectors of Cuttack and Balasore (Mr. G. Stevenson and Mr. R. Cornish) as well as the Commissioner (Mr. G. Toynbee) were not in favour of the introduction of the whole Act.

It was of course impossible at that time to form any independent opinion, but I am now prepared to say that the status and classes of tenants having been recorded under Chapters II, V, VI, and VII, and the rent Settlement proceedings having been held under Chapter X, there is a case for the introduction of nearly the whole Act.

In all that follows I do not wish to be considered to have overlooked section 2 (2 of the Act. I understand its meaning to be that any section of any Act (specially Act X of 1859) inconsistent with any section of the Tenancy Act introduced into Orissa is repealed. My opinion is that the area being a temporarily settled one the rent-suits should be retained within the jurisdiction of the Collector who is responsible for the land revenue, but that in all other respects the relations of landlord and tenants should not now be different from the rest of Bengal. These principles should guide the introduction of the Act. It should be a matter for consideration also whether after the new settlement has been in force for five years the whole Act should be introduced.

I propose therefore to examine in detail the different sections of the Tenancy Act, and to submit a few remarks as to their applicability to Orissa.

Detailed examination of the unextended sections.

354. Section 1 is formal and calls for no remarks.

Section 2. Only clauses (2) (3) and (4) ought to be extended, as clause (2) will prevent a conflict of interpretation between the sections already extended, and the corresponding sections of Act X of 1859 repealed by necessary implication; clauses (3) and (4) will also be useful for interpretation.

Clause (1) ought to be withheld together with Schedule I in order to keep some of the sections of Act X alive. The necessity of this will appear below.

Section 3 to 5 are already extended to Orissa.

Section 6. On tenures held since permanent settlement.

Section 18. On incidents of holding at fixed rates.

Section 50. On rules and presumptions as to fixity of rent.

These three sections would have no application, even if extended, so far as they relate to the temporarily-settled portions of Orissa, *c.f.* also section 3,4, and 16 of Act X of 1859.

Section 7 has already been extended.

Section 8 should be extended at once. Under the orders of the Board I have already proposed ***rasadi*** increase for the rents of certain ***sasan tanki bazwaftidars.***

Section 9 should be extended, though section 113 protects all rents fixed under Chapter X, in the case of tenure- holders for fifteen years.

Sections 10 and 11.—Rampini, J. (page 53) explains that a permanent tenure is created (1) by law, (2) by contract, and (3) by custom ***or the course of dealing therewith.***

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The proprietary tenures of Orissa are instances of permanent tenures in the last sense.

There is no reason why section 10 should not be extended. It imposes no new penalty on the *sarbarahkars* at any rate.

Section 11 needs careful consideration. Mr. Rampini remarks that the provisions of this section make a change in the law, for hitherto some permanent tenures have been transferable, and others non-transferable. Now all permanent tenures are made transferable and heritable "subject to the provisions of this Act." These words, no doubt, have reference *inter alia* to the provisions of section 183, which lay down that nothing in this Act shallaffect any custom, usage or customary right not inconsistent with or not expressly, or by necessary implication modified or abolished by its provisions. It is, therefore, an open question whether permanent tenures, not transferable before, are made transferable now. (Rampini, page 45, Second Edition.

Babu Sriram Chandra Bose, Deputy Collector, late an Assistant Settlement Officer, gives his opinion, that—

Sarbarahkari tenures are neither saleable nor divisible without the consent of the zamindar, *vide* I.W. R. 522 I. L, R. 9, Cal. 826 and I. L. R. 11, Cal. 699.

Muqaddami rights can be transferred in part without the zamindar's consent, and the zamindar is required to register the name and extent of interest of the tranferee, but he is not bound to divide his rental and take a proportionate share of it from the latter, *vide* section 27 of Act X of 1859.

In case of succession to a *muqaddami* or a *maurasi sarbarahkari* tenure, the zamindar is bound to register the names of all the heirs of the deceased tenure-holder, but the latter remain jointly responsible for the rent, and the landlord is not bound to split up his *jama*.

"Notice of division must in all cases be given to the zamindar, and it is the interest of the new tenure-holder to have his name recorded in the landlord's *serishta*.

As a matter of fact, permanent tenures are frequently transferred and bequeathed in Orissa, although the High Court have held in some cases that the *sarbarahkari* tenure is not transferable without the zamindar's consent.

In practice *sarbarahkari* tenures are always sold without the zamindar's consent and *after* the sale the purchaser generally silences the zamindar's opposition by giving him a fee at the time of registration of his name in his *serishta*. Practically, therefore, the zamindar's vetoing power consists in demanding a fee at the transfer of the *sarbarahkari* tenure. In my remarks below on sections 12 to 17, I propose to maintain the zamindar's right to a fee with this difference, that whereas now the scale of fees is very uncertain and varies according to the strength and weakness of the practice, if the sections be extended the equitable scale of fees provided in the law will protect the interests of the weak zamindars or of the weak *sarbarahkars*, as the case may be, from coercion by the strong party on the other side.

Muqaddamis Kharidas and other permanent tenures are freely transferred and bequeathed. I do not think that Orissa zamindars have any better grounds for taking exception to section 11 than the Bengal land lords have, and I would recommend its extension to Orissa as it will only legalise a right that has already the sanction of custom.

Sections 12 to 17. I have already suggested that these sections should be extended. The advantages are that they provide a fee and practically compel the zamindar to keep a *serishta*, whereas under section 27 the *serishta* is generally in a state of chaos. The moderate scale of the fee is certainly a point in the tenure-holders' favour. In Balasore some of the new tenure-holders complained that they could not obtain registration in the zamindars *serishta* on account of the exorbitant demands of fees made by their landlords. This will not be possible under the new rules.

Section 18 (see remarks on section 6).

Sections 19 to 49 have already been extended.

Section 50 (see remarks on section 6).

Section 51 may be extended. A tenant is to be presumed, until the contrary is shown, to hold at the same rent and under the same conditions as in the last preceding agricultural year.

Sections 52 to 75 have already been extended.

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355. Sections 76 to 83. Out of these section 80 has already been extended. The sections are more or less related to one another and section 80 having been extended, the others may come in as well. Although 'improvements' have not been effected by the raiyats on a very Wide scale, there are none the less many individual instances of improvements effected on their holdings by the raiyats, more specially in the sea-side Parganas, such as Bhograi, &c., in the Balasore District and in other parts. The difference, if any in this respect between Orissa and Bengal is one of degree only. Sections 76 to 79 and 81 to 83 may be extended to Orissa.

Extension of Chapter IX.

Section 84. There is no reason why the section should not be extended except that the intervention of the "Civil Court" in such a small matter will be rather anomalous in Orissa, where Revenue officers perform the functions of the rent courts of Bengal. No practical inconvenience is felt for the absence of this section.

Section 85 will probably be a dead letter for some years to come, but there is no objection to its extension.

Sections 86 and 87. *Surrender* and *abandonment* prescribe formalities which the Uriya raiyat and his zamindar will not follow for many years. I do not think that Section 19 Act X of 1859, which contains corresponding provisions is much followed. Section 87 might be of use to raiyats who may be obliged to abandon their holdings if a serious famine occurred. This section may also be useful to migratory raiyats in the sea-board Parganas (*e.g.*, Bhograi, Ankura in Balasore District) where instances of voluntary surrender or abandonment are common among people who come from distant villages, cultivate for a season or so and many of them perhaps never resume the cultivation. To meet such cases these sections may be useful to the landlord. I recommend the extension of these sections.

Section 88 is, I think, necessary, more especially if Section 17 is introduced. Section 88 already applies by custom to *sarbarahkari* tenures. It is however somewhat contrary to the incidents of *muqaddami* tenures, divisions of which are permitted by Section 27, Act X, and are recognised by custom.

The Government Pleader (see his opinion, Chapter XI, paragraph 306) says, that it would be only just and proper to make Section 88 applicable to *muqaddami* tenures with similar incident rights as to alienation and Subdivision.

Section 89 may be extended, especially as Sections 25, 44 and 49 have been extended. The terms of Section 89 are wider than those of Sections 21 and 22 of Act X which refer only to decrees under the Act (Act X).

Sections 90 to 92 are fair and may be introduced. The landlord could not under Act X measure rent-free lands within his estate, (Rampini).

Sections 93 to 100. Appointment of common manager. It is very necessary to introduce these Sections at once (see Chapter VIII, paragraphs 270 and 273).

Chapter X. Sections 101 to 115 have already been introduced.

356. We have interpreted the spirit of this Chapter and have extended it to the *nij-jot* of proprietary tenure-holders. The instructions given to officers run as follows :—

Extension of Chapter XI.

