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Land Tenure & Land Reforms 1962 – 1966

Land Tenure and Land Reforms in Orissa, 1962 · Implementation of Land Reforms — Review by the NDC Committee, Planning Commission, 1966

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with similar advantages in the nearest raiyatwari tracts increased by two annas in the rupee. This naturally made section 35 more or less meaningless. It was considered by the zamindars that the Bill which was not only discarding all the established rules of rent fixation as inequitable but was also providing for drastic reduction of rent was expropriatory in character in the background of permanent settlement. This Bill was passed by the legislature but was vetoed by the Governor-General. In 1945, a similar Bill was brought up and in the Press Communique issued to explain the background of the Bill, it was mentioned that—

"It is well known that the rates of rent paid by the raiyats to the land-holder in the proprietary estates in the district of Ganjam are high. With a view to bringing down the high incidence of rent a Bill was passed in 1937 in the Orissa Legislative Assembly during the last Congress Ministry which, however, was vetoed by the Governor-General. One of the reasons for which it was vetoed was that the land-holders of the district gave an assurance to reduce rents in their estates. The assurance was implemented in action to certain extent only by the Raja Bahadur of Khallikote and Athgarh. Government have now drafted a Bill to amend the Madras Estates Land Act in its application to Orissa with a view to reducing the existing rates of high rents obtaining in the proprietary estates of the Ganjam district. It is proposed to introduce and pass the Bill in the Legislative Assembly in its next session. It is also proposed to take preliminary action from now to facilitate giving effect to the provisions of the Bill quickly when enacted. When the Bill is enacted into law and given effect to there will be scope for the rent settlement officer for giving reduction in rent on the grounds of cost of cultivation, cartage and merchants' profit and vicissitudes of season as is done in settlements in all other places. It is hoped that the existing rents when revised on the basis of the provisions of the Bill will be considerably reduced and all causes of hardship will be removed.

The proposed Bill is now published for the information of the public. It is hoped that the zamindars who had given an assurance to reduce rents so far back as in 1939 will support this moderate measure".

This Bill was passed as Orissa Act XIX of 1947.

218. Sub-section (2) of section 168 of Madras Estates Land Act provided that in settling fair and equitable rents the Collector was to presume until the contrary was proved that the existing rent or rate of rent was fair and equitable and should have regard to the provisions of this Act for determining the rates of rent payable by a raiyat. This rule of presumption in respect of rents payable on the basis of half the gross produce or any proportion of the gross produce regardless of the expenses incurred in growing and gathering the crops was withdrawn by adding a proviso to that effect to sub-section (2).

219. A new section 168-A was added for giving powers to Government to authorise the "Collector" with the powers to—

(*a*) settle fair and equitable rent in cash, and
(*b*) reduce the rent if in his opinion the continuance of the existing rents would, on any ground, whether specified in this Act or not, be unfair and inequitable.

This was a natural corollary of the amendment specified in paragraph 217.

220. The existing section 177 was renumbered as sub-section (1) of the same section and two more sub-sections were added to it which provided that the rent settled under the Act could be given effect to either retrospectively or prospectively at the discretion of the State Government When retrospective effect to the new rent is given, if the payment already made by a raiyat towards his rent is found more than the rent payable he can have the option to adjust the excess towards the payment of future rent or recover the excess from the land-holder by a suit.

221. Some other minor amendments consequential in nature were also made.

222. The order of Government directing survey, record-of-rights and settlement operations and the amendments made to the Act particularly those relating to reduction of rent created a serious problem on the landlord-tenant relationship in South Orissa. There was no doubt that the landlords were recovering from the raiyats much more than what could be termed as a fair and equitable rent. But as has been pointed out in Chapter III this *prima facie* unfair and inequitable system of high rent was workable because of the absence of a proper survey and record-of-rights or refusal of the estate employees to utilise it where there was one. The intervention of the Settlement Officer to make a survey and prepare a record-of-rights and the legislative measures undertaken for reduction of rent meant complete revision of business relations between landlord and tenants and there was many a friction between them. Coming as it did on the eve of the zamindary abolition, the measure for reduction of rent (which made it impossible for most of the zamindars to adjust to these adverse economic conditions) resulted in the zamindars withholding the payment of revenue, cess and other Government dues and the effect of this was very serious on the District Board which had the cess as its main source of income.

223. At this time payment of rent by raiyats became irregular and arrears accumulated. The landlords had, therefore, to file large number of suits for the recovery of these arrears. It was a difficult job for the administration to handle this unexpected situation with necessary promptitude. The Government took note of this unusual rise in the number of rent suits and interpreted that the accumulation of arrears of rent was due to the inability of the raiyats of small means to pay in view of the high price of consumers goods. Government thought that the rise in the price of rice and other agricultural commodities during the war years and thereafter was generally beneficial to the bigger producers but was of no help to petty cultivators in whose case the all-round rise in price had a very adverse effect. It was considered necessary to give relief to small raiyats and the Ganjam Small Holders Relief Act XXX of 1947 was passed. The main provisions of the Act was that a small holder (defined as a person holding land not exceeding six acres of wet land or twelve acres of other land) would have the benefit that all his rent—

"which has accrued for the fasli year 1354 and prior faslis and which is outstanding at the date of the commencement of this Act shall be deemed to be discharged whether the rent be due as such or whether a decree has been obtained therefor:

Provided that, where the small holder liable to pay rent does not on or before the 31st January 1949, pay up all arrears of rent accrued in respect of any holding for faslis 1355 and 1356 the arrears of rent for fasli 1354 and [illegible] were outstanding in

respect of the same holding on the date of the commencement of this Act shall be deemed to be discharged only in the same proportion as the rent due for faslis 1355 and 1356 which is paid up by the small holder bears to the rent due for those two faslis:

Provided further that no small holder shall be entitled to the benefit of this section unless he shall have paid in respect of the holding, the rent due for fasli 1356 on or before the 31st January 1948."

224. The effect of this Act was considerable loss to the zamindars and they considered that this was an undue loss that they were made to suffer. This had deep effects on the social life in South Orissa particularly in Ganjam where the landlord and the tenants used to live side by side and their relationship was not limited to that of landlord and tenant only. This, therefore had repercussion on other aspects of life resulting in bitterness and litigation

225. Under the Government of India Act, 1935 the district of Sambalpur was a "Partially-Excluded Area". The people of Sambalpur considered this to be an uncalled for measure and wanted that the normal rules of administration should be applied to Sambalpur in all respects. The main point of dissatisfaction in the agrarian field was that occupancy right in land was not a marketable property and this had not only caused very great hardship to the people but had a great demoralising effect on the society. But, because of the fact that it was a "Partially-Excluded Area" it was not easy to amend the tenancy laws for providing necessary benefits to the tenants. Government, therefore, decided in the month of November, 1937 to appoint a committee to investigate into and report on the nature of the changes that were necessary in the Agrarian Codes of Sambalpur. The appointment of the Committee was announced in February, 1938. The Committee was presided over by Shri B. N. Das, M. L. A., Advocate, Cuttack. There were four other members. The membership was subsequently enlarged by five more. The Committee issued a printed questionnaire in Oriya, Hindi and English in October, 1938 and invited written answers by the 20th November 1938, the time subsequently having been extended to the 10th December 1938. The Committee toured in the district, thereafter took down oral evidence and examined the written answers to the questionnaire received from 1,382 persons comprising of 1,130 tenants, 4 zamindars, 6 Malguzars, 7 Maufidars, 106 Gountias, 12 co-sharees, 28 Sikimi Gountias, 67 Thekadars, 3 Patels and 20 others including officials. Written answers were also received from the District Congress Committee and Krushak Sangh, Sambalpur. The Committee examined 238 witnesses at different centres. Thereafter it formulated its recommendations in November, 1939 and submitted its report in the same month. The report was published in May, 1940. It made a number of recommendations affecting every aspect of the agrarian life but these recommendations could not be taken into consideration due to war emergency. There could, therefore, be no amendment to the land-laws of Sambalpur.

226. Judged from the economic, cultural and linguistic points of view the Orissa Province and the Orissa states were but one. When, therefore, a popular Ministry assumed office in Orissa in 1937, it was natural that people in the states expected a change in the attitude of the rulers and hoped for amelioration of agrarian conditions and improvement of tenancy rights. When this hope did not materialise, there was a great popular rising in many

of these states culminating in the murder of a Political Agent in Ranpur. Thereafter, the Political Department changed its attitude and the rulers hastened up to grant concessions on many matters like the right to transfer raiyati right, the abolition of bethi (forced labour) by commuting it to a money payment, the grant of right over trees on the tenants holdings (except for trees of the reserved species), introduction of the spirit of the Land Acquisition Act for payment of compensation in cases of compulsory acquisition of private lands for public purpose and reduction of cess where it was considered abnormal.

227. The report of the Orissa States Enquiry Committee was published in 1939. Following this, an official enquiry into the affairs of these states was conducted by M. Bowstead. His opinion was that as the quality of administration in the states would invariably depend on the personality of the individual ruler, smaller states had to start with a greater handicap in this regard. He found that the incidence of taxation was not as high as in many Provinces and the general condition of the tenants compared favourably with those in the Provinces. In 1941, Shri R. K. Ramadhyani, I. C. S., was appointed as a Special Officer to examine and report on—

(*a*) the revenue history and the existing systems of land tenure from the point of view of cultivators and proprietary interests if any ;

(*b*) the existing systems of settlement and the assessment of land revenue on land under cultivation, waste land and land converted for non agricultural purposes ;

(*c*) the system of collection of land revenue and village management ;

(*d*) the existing revenue and tenancy laws and procedure and

(*e*) generally all other matters affecting the interests of agriculturists such as grazing, forests, nistar, etc.

Bofore taking up the enquiry, Shri Ramadhyani met Sir Francis Wylie, Political Adviser to the Crown Representative who prepared a note for his guidance. His feeling about the states was—

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

(*b*) that in the eastern states, while right in the soil may in some cases have been granted, practically nowhere are they really guaranteed ;

(*c*) that by the terms of their sanads the rulers of these states are bound to accept the Crown Representative's advice ;

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

He was of the definite view that sooner or later these states would be absorbed in the neighbouring Provinces and therefore, their administrative reforms should approximate as closely as may be to the system obtaining in the adjoining Provinces. He advised Shri Ranadhyani to suggest measures of reforms from this point of view.

228. Shri Ranadhyani conducted a detailed enquiry in all the 39 states included in the Eastern States Agency Of the Orissa States only Mayurbhanj was not within the scope of his enquiry. His report covered almost all aspects of revenue administration and brought to light many undesirable preactices that prevailed in these States. The following extract from his general report is revealing :

"In the past, it was common for a ruler, a zamindar, or even a thekadar, 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 to-day. 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 inspite of the fact that the cess as well as the land revenue had to be paid from the same source 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 culti vators 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 punish ment so great, that even if a restriction has been removed, the people often 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 invididual 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.

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".

Shri Ramadhyani's recommendations that covered all aspects of revenue administration virtually meant that the only method of ensuring a modern administration in these states was to adopt the systems of revenue administration prevalent in the neighbouring Provinces. He also suggested a uniform draft revenue law for adoption in all these states. He emphasized that the atmosphere in all the states was already surcharged with tension, that the introduction of agrarian reforms was urgent and that no time should be lost to introduce the reforms so as to bring the states on a par with the neighbouring Provinces as far as it was possible and practicable within the administrative frame work and subejct to availability of financial resources.

229. The Political Department perhaps intended to implement some of the recommendations of Shri Ramadhyani after the second World War, but the political situation in the country changed so rapidly after the war that the department had hardly got any time to take up the report into consideration before it was wound up. In the meantime popular agitation in these states grew stronger and with the decision of the British to quit India, the rulers were unable to handle the situation. Ultimately, therefore, they agreed to merge their states with the Province of Orissa and thus ended a long period of personal rule in these states.

230. The Select Committee set up by the House of Commons in 1830 to go into the agrarian conditions in Bengal recommended that the only effective method of ensuring protection of cultivators' rights and a satisfactory land revenue administration would be by acquisition of zamindaries by the State. The Government, however, did not consider this a practicable proposition. The various tenancy laws for regulating different agricultural interests in land passed from time to time never worked satisfactorily and, therefore, almost all the political parties in India were of the definite opinon that the zamindary system that had created a lot of friction in the socie and made the agrarian economy stagnant should be abolished at the carliest opportunity as a preliminary to land reforms and develoment of agrarian economy. When, therefore the Provinces came under the first popular Ministry in 1937 it was natural that they undertook preliminary measures that were calculated to make the process of abolition of intermediary interest easy. Thus, in 1938 the Government of Bengal set up a Land Revenue Commission with Sir Francis Floud, B. C. B., M. C. M. G., after whom the commission is generally known as the Floud Commission. The terms of reference to the Commission were:

> "Generally, to exmine the existing land revenue system of Bengal in its various aspects, with special reference to the permanent settlement ; to estimate the effect of the system on the economic and social structure of Bengal ; and its influence on the revenues and administrative machinery of the Provincial Government ; to appraise the advantages and disadvantages of the existing system and to advise what modifications, if any, can and should be made, and in what manner, and in what stages they should be effected."

231. The Commission which went into the details of the history and growth of zamindary system and considered the working of other prevalent land revenue systems in the country, particularly, the ryo wari system came to the conclusion that "whatever may have been the justification for the permanent settlement in 1793, it is no longer suited to the conditions of the present time. A majority of the Commission have also come to the conclusion that the zamindary system has developed so many defects that it has ceased to serve any national interest. No half measures will satisfactorily remedy its defects. Provided that a practicable scheme can be devised to acquire the interests of all classes of rent-receivers on reasonable terms, the policy should be to aim at bringing the actual caltivators into the position of tenants holding directly under Government. We recognise that this proposal involves a fundamental change in the rural economy of Bengal, affecting vitally the whole social and econimic structure of the Province, that it can only be carried out gradually over a term of years and that it would be a most formidable administrative undertaking, which will tax to the full all the resources of Government." The recommendation of the Commission was thus to eliminate all grades of rent-receiving interests on payment of compensation. The Commission submitted its report in March, 1940 but consideration of the report had to be postponed till the conclusion of the second worldwar.

232. After the end of the war when popular Ministries again assumed office in 1946, the question of working out the details of a scheme for abolition of zamindaries, payment of compensation therefor and administration of the zamindaries after abolition engaged their attention. Many changes, both economic and political, had occurred after the report of the Floud Commission. Moreover, its recommendations were not suitable in all respects to Orissa conditions. Government, therefore, set up a Committee to go into the question of preparing a scheme for zamindary abolition. Accordingly the Land Revenue and Land Tenure Committee of Orissa was formed under Government Resolution No. 7533R., dated the 15th November 1946. In addition to the question of eliminating intermediary interests the Committee was also entrusted with other matters connected with the land revenue administration. The Committee was expected to frame a scheme—

"(*a*) to make the incidence of land revenue or rent, as the case may be, as far as possible, uniform, equitable and elastic in as much as land revenue payable by the raiyat to Government in raiyatwari areas and rent payable to the landlord in non-raiyatwari areas as well as land revenue payable by landlords in different areas very widely:—

(*b*) to eliminate, as far as practicable, all intermediary interests that exist at present between the cultivators and the State ;

(*c*) to prevent the fragmentation of agricultural holdings and to foster consolidation of holdings or creation of economic holdings;

(*d*) to make adequate provision for common lands for pasture and other communal purposes and for their proper administration, and generally ;

(*e*) to improve agricultural production and raise the standard of life of the cultivating classes—

"While making its recommendations, the Committee should exmine *inter alia* the report of the Bengal Land Revenue Commission (1940), the Madras Estates Land Act Committee (1922) and the Famine Enquiry Commission (

"In case the Committee feels called upon to recommend State acquisition of all intermediary interests between the cultivator and the Government, they should report on the financial and administrative implications of such acquisition.

"The Committee shall also recommend interim measures for the improvement of the existing systems, so long as they continue, e.g., the enforcement of a standard of management specially in the matter of adequate maintenance of irrigation and protective works and laying an obligation on landlords to make an annual allocation of funds to be utilised for specific purposes of rural welfare".

The Committee as was originally constituted had fifteen members excluding Shri Nabkrushana Choudhury, the then Revenue Minister who was appointed Chairman *ex-officio*. Though Shri Choudhury resigned from the Ministry in April, 1948 he continued as Chairman under a Government notification. There were some other subsequent changes in the constitution of the Committee. The Committee circulated a questionnaire, examined witnesses both official and non-official and submitted its report in 1949.

233. Its recommendations in regard to zamindary abolition were that an integrated scheme of land reforms of which the first phase would be the elimination of intermediary interests on payment of perpetual Malikana should be introduced. At this phase the land revenue should be de-provincialised and should be given over to a specially constituted local authority to be termed as "Anchal Sasan" which should replace the District Board and take charge of all local development programme.

234. Details of the Scheme for abolition of zamindaries thus having been prepared, the question that remained was to bring up legislation for the purpose. The various legislative measures that were found necessary for the purpose will be discussed in the next chapter.

CHAPTER V

ON THE EVE OF ZAMINDARY ABOLITION 1948—1951

235. When elimination of intermediary interests as a policy was decided it was but natural that there was all-round jubilation among the tenants who expected that with the abolition of intermediary interests many points of annoyance in the matter of land revenue administration would disappear and they could now look forward to the day of plenty and prosperity. The zamindars (and particularly those in South Orissa) who had already been affected adversely by the measures taken since 1937 as well as by the economic and political situation that developed in the country during and after the second world war were very much apprehensive that they might not get a fair deal in the process of zamindary abolition. It was natural for them in these circumstances to extract the maximum possible return from their estates. And it was the duty of the Government to ensure that this attitude of the zamindars did not create any hardship or difficulty either for the tenants or to the estates as such. The country had already achieved independence, the social life had considerably changed and the question of any zamindar extracting from a tenant more than what was legally permissible did not arise. The zamindars had, therefore, one and only one source to utilise for this purpose if they so wanted and it was the estate or to be definite the waste

lands (including communal lands), forests and other lands not yet tenanted or otherwise alienated. Government considered it undesirable to put any restriction on the disposal of waste lands. But certainly they could not afford to be silent spectators in respect of any misuse of the communal lands or forests or lands held by temporary tenants when it became known that there had been cases of misuse. This was how the Act VIII of 1947 and Act I of 1948 were passed.

236. In order to save the private forests from wanton destruction, the Orissa Preservation of Private Forests Ordinance, 1946 was issued. This was subsequently replaced by the Orissa Preservation of Private Forests Act VIII of 1947 which is still in force. It defined "forest" as including communal land containing trees and shrubs and any class of land declared to be a forest by notification of the Provincial Government but does not include a reserve forest or a protected forest. It prohibits the sale, mortgage, lease or alienation in any other form the whole or any portion of a forest by an owner without the previous sanction of the Provincial Government or any officer authorised by them and clarifies that such action shall be null and void. It also prohibits the cutting of trees or anything likely to denude the forest or diminish its utility as forest by the owner or any other person claiming under him whether by virtue of a contract, licence or any other transaction entered into before or after the commencement of the Act. It provides penalties for contravention of its provision. The Act was originally intended to be in force for a period of five years after which it was expected that the problem would no more exist but it has been found necessary to extend the life of the Act from time to time.

237. Act I of 1948 was passed when it came to the notice of Government that landlords were resorting to large-scale alienation and assignment of communal, forest and private lands on receipt of high premium. Alienation of communal and forest lands was very much detrimental to public interest and alienation of private land in favour of persons paying high premium was adversely affecting the existing temporary lessee and creating strained feelings. The Orissa Communal, Forest and Private Lands (Prohibition of Alienation) Act I of 1948 was, therefore, passed and made effective retrospectively from the 1st April 1946. It prohibited the alienation of communal, forest and private lands by any landlord without the previous sanction of the Collector ; but protected all transactions made after the 1st April 1946 but before the passing of the Act if they satisfied certain conditions. Only the district of Sambalpur was excluded from the operation of the Act because there was sufficient protection against such alienation in the Central Provinces Land Revenue Acts in force in the district and the Wazib-ul-urz (which is treated as a record of customary law).

238. All the Orissa States excluding Mayurbhanj merged with Orissa on the 1st January 1948. Mayurbhanj was merged one year after. Of these states two, namely, Seraikela and Kharswan were transferred to Bihar in May, 1948. The administration of these states was taken over under the provisions of the Extra-Provincial Jurisdiction Act, 1947, which was passed by the Constituent Assembly of India to accommodate cases of this type. Sections 3 and 4 of the Act give authority to the Central Government to—

(*a*) exercise Extra-Provincial jurisdiction in such manner as it thinks fit ;

(*b*) delegate any such jurisdiction as aforesaid to any officer or authority in such manner and to such extent as it thinks fit ; and

(*c*) make such order, by notification in the official Gazette, as may seem to it expedient for the effective exercise of any Extra-Provincial jurisdiction of the Central Government.

In exercise of these powers the Central Government delegated to the Government of Orissa its powers to make such orders as may seem to it expedient for the effective exercise of any authority over these areas in respect of matters enumerated in the Provincial list and in the Concurrent list of the 7th Schedule to the Government of India Act, 1935, but this delegation was without prejudice to the powers of the Central Government. The Central Government issued an order, namely, the Orissa States (Application of Laws) Order, 1948 applying a number of enactments on subjects included in Central list. The Orissa Government issued the Administration of Orissa States Order, 1948 for carrying out the administration of these areas in respect of all remaining subjects. Paragraph 4 of the order provided for the extension of a number of Acts relating to these subjects and further provided that to the extent of repugnancy with these laws, the existing laws in force in these states would stand repealed. By an amendment issued in June, 1948, a new paragraph, namely, paragraph 12 was introduced in this Order for clarifying the tenancy laws of the states. This paragraph was subsequently renumbered as paragraph 10 by another amending Order, dated the 15th April 1949. In view of the importance of the rights that were conferred on the tenants by the provisions of this paragraph it is worth while to quote it below :—

"(*a*) Notwithstanding anything contained in the Tenancy laws of the states as continued in force under sub-paragraph (*b*) of paragraph 4, an occupancy tenant shall be entitled—

(*i*) to freely transfer his holding subject to the restriction that no transfer of a holding from a member of an aboriginal tribe to a member of a non-aboriginal tribe shall be valid unless such transfer is made with previous permission of the Sub-divisional Magistrate concerned ;

(*ii*) to have full right over all kinds of trees standing on his holding ;

(*iii*) to use the land comprised in the holding in any manner which does not materially impair the value of the land or render it unfit for the purposes of the tenancy ;

(*iv*) to presume that the rent for the time being payable by him is fair and equitable until the contrary is proved ;

(*b*) where the rent of an occupancy tenant is payable in cash, it shall not be liable to be enhanced except in accordance with the tenancy laws continued in force, in the State concerned.

(*c*) An occupancy tenant shall not be liable to ejectment from his holding except in execution of a decree for ejectment passed on the ground that—

(*i*) he has used the land comprised in his holding in a manner which renders it unfit for the purpose of the tenancy, or

(*ii*) he has broken a condition consistent with the provisions of the tenancy laws in force in the State concerned and on breach of which he is under the terms of a contract between himself and his landlord liable to be ejected,

(*d*) the interests of an occupancy tenant in his holding shall on his death pass by inheritance or survivership in accordance with his personal law.

(*e*) a " Sukhabasi " shall be entitled to the rights of an occupancy tenant over his homestead notwithstanding any law or custom to the contrary.

Explanations—(1) An " Occupancy tenant " means a tenant or a raiyat having occupancy right in his holding under the tenancy laws continued in force in the various states under sub-paragraph (*b*) of paragraph 4.

(2) An " Aboriginal tribe " means any tribe that may from time to time be notified as such by the Provincial Government for the purpose of this Order.

(3) A " Sukhabasi " means any person holding only homestead whether or not recorded in the settlement papers as " Ghar ", " Bari " or " Gharabari " or a person who is granted land by the Thekadar or by a competent Revenue Officer for the purpose of using it as homestead.

239. It will be seen that these provisions removed most of the grievances of the tenants relating to their day-to-day activities and brought them on par with the tenants of other areas of the Province. This provision of the Administration of Orissa States Order was subsequently repeated in Orissa Merged States (Laws) Act, 1950.

