VOLUME 15

The Ramadhyani Report

R. K. Ramadhyani, I.C.S. — Report on Land Tenures & the Revenue System of the Orissa and Chhattisgarh States: General Report, Draft Revenue Law, Individual States

15

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REPORT

ON

LAND TENURES & THE REVENUE SYSTEM

OF THE

ORISSA AND CHHATISGARH STATES

BY

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PART I.

CHAPTER I.—INTRODUCTORY.

Terms of Reference.—The terms of reference of this enquiry had not been settled at the time of my appointment, and in the communication regarding the creation of this post for examination of the land tenures of the Orissa and Chhattisgarh States, I had instructions to proceed to Simla to take charge of my office and discuss the terms of reference before proceeding to my headquarters at Calcutta. At Simla, where I arrived and took over on the 6th of August, I had a number of discussions with the Political Adviser to His Excellancy the Crown Representative, Sir Francis Wylie, after going through the report of Mr. Bowstead in connection with the Orissa States and certain other papers given to me. After these discussions, the Political Adviser gave me a confidential note laying down in broad outline the needs of the case, and suggesting some of the main points to which he expected that the enquiry would provide an answer. It was suggested in this note that the actual terms of reference should be drawn up at Calcutta where Col. Barton's (the then Resident) local knowledge would be available. It was also suggested that I should take into account the systems in adjoining provinces in view of the possibility of the States one day disappearing and forming part of the adjoining provinces, and that I should accompany my report with draft laws. This important note which formed the basis of my final terms of reference, and in some ways forms the real terms of reference, is reproduced as Appendix I. I arrived at Calcutta on the 13th August.

The terms of reference, as drawn up at Calcutta and approved by the Crown Representative for communication to the States, were as follows:-

"To examine and report on (1) the revenue history and existing systems of land tenure from the point of view of cultivators and proprietary interests, if any, (2) the existing systems of settlement and the assessment of land revenue on land under cultivation, waste land and land converted for non-agricultural purposes, (3) the system of collection of land revenue and village management, (4) the existing revenue and tenancy (including land acquisition) laws and procedure, (5) generally all other matters affecting the interests of agriculturists such as grazing, forests, nistar etc. In making this enquiry the Officer on Special Duty will study and take into consideration the revenue history and systems obtaining in adjoining provinces.

In obtaining the Crown Representative's approval to the communication of these terms of reference to the States, it was explained that the points mentioned in Sir Francis Wylie's note would form the confidential background to these terms and I would be guided by it.

2. While there are points of similarity between the twentythree States constituting the Political Agent's charge in Orissa, and the sixteen States of the Chhattisgarh Agency, the reports on the individual States will show clearly how many dissimilarities exist which need to be taken into account in drafting a law or laws. In fact there was no material available in sufficient detail to show clearly the similarity and without a study in considerable detail it would have been a rash act to attempt to frame a law. Mr. Bowstead in para 7 of his report [F. 22 (4).P./40] wrote that the States may broadly be said to follow the Orissa Tenancy Act, the Chota Nagpur Tenancy Act and the Sambalpur manual, but the observations recorded by me show that this is indeed an extremely broad statement. Perhaps in view of this statement, but most probably because my terms of reference had not been clearly framed at the time, the term of my post was sanctioned in the original order of appointment for a period of three months in the first instance. It was also expected that it would be possible for me to make an adequate report after visiting some of the States in the Agency only. I pointed out to the Resident however that the examination of the revenue affairs of so many States in the conditions which seemed to me to exist in the States on paper only, was most undesirable, and pressed that I should visit every State for at least a day each, in order to make personal observations to supplement information

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available on paper. On this basis, it was agreed that extension of my term up to the end of March 1942 should be recommended. Later, I found that it was hopeless to attempt to collect information in one day in the conditions prevalent in the States. The States were not exactly enthusiastic about giving me information, and in fact an officer in the States with any real knowledge of the revenue system of the State, often itself an interminate matter was a surprising exception Many of the States had complications in the shape of zamindaris and numerous other tenures, the position about which was either unknown, or no definite information could be furnished immediately, rules and regulations, if any, were often only on paper. I was compelled therefore after visiting Seraikela and Kharsawan in October (1941), to ask for an extension of my term till the end of June 1942, and later, on account of my illness which prevented touring, till the end of July 1942 (Even this has proved inadequate). The comprehensive terms of the enquiry, the number of States covered and the complete—consistent with the time taken—examination made of the affairs of each State will, I hope, show clearly that my task has been far from easy, in spite of the extension of time granted. In fact, the nature of the enquiry in the conditions prevalent in the States demanded much more time for one who would undertake the responsibility of drafting a revenue law. Had I not visited all the States and made personal enquiries and observations but attempted to collect information through correspondence, I have not the least doubt that little useful information would have been obtained ; even the few simple statements which I obtained from the States by correspondence showed such curious interpretations and misunderstanding that to obtain the bulk of the information I required would have been a hopeless task. No unnaturally, the States have a tendency to show in correspondence that there is nothing wrong with their affairs, and if their statements and reports are accepted at their face value, one would come to the conclusion that this enquiry is a waste of time and money as well as an unpardonable intrusion into their internal affairs. My insistence on visiting every State in the Agency was, I think, fully justified and such visits were absolutely necessary. It may be pointed out here that Mr. Bowstead who had previous acquaintance with the States considered a special visit to every State in the Orissa Agency necessary for his enquiry.

3. *Mode of Enquiry difficulties and limitations.*—Being unacquainted with the conditions in the States except to the limited extent provided by the reports of Messrs. Bowstead and Lothian, and certain notes Sir Francis Wylie had made after his tour in the Agency (which, in fact, gave me the first real picture), I had to make a preliminary study of the gazetteers and such other literature as I found available on arrival at Calcutta. These of course provided me only with a certain amount of historical material. The States had been asked to provide reports showing the revenue rules and regulations existing in their States and these meagre replies helped me to get an idea of the 'revenue laws' of the States, as Mr Bowstead courteously called them. As the rains were at their height when I took over, and touring except to a very limited extent was not possible (most of the States cannot be reached except after November and some only after December), I utilised the two weeks of August left and the whole of September for a study of material available and the making of rough notes.

This preliminary study helped me to decide on the mode of enquiry and I requested the Resident to inform all the States that my study of the revenue system would include an examination of actual case-work in the revenue courts, where necessary, as well as a perusal of old records. I proposed to study the revenue system in the States by catechising the local officers and others who could be expected to know the system, by a study of actual cases, and finally, by visiting as many villages as possible and questioning the villagers. This afforded three different sources of information which, apart from supplementing one another, acted as a check, and also showed that what is found on paper can be widely different from what actually happens or is practised and that reliance on any one source of information, particularly the officials, would have resulted in total misimpressions and inaccuracies. The limited use of the officials in obtaining

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information was pointed out by Sir Francis Wylie in his note of his tour in the States. The officials were particularly annoying when, as happened occasionally, they did not know the revenue system well but were unwilling to admit this and persisted in answers which were obviously wrong and which later they themselves were forced to withdraw. The proposal to investigate the revenue affairs of the State had a used no little resentment among the Rulers and real co-operation was perhaps hardly to be expected. Except in a few States most of which were under administration, there was no attempt to give me information which I did not directly ask for; even some of the Superintendents of States under administration were inclined to feel that any facts which they thought might come under criticism would be a reflection on their own administration and often gave evasive replies. What success I achieved in getting information from the States was therefore by not giving the least expression to any sort of opinion, and making it clear that what I wanted was facts and I had no opinion of any sort to express before studying the whole system and viewing it in its correct perspective. In spite of the fact that after I commenced touring in the States, the Rulers and officials exchanged information secretly about what I did and what information I collected on tour and even circulated detailed lists of questions asked, the position was not altered considerably. While, on the whole, the States supplied me at least the information I directly asked for, without placing any serious obstacles, in one State the Dewan resented the idea of my getting cases picked at random for perusal, and desired that I should see only those selected by him, remarking that this was not an inspection but a case of obtaining such information as was given. Apart from these matters, no settlement reports were to be found in Hindol and Bastar, (except in diffuse form) and Sonepur and in some States like Changbhakar the settlement report was anything but informative.

As regards the cases, while in a number of States which have recently been under management or are under management, records are satisfactorily maintained; in others like Sonepur, Tigiria, Surguja and Kawardha records could only by courtesy be termed as such, and I found great difficulty in examining such as were available. The deposit of records in the record room in all except a few States was unsatisfactory and records of any particular kind could be obtained only after a laborious examination of a serial register in which they were all entered in rough chronological order. In Sarangarh the greatest difficulty was experienced in this respect, and in Sakti it was admitted that there were no proper records of cases started for recovery of revenue but only a pile of warrants; in Surguja there has been no record room so far. Cases examined by me were of course few in number and picked at random.

In visiting villages I tried to visit as many as I considered necessary to give me an idea of the different kinds of tenures and generally one of each kind was visited. These naturally had to be either on motorable roads or at short distances from it in view of the limited time at my disposal, (the longest stay I made was four days, in Surguja, and the shortest a few hours each, in Tigiria and Chhuikhadan) and I could not of course visit those remote places the *thekedar*, the travelling constable and the tiger hold more or less undisputed sway. I visited however the *juangpir* in the Keonjhar State, or rather the outskrits of it, and was able to see this stronghold of shifting cultivation. A visit to the distant zamindaries would, I have reasons to believe, have brought surprising knowledge, On the whole, I visited about 140 villages during my tours. I must mention here my illness which necessitated an operation in December 1941 and which, for the major portion of my tour, prevented any great physical exertion (In spite of this I think many of the State officials wished I was less energetic !).

While I have spared myself no pains to ensure accuracy in the information which I have collected, I must point out that in the conditions prevalent in the States limitations cannot perhaps be avoided. As I have already mentioned, officers in the States knew little of the system or what was going on under their noses, and my enquiry brought to light many a fact unknown to them; some of the information obtained from this source could not occasionally be verified. Orders, proclamations and notifications,

modifying or cancelling previous ones which perhaps existed on paper, (and some of the newer ones only exist on paper), have followed one another with bewildering rapidity particularly in the last three or four years in some States. In the last three or four years also, many real changes have taken place and the position has been one of flux, though in view of tendency to stampede, the States were advised not to make changes till this enquiry was completed and the Crown Representative's orders were obtained on the report. In addition there has been the tendency for *suppressio veri* and the general hostility towards this investigation. Nevertheless I can assert confidently that the facts reported are correct and inaccuracies, if any, may be found only in immaterial detail, and the responsibility for any such will obviously be on those who gave me the information. This does not mean that if the report is published there is not much material which the States will not indignantly repudiate or attempt to put a different aspect on; I have met hot denials of facts brought to light during my investigations already. The fact, however, is that none of the investigation was done except in the presence of officers of the States, and notes were dictated to my stenographer within their hearing, and often with their approval. In Dhenkanal the Raja Sahib himself was kind enough to take me to some of the villages; in Seraikela, the brother of the Ruler, and in Talcher, The Pattayet Saheb, accompanied me to the villages; in Sakti and Sarangarh the Jubraj was present during part of my enquiry. In fact, preferred to have an official of the State with me, as then, I could be certain of immediate contradiction if any untrue information was given by the villagers.

4. *General Background.*-The affairs of the Orissa States were brought sharply into the limelight by the happenings in the States of Dhenkanal, Ranpur, Nilgiri and Gangpur in recent years and the publication of the Orissa States Enquiry Committee's report in 1939. Following this, Mr. Bowstead was appointed to enquire and make a report. In para 48 of his report [In F.-22 (4)-P/40] he remarked, "With a self-contained administration for each State, however small its income, the quality of administration must depend to a very great extent on the personality of the individual Ruler and the smaller States start with a greater handicap than those with larger income*** The incidence of taxation is not as high as in British India and, in spite of what has been said to the contrary I consider that the general condition of the tenants is certainly not worse than in the neighbouring districts of British India. They have, moreover, a definite advantage in having simple revenue laws and in not having the complicated system of tenures which is prevalent in British Orissa where there are often three or four intermediaries between the State and the actual cultivators". The first portion of Mr. Bowstread's conclusion seems to be contrary to some extent to the rest of it. According to the second portion, in spite of a higher taxation, the administration of British India has not secured anything better for the tenants than in the States and in spite of a lower taxation all that can be said for the States is that the condition of the tenantry is not worse than in British India. In the first portion it is admitted that there are factors which are not conducive to sound administration. Mr. Bowstead has however come to the conclusion that it seems essential that some of the smaller States should combine if they are to keep abreast of present day conditions. The essence of the problem seems however to rest largely upon the fact that none of the States in the whole Orissa and Chhattisgarh agency can on its present revenues, afford to maintain a Prince with ruling status, as well as an efficient administration without limitations one way or the other. The princely status of some of these far from princely dominions has been a fortunate accident for them while many others with larger area as well as income have had to be content with the status of mere zamindaris. Even without personal vagaries, the princely status often results in the expenditure of a larger proportion of the State revenue than is justifiable, on matters not leading to an efficient administration. Under pressure from the Political Department, - unfortunately that pressure has been too light in the past— the tendency for a Ruler is naturally to try and maintain his own standard as well as provide an adequate administration; this can scarcely be done except by increasing the burden of taxation on the people in various ways

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proper and improper, and augmenting the revenue. In most of the States there has been a tendency to extract the largest revenue possible but it cannot be said that a serious attempt has been made to provide an adequate administrative machine. It is this tendency which must be carefully borne in mind in dealing with any matter connected with petty States which cannot yield a large revenue. It is as a result of this tendency that there have been so many monopolies, export duties and royalties in the recent past and to some extent exist now; it is chiefly on account of this fact that settlements of land revenue are more frequent than in the districts, that there has been no revenue law which would tie down the Rulers' hands, that there have been and are so many cesses and exactions and numerous corrupt practices. The facts mentioned in my individual reports on the States should enable one to judge, whether the opinion that the general condition of the tenants in the States is certainly not worse than in the neighbouring districts of British India, is justified, or not. (Personally, if I was offered the choice between being a tenant in these States and in the neighbouring districts I would not be long in making up my mind !). Mr. Bowstead has stated that the States have simple revenue laws, actually not one State in the whole Agency had anything which could, except humorously, be called a 'revenue law'. All that exsited was a list of practices or rights jotted down in the course of a settlement report by the settlement officer, or a document of conditions imposed on the headman of a village, these extending to an enumeration of the rights and liabilities of a ryot as well, in some cases. The Sonepur and Talcher and other 'laws' are examined by me in the individual reports. (Some of the States—Narsingpur, Hindol and Patna—introduced revenue laws for the first time in 1939-40). It is to me surprising that these should be considered adequate, even more advantageous. In some States such as Nilgiri, Baramba, Korea Rairakhol and Surguja even these do not exist. (Mr. Bowstead's remarks did not apply to the States of the Chhattisgarh Agency) Apart from imposing conditions on *thekedars* and others, these never had the force of a law and in fact were often mere agreements between the *thekedar* and the State. There was nothing to bind the State's relations with the ryots, regarding the methods of recovery of revenue, or the procedure of revenue officers and others. Such a state of affairs, in fact, far from being simple or advantageous, allowed the Rulers full scope to do what was financially advantageous to them, and even the meagre *wajib-ul-arz* or *patta* was not proof against anything which the Ruler chose specially to do. There are many people who complain about the intricacies of the law in the districts, of the machinations of lawyers and pleaders, and contrast the conditions there with the happy position prevalent in places where there is comparatively little legal administration and simple *ma bap* rule prevails such as in the Santhal Parganas or Kondhmahals. While certain laws in British India have certainly become rather complicated on account of experiments tried and mistakes made by early administrators, I fail entirely to see eye to eye with those who hold that legalisation has resulted in much evil and believe in *ma bap* rule. Such a view is held mostly by persons who hate the mental effort required under a legalised system and find it delightful to administer according to momentary needs and impressions without legal fetters. That such a system is bound to result in a mess in the long run it is hardly necessary to point out; it can be seen in many places. Different Rulers and officers have different ways of dealing with things as well as different outlook and background, and much of the difficulties felt in British India can, I think, be traced to *ma bap* rule in the past. In any case, whatever can be said in favour of such administration, it is entirely unsuited to the needs of the States While officers without local interests who may be expected to administer an area with paternal benevolence may succeed in keeping the people in their charge happy and prosperous, such a thing cannot be expected in these States except under a very exceptional Ruler. As Mr. Bowstead himself says the quality of the administration must depend to a very great extent upon the personality of the individual Ruler; and I think it can safely be said that a Ruler who is a successful *ma bap* is indeed very exceptional. The "hash" which many Rulers, who have received a satisfactory education and training, have made of their affairs shows that the

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circumstances and atmosphere surrounding them are such that it can only be a very exceptional person who can wield autocratic powers without abuse. Besides, in these States with far from princely revenues, efficiency of administration cannot well go hand in hand with a large privy purse, and generally the interests of the people become opposed to the interests of the Ruling Chiefs. As the Ruling Chiefs have the advantage of wielding powers over their subjects with comparatively little restriction, the result is that these powers are wherever possible likely to be made use of to extort the maximum revenue possible If this clash of interests is borne in mind it will be seen at once that restrictions upon transfers of land, upon the cutting of trees, upon adoption, and numerous other items some of which may be considered desirable in the interests of the persons concerned by well meaning people, assume a sinister singificance (See reports on Kanker and Nilgiri for *nazranas* even on improvements) The restrictions are usually inoperative even when they are salutary if there is sufficient lucre in the matter and, in other cases, are definitely made use of, and likely to be made use of, for the purpose of augmenting income. In this category also come the reservation by the Ruler of powers of appointment of village headmen or disposal of villages and lands, and the numerous *salamis* and *nazranas* and *begars* levied so commonly in the recent past and prevalent to an appreciable extent even now As will be seen in the individual reports on the States, in several of the States these *salamis* and *nazranas* constitute the personal income of the Ruler, and either do not enter the treasury of the State at all, or do so only as a personal deposit. Not only the Rulers but zamindars, *thekedars*, *gaontias* and other salso make use of such powers for similar purposes. In the past, it was common for a Ruler, a zamindar, or even a *thekedar*, to levy anything from the people at will for almost any purpose, so long as they were powerful enough to do so, and relics of these numerous imposts (*mangan*, *abwab*, *patta* etc.) are to be seen today. The principle of fixity of land revenue during the currency of a settlement is probably regarded as a nuisance and the States endeavour to carry on the old practices by giving them different names such as cesses. (The tendency to call something objectionable by a different name has often caused me amusement in the States). Thus, while nominally fixing the land revenue for a period, the States leave themselves free to impose cesses at any time in spite of the fact that the cess as well as the land revenue has to be paid from the same sourse of income. The Forest Adviser of the Agency wrote in respect of the forest management of one of the States that the administration was a mere matter of rupees, annas and pies, and this could be said with much greater aptness of the revenue administration of most of the States. If these features are appreciated it will be obvious how urgently necessary proper revenue laws are in order to protect the interests of the cultivators and give them adequate security. At present, orders, if committed to writing at all, are occasionally changed even before they become properly known and in many places the position is so uncertain and fears of punishment so great, that even if a restriction has been removed, the people ofter hesitate to avail themselves of a concession for fear of making a mistake. One of the prominent complaints in Dhenkanal and Nilgiri, is the frequent change of orders. In Bonai, the ban on bullock carts using the road which was lifted seemed to have been reimposed orally later as the people told me that the previous '*hukum*' was cancelled and they, were told later by the police not to use the roads (the new Dewan was with me at the time). If it is desired to make the ground infertile for agitation it is essential to see that the numerous irksome restrictions and levies which bring in little revenue and cause a great deal of irritation are removed.

Another important feature of the administration of the States to be borne in mind is that a law or rule can remain in existence only on paper. In fact in some of the States, many rules and regulations which exist are often not strictly followed. The individual reports will show instances where one thing is written and a quite different thing done in practice. The rules are not regarded as having the inviolability of laws and any deviation can be permitted by the Ruler, and is permitted without hesitation often, in circumstances the impropriety of which can scarcely be questioned.

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Finally, in all these States the Rulers themselves administer the various laws and rules, the administration of which, apart from the strong desirability of an agency not so directly interested in the issues as the Ruler, requires special training and experience. A great deal of improvement has been effected in the last three or four years and the very institution of this enquiry has had a salutary effect in many ways, but I fear that it will be only a passing phase (the Ruler of Dhenkanal told me that all this interference in their affairs caused by Congress agitation would last but a few years), unless steps are taken to provide a regular law and machinery for its proper and efficient administration. These to my mind are the considerations to be borne in mind in tackling the problem of these States.

CHAPTER II.—THE REVENUE SYSTEM OF THE STATES.

5. *The Territorial and Historical Position.*—The thirtynine Orissa and Chhattisgarh States included in the Eastern States Agency, which form the area covered by this investigation are usually considered as falling into three broad territorial divisions according as they may be regarded as a part of the Chhattisgarh plain, or the present Orissa province or areas contiguous to, or forming part of, Bihar (Chota-Nagpur). The Agency itself is divided into two parts, under two Political Agents, and one of them is regarded as the Chhattisgarh area, and the other, as the Orissa States. In the Chhattisgarh area, the States north of Raigarh, *viz.*, Udaipur, Jashpur, Surguja, Korea and Changbhakar, may either be regarded territorially as a portion of Chota-Nagpur, or, particularly Chang bhakar and Korea, as a portion of Central India and the Central Indian States. Among the States included in the Orissa Political Agent's charge, Gangpur, Kharsawan and Seraikela really adjoin the Chota-Nagpur plateau and the latter two States, in fact, form a part of that tract. Roughly speaking, the Orissa States are contained in the hilly area between the great Chhattisgarh plain and the delta of the Mahanadi. This area consists of a mass of hill and jungle and may be regarded as the backwaters of colonisation by the Hindu settlers and, probably, was among the latest areas in India to be colonised by advanced Hindu settlers. Into the seclusion of the mazes of hill and jungle comprising the area of the States retreated the primitive tribes consisting of Kondhs, Kawars, Sawras, Bhuyans and others, before the advancing waves of Hindu colonisation. The fertile Chhattisgarh plain and the Mahanadi delta were naturally occupied first by these settlers, and the primitive tribes, which were not absorbed into the Hindu-fold, retreated and settled down in areas least disturbed and least attractive to these early settlers. This is true of the Chhattisgarh States as well and practically all of these States consist of hilly and inaccessible areas. Apparently, however, the tribes did not remain undisturbed for long. As the population increased, and probably as the result of changes taking place in Upper India on account of Mohammedan incursions and changes in kingdoms brought about thereby, a number of soldiers of fortune and princes without thrones who happened to visit Puri on pilgrimage found that these areas were easy to acquire and to hold. The aboriginal Kondhs, Sawars and others who inhabited and ruled over these areas, were either driven off or subjugated by these founders of new kingdoms. The early history of many of the Orissa States indicates that this is how they came into being.