Nij-jot **is still governed by Act X of 1859, but the spirit of the Tenancy (Act definition must be followed, with the exception of clause (1) (*a*) of that section (Section 120). The real guide will be the custom of the country.**

The Board have already (see correspondence on Mr. Nathan's Kotdes report ending with Government order No. 2604 L. R. of 10th May, 1894) held that legislation on behalf of proprietary tenure-holders' *nij-jot* is unnecessary as being too small a matter. Section 116 can I think, without great straining include sub-proprietors, more especially as in the last Settlement papers as well as now the same word *nij-jot* and *khudkast* are applied equally to the private lands of proprietors as to those of proprietary tenure-holders. I submit that it is necessary to introduce the Chapter. See also Chapter XVIII, paragraph 458, and Appendix A (2) *b*, paragraph 14.

357. Chapter XII on Distraint.—Sections 121 to 142 deal with distraint. Section 121 gives jurisdiction to the 'Civil Court" to entertain applications for distraint. It is, therefore, doubtful whether in rent suits Deputy Collectors can legally exercise

Extension of Chapter XII on Distraint.

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the powers under this Chapter if it be bodily extended to Orissa. This technical objection will not apply to the other sections as they speak of 'courts' a term that equally applies to the courts of the munsiffs as well as of the Deputy Collectors.

Assuming that rent suits will continue to be tried by the Collectorate staff, it is hardly necessary to amend the law in order to make this Chapter operative in Orissa, as the existing provisions of Act X of 1859 on the subject of distraint are sufficient for the necessities of this Province. These provisions will survive if Chapter XII be not introduced. I do not recommend the extension of this Chapter at present.

Extension of Chapter XIII.

358. Chapter XIII on judicial Procedure.—Sections 143 to 153 need careful consideration. The framers of the Tenancy Act recognised the necessity of providing the zamindars with some facilities for realising arrears. The judicial procedure in this Chapter resembles the Small Cause Court procedure in many respects. In view of the large increase of the Government revenue in Orissa at this settlement I see no reason why the Orissa zamindars should not have the advantages that were conferred on the Bengal landlords by the simplified procedure in the trial of the rent suits.

I think the provisions that the summons should be for final disposal [Section 148 (*c*)], that the summons may be served by post [Section 148 (*d*)], that the written statements should not be filed [Section 148 (*e*)], and the abbreviated form of recording evidence [Section 148 (*f*)], are decided improvements over the existing Act X procedure, and that the introduction of these will materially assist the prompt disposal of rent suits.

The other sections of this chapter will also be more or less useful. I may particularly notice Section 133 (*b*). It may be possible to vest some of the officers of proved ability with this power when circumstances call for a whole-some restraint on appeals to prevent needless harassment of the zamindars. Again, the provision for prompt execution of decrees contained in Section 148 (*g*) is likely to be conducive to the best interests of the zamindars and of the Government revenue.

While holding the above views about the useful character of the procedure sections of this chapter, I would at the same time maintain my opinion that the existing jurisdiction of the revenue authorities over the rent suits should be retained. The Collectors and Deputy Collectors under the supervision of the Commissioner (Section 151, Act X) have all along been trying these suits. The experience obtained by the revenue authorities at the settlement may be brought to bear on this important work to the advantage of all parties. I would therefore suggest that the most careful attention of the District Officers may be directed to the working of the rent suits and the effect of the new Settlement in Orissa.

I accordingly recommend that except Section 144 the rest of this chapter be extended to Orissa, after due consultation with the Commissioner and the Collectors.

The withholding of Section 144 will remove the rent suits from the purview of the Civil Courts, Original and Appellate, and the jurisdiction sections of Act X will therefore survive. Thus the Original Jurisdiction of the Deputy Collectors and the Appellate Jurisdiction of the Collectors, of the Judge and of the High Court will be retained.

The proviso to Section 153 will give the Judge a new and a wider revisional power, but there can be no objection to this (*c.f.* Section 160, Act X).

Extension of Chapter XIV.

359. Chapter XIV. Sections 159-177, on Sale for Arrears under Decree. There is no objection to the introduction of this chapter. Section 163, which allows attachment and proclamation to be issued simultaneously will be very useful for the prompt satisfaction of the decrees.

It may be noted that ACT VIII (B. C.) of 1865 is found very useful by the zamindars in the sales of tenures. They will not be deprived of this advantage by the introduction of Chapter XIV of the Tenancy Act.

Mr. Rampini says that Act VIII (B. C) is not repealed by the Tenancy Act, so that tenures on which the right of selling has been especially reserved continue saleable under Act VIII (Rampini, Second Edition, Paragraph 232). I may add that Section 4 of Act VIII of 1965 reserves under the jurisdiction of this

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Act (VIII of 1865) such under-tenure as are saleable under Section 105 of Act X of 1859. I am of opinion that neither Act VIII of 1865 nor Section 105 of Act X will be repealed by the introduction of this Chapter XIV.

360. Chapter XV. Sections 178 to 183 should be extended immediately. They have apparently been omitted by oversight. Section 178 is absolutely necessary to prevent raiyats contracting themselves out of their occupancy rights under Section 7 of Act X. During the *Khanapuri* inspection of 1892-1894 we invariably interpreted the Section as if it was extended. Section 183 is also specially necessary.

Extension of Chapter XV.

Chapters XVI and XVII. Sections 184 and 185 may be introduced; the provisions are stronger than those of Section 119 of Act X. Section 187 and 188 may be introduced. They will apply only to such sections of the Act as may be introduced. Sections 189 to 192 are already introduced. Sections 193 to 196 may be introduced at once.

Schedule I ought not to be introduced, in order to keep some of the sections of Act X operative in Orissa. This schedule taken with Section 2, clause (1) will repeal the whole of Act X. I have therefore withheld clause (1) of Section 2.

Schedules II and III may be introduced at once.

361. To sum up, I think that the status and rights of the tenants having been recorded under the portions of the Tenancy Act already in force in Orissa, the extension of many provisions of the Act is absolutely necessary, as I have noticed in the preceding remarks.

Summary.

As regards some of the remaining provisions it may be generally remarked that although they may not be indispensable still they may be useful. The Tenancy Act embodies some of the advanced ideas regulating the retations of landlord and tenant that find no place in Act X of 1859. Now that we have already extended most of the sections dealing with substantive rights a large part of the procedure sections may as well be extended in order to give the zamindars better facilities for the realisation of their arrear rents. For reasons already recorded I would reserve at the same time the jurisdiction of the Collectorate staff over these suits. In order to effect this object some of the sections have to be kept back.

Turning next to details, I submit that —

(*a*) Section 3 to 5, 7, 19 to 49, 52 to 75, 80, 101 to 115, 189 to 192 are already introduced.

(*b*) the following sections must, I submit be introduced at once (being dependent on sections already in force or because they have been already used by the Settlement Department), Sections 2 (2) (3) (4), 8,9,51,76 to 83 89, 116 to 120, 178 to 183.

(*c*) The following sections may be introduced at once, *i. e.*, after reference to the Commissioner and Collectors :—

10 and 11, 12 to 17, 88,93 to 100. For the benefit of zamindars and proprietary tenureholders.

84. Acquisition of holding by the landlord.

85 to 87. Surrender and abandonment.

90 to 92. For the benefit of the landlords.

143, 145 to 158. Judicial procedure, section 144 on Jurisdiction being held back.

159 to 177. On sale for arrears.

184 to 185. Limitation.

186. Penalties for illegal interference.

187 to 188. Regarding representation of landlords.

193 to 196. Pasturage, &c., conditions binding on landlords and savings for special enactments.

Schedules II and III.

(*d*) The following sections would be inoperative except in permanently settled areas :—

6, 8 and 50; as somewhat analogous provisions exist in Act X (see sections 3, 4, and 16) they may be introduced.

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(*e*) The following sections should not be introduced for the present :—

Section 1, which will more properly come in when the whole Act comes into force.

Section 2, clause (1) which ought to be withheld in order to keep alive a part of Act X.

Sections 121 to 142 on Distraint.

Section 144, on Jurisdiction in Tenancy Act proceedings.

Schedule, I, which must be kept back with clause. (1) of Section 2.

I venture to suggest therefore that the sections recorded in (*b*) should be introduced without delay. and that those in (*c*) and (*d*) be introduced after reference to the District Officers and the Commissioner.

As regards the sections mentioned in (*e*) I cannot recommend their introduction at present, but having introduced nearly the whole Act I would suggest that the most careful attention of District Officers may be directed for the next five years to the working of rent suits and the effect of the new Settlement in Orissa. After that period it will be possible to gauge the result of the introduction of the portion of the Act extended to Orissa and to determine whether special courts are to be constituted. In case the whole Act is to be extended after five years the Judicial Department of Government will have time to provide the machinery for the trial of rent suits.