240. Arising out of the conferment of right over all kinds of trees standing on the raiyats holding was the complicated problem of Kendu leaves. Previously the Kendu trees standing on the raiyat's holding were the property of the State and even where the right over them was granted to the raiyat on paper, this right was generally violated. The past administration in the states, therefore, found no difficulty in leasing out the right to collect and sell the Kendu leaves on a monopoly basis. In some states rates for purchase of leaves by the monopolyist was fixed. Shri Ramadhyani in course of his enquiry found that the monopoly system in the states which was earning quite a sizeable amount for them was working to the extreme disadvantage of tenants. In view of the fact that the Kendu leaf was a valuable commodity and had a good market (it was required for Bidi-making throughout India and Pakistan) the cultivator was naturally interested in getting a reasonable return for this commodity. When, therefore full rights over trees were granted to occupancy raiyats, the monopolyists were faced with an unexpected situation as the cultivators dictated their own rates for their leaves or in the alternative refused to sell the leaves to the monopolyist and threatened to organise their own trade in the commodity. It may be that the monopolyist had not anticipated this change in right over the Kendu leaves standing on the tenants' holdings and therefore was not ready to part with any portion from his profit for this unexpected change. The result was large-scale agitation in states like Rairakhole and Athamallik as the Kendu leaf grown there has a better market and fetches much better price because of its quality. The Kendu leaf was certainly a very valuable commodity in view of its demand throughout India and Pakistan for making Bidis. Government feared that this value of the Kendu leaf would ultimately be lost if they would not interfere in the matter at that stage and provide for a better return to the cultivator while guaranteeing a reasonable profit to those who organise the trade and carry it on. Be it mentioned here that the Kendu leaf trade requires a lot of capital for investment within a short period, as the leaves to be of any use have to be plucked when still tender and have to be properly processed so as to be fit for Bidi-making. The problem was tackled by including Kendu leaves in the list of essential articles of the Orissa Essential Articles Control and Requisitioning (Temporary Powers) Act I of 1947, and then issuing the Orissa Kendu Leaves (Control and Distribution) Order, 1949 for continuing the monopoly in a different form that would ensure reasonable return to both the tenant as well as to the trader. The tenants of western districts (in which Kendu leaf is grown) have always considered this control as unnecessarily interferring with their right and there has always been clamour for withdrawing the order and making the trading in Kendu leaves completely free from the State control.

241. The Administration of Orissa States Order, 1948 provided that transfer of raiyati lands was free subject to the conditions that when a transfer is made by an aboriginal to a non-aboriginal it would require the previous permission of the Subdivisional Magistrate concerned. The Order contemplated that a list of aboriginal tribes would be notified by Government from time to time. This provision was also repeated in the Merged States (Laws) Act. But till very recently, there was no Government order defining aboriginal tribes and therefore this provision remained as a dead-letter. But the old practice prevailing in the states, namely, obtaining permission from the revenue authorities for transfer of land by aboriginals continued to be in vogue. The want of statutory protection against such transfers does not appear to have resulted in any adverse situation for the aboriginals.

242. With gradual rise in prices of agricultural commodities, value of land gradually appreciated. Because of the encouragement given to agriculture through the Grow More Food Campaign that was launched during the war years to solve the acute food problems of the country, more and more lands were brought under the plough. Investment in land became profitable and attracted speculators. During the period of great slump that preceded the Second world war many lands had passed into the hands of money-lenders. Thus, more and more people not professionally connected with agriculture got interest in agricultural lands, generally as raiyats. Moreover the economic changes that the second world war brought with it resulted in movement of some of the agricultural population to the towns. Thus grew a new class of population possessing raiyati right and yet letting out the land on produce rent. It is not as if such a class of people had not been known to the society. On the contrary, such a class did always exist. Many religious and charitable institutions did possess land which were being cultivated by the institutions themselves or by tenants on produce rent. Similarly people who suffered from any disability of caste or sex were frequently letting out their lands on produce rent. But these were certainly not cases of speculation. In all such cases, the rent payable by the tenants was a share in the produce—usually half the gross produce or a fixed quantity of the produce. The tenants, usually known as Bhagchasis, were always considered as temporary and their lease was generally for one year. With the entry of speculators in the field and with the value of land appreciating that created a desire in the tenants themselves to own land rather than to cultivate others' lands (with a precarious tenure), there was a significant change in the situation and there was clamour that some protection against aribitrary eviction of these tenants and about the quantum of rent payable by them should be granted.

243. Apart from the temporary tenants paying produce rent, there were also tenants with right of occupancy who were subjeet to produce rent. Most of the raiyats in the estates of Ganjam and Koraput were of this category. There were also similar tenants though very few in number in other districts also. There was a clamour from all these tenants to fix a maximum limit on the produce rent payable by them.

244. Government took note of these developments and came to a decision that in the changed set-up of agrarian economy in the country, it was necessary to provide against the arbitrary eviction of these tenants and to provide a maximum on the quantum of rent payable by them. It was, however, considered inexpedient to undertake any permanent measure in this regard pending examination of the question by the Land Revenue and Land Tenure Committee. For giving immediate relief, the Orissa Tenants' Protection Act (Otissa Act 3 of 1948) was passed.

245. The Act defined a tenant as a person paying produce rent or a rent fixed on the estimated value of the produce and provided that such a tenant (holding as such on the 1st day of September 1947) would be protected from arbitrary eviction by the landlord and shall not be liable to pay more than 1/3rd of the gross produce of the land or value thereof as rent to his landlord if he is an occupancy raiyat in the northern districts, 1/6th of such produce if he is an occupancy raiyat in the southern districts and 2/5th of the gross produce if he has no right of occupancy in land. The Act exempted landlords who were raiyats having less than 33 acres of land from the operation of the provision relating to protection of tenants from arbitrary eviction. Though Tankibaheldars were sub-proprietors, they were considered as raiyats for the purposes of this Act mainly because of the fact that they were small holders and because of their caste, they generally resorted to the practice of letting out land on produce rent. The Act made all consequential provisions like the place and time of delivery of rent and provided for settlement of disputes between the tenant and landlord by a competent revenue court in respect of all matters relating to payment of rent. It was made applicable retrospectively from 1st September 1947, a few months before the Bill on the subject was introduced in the legislature. This Act was intended to be in force up to the 15th January 1949. But it was extended from time to time till 1955 when it was repealed by the Orissa Tenants Relief Act.

246. This Act caused a lot of friction among the landlords and tenants particularly in the coastal districts of Cuttack, Puri and Balasore and the right conferred by the Act had generally to be enforced through the Court. The result was a lot of commotion in the social life particularly in the districts of Puri and Cuttack where pressure on land was very heavy. Many religious and charitable institutions depending on the produce rent were hard hit by these provisions.

247. Provisions of the Act were extended to all the ex-states but it was contested by some of the Rulers that the Act did not apply to their Khamar lands. The contention was however not accepted in the Courts of law and it was ruled that the Act did apply to all agricultural lands in the areas to which it extended.

248. While protection of temporary tenants paying produce rent was a burning problem in the districts where the pressure on land was heavy, it was an equally urgent problem to secure protection for the raiyats in the Agency tracts of Ganjam and Koraput who faced a serious difficulty in another form. Mention has been made in Chapter III that in order to prevent the lands of tribals from passing into the hands of money-lenders and speculators, the Agency Tracts Interest and Land Transfer Act I of 1917 was passed by the Madras legislature. The provisions of this Act were strained to the maximum and the lacunae therein were fully utilised by speculators and money-lenders when value of land started appreciating during and after the scond world war. In order to stop this by removing all the lacunae in the law, a Bill to amend the Agency Tracts Interest and Land Transfer Act, 1917 was brought up. The Bill was passed into Act II of 1948. The provisions of this amendment and purposes for which it was carried out was described in the following words in the statement of objects and the reasons of the Bill that was introduced for amending the Act, namely,—

"the Agency Tracts Interest and Land Transfer Act (Madras Act I of 1917) prohibits the transfer of immovable property situated within the Agency Tracts by a member of the hill-tribe, unless made in favour of another member of a hill-tribe or with the consent of the prescribed officer but allows relinquishment of a holding by a raiyat in favour of the land-holder in accordance

with the provisions of the Madras Estates Land Act, 1908. The latter provision has indirectly frustrated the restriction imposed on the transfer of land by the Act. Hence, the present Bill has been drawn up to amend the Act in order to prevent indirect transfer of land by hillmen to non-hillmen through the landholder, to have stricter control over illegal transfers by authorising prescribed officers to decree ejectment against illegal possession on their own motion and to discourage such transfers by imposing adequate penalty.

249. The institution of Bhag Chasis for cultivating lands belonging to non-cultivating class was not known in the backward areas of the State where a different institution achieved the same objective. The system in force envisaged a labour agreement under which a person entering into an agreement with a land-owner was bound to perform agricultural labour including domestic service. In practice, this system bound a person for a nominal payment received in advance to continue in service of a land-owner, generally a shrewd man, who saw to it that the amount advanced was never settled finally and the labourer continued to serve him. Apart from the fact that the labourer was not getting anything like a reasonable wage for his services and was not free to seek any profitable employment elsewhere, the system had a demoralising effect on the social and economic life of these areas. The Orissa Debt Bondage Abolition Regulation I of 1948 which sought to abolish this system and make the continuance of the system punishable was passed with the view to eradicate this evil. The Regulation applid to the district of Koraput, the Nawapara Subdivision of the district of Sambalpur and the Ganjam Agency tracts and speaking generally, had the desired effect though obviously it did not completely eliminate the system connected as it was with the economic backwardness of the tracts.

250. There was another type of cultivators in the ex-states who required protection. These were persons cultivating Khamar lands of the Rulers and persons holding lands on service-tenure under the rulers or members of their family. Mention has already been made as to how persons cultivating Khamar lands of Rulers even for genrations did not have any permanent right. There was no difference between these Khamar tenants and occupancy tenants in these states and there was no reason as to why right of occupancy should be denied to them. Most of the service-tenure-holders were holding the lands from generation to generation and with the end of personal rule in the states, the continuance of personal service was certainly undesirable. And yet, sometime to make necessary adjustments in finding out substitutes for these services was required by the Rulers. Taking into consideration all these facts an amendement to the Administration of Orissa States Order was issued in July, 1948. By this amendment a new paragraph, namely, Paragraph 10-A was inserted in the Order. This new paragraph provided that persons holding land on service-tenure either under the Ruler or any member of his family would no more be liable to render the services required of them, would not be liable to eviction and would, on payment of rent to be assessed by the Provincial Government, acquire right of occupancy in the land. It also provided that persons holding Khamar, Nij-jote or any other private land of a Ruler would not be liable to eviction but would be liable to pay such fair and equitable rent as would be fixed by any competent authority and would, thereupon acquire right of occupancy in the land. It made a saving provision in the matter of service-tenures to the extent that if the Provincial Government on an application of any Ruler affected would so consider and order, a service-tenure would continue. These provisions were subsequently enacted as clauses (g) arOdisha Revenue Laws – Volume 16 · Page 97 Act IV of 1950. The

exception relating to the continuance of service-tenures on application from Rulers was also removed by an amendment in 1951.

251. Even though these statutory protections were given, yet the work of assessment of rent proceeded slowly as generally the tenants did not come up with applications for such assessment and there are still many cases in which assessment of fair and equitable rent in respect of Khamar lands and service-tenures has not been taken up. The right which such tenants now enjoy is limited, namely, they are not liable to arbitrary eviction but they are not entitled to any other protection and rights which an occupancy tenant in these states enjoy.

252. Pressure on land being heavy in the districts of Cuttack, Puri and Balasore it was but natural that attempt was always made by both the landlords and tenants to bring every inch of cultivable land under the plough. As early as 1922 this attitude created difficulty in that it was encroaching upon the communal lands of the village. In the settlement operation of 1922—32, attempts were therefore made to record certain lands as Rakhit (protected) and communal and promise was obtained from the landlords that they would not lease out these lands. This was not an effective method of protecting these lands. The position improved to some extent after the passing of the Orissa Communal, Forest and Pivate Lands (Prohibition of Alienation) Act, 1948,but generally speaking, the extent of land avalible for communal purposes in the villages was much less than the requirement. A new section, namely, section 95 was, therefore, inserted in the Orissa Tenancy Act, 1913 by Orissa Act XII of 1948. This section gives authority to the Collector to provide sufficient land for communal use in the village by resorting to the provisions of Land Acquisition Act.

253. A very important change in the administration of Khasmahals was brought about in the year 1948. The collection of rent in all the important Khasmahals, namely, Banki, Khurda and Angul used to be the responsibility of Sarbarakars. The Sarbarakars in Khurda had service lands of considerable extent. The Sarbarkars in other two estates used to be remunerated in cash usually a per cent of the land revenue demand of the village. The Sarbarakars were not only responsible for collection of revenue in time but also for all administrative work in the village. Though the Sarbarakar had all along been considered as nothing but a public servant, yet the pratice that developed in the Khasmahals was to insist on the Sarbakar to pay the entire revenue of the village whether or not he has collected it from the tenants. Being a man of the village of which he had the responsibility of collecting revenue the Sarbarakar was to some extent accommodating the tenants and was paying the revenue from his own pocket recovering it from the tenants according to mutual convenience. This system of give and take to which the tenants were used was convenient for the Government also who was assured of timely payment of revenue. Another responsibility of the Sarbarakar was to report about changes in ownership and occupation of land and being a man of the village, he came to know of such changes more or less as and when they occurred. Thus the office of the Sarbarakar was helpful in the matter of keeping the land records up to date. The system had however serious draw backs in that the post of the Sarbarakar was more or less hereditary and this fact gave a lot of strength and prestige to the office of the Sarbarakar as a result of which instances were not infrequent when Sarbarakrs used to misbehave with the tenants. With the development of political institutions and the consequent diminution of Sarbarakar's prestige many of the Sarbarakars could not become as effective as they used to be in the past. Nor did the tenants like one of their villagers to

be so powerful and influential with the revenue authorities. The system, therefore, became more and more in effective and thus outlived its utility. Government, therefore, decided to abolish it with effect from 1st April 1948, settling the service lands with the outgoing Sarbarakars (up to the extent of 33 acres with each) on raiyati terms, and replace it by a wholetime- salaried agency of Naib-Tahasildars for collection of revenue and for remaining in charge of revenue and administrative matters at the village level.

254. Naib-Tahasildars' circles were organised on the basis of revenue demand of the area and it was expected that these whole time salaried employees would be equally effective as the old time Sarbarakars. But unfortunately the Naib Tahasildars were as effective as even the new time Sarbarakars. The result was that the record-of-rights of Khurda and Banki Khasmahals, which was maintained very much up to date when the Sarbarakari system was in vogue got more out of date and became less and less useful. Revenue fell into arrears and instances in which the Naib-Tahsildars defalcated huge amounts collected from the tenants also came to light. The Naib-Tahasildar has the responsibility in the matter of collection of revenue in a number of villages and he fixes specified days for each village. If a tenant fails to pay the rent on the specified date he has to wait for a similar date and it may be that the Naib-Tahsildar may not come to his village again. The tenants who were used to pay rent according to their own convenience when the Sarbarakari system was in vogue considered this to be annoying and the collections naturally fell into arrears. Moreover a whole-time salaried servant like the Naib-Tahsildar requires constant guidance and control at every stage of work which the Sarbarakar did not require and unfortunately such guidance and control was not available to the Naib-Tahsildars when the system was introduced. The result was that in a few years after the introduction of the system it became a probelem to collect arrears of revenue and institution of certificate cases for enforcing the revenue demand against individual tenants increased tremendously whereas the necessity for applying the certificate process was felt only in rare occasions when the Sarbarakari system was in vogue. The situation gradually improved only when the people got acquainted with the system.

255. The lambardar and co-sharer Gountias in Khalsa Gounti villages of Sambalpur had the right to lease out waste lands. When land had not much value in Sambalpur, nobody took any land on lease unless it was expected to give him some immediate return.Government was not therefore particular to retain this power with them. Rather, for encouraging cultivation and to bring extensive culturable waste lands of the district under the plough, it was then necessary to give the power to the Gountia, the lowest link in the administrative chain, particularly because he was generally a resident in the village. With the change in the agrarian economy during and after the world war land appreciated in value and it was considered desirable that lease of waste lands should be properly planned. Obviously, this was not possible without withdrawing the powers of the Gountia.

256. The Cntral Provinces Land Revenue Act, 1881 was, therefore, amended by Orissa Act XIX of 1950 and three new sections, namely, sections 124-B,124-C and 124-D were inserted therein. Section 124-B provided that notwithstanding anything in the Wazib-ul-uraz, custom, decree. or order no Gountia should henceforward have the right to lease out waste lands, and the right of lambardars and co-sharers to reclaim waste lands should stand extin.

guished. Section 124-C provided that the lambardars and co-sharers might within a period of six months from the date of commencement of the Act apply to the Government for grant of a lease of any waste land and such lease shall be granted provided that the maximum area to be leased out in any village to such a person should not exceed 33 acres including the lands already in possession of the applicant. Section 124-D conferred necessary powers on the Deputy Commissioner to scrutinise the leases granted in any Gounti villages between the first day of April 1950 and 11th October 1950 (the date on which the Act came into force) and set aside such lease if he was satisfied that it was created only to defeat the provisions of this Act.

257. Along with the withdrawal of powers of Gountias of Sambalpur, a similar order was issued withdrawing the powers of Gountias and other village headmen to lease out waste lands in the ex-states.

258. This withdrawal of power of Gountias of-ex-states meant appreciable deterioration of their already deteriorating power and prestige. Many village headmen considered that the responsibility which they had to discharge was out of proportion to the benefits that now accrued to them from their office. They naturally neglected their duties and Government considered it necessary to do away with the system altogether.

259. A beginning in abolition of Gounti sysem was made in Patna ex-state of Bolangir district in 1949. The abolition was done by compromise. That is to say, the Gountia surrenderd his office and the Bhogra land attached to his office was settled with him on raiyati tenuare, only five acres out of each Bhogra holding beingkept out and set apart for the benefit of Grama Panchayats. The abolition was carried on without difficulty and the Naib-Tahsildari system was introduced for collection of rent and for remaining in charge of all revenue and general administrative matters at the village level.

260 The Naib-Tahsildari system exhibited many of the defects it exhibited in Kuhurda and other Khasmahals. It was, however, readily accepted by the people and was, therefore, more effective.

261. While attention was devoted to improvement of tenancy conditions and of administrative machinery in the Khasmahals, the question of zamindary abolition was also under active consideration. The Orissa Estates Abolition Bill providing for the abolition of all intermediary interests in the State was introduced in the Legislature on 17th January, 1950. The Bill was referred to a Select Committee on the 3rd August 1950. The Committee while submitting its report mentioned :—

"In view of the far-reaching and momentus nature of the enactment by which we are attempting to fulfil a long -cherished dream and hope of the mass of tiller of the soil without causing a total upheaval in the economic structure of the country and community and unnecessary hardship to individuals, we gave our anxious thought and consideration to this Bill. We have endeavoured in our deliberations to meet all angles of vision and different interests that are going to be affected and we hope that our labour will be of some help to the Legislarture in its deliberations."

After preliminary discussions in the Legislative Assembly, the Bill was recommitted to the same Select Committee on certain specific points. The Committee submitted its report in August, 1951. The Bill was thereafte.

discussed in the Legislative Assembly for a number of days and was ultimately passed on the 28th September 1951. It ultimately became Orissa Act I of 1952 after receiving assent of the President.

262. Chapter I of the Act defines certain important terms in the Act. Chapter II relates to vesting of estates and consequences thereof. Chapter III relates to management of vested estates. Chapter IV makes provision for settlement of claims relating to certain debts of intermediaries and to the claims of maintenance-holders in estates. Chapters V and VI provide for assessment and payment of compensation and Chapter VII relates to miscellaneous provisions like bar to jurisdiction of Civil Courts, procedural matters, power of State Government to make rules under the Act and remove difficulties for carrying out the purposes of the Act.

263. The question that received active consideration after all preliminary action for abolition of estates was completed was comprehensive agrarian reforms and development of agricultural economy. Specific action in this regard was first taken in 1948 by the Indian National Congress by setting up the Congress Agrarian Reforms Committee with Shri J.C. Kumarappa as its Chairman. The terms of reference to the Committee were "to examine and make recommendations about agrarian reforms arising out of the abolition of zamindari system in the light of conditions prevailing in the different Provinces. The Committee will consider and report on co-operative farming and methods of improving agricultural productiion, position of small holdings, sub-tenants, landless labourers and generally on improving the conditions of agricultural rural population "

The Committee submitted its report on 9th July 1949. It made recommendations on co-operative farming, machinery for land management, agricultural indebtedness, finance and marketing, agricultural labour, stabilisation of agricultural prices and crop insurance, agricultural improvements, agro-industries and rural welfare.

264. When the report of this Committee was published, the State Governments naturally considered legislative measures for implementing such of the recommendations as were condsidered for immediate implementation. The Orissa Agriculture Act XVI of 1952, was intended to give a statutory basis for implementation of some of these recommendations. The background of this law and the provisions it makes will be clear from the following extract from the statement of objects and reasons of the Orissa Agriculture Bill 1957.

'The Orissa Agriculture Bill, 1951 is designed to give legislative effect to the State policy, laid down as a fundamental directive principle in the Constitution of India, that the State shall endeavour to otoganise agriculture and animal husbandry on modern and scientific lines. The proposed enactment specifically provides for legal sanctions and statutory authority for the State to initiate the necessary measures—

(*a*) to secure balanced and economic utilisation of land and water in Orissa ;

(*b*) to improve agriculture and animal husbandry in Orissa on modern and scientific lines ;

(*c*) to promote and maintain a stable and efficient agricultural industry in Orissa capable of producing such part of the Nation's food, fibre, fodder and other agricultural products as in the national interest it is desirable to produce;

(*d*) to ensure that proprietors of agricultural land fulfil their responsibilities to manage the land in accordance with the rules of good estate management ; and

(*e*) to ensure that tenants of agricultural land fulfil their responsibilities to farm the land in accordance with the rules of good husbandry.

The basic principle involved in this legislation is a recognition of the fundamental maxim that land is a social asset and that all private rights in land should be held subject to the overriding interest of the Commnity. The interest of the Community which the State has to safeguard relates to improvement of agriculture and the utilisation of the agricultural resources in the State for the maximum collective advantage. The idea of any right of owner ship in land which entitles the owner to use or misuse the land as he likes is incompatible with the econ mic and social needs of our times.

The nature of rights and obligations as between different parties having interest in the land in our country is the result of a long evolution determined by geographical, econimic, social and political conditions. The whole complex of land tenure and Tenancy Laws is the outcome of this process. The history of the origin and development of proprietary and tenancy rights in land and the extent to which individual rights on land were recognised as subordinate to the larger interest of the community may certainly admit of divergence of opinion. But, since the earliest times, recorded history has clearly recognised two basic principles in regard to the management and use of land; namely :—

(*i*) The right and duty of the King (or the State) to regulate the management and use of land in the larger interests of the community ; and

(*ii*) the duty and obligation of proprietors and tenants in the exercise of their individual rights in land to manage or cultivate land subject to the observance of certain rules of good management and good husbandry.

These principles were kept in view in all the early legislative endeavours with regard to land by the British in India but in the actual operation of the land systems got up by them, no attempt was made to enforce these principles. The Orissa Land Revenue and Land Tenure Committee have rightly observed that "We find clear traces of the above principles that the valuable rights enjoyed by the private proprietors of land were always related to,if not actually dependent upon, the discharge of certain duties and responsibilities towards the community". In fact in the Kabuliyat executed under the Permanent Settlement Regultions, the Zamindar of Sukinda undertakes :—

".....that I will keep the raiyats prosperous and contented, and exert myself to improve the land so that they will bring forth more crops than they did before. That I shall not allow an inch of cultivated land to fall waste. That I will never allow the growing of inferior crops in superior land....."

(Report of the Orissa Land Revenue and Land Tenure Committee, Chapter II Paragraph 8, page 10.)

Gradulally, however, during the past century, this basic principle receded to the background and all subsequent legislation laid greater emphasis only on the rights of the respective parties and obligations in regard to payment and collection of revenue, rent, cess, etc., but neglected all reference to the duties and obligations in regard to the improvement of agriculture. In fact, all the Tenancy Laws now in operation concern themselves with the right of proprietors

to collect rent and to the grant of rights to tenants in respect of fixity of tenure, fixity of rent, freedom to transfer, etc. No duties or obligations on either proprietors to manage their estates according to rules of good estate management or on tenants to cultivate land in accordance with the rules of good husbandry has been statutorily laid down in any of the Tenancy Laws. This is a grave omission which has contributed largely to the gradual deterioration in agricultural efficiency and decrease in agricultural production.