Though the States are regarded as territorially forming part of the Chhattisgarh plain of the Central Provinces, or the Chota-Nagpur plateau, or of Orissa proper, other considerations do not reveal unmistakable affinities with these units in all cases. It is true that an appreciable number of Mundas and Oraons are to be found in the States adjoining the Chota Nagpur plateau or included in it; it is equally true that there are movements of population to some extent between these areas and political movements in the Ranchi district have found a reaction in the neighbouring States. But the population of Gangpur and Bonai speaks Oriya predominantly either as mother-tongue or as a subsidiary language, in Seraikela and Kharsawan also a large proportion of the non-aboriginal population is Oriya-speaking and the official language is Oriya. The Patna and Kalahandi States, which have long been under the Central Provinces Government, are still included in the Chhattisgarh agency though predominantly

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Oriya-speaking and having racial affinities with Orissa. Politically, all the States of Orissa (except Seraikela and Kharsawan) as well as States like Jashpur, Surguja, Changbhakar and Korea which may be regarded as part of Chota Nagpur, were under the Marathas before they came under British control in 1815 and 1818, and have therefore been under Nagpur influence. Under British suzerainty, the Sambalpur Garjhat States of Bamra, Sonepur, Patna, Rairakhol and Kalahandi were for a long time attached to the Central Provinces, while Surguja, Jashpur, Udaipur, Korea and Changbhakar were for a time regarded as Chota-Nagpur States and attached to Bihar and Orissa along with Gangpur, Bonai, Seraikela and Kharsawan. The whole province of Bihar and Orissa was formerly a part of Bengal and the Bengal Tenancy Act has exerted considerable influence on tenancy legislation in Bihar and Orissa. The Chota-Nagpur Tenancy Act of 1907 is a Bengal Act, and the Orissa Tenancy Act of 1913 is similar to this Act in many ways. While in the absence of their own laws, officers in the States and Superintendents of States under administration have sought guidance in these Acts and the Central Provinces Land Revenue Act and Tenancy Act in the western States of the Agency, it will be seen later that these laws have not been followed sufficiently closely to mould the revenue system accordingly, and the present position in the States is radically different.

6. *The Origin of Land Revenue.*—To return to the early history of the States, the petty rulers who hewed out kingdoms for themselves, though they imported a higher civilisation into these backward areas, do not at first seem to have taken any steps to introduce any organised system of management, and it is very likely that the old tribal system of villages, managed almost entirely by village headmen, survived undisturbed for a considerable period. All that the early rulers were interested in primarily was to obtain sufficient revenue for themselves and for the purpose of setting up defences against neighbouring monarchs whose ambition could at any time result in an attempt at enlargement of their territories at the expense of neighbouring princes. Under the old Hindu system as devised and expounded by Manu, proprietary right in land of the persons who settled on that land and made it fit for cultivation was recognised by the kings who claimed only a portion of the revenue, but it is doubtful if this principle was ever recognised in the Orissa States though most of the Rulers claim Rajput origin. The question cannot in any case have been a troublesome one in those days when the sword was the final arbiter in most matters, and almost certainly, the revenue system was simply that of making certain demands upon the village headmen who were left to distribute the burden of the demand upon the cultivators in their village in any manner they considered suitable, this being more or less on a par with the *takoli* or quit-rent payable by zamindars or the tribute paid by the Chiefs to the paramount power, in which a detailed consideration of how the amount was raised does not find place. Thus there was no system of assessment of revenue by the State. Each village was probably called upon to pay as much as it would bear and agreed to pay, without, of course, any understanding that there would be no additional demands for special occasions or special reasons; but probably the villagers agreeing to original demands must have anticipated that this was not the only burden. In those early days (even now in many of the States), there was more land for cultivation than cultivators available, and the possibility of cultivators pressed by too heavy a demand throwing up their cultivation and settling in other areas must have acted as a salutary check upon the capacity of the early rulers; also, the village headmen frequently wielded considerable power and could easily create trouble, so much so, that even the Maratha Rulers often took their advice. As regards the distribution of the burden of a village among the cultivators, though a village might have consisted of cultivators as well as agriculturists and other artisans, the burden would naturally be borne by the agriculturists proper only. In those days there can have been extremely few agricultural labourers, and the artisans who formed a part of the village organisation were almost entirely maintained for their purposes by the cultivators of the village, and consequently it was only the cultivator who could bear the burden of taxation. This, incidentally, seems to be the origin of the rent-free holdings

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enjoyed by such people as blacksmiths, graziers, carpenters and others, and even today, in a number of States, such village servants are appointed and removed by the villagers. The demand on a village must therefore have been distributed entirely or almost entirely among the cultivators only whether it was intended by the Ruler that the demand on the village should be an agricultural assessment or not. This, as far as it is possible to look back into the past, seems to have been the origin of land revenue assessment.

7. *Early assessments.*—Regarding the distribution of the assessment among the individual agriculturists, it is somewhat doubtful if any systematic distribution was made among aboriginal cultivators practising shifting cultivation. Even to this day in the areas in the States where shifting cultivation is practised such as in the *juangpir* of Keonjhar State the distribution of the village assessment among the individual cultivators is made by the village headman who makes use of his local knowledge of the ability of each cultivator to pay and, probably, the area of land, allotted to him for cultivation every year. In other areas where cultivation was more or less settled, the seed capacity of a field was the unit according to which assessment was made. Reckoning by seed capacity is, as I have found, extremely widespread and stretches right from the Nagpur-Maratha plain to Orissa and the sea. Even to this day cultivators in most parts of the Chhattisgarh plain, including the States adjoining Bihar, express the size of their fields in '*khandis*' seed capacity. The origin of this system of reckoning seems to be the idea that only a certain limited quantity of seed can be shown on any given area if it is to produce a maximum return for the quantity sown, depending upon the quality of the land. The fertility of different soils was well known and fields were known by different local names. The advantage or disadvantage of position was also appreciated but, in the backward areas, combinations of both factors seldom seem to have been made use of to determine the paying capacity of the land. The estimate of area by seed capacity (paddy) seems to be fairly uniform everywhere and, roughly, a '*khandi*' is equal to about two-thirds of an acre. Another system of estimation of the magnitude of holdings was the plough capacity, that is, an area which could conveniently be ploughed with one plough and a pair of bullocks (? in a day? *cf.* a "hide") was taken as a unit for comparative purposes. This method of reckoning is neither as common nor as widespread as the seed capacity method and is also definitely less reliable as the area which can be ploughed with one plough and pair depends on the nature of the soil and the surface and larger areas of light soils on flat fields can be ploughed than heavy soils or hilly surfaces. Thus the plough area varies in different parts and may range from 7 to 15 acres. Moreover, this method does not seem to be an indigeous one, and was probably introduced largely by settlement officers used to that system from settled districts elsewhere, after the commencement of British rule. In Berar, reckoning by *tiffan* which is a kind of plough or horrow is common and seems to be an old practice. The only other area which I am personally acquainted with where plough capacity is used are the Chhattisgarh districts of the Central Provinces where the practice seems to be of recent origin as *khandi* estimation is also used by villagers. In Bastar, the Gazetteer account of early settlements shows that the settlement officer first of all ascertained the seed capacity of fields and converted this system into a system of measurement by plough capacity. Other Chhattisgarh States settled by people with experience of the Central Provinces show similar procedure. In the unsurveyed areas of some of the States, enquiry elicits that the services of a *panchayat* of villagers and headmen were made use of in settling individual assessments though it could not be ascertained if the system is of great antiquity. A sort of *panchayat* system was definitely made use of in the Central Provinces during Maratha rule as the report of Sri Richard Jenkins (Report on the Territories of the Raja of Nagpur) shows.

8. *Moghul and Maratha influence.*—Whatever the system of distribution of assessment among the individual holdings was in the very early days, no attempt seems to have been made as far as our information goes, to evolve any regular system of assessment which was approved by the State. As comparison of areas obtained by survey with the old estimated areas shows, the old estimates were often grossly inaccurate and the

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assessment was also haphazard, so that many a cultivator paid whatever was not too burdensome without any real relation to the area or quality of land by him. In the areas conquered by the Marathas and administered by them, detailed assessment and measurement of fields as in the Moghul system of Raja Todarmal was not made. Distribution of assessment of a village was left to the village headmen who may have proceeded either on the basis of rough measurements with a pole, or, probably by combining their experience as cultivators with an eye estimation of the area and agreement with the ryot. The system of distribution, in areas regularly administered by the Marathas, was to allot to each field and holding a certain factor, which depended upon the fertility of the field, its position and area. When the assessment of a village became known the revenue payable by each field in the village was ascertained by making use of this factor. Under the Maratha system the assessment of a village was not known before the harvest, and it was finally announced only after the nature of the season and the quality of the harvest became known. Consequently, a cultivator did not know the exact amount he would have to pay but only the proportionate part of the whole burden he would have to bear. Thus, if the factor allotted to a certain field was one anna, its actual assessment would be twice as much as a field with a factor of half-anna. The cultivators expected of course that the burden would be more or less the same as in previous years, subject to small fluctuations on account of either an exceptionally good crop, or a poor crop, or some special need of the administration. Here again, on account of the paucity of cultivators, the fear of cultivators abandoning the fields and settling in other places must have acted as a deterrent against oppressive assessment. The Marathas are reputed to have recovered enormous amounts from cultivators and this seems to have been possible only on account of their varying the assessments in accordance with the season, *i.e.*, if the season was good the assessment was high, and if the season was poor, the assessment was correspondingly light. In the Maratha system, the procedure was from aggregate to detail, that is, the total sum required and expected by the administration was ascertained first, and this was then divided among the numerous fiscal divisions called *parganas*, in the first instance. The *pargana* official divided the amount assessed on the *pargana* among the villages in consultation with the village headmen who, in their turn, announced the assessment of individual fields. This system of assessment does not seem to have penetrated the States to any considerable extent though in a few States of the Chhattisgarh Agency, or adjoining Sambalpur, there is evidence of its adoption. Even the system of measurement of Raja Todarmal was confined mostly to the developed areas of Orissa, and the hilly areas were left almost entirely untouched, except for a small portion of Keonjhar State. The inaccessible nature of the country comprising the States is of course responsible for this, and it is also suggested that the Marathas were simply interested in recovering as much revenue as possible from Orissa and troubled themselves very little with the administration. It may be assumed however, that in common with the fertile tracts of Orissa, detailed assessment of lands was made by the headman or *pargana* officials with the aid of a *panchayat*, probably on the seed capacity of the land and its quality as locally known. According to Maddox's settlement report of Orissa dated 1900, the earliest record of the system of land revenue collection prevalent in Orissa was given in a note recorded by Mr. Wickets in 1831. This note describes the zamindar in person,—where there was no intermediate tenant or gumastha patwari in mukadami villages the mukadam, and in sarbarakari villages, the sarbarakar—as taking with him the papers of the previous years and summoning the ryots; each was questioned as to the quantity of land he cultivated in the past season, if the answer was that he tilled the same as in former years, and there was no reason for supposing that he tilled more, that quantity was entered. In case of doubt or dispute the other ryots and headmen were appealed to, and the area as finally settled was entered in the records. Thus, the sytem was more or less that of entering what the ryot had paid in previous years or agreed to pay.

9. *Settlements during early British Period.*— After the establishment of British rule, as already stated, development in the States followed to

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some extent the development of the province to which they were attached for administrative purposes. This happened to a marked extent in connection with settlement of land revenue. Before the establishmeat of British rule, it does not appear that any attempts at regular settlements were made in the States though in Orissa the Moghul system of settlement prevailed and, in the Central Provinces, the Maratha system was prevalent. It is practically certain, as already indicated, that the Rulers were content merely with assessing entire villages to revenue and leaving it to lessees and headmen to make the detailed distribution. So far as records go, attempts at systematic settlement appear to have been made for the first time in the course of the 19th century. In some States, these attempts were made early in the century, and in others, much later. A few had settlements and survey only in the beginning of the present century or quite recently as in Changbhakar. In Korea, to this day, there has been no survey and settlement (a commencement has been made but the work has been interrupted) and in Surguja, for the first time, a systematic survey and settlement is going on. In Bastar, only a portion has been surveyed properly and, as in Udaipur, in the unserveyed areas the settlement has been made on the rough *masahat* system. The early settlements were based either upon eye estimation or upon rough measurements by means of a standard pole. In neither case, of course, was any accurate result achieved. At the present day, most of the Orissa States have had detailed traverse and cadastral survey however unsatisfactory, but in a number of States like Keonjhar, Bonai, Ranpur and Kalahandi there are large areas inhabited by aboriginal tribes practising shifting cultivation which has not been subjected even to a traverse survey. Wherever surveys and settlements have been conducted they have mostly been done according to the province from which the officer came. In Patna, the current settlement has been made partly according to the Orissa system, in Gangpur, a Sambalpur officer applied the Central Provinces system, in Rairakhol, the current settlement is according to Orissa methods while the previous one was on the Central Provinces lines, in Jashpur a combination of both systems has been employed, and the settlement at Surguja is being done in general accordance with Orissa practice.

10. *The Village Headmen.*—The existence of headmen in each village has been referred to. This system, which has been extremely common throughout the Central Provinces and the States, must, to some extent, have arisen out of the very process of clearing the forest for cultivation. It was probably one settler, or a few settlers, who went and cleared the jungle and created a village by attracting other cultivators or by natural increase of their own numbers. The pioneer among such clearers or the oldest of them must have been looked up to by the other cultivators as a headman whose instructions they followed. Among the tribes, particularly, the system of a recognised headman is to this day extremely strong, and many tribes are entirely dominated by their own village headmen. There is evidence to indicate that where the headmen go the rest of the village has a tendency to follow, and comparatively recent instances have occurred in the Chhattisgarh districts of the Central Provinces where the deposition of village headmen has generally been the signal for the rest of his tribesmen to quit and settle down in other areas. It is these headmen whom the Rulers found could be conveniently held responsible for the revenue of the village and for controlling the other villagers. When the headmen were recognised by a superior authority such as the Ruler, they practically became officials of the Ruler. The village headmen were generally the descendants of the original headmen but, where tribal tradition is not strong and the original founder of the village has been lost sight of, there is reason to believe that the post was often held by a person chosen by the villagers; such a custom was noticed by me in Surguja which is being surveyed for the first time. (In this State it is recorded in the Gazetteer of 1910 that the village headmen were practically servants of the State; the system of leasing out villages had, however, already commenced and *thekedars* are mentioned in addition to *gaontias*). The practice of alloting large areas of waste land to one individual for the purpose of settling a new village and recognising him as the headman prevailing at present in some of the States is one of the ways by which a village headmanship can arise.

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So long as the Rulers did not become extremely rapacious or depose existing headmen in favour of favourites and others, the system worked extremely well. During Maratha rule, owing to the rapacity of some of the last Maratha Rajas of Nagpur, a system of auctioning villages or giving them out to favourites after deposition of long established headmen became rather widespread. It may be said that it was during these latter years of Maratha rule that the village headman as a hereditary incumbent began, to an appreciable extent, to be displaced by the lessee or *thekedar* of a village. It is difficult to say to what extent deposition of old headmen occurred as headmen were often influential persons and the rule of heredity was strong enough for its violation to cause serious resentment. As far as Orissa is concerned, it is recorded that the villages used to be auctioned in Nagpur and sometimes purchased by more than one lessee, and each of these came and attempted to collect what he could from the village. At the present day it is this system of hereditary village headmen or managers or lessees (*thekedars*) which exists throughout the States of the Agency with more or less modification. In Nilgiri, the system of village headmen was abolished in 1940 and in Athgarh in 1937; in the Anandapur Sub division of Keonjhar, the padhans seem to have been eliminated at the 1915 settlement. Practically everywhere the *padhan, sarbarkar, thekedar, gaontia* or *ganjhu* as the headman is variously called, (the former names are common in Orissa) has the responsibility for payment of the entire village revenue to the State. The cultivators were of course expected to pay the land revenue to him but, from the point of view of the State, it mattered little whether, at the time the revenue fell due, all of them had paid the headman or not. This responsibility for the revenue, incidentally, seems to be a vestige of old times when the Ruler did not trouble how the amount assessed on a village was raised so long as it was paid, and supports that view. In view of this responsibility there are many villages in the States without headmen, as the circumstances of the villages are not such as to render feasible the acceptance of the responsibility. Such villages, in the past at least, seem to have started with headmen who were later removed on account of inability to fulfil their pledges in respect of the revenue, or surrendered the village for the same reason, or were removed for other reasons, and a new candidate did not appear on account of the unattractiveness of the village. I must mention here that the common practice in the States has been not to recognise the hereditary right to succession but to make the lease or *patta* of a village terminable after a certain number of years, or at the next settlement. During the currency of a lease the right of the son to succeed is commonly recognised, but after the expiration of the lease the Ruler or zamindar is at liberty to give it to some one else. In some States the headmen of certain villages have been granted protected status (following policy in the Central Provinces), though in practice the status is sometimes nominal (see report on Sakti), and this means that the headmen have the right to the renewal of the *theka* or lease on its expiry. The existence of the unprotected village headmen does not mean that their leases are invariably terminated and given to new persons. As already pointed out, such an occurrence, where the hereditary system has been strong in the past, would have caused serious resentment and trouble. (Recent instances of *gaontias* being ejected by the Ruler in an arbitrary manner and the resentment caused are known). Many villages have thus been held for generations by the same family. Where a village headship falls vacant through failure of heirs, removal of the headman for a breach of contract, or surrender of the village by him, or other reason, there only is a new comer ordinarily appointed, though instances of arbitrary removal and resettlement of villages with favourites or persons who offered financial inducement have not been uncommon. The system prevalent in the Korea State of offering a village to the person who offers the highest bid for the revenue, other things being equal, for a short term, is at present an exception though such a method seems to have been tried in Khairagarh. Where a village falls vacant the general practice has been to auction the headmanship for the highest *nazrana*, if there is competition for it, or for a *fixed* sum as *nazrana* or *salami*. Lucrative villages have occasionally been kept by the Rulers for their personal benefit occasionally or have sometimes been given to relatives (in Rairakhol at present there are two villages which

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the Ruler wishes to retain against the advice of the Political Agent). There may be villages with headmen also held by the Ruler or relatives or grantees, and where this is on a large scale, and the grantee has the right to appoint the village headmen, we get the zamindari or analogous tenure. The fact that in many cases the *patta* was renewed in favour of the same headman does not mean that it was done free. Almost invariably a *salami* used to be levied, and even now this is done in some States, though in others it has been disguised under the name of mutation fees. *Nazrana* and *salamis* sometimes at the present day become the personal income of the Ruler—of course of the zamindar—(Sonepur, Seraikela, Patna, Rairakhol, Hindol and Kharsawan) without entering the State accounts, and in other cases are credited as revenue. The levy of *nazrana* or *salami* or mutation fees where is not taken as personal income, does not mean that there is no private *salami* levied by the Ruler as well, in cash or kind. There is good reason to believe that this is a fairly common occurrence, and the recent instance of a village being auctioned in the Raigarh State (see Raigarh report) by the Ruler with a private *salami* of Rs 10,000 which was not shown on the record, is a good example. In connection with the Gangpur record of rights the Political Agent wrote: "In Rairakhol indeed, I believe though I cannot prove it, that already there is a double *salami*, one to the State to satisfy the enquiries of the Political Agent and the other to the Ruler privately" (See report on Rairakhol about this). It is for this reason that the Rulers always reserve cases of appointment of headmen for themselves and do not leave them to the Dewan. In the past, when village headmen had many more powers than they have at present (the appointment implied full right to settle ryots on land on their own terms, take possession of and dispose of surrendered and abandoned holdings, and even powers of ejectment and distraint), the *nazrana* which they paid must have been largely recovered from the ryots but I have not come across any such instances now though other illegal recoveries have been brought to notice. At the present day, village headmen in some States (Khairagarh, Nandgaon, Raigarh, Udaipur, Bastar — thekedars only, Gangpur, Palhahara Korea, Sakti, Sarangarh, Kalabandi) still possess the right to allot wasteland for cultivation, in a number of States, to accept surrenders of land and reallot such land or dispose of abandoned holdings. (In practically all States now the allotment of land with forest growth on it requires the sanction of the State and in Gangpur and Sarangarh the *thekedar* is expected to obtain previous approval). They have also the right to allot house-sites in the States mentioned. Their powers have been reduced considerably on the whole and in nearly all of the Orissa States they have hardly any powers apart from the collection of revenue. In Baudh indeed, the headmen are not given even the duty of collecting revenue at present, and their duties are confined to those commonly discharged by all headmen of reporting crime, looking after the interests of the State and so on. Wherever they still have powers they of course make use of them to their own advantage and harassment of ryots is the result. In the Central Provinces, the village headmen were given proprietary rights in their villages but fortunately nowhere in the States have they been given this status though in the Chhattisgarh States they are agitating for it. Only in Kanker is the practice of permitting *thekedars* to sublease a village current (the new *wajib-ul-arz* of Surguja contemplates sub-leases and, in Gangpur, *Ganjhus* can create *shikmi gaontias* with the permission of the State) and in Kaigarh and Sarangarh, the practice of the State auctioning a village at the instance of the *gaontia* and sharing the proceeds in the ratio of -/10/- to -/6/- (State's share -/6/-) in a rupee is known. (In Raigarh, this practice has been stopped by a recent order of the Political Agent but the same procedure has not been followed in Sarangarh presumably because the matter was not specifically brought up). The *pattas* issued to *gaontias* invariably contain a clause against alienation or partition.

11. *Remuneration of village headmen.*—The common mode of remuneration of headmen is by land incident to the post known as *bhogra*, *sir*, *manwar* or *man*; these lands were formerly held rent free and the headman received no other remuneration. Most headmen had powers to reclaim new land and the home-farm was added to by them until it was found

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that some of them owned a very large proportion of the village area as home-farm. In order to restrict this tendency which, incidentally, resulted in most of the ryots in the village becoming temporary tenants of the *gaontias*, restrictions were imposed in some States on the area a headman might hold as his home-farm, the limit usually being one-fifth of the total cultivated area. In most States, however, a percentage of the total rental of the village was fixed as the *gaontia's* remuneration and he received it either in the shape of rent free home-farm or a drawback' upon the village rental if the rental of the home-farm was less than the fixed percentage. There is, however, a certain amount of variety, and some headmen get a higher percentage than others. It has also been found necessary to allow a higher percentage where the revenue of the village is small. In a few States the *bhogra* lands have been all resumed and resettled on ryoti terms, and the headman get only the percentage of the land revenue; this has happened in Changbhakar and Hindol, and recently, in Nayagarh, where some dissatisfaction was caused by the proceeding; in Athmallik the *bhogra* lands are being resettled on payment of *salami*. In Pallahara, the *bhogra* lands are assessed to three-fourths of the ordinary rent. The *bhogra* (for the sake of brevity all these home-farm lands will be referred to as *bhogra*) lands pass from one headman to another and no proprietary rights accure. Usually there are co-sharers not recognised for the purposes of the post) and these are also liable to be evicted if the headman is removed. In a few States (Gangpur, Keonjhar, Talcher, Daspalla and Patna) there is a sort of chief headman over a group of villages. These have been described in the individual reports. The position and status of the village headmen will be discussed further in dealing with the collection of land revenue and village management.

12. *Headmen without Proprietary rights.*—While in some Chhattisgarh States, and in Gangpur State in the Orissa Agency, the *gaontias* have been attempting to arrogate to themselves the status of proprietors as in the adjoining areas of the Central Provinces, in no case has proprietary status been granted to the village headmen. It is categorically laid down in the *patta* or *theka* of every *gaontia* that he is not at liberty to alienate or partition his right in any way, and any violation of this rule results in forfeiture of the *theka*. The *gaontias* are agitating for the right of transfer which practically means proprietary status, and though a close approach to it has been made in the Sarangarh practice of the State auctioning the post at the instance of the *gaontia* and sharing the profits, the *gaontia* getting the larger share, (the similar practice in Raigarh has been abolished) transfer is not possible and, save in rare cases, has not been permitted. The *gaontia* or *thekedar* is liable to be ejected for misbehaviour, breach of the terms of the lease and other reasons unlike the proprietary *malguzar* of the Central Provinces who can only be sold up for the recovery of his liabilities. Another difference is that if a *gaontia* does not accept the assessment offered at settlement, he is liable to be removed but the *malguzar* can only be "excluded" for the term of the settlement or till he accepts the assessment; no sort of *patta* or *kabuliat* is issued to the *malguzar* at each settlement, and he has full rights over the entire village waste and forest; the civil court can sell a *malguzar's* interest and he has full powers of transfer or partition. The *gaontias* in the States have not even the powers of the *gaontias* of Sambalpur who have proprietary rights with full liberty to transfer, in the *bhogra* land, and are entitled to hold the post of the *gaontia* permanently, the interest of management of the village following the ownership of the *bhogra*. In the Orissa States, even in Gangpur, generally speaking the village headman is a weaker person than the *gaontias* of Sarangarh, Raigarh, Sakti, Udiapur, Nandgaon, Chhuikhadan, Khairagarh and Kawardha. The village headman, then, throughout the area covered by this investigation is not in any sense a tenureholder or proprietor though he has in many cases paid a heavy *nazrana* or premium for the right to be the *gaontia* or *sarbarakar*. The implications of this payment and the rights of the *gaontia* will be discussed more fully later.