The principle which I would suggest in introducing the sections of the Tenancy Act at once should be the extension of all sections except those which provide for trial by the Civil Court of rent suits (including suits by proprietors against proprietary tenureholders) and the sections auxiliary to this procedure. In following this principle it is probable that I have proposed certain sections for introduction which should be excluded and have omitted others which should be included. The district and legal officers will easily be able to correct these mistakes.

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Part IV.

CHAPTER XIV.

GENERAL INTRODUCTION TO THE CHAPTERS ON PROCEDURE.

Duration of Settlement.

362. We read that the proceedings in connection with the early British Settlements of Orissa (from 1803 to 1843) occupied "A full third of a century and during the first twenty years the master masons (who built the edifice of rights) had to labour with the sword in one hand and the pen in the other." I may add that assessment records of the last settlement (1834-1843) bearing dates as late as 1845 are in fact found. If therefore we add the ten years of the present proceedings (1889-1899), we find that for half a century Orissa has been more or less occupied with Settlement operations.

Attitude of the people.

363. The attitude of the people has been tolerant through out the present proceedings while that of the zamindars has been extraordinarily apathetic. Work has been stopped in certain areas owing to flood, scarcity, and sickness and even through fear of a well-known tiger, but never on account of obstruction. A few attempted obstructions were overcome. At Remna in Balasore stone-throwing into the camp at night was effectually stopped by the capture and immediate castigation of the ringleader. The tiger was kept away by the help of the local trumpeter (holder of a ***turia-jagir***) who was requisitioned to escort raiyats home from the attestation camp at night.

In another case the army (***paiks***) of Keonjhar captured and deported a ***sarbarahkar's*** son, but did not appear before the officer deputed to relay the boundary. In fact the army remained in hiding while the Assistant Settlement Officer, a well-armed ***shikari***, completed his work in the presence of the raiyats both from Keonjhar and the Mogulbandi. Assistant Settlement Officers were in some cases treated badly by the villagers with whom they camped, but the bad treatment was generally traced to the machinations of a dismissed zamindar's servant or ***sarbarahkar*** or disappointed litigant. One or two thefts of public money occurred, but it so happened that in each case the cash box was stolen from under the bed of the nazir while two peons were on guard outside his tent. Such thefts, so cleverly managed, were of course ascribed to professional thieves, but no cases occurred after the revision of the rules for security bonds of nazirs.

Casualties to Officers.

364. There has often been severe sickness in the camps, and for one field season, during which work was going on in the Banpur-Mals and in the north of the Balasore District, medicines were purchased and distributed to the camps of Assistant Settlement Officers. We have lost many valuable ***muharrirs*** from fever and a few from cholera, but I am very thankful to say that with three exceptions the gazetted officers have been spared. The valuable lives of Mr. Reily, Settlement Officer, and Babu Chakulal Sirkar, Assistant Settlement Officer, were lost by accidents, while Mr. H.A. Boyd died of typhoid fever brought on by exposure. In many cases, however, serious illnesses and in one case madness of Assistant Settlement Officers have been caused through over-work. Not a few officers also have suffered damage to their eyesight.

Inspections by Lieutenant Governors.

365. Sir Charles Elliott paid no less than four visits to Orissa between 1892 to 1895. Sir Alexander Mackenzie held a conference at Cuttack in January 1897 at which many important questions, ***e.g.***, term of settlement and percentage of assets to be retained by Government were fully discussed and finally settled. In December 1898 Sir John Woodburn visited Cuttack and Puri. He inspected the assessment work and allayed the fears of the zamindars as to the curtailment of their privileges by the terms of the ***kabuliyats***.

Members of the Board.

366. The members of the Board of Revenue under whom the work has been carried on have been the Hon'ble Mr. (now Sir) C. C. Stevens and the Hon'ble Mr. G. Toynbee. The

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former visited Orissa in March 1896 and framed or revised the principal fair rent rules. He again visited Orissa in January 1897 and attended the conference held by Sir Alexander Mackenzie. Mr. Toynbee has either framed or revised the rules for assessment of revenue, and has dealt with the assessment reports of a large number of estates.

Directors of Land Records.

367. When settlement work began Mr. M. Finucane, C. S. I., was Director of Land Records. He drew up the earliest programmes, estimates, and rules. He was succeeded by Mr. W. C. Macpherson early in 1892. Mr. Macpherson went on leave early in 1896 till the end of the year During this time Mr. P. C. Lyon officiated and again took charge permanently in the end of 1897. Between May 1892 and February 1896, and again in 1897, Mr. Macpherson either drafted or revised the rules and forms for record-writing and attestation, and laboured with all the officers of the Settlement staff in Orissa and elsewhere to amend the settlement provisions of the Tenancy Act and the rules under it, and to establish principle of the settlement of rents and revenue in Orissa. During the period of his deputation to Orissa (July to September 1897) he worked out the subjects to be included in the revenue reports and settled many important principles of assessment. Mr. Lyon was responsible in 1896 for the amalgamation of all the settlement work in the Province under one head and for the location of convenanted assistants in Cuttack, Balasore, Puri, and Khurda. He drafted all the important rules and returns for settlement of rents in 1896 for Orissa and for Khurda, and from 1897 onward has controlled the procedure for assessment of revenue, dealing with recusancy, &c

The work of Survey Officers.

368. The officers in charge of the survey in Orissa have been Mr. Patterson, Mr. Ewing, Colonel Sandeman and Captain Crichton. Colonel Sandeman first, and Captain Crichton afterwards, helped the Settlement Department under Mr. W. C. Macpherson and Mr. W. Maude to evolve the rules for the working together of the camp and circle officers and Colonel Sandeman organised the whole survey campaign in Orissa. Mr. Maude in his report for 1893 acknowledges the services of Captain (then Lieutenant) Crichton as follows : "His thorough acquaintance with details and constant appreciation of the necessity of the Survey and Settlement Departments working as one, made my introduction to the work a particularly pleasant one."

Of the Assistant Superintendents of Survey Mr. R. C. Ewing and Mr. A. W. Smart did good work both in the course of the Orissa and Khurda Settlements. They organised the work, kept it up to the mark, and exacted accurate results from enormous establishments.

The work of Settlement Officers.

369. The settlement work was first actually started in 1889 in the Puri District under Mr. A. K. Roy and Mr. D. N. Mukherji. Mr. H. R. Reily was appointed Settlement Officer of Orissa in 1891, and at his death in October 1892, Mr. Maude was appointed. Mr. Reily had not time to thoroughly organise the work or to bring out detailed rules. When Mr. Maude joined, he completely re-organised circles and programmes re-cast scales of establishment, and after securing uniformity of office procedure, evolved the datailed rules for *Khanapuri* and attestation which were subsequently followed. Mr. Maude left in February 1896; Mr. Nathan, Mr. Radice, and Mr. Walsh had given Mr. Reily valuable assistance and the two first continued to do so under Mr. Maude. Mr. Walsh left the department in the end of 1892, Mr. Radice in 1893, and Mr. Nathan in 1894. No doubt if the health of Mr. Nathan had been able to stand the strain he would have succeeded Mr. Maude. The work of Mr. Walsh and Mr. Nathan in Puri has been most useful at the time of assessment. Mr. Nathan's report on Kotdes has proved a very valuable contribution to the literature of the settlement of Orissa. He had the advantage of close consultation with Mr. Maude and with Mr. W. C. Macpherson. The work of Mr. Sen and Mr. Mitra should not be passed over. Mr. Sen had a very remarkable knowledge of Orissa. The valuable work done by Mr. J. G. Cumming in the early part of 1894 also deserves recognition. I cannot of course do more than mention the work of Mr. Maude; he restored method, order and uniformity at a most critical stage. A great deal of the work already done had to be done over again by Mr. Maude, and his careful methods and supervision secured cheap and efficient results in re-attestation.

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Officers employed on the work.