Although the State depends for its prosperity on the improvement of agriculture, no legislation to enforce the liability of proprietors and tenants to undertake the utilisation of land resources under their control in the best interests of the community has till now been undertaken. The problem received considerable attention only during and since the last great war when shortages of food and other agricultural product became chronic and wide spread. Even in other countries like Great Britain, pervious laws relating to agricultural holdings or the tenancies did not recognise the need for any legislation to enforce the responsibilities inherent in the enjoyment of propritary rights in lands. The Government in Great Britain took in 1939 wide powers of control over agriculture as an emergency measure during the war. These powers included the right to regulate cultivation, management and use of agricultural land to prevent agricultural land from being used for other purposes and to terminate any tenancy or take possession of any land if it was not cultivated in accordance with certain prescribed standards of good husbandry. This measure tacitly recognised the power of the State to interfere with the land system for better land utilisation. Subsequently, further progress has been made in Great Britain in enforcing legislation for the purpose of promoting a stable and efficient agricultural industry in the country. The Agricultural Act of 1947 in Great Britain is an important land mark in the economic history of that country. By this Act, the State took wide powers to promote stability and efficiency in agriculture. The need for similar legislation in this country cannot be over emphasised. It is the duty of the State to ensure that agriculture attains the highest possible degree of efficiency. It is not merely a duty but also a right of the State to see that the necessary steps are taken to this end. No doubt one of the most important methods of promoting efficiency in agriculture is to ensure that the tenants have made available to them the benefits of modern agricultural research and knowledge of up to date methods of farming. This means that the State has to promote research and teaching in agriculture and also provide a machinery to afford necessary technical advice and services to every individual farmer. Some progres is already being made in this direction,. Nevertheless, it is necessary for the State to have powers to exercise necessary control measures to ensure that all agricultural land is managed and cultivated efficiently. It is also necessary to lay down as a statutory duty and obligation on the part of proprietors to undertake management of their estates with a view to improve agricultural efficiency and also for tenants to farm the lands to achieve maximum agricultural production subject to the extreme penalty of dispossession. The Congress Agrarian Committee have also aptly observed—

"The cultivator will enjoy the right in land only so long as he satisfies the test of good husbandry. Land is a social asset. The cultivator is more or less a trustee of the social asset. If he fails to discharge the obligation of the trust it is only reasonable that he should be divested of the trust.

"An indifferent tiller has no place in the agrarian economy of the country Because he is a tiller, he must stay in land is no social justice. Manu enjoinrs

upon the king to inflict penalties upon a cultivator who fails to maintain the standard of efficiency of cultivation."

(Report of the Congress Agrarian Reforms Committee, Chapter II, Paragraph 35, page 41.)

The proposed legislation has not been made sufficiently comprehensive in the sense that it does not provide for the regulation and control of agricultural prices and wages, which are economic factors profoundly affecting stability in agriculture. The legislation may, therefore, be treated only as complementary to the Orissa Tenancy Act, or other similar Tenancy Laws in operation in the other parts of the State since it provides for the enforcement of the obligations and duties of proprietors and tenants whereas the Tenancy Laws provide for the rights of those parties. Secondly, the present legislation also provides for a suitable machinery for the enforcement of the very wide powers which are proposed to be vested in the State. Lastly the present legislation seeks to invest the State with the power to ensure that the cultivator or the proprietor will enjoy his rights in respect of land only so long as he satisfies the test of improving agricultural efficiency. Very wide powers are thus being conferred in view of the supreme national importance of agricultural development but the elaborate machinery provided for the enforcement of these powers will , it is hoped, ensure proper checks and balances against their misuse. Matters incidental to the development of agriculture, animal husbandry and pisciculture, such as balanced land utilisation, co-operative or joint farming, consolidation of holding, cultivation of fallow land, reclamation of lands considered fit for agricultural use, etc. are also brought within the provisions of the Act.

The Bill seeks to get up at the top a high powered body known as Board of Agriculture with the Minister-in-charge of the department of Agriculture and Forestry as its ex-officio Chairman and with eight officials and eight non officials. It seeks to create at District and Thana or Taluk levels predominantly non official bodies known as District Agricultural Executive Committee and Krushi Samities who shall invariably be consulted By the Board of Agriculture and through whose agency and co operation schemes for better management of estates and better farming of land may be executed. The Bill also seeks to make provision for the execution of bigger improvement schemes including protective and preventive schemes calculated to bring over permanent improvement in agriculture and also for consolidation and prevention of fragmentation of holdings which is the greatest impediment now to improve any scientific exploitation of land. It seeks to create at District level Judicial bodies known as District Land Tribunal to whom all disputes about compensation will be referred with provision of an appeal to the Board. While the Bill seeks to impose restriction on the proprietors and tenants in their management and farming of land and makes it obligatory on them to obey the directions issued by the Board and District Agricultural Executive Comittees, issued with the object of ensuring better management and better farming of land with the provision for their temporary dispossession in case of their persistent default, to carry out directions, yet it has been provided in the most democratic line in the sense that no action under the Act will be possible except with the active support and cooperation of the predominantly non-official bodies at District and Taluk or Thana levels, through whom alone the powers of the Board can be exercised.

This legislation will, it is earnestly hoped, provide the necessary legal sanctions and authority and a suitable permanent machinery which will function from day to day like the judicial or Revenue administrations to ensure the development of agriculture and animal husbandry in the State."

265 The Act which has been amended in 1952, 1953 and 1956 has not yet been brought into force mainly because of the fact that development of agriculture has been the main object of the Community Development programme that was initiated in 1953 and the necessity for enforcing it has not yet been felt.

CHAPTER VI

ABOLITION OF INTERMEDIARY INTERESTS

1952—1962

266. After the passing of the Orissa Estates Abolition Act I of 1952, administrative measures preliminary to abolition of estates had to be taken. It was discovered at this stage that certain minor amendments to the provisions of the Act would be necessary for its smooth functioning. Accordingly, Orissa Act XVIII of 1952 effecting the necessary amendments was passed. Section 3 of the Act authorises the State Government to issue notifications from time to time declaring that any estate has passed to and become vested in the State free from all encumbrances. Section 4 of the Act gives authority to the State Government to invite intermediaries as are proprietors of permanently-settled estates and intermediaries governed by the law of primogeniture to give proposals for surrender of their respective estates to be received within a period of one month from the date of the notification inviting such proposals. The proposals are required to be in writing and are to contain specific terms and conditions on which the surrender is proposed to be made. Thereupon, the State Government has to intimate their decision to the said intermediaries, within a month from the date of receipt of the said proposals, whether their proposals shall be taken into consideration or not by the State Government. A notification was accordingly issued inviting proposals, but no estate was taken over under the provisions of this section. Thereafter the powers conferred by section 3 were invoked for the vesting of estates. On the2 7th November 1952 the first batch of notifications vesting a large number of big zamindary estates was issued. The estate of Kanika situated in the districts of Cuttack and Balasore and the permanently-settled estates of the districts of Ganjam and Koraput were significant omissions.

267. Some of the zamindars of Ganjam had filed petitions before the High Court under Article 226 of the Constitution of India for issue of mandatory writs against the State of Orissa restraining them from issuing any notification or taking any other steps under the Orissa Estates Abolition Act I of 1952 in respect of their estates. All the applications were made on identical grounds the more important of which were—

(*a*) the Orissa Estates Abolition Act was *ultra vires* of the Constitution ;

(*b*) the provisions of the Act as regards certain specific items comprised in the estates, such as private lands, waste lands, mines and minerals and buildings were unconstitutional,

(*c*) provisions which entered into the calculation of compensation such as the stipulation for deduction on account of Agricultural Income tax were invalid ; and

(*d*) certain provisions of the Madras Estates Land (Orissa Amendment) Act, 1947 and the steps taken by the State Government thereunder in respect of certain estates (commutation of produce rent and settlement of fair and equitable rent) were invalid as they had the effect of reducing the compensation and the Orissa Estates Abolition Act basing the calculation of compensation on these provisions was therefore invalid

The applications were heard together in October, 1952 and the hearings continued from time to time till the 15th December 1952. On the 30th January 1953, they were dismissed, each party bearing its own cost. The conclusions which their Lordships reached after hearing both the sides can be summarised as follows:—

(*a*) the Orissa Estates Abolition Act I of 1952 taken in its wholesale aspect, was valid and not open to any of the constitutional objections raised thereto ;

(*b*) the acquisition under the said Act of various individual items thereof, namely, private lands, personal service Inams, waste lands, forests, etc., was also valid ;

(*c*) the acquisition of buildings situated within the orbit of the estate was valid in so far as such buildings were primarily office and estate building in possession of the intermediary by the date of vesting. The validity of the vesting of the buildings other than office and estate buildings in so far as it might result from the relevant provisions of the Act was left open including buildings which might have been used as office buildings or estate buildings, but were primarily homesteads or personal buildings ;

(*d*) the validity of the provisions of sections 5 (*i*), 6 (2) and 7 (2) was left open to be raised by the appropriate persons at the appropriate stage ;

(*e*) both the Orissa Agricultural Income-tax (Amendment) Act of 1950 (Orissa Act XV of 1950) and section 27 (1) (*b*) of the Orissa Estates Abolition Act providing for deduction of Agricultural Income-tax from gross assets were, individually as well as taken together, valid and not open to any constitutional objection ; and

(*f*) section 168-A and section 177(2) inserted into the Madras Estates Land Act, 1908 by the Act XIX of 1947 were valid and not open to any constitutional objections. But the question as reagrds the validity of the actual exercise of the powers thereunder was left open and would be considered on fresh applications being filed by the petitioners raising these points.

268. The zamindars chose to file an appeal in the Supreme Court. Government had to wait till the disposal of the appeal and that is how vesting of these estates was delayed until the 1st June 1953. The four estates of the Maharaja of Jeypore comprising the Koraput district were, however, notified for vesting on the 29th December 1952 as the Maharaja did nto challenge the validity of the Act.

269 The Zamindar of Madhupur filed a petition under Article 226 of the Constitution of India on the 26th November 1952 in the High Court challenging the validity of the Act. He also filed a separate petition for stay of the issue of notification under section 3 of the Act in respect of his estate till the disposal of the petition. The Court issued an interim injunction order on the 27th November 1952. Accordingly the possession of the estate could not be taken over even though the notification under section 3 of the Act was published in the official gazette on the same date. Pending disposal of the petition, the High Court appointed the Anchal Adhikari of Darpan as Receiver from the 6th December 1952 and the Anchal Adhikari took charge

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

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

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

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

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

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

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

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

(*i*) their estates were independent principalties, and they were not intermediaries ;

(*ii*) after the merger of Sambalpur into British territory the estates were attached to Gangpur for making payment of revenue previously paid to the Sambalpur Treasury ; and

(*iii*) there was no Sanad defining the relation between the Gangpur State and Sarafgarh and Hemgiri estates.

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

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

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

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

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

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

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

278. The next batch of estates notified for vesting were a large number of Inams in the districts of Ganjm and Koraput and a few tenures in other districts. The notifications vesting the Inams were issued on the 1st July 1954. After vesting, most of them were attached to the Anchals within whose geographical limits they were situated and only two new Anchals, namely, Ghumsur and Berhampur were formed comprising some of these vested Inams. The vesting of the Inams on the 1st July 1954 caused quite a lot of commotion in the society and difficulties for the administration. For one thing, like the small estates of the northern districts each of these Inams had a number of co-sharers whose names and addresses were not known to the Collectors and it naturally took sometime for locating them. And by the time this could be done, most of them had filed Writ petitions in the High Court challenging the validity of the Act in its application to thier properties, questioning the right of Government to take over their Inams which they contended were not estates and praying for stay orders restraining Government from taking possession of the same. The High Court granted stay orders in all these cases and possession of the estates covered by the Writ petitions could no

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

304. Section 37 was amended and provision was made in it that the amount of compensation payable to a creditor or a maintenance-holder shall carry interest at the rate of 2 ½ per cent per annum from the date of determination of the claim by the Claims Officer and shall be payable on and from the date of vesting in thirty annual equated instalments. An enabling provision was also made that as in the case of intermediaries, full payment of compensation can also be made to creditors and maintenance-holders at any time before completion of thirty years.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

326. There was another important point which was causing hardship to the zamindars especially to the zamindars of Ganjam and Koraput. Many of them defaulted in the payment of land revenue and cess for a number of years immediately preceding the vesting of their estates. Under clause (*h*) of section 5, these arrears could be adjusted from the compensation payable to them. Now, the question was about the date of adjustment. The Collectors interpreted the provision of theAct to mean that only when compensation was assessed and a Compensation Payment Order was ready for issue, the necessary adjustment would be made and till then the arrears would earn interest at the rate of 12 per cent prescribed under the relevant Acts. As in most cases, final assessment of compensation was time taking the interest that was accruing on the arrears after the date of vesting was quite appreciable. As against this, the intermediary was entitled to only 2½ per cent of interest on his compensation from the date of vesting. It was argued on behalf of the intermediaries that compensation being payable from the date of vesting, any adjustment from the compensation towards arrears of revenue and cess should be considered to have been made on the date of vesting itself. Government accepted this to be a reasonable grievance of intermediaries. Clause (*d*) of section 5 of the Act was, therefore amended by Orissa Act 16 of 1962 to carry out this intention.

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

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

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

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

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

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

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

333. To start with the issue of vesting notifications. So far as the zamindary estates and others paying land revenue direct to Government were concerned it was the duty of the Government to maintain the records of ownership and possession up to date. But the records, particularly of thse small estates like the revenue-free estates of northern districts were hopelessly out of date because the proprietors had lost interest in getting the records corrected up to date when after 1946 it was more or less clear that the zamindary system was going to be abolished. Therefore, whereas it was possible to collect particulars with respect of big estates, small estates payging

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

(*a*) the Government may issue a general notification of vesting without mentioning the name of any intermediary or describing any estate, but only describing the class to which the estates belong ; and

(*b*) even if a particular notification under section 3 is issued mentioning only certain names and omitting certain others owning the property mentioned in the notification, yet all persons having interest in the property will have their rights vested in the State by operation of the said notification.

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

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

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

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

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

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

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

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

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

340. The difficulty of bringing all sairats on to record after vesting has been mentioned in an earlier paragraph. Even where these could be easily located, their [illegible]

Odisha Revenue Laws – Volume 16 · Page 127 h. In a Writ petition

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

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

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

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

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

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

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

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

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

348. Accommodation for Anchal Offices presented some difficulty. The offices and Cutch[Odisha Revenue Laws – Volume 16 · Page 130] t in all cases suitable

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

360. The total amount of compensation estimated as payable to intermediaries for the estates already vested and yet to be vested is Rs. 6·25 crores excluding the interest which is estimated at Rs. 2 crores. The cases of small intermediaries who more or less depended for their livelihood completely on thier estates required some special consideration and Government decided as early as 1956 that all intermediaries whose compensation did not exceed Rs. 3,000 should be paid the entire amount in one instalment. Again in November 1956, Government extended this benefit to all the estates, the compensation in respect of which did not exceed Rs. 7,500. This benefit continued till 1958 when Government further ordered that all intermediaries whether their compensation exceeded Rs. 7,500 or not should be paid Rs. 7,500 at the first instance and the balance amount if any should then be paid in annual equated instalments. This concession was further extended by raising the limit of first payment to Rs. 14,000 in November 1960. In October, 1961 this was further raised to Rs. 30,000. This has been raised to Rs. 1 lakh in April, 1962. Thus after the organisation of the establishement for payment of compensation gathered momentum, it has been possible to make payment of compensation to most of the intermediaries and the difficulty of coming

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

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

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

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

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

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

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

CHAPTER VII

ABOLITION OF PART-TIME COLLECTION AGENTS 1952—1962

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

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

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

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

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

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

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

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

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

CHAPTER VIII

TENANCY REFORMS 1953—1962.

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

(*a*) plant,

(*b*) fell,

(*c*) propagate lac on and enjoy the flowers, fruits and other porducts of, and

(*d*) utilize or dispose of the timber of trees, on his land. But he shall not have the right to fell any tree reserved as a surevy mark.

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

373. The Orissa Tenants' Protection Act which was being extended from time to time has exhibited certain difficulties and defects in its working. It was considered expedient to repeal this Act and substitute it by a more comprehensive legislation covering all the temporary tenants and all tenants liable to pay produce rent. Accordingly the Orissa Tenants' Relief Act 5 of 1955 was passed. The circumstances leading to the passing of the Act can be comprehended very clearly from the following extract from its preamble—

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

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

* * * * *"

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

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

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

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

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

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

a distribution is made, the Samiti or any person authorised by the Samiti in this behalf shall present the Bhoodan delclaration along with a list showing names and addresses of person or persons to whom or the prescribed particulars of the village community or community purpose for which the land has been distributed in each case before the Revenue Officer. If such a declaration is confirmed it shall have effect from the date of such distribution. A further provision was made to the effect that land granted under the provisions of this Act may be cultivated by the grantee either individually or with the assistance of any other person or persons and the grantee shall be liable to pay the rent, cess or any other dues payable to the State Government in respect of the said land and where land is granted to a number of persons jointly or to the village community, all the persons to whom the land is granted or all the members of the village community, as the case may be , shall be jointly and severally liable for payment of rent, cess or other dues payable to the State Government in respect of the said land and when land is held by all the members of the village community, they shall be entitled to a rebate equal to ten percentum of the said payment if it is made in time. On the death of a person the land granted to him under the provisions of this Act shall pass on to his successor-interest who shall hold the land on the same terms and conditions as the grantee or his successor-in-interest. A grantee or his successor-in-interest shall be liable to eviction if he abandons the land granted to him or without any reasonable cause to the satisfaction of the Samiti keeps the land fallow for more than two consecutive years or fails, in case of grant of waste lands, within a period of three years from the date of the grant, to bring at least half of such land under cultivation without any reasonable cause to the satisfaction of the Samiti. It also provides for eviction of unauthorised occupants of land vested in the Samiti and penalty for contravention of the provisions of the Act. The Act was further amended in 1961 to provide for unrestricted donation of land by a person belonging to a Scheduled Tribe and banning the application of the provisions of the Orissa Scheduled Area Transfer of Immovable Property (By Scheduled Tribes) Regulation, 1956 to such cases. The total area of land donated to the Bhoodan Yajna Samiti till now is 3·80 lakh acres and about 20,000 acres of this have already been distributed.

CHAPTER IX

COMPREHENSIVE LAND REFORMS

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

"The legislative measures for introducing comprehensive Land Reforms on the lines suggested by the Planning Commission in their Second Five-Year Plan have been [illegible] for some time past,

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

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

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

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

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

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

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

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

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

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

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

(*a*) persons entitled to acquire right of occupancy in the Khamar lands of the ruler in any ex-State and persons holding lands on service-tenure under the Ruler or under any member of his family ;

(*b*) temporary lessees in personal cultivation of lands in vested estates ; and

(*c*) recorded sub-tenants and under-raiyats.

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

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

(*a*) has used the land comprised in his holding in a manner which renders it unfit for the purpose of agricutlure ; or

(*b*) has leased out the land in contravention of the provisions of the Act; or

(*c*) has used the land for any purpose other than agriculture.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

388. The amendments sponsored in 1951 mainly affect the provisions relating to resumption of land for personal cultivation and imposition of a ceiling.

CHAPTER X

SURVEY, SETTLEMENT AND LAND RECORDS

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

403. In the last settlement of Nawapara subdivision where pressure on land was not heavy the then existing rents were slightly increased. As these existing rents had been fixed as more or less lump rentals as in the district of Cuttack, Puri arOdisha Revenue Laws – Volume 16 · Page 152ed as such.

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

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

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

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

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

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

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

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

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

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

Implementation of Land Reforms

A Review by the Land Reforms Implementation Committee of the National Development Council

Government of India
Planning Commission
New Delhi
August, 1966

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A REVIEW OF IMPLEMENTATION OF LAND REFORMS

I

In November 1963, following the Mid-term Appraisal of the Third Plan, the National Development Council reviewed the progress made in the implementation of land reforms in different States and noted that on account of legal and other factors, in some States, the legislation had not been fully enforced. The National Development Council emphasised that speedy execution of the programme of land reforms was vital for increasing agricultural production and strengthening the rural economy and called upon all the State Governments to complete the implementation of land reform programmes before the end of the Third Plan. The Council also constituted a committee with The Minister of Home Affairs, Shri Gulzari Lal Nanda, as chairman and the Minister of Food and Agriculture, the Member incharge of land reforms in the Planning Commission and five Chief Ministers who are Vice-Chairmen of the Zonal Councils, as members, to review the progress of land reform in different States and propose measures for securing implementation.

2. The Implementation Committee met 9 times. The first meeting was held in December, 1963 when the Committee made a general review of the situation. It decided that detailed information regarding implementation of land reform programmes and the difficulties experienced in expeditious and effective implementation should be reported to the Committee and an officer specially deputed to go round the States for this purpose.

3. Following the suggestion of the Committee, all the States except Jammu & Kashmir were visited by the officers of the Planning Commission. Follow up visits were also made to Bihar and Mysore. Copies of their reports were forwarded to Chief Ministers concerned for the comments of their governments. These reports, together with the comments of the State Governments thereon, in respect of Andhra Pradesh, Bihar. Gujarat. Madras, Maharashtra, Orissa, Rajasthan, Uttar Pradesh and Himachal Pradesh have been examined by the committee in consultation with the State Governments concerned. The first report on Mysore had been considered in the Central Committee for Land Reform and the report on Kerala at a meeting between the Governor of Kerala and the Member incharge of land reform in the Planning Commission. The report on Madhya Pradesh was to be reviewed at a meeting on October 27, 1964 but as the Chief Minister could not be present, its consideration was deferred. The reports of the officers, comments of the State Governments thereon and the summary records of the meetings of the Committee are contained in annexures I, II and III to this review respectively.

II

4. The main features of the land legislation, its state of implementation, the deficiencies in the law and its implementation, the advice given by the Implementation Committee to the State Governments and the action taken thereon in respect of each State have been set out briefly in the following paragraphs.

ANDHRA PRADESH

5. At present, tenancies are regulated under separate laws in the two regions of Andhra Pradesh, namely, the Telangana area and the Andhra area. The legislation applicable to Telangana area (the Hyderabad Tenancy and Agricultural Lands Act) provides for: —

(1) fixation of rent at 1 /4th of the gross produce for irrigated lands, other than well irrigated lands and 1 /5th in other cases or 3 to 5 times the land revenue (according to class of soil), whichever is less;

(2) fixity of tenure for protected tenants subject to landlord's right to resume land for personal cultivation up to 3 family holdings. The tenant, however, is to retain generally a basic holding or half of his land whichever is less;

(3) an optional right of purchase of ownership of non-resumable lands for protected tenants. This right is subject to the condition that a protected tenant could not purchase more than one family holding and that the land owner is left with two family holdings (a family holding varies from 4 to 60 acres). In addition the law provides for *suo motu* action for transfer of ownership to protected tenants.

The legislation obtaining in Andhra area (the Andhra Tenancy Act) is of an interim nature. It provides for stay of ejectments and fixation of rent at 50 per cent of the gross produce for irrigated lands, 28.1/3 per cent for lands irrigated by baling and 45 per cent for dry lands.

The law relating to ceiling (Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961) which is applicable to both the regions, provides for ceilings on existing holdings at 4} family holdings and on future acquisition at 3 family holdings (a family holding varies from 6 to 72 acres). The ceiling law was brought into force with effect from June 1, 1961. There is no provision dealing with the problem of transfers.

In 1960, the Government of Andhra Pradesh introduced a new Bill which provides for a unified tenancy law for the whole of Andhra Pradesh. The Bill lapsed in 1961 due to dissolution of the Assembly on the eve of general elections and a fresh Bill was introduced later in 1962, which was reported upon by Joint Select Committee of the State Legislature in 1964. Its provisions were deficient in several respects. The Regional Committee for Telangana area has disagreed with the Bill and has suggested that the Hyderabad Act should be extended to the Andhra area also; and if it was not possible, there should be separate laws for the two regions. The matter is under the consideration of the State Government.

6. The state of implementation of land reforms has been examined in the report submitted by Shri Ameer Raza. Joint Secretary. Planning Commission in February. 1965 (vide Annexure I). There were several gaps in the Hyderabad law: —

(a) Ordinary tenants do not enjoy the rights given to protected tenants. They number 1.34 lakhs and occupy an area of 8.58 lakh acres. Protected tenants number 2.99 lakhs and hold 16.57 lakh acres.

(b) Tenants' right to ownership is much limited in scope as the bulk of the leased area is comprised within the two family holdings to be left with the owner; and

(c) Surrenders are not properly regulated.

The provision for *suo motu* action for transfer of ownership to tenants was enforced in one district and a taluka of another district. Further implementation was stayed on the reorganisation of States in 1956.

In Andhra where substantial areas were cultivated through tenants and share croppers, particularly in the coastal districts, they were generally not recorded. The interim law i.e.. the Andhra Tenancy Act has been ineffective. A tenant holds at the will of the landlord and may not offer any resistance if the landlord desired to dispossess him. The prevailing rent was half the gross produce and in case of fertile lands it was as high as two-thirds of the produce As regards ceilings, no surplus land has yet been taken possession of but it is estimated that the surplus area is likely to be less than 0.2 per cent of the cultivated area. The law has thus only a limited significance.

7. The Implementation Committee reviewed matters relating to land reforms in Andhra Pradesh

on July 21, 1966 (vide Annexure III). As the Chief Minister was not pre- sent, consideration of necessary legislative measures was not taken up. The Committee, how- ever, advised that it would be desirable to organise a special drive for the preparation of records of tenants in Andhra area and to give presumptive evidence value to the record but that even without necessary legislative provision the record should be useful. To assist in the preparation of records tri-partite committees should be set up. The Committee also emphasised that in view of the importance of the programme of consolidation of holdings to agricultural production, it was desirable that it should be pursued with vigour in the Telangana area and also initiated in the Andhra area and that adequate financial provision for this should be made in the Fourth Plan

ASSAM

8. Assam consists of 11 districts of which 4 districts are inhabited by tribal people and governed through autonomous District Councils. The land reform laws are not applicable to the tribal areas.