13. *Land Tenures* –The system of land tenures prevailing in the Orissa States and the Chhattisgarh States is essentially the same in spite

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of superficial differences. Subject to the rights of zamindars and similar tenureholders, the entire area of the State is regarded as belonging to the State or Ruler (the distinction between the two is practically non-existent).

The various interests in land, apart from the Ruler, in the Chhattisgarh as well as the Orissa States, may be enumerated as follows :

1. Zamindars including *ilaqadars* or *pirpattidars* (where they exist);

2. holders of grants of whole villages or assignees of revenues of entire villages such as *khorposhdars* (maintenance grantees), *debottars* (temple grants) and numerous others like grants for service rendered or for rendering services, grants to Brahmins and *maths*, 'favour' grants etc ;

3 grantees of land for the same purposes and reasons as in 2, holding free of rent or on a quit-rent ;

4. the actual cultivating classes.

14. *Zamindaris*.—There are zamindars or *ilaqadars* in the following States, that is, Gangpur, Seraikela, Keonjhar, Bonai, Bamra, Sonepur, Patna, Kalahandi, Bastar, Sarangarh, Raigarh, Udaipur, Kawardha, Surguja, Korea and Jashpur. The incidents of the zamindari tenure vary considerably from State to State, through there is a broad measure of uniformity throughout the Agency. Usually the zamindaris were created for military purposes, occasionally a relative of the Ruler has obtained this position, and, in most cases, they seem to be of considerable antiquity. At one time the zamindars, or practically all of them, were for most purposes independent and had their own criminal and civil administration in addition to revenue and forest administration, and used to enjoy powers of levying octroi, ferry dues, cattle pound dues etc. and maintained their own police as well as warlike levies. At the present day, no zamindar in Bastar the sanad issued to zamindars permitted them to exercise criminal powers if conferred but in practice these powers as well as management of the police conceded by the sanad have not been permitted) retains the powers of criminal and civil administration but their powers in other respects vary and are to a large extent undefined or only vaguely defined. Sanads, where they exist, are extremely vaguely worded where they do place any limitations on the zamindars powers, and in other cases the zamindars have no sanads and actually take up the attitude that the Rulers are not entitled to issue sanads to them, and refuse to accept sanads. The chief bone of contention between the zamindars and Rulers has been forest rights and rights to minerals. At the present day only in Gangpur and Surguja are any rights recognised in minerals by the State (in Seraikela also rights to minerals are recognised); in Gangpur a portion (6/16) of the income is given to the zamindars but the right of granting mining leases and licences is reserved by the State. In all other States, it has been finally decided that zamindars have no rights to minerals. In respect of forests, zamindars in Gangpur, Bonai, Kalahandi, Bastar, Surguja, Korea, Raigarh and Seraikela have recognised rights, the rights in Kalahandi, Surguja and Korea being wider than in the others. In these States, and in Gangpur as well, the zamindars have their own forest staff—though to some extent control has been exercised by the State, particularly in recent years. Generally speaking, it is the zamindars of the States where considerable forest rights exist who have enormous powers in revenue matters, practically equal to those of the Ruler, though the common factor to all zamindaris is the power to appoint and remove *gaontias* and *thekedars* but here again there is some variety. The Bastar sanads (and in Kalahandi as well), even where issued recently, contain practically no stipulations in revenue matters and the zamindars have powers of making settlements, maintaining their own land records, settlement and other staff. In Kawardha, (and in other places like Surguja, Korea and Bastar), the wajib ul-arz of the State does not in practice extend to the zamindaris and the zamindar issue their own *pattas* to the *gaontias*, and these often differ considerably from the *pattas* of the State. An order issued by the Ruler does not in many cases apply to areas other than the '*khalsa*' portion of the State and special requests have to be made to zamindars (Surguja, for instance) or they may be totally ignored (thus remissions in Korea by the State on account of bad crops do not seem to

have found a response in the zamindaris). In Surguja, though a settlement was made and new rents announced in many villages, the *ilaqodar* of Lakhanpur had not given effect to the new rents which happen to be lower than the old rents) yet. Many zamindars can create rent-free grants of their own with the sanction of the state like Bamra, or independently, like Korea. In Korea, Bastar and Kalahandi States, some zamindars have actually got sub-zamindars of their own and these have nowbeen recognised as sub-zamindars. Zamindars in Surguja have the rights to levy export duties, create their own monopolies of lac, hides, and forest produce and, till recently, they seem to have exercised independent pawers in respect of finding tenants or coercing them ; the zamindars of Korea have similar rights. The right to exercise and other revenues like cattle pounds and ferries are also exercised in some cases.

There are instances of zamindaris being taken under management by the State for gross mismanagement or incapacity, as in Bastar or Kalahandi, or on account of minority. The zamindaris being mostly very distant and inaccessible I could not visit them except Lanjigarh in Kalahandi, Patna in Korea, Lakhanpur in Surguja, Tispalli in Raigarh and some in Gangpur and Jashpur, and could not form adequate impressions of the state of affairs. Control in these distant areas must necessarily be slack and where the zamindars consider themselves more or less independent, it may be expected that highly undesirable conditions either exist or can easily develop. Where the Rulers themselves can often be accused of maladministration, it is needless to suggest that much worse conditions can easily prevail in the zamindaris and the individual reports show instances of such where observed ; the conditions under which zamindaris have been taken under management or resumed have been described in the report on Bastar. The control over private officials is likely to be very lax, and in Lakhanpur, (Surguja) I found that the *ilaqaaar's* tahsildar takes a *salami* from *thekedars* when they pay their revenue. It is clearly most undesirable to let zamindars enjoy powers in such vitally important matters as making settlements, maintaining revenue and land records staff of their own or exercising powers of coercion or distraint. In forest matters it has been found necessary for the Political Department to pass orders divesting the zamindars of powers of direct control over forests. In a far greater measure must it be necessary to divest them of revenue powers which affect more people than forest administration can. In respect of land revenue and cesses, in all the zamindaris where the State exercises adequate control, and settlements have been made by the States, land revenue and cesses have been imposed on the same principles as in the rest of the State and only in a few zamindars as in the zamindaris of Korea State can there be any essential difference. Where no proper settlement has been made, rents may be assumed to be in accordance with the earlier systems of fixation, that is, by the *thekedars* or *gaontias* by themselves or with the aid of *panchayats*.

I did not find any zamindars with cesses of their own (in the past there were no regularly levied cesses and such imposts as *abwabs*, *mangans* etc. were irregular and occasional). The difference between taxes levied in the State on such matters as propagation of lac or tussore and in the villages of tenureholders may be seen in the State of Kharsawan where information was specially obtained. Differences in such matters as *bethi* and *begar* found within my limited observations between what obtains in the State and the tenure-holders areas are mentioned in the individual reports. Differences may be expected to be considerable only in such States as Korea where the zamindars have wide powers. Generally speaking, during the last three or four years, the States have made strong efforts to persuade the zamindars to introduce such measures of reform as have been introduced in the States.

The powers of certain zamindars to make rent-free grants of their own have been referred to. Such grants are not allowed to interfere with *takoli* While most zamindars have villages with *gaontias* or *thekedars* there are often villages, as in the *Khalsa* portion of the State which are either held directly by the zamindar as *kham* or *khas* villages, or may be temporarily 'vacant', and under direct management. Zamindars usually

* But the reasons for removing control over forests are NOT the same,

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dispose of their villages in the same manner as the Rulers and realise *nazranas* or *salamis*. In a number of States like Patna, Raigarh or Udaipur the State makes the appointment, but the zamindar has the right to make a nomination but this does not radically alter the position. (In Seraikela the tenure-holders were asserting their rights to disposal of villages without reference to the State). In States like Bamra the zamindars are not supposed to evict *gaontias* without due cause but in most States the position is obscure, and, though arbitrary eviction does not seem to be common, the zamindars may theoretically claim the right to remove their *thekadars* or *gaontias*.

In respect of the remuneration of *gaontias* generally the position is the same as that prevailing in the rest of the State though there are variations as, for example, in Seraikela. Appointment of village servants also presents general uniformity with the rest of the State. The chowkidar in the States is usually considered a police official and his appointment is made by the State. Bastar seems to be an exception ; here the chowkidars are appointed by the zamindars. In respect of other village servants, these are usually appointed by the villagers themselves (where they are not appointed by the State, as in the case of the *baiga* in Surguja) and the zamindar seldom has a say in the matter.

In respect of actual cultivators, usually the same system, or lack of it, prevails as in the rest of the State, except where the State has a *wajib-ul-araz* and the zamindari has not, in which case the only security the cultivator has got is that he is the goose which lays the golden egg. (In practice it is somewhat more than this as resort to the State courts or complaint to the Political Agent is possible). As is common in this area the *thekedari* or *gaontiahi* or *sarborakari* system of village management prevails, and the position of the ryot is similar to that under this system elsewhere in the State and no new system of relationship has come to my notice.

14. (a) *Zamindari Takoli.*—The zamindars generally make a payment called '*takoli*' to the State and usually this is a nominal sum fixed at the time the grant was made and bears no relation to the income of the zamindari. In some cases where the zamindars have a right to revenue other than land revenue it is calculated as a proportion of the total income of the zamindari and in others it is a certain percentage of the total land revenue. In Surguja, the Government of India has held that the *takoli* is a fixed payment which cannot be enhanced and a '*takoli* cess' has been imposed for covering administrative expenditure ; in Korea a similar method has been adopted and in other States the *takoli* has been enhanced from settlement to settlement. The *takolis* including the takoli cesses are still rather small portions of the total income of the zamindaris and in a few States, like Bonai or Gangpur, are practically nominal. In the Sukri Pachora (Surguja) *ilaqe* the amount of Rs. 1,400 was being paid by the *ilaqadar*, the total rental demand being about Rs. 4,500, and the amount was reduced by the Maharaja of Surguja to Rs. 800 three years ago.

15. *Non-zamindari tenures.*—In respect of rent-free grants, the Orissa portion of the Agency distinguishes itself by its copiousness and variety. In the Chhattisgarh area, there are comparatively few grants. In some of the Orissa States like Kharsawan, a considerable portion (66 per cent. of the area shown as cultivable, and 40 per cent of the area of the State) has been gifted away in various ways. Types of grants common to all States of the Agency are maintenance grants given to relatives or favourites, grants made as charity, as rewards for good service or as remuneration for rendering services or to show favour, grants for the purposes of deities or religious institutions (known as *debottar* in Orissa). These grants may consist of entire villages, or a single village, or merely portions of lands. Some of the grants are considerable. In Bastar, the temple estates consist of 198 entire villages, and the management of the estates has the same extensive powers in revenue matters of maintaining a staff and issuing processes as the zamindaris. In Dhenkanal and Surguja the estates granted to members of the Ruler's families are practically zamindaris. They are usually held free of rent but some pay quit-rents as, for instance, in Khairagarh.

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In some States like Bamra and Talcher, certain rules have existed for some time and in others like Nilgiri and Hindol rules have been framed recently. The object of the latter rules known as "Lakhraj Control Order" is to 'control' the holders of rent-free grants and in Nilgiri it is stated to be an 'indirect measure' for resumption of the grants. Mostly, the rules provide for resumption in certain circumstances such as disloyalty, misbehaviour, alienation and so on. The introduction of the rules does not make much difference in the position except that they sometimes define the position in respect of alienation and sometimes prescribe *salamis* when alienation is permitted ; also resumption may be effected on various grounds. Some of the grants are of great antiquity while others have been made quite recently, that is, in 1941 or 1942 ; for examples, the individual reports may be referred to.

The general rule regarding maintenance, favour and good services grants is that they are unconditional, or with nominal conditions, such as loyalty, but in some of the more recent grants conditions such as their being for the life time of the holder only are imposed in the case of maintenance grants. Some *khorposh* grants, as the maintenance grants are known, simply imply a right to the income as in the case of Talcher but others carry other rights as well which, as stated above, may practically extend to zamindari rights. The sanads available, of the older grants, show extremely vague and sweeping wording but, usually, few *khorposhdars* (Surguja and Dhenkanal) have the rights to minerals or forests. Many of these grantees along with the *debottar* and other holders of whole villages enjoy the right of appointment of their own village headmen, with or without the approval of the State, and quite a number of course hold their villages direct, taking the position of a village headman who pays nothing to the State of the revenue he receives from the ryots (or a portion only where there is quit-rent).

16. *Debottar Grants.*—The grants to deities or temples, or *debottar* grants as they are called in Orissa, are also extremely extensive in that area. Comparatively few such grants are to be found in Chhattisgarh. The extensive Bastar grants have been mentioned. A number of large grants comprising whole villages or extensive lands have been made to deities outside the State like Jagannath at Puri or *maths* at Gaya. Many of the grants are for deities inside the State and with the exception of small grants of holdings made for the purposes of village deities and managed by persons known as *sewaits* or *marfatdars* of the deities or, in common, by the villagers, are usually managed by the Ruler himself or by a member of his family through what is known as the *debottar* department or Thakur Mahal. The accounts of this department except where the State is under management are usually a private affair and are not subject to audit or examination except in some of the States under administration. The Lakhraj Control Order in Nilgiri does not apply to *debottar* grants in the *Thakur Mahal*, and in Hindol, the committee constituted to report on the management of these grants was debarred from examining grants managed by the Ruler. The States showed great reluctance to give me information about the way the income is spent and I did not press this as it may be assumed that as the deity does not consume all the income, a portion of it at least is bound to be used by the persons in charge in all cases, and in some cases, doubtless, the bulk of it. (See report on Kanker where a grantee was said to spend Rs. 350 out of an income of Rs. 1,400). Offerings to the deity will of course go to the palace or *bhandar* as the case may be. There is in practice no agency to examine the management of these grants even where the institution or deity concerned is within the State, and needless to say, there is nothing in respect of those at Puri or Gaya. The report on Athgarh will show in what manner the funds have been used by the Ruler and other instances have also been mentioned in the individual reports. The funds of *debottar* estates are often lent out at a high rate of interest for various purposes, and this shows that all the funds are not applied, and are not even required, for the purpose for which they have been granted. In most cases it may be assumed that the *debottar* funds from an addition to the income of the Ruling family. Generally speaking, *debottar* grants do not connote anything more than the deity taking the place, through the agent

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or marfatdar, of a zamindar or *khorposhdar* or the village headman. Sometimes full rights exist in the village waste (as in Dhenkanal or Narasingpur) in addition to the right of appointing the village headman. In some cases there is nothing more implied than that the revenues are appropriated on behalf of the deity ; this is the case where there is a headman appointed by the State. Not all *debottar* grants are held rent free and some pay quit-rents, particularly some of the holdings of land.

17. *Brahmottar Grants.*—In Orissa, there is a type of grant known as *brahmottar* grants made to Brahmins which is not to be found in the Chattisgarh States except Patna and Kalahandi. These grants are often grants of whole villages but are quite commonly only lands. The grants usually constitute a rent-free settlement for Brahmins whose immigration as religious preceptors and learned men the Rulers formerly encouraged. The grants usually consist of villages, probably new settlements, or, it may be, villages from which the original cultivators were ejected, given to a group of Brahmins for themselves and their progeny, and the villages have become now villages of exclusively Brahmin landlords (the Brahmins do not lay hand to the plough), or holders of land who cultivate through labourers or paid servants. The sanads of these grants alienate them in perpetuity 'till the sun and moon last' and, in some cases where the Brahmin was taking no chances, 'even beyond', and contain no reservation of any sort in respect of forest or minerals, and the Brahmins claim them as absolute property. Usually the entire village area, cultivated as well as uncultivated lands, have been divided up between the residents. Rights of alienation are recognised in most places where the alience is a Brahmin but in some States like Bamra alienation is not permitted. In some places also the Brahmins do not now claim any rights to minerals and, in a number of States (Keonjhar, Nayagarh and others), occupancy rights have been given to sub-tenants. There is no *gaontia, sarbarakar* or *thekedar* in the usual sense of the word in these villages as ordinarily no revenue is paid but most of them have some sort of recognised headmen for the purpose of collecting cesses where these are imposed, and in some cases (Keonjhar, Athmallik etc.) the tenure is quit-rent paying. New cultivation, if any, in these villages and the management of waste lands is not the concern of the State except in Keonjhar where reclamation requires permission of the State and the land is assessed to quit rent. The chowkidar and other village servants are usually nominated by the Brahmins. Another characteristic of these villages is that the Brahmins are not liable to any *bethi* or *begar* or any other levy of the type to which other villagers are liable. The headman of a *brahmottar* village does not obtain any formal order of appointment. Nowadays, cesses levied in other villages like school cess are levied in *brahmottar* villages but cesses paid by the villagers in lieu of the *bethi* they were liable to render are not recovered in *brahmottar* villages except in Hindol. Generally speaking, *brahmottar* villages may be regarded as an agglomeration of individual grants, if a record could be made of the cultivation and waste held by each Brahmin, or they may be regarded as a grant made collectively to a number of persons. In nature the grants differ little from an ordinary maintenance grant without any conditions. The village may be discribed simply as a village where all the holdings are rent-free grants and rights in waste land are also alienated. In Sonepur State there are villages known as *birti* villages which are held by Brahmins. In these villages the ryots are often tenants and the holders have a limited right of alienation (transfer to a person who would inherit is permitted with the sanction of the Ruler) and cosharers are recognised and can get their rights partitioned separately. Such *brahmottar* or *birti* villages do not exist in the non-Oriya States.

18. *Ruler's personal lands.*—Before proceeding to discribe rent-free grants made on condition of service being rendered, it is convenient to mention here certain other villages which may be regarded as rent-free grants, These are villages held by the Ruler or members of his family in a personal capacity. As far as the villages held by the members of the family, such a Ranis, are concerned they may be regarded as indistinguishable from rent-free grants, except that in a number of States they are held without a sanad, while in a few there are sanads or conditions

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contained in the order making the grant. Conditions usually concern the period for which the grant may be enjoyed. There are also certain villages which are not held as rent-free grants but are held in the capacity of a village headman ; there are, for example, villages in Pal-Lahara of which the Rani is the *sarbarakar* and similarly there are villages held by members of the family as *gaontias* in Khairagarh and other places Villages held by the Ruler or relatives are generally similar and in Sarangarh, for example, the Ruler holds certain villages exactly as a headman does ; in Patna, villages are held in *gaontia* status by the Ruler but there are certain differences as, for instance, all the cesses are appropriated by the Ruler, or all the *bhogra* land is held rent-free even though it is in excess of the prescribed percentage. Villages held by the Ruler or members of his family are known variously as *sir*, *nijchas*, *kham*, *bhandar* or *khamar*. In Jashpur the term *bhandar* is used in respect of all villages which have no *gaontia* or *thekedar* even if the *gaontia* has recently been ejected. The term must have been applied originally to the villages personally held by the Ruler and the present use of it is undoubtedly loose ; *bhandar* villages become ordinary *thekedari* villages when a *gaontia* is found for them, and in fact many of the villages are called *bhandar* simply because a *gaontia* has not been forthcoming. The income from the *manwar* or home-farm lands of the *thekedar* goes to the '*bhandar*' or 'granary' of the Ruler. Only in Bamra do *khamar* villages show a distinctive peculiarity. In these villages there is cultivation carried on partly by the Ruler's servants and partly by tenants without any rights in the land. Five villages were recorded as *khamar* since 1937 in the names of the Ruler, the Rajmata and Rani. Examination of the history of the villages as supplied by the Ruler shows that in some at least there were ordinary ryots whose rights, since the conversion into *khamar*, were abolished. In one of the villages recently made *khamar* it is reported that there are ryots who have been given the option of settling elsewhere. In most of the villages there was no *gaontia* before conversion, or he was dismissed for some reason. Tenants of these villages, though having no rights in their holdings, pay only the rent fixed at settlement, an indication that probably they had ryoti status at one time. (In some other States also, like Keonjhar, ryoti rights have not been granted in the lands regarded as the Ruler's land though there was a case for it). There are other villages also in Bamra designated as *khamar* held by grantees where also there are many cultivators cultivating for generations without "occupancy" rights. For a full description of these *khamar* villages the Bamra report may be referred to. The only parallel to the *khamar* villages of Bamra seems to be an area recorded as a village in Baudh. It is a sort of garden estate of the Ruler and the inhabitants are all the Ruler's private servants. Conversion of ordinary villages into *khamar* has been mentioned above. This is not peculiar to Bamra and there has been similar conversion in a number of other States. The opposite process has also taken place, that is, villages recorded as *khamar* have been converted into ordinary villages. This may have taken place for various reasons. In Rairakhol, the Ruler converted one of the Rani's villages because she wanted another in its place (the Ruler however reserved rights in trees and minerals in the village), and in Gangpur, the villages were disposed of for the purpose of raising funds. (See also report on Rhainagarh). Generally speaking it may be said that conversion of *khamar* villages into ordinary villages is done on account of the *nazrana* available for the post of *gaontia*. Transfer of villages from one member of the family to another has also taken place as in Khairagarh ; in that State two villages of which the *gaontias* died were recorded as *khamar* for a while and then resettled with *gaontias* ; the effect of this, is probably that the *nazrana* becomes personal income. In the villages held as *muafis* there are sometimes *gaontias*.

Apart from whole villages there are of course lands held by the Ruler as in Surguja known as *zirat*, or members of the family. Where they are held by members of the family they may be looked at as maintenance grants. In Surguja, the Ruler told me that *zirat* lands are "demonstration farms" but this, I fear, is pure camouflage as the lands have been

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recorded separately in the settlement records, are cultivated by '*bhandar*' servants and the income goes to the '*bhandar*' as personal income of the Maharaja ; the position is admitted by the Settlement Officer. Additions or subtractions similar to those in *khamar* villages have taken place. The lands removed from *khamar* are often disposed of in ryoti right, as for example in Hindol, the income being ofcourse the Ruler's personal income. As the estate can be added to, the process may be made use of to circumvent State accounts. The question arises in connection with these lands and villages whether such additions and subtractions are sound policy. Apart from the increase of personal income, it is clear that disposal of such lands would be to the personal advantage of the Ruler who does it, and to the possible detriment of his successors.

19. *Babuan Jagirs.*—In a few States like Bamra, Pal-Lahara, Bonai or Patna there is a type of grant, sometimes a whole village (Bamra), known as *babuan jagirs*. These *babuan jagirs* are grants made to relatives of the Ruler, either free or on a quit-rent, and where the whole village is a *babuan jagir*, the resemblance to a *brahmottar* village is striking. Here also the grant was made originally to one or more grantees to be enjoyed by themselves and their progeny, and the land is divided among the present descendents of the holders. The grant is not however absolute and rent-free as is generally the case with *brahmottar* villages and a quit-rent is usually paid with liability to enhancement at settlement. These villages may also be regarded as villages in which all the land has been given out free of rent or on quit-rent.