370. I joined as Mr. Maude's Assistant in October 1892. In October 1894 the charge of Balasore was separated from that of Orissa, under myself as Settlement Officer. In February 1896, on Mr. Maude's departure, Balasore was re-united with the rest of Orissa and the whole was placed under my charge. The revision of the Khurda Survey had started in November 1895, so that the whole area in February 1896 amounted to nearly 6,000 square miles, some 80 lakhs of plots and about 17 lakhs of tenants. The greatest strain of work was in year 1896-1897 when our staff consisted of 46 officers, and the year's programme was to settle rents for 8 lakhs of tenants. Four covenanted Assistants and a European Deputy Collector were in direct charge of Puri (1), Cuttack (2). Balasore (1) and Khurda (1). The most anxious period was the beginning of the fair rent work; but the timely visit of the Senior Member of the Board (Mr. Stevens) and the Director (Mr. Lyon) in March 1896, and the formation of the rules, gave confidence to the staff and pacified the agitations of *bazyaftidars* and others. The organisation of the settlement of the Province under one head with Assistants in-charge of Districts was made by the Director (Mr. Lyon) who had had experience of work on a large scale in Behar, and by the alteration in certain account rules as to countersignature by Assistant Settlement Officers in charge of all bills for fixed establishments, the time of the Settlement Officer was set more free for inspection. Mr. W. B. Thomson joined the Department in 1894, and remained for more than 2 years till his health failed early in 1897. For nearly a year he was in charge of Balasore and rendered great service in the inspection of fair rent work. He gave us many practical suggestions for the assessment rules. Mr. D. H. Kingsford joined in the end of 1895, and after service in Khurda, Puri and Cuttack as Assistant Settlement Officer in charge relieved Mr. Thomson early in 1897. For 2½ years he rendered conspicuous service as Assistant Settlement Officer in charge of Balasore. He has still less than 5 years' service in India, so that his organisation in that District, inspection of fair rent work, judicious assessments to revenue, and lastly his very able report on the settlement of Balasore are most remarkable. Mr. J. E. Webster joined in March 1896 at my special request. He was from the beginning in charge of the Cuttack District, sometimes alone sometimes assisted by other covenanted officers. It is impossible to value his work too highly. Many of the rules for procedure introduced after he joined us have been either drafted, or suggested, or improved by him, or framed by his advice. He has worked throughout with unflagging energy, ability and loyalty. His great knowledge of the present procedure as well as of the literature of the last settlement is clearly shown in the pages of this report, by far the largest portion of which has been drafted by him. Mr. H. McPherson joined in November 1896 and was in charge of Puri for more than 2 years. His capacity for organisation, his energy and ability were invaluable, and he did much to remove the *slur* on the early work in Puri. During his intervals of leisure as Collector of Cuttack in July-October 1898 he wrote a very interesting account of the Puri Settlement. Mr. H. D. Carey joined in March 1897 and served for 2 years in joint charge on Cuttack with Mr. Webster. He worked throughout with characteristic energy and rendered special service in re-casting rules and instruction. He drew up the forms attached to the completion reports in their present shape. As Collector of Cuttack during the past 6 months he has given us great assistance.

Deputy Collectors & Sub-Deputy Collectors.

371. Among the Deputy Collectors Mr. James Taylor deserves particular mention. He was in charge of Khurda for 2 years and supervised the settlement of rents for nearly 2 lakhs of tenants. Special acknowledgement of his important services has been made in the separate report on Khurda. Conspicuous among the Deputy Collectors are Babu Jamini Mohan Das, Babu Prasanna Kumar Banerjee, Babu Srigopal Bhattacharjya, Babu Sriram Chandra Bose and Babu Jotindra Mohan Sinha. Babu Jamini Mohan Das held a very responsible position at Jajpur, in semi-independent charge of northern Cuttack. Babu Prasanna Kumar Banerjee and Babu Srigopal Bhattacharjya were the pioneers of the fair rent work in the Province; the report of Babu Sriram Chandra Bose on Utikan is remarkably good, and Babu Jotindra Mohan Sinha did sterling work in the Deogaon Pargana of Cuttack. Of the Sub-Deputy Collectors the best work has been done by Babu Hara Krishna Mahanti in the Sunaut Pargana of Balasore. He was also in charge of large establishments at Bhadrak. Amongst the others Babu Abhoy Prosad Das and Maulavi Chainuddin

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deserve special notice. The services of Babu Jagannath Dutta Sadar Kanungo of Balasore, as an Assistant Settlement Officer for nearly 4 years, have already been acknowledged in the Khurda report.

Babu Jogendra Narayan Mitra.

372. I cannot close this portion of the report without mention of Babu Jogendra Narayan Mitra, Personal Assistant to the Settlement Officer. Mr. Maude will, I feel sure, agree with me that for 7 years he has successfully filled a position of very great responsibility. His services as Assistant Settlement Officer and as Personal Assistant have been of remarkable value.

The services of officers.

373. It is very invidious out of a long list of Deputy Collectors and Sub-Deputy Collectors to single out for mention so few when notwithstanding many difficulties so many worked with the greatest loyalty and devotion. Many of them remained in camp and in tents year after year and right through the year. Those who know Orissa will appreciate the hardships encountered, and others will understand when we tell them that to a European except for 3 months in the year a tent is almost intolerable. Nearly all the Deputy and Sub-Deputy Collectors joined the Department as junior officers and brought their youthful energy to bear upon the work. It would be of course a much easier task to record the names of two or three officers whose work has brought open discredit upon us, but perhaps it is only necessary to make general remarks on this subject. The appreciation of officers by the quantity of their outturn has paved the way for a great deal of bad work. It was impossible for us inspecting officers to avoid some such appraisement when the number of camps and their scattered situations are taken into account. The fact remains that a few officers, usually Sub-Deputy Collectors, desirous of promotion, have been occasionally led away by the glamour of large outturn. Again, we have had one or two officers who even before taking the field and without knowledge of the area within which their work will lie, have desired to know the number of rents to be settled every month and the general monthly percentage of enhancement which would secure to them the approbation of Government.

On the whole, however, we have had officers of the very greatest judgement and conscientiousness, possessing also the moral strength to work where necessary, slowly and surely.

Establishment.

374. Not the least difficulty which have had to encounter has been in bringing to gether and training suitable establishments for our work.

To start with the ***kistwar*** survey, an Uriya ***amin*** could rarely be taught to survey more than 10 acres a day, while the outturn of an up-countryman would be more than 30 acres. Moreover the work of the latter showed much more neatness of hand than that of the Uriya.

In ***Khanapuri*** I have always preferred the Uriya ***amin***, because, although it is quite impossible to prevent the exaction of payments from villagers, his scale of charges is smaller and his methods more intelligible to his fellow Uriyas. Uriya ***amins*** in the cases where they had been trained before being sent into the field did excellent ***Khanapuri*** work. ***Attestation*** work, and fair rent work, so far as ***muharrirs*** were concerned, is purely mechanical, but no praise can be too high for the head muharrirs, *i.e.*, the men picked to command and control batches of ***muharrirs*** in each camp. They received pay of from Rs. 20 to Rs. 30 a month, and were the first to come in the early morning and last to leave at night. The names of these men have been submitted to Collectors with recommendation for permanent employ. It is hoped that they will get posts as ***kanungos*** (and ***patwaris*** if the Maintenance of Land Records scheme is introduced). They are also to be recommended to zamindars as ***gumahstas***.

The demand for English knowing clerks was difficult to supply. The reason of course was that, outside the Government offices, there had hitherto been no use for clerks with knowledge of English. At first we obtained nothing but "rolling stones" and men who had escaped from the Criminal Courts on technical grounds, *e. g.*, my first clerk on Rs. 20 had been a Municipal Overseer on Rs. 120 and Mr. Radice's clerk had been a collectorate nazir—both had escaped "justice" from the Sessions Court. After a time young men came forward and after a course of training have done excellent work. In fact we have now scarcely a clerk

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whose age more than 30. The mistakes made by copyists have got the Department into trouble more than once, both with the Commissioner and the Director. I am glad to say that some of our best clerks have already received appointment from Collectors and the names of others have been submitted in registers with suitable recommendations to the Collectors of the three districts.

Procedure.

375. The chapters on procedure which follow may appear somewhat dull, but a perusal of them will show that they must be of vital importance to our successors—the Settlement Officers of 1927. It is impossible for me to criticise the action of my predecessors without putting myself out of sympathy with the readers of this report, but a very conscientious attempt to put together all the salient features of the procedure in the present operations has been made by Mr. Webster. He has succeeded so well in his task that I have practically to make no alterations. The chapters on *Khanapuri* and Attestation must be perused before my remarks will be readily intelligible.

The position of Revenue Officers.

376. In this introduction I would wish to say a few words on the position of Revenue Officers.

It appears to me, and submit my opinion with the greatest deference, that at a future settlement the Commissiner should be Director and Head of the operations, and Additional Commissioner being appointed to carry on his other work. In each district, too, the Collector should be the Settlement Officer and his Joint Magistrate should carry on his other work. I should not like to be misunderstood in what I have said or shall say in this matter.

The Settlement department owes its gratitude to the Commissioners and Collectors in Orissa for the last ten years and acknowledges its obligations most gratefully, but nevertheless I am conscious that there has been delay and loss of time in acquisition of necessary information by the Department.

In the first instance it is my opinion that many difficulties would have been avoided if a senior officer had been appointed as Settlement Officer from the very beginning.

It is necessary to have one officer for the sake of uniformity, and it is necessary to have a senior officer for the sake of authority.

The next important point is that the officer in charge should be the head of the Province. All our work has of course been closely bound up with the Collectorate, but the Collector of Land Revenue could not help regarding the Revenue settlement Department as one which threw an enormous amount of extra work on his soulders.