Permanently settled zamindaris in Goalpara district and Karimganj sub-division of Cachhar district were abolished in 1956. Abolition of religious and charitable inams in the temporarily settled areas is in progress.

Large areas are held from Government on annual leases. On the suggestions of the Planning Commission, the State Government agreed in 1958 to convert annual lease holders into owners. Though much progress has been made in that direction, 18 lakh acres are still held on annual leases.

In the temporarily settled districts substantial areas are held by occupancy tenants under private owners. Legislation has yet to be enacted to bring them into direct relation with the State.

Large areas are cultivated through tenants-at-will, called *under-raiyats,* and share-croppers called *adhiars,* mostly by the latter. According to the 1961 Census 37 per cent cultivators were either tenant-cultivators or part-owner-part-tenant-cultivators. Under the law the rent or the crop share is not to exceed one-fourth or one-fifth of the gross produce. Under the ceiling Act, which fixed the time limit on resumption no ejectments could take place after February. 1963. There is no provision, however, for the regulation of voluntary surrenders or for converting tenants of non-resumable lands into owners.

Legislation has been enacted for fixation of ceiling on future acquisition as well as existing holdings at 50 acres. A provision has been made that no benami transfer made after November 12, 1955 (the date of introduction of the Ceiling Bill) shall be taken into account in determining the ceiling limit.

9. The State of implementation of the law was examined by the Joint Secretary in his report of February, 1965 (vide Annexure I). In practice, the share-croppers do not enjoy much security of tenure. They have to give up possession of land when the landlord wants it back. Regulation of rent is also ineffective and, by and large, the share cropper pays half the produce. In districts where settlement operations are in hand instructions have been issued for recording tenants, sub-tenants and share croppers. For other districts a scheme has been worked out for a special operation for recording them. The entries relating to share croppers do not, however, have presumptive evidence value. *Adhi* Conciliation Boards have been constituted at the Anchal Panchayat level comprising a representative each of landlord and tenant with the revenue officer as Chairman for settlement of disputes of land- lords and *adhiars.* The Boards have, however, faile to ensure implementation of the Act. The circle of operation of a Board is too large; the *adhiars;* were not adequately represented and members of the Board were generally ignorant of the law. It was estimated that an area of 1.36 lakh acres would be available as a result of imposition of ceiling. So far 34,000 acres

have been declared as surplus land which are mostly in the occupation of tenants and snare croppers.

Suggestions were made in the report for reconstituting Conciliation Boards to make them more effective, expediting preparation and revision of records of tenants and giving the record a presumptive evidence value, giving publicity to the provisions of the law and for accelerating implementation of ceilings. Suggestions were also made for amending the law to provide for regulation of surrenders and bringing all tenants and sub-tenants and share croppers into direct relation with the State. There is some conflict in the provisions regarding resumption of lands from share croppers in the Ceiling Act and the Adhiars Protection Act. The time limit for resumption prescribed in the Ceiling Act has expired but under the Adhiars Protection Act, the right of resumption appears to be a continuing right. To remove this conflict, a clear provision for conferment of permanent and heritable rights on all share croppers is necessary.

10. The State Government has observed (vide Annexure IT) that before undertaking an amendment of the law, the provisions regarding share croppers in other State laws are being examined. Meanwhile it is proposed to ensure more effective representation of Adhiars on the Conciliation Boards. Deputy Commissioners have been requested to expedite the implementation of the ceiling law. Appointment of a special officer to watch the progress of land reform is under consideration. Steps are being taken to ensure wide publicity of land reforms laws.

BIHAR

11. Tenancies in Bihar are regulated under the Tenancy Act of 1885. There are also some provisions in the Ceiling Act of 1961. The produce rent is not to exceed one-fourth of the gross produce (in case of tenants of persons owning more than the ceiling area it can go up to 7/20th of the gross produce) and the cash rent is not to exceed by 50 per cent of the rent or land revenue payable by the landlord. There is no provision for the commutation of produce rents into cash. As regards security of tenure, a tenant acquires occupancy rights if he is in continuous possession for 12 years. Other tenants who hold land on written lease are liable to ejectment on the expiry of the term of the lease. Tenants who hold land on oral leases are not liable to ejectment except on grounds of non-payment of rent or improper use of land. However, under the Ceiling Act. the landlord owning more than the ceiling area is permitted to resume half the area for personal cultivation, the tenant being left with a minimum area of one acre; and the tenant is entitled to ownership of the non-resumable land on payment of compensation. As these provisions apply to tenants of persons holding land above the ceiling area, who will be very few, their application is much limited in scope. The ceiling is 20 standard acres (one standard acre varies from 1 to 3 acres).

12. The state of implementation of the law was examined by the Joint Secretary in his report of June, 1964. There was a follow up visit by the Director, Land Reforms Planning Commission, in February, 1965 (vide Annexure I). Crop-sharing is widely prevalent. According to the Census of 1961, about 25 per cent cultivators were part-tenant part-owner cultivators and another 7.5 per cent were pure tenants. The tenancy provisions are completely ineffective in practice. The tenants usually pay half the gross produce, which, in some cases, goes up to 65 per cent of the gross produce. The tenants were frequently changed to prevent them from acquiring rights in lands. Generally, very few tenants were recorded in the previous record operations. In the field *bujharat* which has been done almost over the entire state during the past 10 years or more, only entries relating to owners were checked up but not of tenants (under-raiyats and share-croppers). Attempts at recording them in a couple of districts were given up due to disturbances. The Ceiling Law came into force on 19-4-1962. Rules have been framed and statements of land holdings are being obtained. No surplus has been taken over so far. The ceiling is not expected to yield much surplus.

13. The Implementation Committee reviewed the progress of land reform in Bihar on June 26,

1964 when the Chief Minister was present (vide Annexure III). It was agreed that to ensure tenants security of tenure, and restore to possession where they had been illegally ejected, it was essential that they should be recorded through a record operation even if there is some resistance and that such a risk had to be taken and a record prepared expeditiously.

Regarding conferment of ownership on under-raiyats it was agreed that once the tenants were recorded and security of tenure conferred on them, measures for conferment of owner- ship should follow and necessary provision made in the legislation.

In regard to ceilings, it was agreed that the position be re-examined with a view to securing adequate surplus area.

14. Action on the above proposals is still under the consideration of the State Government. Steps for the preparation of records of tenants and share-crooners have vet to be taken. Legislation has, however, been enacted to bar the jurisdiction of civil courts in regard to 40.000 appeals which had been filed before them to contest the entries relating to tenants in the records prepared earlier in district Purnea.

GUJARAT

15. In Gujarat, there are separate laws for the former Bombay area, Kutch and Saurashtra. In the former Bombay area, the maximum rent varies from 2 to 5 times the assessment, but not exceeding 1/6th of the gross produce. Landlords were permitted to resume one-half the area leased. Applications for resumption and possession of land were to be made before 31-3-1957 (in the case of small owners by 31-3-1962). Surrenders are to be registered but the restriction on the right of resumption of the tenant being left with half the area is not applicable to surrenders. Tenants were deemed to be owners in respect of non-resumable land with effect from 1-4-1957, (1-4-1962 in case of small holder) on payment of compensation equal to 20 to 200 times the assessment.

The provisions in Kutch are broadly similar to those in the former Bombay area. Tenants were deemed to be owners of non-resumable land with effect from 1-4-1961.

In Saurashtra the law provided merely for registration of leases subsisting at its commencement and prohibition of leasing in future except by disabled persons.

Ceiling on existing holding and future acquisition has been fixed at 19 to 132 acres. Malafide transfers and partitions made after 15-1-1959 and before the commencement of the Act shall be disregarded. It is estimated that there are 4562 surplus holders and the area of surplus land is likely to be 215856 acres. So far 38800 acres have been declared surplus.

16. The progress of implementation was reviewed by the Joint Secretary in his report of May 1964 (vide Annexure I). Out of 10.2 lakh tenants. 8.65 lakh tenants were deemed to be purchasers in former Bombay area of the state. In case of 3 lakh tenants, however, the purchases became ineffective because the tenants did not appear before the tribunal or "refused" 10 purchase the land. Besides, more purchases became ineffective owing to non- payment of instalments. Only 4.62 lakh tenants have acquired ownership of 14 lakh acres. Not much progress has been made in the implementation of similar provisions in Kutch.

17. The report together with State Government's comments were considered in the Implementation Committee in October 1964 (vide Annexure III). The Implementation Committee recommended that the State Government should give careful consideration to the problem of ineffective purchases with a view to plugging the loopholes in the law and its administration; the process of fixation of purchase price by tribunals should be expedited and effective steps taken to

ensure speedy recovery of instalments payable by tenants so as to avoid the purchases becoming ineffective for non-payment of instalments; and that the provision for surrenders should be reviewed. With regard to Saurashtra it was agreed that the Bombay Act would be extended to registered leases in Saurashtra. It was also suggested that the problem of informal leases should also be considered and necessary provisions made.

18. The Bombay Tenancy Act has since been amended and all tenants whose purchases became ineffective have been given another opportunity to exercise the right of purchase on an application to be made within one year from the commencement of the Amendment Act. that is, upto 19-12-1966. The opportunity for a fresh application will, however, be restricted only to such cases where the land is still at the disposal of the collector and has not been reverted to the landlord or has not otherwise been disposed of by sale.

The Gujarat Government has also assumed the liability of paving to the landlords instalments of the purchase price as they become due. The Government will in turn recover these instalments from the tenant purchasers. The arrears of previous instalments for which tenant purchasers had made defaults will also be similarly paid and recovered in three equal yearly instalments.

With regard to surrenders action is still pending. The extension of the Bombay Act to Saurashtra is also under State Government's consideration.

KERALA

19. The Kerala Land Reforms Act provides for (1) fixation of fair rent at one-sixteenth to one-fourth of the gross produce depending on the crop grown and the class of land; (2) fixity of tenure for tenants subject to a limited right of resumption for personal cultivation for the owner: a person holding not more than 8 standard acres is entitled to resume half the area leased to a tenant and "others can resume only such land as is held by a tenant in excess of his ceiling area. Applications for resumption were to be made within one year of the commencement of the Act i.e. by 1-4-1965; (3) an optional right for tenants to purchase ownership of non-resumable lands on payment of purchase price equal to sixteen times the fair rent; (4) transfer of ownership to tenants *sno muro* by the State on (issue of a notification; and (5) a ceiling at 12 standard acres (15 to 36 ordinary acres). Provision has also been made for preventing any person from evicting a tenant who is a member of any scheduled caste or scheduled tribe and for penalty for any unauthorised eviction.

20. The progress of implementation of land reforms has been reviewed by the Joint Secretary in his report of July, 1965 (vide Annexure I). The provisions of the Act other than those relating to ceiling and transfer of ownership to tenants *suo muto,* were brought into force from 1-4-1964.

Although a record of owners is maintained, there is no record of tenants and share croppers. A special drive for the preparation of a simple record of tenants is urgently needed.

The principal agency for the implementation of the land reform Act is the Land Tribunals, which comprise of district munsifs. As munsifs are used to elaborate civil procedures, the determination of fair rents and other matters are taking too much time.

21. Matters relating to Land Tribunals and land records in Kerala were discussed between the Governor of Kerala and Prof. V.K.R.V. Rao, Member, Planning Commission in December, 1965 (vide Annexure III). It was agreed that to expedite implementation of land reform, the land tribunals should be reconstituted. They should consist of mamlatdars (Revenue Officers) as in other States. The matter is under the consideration of the State Government.

As regards land records, it was agreed that the State Government would review the position

with a view to undertaking a special operation for recording tenants. The State Government is now of the view that it could be undertaken only along with the proposed re-survey and settlement operations. In view of its heavy cost viz. Rs.15 crores, the re-survey has to be spread over a sufficiently long period; and if the preparation of a simple record of tenants and share-croppers is to be linked up with the re-survey, it will take much too long and consequently the implementation of the Land Reform Act will be delayed.

MADHYA PRADESH

22. Tenancies are regulated under the Madhya Pradesh Land Revenue Code, 1959 which provides for—

(i) fixation of rent at 4 to 2 times the land revenue depending upon the class of land;

(ii) security of tenure: resumption of land by the land-owner is subject to the condition that the tenant shall be entitled to retain a minimum area of 25 acres of un-irrigated land or its equivalent if he has been in possession of land for more than 5 years prior to the commencement of the Code and 10 acres in other cases. The period allowed for resumption expired in 1960;

(iii) regulation of surrenders and restoration of tenants on the lines recommended in the **Plan;**

(iv) conferment of ownership on tenants of non-resumable lands; and (v) ceiling on land holdings at 25 standard acres (25 to 75 ordinary acres). The landholders were permitted to dispose of the surplus lands within *a* period of two years from the commencement of the law to persons in prescribed categories. The State Government can acquire thereafter any surplus land left with the landholder The period of two years expired on November 15. 1963.

23. The State of implementation of land reforms was examined by the Director (Land Reforms) his report of April, 1964 (vide Annexure I). The tenancy law which was soundly conceived had become ineffective due to lack of adequate steps for implementation. Since the right of ownership accrued to occupancy tenants automatically, it was necessary to initiate steps for effecting mutations in favour of new owners. This was not done and it was left to the tenants to make application for acquisition of ownership. The law prohibits leasing (except by disabled persons) and any person who is admitted as a tenant in contravention of law immediately acquires the right of occupancy in the land and is also entitled to owner- ship after one year. In practice, much leasing goes on in the form of cropsharing (batai) and the share-croppers arc generally not recorded.

As regards ceilings, a spate of transfers took place on the eve of the expiry of the period of two years during which landholders were permitted to transfer lands to persons in the specified categories. Thus, the surplus area which would vest in the State might not be appreciable. So far 67,100 acres have been declared surplus.

24. A review of land reforms in Madhya Pradesh was to be made at a meeting of the Implementation Committee on October 27, 1964. As the Chief Minister was not present, its consideration was deferred. The suggestions in the report were, however, considered by the State Government (vide Annexure if). With regard to conversion of tenants into owners, the State Government has issued instructions to record all tenants of non-resumable lands as owners provisionally. It is reported that over four lakh tenants have been recorded as owners.

About recording of bataidars. the State Government has observed that necessary instructions were issued as far back as December, 1962 that names of lessees should be recorded by the patwaris in jamabandi and khasra. The State Government has. however, found that in a number of cases owners actually enter into written agreements with the bataidars under which the latter are

treated as servants; and in view of such agreements the arrangements could not be treated as leases.

With regard to transfers made with a view to evading ceilings, the State Government has observed that these transactions are being examined by competent authorities.

MADRAS

26. In Madras, tenancies are regulated under the Madras Cultivating Tenants Protection Act, 1955 and the Fair Rent Act. 1956 The Cultivating Tenants Protection Act was. in the first instance, to remain in force for one year pending enactment of a comprehensive law. Its life has been extended from time to time. These Acts are, thus, in the nature of interim measures and provide for regulation of rent and stay of ejectment of cultivating tenants. The fair rent is 40 per cent to 33-1/3 per cent of the normal gross produce. The landowner holding 13-1/3 acres of wet land or less and not assessed to sales tax, profession tax or income tax is entitled to resume for personal cultivation half the area leased to a tenant subject to a maximum of 5 acres of wet land or equivalent area including any other land held by him. There is no time limit within which the right of resumption should be exercised, which is, thus a continuing right. Surrenders are not regulated. The expression 'tenant' has not been defined on the lines recommended in the Plan. There is no provision for conferment of ownership on tenants in respect of non-resumable lands.

There is a ceiling on existing holdings as well as on future acquisition at 30 standard acres (24 to 120 ordinary acres). The ceiling legislation was brought into force from 2nd October, 1962.

27. The state of implementation of the land reform laws has been examined in the report of the Joint Secretary, Land Reform, made in February, 1964 (vide Annexure I). In several districts large areas are cultivated through tenancies, mostly oral leases. There was Thus, much concealed tenancy. No record of tenants was maintained. Although instructions were recently issued to enter the tenants' names in the Adangal, not many tenants were recorded. In the absence of records, the law relating to security of tenure was ineffective. The land lords were generally so powerful that they had merely to ask the tenants for possession and the tenant would be in no position to resist such a demand. The provisions of the Fair Rent Act had not been enforced effectively and the prevailing share rent was about 50 per cent of the gross produce; in a few cases contract rent was even higher.

As regards ceilings an area of 20,153 acres has been declared surplus so far. On a rough estimate, the State Government expect a total surplus area of about 69,345 acres, which comes to 0.4 per cent of the cultivated area.

28. The report along with the comments of the State Government was considered in the Implementation Committee on Sept. 28, 1964 (vide Annexure III). It was mentioned that comprehensive proposals for tenancy reforms were under consideration of the State Government and that it would take about a year to complete the process of enactment of necessary legislation. The Committee advised that pending enactment of comprehensive legislation, the existing law should be amended to provide for permanent and heritable rights for tenants, no further resumption being permitted; regulation of surrenders; and removal of such other gaps in the law which made implementation difficult.

29. The State Government has now observed that the above suggestions would be considered at the time of enactment of comprehensive legislation, which is under consideration. Meanwhile, life of the Madras Cultivating Tenants Protection Act has been extended indefinitely.

MAHARASHTRA

30. Maharashtra has different laws far its three areas, namely, the former Bombay area, Vidarbha area of former Madhya Pradesh and Marathwada area of former Hyderabad.

The maximum rent varies from 2 to 5 times the assessment in Bombay area, 3 to 4 times in Vidarbha and 3 to 5 times in Marathwada subject to a maximum of one-sixth of the gross produce. The landlords were permitted to resume one-half the area leased subject to a maximum of 3 family holdings. In the Vidarbha and Marathwada areas small holders with a basic holding or less could resume the entire area. The landlords were required to make applications for resumption by prescribed dates which expired several years ago. Provisions have been made for verification and registration of surrendered land. However, the condition applicable to resumption about tenant being left with half the land was not extended to surrenders. In respect of the non-resumable area tenants were deemed to be owners on the tillers' day. In Marathwada, however, the right to ownership has been much limited in scope by stipulating conditions that (i) the owner should be left with 2 family holdings and (ii) the tenant could not acquire ownership of more than one family holding.

Ceiling on existing holdings has been fixed at 18 to 126 acres. Ceiling on future acquisition has been fixed at 2/3rd of the ceiling on existing holdings.

31. The progress of implementation was reviewed by the Joint Secretary in his report of May, 1964 (vide Annexure I). A record of tenants is maintained. Special staff has been appointed in practically all taluks for the implementation of land reform. A high level Committee has also been appointed at the State headquarters to review progress from time to time. In the former Bombay area about 16.5 lakh tenants became entitled to ownership in respect of 35.1 lakh acres. Cases of 14 lakh tenants have been finalised, but only 5.7 lakh tenants actually became owner in respect of 12 lakh acres. In more than eight lakh cases the purchases became ineffective due to surrenders, evictions or non-payment of purchase prior and the tenants were dispossessed of their holdings. The picture becomes discouraging if ejectments and surrenders which had taken place on a larger scale prior to tillers' day are also taken into account.

In Marathwada and Vidarbha regions where the provisions for converting tenants into owners were enforced a couple of years back, much progress has not been made. Alt together in Maharashtra so far 6.67 lakh tenants have acquired ownership of 18.04 lakh acres.

As regards ceilings. 1.96 lakh acres have been declared surplus and 67,500 acres taken possession of under the ceiling Law. The bulk of this area is comprised in sugarcane farms belonging to sugar factories, which have been entrusted to the Maharastra State Farming Corporation pending formation of cooperative farming societies.

32. The matter was reviewed in the implementation Committee on September 28, 1964 (vide Annexure 111). It was agreed that steps would be taken,

(1) to prevent ineffective purchases;

(2) to enable tenants who had been declared owners to raise medium and long term loans from cooperative institutions and Government agencies on the security of lands; and

(3) to take special steps to remove deficiencies in the land records.

33. Since these decisions were taken with a view to preventing ineffective purchases legislation has been enacted to provide that in future the instalments of purchase price would be recovered as arrears of land revenue. Another opportunity for ownership has been given to those tenants whose purchase had become ineffective due to non-payment of instalment of purchase price. Its

application is, however, restricted to tenants who were still in possession of lands. Those who have already been ejected cannot avail of it. Besides, the provision does not extend to tenants whose purchases had become ineffective due to non- appearance before the Tribunal or declaring unwillingness to purchase. Other suggestions are still under the consideration of the State Government.

MYSORE

34. The Mysore Land Reforms Act provides for:

(1) fixation of rent at l/4th to l/5th of the gross produce or the value thereof;

(2) fixity of tenure subject to landlord's right to resume half the leased area on application to be made within one year of the commencement of the Act i.e. upto 2nd October 1966. In Bombay and Hyderabad areas it will also be subject to restrictions and conditions specified in the Bombay and Hyderabad tenancy laws;

(3) right of purchase of ownership for tenants in respect of non-resumable land on payment of price equal to 15 times the net rent payable in 20 annual equated instalments; and

(4) ceilings on existing holdings at 27 standard acres and on future acquisition at 18 standard acres.

35. Us provisions were considered at a meeting of the Central Committee c€ Land Reforms held on 23rd June, 1964 (vide Annexure III). The Chief Minister was also present. Following these discussions, the Act was amended in 1965 to incorporate some of the suggestions made by the Committee.

36. The Act as amended was brought into force on 2nd October 1965. The state of implementation of the Land Reforms Act has been reviewed by Director (Land Reforms) in his report of May 1966 (vide Annexure I) and the following suggestions have been made to strengthen implementation.

(1) In several parts of the State large areas are cultivated through share-croppers and other tenancy arrangements but land records do not contain information about them. The Mysore Land Revenue Act includes provisions for the preparation of records of tenants but the record has yet to be prepared. In the absence of such records many tenants may not be able to establish their claims to possession of land. A special drive for the preparation of records is, therefore, immediately needed.

(2) There was little awareness about the provisions of the law among the beneficiaries, and even among the officers charged with implementation. The administrative arrangements for the implementation of the law need to be strengthened, and early steps promoted to give wide publicity to the provisions of the Act.

(3) The implementation is to be done through land tribunals consisting of judicial officers of the rank of munsifs. As proceedings in civil courts arc often prolonged, for expeditious implementation, reorganization of the tribunals is necessary. As in the neighbouring States they might consist of revenue officers of the rank of tehsildars or mamlatdars.

(4) To facilitate commutation of rents, the average yields for principal crops grown on different classes or grades of land may be determined and notified by the Government along with commutation prices.

(5) Unless provisions for disregarding transfers are strengthened not much surplus area would be available for redistribution.

The suggestions are under the consideration of the State Government.

ORISSA

37. The Orissa Land Reforms Act provides for (1) fixation of fair rent at *It*4th of the actual or estimated gross produce or value thereof; (2) fixity of tenure subject to resumption of half the leased area by the owner for personal cultivation on application to be made within 3 months of the commencement of the Act; (3) transfer of ownership to tenants in respect of non-resumable lands on payment of compensation equal to 10 times the fair rent and payable in 5 instalments and (4) ceiling at 20 standard acres (one standard acre varies from 1 to 4 acres according to class of land).

The provisions of the legislation were considered thrice in the Central Committee for Land Reforms. The Deputy Chairman of the Planning Commission visited Orissa in 1960 for on-the-spot discussions. A number of important suggestions were agreed upon between the Deputy Chairman and the Orissa Government relating to security of tenure, definition of 'personal cultivation', regulation of surrenders, rent, conferment of ownership upon tenants and regulation of transfers and partitions. Some of these suggestions have been provided in the Orissa Land Re forms Act.

38. The State of implementation was examined by the Joint Secretary in his report of November, 1964 (vide Annexure I). There is a fairly common practice of cultivating land through share croppers called *bhagchasis.* The share croppers had no security of tenure in practice. They were being evicted at the will of the landlord. Their names were generally not entered in the record. The rents paid by them amounted in many cases to half of the gross produce.

39. Under section 26 of the Act, the landlords were to apply for resumption of lands before March 9. 1966 after which the right of resumption lapsed. An Amendments Bill has now been passed by the State Legislature to extend the period for application for resumption by a further period of three months.

The matter was considered in the Implementation Committee on 21st July 1966 when the Deputy Minister (Revenue), Orissa was present. The committee concluded that there should be no further extension of the time limit for resumption of tenanted land (vide Annexure III).

The Committee also recommended that it would be desirable to take immediate steps for the preparation of a simple record of tenancies which should show the name of the tenant, the period for which he has been in possession and any other claimants to the land so that the tenants could be made owners of land.