20. *Service grants.*—Coming now to the grants rendered on condition of service being rendered, there are comparatively few whole-village grants if villages held mostly or entirely by *paiks* (feudal militia) are excepted. (These are mostly now rent-paying and were once similar to *brahmottar* villages). The number of entire villages held for service seems to be largest in Kharsawan and Gangpur. The individual reports of these States show the services rendered by these grantees; the services are either nominal or non-existent, and in Kharsawan, there is the case of the grantee who refused to perform the services required of him without any consequences. In Chhuikhadan, there is an old (1836) grant of land for the services of midwifery which is probably not rendered now. In Raigarh there are actually service grants of which the service to be rendered is not known ! In Raigarh, as well as Bastar, there are service grants of whole villages for such purposes as supplying *pan* to the palace, for beating drums before the palace, for washing clothes, for carrying the bones of deceased Chiefs to the Ganges and so on. In practically no case are the grants held for any public service of importance, and where any service is rendered to the Ruler they must be regarded as an unseen addition to his privy purse.

Most important of the large numbers of land grants are the grants made to the old *paiks* or *khandaits*, known also as *gehandals* (Seraikela) who constituted the local militia in olden times. The *paiks* are to be found almost exclusively in the Orissa States. There are occasionally whole villages of them, as for example in Talcher, and in some places the bulk of the cultivators of a village consists of *paiks*. The *paiks* originally held their lands rent-free on the liability of being called up for military service but in several States (for example Talcher, Baramba) the *paiks* pay the full assessment on their lands while at the same time bearing the liability to service and having no rights in the soil. In some States there are now no *paiks* (Khandpara) and the land has been assessed and the *paiks* given the same rights as other cultivators in the soil. In Orissa Province, the *paiks* were settled long ago as occupancy ryots. These ancient militia men have now practically no value as militia but in some places, as in Hindol or Pal-Lahara, they are made use of for guard duties or as peons of officers, the Ruler etc. The assessed *paiks* and others holding rent-free also are not governed by the normal law of succession and only one person is permitted to succeed if he is considered fit to perform the duties of a *paik*. The *paiks* in most cases appear to have held the land for generations, and probably the land was cleared by them. Where whole villages of *paiks* exit they may be regarded as villages, the entire land of which consists of

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'service holdings'. The headmen of these villages are known as, *'garhnaiks'* or *'garhtias'* usually. In Seraikela an attempt was made to organise the *gehandals* and make them liable to drill. An order was proposed in which the *gehandals* were made liable to receive training and one of the clauses proposed was that for 'mental or physical disloyalty' they could be proceeded against. The *gehandals* protested vehemently, and quite justifiably, against what was undoubtedly an attempt to impose new conditions upon them and the order, under the advice of the Agency, does not seem to have been applied.

Among other 'service *jagirs*' are those granted for various purposes such as beating drums on ceremonial occasions, washing clothes, dancing girls, barbers, painters, astrologers and numerous others. A detailed description of these would make this report needlessly lengthy. Most of these grants are at present either practically useless or the grantees appear, on ceremonial occasions only, before the Ruler, once or twice a year. The loss of land revenue caused to the State is shown approximately in the individual reports. Like most of the whole-village grants the grants for services to the Ruler or members of his family may be regarded as an addition to the inocome of the Ruler's family but much of it seems to benefit nobody but the grantees.

Then there are the village servants holding *jagir* like *barber, dhobi, kumhar* and so on. The origin of some of these has been indicated already. At present, most of these do not service to the villagers in return for their *iagir* except on payment and are utilised mainly by officers of the State for their purposes while on tour. Some of these *jagir*-holders like the *gudaits* of Surguja or the narihas of Gangpur do nothing but render menial service to the zamindar, or to officers of the State and members of the Ruling family, and the ryots are liable to remunerate the *gudaits* in kind. As mentioned in the report on Surguja, the *gudait jagir* was considered for abolition but was allowed to stand till the villagers object.

The most important among the jagir-holders of the village are the *choukidar* or *kotwar* and his assistant known as *jhankar* or *dakua*. The *chowkidâr* is usually regarded as a police servant and the police are usually consulted when he is appointed. In most States he has almost invariably jagir land though not always adequate for his maintenance. The burden which ryots have to bear in connection with the *chowkidar* and *jhankar* are mentioned in the individual reports. In some cases the paddy contributions made amount to considerable amounts. In States like Korea, Surguja, Patna or Sarangarh a levy is made for the dress of the *chowkidar* or *kotwar*. In Tigiria, there is the exceptional practice of the chowkidar making a levy for the grant of receipts for payment of revenue, and in Sarangarh and some other States, a sort of tax has to be paid to the chowkidar on sales of grain taking place in the village. The chowkidars of Korea must be mentioned here specially as they seem to be an oppressive lot, and in addition to the chowkidar there is a head chowkidar for a group of villages for whom also the villagers have to make payments. On the whole the number of village servants holding *jagir* or maintained by villagers or both seems to be greatly in excess of needs; it is only in large villages in the Central Provinces that there is more than one *kotwar*. The additional burden on the ryots in some States on account of the village servants seems to be two annas, or more, per rupee of the land revenue.

Where the village servants like graziers, blacksmiths, carpenters and others maintained by the villagers and paid for services rendered, these are really servants of the villagers and seldom render services to the State. Such servants are also usually appointed or removed by the *gaontia* or villagers. The rent-free holdings of most of these could be assessed to rent without any alteration in the position.

The enormous alienation of State revenue in the shape of grants has been pointed out in the individual reports. In some States many grants, particularly service grants like *paikali* grants have been resumed and reduced during minority administration. Nevertheless they are still considerable and as can be seen in the individual reports, the Rulers do not appear to have realised the effect of the policy of making grants has on

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State revenue, and new grants, as recently as 1942, have been made. In the States like Nilgiri or Hindol where a policy of resumption is being followed, the method adopted is objectionable and causes resentment. The grantees have in most cases held the land for many generations, and almost certainly they were the original reclaimers of the soil. To eject them from such lands now, or to levy a *salami* from them, would appear quite unjustifiable. The policy followed in the provinces in respect of such lands is usually to assess them to revenue without ejecting the holders, the land becoming ryoti. It is clear however that all persons holding rent-free land cannot be treated on the same footing as, in the case of the village service jagirs particularly, the lands are often held for short periods by different persons. As an example of what is being done in the States in respect of grants (though no regular policy is being followed) it may be mentioned here that most States have accepted the proposition that grants given rent-free for maintenance should become rent paying in the course of four generations, the assessment being made at 25 per cent, at each generation. In Athmallik, the *brahmottur* grants are being assessed in this manner at each settlement. In connection with Seraikela there is a ruling of the Bengal Government (see report on Seraikela) that no Chief is bound by the grant by his predecessor and the Rulers sometimes make use of it. Resumed lands are sometimes included in the *khamar* of the Ruler (Ranpur and Daspalla).

It has been pointed out in respect of *debottar* grants that there is usually no proper control. This is true of all other grants as well and in a number of States there is no register even of all the grants. The Raigarh position of service grants with unknown service shows what the state of affairs is.

21. *The Ryots.*—The position in respect of the actual tillers of the soil can now be considered. As already mentioned, in former years and to a large extent even now, in the absence of proper laws binding upon the State and the intermediaries as well as upon the cultivator, the only security the cultivator has enjoyed in respect of his land has been the fact that he is a desirable person who contributes to the revenue of the State. This innate strength of the ryot must have been a powerful factor in the days when the States consisted almost entirely of forest and hill, for, without a population, the State could have little revenue, and forests and minerals had little inherent value in those days. Land, unless developed, had no value and large areas could obviously be had for the asking, and it is indeed conceivable that it was the cultivators who had to be bought or induced by one who would start an agricultural colony, rather than the land. Any possibility of harassment must have been therefore remote, and the cultivator was once a favoured individual whose threat to give up cultivation and go elsewhere was not to be taken lightly. As, however, the population increased, and more and more land became cultivated and forests receded, there was a change in the position. The cultivator must have found a gradual weakening of his position. No longer was he so much sought after as in the days when cultivation was scanty, and cultivators few. Cultivators could not indeed be harassed or dispensed with wholesale though wholesale desertion of villages on account of the foolish tyranny of a particular Ruler, or conqueror, or of a zamindar, or *thekedar*, occasionally occurred. Individual cultivators could, however, be turned out, or harassed till they went, with comparative impunity, for, there was a demand for land, particularly for land fit for immediate cultivation, and new cultivators could be found with ease. Also, on account of the same factors, it was more difficult for a cultivator to find new land for himself and a position was reached in many places where he would withstand considerable harassment for fear of losing his land. Thus as the strength of the cultivator declined, the *thekedar*, the zamindar and the Ruler became more and more powerful. Loss of his land became a serious matter for the cultivator and with it the need for rights in the land. Thus it is that the agitation for right in the land is of comparatively recent growth and even now, in considerable areas in the States, where there is mostly hill and jungle, the cultivator is not troubled much by the absence of rights, and, indeed, quite often gives up cultivation in one place to settle in other,

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Where the position of the cultivator deteriorated, and *thekedars* and others received an accretion of strength, and sometimes began to misuse their powers and eject the cultivators, the need for protection against these began to be felt. Wherever *thekedars* and *gaontias* were given a *patta*, or some sort of record of rights was drawn up, a clause depriving the *thekedars* of powers of ejectment except for non-payment of rents and through the agency of a State court was inserted. This appears to have been done under the influence of policy in British districts, and probably first in the States under administration, as it is in these States that anything written first began to appear. At present, village headmen, wherever there is a written record of rights or *patta* are specifically debarred from ejecting ryots [in Korea this is contained only in the latest (1942) *pattas* issued], and if this occurs now it is not a common occurrence and is the result of the inherent defects of the *gaontia* or *sarbarakar* system as it exists at present, in which the *gaontias* still wield considerable power over the ryots. Simultaneously with the conferral of this protection against the headman, it was also recognised that the State or the zamindar should also not eject ryots arbitrarily, and in most *wajib-ul-arzes* it was laid down that a ryot would not be ejected so long as he did not make default with his revenue. This however was no conferral of a right by the State but only a promise, and, in fact, it was nothing more than the current practice as cultivators were not ejected by the State unless the land was required by the Ruler or the State and headmen were left to proceed against ryots for revenue. In all States the ryot could be ejected without compensation, if the land was required either for a public purpose or for the private purposes of the Ruler, or relatives, and to a large extent this position still prevails. In a few States in Chhattisgarh the *wajib-ul-arz* or record of rights says that reasonable compensation shall be paid, a clause which is usually interpreted to the State's advantage, and in others, no compensation is payable except for buildings (Baudh, Narsinghpur, Rairakhol, Ranpur). Instances of acquisition examined by me are given in the individual reports. The procedure, (in all cases of summary acquisition), must have at least in some cases caused considerable hardship (the Sakti and Patna reports particularly may be seen in this connection). The theory prevalent in the States is that all land being the property of the Ruler or Durbar, (usually the two things are indistinguishable), the ryots are not entitled to compensation, and compensation, if granted, is largely a matter of favour. Following from this conception, except in a few States like Ranpur, the ryot did not have any transferable rights in the soil till quite recently ; in Ranpur the rights of transfer appear to have existed since before the current settlement which was made in 1899. Recently a number of States have conceded the rights of transfer, and the present position is that in Bastar, Changbhakar, Chhuikhadan, Jashpur, Kalahandi, Khairagarh, Korea, Nandgaon, Raigarh and Rairakhol transfer of lands is not permitted ; in Ranpur, Athgarh, Bamra and Nilgiri transfer does not require sanction and in all the remaining States permission of the State, or headman, or both is required. This absence of rights of transfer does not mean however that the prohibition has been effective except to a limited extent. The cultivator has always considered that he has a right to the land he is cultivating and wherever the land has some value, he has made use of it, either to tide him over a hard time, or to pay his dues, or for other reasons. Thus transfers in the States in which a ban exists have been more or less freely carried out through the collusion of the headman, who has power to accept the surrender of land, and/or reallotment, by a prearranged sale, surrender to the headman, and reallotment by him to the person who has bought the land. The headman of course does this only for a consideration. In places where land has considerable value as in the States of Nandgaon and Raigarh, for example, this has become a recognised practice, and the *gaontia* takes 25 per cent of the consideration in Raigarh, and a variable percentage in Nandgaon. In Raigarh, the procedure of surrender and reallotment is a total farce; the parties concerned draw up a deed in which it is stated that the land is surrendered by the vendor and reallotted to the vendee, the consideration being mentioned in the deed. The *gaontia* is one of the persons who signs the document. This practice is so common that

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I saw a case in which the parties complained to the revenue officer about the *gaontia's* refusal to sign and the court considered this unfair and pressed the *gaontia* to agree, the case ultimately resulting in compromise. Even in Bastar where the policy of restricting transfer (even leasing out for more than one year) has been applied with some rigour, in the Jagdalpur tahsil where land has some value, evasion by surrender and reallotment (actually through the revenue court) is practised. Ranpur is probably the only case where for a long time the ryots have enjoyed comparatively unrestricted rights of transfer and in this respect they have enjoyed a privilege which even the ryots of Orissa province could envy till 1938, and not, I believe, with disastrous consequences Restriction of the rights of transfer is of course one of the main grievances of the cultivators.

In the States in which permission to effect a sale is necessary it is usually obtained on payment of a *salami*; in some States the levy is not called a *salami* but is termed as mutation fee or registration fee; in some others a *salami* as well as a mutation fee is levied. In the States of Sonepur and Sakti, the *thekedar* as well as the State levy a *salami*; in Sarangarh and Kanker only the *thekedar* gets a *salami*. The *salamis* vary from 10 per cent to 25 per cent and the total expenses of a sale in most cases comes up to about thirty or thirtyfive per cent in *salami*, mutation fee and other payments.

In most of the States which permit transfer, I think all, the policy now is to permit sales by aboriginals to people of the same class as far as possible, and in some States, for example, Bamra sale by members of backward castes is also restricted in the same manner. In a few States (Kharsawan, Dhenkanal, Tigiria) transfer is restricted to holdings above four or six acres, and in some of the South Mahanadi States, a rental limit of Rs. 6 is taken for this purpose. As will be seen from the report on Tigiria, there are very few holdings above the limit of four acres fixed, and the complaint there is that transfer is virtually denied to nearly all ryots.

Rights of leasing out land are conceded in all States now though in a number there are restrictions about the period. In Baramba, leases were prohibited but are now permitted with the sanction of the State. In States like Khairagarh, Kawardha or Sarangarh, leases require the permission of the *thekedar* if they are for more than one year, and in Bastar the leases are restricted to one year, a restriction which is usually violated or evaded, particularly as no written documents is required Mortgages are permitted where sales are permitted, but strangely enough in Kawardha where sales are permitted there is no right of mortgage. Sales of land through civil courts are not permitted in a number of States and mortgages in States like Khandpara or Kharsawan are usufructuary. Mortgages sometimes take the form of the land being taken by the mortgagee as interest upon the loan and is not liable to be returned so long as the loan is not repaid, thus practically amounting to a sale in many cases.

As regards the rule of inheritance some of the Chhattisgarh States (in Patna, Bastar and Kalahandi there is no rule of inheritance and it may be presumed that it follows personal law, differ from the Orissa States. Succession is limited to direct male heirs, and collaterals can inherit only if they were joint with the deceased ryot; widows can hold the land for life or till remarriage after which it passes to the *gaontia*. In the Orissa States, the rule of inheritance seems to be the personal law. In the Chhattisgarh States there is much dissatisfaction about the rule of inheritance as it is contrary to personal law.

22. *Disposal of State Land.*—Other aspects of the ryoti tenure are in connection with homestead lands, cultivation of new lands, surrender and abandonment of lands etc. In most of the States, land has very little value, particularly in the jungly tracts where new cultivation is started The paucity of cultivators here still persists, while large areas are available for cultivation. Consequently, the States have to follow a policy of encouraging new cultivation and new settlements either directly, or through persons who offer to become headmen and start villages. The only value the land in these areas has got is the value of the forest-growth on it and

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this gives rise to two different sets of circumstances. Sometimes the would-be cultivator is too poor to pay the value of the forest-growth and either this has to be taken by the State if the land has to be cultivated at all, or sold to others. At other times, particularly where the practice of allotting large areas for the purpose of founding villages is in vogue, the land is taken through a bogus cultivator, and after the forest growth is removed, the land is surrendered. In either case, in areas where the land has no value, it is only the trees on it, if any, which fetch anything. On the other hand, where (as in Udaipur), the land has a value, much more than the royalty of the trees is paid for the land though the forest department ostensibly takes only the royalty on the trees. The cases of Udaipur examined all show that a considerably higher payment than the estimated value of the trees is offered, and recovered and credited to the forest department thus inflating its revenue. Where the States find that there is a demand for the land in the shape of more than one applicant, there is always an auction (Keonjhar). Certain States like Baramba or Baudh levy a *salami* according to the value of the land while in others, as for example, Dhenkanal or Khandpara, *salami* is levied according to a scale. It is easy to infer that wherever the *gaontia* or *thekedar* has the right of allotment of waste land, as in a number of States of Chhattisgarh, he realises the value of the land if it has any value There is a nominal prohibition of *salami* in some of the Chhattisgarh States like Khairagarh, Kawardha or Chhuikhadan, but there can be little doubt that it exists only on paper and in Nandgaon it has been recognised that the prohibition is futile and now the State, as well as the *gaontia* partake of the *salami*. The position is of course different where cultivation is scarce and land has no value. In a number of States now, the forest-growth does not come into the picture as far as the *gaontia* is concerned in such cases, except clandestinely, as the State steps in and recovers the value of the trees, and in Surguja, (also in Patna) the right of the *gaontia* to allot waste land has been taken away altogether. In some other States also the right has been modified as for example, in Rairakhol. In most of the States a period of grace is allowed before the ryot is made to pay the land revenue; in a few like Nandgaon, the land becomes liable to pay rent immediately. This exemption from assessment for a period is necessary in States like *thekedar* can make his own arranto cultivators. In places where the Changbhakar as an inducement sion may prove to be ineffective as the *thekedar* allots the land this concesgements with the ryot. Where the *thekedar* has this power, the fixation of land revenue is also according to agreement though rents paid by other ryots usually play a controlling part. In a number of States, the *gaontia* appropriates the rent of the new land till the next settlement. In Rairakhol, the *gaontia* gets twice the commission on the land revenue of a new ryot, and in Surguja, a similar encouragement is offered. As new cultivation is not usually brought on record in cases where the headman allots land, the States often resort to an intermediate settlement known as a *nayabadi* settlement during which all new cultivation is assessed. In most of the States, however, where the *thekedar* does not allot land, attempts are being made to keep the land records up to date. In Hindol State, a nominal fee is prescribed for the allotment of land for new cultivation in the rules, and either this means that land is being sold without full realisation of its value, or what seems more likely from the impression I got in the State, a private *salami* is levied by the Ruler, as Hindol is one of the more developed States.

23. *Disposal of surrendered or abandoned lands.*—Village headmen in some States (mostly Chhattisgarh States) have the power of accepting the surrender of lands, taking possession of abandoned lands and either reallotting such lands or of cultivating them themselves. (In Patna the rights of the headmen in this respect have been taken away by the State recently). Headmen are not slow to take full advantage of this. Where the land is valuable and can be reallotted for a consideration the privilege is valuable and surrenders are looked forward to. I saw a rather pitiful case of this in Kawardha where an old man who had no sons or others to look after him complained that he was too old to cultivate the lands himself, and the *thekedar* would not permit lessees. The *thekedar* was in fact

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pressing the old cultivator to surrender his land as he was falling into arrears with the land revenue. Cases of headmen taking possession of lands on the ground that they had been abandoned must have been of frequent occurrence and a number of *wajib-ul-arzes* contain clauses to regulate this. Usually non-cultivation and non-payment of revenue for one or more years constitutes abandonment at present in States where there is a *wajib-ul-arz* or rules.

24. *Ryoti Tenures Uniform.*—There is little variation in ryoti tenures at the present day throughout the Agency. In nearly all the States, a ryot acquired rights, such as they were, in land as soon as he started cultivating, and there is no old custom or practice regarding any period after which he acquired rights. The Settlement Officer of Seraikela, a Bihar officer, remarked this as it was new to him. In fact as ryots had no recognised rights in the land the question could scarcely have arisen. In two States, however (Hindol and Athmallik), following the Orissa practice which in turn followed Bengal, a period of 12 years' cultivation is prescribed before a ryot can claim exemption from arbitrary eviction. In both of these cases the distinction does not seem to arise out of any long-standing custom and has been made in the case of Hindol in the Tenancy Act of 1940 and, in Athmallik, there is only a clause in the record of rights which I have shown in the report of the State to be absolutely foreign to the local tenure. I hope to be able to show later that such a restriction is unjustifiable and absolutely arbitrary. The principle being quite new also there has certainly been no crystallisation of the practice. In the case of Narsingpur, there is a similar rule in the newly introduced Tenancy Act of 1938 but this does not make any difference in the ryoti tenure and operates only in connection with an allowance of rent-free homestead; even this distinction is purely arbitrary. In Orissa generally the terms '*pahi*' and '*thani*' used to be commonly used with reference to ryots who were not resident in the villages in which they had cultivation and ryots who lived in the villages where they cultivated. These terms are still used largely in some of the Orissa States adjoining the Mahanadi delta but are not common in States further west. Formerly there was considerable difference between the two tenures as described by Maddox in his settlement report of Orissa (1900) The *thani* ryots, according to Maddox, were the burgesses of the village. They held their houses rent-free and for their ancestral lands they paid a fixed rent determined by custom or the decree of the ruling power. They had several privileges in connection with the distribution of waste land, pastures, thatching grass and the firewood jungle, but in return for these privileges they paid higher rents than the *pahi* ryots or non-resident cultivator who had no permanent rights and held at a correspondingly lower rent. The distinction between *thani* and *pahi* ryots is now obsolete throughout Orissa including the States, though in the latter area the terms are still used to distinguish between resident and non-resident cultivators. In the Orissa Tenancy Act and in the settlement records of the province, the terms are no longer used. In the Chhattisgarh States, this distinction seems never to have been made and does not exist at present. In Chota-Nagpur there is a special kind of ryot right known as "*khunt-katti*" right, the chief implication of which is that if the tenancy commenced more than 20 years before the Chota-Nagpur Tenancy Act of 1908, the rent cannot be enhanced unless there is an agreement to the contrary at the time of commencement of the Tenancy Act, and if the rent is by an order enhanced, the enhanced rent cannot exceed half the rent payable by an occupancy ryot for similar land. There is also the system known as the *mundari khunt-kattidar* in Chota-Nagpur which will be described later. Briefly, these rights imply the right to hold wasteland for cultivation and certain privileges as regards rent. In no State do these rights exist; during the settlement of Kharsawan State, certain ryots of the Kolhanpur claimed *khunt-katti* rights but the Settlement officer found that the ryots did not have these rights. The only privilege conceded to ryots who were recognised as the original clearers of the soil was that of extending their cultivation without application to the State for permission and certain forest concessions such as fuel and timber for domestic purposes and exemption from tax on lac and tussore propagation within their village,

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The rents in the Kolhanpir are less than rents in other areas, but this is due to the population being aboriginal and not to any special feature of the tenancy. At the 1927 settlement the rents were enhanced, which must have set at rest any doubts in the matter. No rights of a *mundari khuntkattidar* have been recognised in the States at any time and such rights were not found to exist nor were they claimed at the time of the first regular settlement. In Gangpur, during the recent agitation, however, such rights were claimed by the Mundas but this is purely due to the fact that the agitation was influenced by persons in Ranchi. No other type of tenancy has existed in any of the States.

25. *Sub-letting.*—Persons who cultivated the land of others on systems of cash rent or share cropping known as *adhai*, *sanja*, etc., did not acquire any rights in the land and were pure tenants-at-will. At recent settlements, however, some of these who have been in cultivating possession of the land for generations have been given rights in the holdings and settlement '*parchas*', but often the rents are much higher than rents paid by ordinary ryots (usually twice the normal rent). Permanent rights have in some States not been recognised in the lands held by the Ruler though there are instances of cultivators holding for generations.