Again, on the Magistrate's side, the Settlement Department has no authority and to the Magistrate (and Judge) the Settlement Department have indirectly caused more breach of the peace and litigation than any other set of causes combined during the last ten years. Nor is the end yet—rent suits and title suits and maintenance of possession by violence must continue for a year or two longer.

At the last Orissa settlement the charge of the operations in each District lay in the hands of the Collector and at their head was the Commissioner who was the controlling authority for the whole Province. Our work has of course been closely bound up with the Collectorate and the separation of the Department from his control has placed us at a disadvantage, and not only has there been waste of energy in acquisition of information, but possibly also a certain loss of information; again, the advantages of having the Commissioner at the head of the Provincial settlement are equally great. The traditions of the last settlement survive in full vigour, and Commissioner's authority commands the highest respect in the Province.

While making the preceding observations on the advisability of placing the future settlement work in the charge of the local authorities, I should not be understood to overlook the value of the assistance obtainable from the Director of Land Records and Agriculture. His wide experience obtained in supervision of the settlement work throughout the Provinces of Bengal, Bihar and Orissa adds a special value to his suggestions and supervision. The lessons learnt in one Province are materially useful in the organisation of the work in another, and uniformity of practice so far as the local conditions of each Province allows is indispensable to proper control. My own experience is that in many matters the practices in Bihar and Chittagong settlements were found useful in Orissa. I have elsewhere notice

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how largely the present Orissa settlement is indebted to Messrs. Finucane, Macpherson and Lyon, who have been Directors of Land Records, and I venture to think that in the next settlement, too, the wide and special experience of the Director of the time may be utilized with advantage.

To sum up, I think that at the next settlement the work may with advantage be placed in charge of the Collector and of the Commissioner as the central controlling authority in the Province. This arrangement will secure smooth progress of work and will have generally important administrative advantages. Under this arrangement the work will have also the full benefit of the Collector's and Commissioner's local experience.

It is further necessary to retain the Director's connection with the settlement in order that the lessons furnished by the settlement work in other Provinces may be utilized and that important matters of principle and procedure may have the benefit of the Director's broad experience.

In conclusion, I venture again to hope that I have not said anything invidious, but it is certain that these questions will arise at a future settlement, and I feel bound to put my experience down on record because, as it appears to me, there has been some loss of efficiency by the arrangements made at the present settlement and because it has been impressed upon me more than once that while the Magistrate and Collector and his subordinates have the full confidence of the Uriya, Revenue Officers and their assistants are regarded as troublesome and less entitled to respect.

The relations of survey and Settlement Officers.

377. In this connection (the position of Revenue Officers) one special point in the chapter on ***Khanapuri*** procedure deserves mention. It seems to me absolutely necessary that all the officers of the Survey Department should be subordinate to the principal Settlement Officers. The settlement officers in the early days blamed the Survey Department for bad work, and the latter blamed the Settlement Department for want of instructions. From the field season of 1892 onward these recriminations ceased because the heads of the two Departments came to an understanding. Of what happened before October 1892 I can say very little, but from that date onward at least two Assistant Settlement Officers were deputed to each camp and were armed with full instructions to supervise the ***Khanapuri*** work. Even so, after the record writing was completed the records were returned to the Survey Office for extraction of areas and compilation of statistics and there was sometimes considerable delay. It will be remembered of course that in the last settlement of Orissa no field to field maps were prepared and beside the field books the Survey Department had only maps on the scale of 4 miles to the inch to work upon. For this reason the Department had to remain longer with us than it would otherwise have done. At a future settlement it may not be necessary to employ the Survey Department at all, but if it is necessary I would suggest that the officers of the Survey Department be placed directly in subordination to the Settlement Officer. I may add that in Khurda the revision of survey was carried out smoothly and expeditiously by such a procedure.

The Tenancy Act.

378. A great deal concerning the Tenancy Act will be found in the chapters which follow. Nearly all the work, *i. e.*, all except the settlement of rents for some 60,000 tenants, was carried through under the old Act before the introduction of Act, III. B. C. of 1898. It was anticipated that even "by keeping within the four corners of the Act," there would be great difficulty in settling rents according to the Civil Procedure Code for 17 lakhs of tenants. The rules however of 2nd November 1895 framed under Section 189 of the B. T. Act prescribed that in the first instance proposals of fair rents should be made, and if the proposals were accepted it was not necessary to go through the formalities of the Civil Procedure Code. After the first two or three months objections became extremely rare. As soon as raiyats understood that until the contrary was proved the existing rent was presumed to be fair and equitable, they ceased to object. ***Bazyaftidars***, at first encouraged to hope that as in the permanently-settled district of Midnapur the rents of ***bazyaftidars*** were not enhanced their own rents would also be left alone, were disposed to objects to the enhancements. When, however, their attention was called to their ***pattas*** on which the fact was recorded that the rents were

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settled up to 1274, i. e., 1867 (extended after the famine to 1304, i. e., 1897) and when they saw the Government orders of the last settlement limiting the fixation of their rents only to the term of settlement, and lastly after noticing that no attempt to level their rents up to raiyati rentals was made, they gave way and accepted enhancements grudgingly at first and afterwards with resignation.

The amended Act very much simplifies the procedure in areas under settlement of land revenue and places the subordinate officers at every stage under the control of the Settlement officer or confirming authority. It is now necessary to draft, publish immediately after attestation, to frame a rent roll, publish it, here objections, and submit it with the objections for confirmation to the higher authority (in the case of Orissa the Settlement Officer). After confirmation the roll is incorporated in the record and finally published. All disputes are settled summarily and may be appealed to the Settlement Officer. By this procedure expensive suits are avoided, but the work of the Settlement Officer (if he is the confirming authority) is very much increased, because in proceedings for settlement of land revenue the Special Judge does not exercise jurisdiction. No doubt if the Act had been introduced when we had 40 officers in the field, Government would have vested the covenanted Assistant Settlement Officers with the powers of a confirming authority. The Act not having been introduced till the end of 1898, the Settlement Officer had only to confirm some 200 villages' rolls and hear about 90 appeals. This does not of course include several objections to rents which had to be examined and disposed of. The general result of my experience is that it is impossible to prevent officers from showing zeal by excessive enhancements, and for that reason I should like to have seen the procedure for areas under settlement of revenue extended altogether, *i. e.* to applications in permanently-settled areas. It seems to be better for the higher revenue authority to interfere of his own motion in cases of hardship than that he should have to advise raiyats to go to the expense of an appeal before the Judge, for fear he (the superior Revenue Officer) should incur the charge of executive interference with judicial discretion.

Area under Settlement operations.

379. The area from time to time under the charge of the Orissa Settlement Department has included areas other than the temporarily settled portions of the three districts.

From 1896 onward the Khurda Government estate, an area of 883 square miles, has been settled at a cost of Rs. 1,92,000, the gross demand having been increased from Rs. 3,09,000 to Rs. 3,77,000.

The small *khandaiti jagir* or Jumna Jharpara, with area 2 $\frac{1}{8}$ square miles, was settled at a cost of Rs. 487, the accertained rental of the estate being Rs. 448.

The *Satais Hazari* and the *Ekhrajat* estates belonging to the Puri temple with areas of 11·8 and 105·5 square miles respectively have been re-settled. In the case of the *Satais Hazari*, which was intermingled with the revenue-paying temporarily-settled area, Government paid for the preparation of the record of rights and the proprieter bore the cost of Settlement of rents amounting to Rs. 680. The rents of 3,024 tenants were raised from Rs. 11,302 to Rs. 15,143.

In the case of the *Ekhrajat* estate the proprietor bore the whole cost of operation amounting to Rs. 29,500; the rents of 14,621 tenants was raised from Rs. 23,391 to Rs. 31,558. The new demand for all the tenants on the estate is now Rs. 37,469.

The Madhupur permanently-settled estate having an area of 64·8 square miles with 14,700 tenants was re-settled entirely at the cost of the Court of Wards. The demand was raised from Rs. 24,199 to Rs. 31,552, at a cost of Rs. 29,002.

In addition to this, the Bhubaneswar Endowments, with an area of 2,090 acres, have been re-settled. The demand of 305 tenants has been raised from Rs. 799 to Rs. 948 at a cost of Rs. 1,920, and the work is still unfinished.

The Uparbast Endowments, with an area of 371 acres, has been re-settled at the cost of the Committee amounting to Rs. 400, the demand having been raised to Rs. 397.

Other small revenue-free properties intermingled with the Government estate of Khurda have been resettled at a cost of Rs. 1,372, borne by Government, though Rs. 454 has been recovered from the proprietors in stamps.