PUNJAB

In the former Punjab area tenancies are regulated under the Punjab Security of Land Tenures Act and in Pepsu area under the Pepsu Tenancy and Agricultural Land Act. How- ever, the basic scheme of the two laws is not much different. They provide for:_

iv). fixation of maximum rent at l/3rd of the gross produce or the value thereof;

v). security of tenure subject to the landowner's right to resume land up to the permissible limit of 30 standard acres. The tenant is, however, not to be ejected from a minimum area of live standard acres until he is provided with an alternative land by the State Government. There is a special provision in Pepsu for tenants in continuous possession of land for 12 years. They have been given complete security of tenure in an area not exceeding 15 standard acres;

vi). an optional right of purchase of ownership for tenants. In former Punjab area, a tenant hi continuous possession of land for six years may purchase the non- resumable area. The price shall be 3/4th of the average market value prevailing during the previous 10 years. In Pepsu the condition of 6 years is omitted and compensation is 90 limes the land revenue or two hundred rupees per acre whichever is less; and

vii). imposition of ceiling. In Pepsu ceiling is 30 standard acres. In the Punjab area there is no ceiling on ownership. However, Government has the power to utilise surplus lands held by a person under personal cultivation in excess of the permissible limit for resettlement of tenants, ejected or to be ejected in exercise of the land owners' right of resumption. The landowners will retain ownership of the surplus area and will be entitled to receive rent from the tenants settled thereon.

The law, both in the Punjab and Pepsu areas, thus visualised ejectment of tenants from the bulk of the leased area which is mostly comprised within the permissible limit of owners and their resettlement on alternative lands. In a state where about 48 per cent cultivators are either pure tenants or tenant-cum-owners, this is apt to cause large scale displacement of tenants and a disturbance in the agricultural economy.

41. The State of implementation of the Tenancy Acts has been examined by the Joint Secretary in his report of October, 1964 (vide Annexure 1). The security of tenure conferred by law is somewhat illusory. Tenants can be ejected in both the areas through the device of voluntary surrenders which had remained unregulated. This is borne out by the large reduction in the number of tenants in the Punjab area since 1955 from 5,83,400 to 80,520. (The number of tenants who had acquired ownership was 13,353 in the Punjab area and 5,989 in the Pepsu area). The provisions with regard to maximum rent also do not appear to be effective in many cases and the rent exceeding the level provided in the law and going up to half of the gross produce are quite common. Receipts for rents are not given inspite of provisions in the law. The provision for voluntary purchase of ownership has been utilised in a very few cases. Altogether, in the State on the whole 19342 tenants have purchased proprietary rights in an area of 1.28 lakh acres.

As regards ceiling, about 3.68 lakh acres were declared surplus out of which only 2.96 lakh acres are at the disposal of the Government. Out of this area, 1.43 lakh acres have been utilised for allotment to 75060 tenants, hi a number of cases difficulties were experienced in settling tenants on surplus land particularly where the area to be allotted is small or is at a considerable distance from the place where the tenant resides.

There is a provision and a practice of recording tenants in the record of rights. How- ever, for various reasons, the records regarding tenancies were incomplete.

RAJASTHAN

42. Tenancies are regulated under the Rajasthan Tenancy Act, which provides for:

(1) fixation of rent at l/6th of the gross produce;

(2) fixity of tenure for tenants and sub-tenants and a limited right of resumption to the land holder, subject to the condition that the tenant is left with a minimum area yielding a net income of Rs.1,200 (varying between 15.6 and 125 acres) The right of resumption expired about 8 years back;

(3) transfer of ownership rights in respect of non-resumable area to tenants and sub-tenants; and

(4) ceilings on land holdings at 30 standard acres, which varies from 22 to 336 ordinary acres.

43. The state of implementation has been examined in Joint Secretary's report of August, 1964 (vide Annexure 1). It was observed that

(1) although precise reliable data are not available it is reported that about 1.3 lakh tenants and sub-tenants were made owners in respect of 6.7 lakh acres;

(2) the rights conferred by law accrued only to tenants who held lands at the commencement of the Act of 1955 and tenants admitted thereafter do not enjoy any security of tenure. Although the rent payable by them is not to exceed 1/6th of the produce, in the absence of any provision for security of tenure the provision for maximum rent is also ineffective; the prevailing rent is generally one-half of the gross produce; in case of poor lands it may be one-third or one-fourth of the produce;

(3) most of the share-croppers and sub-tenants were not recorded (although under the law, they enjoy tenancy status);

(4) provisions for ceiling which were made in March, 1960 were enforced only in December, 1963; even so the State Government proposed to enforce ceiling in stages. To begin with declarations were called for from persons holding 150 ordinary acres and above. Much headway has not been made in implementing ceiling.

44. The matter was considered in the Implementation Committee on May 4, 1965 (vide Annexure III). With regard to recording of share-croppers and sub-tenants, the Rajasthan Government observed that though ^he instructions issued by the Government were quite clear and definite, a specific provision will be made about the preparation of register of sub- tenants and its future maintenance in the new Land Revenue Bill which is under preparation.

With regard to future leasing, the State Government has observed that their proposal is to permit partnership in cultivation (in which case no tenancy status will accrue to the share- croppers admitted as partners). The Committee agreed that in principle there was no objection to permit partnership arrangements in case of bonafide cultivators. To ensure that such a provision is not utilised for defeating the tenancy provisions, it would be necessary that the expressions 'personal cultivation' and 'family' should be carefully defined so that a person entering into crop-sharing arrangement is responsible for organisation, supervision and cultivation of land. The matter is under consideration of the State Government.

UTTAR PRADESH

45. The U.P. Zamindari Abolition and Land Reforms Act included provisions for bringing all tenants and sub-tenants into direct relationship with the State, who were also given the right to acquire full ownership on payment of purchase price equal to 10 times the fair rent" (hereditary rate of rent). As a result about 15 lakh tenants and sub-tenants holding about 20 lakh acres came into direct relationship with the State.

The ceiling has been imposed at 40 acres of fair quality land. 8.052 persons are reported to be holding land above the ceiling. About 2.23 lakh acres have so far been declared surplus out of which l.'57 lakh acres have been taken possession of and 96618 acres distributed.

46. The state of implementation was examined by the Joint Secretary in his report of July, 1964 (vide Annexure I). The law prohibits leasing but permits partnership in cultivation *(sajhcdari).* In practice, leasing on crop sharing *(hatai)* is increasing. The share croppers usually pay half the produce as rent. They are not allowed to remain on land) for any length of time lest they claim tenancy rights. Such arrangements are generally not recorded and the share croppers arc unable to claim any right under the law.

47. The progress was reviewed in the Implementation Committee in September 1964 (vide Annexure III). The Committee observed that the new problem of concealed tenancies in the form of *batcu* should be tackled expeditiously. The matter is under consideration of the State Government.

WEST BENGAL

48. The intermediary interests in West Bengal were acquired by the State under the West Bengal Estates Acquisition Act. All tenants and sub-tenants were brought into direct relation with the State and ownership was conferred on sub-tenants in respect of 8 lakh acres.

Share croppers called *bargadars* did not. however, benefit from the provisions of the Estates Acquisition Act. They are not recognised as tenants under the law. According to the 1961 census about 34 per cent cultivators were pure bargadars (13.4%) or part owners and part bargadars *(21%).* According to R.P.C. Survey between 25 to 46 per cent area in different districts is cultivated through share croppers and another 11 to 38 per cent through landless labourers. The rights" of bargadars are regulated under the Land Reforms Act. The rent payable is 50 per cent of the produce if the landlord provides plough cattle etc. and 40 per cent in other cases. They enjoy limited security of tenure. The owner can resume the entire land for personal cultivation if he holds less than 7½ acres and two-thirds of the area, if he holds above *7½* acres. There is no time limit on resumption. There is no provision for the restoration of the dispossessed bargadar if the landlord fails to cultivate the resumed land personally. Instead the holding is to be put up for sale, the dispossessed bargadar having the first option. There are no provisions for regulation of surrenders, or for bringing the bargadars into direct relationship with the State in respect of the non- resumable area.

Provision has been made for the imposition of ceiling on existing and future acquisition at 25 acres. Malafide transfers made after 5th May. 1953 (the date of introduction of the Estates Acquisition Act) are disregarded. So far 7.76 lakh acres have been declared surplus and 4.35 lakh acres taken possession of which are being leased out on year to year basis generally to the share croppers who were in possession thereof.

49. The state of implementation has been examined by the Joint Secretary in his report of February. 1965 (vide Annexure I). Bhagchas officers have been appointed to settle disputes between land owners and bargadars and a Special Officer has been appointed at State headquarters to look after implementation. In the land records prepared since 1954 bargadars were to be recorded. According to the R.P.C. Survey only 25 per cent bargadars were recorded and 75 per cent were not recorded. The record has not been kept up-to-date through annual revision and may be much out of dale. The law regulating barga (crop-sharing) has been largely ineffective. As at present, the law does not confer adequate security of tenure. When substantial rights are conferred on bargadars, they may be able to take the risk and come forward in large numbers to get themselves recorded more fully and assert their rights.

The question of further protection for bargadars is under consideration of the State Government (vide Annexure II). Matters relating to the reform of the barga system have since been examined in greater details in the report of the Director, Land Reforms (vide Annexure I).

HIMACHAL PRADESH

50. The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act of 1954, is a comprehensive measure. It provides for fixation of rent at one-fourth of the gross produce, fixity of tenure to the tenants subject to a limited right of resumption to land owners for personal cultivation of one-fourth of the leased area not exceeding 5 acres (the right of resumption expired about 10 years ago), bringing all tenants of non-resumable lands into direct relationship with the State by issue of notification under section 15. an optional right to the tenants to purchase ownership of non-resumable lands, vesting of all tenanted lands of owners assessed to more than Rs.125 in the State and transfer of ownership of the same to the cultivating tenants, and ceilings on land holdings at 30 acres in District Chamba and an area assessed to Rs.125 in other districts.

Partitions and transfers made on or after April 1. 1952 are to be disregarded in computing the ceiling area.

There were certain gaps in the law with regard to the definition of personal cultivation, regulation of surrenders and restoration of tenants ejected in contravention of the provisions of the law.

51. The state of implementation of the Act has been examined by Director (Land Reforms) in his report of December, 1965 (vide Annexure J). A large area (more than 30 percent) is cultivated by tenants and sub-tenants who number about 2.9 lakhs. Under the standing instructions all tenants and sub-tenants and share-croppers are to be recorded. There were, however, some unrecorded informal tenancies. The provisions of section 15 for bringing tenants into direct relation with the State and of Chapter VIII for ceilings on holdings had not been enforced. So far only about 24,000 tenants had purchased ownership of about 28.000 acres. Non-implementation of the important provisions has given rise to a feeling of uncertainty among tenants as well as owners. Earlier, implementation was held up due to stay orders on writ petitions in the Supreme Court, which were vacated in 1960. but since then it has suffered due to indecision.

52. Recently, the State Government proposed an amendment which makes large scale changes in the scheme of the Act, permits a fresh right of resumption and omits pro- visions for bringing tenants into direct relation with the State and for disregarding transfers.

The matter was discussed in the Implementation Committee on July 21. 1966. It was mentioned that in view of the impending reorganisation of States, the Himachal Pradesh Government had decided to drop the amendment Bill for the present and that meanwhile the State Government would proceed with the implementation of the existing legislation (vide Annexure III).

III

53. *In* the course of its reviews the Committee made a number of general suggestions to State Governments for improving implementation. These suggestions related to appointment of special officers and stall for implementation, the constitution of a high level committee in each state to review progress periodically, provision of necessary financial assistance to tenant-cultivators to enable them to participate in production programmes, the preparation and correction of records of tenancies and for reporting progress periodically to the Government of India. The views of the State Governments and the action taken by them on these suggestions are as follows:

Suggestion No. 1—Each State should appoint a Special Officer assisted by such staff as may be necessary to implement the programme according to a fixed schedule to be drawn up by the State Government.

Special staff has been provided in Bihar, Gujarat, Mysore, Rajasthan, West Bengal, Maharashtra. Himachal Pradesh and Tripura. In Bihar and Himachal Pradesh, officers of the rank of Commissioners have been entrusted with the task of implementation of land reforms assisted by the revenue staff of the State administration. Maharashtra Government has appointed two land reforms implementation officers. In Mysore and West Bengal, special Deputy Secretaries have been appointed and in the Punjab, an additional Secretary is charged with the task of implementation. In Rajasthan. a retired officer holds charge of land reforms as O.S.D. In Tripura also there is a special officer, Deputy Secretary, Land Reforms.

The Governments of Assam and Kerala have accepted the suggestion for the appointment of special officers. In Kerala. it is proposed to appoint an officer not below the rank of a District Collector to assist the Board of Revenue in the implementation of land reforms.

Uttar Pradesh and Jammu & Kashmir Governments have stated that their main land reform laws have already been implemented and it is no longer necessary to appoint a special officer. Andhra Pradesh and Orissa Governments stated that the suggestion would be considered later.

Suggestion No. 2—There should be a high level committee in each State including Cabinet Ministers and representatives of public opinion to review progress and advise on matters relating to land reforms.

High level Committees or Commissions have been appointed in Bihar. Jammu & Kashmir. Maharashtra, Rajasthan. Uttar Pradesh. West Bengal. Himachal Pradesh and Tripura. In the Punjab, the State Advisory Committee of the Revenue Department under the Chairmanship of the Revenue Minister was looking after matters relating to land reforms.

In Orissa, the Land Reforms Act provides for setting up a Land Tribunal consisting of 3 officials and 4 non-officials, to supervise implementation. Kerala Government has agreed to consider the suggestion after the formation of a popular Ministry.

Suggestion No. 3—The State Governments should be requested to report to the Government of India every six months the progress made in the implementation of different measures.

The suggestion has been accepted by all the State Governments.

Suggestion No. 4—It should be ensured that the tenant-cultivators are provided with necessary financial assistance to enable them to participate fully in production programmes.

In Maharashtra, instruction have been issued for giving financial assistance by way of loan to tenant-cultivators and tenant-owners (i.e. tenants who have been deemed to be owners but who have not so far been conferred the rights of occupants). As the amount of loan to be given is limited in such cases additional finance is provided taking into account the combined and collateral securities. Wherever feasible, special provision for assisting tenants has been made in the IADP areas. Madras Government has issued special instructions for giving crop loans to tenants through the co-operative societies.

The suggestion has been accepted in principle in West Bengal and Tripura. Measures to be adopted for the purpose are being examined.

Orissa and Mysore Governments have stated that the matter would be considered after their land reform laws are enforced.

Suggestion No. 5 —Early steps should be taken to prepare record of tenancies where this is not being done at present and to revise it where it obtains.

In the following states, records of tenants form part of the records of rights and are maintained uptodate through annual revision:

Gujarat. Jammu & Kashmir. Madhya Pradesh. Maharashtra. Punjab. Rajasthan. Uttar Pradesh, former Bombay area of Mysore, Union Territories of Delhi and Himachal Pradesh.

In the following slates, records of tenants are prepared as part of record and settlement operations, but there is no provision to keep the record of tenancies uptodate through annual revisions—

(a) Assam— In three districts the record of tenants (under-raiyats and share-croppers) is being prepared as part of record operations. A scheme for the preparation of records of tenants in the

other four districts has been formulated but not yet enforced.

(b) Bihar -A few under-raiyats and share-croppers were recorded in the record operations. The State Government had earlier decided to record tenants as part of field bhujarat but the proposal was later suspended.

(c) Orissa—Some under-raiyats and share-croppers were recorded in the record operations. The re-survey and record operations are in progress in several districts and it is reported that the under-raiyats are being recorded during re-survey operations. The Slate Government's programme is to complete the re-survey operations throughout the State by 1971-72.

(d) *West Bengal*—A record of rights was prepared as part of zamindari abolition. These records include information about the share-croppers (bargadars). In some districts these records are now several years old and need to be brought uptodate.

(e) In the Union Territories of Manipur and Tripura, survey and record operations are in progress which include the preparation of records of tenancies also. Pondicherry Administration has formulated a scheme for the preparation of records which will be enforced shortly.

The records of rights do not include records of tenants in—

(1) *Andhra Pradesh*—Andhra area.

(2) *Madras*—Madras Government has issued instructions for recording tenants. Where there is a written lease or oral agreement between the landlord and the tenant, the same is to be recorded in the village Adangal. Presumption of correctness will not attach to these entries even though they will have some evidential value.

(3) *Mysore*—(former Mysore and Madras areas)—A scheme for the preparation of records of tenants is under consideration of the State Government.

(4) *Kerala*—A scheme for a re-survey and records operations spread over a period of 7 years has been prepared by the State Government. It has yet to be put into operation. This record will include record of tenants also.

54. As a sizeable area which is claimed under personal cultivation is actually cultivated through informal tenancies, which were neither recognised nor recorded thus inhibiting a number of cultivators from availing of the package of improved practices, a suggestion was made in the Committee that norms of efficient management and cultivation should be prescribed which the land-owners should be required to observe in respect of lands claimed[1] under personal cultivation and that where such norms were not observed, the state government should have the right to take over the land. It was proposed that the suggestion might be tried out in a few selected IADP or ICP areas with a view to gaining experience. Detailed suggestions in this regard were worked out by a technical committee set up in the Ministry of Food and Agriculture. The State Governments, however, felt that there were several difficulties in implementing the suggestion. Recommendations of the Technical Committee and the views of the State Governments thereon are at Annexure IV. The committee reviewed the matter further and suggested that the proposal should be looked into from the positive aspect of providing incentives for efficient cultivation and technical problems of enforcement studied.

IV

55. The Implementation Committee reviewed the progress made so far and the proposals for the Fourth Plan at its meeting held in December, 1965 (vide Annexure III). During the past 15 years, progress has been made in several directions. About 20 million tenants of former

intermediaries came into direct relation with the State. A good deal of legislation has been enacted to deal with problems of tenant-at-will in the ryotwari areas and of sub-tenants in the zamindari areas. Provisions for security of tenure, regulation of rents and bringing tenants into direct relation with the State and converting them into owners have been made in several States. As a result about 3 million tenants and share croppers have acquired ownership of more than 7 million acres. Fair rents have been fixed at one-fourth of the gross produce or less, except in Andhra area. Jammu & Kashmir, Madras, Punjab and West Bengal where the fair rent or the share of the produce as fixed by law _is still a third to one-half of the gross produce. Legislation has been adopted for ceiling in all the States except the former Punjab area where ceiling is imposed on possession of 'and but not on ownership. According to available reports over 2 million acres of surplus area in excess of ceiling limits have been declared or taken possession of by the States. More land may become available as implementation proceeds. All these measures have helped to establish on a large scale owner cultivation which' has been the main objective of the land policy.

56. There were, however, shortcomings in several directions. There were deficiencies in the law and there were delays both in enactment of laws and in their implementation. Substantial areas in some regions of the country were still cultivated through informal crop-sharing arrangements; ejectments of tenants still go on through the device of voluntary surrenders; the fair rent provisions were not enforced effectively in several cases; ceiling had been defeated through the well known device of transfers and partitions and not much land was made available for distribution to the landless and the small farmers.

57. The Committee made certain suggestions with regard to the policy and programme for the fourth plan which have generally been incorporated in the chapter on land reforms in the Draft Outline of the Fourth Five Year Plan, reproduced in Annexure V. The main points which call for immediate attention are: —

(1) Administrative arrangements for enforcement and supervision are often inadequate and public opinion has not been sufficiently built up to quicken the pace of reforms.

(2) Records of tenants which are essential for effective implementation of land reforms do not exist in several States and are often incomplete and out of date even where they exist.

(3) The economic condition of tenants, even where they have been conferred permanent rights still continues to be weak. They should have the right to make improvements and get timely agricultural credit from cooperatives and governmental agencies to carry out improvements.

(4) In some States, such as Andhra area, Assam, Bihar, Madras and West Bengal, existing provisions for security of tenure are of an interim nature and comprehensive measures to bring tenants and share croppers into direct relation with the State have yet to be adopted.

(5) Most ejectments take the form of voluntary surrenders. Several States have yet to adopt suggestions made in the plans in this regard. In future surrender should not be permitted except to Government.

(6) The right to resumption widens the scope of ejectments. In view of the period that has elapsed, there should be no further right of resumption.

(7) In Andhra area, Jammu & Kashmir, Madras. Punjab and West Bengal, rents have yet to be brought down to ¼th of the gross produce or less. Besides produce rents have yet to be abolished and replaced by fixed cash rents in these and several other States. This is necessary so that uncertainties arising out of annual fluctuations in rents may be eliminated and the tiller assured of the full benefit of his investment.

(8) Several States have yet to provide for conferment of ownership on tenants, and in some others where the provisions exist, active steps have not been taken to implement them.

(9) Security of tenure for the tiller is crucial to the whole scheme of tenancy reform. Experience has shown that it is difficult to ensure security of tenure and effective enforcement of rentals, unless landlord-tenant bond is broken. It is necessary, therefore, that immediate steps should be taken to break the landlord- tenant relationship, the State interposing between landlords and tenants to collect fair rents from tenants and pay them to landlords after deducting land revenue and the collection charges.

(10) Although legislation for ceilings has been adopted, steps for dealing with the problem of transfers have yet to be adopted in several States.

58. The deficiencies in the law and its implementation and the suggestions for action in respect of each State have been set out in the implementation reports and the record of meetings of the Implementation Committee. Action has been taken on some suggestion but practical steps to implement several of them are still lacking. It seems that there is not sufficient awareness that early implementation of programmes of land reform is necessary to pro- vide the institutional framework for the success of agricultural programmes. Delays in implementation are apt to create uncertainties and hamper execution of production programmes in the Fourth Five Year Plan. Besides, unless the reforms are speedily implemented, the benefits of the proposed large scale investment in the Fourth Plan on agriculture in the public sector will not accrue to the rural poor, the disparities will be further enhanced and the tensions in the rural area accentuated. It is important that the State Governments should take early steps to fill the gaps in the law and devise adequate machinery to ensure that the programme moves forward without further delay.

Annexure I

Reports of Officers on Implementation of Land Reforms

ANNEXURE I

Officers' Reports on Implementation of Land Reforms—Statewise

1. Report of Shri Ameer Raza, Joint Secretary, Planning Commission on implementation of Land Reforms in Andhra Pradesh

1. Andhra Pradesh may be divided broadly into 2 areas for purposes of land reform, namely, the Telangana area and the Andhra area.

2. With regard to abolition of intermediaries, tenancy reforms and land records, there are different systems in the two areas. Consolidation of holdings has been taken up only in the Telangana area under a law which applies to that area only. Legislation has yet to be enacted in the Andhra area.

3. The law relating to ceilings is, however, common to both the regions, namely, the Andhra Pradesh Ceiling on Agricultural Holdings Act 1961 'which over-rides the provisions of the Andhra Pradesh (Telangana area) Tenancy and Agricultural Lands Act, 1950 in relation to ceilings.

4. The following statement shows the area and the population of two regions:—

	Number of districts	Number of villages	Area (in 000 acres)	Population (in lakhs)
Telangana area	9	10,576	25,243	127
Andhra area	11	15,202	31,019	233
Total	*20*	25,778	50,202	310

Abolition of Intermediaries

Telangana area

5. Under the Hyderabad (Abolition of Jagirs) Regulation of 1949 (read with Hyderabad Jagirs (Commutation) Regulation of 1950) all the jagirs numbering 951 and covering an area of approximately 12,000 square miles have been abolished. The total estimated compensation for abolition of jagirs in Telangana area is Rs.1,078 lakhs. Out of this amount Rs.963 lakhs have been paid upto the end of March, 1964, leaving a balance of Rs.115 lakhs payable during the remaining period upto the end of March 1970.

6. For the abolition of inams (other than charitable or religious institutions or village service inams) legislation was enacted in 1954, namely, the Hyderabad Abolition of Inams Act 1955 (Act VIII of 1955). This Act came into force on 20th July, 1955, and Inams stood abolished. As the legislation was considered defective (mainly with regard to registration of inamdars as occupants on lands under the possession of various categories of tenants) and some basic amendments were under consideration its implementation was postponed.

7. Complete information regarding the number and the area of inams is not readily available. The position in four districts is as below: —

District	Number of inams	Area
Medak	18,793	1,17,596 acres
	N.A.	1,18,000 acres
Warrangal	7,400	42,300 acres

Karimnagar	4,415	12,955 acres

8. Although many years have passed, an amendment has not yet been enacted—a Bill has been introduced in the State Legislature. It is necessary to expedite the process and complete the entire work of abolition of intermediaries as early as possible.

Andhra Area

9. The following statement shows the present position regarding the abolition of intermediaries in Andhra area: —

	Total	Abolished up to 30-9-61
No. of zamindari estates	1,049 plus 6,774 sub-divided estate	1,047 plus 6,769 sub-divided estate
No. of inam estates .	2,532	2,306

10. The approximate area of all categories of estates is about 16.289 square miles. Information was not readily available regarding the area which vested in the Government as a result of abolition and the areas which were settled with the intermediaries and tenants respectively. [J]

11. Estimated compensation under the Andhra Pradesh (Andhra area) Estates (Abolition and Conversion into Ryotwari) Act. 1948 is approximately Us. 12 crores and the amount paid is approximately about Rs.6 crores.