26. *Non-agriculturist holders of Land and House Sites.*—The next kind of land tenure which is not really a different kind is that referred to as '*chandnadar*' in some of the States of Orissa. This is nothing more than a name given to a person who holds a house site but has no cultivation, particularly in the village of residence. A *chandnadar* may be described as a person who holds only a house site, with perhaps a garden in the village of residence, and is either a non-agriculturist, or cultivates in another village. Thus, a *pahi*, or non-resident cultivator of one village may be a *chandnadar* of another village. This type of land tenure of course exists everywhere as many non-agriculturists reside in the villages of the Chhattisgarh area also and often, cultivators do not reside in the village where they cultivate. Only the name is peculiar to Orissa. Throughout the Chhattisgarh plain and Orissa, right up to the sea, it has been a long standing custom for agriculturists, labourers and village artisans to hold a house-site free of charge and at the present day this is recognised in nearly all States, though there are variations as regards the maximum area allowed free. *Chandnadars* in Orissa seem to have been mostly assessed to rent. A marked difference between the Orissa States which have not been subjected to Central Provinces influence, and the Chhattisgarh States is that in the former the house sites have all been surveyed separately and recorded in the individual tenant's '*khata*' or statement along with his agricultural lands, while in Chhattisgarh, following the Central Provinces settlement practice, the '*abadi*' or village site, is shown only in outline and house sites are not surveyed nor are they usually assessed. In Surguja and Patna the house sites have also been surveyed as the Settlement Officer was a man with Orissa training, and in Rairakhol, the village site does not seem to have been surveyed in all cases. In most States, permanent rights are not recognised in the house site, and the ryot is not entitled to transfer it though in a few Orissa States transfer of assessed sites is permitted. In some of the Chhattisgarh States the material of the house of a ryot leaving the village belongs to the *gaontia* unless the ryot removes it but in the case of Kanker the *gaontia* is entitled to the house of a ryot giving up his land if it does not cost more than Rs. 25. The position regarding house sites in urban areas has been given in the individual reports. In Bonai where *bethi* is being '*commuted*', a new theory has been propounded that house sites have been held free in lieu of *bethi* but this, along with the argument that uplands have been held free in lieu of *bethi*, or rents were low in lieu of *bethi*, seems to me a purely specious argument designed to derive as much advantage out of the abolition of *bethi* as possible. Apart from homesteads in villages which have been usually allotted free of charge as the land had no value, in all important villages on lines of communications or having market, etc., and in villages like the headquarters of the State which may be conceded the status of a town, initial payments, even if it be only a *dhoti* for the headman, as stated in a village in Udaipur, have been levied and rents also assessed. In headquarters towns in the Chhattisgarh States and in Gangpur and Baudh, following Central Provinces practice special residential areas [illegible]ed and house

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sites here have considerable value which is realised entirely by the Ruler personally as in Sarangarh or shared with municipal committees as in Raigarh or Surguja. In the Orissa States also a similar practice is becoming common or the headquarters village is in some States held by the Ruler. In Raigarh the tendency for the Ruler to eliminate *gaontias* in order to realise the value of these lands is well brought out. (In no other State in the agency is there at present such an important town as Raigarh with the possible exception of Nandgaon).

27. *Land Acquisition.*—Passing mention has been made of the position regarding the acquisition of land (see para. 21). The propriety of compensation has been recognised in most of the States though attempts are made to give as attenuated an amount as possible, which does not really compensate the owner (see reports about actual cases in Sakti, Patna, Bamra, and Raigarh particularly), but in Baramba, Baudh, Bastar, Bonai, Sarangarh, Changbhakar, Daspalla and Pal-Lahara there is no provision for compensation and only the revenue is written-off. In Narsingpur and Kanpur, no compensation is payable unless the ryot has incurred considerable expenses or there is a building. Some States claim to follow the Land Acquisition Act but actually cases do not substantiate this claim. In some of the States mentioned above there are no rules, and I could not see any actual cases of acquisition either.

28. *Improvements.*—Coming now to other incidents of a cultivator's tenure, in all States now the right to make simple improvements by digging wells is recognised though generally improvements like tanks cannot be made without permission.

29. *Conversion to Non-agricultural Purposes.*—In most of the States there are no rules regarding the conversion of land to non-agricultural purposes such as building a house and no attempt is made to take even the increased value. In some States, as for instance, Jashpur or Nilgiri, conversion is not permitted and presumably conversion is penalised by ejectment or is condoned by the levy of a *salami*. Only in Raigarh is there a definite system of permitting conversion on payment of a premium.

30. *Alluvion and Diluvion.*—Alluvion and diluvion caused by rivers is usually not taken notice of or provided for in the rules where any exist, though it is said that on the application of a ryot, abatement of revenue is granted on an area washed away or deteriorated by a deposit of sand.

31. *Trees.*—In most of the States, till the upheavals of 1938, ryots had few rights in trees on their holdings. The general position now is that ryots are allowed to do what they like with trees of unreserved species of which there were few formerly. On the reserved species, which are usually the more valuable species, a fee is charged which is supposed to be a concession rate. In Athmallik there was no restriction even on the reserved species but recently a fee has been made leviable. In Talcher also the Durbar had granted full rights in trees but later a fee was imposed. The number of reserved species before the agitation was enormous, twenty to thirty, but since then there has been a reduction to a number varying from 9 to 12. Permission is of course necessary before a tree (reserved) can be cut and this usually involves a petition with court-fee. The practice of reservation of trees in village forest seems to have started in the early years of this century and was introduced into the forest rules of the States from Angul. This reservation has now been made applicable to trees anywhere and all trees are included in the definition of village forest in some of the recent rules. Generally speaking the practice now about planted trees is that they belong to the planter.

Usually the fruits of trees on holdings are enjoyed by the ryot but in Surguja I came across a communal practice of *mahua*, and sometimes mango tress being divided among the cultivators without regard to the holding on which they stand. In no State has the full right to a tree standing on a person's holding been conceded at present. In some States like Khairagarh or Nandgaon a tax of one or two annas per *mahua* tree is charged, being fixed at settlement and added to the rental, and is payable without alteration even if there is a decrease in the number of trees.

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32. *Trees on waste land.*—On trees on waste land, the position is similar. In most States, fruits of such trees are enjoyed in common by the villagers but in some States (Nilgiri only) the right is auctioned by the State and in some others like Ranpur or Baramba a new practice has been introduced of the village headmen making the distribution and taking one-eighth for himself. In Athmallik, the trees on waste land are either auctioned or, more commonly, ryots are persuaded to take them for the period of settlement at a high annual rate which the ryot has to pay whether the tree bears fruit or not.

33. *Irrigation.*—In no State is there any irrigation scheme worth mentioning with the possible exception of Talcher where there are some tanks from which canals lead out the water. No charge for irrigation is levied in Talcher or in other States except Nayagarh where a water cess of Rs. 1 per acre is levied but in most of them, lands favourably situated near tanks and utilising the water thereof or benefiting by percolation are charged higher rates at settlement. Many tanks have been recorded in the names of headmen who in some cases at least appear to have spent little on the tanks themselves but got them constructed through the labour of the villagers. Tanks constructed by villagers seem to have been recorded as State tanks in some places.

34. *Bethi begar.*—A feature of the cultivators lot round which much agitation has centred is the liability to forced labour, or rendering of commodities free or at privileged rates, either to the Ruler, or the *thekedar* or headman, or to the zamindar or tenure-holder, or similar imposts. In a few States like Bamra or Bastar forced labour or *bethi* had been largely discontinued or limited during the periods of administration, but even in such States considerable *bethi* has been retained as for instance in Jashpur or Keonjhar (see reports on these States). In a few States like Seraikela or Kharsawan *bethi* does not appear to have existed for a long time. In other States where it existed there was a sort of commutation of it into an additional cess on the land revenue; in Baudh, for instance, a new cess of three annas per rupee was imposed in 1938–39 called an improvement cess but the orders abolishing *bethi* were not absolute, and villagers are liable to construct or maintain village roads, *deraghars* or rest houses, temples and to clear forest boundary lines; they are also required to "do their duty as usual during *rath*, Dusserah and other festivals." In Patna "*rasad* cess" was imposed in 1935 and road and other *bethi* has still been retained; it will probably be argued that this cess was in commutation of *rasad* and to get rid of *bethi* the villagers will have to accept another cess. After the enquiry of Mr. Bowstead, orders were passed (*cf.* S. No. 20 in F. 22 (4)-P./40), contrary to the Resident's recommendation, that as *bethi* had been commuted in other States, it should be commuted in the States like Bonai, Tigiria, Baramba, Narsingpur, Rairakhol and Talcher. *Begar* or *bethi* for road making either free of charge (Surguja, Patna) or at a nominal rate (Baramba or Narsingpur) is still being levied. Apart from this, in a number of States *begar* is rendered for other purposes. In Bamra, at the time of my visit, *begar* was, according to the villagers, levied for the cultivation of the homefarm lands in *khamar* villages. In a number of Chhattisgarh States, *begar* is rendered for the cultivation of the *thekedar's* fields or for carrying the luggage of officers as well as for shikar. In Keonjhar also *begar* continues to a considerable extent. Rendering of commodities free or at privileged rates still exists in some States (Bonai, Jashpur, Khairagarh). In Hindol, *bethi* is taken in the *debottar* villages still, and the Tenancy Act does not contain any provision against *bethi*. In Narsingpur, the Act specifically provides for forced lobour. The Political Agents have specifically permitted *bethi* for the construction and service of deities' cars and for village roads and other matters. Religion is doubtless a strong factor but within my experience the Eastern States are the only area where people have to be compelled to take part in religious festivities. My experience is that people construct or pull cars spontaneously and, as far as I am aware, it has not been found necessary in Puri, the very home of Jagannath, to impose *bethi* for this purpose. Also, one may wonder what happens to the large incomes of the *debottar* departments if it is necessary to extract free labour for the construction of cars. The question of commutation or total abolition will be discussed later. In Bonai, the commutation of *bethi* is taking the shape of a settlement. I have discussed this and the specious plea that *bethi* is taken in lieu of something else in the individual reports.

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35. *Rasads.*—*Rasad* and *mangans* do not seem to exist now to any appreciable extent officially though unofficially it may be met with in a few places; only in Kanker and Surguja does it still continue to any extent. In Korea, a theory has been evolved that the rent-free lands of the headman are meant for this purpose. In Khairagarh and some of the neighbouring States it is left to the option of the *gaontia* to levy a charge or not, and it may be taken that this virtually means the retention of *rasad*. In practically all States the headman has to render at the time of Dusserah or other festivals a *salami* to the Ruler usually consisting of cash and or a goat or goats. In Udaipur, in one of the villages I visited, the ryots said that of the two goats to be rendered by the *gaontia* he was recovering the cost of one from them. In this village also an unusual levy of Rs. 2 on the occasion of a marriage in the village was mentioned. In Kalahandi, *tikas* paid by *gaontias* are recovered from the ryots; this prevails in Kanker also. In Raigarh, the Ruler recently attempted to increase the Dusserah *tika* from one per cent. to 25 per cent. of the land revenue of the village, and ultimately recovered two per cent. though receipts were given for only one per cent. Dusserah and other *tikas* are leviable by the use of coercive process if necessary. In the Bhumi-bidhi of Sonepur a *haldian patti* is mentioned which formerly used to be levied for travelling expenses but is now prescribed only for social functions of most members of the Ruler's family.

Among liabilities of ryots is that of attending at the headquarters on festive occasions as in Rairakhol or Keonjhar.

Generally speaking the position regarding *bethi* and other levies has improved a great deal during the last three or four years but there is still a most unfortunate attitude about it which may result in the old position being restored if control is relaxed.

36. *Grazing.*—Grazing is a matter in which there is some variety. In a number of States, no special fee is charged for grazing except in reserved forests. In others, a fee is charged usually upon cattle other than plough cattle or cattle considered as not being required for agricultural purposes and there is some variety here also. In Bastar grazing fees amount to about Rs. 66,000 and in other States the income is small. The charge is levied for grazing on village waste which is included in village forest and thus all grazing is charged for. In some States there are areas recorded in the settlement records as *charagan* or *charokhar* which connotes waste lands of the village meant for cattle. Generally speaking, my observations in the States are that in the areas classed as waste land or village forest there is practically no grass except during the rainy season, and waste other than village forest is negligible in area. In most villages even in the village forest (which according to the system in the States or in most of them includes all waste land) there is very little grazing; there are many villages without village forests, or the forests are distant, and the villagers graze their cattle in the open season on their own embankments and fields which provide a few blades of grass. In Sonepur, villages situated more than three miles from village forest are exempt from fees. Mr. Bowstead expressed the opinion that grazing fees except in reserves should be abolished and with this view the Governor and the Resident both agreed; the orders issued are that grazing fees should gradually be abolished. Mr. Mooney the Forest Adviser is, however, strongly in favour of grazing fees and is opposed to their abolition. His views and the case against grazing fees will be discussed later.

37. *Cesses.*—Although in practically all States (see report on Nilgiri and Korea) the principle that land revenue should not be subjected to fluctuation during the currency of a settlement has been recognised, and formerly also, except under the Maratha system of fixing demands from year to year according to the season, the revenue recoverable from a ryot was not lightly to be tampered with, this principle, probably to a great extent than in the past when *mangans* and *abwabs* were occasional and came probably like strokes of bad luck, has been violated by the recovery of imposts—called cesses in the States An appendix has been attached to this report showing the cesses payable in each State. In several of the States like Patna, Dhenkanal, Talcher, Khandpara the cesses form a considerable percentage of the land revenue. In Talcher, the present total was reached

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after reducing the 'miscellaneous cess' from 5 annas per rupee of land revenue to 3 annas. Similarly, in Dhenkanal, the 'local cess' was first imposed at four annas per rupee and later reduced, first to 2½ annas and then to two annas. Even excluding the forest cess which may be regarded as a commutation fee, the cesses in Patna and Khandpara amount to five annas, in Dhenkanal and Talcher to four annas in the rupee. Exceptional cesses are the *parbani* cess imposed in Nilgiri, the income from which does not enter State accounts but goes to the *Thakul Mahal* managed by the Rani Saheba, and the *parbaparbhani* cess also levied for religious purposes in Patna. In Rairakhol, a rate of 2 annas per house (*tambikya*) is levied and collected through officials of the forest department for the purpose of a religious festival at headquarters; it is not shown as a cess. The dates on which the cesses were imposed show that there is no hesitation in imposing a cess during the currency of a settlement. If a cess is a negligible addition to the land revenue as, for instance, in the provinces, there need not be any great scruple about this but it will be seen that the cesses imposed in the States amount to a considerable enhancement of the land revenue. In Dhenkanal and Talcher the cesses, before they were reduced to the present figures, stood at no less than six annas in the rupee and if the forest cess is included this amount is further increased. The addition to the land revenue today in Patna including the forest cess would come to about 7 annas in the rupee. In Patna, a patwari cess is being levied but there is no patwari system in the State; the cess was doubtless first imposed to meet the cost of a patwari establishment of the Central Provinces' type but there is no patwari system now, and the cess is shown as levied to meet the cost of settlement. Even if this object was proper I have shown in the report on Patna that the total amount recovered will be much more than the cost of the settlement. Similarly, in Kalahandi, a patwari cess is levied but the total amount spent on the entire revenue and land records establishment seems to be less than the amount raised. In Patna, the Land Revenue Act provides for the imposition of cesses at any time and no limit is placed on the amount. Cesses such as miscellaneous cess or local cess show that the States regard a cess as an addition to general revenue and not as a levy for specific objects. It was decided after Mr. Bowstead's enquiry that cesses like education cess, road cess and *nistar* cess might remain and the rest should be merged in the rent. In the case of Talcher, the miscellaneous cess was to be considered at the next settlement which was reported to be imminent. Cesses like the local cess and miscellaneous cess were really the commutation of various levies like *begar* and numerous other dues like those imposed at a marriage or other functions in the Ruler's family. In Sarangarh the *bhandar* cess which was being levied by the State has just been transferred to a newly constituted District Council, the President of which is the Dewan. Incidentally this move raises the possibility of evasion by imposition of cesses indirectly by means of controlled local bodies. While the cultivator is burdened with cesses there are instances of cesses being appropriated entirely or partly by tenure-holders or by the members of the Ruling family in *khamar* villages. For instance the 'local cess' in Dhenkanal is appropriated by tenure-holders, and in Patna all the cesses of *khamar* villages are appropriated by the Ruler. In Jashpur by an order (recent) of the Political Agent, the *thekedar* has been permitted to appropriate the cesses of newly reclaimed lands.

A rate called a cess but which is really a commutation rate is the so-called forest or *nistar* cess. This rate is based upon the rupee of land revenue in some States and on the acreage of a holding in others. In a few it is levied as a plough rate and upon non-agriculturists as a house rate. Usually it is not levied on aboriginals in some States like Keonjhar or Kalahandi, in which shifting cultivation is permitted. In several States it is levied as an acreage rate at different rates on wet lands and other lands. At present, the orders [*cf.* S. No. 20 in F. No 22 (4)-P./40] issued after Mr. Bowstead's enquiry are that it should be levied as an acreage rate in view of the liability of land revenue to increase while available *nistar* decreases. A uniform acreage rate is likely to increase the incidence of the tax as in the backward areas large areas of uplands on low revenue are held by cultivators and differential acreage rates on wet land and dry lands seem to be necessary.

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CHAPTER III.—Forests.

38. *Forests.*—The forests of most of the States are under the Forest Adviser of the Agency, Mr. Mooney. Sonepur, Talcher, Sakti, Sarangarh, Seraikela and Kharsawan are the exceptions. Forest policy has thus been under control for many years now. Most of the States have now working plans, either already prepared or under preparation. Though States like Sakti and Sarangarh have little forest they consult the Forest Adviser specially. In States where there are zamindaris there are some with forest rights who manage their own forests. In Surguja as well as in Gangpur or Kalahandi the zamindars have created their own reserve forests; in Kalahandi, the zamindars compound forest offences without reference to the State and this is probably done in other places also. In Surguja, eighteen villages are held by a '*math*' in Gaya and in these villages, a portion of the forest has been constituted a reserve.

Generally speaking the forests of the States are divided into 'A' class reserves, where the reservation is absolute, 'B' class reserves which are meant for the *nistar* of the villagers and are worked on the coupe system, and village forests known in Orissa as *khesra* and by names such as *katait* or *gramt* elsewhere. In some States like Nandgaon there are no 'B' class reserves but only 'A' class and village forests. A and B class forests are generally demarcated but village forests are not, and in most States, all waste land in the village is included in the term 'village forest'. Indications are that in the recent past, particularly in the Chhattisgarh States, village forest meant land recorded as village forest in the records and the inclusion of all waste land is a practice not many years old. For example, the Khairagarh *wajib-ul-arz* and forest rules do not include all waste land in village forest. A further extension to be found in the latest forest rules is to include even individual groups of trees in village forest. Village forest is thus an area covered by forest rules and managed by forest officials whose jurisdiction extends to even cultivated holdings. Only in Jashpur there seems to have been a move to place the management of village forests under a *panchayat* but the proclamation does not appear to have been given effect to.

39. The position in respect of trees of reserved species has been mentioned already under ryoti tenure. There were not many trees available to the cultivator even though he paid a cess but in the years since 1938 the number of reserved species has been reduced considerably and varies from about nine to sixteen. The reserved species are usually the timbers and some fruit and lac bearing species. In addition, in certain States, trees above a certain girth, of whatever species are regarded as reserved. The reservation applies throughout the State to cultivate fields, to waste land and village forest, as to reserve forest. The reserved species may not be felled or appropriated anywhere without permission and payment. Usually the fee charged in cultivated fields and village forest (and B class forest) is half the royalty which would otherwise be paid, to *nistar* or forest cess payers. There is probably uniformity in respect of reserved species in the zamindari forests as well but it is difficult to be certain of this.

40. *Nistar.*—In return for the *nistar* or forest cess cultivators are entitled to take unreserved species free of charge for their own purposes from village forests or from B class forests. In some places there are no village forests or B class forests within easy reach of the village and, in Gangpur, after the agitation, the cess was abolished in a number of villages and made optional in others. Such conditions prevail to some extent elsewhere as, for instance, in Kalahandi or Athgarh. In addition to free fuel, cess payers can take reserved species on payment of half royalty and, in some States, timber for agricultural implements, is allowed free. Grazing, as already stated, is not charged for agricultural cattle in village forests and B class forests except in some States. There has been a general increase in the facilities which ryots enjoy in the forest since 1938.

41. *Boundary lines.*—Boundary lines are at present maintained sometimes by hired labour but in some States the villagers are paid rates from Rs. 2 to Rs. 4 per mile for keeping the lines clear every year. In a few States (Narasingpur, Athmallik or Baramba) the villagers are required to keep B class boundary lines clear without payment. In one or two States

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like Narsingpur there are separate village forests in addition to those, if any, within village boundaries. The payment of Rs. 2 per mile provides only a nominal payment for each cultivator. While the clearance of forest boundaries adjoining villages may be regarded as in the interests of the villagers as much as the administration, ryots seem sometimes to be taken considerable distances from their villages to clear boundary lines, on nominal payment.

42. *Reservation.*—At the present time the position as regards forests while containing scope for improvement, does not appear to work hard upon the cultivator, I would point out that to a large extent it has been one-sided, that is, there has not been an adequate stress of the opposite view. I do not indeed suggest that they are entirely ignored and, in fact, as far as Mr. Mooney is concerned, his inspection notes show that he has not neglected the interests of the cultivators. What I mean is that in many places it seemed to me that decisions had been taken without an adequate consideration of objections, and the forest department generally decided according to its own judgment. Reservation of forests have so far been made with little consideration for the interests of cultivators and probably by summary orders. Only in rules framed in the last two or three years have any principles been laid down (even these are inserted as a note) and rules other than the latest, such as Daspalla, do not contain any provision for consultation with revenue or land records officers. None of the rules contains provisions for previous publication of intention to make a reservation similar to those contained in the Indian Forest Act. As all, or nearly all, reservation has already been made the new provisions are not likely to be of much practical use. The feeling I had in this matter was strikingly confirmed in Jashpur where forest boundaries had been altered, considerably reducing village forest on the whole, and actually the forest officer was taking action for illicit grazing while the objections filed by the villagers had not even been examined by the Superintendent and many were still supposed to be under enquiry. The Superintendent was unaware that the forest officer was already dealing with forest offences, and of course there had been no proclamation or announcement even after the reservation. In making the working plans, the concurrent examination of the matter by a Revenue Officer to which so much importance is attached in the Central Provinces is absent in the States. In the States where Mr. Mooney does not regularly advise, it is likely that there is still less representation of the cultivators' interest, and before agitation forced the matter upon every body's notice I think little account was being taken of the cultivators' interests. In Talcher, the villagers were complaining about new demarcation reducing their right and I felt that the administration was extraordinarily unsympathetic even to complaints that cattlepaths were affected by the adjoining forest being reserved (because of strayals being dealt with as illicit grazing). In Nilgiri the advice of the Forest Adviser that certain areas should be converted into class B forests was not heeded till nearly eighteen months afterwards when I was able to point it out.

43. *Forest Rules.*—Forest rules exist in almost all of the States. Some of these have been recently drawn up under Mr. Mooney's guidance. In Sonepur there have been no rules till my visit (the forest officer had just drafted some) and in Bastar the position is similar; in Athgarh the rules are a dead letter and it does not appear that much importance has been attached to them in Dhenkanal. Some of the rules have been examined in the individual reports. In a few State like Sarangarh or Sakti there are no special forest rules and Indian Forest Act is said to be followed. I do not know why the Indian Forest Act could not be adopted in other States and the need for special rules does not seem clear.