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In the two *khandaiti jagirs* of Khurda, Haldia and Malipara, with an area of 9,738 acres, and assets of Rs. 2, 530, settlement has been effected at a cost of Rs. 2,130 to Government. Lastly in the permanently-settled areas of Darpan and Derabisi a survey was made at the expense of Government, and now at the cost of the proprietors a record of rights with a view to settlement of rents is being and has been made. These last operations have been handed over to the Collector of Cuttack for completion.

It will be seen from the above that in addition to the *comparatively* simple work in the temporarily-settled area a large number of complicated operations have occupied a portion of the time of the Department.

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CHAPTER XV.

SURVEY AND DEMARCATION.

Demarcation.

380. The first step towards the beginning of the survey was the demarcation of the village boundaries. This was done, by revenue officers under the orders of the Collectors of the districts, by erecting small bamboo sticks, with earthen mounds at their bases, at the trijunction and salient points of the village boundaries. The demarcation officer was supplied with lists of villages and issued a proclamation, under Section 5 of the Survey Act, V. B. C. of 1875, to the owners and occupiers of the lands about to be demarcated. Then he proceeded to the spot and marked on the ground the boundaries as pointed out by the villagers, sending lists of the villages and the boundary marks to the officer in charge of the survey.

When the work began, the villages demarcated were those shown in the last settlement papers, and in Puri and Cuttack the work was practically finished before the orders to demarcate the recognised local village came into force.

Traverse Survey.

381. The traverse survey of the temporarily-settled estates of the Puri District began in 1889-90 under the supervision of Mr. Patterson, and in 1890-91 the work was in full swing. The party was divided into three sections, two under Mr. Ewing and Mr. Madras being engaged on cadastral work in Puri and Cuttack respectively, and the third on traverse only. In the following season the number of sections was increased to five, three for the cadastral and two for the traverse survey. In the first two seasons the unit of traverse survey was the settlement village as demarcated, but in 1891 it was decided to follow the revenue survey instead and ultimately, as a slavish adherence to the revenue survey was found impracticable, the existing village as pointed out by the villagers was made the unit. All traverse work was plotted roughly on the 4″ scale and comparisons were made with the old 4″ village maps of the former survey, and wherever any serious difference was found it was noted for the information of the Settlement Department. In practice such notes were rarely if ever made, and there is no trace of them in the records. Differences in area were generally detected and recorded at the attestation stage. All ***tahsilalahida*** blocks* over 50 acres in area were also traversed round but not plotted separately, *i e*, they were plotted and surveyed with the village in which they lay.

In the earlier traverse the ***tahsilalahida*** lands were commonly plotted and mapped separately, but this error was in most cases subsequently rectified.

In Kokhuakhand and Tapankhand and other Paraganas near Cuttack villages were found wholly lying within other villages. They have for settlement purposes been treated as separate villages, but they are all on one map and have generally been given a single number. In the Puri District some difficulty was caused by Khurda lands lying within Puri villages. These, though shown on the map of the Puri villages, were for all settlement purposes treated as part of the Khurda village to which they belonged, and a separate record prepared.

System of Cadastral Survey.

382. The traverse supplied to the cadastral sections skeleton village maps on the scale generally of 16″-1 mile, showing the theodolite stations. With these skeleton maps as the basis of their work the ***amins*** mapped the village boundary and plotted in the fields on the "quadrilateral" system as laid down in Chapter 6, Part II. of the Survey and Settlement Manual of 1895.

Unit of Survey.

383. The unit of survey was the ***khet*** or field, consisting of all the lands of one kind lying within a single boundary and belonging to the same cultivator, as opposed to the ***kita*** or kiari, the plot or portion of a field surrounded by a ***hira*** or dividing ***bund***. The number of ***kitas*** in each ***khet*** was however counted and shown in the settlement records and in some maps the ***hiras*** are marked by dotted lines (in the revision areas and Khurda, also revised).

**Vide* Chapter XIII., Paragraph 364.

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In the season of 1890-91 it was found that the average size of a ***kita*** in Cuttack was .16 of an acre or about 2½ to the field, and in Puri about 1½ to the field, so that if every ***kita*** had been separately mapped the number of plots, and therefore the size of our records, would have been about doubled.

Scale of Survey.

384. With the exception of those of the revision survey area and of the large towns all maps were prepared on the scale of 16″=1 mile, but where, as often was the case, it was not found possible to show all the details of the village site on that scale, the houses and homesteads were taken out and shown in the margin of the map on the 32″ or 64″ scale.

Survey of Towns.

385. Cuttack town was surveyed in 1894-95 on a scale of 64″=1 mile, the Cantonments only, which had been previously surveyed on a 12″ scale, being omitted from the maps. Other large towns, such as Balasore, Bhadrak, Jajpur, Kendrapara, Chandbali, were surveyed on the 32″ and occasionally on the 64″ scale.

Permanent marks.

386. All trijunction points were marked with stones obtained at a cost of Rs. 56-4 per 100 delivered at any convenient centre. Smaller stones costing Rs. 37-8 per 100 were originally used to mark the satellite stations of each trijunction, but early in the season of 1891-92 orders were given that the smaller stones should be embedded at stations at intervals of about 40 chains, taking care that each stone was so placed that the stations in advance and behind it might be visible. Other stations were marked only by a little mound of earth with a small clay cylinder embedded.

Work of *Amins*.

387. An attempt was made to use ***patwaris*** and local ***amins*** for the cadastral survey and the writing of the record, but the progress made was very unsatisfactory. The Surveyor-General's report for 1890-91 shows that owing to the slow rate of progress made by the Uriya ***amin***, and the consequent increased expenditure on cooly labour, the cost amounted to annas 1 pies 9 per acre against pies 9 in the case of a second class Hindustani ***amin***. ***Amins*** were paid at the contract rate of Rs. 3 per 100 acres and only earned Rs. 3 to Rs. 4 per month; ***patwaris*** were paid nothing, so that the total cost per acre in their case came to anna 1 pies 3 for coolies.

In 1892 Lieut. Crichton, then in charge of the survey, wrote :—

"The Uriya will do no more work than he is absolutely obliged to do in order to obtain a bare living. It is only by the closest supervision and constant coercion that the Uriya ***amin*** can be prevailed upon to produce a moderate day's outturn of work. As a Surveyor his laziness makes him practically useless; his rate of work has been proved to be this season one-fifth that of an up-country amin. In Orissa no labour is given free by the villagers as in the case in the Upper Provinces. Each cooly has to be paid 1 anna or 2 annas a day according as he is working in his own village or outside it. As each ***amin*** requires about five coolys it is evident that cooly hire is a very expensive item in Orissa, more especially so when the Uriya is employed as a field surveyor. The Uriya ***amin's*** out-turn being 6 acres a day and 5 or 6 annas being paid for coolys the cooly bill alone adds one anna per acre."

"In order to reduce the expenditure on detail survey, this branch of the work was gradually handed over to up-country ***amins***, the Uriya being employed on ***khanapuri*** work."

Revision Survey.

388. In Cuttack, 364 square miles had been surveyed for the Irrigation Department on the 32″ scale in 1878-79 and in 1892 the maps were revised and new records written. "The old survey was on the 32″=1 mile scale, and the original unit of survey was the ***kita*** (each ***kita*** having a number and its area extracted), and there was no distinction made on the map by which the "field" or occupancy of the cultivator ***khet*** could be recognised; nor had the house in the villages been separated from the fields or compounds. The revision procedure adopted was to give the ***Khanapuri amin*** the map, and he, while he did the ***Khanapuri*** ascertained which lines on the map, denoted the boundaries of a ***khet*** and which the ***kitas***, the latter he scored across in red ink and then gave a number to the ***khet***. On the traces the ***kitas*** have been, and on the fair maps will be, shown by dotted lines. In cases where the ***khet*** had not altered since the former survey, the area was obtained by the simple addition of the areas of the ***kitas*** contained in it, as given in area the statement of the former survey. Where there were difference,- and there were many owing to distributary canals having been cut and other changes which must be expected in a period of 14 years,- areas had to be re-extracted.

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The ***amins*** were paid Re. 1-8 per hundred acres *i. e.*, half of what was paid for fresh survey, and the work cost about Rs. 64-14-0 per square mile; exclusive of the cost of finally dressing the records, about Rs. 16 per square mile. This was a very considerable saving on the cost of original survey and ***khanapuri***, which, including traverse and stone embedding, came to about Rs. 198 per square mile in the rest of Cuttack.

Revision of *Ekhrajat* Survey.

In 1893-94 the maps of the Temple (***Ekhrajat***) lands in Puri prepared 1876 were revised. The cost was Rs. 7,126 for 105 square miles or Rs. 78 per square mile.

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CHAPTER XVI.