12. It will be observed that the abolition of intermediaries has been practically completed and only a very few remain. However, it is desirable to complete the process in respect of the remaining few also as early as possible and thus to complete the implementation of the Andhra Pradesh (Andhra area) Estates (Abolition "and conversion into Ryotwari) Act, which was enacted as far back as 1948.

13. It appears that so far about half the estimated amount of compensation has been paid. Since delays in payment cause much distress to the intermediaries it would be desirable to review the existing position and expedite payments wherever possible.

14. The number of minor inams falling under the Andhra Inams (Abolition and Con- version into Ryotwari) Act, 1956 is over 11 lakhs. About 10 lakh inams have been abolish- ed and ryotwari pattas have been granted. It is necessary to complete the work of abolition of the remaining inams at an early date.

15. There is a small number of intermediaries in the scheduled areas also. Legislation for their abolition has yet to be enacted.

Tenancy Reforms Telangana Area

16. The Andhra Pradesh (Telangana area) Tenancy and Agricultural Lands Act, 1950 (Act XXI of 1951) applies to this area. This law which was enacted by the Hyderabad Government before the formation of the State of Andhra Pradesh is a comprehensive measure containing provisions for the fixation of maximum rent, security of tenure, purchase of ownership by protected tenants, ceiling on holdings and consolidation of holdings and prevention of fragmentation. (By a subsequent amendment, provisions regarding consolidation of holdings and prevention of fragmentation were omitted from this Act and incorporated in a separate Act. the Hyderabad Prevention of Fragmentation and Consolidation of Holdings Act. 1956. With regard to ceiling, a separate law

called the Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 has been enacted. The provisions of this law over-ride the provisions of the Hyderabad law).

17. The Tenancy and Agricultural Lands Act provides for maximum rent varying generally from 3 to 5 times the land revenue. The rent shall not in any case exceed 1/4th in the case of irrigated lands (other than lands under wells) and 1/5th of the produce in respect of other classes of lands.

18. Tenants existing at the commencement of the Act were divided into two classes, namely, protected tenants (who had been in continuous possession for 6 years on various dates) and ordinary tenants. Both classes of tenants arc liable to ejectment on certain special grounds such as failure to pay rent, destruction or permanent injury to land, sub-division or sub-leasing, etc. In addition ordinary tenants are»liable to ejectment on the expiry of the period of lease. Protected tenants, on the other hand, are generally not liable to ejectment except in exercise of the landowners right to resume land for personal cultivation. The land- owner is entitled to resume land upto 3 family holdings. <A family holding varies between 4 to 6U acres). He is not, however, entitled to resume more than a family holding unless income by the cultivation of such land will be the main source of his income for his maintenance. Resumption is subject to the condition that a protected tenant will retain an area equal to a basic holding i.e., one-third of the family holding) or half his land whichever is less. An owner owning a basic holding or less is, however, entitled to resume the entire area.

19. A landlord was to reserve the land he wished to resume for personal cultivation before 12-9-1957 and exercise the actual right of resumption before 4th February, 1959.

20. By a subsequent amendment, tenants holding land from larger land holders owning a total area of more than 3 family holdings were also made protected tenants.

21. Hyderabad Government had, after the enactment of the law, undertaken land census operations and the re-organisation of the record of rights. The number of persons recorded as protected tenants in the area now included in Andhra Pradesh was about 3.3 lakhs.]"he entries were subsequently revised as representations were received that they were, in many cases, wrong. .

22. Under section 38, protected tenants were given an optional right of purchase of ownership of non-resumable land on payment of compensation varying from 6 to 15 limes the rent. This right of purchase was subject to a number of restrictions, namely, (i) a protected tenant could not purchase more than one family holding including any other land owned by him (ii) the land holder should be left with an area equal to 2 family holdings (i.e. an area varying from 8 to 120 ordinary acres).

23. In addition, the protected tenant could also purchase the owner's land if the owner agreed to relinquish it or to forego the restrictions on the right of purchase mentioned above (sections 38A, 38B and 38D).

24. As the voluntary rights of purchase is generally exercised on a small scale, the law also provided for conferment of ownership of non-resumable land upon protected tenants by a notification under section 38E.

25. It appears that under section 38, 14,284 protected tenants purchased an area of about 1,05,533 acres upto October 1964.

26. Information is not available about the number of tenants who purchased ownership rights under sections 38-A and 38-D.

27. A notification was issued under section 38-E on 1-11-1955 by the then Hyderabad Government for Khamam and Mulug Taluk of Warrangal district. (Andhra Pradesh Government have not issued arty notification under this section in respect of the remaining districts of Telangana). Under this section 18.672 protected tenants became owners.

28. There may also have been cases where purchases were made by private negotiations. Information is not available regarding such purchases.

29. According to information collected by the Andhra Pradesh Government in 1963. 3,18,608 protected tenants were still recorded in the revenue records in respect of 21,15,518 acres. The figure of 3,18,608 protected tenants still recorded in possession when added to the estimated number of protected tenants who have purchased ownership, exceeds the total number of protected tenants recorded in the time of the Hyderabad Government. However, the discrepancy is, perhaps, due to the fact that many protected tenants who have purchased their lands have not yet made full payment and are still recorded as protected tenants.

30. In this connection it may be noted that Prof. Khusro, then of the Osmania University had made a study under the auspices of the Research Programmes Committee of the Planning Commission. This enquiry showed that "A significant degree of evasion is noticeable with reference to tenancy legislation. It appears that out of the originally created protected tenants in 1951, only 45 per cent still remain to enjoy their protected status while 12 per cent have purchased their lands and become owner-cultivators, thus fulfilling the intention of the law. 2½ per cent have been legally evicted, 22 per cent have been illegally thrown out while 17 per cent have voluntarily surrendered. The so-called voluntary surrenders are more often a subtle form of illegal eviction and only a proportion of these surrenders is genuine."*

31. It has, however, to be kept in view that the above figures relate to the ex-Hyderabad areas as a whole. Separate information for the ex-jagir areas of Telangana which is available in the report shows that 55.5 per cent of the protected tenants still remained in 1954-55, 17.12 per cent had purchased ownership, making a total of 72.62 per cent. Out of the balance, 3.54 per cent had been evicted legally, 13.9 per cent had been illegally evicted while 10.61 per cent had voluntarily surrendered their lands. The information relates to the ex-jagir areas of Telangana. In the Diwani areas the percentage of protected tenants who had purchased ownership or who still remained in possession is much larger. Altogether, therefore, for the Telangana as a whole the percentage of protected tenants who lost possession would be much smaller than for the entire ex-State of Hyderabad. However, some ejectments of protected tenants would have taken place under the law and it is likely that there were also, some voluntary surrenders.

32. It would be desirable to undertake a fresh study to ascertain to what extent the protected tenants who continue to be recorded as such are still actually in possession of their lands and in how many cases they have lost possession.

33. The number of unprotected tenants, according to information collected in 1963 was 1,34,350 and the area held by them 8,58,211 acres.

34. As regards exercise of the right of resumption, the information available is limited. It has been reported that 9,394 applications were filed involving an area of about 2.15 lakh acres and that out of these applications 8,662 have been decided, leaving a balance of 732 cases. Information is not available separately regarding the number of applications tiled for reservation of land and the area involved, the number of applications filed for ejectment of protected tenants and the area involved and the number of cases and the area in respect of which ejectment was ordered. It would

* Economic and Social Effects of Jagirdari Abolition and Land Reforms in Hyderabad p. Kill

also be desirable to ascertain in how many cases " voluntary surrenders " were made by protected and other tenants.

35. It appears that the announcement about the principal provisions of the law of 1950 was made by the revenue officials with the beat of drum and in the majority of cases certificates of protected tenancy were given to the protected tenants. But during the course of the years the knowledge of the provisions of the law seems to have gone dimmer and in the villages visited the villagers in general and in some cases even the lower officials, such as the patwari and the revenue inspector seemed to be unaware of the provisions of the law with regard to maximum rent, security, etc. It would also seem that in some cases persons to whom leases are made are not recorded in the village records. In fact in one village the patwari himself said that he was in possession of some area which had previously been held by a protected tenant, but he had not recorded either his own name or that of the protected tenant in the village records. Also it appears that in some cases the practice of giving half the produce to the owner still exists and the tenant does not ordinarily resist the landowner when he wishes to take the land back. It would be desirable to undertake a survey with regard to the extent of disguised or concealed tenancy, the rents or share of produce generally paid to the owners and the relative security or insecurity of tenure.

36. It is suggested that a campaign may be undertaken to educate the village people about the benefits conferred by the law through various methods, such as, large-scale publication and distribution of leaflets describing the principal provisions of the law in simple language that can be understood by village people and organisation of meetings covering all the villages, in which the main provisions of the law are explained in simple language.

37. The lower officials who come into contact with the villagers most frequently, such as patwaris, revenue inspectors etc., may be carefully trained and educated about the provisions of the law from time to time and directed to disseminate this knowledge to the villagers.

38. The law requires that every landowner shall give receipt for rent and in case of failure, he is punishable with a fine up to Rs.100/- [section 96 of the Andhra Pradesh (Telangana Area) Tenancy and Agricultural Lands Act. 1950. In spite of this law, receipts are generally not given and it appears that no action has been taken under this section. This section provides penalties for other offences also but no action appears to have been taken with regard to them either.

39. It is suggested that the higher officials may, during their visits, enquire, in particular, about the question of receipts for rent given by landlords to tenants and in case of default, action may be initiated under section 96. They may also check up in particular whether all tenants actually in possession are duly entered in the khasra pahani and whether the rents actually paid are within the limits prescribed by law.

Andhra Area

10. The Andhra Tenancy Act, 1956 which applies to the Andhra area, has been ex- tended from time to time and is only an interim measure providing for fair rents and protection from ejectment pending the enactment of a comprehensive law.

41. Fair rent has been put at a high level, being 50 per cent of the gross produce for lands under Government irrigation, 28-1/3 percent where lands are irrigated by baling from Government irrigation sources and 45 per cent of the gross produce in other cases. In the case of commercial crops such as, betel, chillies, cotton, sugarcane, etc. also the rent is 45 per cent of the gross produce.

42. Tenants in existence at the commencement of this Act are protected from ejectment till 31st May, 1965 (except on certain special grounds such as failure to pay rent, destruction or permanent

injury to land. etc.). Similar protection is given td tenants admitted after the commencement of this Act who would have a minimum term of 6 years and will not be liable to ejectment until 31st May, 1965. (This period has since been extended).

43. Surrenders have not been regulated as recommended in the Plan, leaving a large gap for the evasion of the law.

44. The provision regarding determination of fair rent does not appear to have been used on any considerable scale. Information from the beginning of the Act is not available. However, the information furnished for the last 2 years is as below: —

	Opening Balance	Receipts	Disposal	Balance
1963-64	1959	80	87	1952
1964-65	1952	105	57	1998**

The average number of cases instituted during these two years would be less than 100 per year which comes to less than 10 per district per year. The number of cases instituted in earlier years is likely to have been much larger. But judging from the rate of disposal and the arrears, the average number of cases instituted in each district would seem to be negligible as com- pared to the likely number of tenants.

45. Section 8 provides that in case of failure of crops applications may be made for remission of rent. The following statement shows the case work under this section: _

	Opening Balance	Receipts	Disposals	Balance
1963-64	753	301	247	806
1964-65 upto August 1964	806	21	168	659

46. It is noted that even under this section where it is desirable to pass orders as quickly as possible, there are heavy arrears. (It is quite likely that in many such cases stay orders may have been passed, but that does not obviate the need for speedy decision).

47. Section 13 provides for termination of tenancy on certain special grounds, such as, failure to pay rent, destruction or permanent injury to the land, subletting the land, willful denial of the landlord's title, etc. Information regarding the number of cases filed and disposed of is shown below:—

	Opening Balance	Receipts	Disposals	Balance
1963-64	11,116	1.753	1,616	11,253
1964-65 upto August	1 1,.2.53	659	673	11,239

48. However, information is not available about the earlier years or about the cases in which and the area for which tenants were ejected under different provisions of this section. The number of cases pending is very high.

** There appears to be a slight discrepancy in the statement as the balance would be 2,000, if the disposal is 57.

49. For the implementation of this Act some additional staff was appointed during 1956-57 in certain districts. At present there are a few additional deputy tehsildars in Guntur district but there is no additional staff anywhere else. Such information as is available about case work would seem to indicate that not much use has been made of the various provisions of this Act, but out of such cases as were instituted there are arrears pending.

50. It will be observed that the law is of an interim nature and originally gave protection for only 3 years. It was later extended from time to time. An interim law of this nature is generally difficult to enforce as it would not ordinarily create enthusiasm among the tenants or inspire them with feelings of strength or confidence to claim their rights against the interests of the landlords. As the tenants are generally not recorded in the village records in Andhra area they would have little documentary evidence to show that they were admitted to tenancy or were in possession of land. There is no provision obliging the land- lord to give receipt. In a situation such as this, one would not expect the law to be effective, either with regard to the level of rent or security. In the villages visited, it was freely admitted that the prevailing rent was half the gross produce. Though in some cases fixed rents are also charged. It was further mentioned that in cases of fertile land, the landlord's share of the produce may be as high as two-thirds of the gross produce. The tenant generally hold's the land for only as long as the landlord is willing and if the landlord desires to dispossess him, the tenant would not ordinarily offer any resistance. However, in order to ascertain the actual situation with regard to rent and security in the bulk of the villages in Andhra area, it would be necessary to undertake case studies in some representative villages. It is suggested that such case studies may be taken up as early as possible.

51. As this jaw is only of an interim nature, the enactment of a comprehensive law has been under the consideration of the State Government since 1958 and there have been much discussion and correspondence between the State Government and the Planning Commission. Although six years have passed, the present position is that there is a Bill before the State Legislature but the law has yet to be enacted. The suggestions made by the Planning Com- mission in regard to this Bill are contained in Appendix I. The Bill in the present form has several weaknesses.

Ceiling on Land Holdings

52. The Andhra Pradesh Ceiling on Agricultural Holdings Act, 1961 provides for ceiling on existing holdings at 4½ times the family holding (varying from 27 to 324 acres depending on class of land) and ceiling on future acquisition at 3 times the family holding (varying from 18 to 216 acres).

53. In the case of family consisting of more than 5 members, an additional area of one family holding (varying from 6 to 72 acres) may be retained by each member in excess of five.

54. The Ceiling Act was brought into force from June 1, 1961.

55. Section 5(1) of the Act provides that every person whose holding exceeds the ceiling area should tile a declaration within 90 days of the date of enforcement of the Act. Only 4,745 declarations were tiled under this section. Section 5(2) provides for the issue of notice by a Revenue Divisional Officer requiring any person to furnish a declaration of his holding. After issue of notices by the Revenue Divisional Officers 20,060 declarations were filed making a total of 24,805 declarations in all. Enquiries have been completed in 22,119 cases, 2,686 cases are pending.

56. No surplus land has yet been taken possession of but it is estimated that the surplus area is likely to be about 52 thousand acres or so which is less than 0.2 per cent of the cultivated area. The law has thus only a limited significance.

Consolidation of Holdings

57. The Hyderabad Prevention of Fragmentation and Consolidation of Holdings Act, 1955 applies to the Telangana area. There is no legislation for the Andhra area and the work has not been taken up there. The extension of the Hyderabad law to the Andhra area is said to be under consideration.

58. In the second Plan 3.12 lakh acres were consolidated with an expenditure of Rs.11 lakhs. The target for the Third Plan is 4.50 lakh acres with an outlay of Rs.17.66 lakhs. During the first 3 years of the Third Plan, 4.15 lakh acres have been consolidated with an expenditure of Rs.12.73 lakhs.

59. The law empowers Government to consolidate holdings on a compulsory basis and also contains the necessary provisions for replanning the village by reserving such lands as arc required for common purposes. In actual fact, however, the entire work of consolidation consists merely in persuading a few people to effect mutual exchange of a few plots on a voluntary basis. No attempt at re-planning of the village has been made nor are all fragmented holdings of the cultivators brought together into compact blocks. Out of 7.27 lakh acres of land reported to have been consolidated during the Second and Third Plans, the actual area in which possession was changed comes to only 36,000 acres. The rest of the area is the unconsolidated area of the village. It is estimated that during the first three years of the Third Plan about 20.000 acres have actually been consolidated at a cost of Rs.12.73 lakhs, which comes to something like Rs.63 per acre. It appears that it takes about 4 to 5 years to consolidate a village. Thus the operation accomplishes very little though it involves a long period and a heavy cost.

60. No statistics have been collected so far about the number of plots held by different cultivators before or after consolidation or about any other benefits of consolidation. A suggestion for evaluation has, however, been made which is under the consideration of the State Government. It should be seen that consolidation on such a limited scale can confer little real benefit. In the villages visited it was found that one person with 13 fragments before consolidation continued to hold 13 fragments even after consolidation even though some of his lands were exchanged by mutual agreement. In another case, a man with 12 fragments was found to have after consolidation as many as 10 fragments.

61. Consolidation to be really effective should take into account all the land held by a cultivator and should give him a compact holding in exchange for a number of small fragments. Opportunity should also be taken for replanning the village and reserving lands that nay be required for common purposes. The work should be undertaken in close coordination with the Agriculture Department so that adequate attention is given to soil and water conservation needs. Since some experience of consolidation has been gained it is suggested that the programme may be taken up on a large scale in the Fourth Plan and extended to the Andhra area also.

Survey, Settlement and Records Andhra area

62. Andhra area consists of 11 districts with an area of 3,10.19.112 acres and 15.202 villages. The ryotwari areas had generally been surveyed and settled but the major portion of the zamindari areas wore unsurveyed. On abolition, survey of about 15,878 square miles had to be taken up. The work of survey has been completed in about 15,400 sq. miles at a total cost of Rs.3.16 crores. Survey of a small area of about 400 sq. miles still remains to be done. Detailed cadastral survey and settlement is also required in respect of nearly 14,000 sq. miles comprised in the agency tracts; the bulk of this area is, however, under hills and forests and only a small area is under settled cultivation.

63. The responsibility for maintenance of records rests upon village karnams who also assist the headman in the collection of land revenue and other Government dues. There are 9,799 karnams for 15,202 villages. The karnam generally gets a pay of Rs.28/- per month.

64. The supervisory staff consists of revenue inspectors, tehsildars or deputy tehsildars. The revenue inspector is in charge of a firka consisting of about 20 villages and the tehsildar is incharge of a taluk which consists of 100 to 200 villages. Above the tehsildar there is a revenue divisional officer whose jurisdiction extends to 2 to 3 taluks. There are 2 to 3 revenue divisional officer in each d'strict who work under the guidance of the Collector. Taluk surveyors and district surveyors are responsible for the correction of maps.

65. The land records include: (i) statement of crops and cultivation field by field (Adangal), (ii) a register showing the holdings of each individual with details about the tenure and the number of plots, area and class of land. This is a register of revenue payers and does not include the names of tenants.

66. The Adangal, which is a record of possession as well as of crops grown each year, contains a column in which the names both of the registered holder and the tenants are to be recorded. Till 1958 there was no column in the Adangal to show the name of the tenant or sub-tenant and the rent payable by him. A revised form was introduced in 1958 in which the name of the tenant and the rent payable by him is to be recorded. But it appears that instructions for recording the names of tenants in this column are generally not being followed. It would be desirable to repeat the instructions previously given regarding the entry of the names of the tenants in the Adangal. In the first instance, a special operation would be necessary for the revision and completion of the records. Further, it is suggested that revenue officers may, during their visits to the villages, be asked to examine in particular the entries relating to the tenants and to check up that all the tenants who are actually in possession are duly entered in the records. As the village karnams are somewhat under the influence of the village landowners, it would be desirable to carry out this work of the revision of records under the direct responsibility of the higher revenue staff, such as revenue inspectors or tehsildars or higher revenue officials (whose strength may have to be considerably enhanced). Close watch over the entire operation may be maintained from the headquarters which may inter alia obtain periodical reports about the progress achieved and the number of tenants and areas recorded.

Telangana area

67. The Telangana area comprises 9 districts with an area of 2,52,42,534 acres and 10,576 villages. The village establishment includes 7,800 patwaris who are responsible for the maintenance of land records (and help the mali patels. about 8,800 in number, in the collection of land revenue and other Government dues). The supervisory staff includes revenue inspectors, one for every 33 villages, a naib tehsildar for about 140 villages and a deputy collector for about 500 villages. A district usually consists of 1,300 villages and the collector incharge of the district is assisted by 2 or 3 deputy collectors.

68. The entire Telangana area had been surveyed. However, the survey was in many cases either defective or out of date. The total area where survey was necessary comes to about 35,969 sq. miles out of which about 7,084 sq. miles have been surveyed up-to-date with an expenditure of Rs. 70 lakhs. It is expected to be completed in about 12 to 15 years. In Telangana area as in Andhra, it is not proposed to take up settlement operations. Where the area of a survey number has changed, it is proposed to re-calculate the revenue on the basis of old rates.

69. The land records include: —

i). Khasra Pahani, statement of crops and cultivation field by field. It shows the survey

number, area, assessment, the name of the occupant as well as the name of the tenant and the crop grown,

ii). Chau-fasla which is a register of holding, demand and collection.

iii). Registers showing protected tenants and non-protected tenants were prepared after the enactment of the tenancy law.

70. As mentioned before, the entries of tenants in the village records need to be checked up.

February, 1965,

APPENDIX I

COMMENTS OF THE PLANNING COMMISSION ON THE ANDHRA TENANCY BILL, 1964

Security of Tenure

(1) A tenant has been defined to mean a person who cultivates on lease the land belonging to another person. Under the definition it seems that share-cropping arrangement and partnership cultivation may not be regarded as tenancies. It was recommended in the Second Five Year Plan that all such arrangements should be treated as tenancy arrangements and suitable action taken to confer tenancy rights on persons cultivating lands under such arrangements. In the Hyderabad Tenancy and Agricultural Lands Act, a tenant was defined to include a person cultivating any land belonging to another person if such land was not cultivated personally by the landholder or a member of his family or through a servant on wages payable in cash or kind but not in crop-share. It would seem desirable that tenant should be defined on the lines of the Hyderabad Act.

(2) The tenants holding land at the commencement of the Act have been classified into (i) protected tenants and (ii) ordinary tenants. An ordinary tenant would be tenant-at-will liable to ejectment from his entire holding on the expiry of the term of lease. A protected tenant would also be liable to ejectment if the landlord wants to resume the land for personal liable to ejectment from his entire holding on the expiry of the term of lease. A protected protected tenancy as defined in the Bill is not likely to accrue to many tenants. The definition suffers from the following defects which should be removed: —

i). If a landlord holds less than three family holdings, a tenant cannot acquire protected tenancy rights irrespective of the length of his possession. As benami transactions and partitions have been going on a large scale over the past several years, most landlords may have reduced their holdings below three family holdings. Others may do so before the law comes into effect. Such a condition does not obtain in the legislation of Hyderabad, Bombay and most of the States and it would be desirable to omit it.

ii). There is a further condition that the protected tenancy would accrue only to the tenants who have been in continuous possession over a period of six years or more. The record of rights in Andhra does not show the names of tenants and it will be impossible for most tenants to prove that they were in continuous pos- session of land for a period of six years. Even in Bombay, where a complete record of tenancies has been maintained over a lone period, it has become difficult to enforce such a condition and ultimately rights were conferred on all tenants irrespective of their length of possession.

iii). Further, a tenant will be required to prove that he was in possession of the same piece of land over a period of six years or more. It is well known that landlords have been making frequent changes in the land in possession of tenants. More- over, a tenant may

have come into possession of land through inheritance. His ancestor may have held possession of the land for over six years but if the pos- session with the tenant himself was for less than six years, he will not have the right of protected occupacy. To meet the above difficulties, the following provisions were made in the Hyderabad Act: —

a). if a tenant has held any land from the same landlord in the village for six years, he acquires protected tenancy status in respect of all the plots which he holds from the landlord;

b). the period during which land was held by the predecessor-in-interest is taken into account in computing the period of six years;

c). every tenant shall be deemed to be protected tenant unless he is held not to be a protected tenant by the tehsildar or on application made by the land- holder thus putting the responsibility on the landholder to prove that the person cultivating his land is not protected tenant.

There is apparently no justification for omitting these safeguards.

iv). Rights of protected tenancy will not accrue in the land if a permanent structure was erected thereon by the landlord before April 1. 1960. This is a novel provision which does not obtain in any other legislation. If the tenant acquires ownership of land on which there is a permanent structure he would pay compensation for the structure. This restriction is, therefore, wholly uncalled for and should go.