44. *Monopolies.*—In connection with forests must be mentioned the leases, such as lac, cocoons, *tendu* or *kendu* leaves, *harra* or myrobolams, hides and skins as affecting the cultivator. Lac is propagated on *palas* and *kosom* trees the former of which may often be found in large numbers in village waste and cultivated holdings. *Tendu* leaves which are used for making *biris* are often found growing on cultivated holdings. *Harra* is occasionally found on fields. Hides of village cattle are also included in

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the monopoly. All these commodities are leased out to contractors who get the sole right to purchase or collect or export them. The lac contract is occasionally varied by a system of licensed vendors, and in one or two States by departmental collection.

In all the recent lac leases drawn up under Mr. Mooney's approval, minimum prices payable are fixed in the lease and if these are strictly enforced the propagator should not lose much, though he will certainly not get as much as in the British districts where there is no monopoly. In Athmallik the terms of the lease make it applicable only to forest area but in practice it is held to apply to cultivated holdings also. In parts of Udaipur a check is exercised by the ryots who compare the prices paid to them with those prevalent in adjoining British territory, and take one anna per seer less. In Seraikela State, a tax may be levied upon trees on which lac is propagated; at present an export duty is levied. In Udaipur there is a heavy tree-tax as well as a monopoly which means that the propagator (ryot) is doubly taxed. In Surguja, lac is propagated upon *palas* and other trees by the contractor's men, a caste known as Pondo, and tenants are not allowed to propagate lac upon trees even in their own holdings. In other places also the contractors are sometimes high-handed and cultivators are prevented from making use of their own trees. In Udaipur also a similar state of affairs exists. The lac monopoly vests the rights in the contractor to get all lac whether propagated in the areas classed as forests or on cultivated holdings. Consequently if a cultivator wishes to sell the lac he has propagated on his own holding he has no advantage over a person who propagates it on trees in the forest. Generally the propogator gets little more than labour charges. If on the other hand the cultivator had full rights in trees on his own holding and was not obliged to sell the produce to a monopolist he would get a much better price. The present position is that except where the contractor brings his own men, it is the villagers who propagate lac in the village forest as well as on their own holdings. If it is desired to give the cultivator full rights in his holding it is necessary to make a distinction between lac produced on holdings and in the forest areas. Mr. Mooney's inspection notes show that payment of extremely low rates to the propagators is not at all a rare occurrence; even under departmental collection payment has been very low.

The *tendu* leaf monopoly is similar. In some places the wording of the lease does not give any right to leaves from cultivators holdings but like other violations of the written word in the States, the lease in practice is taken to cover cultivated holdings as well. In some States payment of a fixed rate is prescribed which of course is nothing more than a rather meagre wage for collection, as the contractor has the right, and is allowed to do so by the State. Even this rate is often not paid as enquiry shows. In Athmallik a separate order apparently contravening the terms of the lease was passed requiring one-fourth anna for four hundred leaves as it was found that the contractor was paying a negligible rate. Even so it does not appear that the order is everywhere followed. The Dewan has recorded some instances in Rairakhol where a negligible rate was being paid and pointed out that Sambalpur rates are much higher. If this monopoly like lac were strictly restricted to forest, the villager would get a better price for this commodity if it comes from his own field. The *tendu* leaf monopoly is one of the prominent grievances of cultivators.

The *harra* monopoly is not of great importance as few *harra* trees are to be found in cultivated areas and the question will be dealt with at the time of making proposals.

The hide monopoly will require a little more description. By this monopoly which is now prevalent everywhere except in Gangpur, Raigarh, Kankar and Kawardha and in some other States like Nandgaon or Khairagarh where it has been 'commuted' into a rate included in the land revenue (see individual reports) the contractor obtains the right to take all hides of animals dying in the village. The monopoly seem to include hides and horns derived from forests also. In Kanker and Raigarh there are export duties, and in Changbhaker also a duty is levied as a contractor could not be found. The Raigarh practice deserves mention as it provides

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that if the owner of the animal does not make arrangements for the disposal of the carcass, the *kotwar* of the village will do it, in which case, the *kotwar* will be entitled to the hides and horns. What happens is that dead animals in the village are appropriated by the chamars or others and the *thekedar* (contractor) buys the skin from these for a small payment of two to four annas per hide; the owner of the animals gets nothing. In some States the lease prescribes a rate. The owner of the dead animal cannot keep the hide in most States but in some like Jashpur this is permitted in the *wajib-ul-arz* (in practice the skins are sometimes taken away by the contractor or his servants as enquiry in the villages shows). In the States where the right to the hides has been "commuted" the settlement report shows that organised poisoning of cattle was being practised by the contractor and the chamars. In the States where the monopoly still exists villagers have told me of how they are bullied by the chamars if they fail to report the death of any animal and there have been cases of fine too. (See reports on Talcher and Tigiria). In Udaipur and Sarangarh the hide contract has been given out in violation of the *wajib-ul-arz* and in Surguja the introduction of this monopoly seems to be recent. (In Surguja there was formerly a tax'. In some places (mostly Orissa States) the villagers, on account of caste scruples, do not care for the hides but most cultivators feel it as a grievance that they are compelled to surrender the hides of their animals without any return. Usually it is only the chamars who get the payment. Hides are useful for the purpose of making shoes, thongs and ropes for the ploughs. What the chamar or *kotwar* gets from the contractor is hardly an adequate return for the labour involved in skinning. It is surprising that this monopoly against which there is so much feeling and which has resulted in serious malpractices should have continued so long, particularly as it is extremely difficult to see what right the State can have in the hide of an animal belonging to a cultivator and paid for by him. The practice does not exist in the provinces except in the estate of Angul (which of course was one of the Orissa States) and though here the question was agitated in the Orissa Assembly it appears that it has been retained on the understanding that the whole of the amount would be utilised for the benefit of the villagers. The monopoly however is difficult to justify as it amounts to a denial of the full right of property of the owner of an animal and the strong feeling against it in the villages is easy to understand.

Generally speaking, in all cases of monopoly even where prices are prescribed in the leases it is very difficult to enforce payment of a proper price, but even worse than this is the bullying to which ryots are often subjected. A moderate export duty is in my opinion far better than these objectionable monopolies.

Other monopolies which have existed in the States but have been abolished since 1938 are sugarcane mill, *pan*, and several others. An extraordinary prohibition exists in the State of Narsingpur; by an order passed in December 1937 old bullock carts may be sold only to tenants of the State and the order shows that formerly the restriction was of all sale.

45. *Export Duty and Ban on Export.*—It it convenient to consider here the various export duties levied in many of the States, particularly as in some States the export duties are levied by the forest department, and the ban on the export of agricultural produce for sale outside. After the Bowstead enquiry it was decided that the Rulers should be requested to abolish the export duties as well as the ban on exports. In some of the States like Surguja the zamindars levy their own export duties; it is proposed now in Surguja to persuade the zamindars to let the State alone recover these duties a share of the income being given to them. In Seraikela the duty is imposed on traders only at present though the position is susceptible of change Ban on export of rice and other grains is imposed in several States like Bonai, Rairakhol, Kanker, Ranpur, Chhuikhadan on the ground that there is a shortage, though in Bonai I was told that it did not prevent the Ruler exporting grain Mr. Bowstead wrote that some of the export duties such as on cattle are imposed more to discourage export than as a source of revenue In Surguja for instance there is an import duty on cattle as well and this can hardly be with a view to discourage import. In the list of commodities liable to export duties under the forest rules in Talcher are items like hens, rams and so on in addition to horned

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cattle. The levy of export duties on agricultural produce and the ban on export in these diminutive States can, I think, find no justification whatever. In a large State or province such duties are not likely to have appreciable effect on account of conditions over large areas tending towards uniformity. In large areas like, say, the Central Provinces, or Hyderabad, there is enough scope in the way of large cities and towns, markets and bazars and a ban on export or export duties will have practically no effect on internal prices. Of course under abnormal conditions such as scarcity in a neighbouring province there may be a tendency for export and a difference in price levels on either side of the frontier. Even in such circumstances in view of the modern tendency to price control it is not likely that there will be much difference. In the case of these small States, however where the most important place is often a large village, compulsion to sell within the State itself amounts to denying the cultivator the facilities of large markets and communications which the State itself is unable or unwilling to provide. It is obvious that the smaller the State, the more backward its condition, the less is the scope available to the cultivator to get the best price for his produce. In some of the States (Athmallik, Ranpur) export is allowed for the purpose of obtaining money to pay the land revenue, *i.e.*, during the recovery season. Of course the cultivator exports during this period all he desires to sell and his purpose is served but the pretence of protection disappears. The argument that a ban on export is necessary in order to prevent shortage is, in my opinion, completely fallacious. I do not lay claim to any great study of the problem of movements of agricultural produce and scarcity, but it seems to me that the best safeguard against scarcity of the common type (*i.e.*, caused by local failure of crops,) we have now-a-days in India is the facility with which produce in an area where there is no scarcity can be moved to affected areas. If there was a ban on free movement of produce in such times, famines would be difficult to relieve. The States, in believing that prohibition of export tends to preserve them from scarcity, seem to have completely overlooked the consequences of retaliatory action by the provinces and surrounding States when there is scarcity in the State itself. In such an event the plight of these small States would be deplorable. These are the aspects of the policy which present themselves to me and the actual question of whether a ban is justified at any time or not must be left to persons more competent to express an opinion. Whether at any time export should be prohibited or not, the effect, in these small States, of export duties and bans, is undoubtedly to act as indirect addition to the cultivator's land revenue, and unless there is a compensatory advantage, I am of opinion that the duties and restrictions on agricultural produce should be abolished. I find myself unable to agree that the duties are not imposed for the sake of revenue or that it is normally necessary or desirable to discourage export. It is of course true that when there is scarcity in a neighbouring area, and export is not prohibited, prices tend to go up in both places unless controlled. For the cultivator this is an advantage rather than a disadvantage, and usually, the agricultural labourer and other classes are not likely to be affected except in actue scarcity over large areas. If the States are too small to levy export duties without imposing a burden on the cultivator, it is obvious that this is much more so in the case of their zamindaries and the levy of export duties by zamindaries is most objectionable.

46. *Crop Protection.*—A matter usually coming under 'forests' and affecting the agriculturists is shooting. Mr. Bowstead reported that cultivators are allowed to shoot animals damaging crops in most States. The Resident, the Forest Adviser and the Governor agreed that a cultivator should have the right to protect his crops and, in view of the position that the Forest Adviser was assisting the States to prepare shooting rules, no orders were passed. I have examined the position in the States and some of the new rules framed. The position at present seems to me far from satisfactory. Even before the present new rules were framed there were rules in many States which conceded the right to protection to some extent but these were completely ignored and in practice even pigs could not be shot in some cases and cannot be shot to this day in Seraikela and a few other places. The policy being followed in framing the rules is to permit shooting while the animal is actually in the crops and, in some States,

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certain animals cannot be shot even while damaging the crops. For example, elephants cannot be shot in Dhenkanal and other States, where there are elephants. In Baster bison, buffalo, black buck and barsinga are prohibited though, except black buck, these animals seem to be a nuisance. In Bamra, (see also Changbhakar) the rule prohibits the shooting of females of certain species and specifies the length of horn of a sambar which may be shot. In some States like Athmallik, Kharsawan and Khairagarh only pigs may be killed. In Ranpur the licence conditions prohibit the shooting of animals in day-light even if found on crops. In the States of Dhenkanal, Pal-Lahara, Keonjhar and Bonai elephants are an absolute scourge and do much more damage than all other animals but cannot be shot at or killed. With this position may be contrasted the fact that in the Indian Act for the protection of elephants protection, while damaging crops or property, is not contemplated. In States where there are elephants any protection granted against other animals is quite useless. As *keddahs* are not being held these days the damage done by these beasts is immense and real. Now, as regards shooting only while the animal is actually within the crop, in the first place I feel that there is no reason why animals should actually be permitted to damage crops before being shot at, secondly in a thick paddy crop, beasts like pigs, particularly small animals, are far from easy to see at night, and of course in a crop like *juar* which is grown in some of the western States it is impossible to see them even in daylight, thirdly, no case for the protection of pigs which exist in large numbers and do enormous damage can be made out and only by permitting their killing in an organised manner outside reserves and even in reserves when they adjoin cultivation can their numbers be kept down. Much difficulty is caused to cultivators by the rules requiring them to report killing of animals in protection of crops and take the carcass or hides to the forest subordinates and police, who are often tyrants of the worst description; where the cultivator has never really known what is permitted and what is not, such a procedure is an effective prohibition of shooting or killing even in defence of crops. To give an example of what the rules are like, in Korea, the rule prescribes that the skin, horns and flesh must be deposited with a forest official in twenty-four hours; if the flesh is desired to be retained it should be paid for at rates varying from Rs. 15 to Rs. 4 for various kinds of deer; in some States payment is prescribed for the mere shooting of an animal. In Bastar till recently the person killing an animal was required to produce the skin, cured and dried, within a week. Much is made in arguments against the grant of adequate protection of peaching and destruction of game and sale of flesh. I see no reason why these arguments should be applicable in any greater degree to these areas than to the provinces and why the cultivator in general should suffer on account of a few poachers. I do not think that poaching can be prevented whether the cultivator is restricted in his right of crop protection or not and my experience does not show that the cultivator with a gun is ordinarily a poacher. It would in any case be easy for a cultivator to shoot an animal in the reserve, convey it to his field and pretend that it was shot there. As regards the argument of preservation of game, the position in most of these densely wooded States is hardly such as to call for any preservation. The preservation of animals is surely not to be done at the expense of agriculturists, and there is plenty of scope in most of the States for game sanctuaries. The worthy object of game preservation seems to be forgotten when animals are shot from motor cars and attempts are made to set up records, or when shikar excursions result in organised slaughter. In the Central Provinces where there is an Act for the preservation of wild animals the cultivator is permitted to shoot animals in crops or in their vicinity and animals which are considered vermin, like pigs, are not given any protection and may be killed anywhere. I do not find any restrictions like those in the States in Bihar, Bengal and Orissa. So far, I have dealt with the protection of crops but in these densely wooded meas people suffer much in other ways from the depredations of carnivora without being able to shoot them. I came across an instance of a village headman being fined Rs. 50 for killing a panther last year though the animal had killed three cattle in the village (Udaipur). The protection of cattle is quite as important as the protection of crops. The general question of protection of life may be considered outside the scope of my examination though a man-eater may do much harm before the Ruler is fetched to kill it.

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Connected with the question of protection of crops and cattle is the question of the issue of gun-licences for this purpose. In some States the fees levied have been far too high and few cultivators can afford all the expenses necessary; in Chhuikhadan a fee of five rupees is levied for a licence. There has been a general reduction and some of the new forest rules prescribed free licences but still a fee of Rs. 2 or Rs. 2-8-0 must be regarded as high for a muzzle loading gun. Except in a few States the number of licences issued seems small in view of the jungly nature of the country, and in most of the States the guns are held by headmen and similar persons more as an enhancement of their prestige than any real use in view of the position regarding shooting. In Keonjhar, a State full of wild animals there were only seven gun licences for crop protection and in Korea, an equally jungly and large State there were only 22 such licences last year, there are other States also where the number of licences is inadequate and these are mentioned in the individual reports or later. In Seraikela, Kharsawan and Sakti no licences are issued.

47. *Shifting Cultivation.*—Shifting cultivation of the type known as *bewar* or *dahia* (in which trees are felled and burnt or burnt while standing, after ringing, and seed is sown in the ashes or the ashes are ploughed into the ground) is now permitted in regular manner only in the juangpir of Keonjhar and in tracts of Bamra, Bastar, Pal-Lahara, Bonai, Ranpur and Kalahandi. In other States it is either non-existant or is occasionally done clandestinely and is liable to be treated as an offence against the forest rules. This is the position in some portions of Surguja where the Pahari Korwas have not yet taken up settled cultivation. In Rairakhol there are some Kondhs, in the forest area who have been brought down from the hills (some are being brought down) to a new settlement in the State and it is proposed to teach them settled cultivation. In areas where shifting cultivation is permitted a plough tax or house tax or poll tax is charged upon the cultivator. The juangpir was the only area in the States where shifting cultivation is practised which I could personally visit. I could observe small areas under settled cultivation here as well but though it is likely that the tribes may be gradually coaxed to take to settled cultivation, they are addicted to *dahia* and will not give it up easily. Most of the areas in which shifting cultivation is practised are totally unsurveyed and while there seem to be no disputes regarding the area of each man within the village, disputes between neighbouring villages are known to occur and develop to serious proportions. Laying down the boundary of each village by traverse seems to be a necessity. In Bamra shifting cultivation is assessed by measurement every year. Formerly when shifting cultivation was much more common than it is now, assessment used to be made at so much per axe. I have not been able to make much of an examination of the relative merits of these methods by consulting the villagers. In the juangpir the cultivators seemed to have no objection to the method of assessment and the other methods also seem to cause no trouble. Measurement of area annually may not be convenient but it does not seem necessary to recommend a different system. As regards discouragement of shifting cultivation, with the exception of keen anthropologists, others are agreed that it is desirable to discourage it. It seems essential to proceed slowly and cautiously with this. The Kondhs who had been made to come down from the hills in Rairakhol do not seem to have taken quickly or kindly to their new surroundings from what I read in the tour notes of the tahsildar. In the South Mahanadi States there are Kondhs who have taken to settled cultivation, speak only Oriya and seem to be in no way inferior to their neighbours. These Kondhs are known as 'desua Kondhs' as distinguished from their primitive brethren who still remain in the hilly areas speak Kui and practise primitive methods of cultivation and are known as 'malua Kondhs'. This seems to indicate that it is really wrong to encourage seclusion and seggregation of these tribes though they need protection in a different form In the Abujhmar tract of the Bastar States, there is a sort of seclusion of them, the benefits of which, apart from the creation of a sort of anthropological sanctuary, seems to be doubtful. In this tract a poll tax is levied (see note on Bastar).

47-A. *Composition of forests offences.*—In nearly all States forest officers are permitted to compound offences upto a limit of Rs. 25. The cases compounded are not usually reported to a magistrate or the Dewan

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except in one or two States. In Sarangarh; forest *darogas* are permitted to compound cases upto a limit of Re. 1, *prima facie* a most undesirable practice. In view of the fact that forest officers in most of the State are persons of the rank of rangers it is questionable whether they should be permitted to compound offences at all. In any case I do not think composition of cases without reporting them to a Magistrate should be permitted.

CHAPTER IV.—Survey, Settlement and Land Records.

48. *The Need for Survey.*—To some extent settlements in the States have been considered in dealing with the revenue history of the States and the position in the States has been briefly mentioned. Whether land revenue is regarded as a tax upon agricultural income or as a rate for the privilege of cultivation under the protection and facilities provided by the State, it has, throughout India except where shifting cultivation is practised, come to mean an acreage rate and according to most or all modern methods of settlement, is supposed to bear relation to the productive capacity or income from the land. An agricultural income tax has been imposed recently in Bihar but the object of this Act seems to be to get round the permanent settlement and the assessment takes into account the land revenue paid on the land. Land revenue then, is primarily an acreage rate, and its proper assessment is bound up with an accurate measurement or survey of the surface of land so as to give the area cultivated, or in the possession of individual persons, or persons acting jointly. Survey is also necessary for the determination of areas of land likely to be cultivated in the future, for the determination of areas which may not be cultivated and are required for other purposes such as the common purposes of the villagers, for residential use and for the assessment of revenue on such lands as well. Smooth administration also depends on it and in areas without survey disputes between individuals or communities may commonly arise. Generally, it may be said that for proper revenue and civil administration, survey is one of the most important desiderata. These prolegomena are meant to show that in a number of States, this primary requisite of sound revenue administration is missing altogether or exists only in an unsatisfactory condition. In several States like Bastar, Udaipur, Bonai. Keonjhar, Ranpur and Kalahandi, large unsurveyed areas exist while practically the whole of Udaipur and Korea is yet to be surveyed. In some States, notably Ranpur, Athgarh and Dhenkanal the survey made is very unsatisfactory and unreliable.

49. *Boundary Marks.*—In practically all the Orissa States there is no agency for the maintenance of land records in an efficient manner and I have no doubt that survey marks in most places are defective or missing altogether in the absence of proper supervision ; this is admitted in places like Dhenkanal or Hindol. In the States of Chhattisgarh where there is a land records staff of patwaris, as in the Central Provinces, the conditions may be better though in most of them the number of patwaris is quite inadequate; in States like Kalahandi, Udaipur or Changbhakar the patwaris have impossibly large charges. In Raigarh, the patwaris do a village once in two years. Even in the Central Provinces the maintenance of land records and boundary marks often lacks efficiency on account of the field work and physical exertion involved in supervision and the position in the States can certainly not be better. In the Orissa States, *sarbarakars* are required to look after boundary marks but nobody sees that they discharge this duty. In no State in the Agency has the survey except of the boundary of the State been done by theodolite but survey by less expensive methods can, if done with proper care, produce records sufficiently accurate for most practical purposes. With the exception of the States mentioned above, and probably a few others like Sonepur and Rairakhol, satisfactory settlement maps seem to exist, of surveyed areas. Defects have however been found occasionally as stated by local officers but it has not of course been possible for me to examine this matter except superficially. In many cases, a considerable time has elapsed since settlement, and disputes arising from defects in survey and record have mostly been settled, and it is not possible to give a definite opinion without a special examination. Instances of *prima facie* unsatisfactory conditions have been commented on in the

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individual reports. The States are only just beginning to realise the need for survey and though the failure of most of them to get a proper survey made is attributable to financial grounds, preference has been given to less important matters as in Korea and Surguja which could have easily arranged for a survey long ago. Surguja is having its first survey and settlement, and in Korea, a commencement was made but the work has been interrupted. Complete survey in all States, if only to lay down only a traverse round the villages where shifting cultivation is practised seems an urgent necessity.

50. *Land Records.*—Similar is the position with reference to other records prepared at settlement and while a number of entries are doubtful and even now disputes arise, in surveyed and settled areas, there are more or less satisfactory records with the exceptions pointed out in the individual reports. In the unsurveyed areas where there is settled cultivation, in some places rough maps have been drawn (Bastar, Udaipur) by eye estimation and the records are prepared by either estimation of area or by reference to seed or plough capacity. Comparison of maps in some recently surveyed villages shows that these rough maps are too rough to have any value.

Resettlements in Bonai and Ranpur are urgently necessary. The records in these States are totally out of date and it is likely that the State is probably losing much revenue.

51. *Assessment.*—As regards the assessment of land revenue the early methods of assessment on seed capacity with the aid of village headmen and a *panchayat* and an eye estimation have been mentioned. This is the assessment current in areas where there has been no proper survey. In other areas it has already been mentioned that the mode of assessment has depended upon whether the officer who did the settlement had training in Bihar and Orissa, or in the Central Provinces, and in two or three cases, like Gangpur or Rairakhol, the assessment has been done once in one way and once in the other. The States of course have no settlement principles or rules of their own neither is there any formal application of any particular system. Settlements are in fact regarded as merely a means to augment the revenue, and the method adopted is of little importance so long as this purpose is served. That is why in Sarangarh or Sakti it was considered unnecessary to do a proper settlement and a 'summary' settlement was made (see individual reports). Generally speaking, throughout the States, both survey and settlements have been done by officers who held no higher post than that of Assistant Settlement Officer in provincial settlements, (occasionally lowers posts as in Sakti) and to this fact may be attributed the defects in places like Athgarh; the individual reports on Kalahandi and Baudh may be seen in this connection. Settlement reports in some States are absent (Hindol, Bamra, Bastar Sonepur), or defective and the report of one State (Nayagarh; see report on that State) shows that the increase of land revenue sanctioned by the Political Agent and Commissioner was at a uniform rate of 2 annas per acre resulting in an increase of about 4 per cent. on the best class of land and 33 per cent. on the worst class. In the matter of classification of villages and lands, on the whole, much arbitrariness has prevailed and each settlement officer has more or less given scope to his own previous training and background without a proper study of conditions in the State. It is not easy to criticise a settlement without a good knowledge of the country and examination of many local factors, and I have refrained from comments except in cases where the settlement showed obvious grounds for criticism. (See reports on Baudh, Kawandha, Rairakhol). On the whole the States seem to have been unfortunate in getting for their settlement, officers who would not be considered fit to be in independent charge of settlements in the provinces, retired officers or officers on the verge of retirement, sometimes too heavy to move about much.