KHANAPURI

389. The detailed survey of a village or part of a village being complete, the next stage was the ***Khanapuri*** or the filling up of the columns in the draft records. It was, as had been said before in treating of the cadastral survey, found advisable to entrust to up-country ***amins*** the actual mapping of the village, but the records were almost invariably written by an Uriya. As the up-country man worked faster than the Uriya it was found more economical to allow the map to be made first and to then hand it over to the Uriya ***amin***, who, while filling up the records, corrected in red ink any mistakes that he found in it.

Explanation to the term.

390. The records to be filled up by the ***Khanapuri amin*** consisted of :—

Forms.

(1) A field index or ***khasra.***
(2) A detailed record of each tenant's lands called a ***khatian.***
(3) An abstract record of the rights of proprietors and tenureholders known as a ***khewat.***

Subsidiary forms to facilitate the check and correction of the draft records were also prescribed, viz., a ***parcha*** or abstract of the draft ***khatian*** to be given to the tenant and a dispute list,

The forms finally determined on for the Settlement, together with the rules for their praparation, will be found in Appendix B. Briefly their essential features are :—

The ***khasra*** is a list of the fields in the village arranged in the order of their serial numbers with the names of all owners and occupiers, the area, and a description of the land and crop entered against each.

The ***khatian*** is a list of tenants showing the fields held by each one, their area, the rent payable, and the status of the tenant and certain special incidents of the tenancy.

The ***khewat*** shows for each property for which it is prepared the names of the owners, and charactor and extent of their interest.

The further details shown in these records depend on local considerations but so much as is stated here is essential.

391. Work began in 1890-91 in the parganas of Rahang, Serai and Chaubiskud in the District of Puri.

Commencement of work.

Mr. A. K. Ray was Settlement officer from December 1889 to December 1890, but does not appear to have issued any instructions for the guidance, of the Survey Department, who had to work on the lines laid down in the Survey Manual supplemented by rules drawn up by Mr. Ewing who was in charge of the cadastral party.

392. With Mr. Reily's appointment as Settlement Officer the system was changed; to each survey camp were attached one or more Assistant Settlement Officers whose business was to supervise and check the ***khanapuri*** while it was in progress and to attest the records on their receipt from the Survey Department. Detailed rules for the guidance of the Assistant Settlement Officer of Tangi Circle were drafted by Mr. Reily in April 1891 and were criticised by the Director of Land Records and by the Commissioner. The main points insisted on were :—

Rules of 1891.

(*a*) The issue to the occupiers of the land of ***jamabandi*** slips or ***parchas i.e.,*** extracts from the records giving the number of each field and its boundaries, the class of soil and crop.

(*b*) The actual check on the ground of a certain proportion of entries in the ***khasra*** by the Assistant Settlement Officer and the reporting of all serious errors to the officer in charge of the survey camp.

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393. There continued, however, to be a considerable diversity of practice, and towards the end of the year 1891 fresh rules were drawn up by Mr. Reily dealing with the procedure for the settlement of boundary disputes and the preparation of draft *khewats*; but no complete instructions for the writing up of the records were issued until Mr. Finucane, the Director of Land Records, visited Orissa in March 1892; and the Uriya translation of the rules then agreed upon was not placed in the hands of the Survey Department until the 1st June of that year. Most of these rules were taken from the instructions drawn up Mr. Lyon (then an Assistant Settlement Officer in Orissa) for the benefit of the survey camp under Mr. A. W. Smart at Jajpur.

Rules of 1891-92.

The *khanapuri* of the Puri district was completed by the survey party under Mr. Ewing by the 1st May 1892, and he then moved into the Cuttack District, where two parties under Messrs. S.O. Madras and A.W. Smart were already working.

By the 30th September 1892 the *khanapuri* of the whole of the temporarily-settled area in Puri, excluding Khurda 371 square miles, had been finished; and in Cuttack, the records of 1,443 square miles or nearly two-thirds of the area under Settlement had been written. The balance of work remaining consisted of 831 square miles in Cuttack, 105 square miles of Puri Temple Lands in District Puri, and the whole of the Balasore District.

394. For the area in which *khanapuri* work had not been done, revised rules were drawn up at a conference of Orissa Settlement and Survey Officers, and these after approval in November 1892 by Mr. Macpherson, the Director of the Department of Land Records, and by Lieutenant-Colonel Sandeman, the Director of Bengal Surveys, were at length, in March 1893, printed in their final form. The survey officers worked on them from the beginning of the field season of 1892-93, and with but few alterations they remained in force until the completion of the record writing in Orissa. They are to be found in their final form in Appendix B, Part II. to this report.

Rules 1892-95

395. From this brief account it will be seen that the record-writing in the District of Puri was done by the Survey Department without much assistance from the Settlement officers other than that of such supervision and advice as the Circle Officers, who had at that time little or no experience, could give them. More than half of the Cuttack District was completed in similar circumstances, and it is not surprising that the Survey Department complained of the difficulties of the work. I quote here the list of difficulties mentioned by Colonel Sandeman in his report on Bengal Surveys in the year 1891-92.

Want of rules in early stages of *Khanapuri*.

Difficulties in khanapuri. —"The difficulties in *Khanapuri* have been very great during this season :—

"*Firstly.*—The slow rate of work of the Uriya.

Secondly.—The number of changes in procedure during the field season. No less than four different forms of *Bhowriah* (*khasra*) and three different forms of *Warijah* (*khatian*) were successively brought into use during the field season.

Thirdly.—Although the Settlement Department at the commencement of the season were supervising the *khanapuri*, no distinct instructions were received as to the filling up of the records until Mr. Finucane, the Director of Land Records, visited Orissa, when on the 26th March 1892 a *Hidyatnama* was published, but it was not till the 1st June 1892 that Uriya translations of these instructions, although repeatedly called for, were received from the Settlement Department.

Fourthly.—Almost throughout the entire area *Khanapuried* no draft *Khewats* had been prepared by the Settlement Department, they had therefore to be prepared by the Survey Department and compared with the A, B and C Registers of the Collectorate. In some parganas draft *Khewats* had been prepared *Mahalwar*, but these were practically useless as they had to be converted into *Mauzawar*. In addition to this, there was great delay in the supply of the *Khewat* forms, some Parts (I. and III.) were not received till 8th and 12th August 1892.

Fifthly.—With some exceptions the *Khanapuri* officers supplied by the settlement to aid in the supervision of *Khanapuri* and settlement of disputes were quite inexperienced, and had to be taught their duties. Until they had learnt their work they did not help greatly.

Lastly.—The establishment of *Khanapuri amins* necessary for the large area expected could not be obtained.

396. Naturally the errors in the *khanapuri* were numerous, and the early correspondence abounds in complaints of the inaccuracy of the records.

Errors in *Khanapuri*.

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In October 1891, Mr. Sen in the Tangi and Mr. Walsh in the Serai and Chaubiskud Circle, reported that they found so many mistakes that their *muharrirs* had to go over the whole ground again field by field.

Mr. Reily compiled a list of these in four circles and found that in a total of 62,643 fields, 21,334 mistakes had been found, or 1 in every three plots.

In the recess of 1892 Mr. Walsh reported that the number of corrections made in the records of his circle exceeded the total number of fields, while apart from the subdivision of *Khatians* the proportion of mistakes found in the *khasra* to the total number of fields entered was in the recess of 1892 reported to be—

	Per cent.			Per cent.
In Kotdes	.... 16*		In Tangi	 90
In Rahang	.... 40·35		In Kotrahang	 30

It does not appear, however, that the *khasras* were really so defective as might be inferred from these figures. From the details of the list of mistakes compiled in 1891 it was found that of the total number of corrections about 10 per cent. were in the area columns, 2 per cent. in boundaries, 8 per cent. in the numbering of fields, 30 in the name of occupants, 7 per cent. in the demarcation of *tahsilalahidas*, 19 per cent. in the class of soil, 18 per cent. in entry of names in the wrong column, and 6 per cent. in the entry of last settlement field numbers.

The class of soil is at best a debatable matter, and the only serious mistakes would be those in the wrong entry of names, wrong areas, wrong numbering, and in the demarcation of *tahsilalahidas*; say, half the total.

Khanapuri Procedure,

397. Much of the *khanapuri* procedure is so colsely connected with attestation that it will be simpler to consider the points raised when dealing with the latter subject, and I propose in this chapter to deal only with :—

(*a*) The relations of *Khanapuri* and Survey Officers.
(*b*) The entry of areas in the field.
(*c*) Requisition of rent-rolls from proprietors.
(*d*) Distribution of *parchas*.
(*e*) Entry of status by *amins*.
(*f*) Entry of rent at *khanapuri*.
(*g*) Employment of *Kanungos*, *Patawaries* and *Chaukidars*.
(*h*) Identification of last settlement fields.
(*i*) Treatment of disputed entries.
(*j*) Boundary disputes.
(*k*) Unit of survey (*i.e.*, under survey).
(*l*) Preparation of draft *khewats*.
(*m*) Progress and out-turn.