The restrictions proposed in the Andhra Bill on the acquisition of protected tenancy rights are so extensive that only few tenants are likely to acquire this status. It is now an accepted policy almost all over the country to confer rights on tenants irrespective of the length of their possession. In Andhra Pradesh also it would be desirable to do away with the distinction between protected tenants and ordinary tenants and confer the rights of protected tenants on all tenants holding land at the commencement of the Act. It may be stated that even a protected tenant is liable to ejectment if a landlord wants to resume land for personal cultivation. All' that a protected tenant is assured of is a basic holding, which, is 1/3 of a family holding, and this is the barest, which should be done for all tenants.

Resumption

(3) A landlord can resume for personal cultivation the entire area leased to an ordinary tenant subject of course to his ceiling. In addition he can resume lands leased to protected tenants to make three family holdings under his personal cultivation subject to the condition that the protected tenant is left with a basic holding including the area owned by him. This resumption is permitted to landlords whether they are bonafide cultivators or not. The condition in the Hyderabad Act is that a landholder cannot resume more than a family holding unless income by the cultivation of such land will be the main source of income for the land- holder for his maintenance. It would be desirable to incorporate this provision in the Andhra Bill.

(4) There is no provision in the Bill for disregarding transfers in determining the resumable and non-resumable lands. In the absence of such a provision it would be possible for the landlords to extend the scope of resumption by making benami transactions and partitions. In the Bombay Tenancy and Agricultural Lands Act. a provision was. therefore, made that resumption would be permitted only to a landholder if the leased land stood in the record-of-rights or in any public record or similar revenue record on January 1, 1952 and thereafter in the name of the landlord himself or any of his ancestors. Attention has been drawn to this in the Third Five Year Plan also. It would be desirable to incorporate such 3 condition in the Andhra Bill.

(5) Resumption is permitted, to a landlord, big or small. In the Third Plan it has been

observed that, whatever the conditions, the right to resume land creates uncertainty and tends to diminish the protection afforded by the legislation. It has been recommended, there- fore, that except for owners holding land equivalent to a family holding or less, there should be no further right of resumption. Further, uncertainty for tenants would not be in the interest of the agricultural development. It would be desirable, therefore, that the provision for resumption should be omitted except to persons owning a family holding or less.

(6) The landlords are required to make an application within 6 months for reservation of land to be resumed. They are permitted to choose any lands for reservation and resumption. The provision could be utilised by landholders to harass tenants with a view to extorting concessions by choosing inconvenient pieces of lands. As recommended in the Second Plan it will be desirable to provide that the final selection of land to be reserved will be made by the revenue officer to whom the application is made, in an equitable manner after considering the conveniences of both landlords and tenants.

(7) In the Telangana area the right of protected tenants will accrue only to the protected tenants to whom such rights had accrued under the Hyderabad Tenancy & Agricultural Lands Act before the commencement of this Act. From the available information it appears that quite a large number of tenants in Telangana did not enjoy protected tenancy status. If any distinction is to be maintained between protected and ordinary tenants, it would be desirable to provide for conferment of permanent tenancy rights on ordinary tenants in the Telangana area.

(8) Leases made after the commencement of the Act are to be for a minimum term of six years. A member of defence services or of civil services can, however, resume the leased land at the end of one year on his ceasing to be a member of such a service. A special provision for defence services was considered necessary in national interest with a view to encouraging people to join the armed forces. This concession has not, however, been extended to members of civil services in other parts of the country. There is apparently little justification for such a provision for civil services in Andhra Pradesh.

Ownership for tenants

(9) The right of ownership will be available only to protected tenants in respect of the non-resumable lands which would generally not exceed a basic holding. It would be desirable to modify it on the lines of the Hyderabad Act.

Personal cultivation

(10) The expression 'personal cultivation' includes cultivation not only under the super-vision of a member of the family but also under the supervision of any one of the relatives. The expression 'relative' is not defined. According to the provisions in the Hyderabad Act the supervision has to be exercised by the landlord either by himself or by any member of his family. A similar provision is contained in the laws of most of the States also. The provision in this Bill extends the scope much farther and is liable to abuse It would be desirable to modify it on the lines of the Hyderabad Act.

(11) The expression 'personal supervision' has not been defined to include residence in the village or in the nearby village in which the land to be resumed is situated. There is no provision for contribution of labour either, where the land is resumed from a tenant. The State Government may reconsider the provisions and modify the definition on the lines suggested in para 14 of Chapter XIV of the Third Five Year Plan.

Surrenders

(12) A tenant is permitted to surrender land to the landlord at the end of any agricultural year by giving one month's notice and the landlord can take possession of the entire surrendered land. It would be recalled that an enquiry made by the Hyderabad Government and the survey conducted by Research Programmes Committee of the Planning Commission through Prof. Khusro had indicated that there were large scale evictions through the device of so called 'voluntary surrenders.' It would be desirable to modify the provisions relating to surrenders on the lines suggested in para 13 of Chapter XIV of the Third Five Year Plan

Rent

(13) The maximum produce rent is 1/4th of produce in the case of irrigable lands other than lands irrigated by baling water and 1/5th of the gross produce in the case of other lands. There is no clear provision for commutation of kind rents into cash nor for the fixation of. rents in cash as a multiple of land revenue or assessment. The following provision has been made in the Hyderabad Act for the fixation of rent as a multiple of land revenue: —

(a) Dry land of Chalka Soil	-----	4 times the land revenue.
(b) Dry land of black cotton soil	-----	5 times the land revenue.
(c) Baghat	-----	5 times the land revenue.
(d) Wet land		
(i) Irrigated by wells	-----	3 times the land revenue,
(ii) Irrigated by other sources	-----	4 times the land revenue.
(e) Classes of land which do not fall within the clause (a), (b), (c) or (d).		Reasonable rent determined having regard to the classes of land and the rent fixed for the said categories.

Produce rents are difficult to enforce. Besides, as stated in the Third Plan, "with progress in the rural economy and larger use of money as the medium of exchange, it would be desirable, as a matter of policy, to hasten the transition from rents in kind to cash payments. With cultivators having to purchase a growing proportion of their requirements, such as fertilisers, implements, etc. in cash, the change-over to cash rents is likely not only to reduce the burden of tenants, but also to promote investment in agriculture. As suggested in the Second Plan, commutation of rents in kind into cash payments might be facilitated if. with due regard to conditions of each district, rents could be declared as multiples of the prevailing land revenue assessment." It is suggested that a provision should be made for the commutation of produce rents into cash and for their fixation as multiples of land revenue as in the Hyderabad Act.

Rights in dwelling houses

(14) The tenant is given the right to purchase the site of a dwelling house erected by him on payment of compensation if the dwelling house was erected with the permission of the landlord. If it was not erected with the permission of the landlord he has the option either to purchase the dwelling house on payment of compensation to the tenant or to sell the site to the tenant. It appears that the provision relates to dwelling houses erected on agricultural lands leased to tenants. Presumably this provision is not intended to apply to non- resumable lands of protected tenants of which ownership will stand transferred to them as in that case the site of the non-resumable land will also stand transferred to the protected tenant. This may be confirmed from the State Government and necessary clarification made in the provisions. Besides, if the tenant has no other dwelling house in the village, he should not be liable to eviction from the site under clause 15 unless the tenant's occupation of the site would seriously interfere with the cultivation of the lands around the site by the land- lord on resumption of lands. In the latter case it would also be necessary to provide that the tenants should be provided by the landlord with an alternative site

along with compensation for the building.

Where the tenant is permitted to purchase the site, the compensation will presumably be the full market value of the land. This will throw excessive burden on tenant who may have been in occupation of the site over a long period. The compensation for site should not exceed the compensation payable for the agricultural lands under clause 30 of the Bill.

Exemptions

(15) The provisions of this Bill will not be applicable to lands held by religious and charitable institutions. It is an accepted policy that all tenants of such institutions should be brought into direct relationship with the State and made owners of the lands held by them, the institutions being paid in perpetuity by the Government, in lieu of compensation, an annuity equal to their net income from the land based on fair rent. It would be desirable to modify the provisions in the Bill accordingly.

2. *REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN ASSAM*

Assam consists of 11 districts, of which 4 districts are inhabited by tribal people and governed through autonomous District Councils.

2. Land reform laws apply to seven plain districts with a total area of about 23,000 square miles. Out of this, about 17 lakh acre are permanently settled, while the bulk of the area, i.e. about 51 lakh acres, is under temporarily settled estates.

Abolition of Intermediaries

		Acres
3. The permanently settled areas comprise:		
1). Goalpara district		15,18,982
2). Kar imgunj sub-division of Cachhar district		1,61,760
3). Plains portion of Garo Hills		428
Total		16,81,170

4. Besides, there are the "acknowledged" estates of the Rajas of Bijni and Sidli comprising an area of about 3 lakh acres.

5. The Assam Acquisition of Zamindaris Act, 1951 extend to the permanently settled areas the Lakhiraj estates within the boundaries of permanently settled areas and the "acknowledged" estates of Bijni and Sidli. The act was brought into force on 15th June, 1954, but its implementation could actually be taken up only from 1956 onwards when the petitions of some proprietors challenging its constitutional validity in the Supreme Court had been decided.

6. All the permanently settled estates in Goalpara, the "acknowledged" estates of bijni and Sidli and 3,077 estates out of 3,558 estates in Karimgunj sub-division have been acquired leaving a balance of about 400 odd small estates in Karimgunj sub-division still to be acquired. With regard to tenure holders, however, a great deal remains to be done. Some of the tenures in Goalpara, and all the tenures in Kurimganj have still to be acquired.

7. The total amount of compensation is estimated at about Rs. 5 crores including about Rs. 3.75 crores compensation and about 1.25 crores as interim compensation (i.e. interest @ 2% per cent on the compensation until the bonds are given). Out of this amount, only about Rs.76.6 lakhs have been paid upto 31st March, 1964.

8. Experience in other States has shown that there is danger of destruction of forest wealth, fraudulent leasing of waste lands and ejectment of tenants in anticipation of intermediaries abolition. These dangers are heightened in areas where the process of abolition, takes very long as in Assam.

9. For preventing destruction of the natural wealth cf the State the Assam Management of Estates Act, 1949, had been enacted. Much of its utility was, however, lost on account of the fact that the validity of the Act was challenged and action could not be taken in time in cases where it was necessary.

10. As regards fraudulent leases, Section 8(6) of the Assam State Acquisition of Zamindaris Act, 1951, empowers the Deputy Commissioner to refuse to recognise any settlement, lease or transfer effected after January 1, 1946. Information, is however, not available regarding the action taken under this provision.

11. As for ejectment of tenants, it is not possible in the absence of reliable records, to judge the extent to which this took place prior to abolition.

As mentioned above it is desirable to complete the process of abolition of intermediaries as speedily as possible.

12. Information is not available regarding the areas retained **by** the intermediaries as their private lands, the lands held by tenants who have now come into direct contact with the State and the areas under waste lands and forests which vested in the State as a result of abolition.

13. it would be desirable to make adequate arrangements for collecting and analysing all essential information relating to the implementation of land reforms.

14. It has been mentioned above that out of an amount of Rs. 5 crores, only Rs. 76.6 lakhs have so far been paid. Delays in the payment of compensation cause much distress to the intermediaries concerned and it is urgently necessary to complete the payment as quickly as possible.

15. The Assam State Acquisition of Lands Belonging to Religious or Charitable Institution of Public Nature Act, 1959, provides for abolition of intermediary rights of such institutions on payment of perpetual annuity equivalent to net income. The institution will be left with land under buildings, orchards and flower gardens, land reserved for resident devotees and tea gardens.

16. This Act applies to both the permanently settled and the temporarily settled areas. The Act was brought into force on the 18th January. 1963, but could not be implemented on account of writ petitions. As the Act has been included in the Ninth Schedule to the Constitution, it is to be hoped that its implementation will be carried out quickly.

17. Temporarily settled estates cover five full districts (namely Lakhimpur, Sibsager, Nowgong, Darrang and Kamrup) and two sub-divisions of Cachar district. Abolition of intermediaries has not been carried out in these areas. It was mentioned that the land system in the temporarily settled estates has features characteristic of the ryotwari system and abolition of intermediaries has not, therefore, been carried out there. Further, it; was argued that in any case with the imposition of ceilings and tenancy reforms there would be no further need for abolition even if there were intermediaries in this area.

18. It has to be conceded that the distinction between the intermediary system and the ryotwari system is mainly of a historical nature and apart from historical developments there may sometimes be no other very clear distinction between the two systems. However, from the point of view of historical development it seems somewhat difficult to maintain that temporarily settled estates are ryotwari in character, considering that in ryotwari areas, the raiyat holds directly under the State while in Assam the principal tenure is that ot the settlement holder who holds land under Government and the raiyat is his tenant. Further, it has to be kept in mind that the land is admittedly "estate" as defined in the Constitution (prior to the 17th Amendment).

19. But while the distinction between the intermediary system and the ryotwari system is largely a matter of historical development and legal terminology, there appears to be generally some difference between the two, namely,

1). In the intermediary areas, the bulk of the land is cultivated through tenants, while only a small part is cultivated by the intermediary or regarded as his private land. On the other hand, in the ryotwari areas, a considerable part of the land is cultivated by the principal tenure holder himself and only a portion is cultivated through tenants and sub-tenants.

2). In the Intermediary areas, waste lands and forests are generally included in the "estate" of the intermediary while in the ryotwari areas, the raiyat generally holds only the cultivated or cultivable land; waste lands and forests gene- rally belong to Government.

20. However, information regarding these points is not available even in respect of those temporarily settled areas which have been recently surveyed and it is suggested that the information may be compiled as soon as it becomes available as a result of settlement operations.

21. From such limited information as is available at present it appears that some of the temporarily settled areas resemble the ryotwari system more than the intermediary system.

22. With the imposition of the ceiling at 150 bighas or 50 acres, tenancy land of the bigger owners would be acquired by the State. However, in the case of small owners who constitute the bulk of the owners, considerable areas held by tenants are likely to remain.

23. On account of the fact that intermediaries abolition has not been carried out in this area before the imposition of the ceilings, the surplus area that now becomes available as a result of the ceiling is mainly held by tenants to whom permanent rights have to be given m the land in their possession. Thus lands are not becoming available for re- distribution to the landless as would have been in the case had abolition been carried out; before the imposition of ceiling.

24. In any case, the question whether the temporarily settled "estates" are intermediary areas or ryotwari areas has now become of a somewhat academic nature. What is important is that security of tenure should be given to the tenants and the under-raiyats and they should be brought into direct relation with the State and should be required to pay only reasonable compensation.

25. The main tenures in the temporary settled areas are:

(i) The periodic lease holder who has permanent, heritable and transferable interest. The number of periodic lease holders in 1956-57 was 9,31,233 and the area held by them was 31,01,872 acres.

(ii) The annual lease holder whose right in the land is temporary.

26. The number of annual lease holders was about 9,28,578 in 1956-57 and the area held by them was 27,38,390 acres. Annual lease holders who held the land for a limited period or from year to year and have no security can hardly have much incentive for making investment in the land. The existence of this tenure over a large area is thus an obstacle to increased production. In September, 1958, it was decided that annual leases should be converted into periodic leases, provided that the land has been properly demarcated and surveyed, is brought under permanent cultivation as opposed td shifting cultivation and a premium of Rs. 5 per bigha is paid. The payment can be made in five instalments. It appeals that inspite of these instructions only a small area of about 3 lakh acres has been converted from annual leases into periodic leases.

(iii) Privileged raiyat with permanent, heritable and transferable rights who pay rent equal to or less than revenue or pay bhog or pay rent equal to half the revenue along with bhog or service.

(iv) Occupancy raiyats who have permanent, heritable and transferable interest in the land.

(v) Non-occupancy raiyats—A non-occupancy raiyat has no security and he is liable to ejectment, when he holds land under a written lease, on the expiry of the lease period and when he holds under the oral lease on six months notice. By an amendment of 1953, a provision has been made that a non-occupancy raiyat who has held the lease

continuously for five years at the commencement of the said Act, shall not be liable to ejectment on six months notice unless the land- lord satisfies the court that he requires the land for homestead or cultivation by himself or by members of his family or by hired servants and labourers. The protection which this amendment gives does not seem to be very material as it still contains a very wide provision for the ejectment of non-occupancy raiyat.

(vi) Under raiyats—An under-raiyat does not acquire the right of occupancy whatever the length of possession. With regard to under-raiyats who have held the land for not less than five years in 1953 (i.e. under raiyats of nearly 6 years standing now), there is a provision for their protection similar to the provision with regard to the non-occupancy raiyats. This provision does not, however, confer any material protection. Further considering that the records were not maintained effectively, it would be very difficult for an under-raiyat to prove his continuous possession for such a long period. In many cases, he would have no documentary evidence whatsoever to prove continuous possession. However, it has to be kept in mind, that under the Assam Fixation of Ceiling on Land Holdings Act, 1956 there is a maximum limit of resumption at 100 bighas and the tenant is to be left with a minimum area of 10 bighas of land until an area of£ equivalent value in the locality is allotted to him. This right of resumption was for five years which expired on the 15th February, 1963. This provision applies to non-occupancy raiyats in the temporarily settled areas as well as under-raiyats and adhiars.

(vii) Adhiars—Adhiars arc crop sharers who have been given protection under the Adhiars Protection and Regulation Act, 1948, and whose rents have been fixed at a maximum of 1/5th of the gross produce when the owner supplies plough- cattle and 1/4th in other cases. Adhiars are not recognised as a class of tenants under the Assam (Temporarily Settled Districts) Tenancy Act, 1935, though they are included in the definition of tenant in the Ceiling Act. In any case, the Adhiars Protection and Regulation Act seems to be largely ineffective as it appears that by and large adhiars pay rent as a share of produce at hah" the gross produce instead of I/5th of the produce laid down by the law.

27. In the permanently settled areas, the main tenures after abolition would be:

(1) Occupancy raiyats (along with raiyats who have acquired the right of occupancy by 12 years possession, private lands of proprietors, permanent tenure holders and jotedars which are retained by them would also fall generally in this category),

(2) Non-occupancy raiyats,

(3) Occupancy under-raiyats in Goalpara,

(5) Non-occupancy under-raiyats, and

(6) Adhiars.

28. Taking both the areas (permanently settled areas and temporarily settled areas) into account, the following principal tenures do not have security and thus lack adequate incentive for making investment in the improvement of land:

(i) Non-occupancy raiyats in the permanently settled areas; and

(ii) Annual lease-holders in the temporarily settled areas.

It is suggested for consideration that permanent heritable and transferable rights may be conferred upon them.

29. With regard to tenants, namely, under-raiyats (other than occupancy under-raiyats of Goalpara) and adhiars in permanently settled areas, and non-occupancy raiyats under- raiyats and adhiars in the temporarily settled areas, it is suggested that they may be given full occupancy rights. It is further suggested that all of these categories may be brought into direct contact with the State.

Adhiars

30. There is a wide-spread practice of giving out lands under the system commonly known as Adhi. The Adhiar usually pays a share of the produce or a fixed quantity of pro duce to the landlord. Though provisions have been made in the Assam Adhiars Protection and Regulation Act, 1948, for maximum rent and prevention of ejectment the adhiars are not generally regarded as tenants. Under instructions issued by Government, the names of adhiars are being entered in the registers that are being prepared during settlement operations, These entries do not appear to have the status of "records of rights" and may not, therefore, constitute presumptive evidence. It would be desirable to include adhiars specifically in the category of tenants and to give to such entries as have been made the status of record of rights so that the entries may have some value in evidence.

31. It appears that entries have been made in the registers in respect of only a part of the area that is actually leased out to adhiars. On account of their weak social and economic position the adhiars are frequently not in a position to claim their rights or to see that proper entries are made in the records in their favour. The Adhiars Protection and Regulation Act, 1948, requires that the landlord shall give a receipt to the Adhiars for the rent paid by him but receipts are generally not given. An adhiar would thus in most cases have no documentary evidence that the land is in his possession or was given to him by die land- lord.

32. The Adhiars Protection and Regulation Act provides that the maximum rent paid by an adhiar will be *II* 4th of the produce where the landlord supplies plough-cattle and *II* 5th of the produce where the adhiar himself provides the plough-cattle. As against this the prevailing rent appears to be half of the gross produce while the seed and the plough- cattle are generally supplied by the adhiar himself. In many cases the rent paid by the adhiar is a fixed quantity of the produce. This is often somewhat less than half the produce but higher than the statutory maximum.

33. The Act further provides that an adhiar shall not be dispossessed of his land except where the landlord requires the land for bonafide personal cultivation and in such cases the adhiar is to be left with land upto 10 bighas until he is provided with land of equivalent value in the locality. The Act does not fix the period during which resumption would be made. Under the Assam Fixation Ceilings on Land Holdings Act, there is a similar pro- vision for resumption of land from tenants, which includes share croppers. In this law the period during which resumption could be made was put at 5 years. This period expired on i5th February, 1963.

34. There is no provision for regulating so-called Voluntary surrenders'. *In* actual practice, it appears that the adhiar has to give up possession when the landlord wants the land back. The Planning Commission had pointed out that in order to give effective protection to the adhiars, it would be necessary to provide for regulation of so-called 'voluntary surrenders' on the lines recommended in the Plan. It is suggested that such a provision may be made as early as possible.

35. The Act also provides for the establishment of Adhi Conciliation Boards as the agency for conciliation and settlement of disputes between the landlord and the adhiar. These Boards have a member who represents the landlords, a member who represents the adhiars and a Revenue Officer as the Chairman. 119 Adhi Conciliation Boards have been constituted, each with a territory generally equal to an Anchalik Panchayat. The number of villages covered by a Board varies from 120 to 200. The Boards have, thus extremely large areas of land to deal with and in the circumstances, they do not serve the purpose of an agency readily available in the village for

conciliation and settlement of such disputes as might arise. In tact, they function more or less like Courts or regular tribunals when an application is filed before them. They do not appear to take much interest in the general conditions of the adhiars or endeavour to assure to the adhiars the protection that the law purports to give. It appears that in the seven plain districts about 3,248 cases were instituted by the landlords and the adhiars together during the course of seven years from 1956 to 1962 which makes an average of about 66 cases per district per year or about 4 cases per Anchal per year.

36. The Adhi Conciliation Boards have thus failed to ensure effective implementation of the Act.

37. During my visits to villages I had an occasion to meet a member[1] of the Board who represented adhiars. He was not an adhiar himself — in fact, he was a landlord who admitted that he took half the gross produce from his own adhiars. According to his own statement, the practice of demanding a share of the produce from the adhiar was not common in the village in which he resided; the prevailing form was called "Sukni" or a fixed rent payable in land which according to him was somewhat more favourable to the adhiar than me snare of the produce which he took. Further, he did not know the law and obviously could not be interested in implementing it.

38. In order to make the Boards effective, it would be desirable to constitute them with comparatively small jurisdiction, say, three or four villages each so that the members of the Board have direct knowledge of the situation which actually prevails and are easily accessible. It would be necessary to ensure that the member of the Board, who represents adhiars, is himself an adhiar, is actually interested in protecting them and generally enjoys the confidence and support of most of the adhiars residing m the villages within the Board is jurisdiction. For this purpose, it may be desirable to call a meeting of persons who cultivate mainly on adhi and select a representative on the basis of a general consensus of opinion. The member so selected (as well as the landlord member of the Board) should be made familiar with the provisions of the law.

Ceiling on holdings

39. The Assam Fixation of Ceiling on Land Holdings Act, 1956, provides for a ceiling at 150 bighas or about 50 acres (2.025 bighas = 1 acre). The compensation payable for the surplus land is 25 times the annual land revenue for fallow land and 50 times the annual land revenue in other cases.

40. The Act was enforced in the seven plain districts with effect from 15th February,

41. The land holders were required to submit returns within six months of its enforcement. However, the period had to be extended by another three months. So far 3,113 returns have been filed and in 460 cases information had to be collected directly by the official agency. Out of these cases, final statements have been published only in 339 cases.

42. it was estimated that the total area likely to be available as surplus for redistribution would be about 4.08 lakh bighas. As against this, so far only 61,822 bighas have been declared surplus including the annual patta land and possessions have been taken of an area of 8,584 bighas.

43. It will thus appear that though the Act was enforced six years ago, little progress in implementation has been made.

44. The slow progress in the disposal of cases has been a matter of concern for the Revenue Department and the State Land Reforms Board. The urgent necessity of completing the work as expeditiously as possible has been impressed from time to time on the implementation agency

namely the Deputy Commissioners and the Sub-Divisional Officers Considering the slow progress which has been made inspite of these instructions it may be necessary to appoint special additional staff for completing the work according to phased programme and within a period to be fixed.

Publicity

45. It appears that practically no action was taken by the Revenue Department for giving publicity to the land reform legislation enacted from time to time or for educating the village people about the rights conferred by the law and the protection given to classes of cultivators.