52. *Period of Settlement.*—As regards period of settlement, much variety and capriciousness prevails. The terms vary from seven to twenty years, most States having ten or fifteen years. In some States like Baster and Sonepur there are different periods for different tracts—the periods in Sonepur being most peculiar with 11 years in some parganas, 12 in some and 15 in others. The period of settlement in the provinces is generally a minimum of 30 years but some provinces like the Punjab have adopted 40 years. In nearly all States it has not been found desirable or practicable

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to make a settlement after ten or fifteen years and in some States like Chhuikhadan or Ranpur more than thirty years have elapsed since the last settlement. Economic conditions in the States have not been changing at any great rate inspite of the backwardness of most of them and the possibilities of development, and there is nothing to indicate that there will be great changes in view of the financial circumstances of most of them. A number of States like Raigarh, Sakti, Nandgaon, Tigiria, Ranpur, Gangpur or Nilgiri show growth of agriculture, population and even trade and communications, comparable to the districts. I can see no probability whatever that these States will develop at a faster rate than the districts. If therefore States like Khairagarh or Nandgaon do not desire to commit themselves for long periods, the reason is obvious. In Kharsawan and Seraikela the first settlement of 1907 was fixed for twenty years but the term of the subsequent one was shortened to 15 years and there is no satisfactory reason for the shortening that I can see and none has been ascribed. Frequent settlements, even for the maintenance of records, are quite unnecessary if there is proper maintenance of records, and in fact the State as well as the cultivator is likely to find a lot of harassment and loss in such operations. In the States where the *gaontia* allots land and appropriates the revenue till a revision of the settlement, much revenue is lost to the State. The attitude of the States towards settlements is shown by the system evolved in Baudh in which State Mr. Bowstead has reported that the assessment is high. Here, the State has been divided into ten parts in each of which settlement will be taken up every year. By the time the ten divisions have been completed the first division becomes due for settlement again as the period of settlement is ten years, and the next round automatically begins. Attention is invited to the report on Baudh in which the present operations, the position as regards assessment and other factors are discussed. The State commenced the present operations even before the term of ten years of the previous settlement had expired and there seems to be some idea of redistributing the rents. It is clear however, that some of the sections will continue under the present assessment for periods varying from ten to 20 years. If it was recognised that the previous settlement was bad, there was clearly no case for the imposition of a cess of no less than three annas per rupee in 1938-39, in addition to the existing one of three-fourths anna per rupee (apart from the forest cess). In Talcher, after 15 years, it was proposed to start a settlement again and I have advised against it. In Gangpur, the period of the last settlement which has caused so much trouble is 10 years, and the reason given for this is that the minor Ruler is to come of age and it is not desirable to tie his hands down for a long period! Even taking the undeveloped condition of many of the States into account, the pace of development is in no case sufficient to warrant consideration of a resettlement within a shorter period than 20 years and even then that period cannot be applied as a hard and fast rule irrespective of circumstances. Shorter periods have in fact been found impracticable. The main consideration should be whether profits from agriculture have increased sufficiently to justify the imposition of an extra burden on the agriculturist. Settlements are revised usually to effect an enhancement and a settlement which does not result in an increase of revenue is a waste of money, and if the operation is meant for a revision of records only it may be comparable to burning a house to roast a pig. Whenever a settlement takes place, it is often not easy for a cultivator to readjust his economic life and a period of years may be necessary. If mistakes have been made it is only after a considerable number of years that cultivators will cease to feel the effect of them. It is easy to show profits on paper even after a short period by manipulation of crop experiments and other factors and, no doubt, when a settlement officer is appointed some such thing is expected of him.

53. *Settlement Staff.*—The danger of appointing low paid officers from whom little more than routine work can be expected without supervision is obvious. Settlement and survey being technical matters, what the settlement officer does is practically final. The position of the States may be contrasted with the position in the Central Provinces for example where the Settlement Officer, usually a picked man, has the Settlement Commissioner and others to guide him and against whose decisions there is provision for appeal. In spite of the employment of inferior officers with low pay,

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settlements in the States do not appear to have been inexpensive on account of the inefficiency of the staff and the long period taken. In view of the vital importance of settlements and the amount of harm an unimaginative settlement can do both to the agriculturist and the administration, the introduction of a competent joint agency for the framing of settlement rules and instructions and for the actual supervision of settlement is urgently necessary. The importance of such a controlling agency is clear as few of the States can exist as such independently and employ a really competent setttlment staff

54. *Maintenance of Land Records.*—As regards the maintenance land records, the position in the Orissa States may be said to be on the whole unsatisfactory though in some of the States like Gangpur the records are probably more reliable than in the others. Generally speaking, in all the States in which the village headman has powers to allot land for new cultivation or accept surrenders and reallot land without reference to the States, the settlement record is not maintained up to date and only after a '*nayabadi*' settlement (*i. e.*, a settlement for the purpose of assessing new cultivation) is order restored to some extent. In the Orissa States, generally speaking, there is no field staff for the maintenance of records. New cultivation, if permitted only by the State, is generally recorded at the headquarters and the services of 'amins' are usually employed for purposes of surveying new lands, etc Mutations where they are intimated to the State are recorded but there must be many which are not reported or brought to notice for long periods in spite of the penalty levied for delay. In fact some of the States are more interested in the penalty than in keeping the records up to date. The instances mentioned in the report on Narsingpur where mutations which have actually taken place were not recorded on account of some trivial irregularity in the petition may be recalled here. In the Chhattisgarh States which mostly employ patwaris as land records staff and maintain the records on the Central Provinces system, the records are maintained better and more systematically though in some States the number of patwaris employed is quite inadequate. In States like Bastar or Kalahandi the Zamindars maintain their own records and the effectiveness of supervision is doubtful, particularly in the latter State. In the Agency as a whole, it may be said that the maintenance of land records leaves much to be desired. The maintenance of a land record staff on the Central Provinces system is of course expensive but if the Chhattisgarh States have been able to do this there is no reason why the Orissa States should not do the same. The cost of the revenue and land records staff in many States is very small (see individual report). An alternative to the system of employing separate patwaris is to train the village headman in survey and make use of them but this can only come about gradually. Perhaps a compromise is possible in the States and would suit them best, namely, by giving the headmen certain duties which the patwari performs, such as preparation of crop statements which does not require technical training, and the employment of a limited patwari staff which would then suffice for a larger area. The details will of course have to be worked out by the Agency which will be recommended for controlling and supervising the settlement and revenue affairs of the States.

CHAPTER V.—Recovery of Land Revenue.

55. *The Responsibility of the Headman.*—The part played by the headman of a village in the collection of land revenue has already been mentioned. In practically every State in the Agency, wherever there is a *sarbarakar*, or *thekedar* or *gaontia* in a village, he is expected to bear the responsibility for the entire revenue of the village. It has been pointed out that on account of this responsibility there are many villages in every States for which headmen cannot be found. On account of the responsibility for the revenue the States often seek a man who has financial capacity, for, often the ryots may fail to pay or delay payments, and the headman should then be capable of paying out of his own pocket. This criterion often compels the States to seek an outsider with no local interest to be the *thekedar* and this feature is rather prominent in some States like Kanker. My enquiries show that only in Gangpur where the high commission of 25 per cent. is paid and in a few other States of Chhattisgarh

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where the *gaontia* gets a high remuneration is the system of headmen with responsibility for the revenue satisfactory. Many headmen have to borrow in order to pay their '*kists*' in time as the normal remedy against defaulting ryots is to file a civil suit. In most States the headman is now permitted to file a list of defaulters in the revenue court for the purpose of summary procedure but 'certificate procedure' is permitted only if the headman pays the due on the due date or within a specified time and files a list of defaulters within a given period. In one or two States like Athmallik or Hindol the headman is absolved altogether from personal responsibility for payment if he files a list of defaulters. In the States of Nilgiri and Athgarh the system of village headmen has been abolished and collection by peons resorted to, a system susceptible of serious abuse, and the results are not satisfactory. The employment of temporary peons during the collecting season particularly, is fraught with serious danger of the villagers being duped, and as the peons, have many villages in which to collect, collection cannot be as satisfactory as if there is a local man. The result of this kind of mechanism is also likely to cause serious inconvenience as the tendency for tahsildars is to go to certain villages and require the villagers of neighbouring villages to attend. With the system of collecting peons, of course, there is no possibility of a local agent of the State for various other purpose and the chowkidar cannot be an adequate substitute. In Baudh State, the *sarbarakar* has been relieved of the duty of payment of revenue and while he is retained as a village headman, there is a separate staff for collection. In Athmallik State, a large number of headmen were removed between the years 1936 and 1939 for failure to pay the revenue. (Many of them have been reinstated since but a larger number of villages are still vacant). In most of the States, the headmen hold lands known as *manwar* or *bhogra* which follows the post and in view of the fact that in most cases a *nazrana* or *salami* has been paid for the headmanship or the post is 'purchased' in auction, the *manwar* lands have really been paid for and ejectment from the post is therefore a serious loss when the headman is not really to blame, as it is the ryot who defaults in the first instance. Generally speaking, the position of *sarbarakars* or *gaontias* with responsibility for the revenue is becoming difficult throughout the Agency. Mr. Bowstead in his report [F. 22 (4)-P./40], suggested that the *sarbarakari* system was beginning to outlive its utility and seemed to think that the system of collecting peons was better though he made no specific recommendation or analysed the causes. What is wrong with the system of village headmen is really the fact of the responsibility for the whole of the revenue whether the ryots pay or not, and the fact that in most cases he has to pay first and then incur the expense and trouble of a civil suit. The possibility of village headmen without responsibility for the whole of the revenue but responsible for *collection, i.e.,* working as the local collector of revenue on behalf of the State (to which practical position he has been reduced in some of the States) does not seem to have been envisaged. The States, or some of them, still feel that in times of agitation or trouble it would be useful to hold one man responsible and make him pay but it is obvious that nobody would accept the position if he did not feel that recovery could be effected from the ryots. It would not indeed appear desirable to eliminate village headmen who have in many cases held the village for generations, and, in the States as well as in other places of which I have experience, rendered excellent service to the village as well as the Government concerned. Collection of land revenue is not the only duty a village headman performs and he has numerous other functions to perform such as reporting crime, looking after the interests of the States, the sanitation of the village and so on. In discussing the maintenance of land records it has been suggested that the headman could probably be made use of for that purpose. The Partially Excluded Areas Committee of Orissa made a recommendation similar to that of Mr. Bowstead but admitted (see para. 35 of the Report) that they had no satisfactory alternative for the discharge of other duties. They made a vague recommendation that they realised "that this question presented some difficulties but they are not insuperable." A change in the present situation is desirable and this will be dealt with fully later. The system in Baudh of retaining village headmen as well as employing a separate collection staff seems to me a waste of money to a large extent as the village headmen could certainly be made use of as local collectors, known to the villagers and

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mostly having a strong interest in the village. In villages where there are no *sarbarakars* or *gaontias*, collection is effected usually through specially appointed patwaris or tahsildars or *amins*.

56. *Date of Payment.*—The next point about the collection of land revenue is the time and manner of its payment. In a large number of States, the ryots are required to pay the revenue in two instalments, in December to February and between March and May. In a few States payment is made in three instalments, in November, January, and April-May. Now practically throughout the Agency, rice is the main crop though small quantities of other crops are also sown, the proportion of these increasing as we go from east to west. The rice harvest begins in October for the early varieties which however are sown over a very small area and the bulk of the harvesting is done in November-December and is complete by the end of December or first week of January at the least. Other 'kharif' crops like *kodon, mung* or *jatangi* also ripen about the same time as rice or slightly later. Except in the western-most States of the Agency there is no appreciable '*rabi*' or spring crop. Most cultivators seem to pay their land revenue by sale of the rice crop, particularly where they have to make payment in November or December but some cultivators sell the 'miscellaneous' crops for this purpose and nearly always pay the second instalment out of the sale of such crops. The price of rice seems to rise steadily more or less through the season, being lowest in November and rising to a maximum in September-October, after which it falls as the early varieties are harvested and begin to come in. Thus the cultivators who have to pay their revenue in November-December or early in January generally have to sell the paddy at a time when prices are lowest, as well as before harvesting is really complete, and are thus put to loss as well as inconvenience. For this reason, practically every where cultivators have stated that payment of the first *kist* in November or December is inconvenient. Those who have to pay late in January or February have no complaint about this and usually there is no complaint about the second *kist*. Those who pay a third *kist* in October-November seem to borrow money in anticipation of the harvest at a high rate of interest. The *kists* are mostly equal but in some States are levied at 12 annas and 4 annas in the rupee. The village headmen usually have to pay fifteen days to a month after the date fixed for the ryots. In actual practice cultivators in some States, like Udaipur, occasionally pay up their land revenue in one instalment but sometimes in dribblets of three to four payments as they obtain money. Often they try to retain the entire paddy crop for their own use and pay the revenue out of wages, sale of minor crops, or other sources of income. Usually in the zamindaris and other areas under tenure-holders, the same dates seem to be fixed for the recovery of revenue as the rest of the State.

57. *Rules and Procedure.*—We now come to a consideration of what happens when the cultivator or headman fails to pay his revenue. Some of the States on either side of the Mahanadi have rules usually framed during minority administration for the recovery of land revenue but in most States there are no rules or binding procedure for the recovery of land revenue. An officer may refer to the Orissa Public Demands Recovery Act when he is at a loss to know what to do, or the Central Provinces Land Revenue Act, but even where these laws are included in a list of laws shown as followed in the State, the actual procedure is generally different and in fact these laws are not meant for the circumstances in the States though portions may be applicable. Generally speaking, whenever default is made by a headman with responsibility he is proceeded against in the first instance; a notice or sometimes a warrant of attachment of movables is issued against him. If he does not pay, the movables are put to auction. If this does not result in recovery the headman may be ejected and the post auctioned or resettled otherwise. On the whole, in recent years, except in Athmallik (see separate report) where headmen were ejected by the hundred a short time ago, I did not come across cases of frequent resort to this measure. In most of the States, agricultural implements, cattle, etc., mentioned as exempt from attachment in the Civil Procedure Code are not attached, at least in theory, but in some States like Narsingpur or Changbhakar these articles are not exempt. The service of warrants and execution is the responsibility of a a ministerial official known as *nazir*, and definitely in most of the Orissa

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States and probably in the others as well, the *nazir* and his peons are corrupt and make use of this responsibility to their advantage. This is clearly shown by the deliberate delay in making attachments or sales observed in so many cases, and the Dewan of Baudh State admitted this position. In some States, property is given to a Sub-Inspector of police or Head Constable to sell in a local bazar (Udaipur, Rairakhol). In the States such as Nayagarh also in which immovable property is put to sale for recovery, matters are left almost entirely to the *nazir*. The proceedings in these cases are most irregular, and property may be notified for sale on one date and sold on quite a different date, and sometimes at short notice, The period of thirty days for proclamation prescribed in the laws said to be followed is certainly not followed in practice. In Nilgiri, the practice of the process server or peon finding bidders for immoveable property is so full of possibilities of corruption that it would be amazing if it were not abused. In most of the States there is no restriction against process-serving peons accepting payment of dues and in some like Changbhakar this is freely practised. In hardly any State could I see adequate strictness in all these matters.

Arrest and detention is not employed as a process in the States to any extent though in one or two States like Jashpur there are occasional cases. Other process employed for recovery are lease of the land for the arrears, ejectment from land or from a part of it (a recent practice). In the State of Surguja, where the maintenance of records till a year or so ago was practically non-existant, it is said that no coercive processes were issued for recovery of revenue formerly. In the last two years however, need has been found for such processes but there is nothing to indicate any particular change in the ryots attitude. It is admitted however, that land revenue has not been recovered in full every year and also that peons had to be sent out. The position is thus mysterious but in any case it is a good thing that regular records are now being made. How zamindars and other tenureholders used to exercise pressure is also not known.

Statements obtained by me regarding collection of revenue show satisfactory collection in many States but in some, collection is poor, and the number of coercive processes heavy, The individual reports may be referred to in this connection.

58, *Receipts*.—Except in Athgarh where a number of villagers complained about not getting receipts for payments, and in some part of Surguja or Kalahandi where no receipts are granted, the position in the rest of the area, as far as I could observe is satisfactory though in Kawardha I found a case of a man who seemed to be paying a rupee more than what he was given a receipt for, and what was shown as his assessment. Also in this State no receipts appeared to be granted for forest dues and some cultivators seemed to be actually paying more than what they were liable to be charged. (In other places joint receipts for the whole village or for a number of houses were said to be given). In Athgarh, where collection is direct, some people said that clerks in the office charged a fee for receipts. In the Orissa States, receipts are given on slips with counterfoils, the counterfoil being retained with the headman. The headman usually purchases the receipt book from the State and charges one pice for each receipt. In Tigiria, I came across a unique charge of half a pice per receipt to be paid to the chowkidar of the village. In some States of Orissa the charge for the receipt book of the *sarbarakar* seemed to be rather more than its printing charges, that is, the State was making a profit out of it. In Rairakhol a receipt book of 100 leaves was said to cost 7½ annas but the headman was charging one pice per receipt and thus making a profit of more than one rupee.

In Chhattisgarh States (except Surgurja) the Central Provinces system of the ryot keeping a bound *'rasid-bahi'* which contains enough leaves to last for 15-20 years is followed. This *'rasid-bahi'* shows the area and rental of a ryot's holding as well as cesses payable and every year a new demand leaf including arrears of the previous year, if any, is entered by the patwari and the headman acknowledges receipts on the opposite page, every payment being shown as it is made The cost of the *'rasid-bahi'* is about 3 annas (in the Chhattisgarh States also a profit is made on the sale of *rasid-bahis* either by the State, or improperly by the patwaris who sell

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them) and it is available for many years and the ryot has thus a permanent record of all his payments over a number of years at a very low cost. The Orissa receipts are loose and easily liable to be lost or torn and cost more than twice what the Chhattisgarh cultivator pays. In the Chhattisgarh States, I noticed the following malpractices *viz.*, fees being charged for writing receipts, patwaris through whom the *bahis* are sold charging more than they were entitled to, and also charging fees for writing. Most of these are due to the inefficiency of the local officers and slack administration.

CHAPTER VI—Other Matters.

59. *Village Servants.*—In connection with rent-free grants held for the performance of services, village servants like the chowkidar, have been mentioned to some extent. The most important village servant is the chowkidar who is to be found in all States. In some States he has an assistant called a *jhankar*. Only two States in the Agency (Korea and Tigiria) have a sort of head chowkidar the need for whom is far from clear. The chowkidars and other village servants nearly all hold jagirs and in addition get payments from ryots. In some States like Korea, Sarangarh, Surguja or Patna, a fee is levied, usually triennially, for the dress of the *kotwar* or chowkidar. In Korea and Surguja (see reports) the headmen seem to make a profit out of this. The appointment of the chowkidar usually follows the rule of primogeniture. In a few States his appointment is usually made on the recommendation of the police.

60. *Procedure and Laws.*—Among the Orissa States, Narsingpur, Hindol, and among the Chhattisgarh States, Patna and Kanker have got a codified revenue law, the first three having been framed during the last two or three years. Sonepur has a '*bhumi-bidhi*' which lays down certain revenue matters, Talcher and Athgarh have certain rules and a few others like Dhenkanal or Daspalla have rules for special purposes such as mutation or recovery. The remaining States have a *wajib-ul-arz* or a *patta* executed by the headman, or none at all. These rules and laws have been examined in detail in the individual reports. Some States declare that they follow the Orissa Tenancy or the Chota-Nagpur Tenancy or the Central Provinces Revenue Laws where there is nothing in their own rules or *wazib-ul-arz*. In Ranpur, the Orissa Tenancy Act is shown as 'partly' followed but it is not known which part it is which is followed. In some other States it is the 'spirit' of the Act which is said to be followed. With the exception of the first few States there is generally nothing governing the procedure of Revenue Officers and many other matters, and the laws of neighbouring provinces cannot be, and, in practice, is not followed in the States. Generally, the few laws which have recently been framed are defective in many ways and contrary to sound revenue principles and practice, and are very badly drafted, in the other cases the *wajib-ul-arzes*, the *pattas* etc. are quite useless as revenue laws, and in practice do not have the force of laws; instances of the *wajib-ul-arz* being violated by the Ruler and others are known and more matters are left uncovered by these documents than are mentioned in them. I have already mentioned that in view of the small revenue of these States, the law must be designed to confer adequate protection to the agriculturist from unjust or excessive demands and the machinery must be such as to enforce this law.

61. *The Rulers As Revenue Authorities.*—Regarding the enforcement of the laws, such as they are, in practically all of the States, the Ruler or corresponding authority passes orders on all or most of the important cases and is also the final authority in the matter. In Bamra, orders passed by the Revenue Officer go in appeal to the District Judge and the Ruler is the final authority but passes the first order in all important cases. In Patna, a similar position prevails, there being a Revenue Minister. It is clear that the position practically throughout the Agency is that neither is there an adequate law nor is there any possibility of remedy for aggrieved persons in view of the Rulers acting as Revenue Courts except that of a petition to the Political Agent which is sometimes dealt with by an

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assistant with a few years' service. The manner of disposal of such petitions is often to call for a report from the very authority whose order is complained of and records are seldom examined. If the Rulers were not to act as revenue authorities, the position would be little better in view of the low calibre of officials employed, particularly in the smaller States, and could conceivably be much worse. The best officials employed in the States at present are retired officials of provincial services and even if these are used the need for a final tribunal not influenced by local considerations will be clear from what has been said already. The reason why the Rulers desire to keep so much revenue work, particularly those involving village headmanship, transfer and allotment of lands etc. in their own hands will have been clear from the preceding pages ; these matters usually involved *nazranas* and *salami*. It will be seen that the functioning of Rulers as Revenue Authorities has the effect of influencing subordinate officials and of denying normal remedies to aggrieved persons. The position in this respect may be contrasted with that in the provinces, where even if the final order is suppposed to be passed by the Governor it is usually a formal one based on the advice of a special tribunal or member of the Council.

62. *Concurrent Civil Jurisdiction.* — Apart from being Revenue authorities the Rulers, so far anyway, are with few exceptions the final civil authorities as well. In most States the Revenue officers are also judges. The effect of this combination is obvious. Revenue matters are often connected with civil rights and in matters such as title, or custom, Revenue courts cannot give any except summary decisions unless the staff is adequate to deal with revenue matters in the same way as civil suits. Usually such matters require specialisation and cannot be dealt with by revenue officers. Besides, in revenue matters the State is a highly interested party and it is greatly desirable therefore to have separate civil tribunals. In this matter also the position in the States is not conducive to satisfactory administration. It is true indeed that a similar system prevails in such area as Santhal Parganas or Angul but as is obvious the position is not the same.

63. *Revenue Staff.*—The officers of the States have been mentioned before. In a number of States retired provincial service men have been employed as Dewan or Chief Minister. I am afraid that the policy of appointing retired officers is on the whole a failure. These officers having given their best in the provinces while in service look upon the States in most cases as places where they can give their minds gentle occupation in their declining years, and hardly any of them has been able, or seems strongly inclined, to influence policy in the States. The Rulers indeed use some of the more distinguished among them as a window-dressing. The Dewan of Bamra—Rai Bahadur A. K. Bose—is a good example ; the Chief has not given him any revenue powers. There are other retired officials as well, such as retired Revenue Inspectors who are now Superintendents of Land Records and Forest Rangers who are forest officers. The younger officials in the States are on the whole much better and more interested though suffering from lack of supervision and guidance. The insecurity of tenure mentioned by Mr. Bowstead is of course a strong factor. While now the position is that any arbitrary removal of officers would be taken notice of by the Agency the officers in most of the States in the Agency are still not governed by any definite rules either regarding their conduct, or terms of service. The need for these has already been recognised and it is not necessary for me to expatiate on it. There is one point about security of service which I would mention. Security should not mean that an official should remain and grow old in the State. Long residence, particularly in these small States, often results in strong local interests being developed, and in British districts it has often been found undesirable to leave an official too long in any one place. This is a matter to be borne in mind in dealing with the problem of these States.