Relations of *Khanapuri* and Survey Officers.†

398. The Settlement Officer and Deputy Superintendent of Survey exercised joint control over all establishment utilised for survey and *Khanapuri* simultaneously. They corresponded directly with one another, and when they could not come to a compromise in any matter of principle referred it for decision respectively to the Directors Land Records and Surveys. The Assistant Superintendent of Survey, or camp officer, had the immediate control of the whole establishment entertained for survey and *Khanapuri*, and was entirely responsible for the accuracy of the survey. The business of the *Khanapuri* officer was, with the help of his inspectors, to check the correct writing up of the records and to dispose of all disputes. He had the powers of an Assistant Superintendent of Survey as well as of a revenue officer under the Bengal Tenancy Act, but had no power to punish or dismiss any of the survey establishment except through the camp officer.

Entry of areas in the field.

399. During the early part of the work the *amins* doing *khanapuri* left the column for area blank and areas were extracted and *khatians* prepared in the camp after receipt of the records from the *amin*.

This system had the double disadvantage of leaving the raiyat without any idea of the area entered in his name up to the time of attestation and of overburdening the Survey Department with work to be done in recess. For the

* Does not include mistakes in soil classification.

† See Appendix B.

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season of 1891-92 Colonel Sandeman adopted the new procedure * of having *khatians* prepared day by day and extracting areas by skilled computers in the field immediately on the completion of the *khanapuri*.

This system was continued to the end of the work and is thus described in a note of the 4th March 1893 by Messrs. Sandeman and Macpherson :—

An Uriya *amin* will do the *Khanapuri*, also correcting the foreign *amin's* map in red whenever the rights in the land are incorrectly shown. When available, a second Uriya *amin* will write the *Khatian* and *parchas* while the first writes the *khasra*, entry for entry, the object of employing two men being to check corruption and hasten preparation of the records for final attestation. The *Khanapuri amins* will also fill in the *lakhiraj bahal, minha jagir* add *nij-jot* statements as laid down in the rules following.

The *Khanapuri* of the records being thus finished the areas will simultaneously be extracted and entered in them all. The *khasras, khatians*, and the statements mentioned in rule 8 accompanied by a trace of the map, or when delay would be caused by the preparation of a trace by the original sheet, will then be despatched to the circle officer for final attestation. The areas will be entered in the *parchas* if brought by the tenants, to the circle or sub-circle office at the beginning of the attestation proceedings.

Foreign inspectors will check the survey. Uriya inspectors will check the *Khanapuri* unless the Settlement Officer will accept the best of the foreigners aided by Uriya *muharrirs*.

When the records are finally received back in the Survey Office after attestion, they will be completed and statistics extracted.

Requisition of rent-rolls form proprietors.

400. Before the *amins* took the field the proprietors and tenure-holders were served with notices requiring them to file rent-rolls for the villages under survey.

These notices were at first served by peons, but it was afterwards decided to use the agency of the post office, and the notices were sent in registered covers, the postal receipt being taken as evidence of delivery. The form of these rent-rolls locally known as *ekpadia* varied considerably from simple lists of tenants with the area held and the rent payable by each to elaborate statements of demand and collection arranged status by status and raiyat by raiyat. Strictly speaking the production of existing documents only could be enforced, but as nearly all zamindari accounts in Orissa are kept on palm-leaves which were very bulky and inconvenient to handle it was the practice to demand extracts in some fixed form.

This procedure necessarily left room for misrepresentation and collusion, but it is very doubtful whether the proprietors could have been induced to give up their original papers while they could generally be made to bring them at the time of attestation when so required.

The *amin* when going to the village took with him these *ekpadia* papers which formed the basis of his *khatians*, no deviation from the names given therein being allowed except with the consent of both landlord and tenant, or on the orders of the *khanapuri* officer. †

Distribution of *parchas*.

401. *Parchas* showing the name of tenant and numbers of field were preparad in the season of 1891 by the Survey Department and issued to the tenants, except in the Rahang, Serai and Chaubiskud Circles. Mr. Reily considered the information given to be insufficient and prescribed a counterfoil *jamabandi* slip showing the class of holding, the boundaries of the field, the nature of the crop grown, the area, and the rent as stated by the landlord and by the tenant.

Before commencing *khanapuri* in 1891 the *amin* gave to each tenant a *parcha* foil taking a receipt on the counterfoil, and entering on both the tenant's name. As *khanapuri* proceeded he entered each field in the counterfoil and in the *parcha* produced by the tenant. When the next field was found the tenant produced his *parcha* to have the field shown on it. At this stage the column for area was left blank to be filled up at attestation. ‡

In the seaon of 1892-93, arrangements having been completed for the extraction of areas in the field, an attempt was made to collect the *parchas* before the *amin* left the village in order that the areas might be entered in the camp office and the *parchas* returned to tenants in time to allow of their verification before the final attestation of the village. This plan was not, however, successful and was

* Letter No, 732, dated 26th December 1891, from Colonel Sandeman to the Settlement Officer.

† See Appendix B. II., Rule 16.

‡ See Appendix B. III., Chap. 4, Rule 3.

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abandoned before the end of the season. The collection of *parchas* created a panic in the minds of the raiyats and the re-distribution was accompanied by great corruption.

Down to the end of the season of 1893, *i.e.*, during the whole time of *khanapuri* in the Cuttack and Puri Districts, the *amin* was required to obtain the signature of both landlord and tenant to the *parcha*, and if he could not do so, entered the holding in the dispute list for the orders of the Assistant Settlement Officer.

During the season of 1892-93 the columns for rent and status were filled up by the *amin*; in 1893,94 they were filled up by the *khanapuri* inspectors; and from 1894 onwards were left blank to be filled up at attestation.

Entry of status by *amins*.

402. It has always been held that the entry of the status of a tenant cannot safely be left to an *amin*, but must be personally attested by a revenue officer in the case of every raiyat, and rule 15 of the Rules 4th March 1892 runs thus: "The survey *amins* will in no case enter the status or length of occupancy of raiyats".

In the next season it was proposed that the preliminary attestation of the record and the *khanapuri* should be combined into one process, and the *amin* was required to enter both the status and length of occupancy of each tenant. In the rules for 1893-94 however it was provided that all entries of status should be made by the *khanapuri* inspectors. This rule was withdrawn in March 1894 and the only entry of status made at the *khanapuri* was in the remarks column of the *khasra*.*

The reason that appears to have influenced Government in arriving at this decision was the fear that tenants would not rightly appreciate the importance of the correct entry of status, and might not perhaps understand the meaning of the entries made. During the recess of 1893 Mr. Maude took very great pains to draw up the rules in as complete a manner as possible. I wrote to him as follows :—

"As regard status I cannot see any necessity for an entry by the *amin* as to a raiyat's status for every field recorded in his name. The Assistant Settlement Officer has each raiyat up before him at attestation in the persence of the zamindars or his agent and in the presence of his fellow raiyats with all his proofs. A few questions will elicit his status and the Assistant Settlement Officer can record it with his own hand once for all in the *Khatian*".

On the other hand it was impossible, without a previous entry of status, to prepare separate *khatians* for the lands held by a tenant under different titles, and in fact Mr. Finucane's rules of March 1892 appears to have contemplated the inclusion of lands of all descriptions in the occupation of a single tenant, even of those held under different landlords in one *khatian*. The *khatians* so prepared represented no *holding* and were incomprehensible alike to landlord and tenant. There can be but little doubt now that by far the best plan would, where the *amins* could not be trusted to enter status correctly, have been to have left the preparation of *khatians* to be made in an attestation camp.

Entry of rent at *Khanapuri*.

403. In the season of 1891-92, *amins* were absolutely forbidden to make any entry of rent, the revenue officer being required to ascertain and enter the rent himself. For convenience, however, this order was commonly disregarded, and by the rules for 1892-93 *amins* were required to enter in the *khatian* and *parcha* the rents stated by landlords and by tenant, and to note in the *khasra* the rate of rent if known.

In 1893 the whole question of the entry of rent and status in the field received the special considration of Government in connection with the Bihar survey, and a long succession of changas were made in the rules.

In August 1893 I gave my opinion that—

"The record of rates of rent in *khasra* and rentals in *khatians* by the *amins* have been useless for the Assistant Settlement Officers's purpose. Such entries are made by the *amin* in collusion with raiyats and zamindars and have a fruitful source of illicit gains. It has been my experience that zamindars often put one rate of rent of the *khasra* which if multiplied by the *ekpadia* area would give a different rental from what is stated in the *ekpadia*, and again a different one from that entered in the *khatian* and different from that ascertained at attestation by the Assistant Settlement Officer".

* See also para. 429.

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