64. *Remissions.*—Before 1938, land revenue was never suspended or remitted for any cause in practically all the states except where the revenue was irrecoveable. Since then the need for such action has been impressed upon the States and in the last two or three years some relief has been granted. There is no definite policy or principles in this respect however. The

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individual reports may be referred to for a detailed description of the present position.

65. *Loans.*—The need for loans to agriculturists has been recognised for a longer time than remissions or suspensions, but in most cases the interest has been extremely high and even now in Udaipur a rate of 9 per cent. is levied against 6¼ per cent. in other States. The Rulers have often practised grain lending, and occasionally money-lending, and the rate of interest is generally 25 per cent. The *debottar* funds have also been misapplied for the purpose of lending. The individual reports give the position regarding loans which is by no means satisfactory. There are no rules or principles in most of the States in this matter. In Sonepur, the rules practically place a legal stamp on the Ruler's private lending.

66. *Registration and other Charges.*—Coming now to other matters affecting cultivators and agricultural interests, these are matters such as court fees, registration fees, stamp duties, process-fees, mutation fees, petition writers and papers etc. Petitions in the States with one or two exceptions like Bastar are to be written on paper specially issued by the State. This practice is prevalent in Bihar and Orissa also where a fee of one pice is charged per sheet but not in the Central Provinces. In many of the States two pice is charged, in Athgarh three pice, and in Sarangarh and Surguja one anna. This is definitely making an unduly high profit at the expense of a cultivator who at the same time is compelled to make petitions for a number of things. Petition-writers exist in all States (I cannot say about their adequacy) and usually the rules prescribed by High Courts for civil petition writers are said to be followed and there are no separate revenue petition writers (I cannot say if this is necessary). The licence fee for petition writers in one State is Rs. 12 per annum ; in the rest they vary from nothing to Rs. 10. Court fee stamps seem to be manipulated in some States and petitions with court fee stamps have to be filed in Tigiria for indicating presence in court of a party or for presence of witnesses (that is what I saw in cases but the Dewan reports that it is not required). In some States different fees seem to be prescribed for different kinds of petitions.

Stamp duties and registration fees are rather high in some States. For example in Athgarh the fees amount to about four per cent. or more for values up to Rs. 50 and 2¼ per cent. for values up to Rs. 100. In Nandgaon Rs. 2 is charged for registering any document in addition to writing and endorsement fees. In Raigarh Rs. 5 is charged for a deed of transfer. In Tigiria the registration fee is about two per cent. Stamp duties in a number of States amount to one per cent. or more. The Indian Registration and Stamp Acts are said to be followed in a number of States.

67. *Revenue Case Records.*—The maintenance of revenue records while reaching a satisfactory standard in States like Bastar, Nandgaon, Patna, Keonjhar and generally in the States which are or have recently been under management are definitely unsatisfactory in Sonepur, Surguja (improving now) Rairakhol, Kawardha, Bonai. The system of indexing and deposit of records however is unsatisfactory in nearly all States. There are no rules in the States and the Central Provinces Manual or Bihar and Orissa rules are said to be followed ; from what I have seen these rules are followed no better than most other rules which the States say they follow. Copies are said to be given of orders but there are no rules. I could not examine this in detail in the brief time spent in each State and I know nothing to the contrary.

68. *Touring and Inspections.*—Officials go out on tour for an adequate number of days on the whole from what I hear. Here again I could not make a close examination. From my own visits to villages it seems to me that work done on tour is hardly ever directed to finding out whether the rules are properly enforced and whether the interests of ryots are safeguarded. In one or two States tour diaries even are not maintained. Inspections of various offices by the Dewan and others seem to be far from efficient, if done at all, except in a few States.

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PART II.

CHAPTER VII.—Provincial Systems.

69. Before proceeding to make proposals for the improvement of the revenue administration of the States, it is necessary to consider here the revenue systems in the neighbouring provinces, particularly in view of what is said in Sir Francis Wylie's note about the possibility of the States being absorbed in them. If such a thing were to happen, I suppose that all three provinces, the Central Provinces Orissa and Bihar will be involved as contiguity and administrative convenience will be the principal factors.

70. *The Central Provinces and Berar.*— The early history of the Central Provinces' system as it existed under the Marathas has been referred to. At the present day two different systems prevail in the Central Provinces and Berar respectively. In the Central Provinces the system known as the *malguzari* system prevails with the exception of small areas known as *ryotwari*. The essence of this *malguzari* system is that the *malguzars* who were formerly village headmen similar to the *gaontias* and *sarbarakars* have been granted proprietary rights in the village which includes the right of transfer by sale or otherwise. The *malguzars* own all the land in the village and the cultivators are their tenants. The rights of the tenants are protected by a Tenancy Act which underwent drastic amendments in 1940. Under the old law, there were two different classes of tenants known as "absolute occupancy" and "occupancy" tenants and these classes are retained by the law as amended. Both these classes of tenants had protection conferred on them in the matter of fixation of rents *i.e.*, the rents could be fixed by a settlement officer. Absolute occupancy tenants could not be ejected from their holdings by the landlord for any cause but the holdings could be sold in execution of a decree for arrears of rent. Occupancy tenants could also not be ejected except by a decree for arrears of rent, or by a decree for ejectment passed on the ground of diversion or other act rendering him liable to ejectment. The rent of an absolute occupancy tenant could not be enhanced during the currency of a settlement, but the rent of an occupancy tenant could be enhanced by agreement with the landlord, or on his application, by a revenue officer on grounds such as increase of prices, the rent being unduly low or increase of area. An absolute occupancy tenant had the right of simple mortgage or conditional sale or sublease for ten years; he also had the right of transfer to a person other than a co-tenant or to a person who would inherit the holding, subject to the right of pre-emption of the landlord which was in practice not exercised on payment of consent money. Occupancy tenants could sublease for a year at a time, could transfer to a co-tenant or a person who would inherit in the absence of nearer heirs except by simple mortgage, but the Act did not prohibit or render illegal other transfers if done with the consent of the landlord and other persons entitled to obtain possession; in fact it was purely up to such persons to make an application to be placed in possession but this could not be done if they had given written consent; in other words transfer with the consent of the landlord (or others) was possible. The consent of the landlord was of course in practice to be purchased. The law of inheritance was the personal law of both classes of tenants, but in the case of occupancy tenants inheritance by collateral was restricted to males within seven degrees. Both classes of tenants had the right to make improvements in the holding ; they had the same right to fruit trees as in the holding itself, could appropriate *babul* trees on the holding, could propagate lac on *palas* trees and take the produce thereof. Occupancy rights accrued on entry into possession of land and the rent was the rent agreed upon between *malguzar* and tenant. Sub-tenants held under a tenant or under the *malguzar* in respect of his home-farm or *sir* land on terms agreed upon for periods not exceeding one year and could be ejected in execution of a decree for arrears. The Tenancy Act prescribed nothing about settlements and matters arising between the Government and *malguzar* or other landlord, or about general matters regarding the procedure of revenue officers and other matters and for these there was a separate Land Revenue Act. The Land Revenue Act laid down in detail the appointment and procedure of various classes of revenue officers, the maintenance of land records provisions relating to the recovery of revenue from the *malguzars* or zamindars or other persons paying revenue direct

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to the Government, provisions regarding settlement, partition of *malguzari* estates, appointment and other matters relating to village officials. Generally the land Revenue Act deals comprehensively with most matters concerning land revenue administration, and the Tenancy Act is a subsidiary Act for what may be regarded as a special purpose. Other laws connected with land in the Central Provinces are the Land Alienation Act and the Settlement Act.

In the so-called *ryotwari* villages of the Central Provinces which are very few in number, the position roughly is that the Government is the direct landlord. The ryots pay revenue to a *patel* whose duty it is to collect and credit the revenue; they have no rights of transfer except to a co-sharer or person who would inherit the right, and may be ejected for such reasons as non-payment of land revenue or transfer contrary to law.

The Tenany Act as amendend recently roughly alters the former position as follows :

An occupancy tenant is given the same right of inheritance as an absolute occupancy tenant, that is, unrestricted personal law. He can sublet for five years and may transfer by sale to any person in the same manner as an absolute occupancy tenant, that is, in both cases the landlord has a right of pre-emption but in the case of an occupancy tenant if the landlord permits the transfer, that is, he waives his right of pre-emption, he is entitled to a consent money of five per cent. of the consideration or one and a half times the rental, whichever is higher; an absolute occupancy tenant pays only three per cent. of the consideration or the annual rent of the holding, if the landlord does not pre-empt. An occupancy tenant cannot be ejected from his holding for arrears of rent; but both occupancy and absolute occupancy holdings are liable to be sold for arrears. An occupancy tenant can however be ejected for diversion of his holding to non-agricultural purposes. Arrears of rent can also be recovered by attachment of movable property. An extremely important change is that absolute occupancy rights, by paying ten times the rent, and occupancy rights, by paying twelve and a half times the rent, can be converted into proprietary rights in the land known as *malik-makbuza* paying land revenue direct to the government, and the tenancy brought to an end. The right to fell any tree which is obstructing cultivation, or, if he has not the same right in the trees as in the holding itself, to purchase such right, has been conceded, as well as the right to the leaves of *tenau* plants or trees in his holding notwithstanding any previous custom or entry in a record, in addition to the right to propagate lac. The permission of a revenue officer is necessary to cut trees other than *babul* on a holding and the timber will belong to the *malguzar* if the tree was recorded formerly in the *malguzar's* name.

In the Central Provinces there are areas under zamindars who pay a *takoli* like the zamindars of the States. This *takoli* was formerly a much smaller amount than the payment made by *malguzars* which is roughly fifty per cent. of the village 'assets', but recently the *takoli* has been enhanced considerably with the result that the distinction between zamindars and *malguzars* has tended to disappear. In the zamindari areas mostly there have been *thekedars* and *gaontias* and the Central Provinces Land Revenue Act gives certain protection to them. It would make this report far too long to give a description of these.

71. *Berar.* - In Berar except for small areas, the general position is that all land which has not been alienated or recognised as the property of persons, is the property of Government, a position similar to that prevailing in the States. Persons acquiring the right to occupy land in the possession of Government do so on payment of a premium, or purchase in auction, and acquire thereby transferable rights which are for all practical purposes proprietary though the land still remains the property of government in law. Diversion of agricultural land to other purposes is done on payment of a premium on account of the enhancement in value. Land revenue is paid direct, or usually through a *patel* who gets a commission on the land revenue of the village. This is the real *ryotwari* system similar to that prevalent in the Bombay and Madras Presidencies and elsewhere.

72. *Settlements.*—The Settlement Act of the Central Provinces prescribes the period of settlement as thirty years (twenty years in backward areas); the maximum period for a settlement is forty years. The assessment is based upon the "profits of agriculture" in reckoning which, such factors

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as depreciation, money equivalent of personal labour, expenses and interest are to be taken into consideration. In Berar these provisions are contained in the Land Revenue Code itself.

73. *Orissa.*—In Orissa there are three or four different systems prevailing. In the old districts of Cuttack, Balasore and Puri there is the Orissa Tenancy Act of 1913 amended recently in certain important directions; in the Sambalpur district, the old Central Provinces Laws are applicable; Angul has special regulations and the areas received from the Madras Presidency have separate laws. Of these it is sufficient to describe briefly the first three.

The important feature of the areas to which the Tenancy Act applies is that there are portions to which the Permanent Settlement of 1793 applies. There are temporarily settled areas as well, and a few *khasmahal* estates held direct by government. The permanently settled as well as the temporarily settled areas, other than the *khasmahals*, are held by persons other than Government in proprietary rights in the Central Provinces except that there are fewer proprietors and more sub-infeudation The main tenures in Orissa are the proprietors known as zamindars of *malguzars*; under them come the persons who once held villages as headmen, *viz.*, the *muqaddams*, the *sarbarakars* and *padhans*; these persons are usually the sub-proprietors paying their revenue through the zamindars. Then there are the ryots holding at fixed rates or occupancy and non-occupancy. In addition there are tenure holders with the powers of establishing tenants and collecting rent; there are also under tenure-holders. Persons holding over thirty acres are usually regarded as tenure-holders unless the contrary is proved, that is, it has been assumed that the larger holdings of land are not *prima facie* meant for personal cultivation. A ryot is defined as a person holding land for the purpose of cultivation. Tenures are transferable, subject to a payment to the landlord for registration, with or without consent. Where consent is required a fee has to be paid as prescribed in the Act. As far as the ryoti tenure is concerned a "settled ryot" must have held land continuously in a village for 12 years, and a "settled ryot" acquires occupancy rights in all land held by him as a ryot in the village. In land not included in a village, occupancy rights are acquired by continuous occupation for 12 years provided there is no written contract to the contrary. A ryot with occupancy rights has to pay rents at 'fair and equitable rates', the rent paid for the time-being being taken as fair and equitable till the contrary is proved. For arrears of rent, the landlord may bring a suit and proceed to ejectment. The rent of an occupancy ryot may be enhanced by a contract up to 12½ per cent. but cannot be enhanced again for a period of 15 years; it can also be enhanced by order of a court on a suit brought by the landlord on the ground of increase in prices or that it is too low or that the productive power of land has been increased by fluvial action. A reduction can be claimed by the ryot on the ground of deterioration of the soil or fall in prices. By recent amendments, full rights in trees, (subject to previous recorded rights of the landlord, if any) have been granted to occupancy ryots, and they have also received the right of sale, exchange, gift, or bequest without the landlord's consent; formerly alienation was subject to the landlord's consent, and payment. Non-occupancy ryots are liable to pay such rent as may be agreed upon and may be ejected for failure to pay arrears. The landlord may sue a non-occupancy ryot for ejectment if he does not agree to enhancement of rent and the court may eject him if he does not agree to a fair and equitable rent. In respect of under-ryots the law fixes the maximum rent payable and prohibits ejectment during the period of a written lease. The law contains provisions for the preparation of a record of right and settlement of rents. In the matter of fixation of rents agreement between the landlord and tenant is an important factor and a rent agreed upon will be accepted by the revenue officer unless he considers it unfair; this is probably governed by the provision that the rent being paid is presumed fair till the contrary is proved. A table of rates for each class of land may be prepared by the revenue officer where considered practicable. There is a Board of Revenue to control matters connected with settlement and detailed instructions are contained in the survey and settlement manual. Landlords have powers of distraint of crops; for recovery of rent holdings and tenures are liable to be sold.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

"The Government had before it the condition of the peasantry of both Eastern and Western India, and on its decision of this question of "superior proprietary right" will rest whether in the future the cultivators of Chanda, Nimar and Sambalpur are to share in the prosperity of the Maratha Kunbis, or to swell the wealth of a class which will in many respects resemble the zamindars of Bengal. The Nagpur districts have been settled for 30 years, and we already have the spectacle of an emigration from them into the ryotwari districts of Berar. This fact may well make government pause before going further. * * *
If I am asked why the village managers in Nimar are now to be converted into landlords and why Government is to be subjected to the difficulties and inconveniences which the change will occasion, I can only reply that it is because the Settlement Officers deputed to the Central Provinces originally came from the north-west and brought their system with them".

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER VIII.—The Ryotwari System Proposed

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

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

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

Rights.	Liabilities.
1. Cultivating possession of *bhogra* or *sir* land.	1. Responsibility for the entire revenue of the village.
2. Perquisites obtained from the allotment or reallotment of land.	2. Liability to be ejected for non-payment of revenue or breach of rules.
3. Commission or remuneration unless this is provided by (1).	3. Liabilities to make payments when theka is renewed and insecurity of tenure.
4. Illegal perquisites.	

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

†See Appendix V, Pages 108 *infra.*

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER IX.—Survey and Settlements.

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

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

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

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

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

99. *The Central Provinces and Berar System.*—In the Central Provinces a somewhat elaborate system of soil classification and factors is followed. First of all, the tract under settlement is divided into a number of 'groups' or villages, as far as possible homogeneous; there may be as many as nine or ten in each tahsil, the grouping will depend on such factors as communications, markets, jungly tracts, liability to drought and so on. The common soils of the tract are also classified and comparative factors allotted; for instance there may be a good soil with factor 32 while another only about half as productive has 16. These factors are chosen after careful enquiries regarding the cost of cultivation, the productivity of the land, and from a large number of actual crop experiments on each kind of soil. These factors will ultimately furnish only the relative rents and it is expected that before he goes into the detailed rents, the settlement officer will have formed an estimate of the enhancement which the tahsil as a whole and the various groups separately may be expected to bear. This estimate will be based on general considerations as well as crop experiments, land values, rents and other factors. On the basis of this estimate the standard rate for a 'soil unit' in each group is worked out. Having arrived at this standard, the settlement officer takes into consideration the variations in the groups from the point of view of which of them can bear the most, and which the least, enhancement. The maximum enhancement on a group is fixed at 33 per cent. by the Settlement Act. The settlement officer proceeds to consider to what extent the standard rate may be applied to the villages in the group, for, though the group is as far as possible homogeneous there are still variations, and after taking all factors into consideration he will decide what total percentage enhancement can be made in the village. Having decided on this he can obtain the unit rate for each village and by application of the soil factor for each class of land, the acreage rate. This acreage rate is not applied uniformly but is still used as a guide in fixing the rents of holdings, and as tenants and *malguzars* are given an opportunity before final announcement to put forward circumstances pointing to a reconsideration of the matter, the procedure practically amounts to fixing rents field by field, using certain factors as a guide. The maximum enhancement permitted on an individual holding by the settlement Act is 75 per cent. The method may be regarded to some extent as proceeding from aggregate to detail though the aggregate is only an estimate. The principles on which the

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profits of agriculture are to be estimated are contained in the Central Provinces Settlement Act.

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

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

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

102. *Relative merits of the Systems.*—As regards the relative merits of the Orissa and the Central Provinces systems, the Orissa system has the merit of not involving anything more than multiplication. Mr. Bowstead quoted the view of Sir Hugh McPherson who criticized the soil unit system in use in Sambalpur (para. 27 of Mr. Bowstead's report in F.-22 (4)-P./40) as elaborate and largely fictitious, and considered that a system in which the ryots themselves would be able to understand how their rents were calculated was best. He approved of classification of land and fixation of acreage rates: "so many acres of each class at so much per acre". This system must undoubtedly be most suitable in a tract where soil is uniform and fields can be regarded as uniform sheets of soil susceptible of being placed in a definite class. Fixation of rates however in this manner can sometimes create a difficult situation; a table of rates was drawn up for Khandpara as very fair but when it was applied it was found that it resulted in an enhancement of 144 per cent. and the table was therefore scrapped and an arbitrary enhancement was decided on. (See report on Khandpara.). The rigid application of a table of rates has the disadvantage of not allowing for individual circumstances. The Central Provinces method seems to me to have greater elasticity than the Orissa method. The Central Provinces system certainly has the appearance of being more complicated but this feature has not prevented its application to a tract like Chota Nagpur. The settlement officer of Sambalpur, Mr. Dewar, may be quoted in connection with the advantages of the soil unit system: "It is, in the first place, not a system of assessment but an arithmetical aid to good assessment. Under the acre-unit system, the settlement officer was able to examine the rents of villages, holdings and classes of land, to compare them, and, by enquiries into their rent-paying capacities, to determine the real relative pressure of the rents paid. No more than this is done with the aid of the soil unit system But the acre-unit suits only one kind of country. It is fully applicable and adequate in the canal villages of Sind, where the rainfall is very slight, the land flat, the soil homogeneous and the water supply as equal as engineering can make it. But in irregular country with varying

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soil, surface, and rainfall, where within one acre there may be, not only different crops but differences of soil and drainage, the acre-unit system involves a mass of calculations, the labour and expense of which discourage attempts at accurate land valuation. The use of the soil unit sets the settlement officer free to choose that unit, arbitrary but not imaginary, which best suits his district and can be most easily and cheaply employed in calculations of comparison. To regard the soil unit system as complicated is to confuse issues. It is simple arithmetic." (Sambalpur Settlement Report, 1908, para. 102).

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

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

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

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

CHAPTER X.—The Collection of Rent and Land Revenue

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER XI—Cesses.

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

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

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

114. *Taxation Enquiry Committee's observations.*—The previous history of land revenue or rent in India shows that surcharges upon land revenue in various forms were being levied very commonly; these levies had often little to do with any facilities or privileges enjoyed by the ryot, and were levied upon auspicious occasions of the landlord or the Ruler, or to meet extraordinary expenses such as travel or festivities. Regarding these surcharges the Indian Taxation Enquiry Committee wrote (page 310—para. 430—Vol. I) as follows: "The practice of levying sucharges on land revenue or rent is of very long standing in India, and such charges, levied for a great variety of purposes, still form a considerable part of the tenants' burden in many places where land is held under landlords. The abolition of illegal exactions of this kind was one of the purposes of the permanent settlement which was followed early in the eighteen century by the regularisation of such of the cesses as it was intended to continue. These were at first levied principally for local purposes, but in the period 1871 to 1905, there were added considerable cesses for imperial purposes, chiefly the famine fund, in addition to which, in some provinces, there were added cesses for provincial purposes, chiefly payment of village officers. All the cesses that were levied for other than local purposes were wiped away by Sir Edward Baker's reforms of 1904-1905 and 1905-1906". The taxation Enquiry Committee found that cesses were levied on land revenue or rental and had become a common imposition of local bodies; it also found that provincial governments imposed maxima on the cesses which the local bodies could levy. It gave the reason for the maximum as "no doubt partly a fear on the part of the local government of encroachment on a provincial field of taxation, partly a fear on the part of local legislatures of adding to the burden of the cultivator". The Committee recommended that if the maxima were not altogether removed, they should at least be raised to 6¼ per cent. of the annual value.

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

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

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the settlement instructions lay down that the rate on the revenue payable should not exceed one anna per rupee of revenue [Central Provinces Settlement instructions page 9, para. 5 (3)]. A rate may be imposed on non-agriculturists according to their income and all residents of the village, except the poorest, are liable to pay. Under the Local Self-Government Act, a rate of 6¼ per cent. may be levied for the maintenance of schools, or roads, or other purposes, and with the special sanction of the Provincial Government, a further rate of 6¼ per cent. (ordinarily this extra rate is not levied). In Barar, as in the ryotwari villages of the Central Provinces, a rate of 6¼ per cent. is levied for the village watchmen apart from the 6¼ per cent. which may be imposed by the District Council as school or road cess.

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

In Bengal there are three cesses which together amount to 2¼ annas per rupee of annual value of the lands. In Bihar a cess of one anna per rupee is levied.

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

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

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

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

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

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

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

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

121. *Proposed Limit.*—Leaving then the forest cess as not really a cess, I am of opinion that the total cesses upon the rupee of land revenue, excluding payments made for the chowkidar but including any rate on the land revenue levied by a 'local body', should not exceed 3 annas in the rupee which amounts to 18¾ per cent. and is far from being a low limit. I think it is necessary also to lay down the principles that cesses should not be levied except for purposes such as maintenance of roads, dispensaries, schools, or chowkidars and should as far as possible not be imposed at settlement.

The following particular recommendations are made :

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

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

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

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

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

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

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

CHAPTER XII.—Forests.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

CHAPTER XIII.—Other Matters

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

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

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

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

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

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

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