46. It was mentioned that the Adhiars Protection and Regulation Act IQ48 printed in the Assamese language and distributed to gram panchayats But information not available about the use made by the gram panchayats of the pamphlet. A member or the Adhi Conciliation Board whom I had the occasion to meet during my visit to villages did not possess a copy of the law; nor did he know what the law contained.

47. It was mentioned that in 1959, the then Deputy Commissioner, Goalpara, (now Revenue Secretary, Assam), had held about 50 meetings in Goalpara district in which the provisions of the law were explained to the villagers including adhiars. Some thousand copies describing the adhiar law were also distributed. But this does not appear to have been done in pursuance of any general instructions of the Revenue Department. It also appears that the present Minister of State for Revenue had, at an earlier stage (when he was only a member of the Legislative Assembly) taken steps to explain the law in his constituency in Kamrup. However, there is no indication of any general programme for educating the people about the various provisions of the land reforms laws which have been enacted from time to time. In the villages which 1 visited, the people were generally completely ignorant of the provisions of the law. In fact, even the lower revenue staff, viz; the mandals and supervisor kanungoes were themselves unaware of the provisions of the law. It is suggested that a programme for educating the village people and training the lower revenue staff may be taken up.

Additional Staff

48. At the State level there is a Land Reform Officer who is also Deputy Secretary in the Revenue Department and has considerable miscellaneous work. He thus finds it difficult to move about freely in the State and to keep himself fully informed about the implementation of the law. At the district level there is a Principal Revenue Assistant of the rank of the Extra Assistant Commissioner (Assam Civil Service Grade-I) attached to the Deputy Commissioner. But he has also got a considerable amount of miscellaneous work to do.

49. In Goalpara, two compensation officers with necessary clerical staff were appointed, one in 1956 and the other in 1962 and in Karimgunj there is a compensation officer from 1960. No separate claims officers were appointed under the Assam State Acquisition of Zamindaris Act, 1951, but judicial officers were given the powers of claims officers.

50. With regard to the implementation of the ceiling law, lower staff consisting of mandals and lower division assistants have been appointed. But there appears to be *no* separate staff at higher level. The Deputy Commissioners are generally responsible for the implementation of the ceiling law in addition to their other duties and it is not surprising that they have no: been able to devote adequate attention to this work and that progress has been slow.

51. In order to complete the implementation of the various processes and to ensure adequate implementation of the land reform laws, it is for consideration that there may be a separate officer at State level responsible exclusively for land reforms work and with no other duties to perform.

The Principle Revenue Assistants in the districts may also be released from their miscellaneous duties and employed exclusively for ensuring rapid implementation.

Consolidation of Holdings

52. Legislation for the purpose was enacted in 1961 but the work of consolidation has not yet been taken up. Meanwhile, the State Government are considering amendment of the legislation arising from the suggestions made by the Planning Commission at an earlier stage. It is understood that amendment of the law is under consideration with reference to the following main points, viz :

(i) addition to provisions for replanning the village as a part of consolidation operations so that land can be set apart for common purposes such as roads abadis. etc.

(ii) the present Act requires the formal approval of two-thirds of the landowners before consolidation operations can be undertaken. While efforts would be naturally made to persuade the people of the advantages of consolidation, the initiation of the work need not depend upon formal approval of any given percentage of the cultivators and it is desirable as in other States for the Government to take the power of taking up consolidation of holdings on its own initiative.

53. In the areas, where settlement operations have been completed and a new set of records prepared, it would be desirable to take up the work as early as possible. As there is no previous experience of this work, it may be desirable to arrange that some officials, who would generally be responsible for organising and supervising the work, may study the methods adopted in Punjab or Uttar Pradesh. They could then take up the training of officials who would be responsible for actual work at lower levels. It would be desirable to complete the preliminary work as early as possible so that a suitable programme may be taken up in the Fourth Plan period.

Land Records, Settlement and Revenue Administration

54. Out of the seven plain districts, almost the entire district of Goalpara and the Karimgunj sub-division of Cachar were under permanent settlement. Settlement operations have been completed in Goalpara district and are nearing completion in Karimgunj sub- division. The settlement included cadastral survey, preparation of new map and held book and preparation and revision of the record of rights after careful verification from the parties concerned.

55. In the temporarily settled areas, re-settlement operations were carried out between _ 1927 to 1933 in five districts, viz: Kamrup, Darrang, Nowgong, Lakhimpur and Sibsagar. in Cachar, resettlement was carried out in 1954. As the terms oi settlement is generally JO years, resettlement had in most cases become due. This was particularly important because records of tenants, sub-tenants and crop sharers (adhiais) were not available and had to be prepared for the implementation of land reforms. Out of these temporarily settled districts, resettlement operations have been completed in respect of two districts, namely, Kamrup and Sibsagar, and are in progress in respect of other two districts, namely, Nowgong and Lakhimpur. The estimated cost of the settlement operations in these two districts is Rs. 51.29 lakhs and Rs. 59.50 lakhs respectively and it is expected that the operations will be complete by about 1969 or 1970. In respect of the temporarily settled portion of Cachar and some other areas, a scheme has been drawn up for recording the names of tenants, sub- tenants and share croppers. The estimated cost for Cachar, excluding Karimgunj, may be about Rs. 4.24 lakhs. As the preparation of these records and the completion of settlement operations is essential for the implementation of land reforms, it is desirable that the work is completed as expeditiously as possible and the necessary financial and administrative provisions should be made for the purpose.

56. The principal records are:

(i) Chitha, showing field-wise the name of the owner and the crops crown;

(ii) Jamabandi which is the record of holdings showing the name of each holder and his revenue liability; and

(iii) the changes with regard to rights, interests and cultivating possessions are made periodically in the records. Changes in the old fields and the extension of cultivation are also indicated in the village maps.

57. The responsibility for maintenance of land records rests with the revenue agency consisting of 1,387 Mandals or patwans (in the scale of Rs. 45—65) and 131 Supervisor Kanungoes (in the scale of Rs. 75—J25). The average number of villages within the jurisdiction of a Mandal. called a Mandal's 'lot' is about 13, comprising about 3500 to 6000 fields. The average charge of a Supervisor Kanungo is about 120 villages Above these functionaries there is a hierarchy of higher officials such as the Sub-Deputy Collector (who has jurisdiction over about 360 villages), Sub-Divisional Officer. Deputy Commissioner etc As the charge of the mandal and the Supervisor Kanungo appears to be too large, considerable additional staff would be necessary for effective maintenance of records.

58. It appears that in the entire State, there is one school for training Mandals whose capacity was previously about 120 which has been reduced for lack of accommodation to about 35 to 40. Mandals are given about six months training in survey and land records in this school and some courses for Supervisors Kanungoes were also organised. The Mandals and the Supervisor Kanungoes whom I met during my visit to the villages were generally somewhat ignorant about the land reforms laws enacted by the State. The need for a refresher course in which the Mandals and Supervisor Kanungoes could be taught the main features of the land reforms laws enacted by the State from time to time has been felt and is under consideration. Since the Revenue Officials who come into close contact with the villagers are the Mandals and the Supervisor Kanungoes, it is essential that they should fully understand the main provisions of the land reforms laws enacted by the State so that they may in turn inform the villagers and thus enable them to derive the benefits conferred by law.

59. The collection of land revenue is mainly carried cut under the 'Mauzedari System'. The mauzedar is generally responsible for collection of an amount varying between Rs. 25,000 to Rs. 1 lakh per year and is paid on the collection revenue at 15 per cent on the first Rs. 15,000, 10 per cent on the next Rs. 25,000 and 5 per cent on the rest. There are about 310 mauzedars in the State. The work of the mauzedar is supervised by the Sub- Deputy Collector and higher revenue officials.

60. In the districts of Goalpara and Cachar, however, land revenue is collected by Government officials, called Tehsildars. In Karimgunj where intermediaries have been abolished, revenue is collected by a Manager (Sub-Deputy Collector), appointed for the purpose.

61. The land revenue demand is not heavy. The average being roughly about Rs. 2.9 per acre. But the collection of both the current demand as well as arrears is extraordinarily poor, the amount collected in 1963-64 being about 32 per cent of the current demand and about 40 per cent of the arrears demand. A detailed statement is at Appendix 'A'.

Considering the poor rate of collection, there is obvious need for a review of the whole system. The desirability of replacing the mauzedari system by a system of collection through official agency (with adequate supervision) may be considered

February, 1965.

APPENDIX 'A'

Total Figures of Land Revenue and Local rate demand and collection (revenue year-wise)

	Current Demand	Collection against current demand	Collection percentage
	(Rs. in lakhs)	(R«. in lakhs)	
1961-62 (30-6-1962)	222.91	78.34	35%
1962-63	235.48	68.04	30%
1963-64	240.18	81.91	32%
	Arrears		
1961-62	292.38	130.96	45%
1962-63	319.45	106.63	33%
1963-64	351.39	138.54	40%

3. *REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFOMS IN B1HAR*

Abolition of Intermediaries

1. The Bihar Land Reforms Act which provides for the abolition of intermediaries was enacted in 1950. On account of writ petitions challenging its validity, the implementation of the Act was delayed and the work could be initiated, only towards the middle of 1952. Vesting of estates and tenures was carried out in stages and completed by January 1, 1956. The ancillary work included preparation of record of rights, determination and collection of rents payable to Government, determination and payment of compensation to ex-intermediaries. Progress in carrying out these tasks has been slow.

2. In the permanently settled area which covered about 387 lakh acres (about 90 per cent of the total area of the State) there was no agency or system for maintenance of records showing raiyats and their holdings. For the collection of its dues the State Government did not previously need a record of raiyats. all that was required was a record of the zamindars and the revenue payable by them. Even this record was not always reliable and up-to-date. However, this did not seem to cause any difficulty as somebody or the other came forth to pay the land revenue. When, on the abolition of intermediaries, raiyats came into direct relationship with the State, it became necessary to prepare up-to-date records showing the names of the raiyats, the nature of their tenure, the plots held by them and their rents. For this purpose the old survey records were copied out including land held as *bakasht* by the intermediaries and raiyati land, up-to-date possession entered on the basis of such records as were made over by the ex-intermediaries and field inspections by Karmacharis (patwaries). The entries thus made were carefully checked and reprocessed. Objections were invited from the parties interested with regard to these entries which were heard by higher officials before the record was finalised. This process is known as Field Bujharat for which detailed and carefully considered instruction were issued from time to time.

3. In addition, rent had to be determined on homesteads, building and lands in khas possession retained by the intermediaries. Rent had also to be determined in respect of raiyati land which was liable to payment of rent but on which rent was not fixed by the ex-zamindars. As a number of raiyats were paying rents in kind to the ex-intermediaries, these had to be commuted into cash rents payable to Government.

4. Field Bujharat had to be carried out in about 68 thousand villages out of a total of about 69 thousand villages in the State. The work had been completed by karamcharis in 67,620 villages up to the end of December 1963 and verified by Circle Inspectors in 62,118 villages. It has been verified by Anchal Adhikaries (officers incharge of Community Development Blocks) in only 46,378 villages which is about 70 per cent of the total number of villages where the work had to be done. Thus after nearly 12 years since the work of abolition of intermediaries was initiated, the field bujharat which is at best only a very rough record has still to be verified in nearly 30 per cent of the total number of villages.

5. Assessment of rent on intermediary lands has been done in 5,12,303 cases out of 5,41,835 cases. The work has still to be done in as many as 29,532 cases. Assessment of rent on Kabillagan lands has been done in 3,50,515 cases out of a total of 3,90,468 cases. It has still to be done in as many as 38,953 cases. Commutation of rent has been done in 1,19,195 cases out of a total of 1,37,203 cases. It has, therefore, still to be done in respect of 18,008 cases. Altogether fixation of rent or commutation of rent has still to be done in over 87,500 cases out of a total of about 10,69,500 cases.

6. Khewat bujharat which is required for the assessment of final compensation has been

done only in respect of 50,265 villages out of a total of about 68 thousand villages.

7. It appears that against an estimated potential demand of Rs. 858.5 lakhs the current demand is only Rs. 734 lakhs leaving a balance of nearly Rs. 125 lakhs,

8. The collection of Government dues i.e., rent, cess, education cess and miscellaneous etc. was poor in the beginning but on account of special efforts considerable improvement has been made recently. In 1956-57 collection was 46.4 per cent of the total demand and in 1957-58, 49.5 per cent. But in 1963-64, the total collection was 76.3 per cent of the total[1] demand. Allowing for amounts collected after the last date viz. after 31-3-1964, amounts which will be written off on account of diluvion. remission etc. and amounts to be adjusted, it is expected that the percentage would work out to about 80 per cent. It would thus appear that a great deal of effort has still to be made for the determination of the rents payable to Government and for better collection of Government dues.

9. The Bihar Land Reforms Act for the abolition of intermediaries was enacted in 1950 and after its validity had been upheld in court, implementation was initiated in 1952. The necessary work for the preparation of records could have been taken up soon after the Act was passed or at any rate, soon after its implementation was taken up. However, apart from settlement operations in Purnea district started in 1952 (which had become necessary partly on account of agrarian disputes), the work of field bujharat was taken up only towards the end of 1954. Even after nearly 10 years, a great deal of the work of field bujharat still remains to be done. As regards survey and settlement operations, the work in Purnea which was started in 1952, was completed in 1960. Major survey and settlement operations have also been taken up in Singhbhum Muzaffarpur and Shahabad districts and minor operations in Hazaribagh and Bhagalpur districts. In these areas the work of attestation has been completed and most of the objections have also been disposed of. It was expected that the operations would be completed in Singhbhum by the end of 1964-65 and in Muzaffarpur and Shahabad by the end of 1965-66. The minor operations in Hazaribagh and Bhagalpur were also expected to be completed in 1964-65.

10. As the field bujharat gives only rough--and ready records the State Governments are aware of the need to follow it up by survey and settlement operations. It is desirable to take steps to complete the work throughout the State as early as possible.

11. The progress in determination and parent of compensation is slow. Out of a total of about 4.74 lakh intermediaries, the draft assessment rolls had been published upto February 1964 in only 53,922 cases and had been finalised in only 29,827 cases.

12. The Act provides for interim payments to intermediaries pending the assessment and payment of compensation itself i.e. payment of ad-interim compensation equal to about 2-1/2 to 3 per cent of the estimated amount of compensation and advance payment of 50 per cent of the estimated amount of compensation. The latter provision for payment of 50 per cent of the estimated amount of compensation was made by an amendment of the Act in 1959 i.e., about 7 years after the actual work of abolition was commenced and after 3 years of its complete enforcement. It appears that ad-interim compensation is now being paid in respect of 3.08 lakhs intermediaries i.e. about 65 per cent of the total number of intermediaries. As regards the advance payment of 50 per cent of the estimated amount of compensation separate figures are not available but the payment could have been made only in a limited number of cases as the amount of 50 per cent has been determined only in about 36 per cent of the total number of cases.

13. In the statement prepared by the State Government regarding payment of compensation, payment of final compensation as well as payment of 50 per cent of the estimated amount of compensation are shown as one item. Out of a total estimated amount of Rs. 100 crores, only about

Rs.18.5 crores have thus been paid.

14. A part of the compensation payable to intermediaries is in respect of mines. The work of calculating this compensation does not appear to have been taken up during these years. Only recently a tribunal has been appointed.

15. According to the Act, interest is payable at 2-1/2 per cent per annum, from the date of the payment of compensation until the bonds are paid off. On the basis of Rs. 100 crores as the total compensation, this amount may be estimated at about Rs. 50 crores. However, until the compensation itself is paid, ad-interim compensation is payable at 3 per cent to 2-1/2 per cent of the approximate amount of compensation. On a rough calculation, the amount may be over Rs.2-1/2 crores per year from January 1, 1956 by which date all the estates had vested (leaving aside the amount due in respect of different estates or tenures as they were vested from time to time from the middle of 1952 onwards). The total amount of ad-interim compensation would thus be about Rs. 20 crores or so. (If ad-interim compensation is calculated en 80 per cent of the estimated amount, the total amount would be about Rs. 16 crores for the period from January 1, 1956). As against this, the payment of ad-interim compensation amounts to only Rs. 13.85 crores.

16. For the implementation of land reform laws, the entire revenue administrative agency had to be built up as it was previously practically non-existant. Apart from a few Kanungoes and Tehsildars for Khas Mahals and miscellaneous revenue work, the cadre of Circle Inspectors whose strength is now 632, is new. Karamcharies who maintain land records and collect rents payable to government now number about 6314. All these are now employees of Government. Considerable higher staff had also to be appointed, such as Additional Sub-Divisional Officers or Additional Collectors. Further, there are at present 193 Compensation officers who are responsible for the determination of compensation for the ex-intermediaries.

17. Instructions were issued on 8 /9th May, 1962 that the implications of Ceiling Act should be discussed in Block /Anchal Committees whenever they meet so that the persons attending it are made aware of the intentions and implications of the Act so that they may be able to educate others with whom they come in contact. Information was not available regarding the number of meetings, if any. in which such discussions took place and the extent to which such discussions were actually of use in disseminating information to the rural people.

18. No steps appear to have been taken by the State Government for educating the people about the rights conferred upon them by the various land reform measures through the distribution of publicity material (apart from some material about the consolidation of holdings and survey and settlement). On account of the various activities taken up by Government such as field bujharat people are in many cases aware in a general way about the reforms that have been undertaken. No systematic attempt appears however to have been made to inform them in detail of the rights conferred upon them and the action they should take to avail of these rights.

19. As a result of the abolition of intermediaries, considerable areas have come into possession of the State including about 70.4 lakh acres of private forests (information about the waste lands belonging to ex-intermediaries and now vested in Government was not readily available). About 15 lakh acres with a total rental of Rs. 66.5 lakh which was in the khas possession of the intermediaries have been settled with them as raiyats. Roughly, an additional area of about one and a half lakh acres may be settled with them as a result of cases which are still pending, making a total of approximately 16-1/2 lakh acres. About 71 lakh tenants have come into direct relationship with the State on an area of about 2.2 crore acres.

20. As mentioned above, the progress of implementation has been slow. Special efforts are, therefore, necessary for completing the process without further delay. Supervision over the staff

needs to be tightened and vigorously enforced, and wherever necessary, additional staff should be appointed.

Tenancy Reforms

21. Tenancy is regulated under some provisions in the Bihar Land Reform (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961 and old laws namely, the Bihar Tenancy Act, 1885, the Chotanagpur Tenancy Act 1906 and the Santal Parganas Tenancy (Supplementary Provisions) Act, 1949. The provisions of these laws have become out-moded while the provisions of the ceiling Act with regard to tenancy are not adequate. For the purposes of tenancy reforms, Bihar falls broadly into three areas namely.

(1) 5 districts governed by the Chotanagpur Tenancy Act, 1908;

(2) Santal Pargana district governed by the. Special laws applicable to Santal Parganas, and

(3) 11 districts which are governed by the Bihar Tenancy Act 1885.

Chota Nagpur

22. Under the Chotanagpur Tenancy Act, 1908, a lease by a raiyat is valid only if it is for a period not exceeding 5 years. An occupancy raiyat who is a member of the scheduled castes or backward classes may, with the previous sanction of the Deputy Commissioner, lease his land to another person who is a member of the scheduled castes or, as the case may be, backward classes and who is a resident within the district in which the holding is, situated. There is no provision for any security of tenure or fixing fair rents for the sub-lessees.

Santal Parganas

23. In the Santal Parganas, sub-leasing of land is not permitted. If, in spite of this, a lease is made, the tenant would be liable to ejectment. In the circumstances, if any lease is made in contravention of the law neither party is likely to bring it to the notice of the authorities and the tenant would hold the land at the pleasure of his landlord.

Other districts

24. Under the Bihar Tenancy Act, 1885, a tenant holding land, from a raiyat acquires occupancy rights on 12 years continuous possession. Non-occupancy under raiyats holding land on written leases are liable to ejectment on the expiry of the term of the lease, while those holding on oral leases are not liable to ejectment except on ground of non-payment of rent or improper use of land. Practically all the leases in the area are oral and according to the law, therefore, the tenants should have security of tenure. However, it is generally admitted that this law is completely ineffective (except in cases where the lease is recorded in the settlement records).

25. Under the Bihar Land Reforms (Fixation of Ceiling Area and Acquisition of Surplus Land) Act, 1961, limited right of resumption for personal cultivation has been given to a raiyat holding land in excess of the ceiling. Such a raiyat can resume half the land held by the under-raiyat subject to the condition that the under-raiyat shall be entitled to retain a minimum area of 1 acre and a maximum of 5 acres. Further, under-raiyats holding from a raiyat (who has land above the ceiling) can on payment of compensation, become raiyats in respect of surplus land above the ceiling as well as land within the ceiling which has not been resumed. For the bulk of the cases (i.e. under-raiyats holding from a raiyat who has land not exceeding the ceiling) the under-raiyat has not been given the right-to become owner.

As regards maximum rent, the Bihar Tenancy Act fixes the maximum rent as below: -

(1) Where the under-raiyat pays money rent—

(a) not exceeding 150 per cent Of the rent paid by the raiyat himself in cases where there is a registered lease or agreement;

(b) in any other case, 125 per cent;

(2) Where the under-raiyat pays share rent, the rent shall hot exceed 7/20th of the produce (the straw or *bhoosa* belonging entirely to the under-raiyat).

26. Under the Bihar Ceiling Act, a raiyat can recover from an under-raiyat money rent not exceeding 150 per cent of the rent paid by the raiyat himself and in the case of share rent, not exceeding l/4th of the produce of the land (the straw or bhoosa belonging entirely to the sub-lessee). It would seem that the provision regarding the maximum rent is applicable only to a sub-lessee admitted after the commencement of the ceiling law and to an under- raiyat holding land from a raiyat who holds land equal to the ceiling area or less. The provision was not made applicable to an under-raiyat of a raiyat holding land above the ceiling area. It was argued that such under-raiyats would shortly cease to exist and would become raiyats in their own rights very soon.

27. It is true that the number of such under-raiyats would not be large as there are only a few raiyats who hold lands above the ceiling law. However, the distinction still exists as ceiling have not yet been enforced. Even notices under section 6 of the Act asking the land holders to submit returns had not been issued until recently and are only now said to be under issue.

28. The Bihar Ceiling Act contains a provision for regulating surrenders; the surrender has to be verified and the land is then given to another tenant in consultation with the landlord. This provision for consultation with the landlord practically amounts to giving the landlord the right to change his tenants. Further, the applicability of this provision appears to be restricted to sub-lessees admitted after the commencement of the Ceiling Act and to under-raiyats holding from a raiyat who holds land equal to or less than the ceiling area.

29. What is of significance in this context is not, however, the details of the law as it stands or the defects from which it suffers but the fact that the law is completely ineffective and no serious effort appears to have been made to implement it. Sub-leasing of land or 'batai' as it is commonly called, is widely prevalent. According to some information collected during the population census of 1961 but not yet published, 7.4 per cent of the cultivating households are tenant cultivators and 24.8 per cent are part tenant and part owner-cultivators.

30. The rent payable by the tenant is usually half the gross produce and in some cases where it is fixed in terms of a given quantity of produce or its value, goes up to even about 65 per cent of the gross produce. These tenants do not enjoy any security of tenure. In fact in some of the villages visited by me, it was freely admitted that they had to constantly change the bataidars to prevent them from acquiring any rights.

31. It appears that instructions issued during the field bujharat for preparing a record of under-raiyats have not been carried out in many areas.

32. It appears that there are many cases where persons belonging to lower and weaker sections of the community do not own the sites upon which their houses stand. The Bihar Privileged Persons Housestead Tenancy Act, 1947 gives security of tenure (on payment of reasonable rent) to a person who holds a homestead under another person and who is not a proprietor, tenure holder, undertenure holder or a mahajan and besides his homestead holds no other lands or holds land equal to one acre or less. In one of the villages which I visited (village

Begumpur, Noorserai Block, Patna district) there are said to be about 20 cases where house-sites belong to raiyats or former intermediaries and not to the persons in occupation. Entries regarding the persons in occupation of fie house-sites were made in the village records only in pencil in the remarks column. It would be desirable to examine the position and ascertain to what extent entries of this nature are actually made and verified by higher authorities. Such entries should be made in ink after verification.

Ceiling on holdings

33. The law regarding ceiling on holdings came into force on 19th April 1962. It is estimated that about 1 to H lakh acres will become available as surplus land above the coiling.

34. The Act also contains provision regarding a levy on small holdings. The levy is 1/20 of the total area if the land held by a person does not exceed 5 acres, 1/10th of the total area if the land held exceeds 5 acres but is less than 20 acres, 1/6th if the total area of the land held exceeds 20 acres. This is subject to the condition that a minimum shall be left with the person concerned. A sugarcane farm held by a sugar factory is exempted from the ceiling but not from the provisions of the land levy. Land held by religious institutions of a public nature are exempt from ceiling up to a limit of 240 acres of class III land but they are not exempt from the land levy.

35. It is somewhat doubtful whether it would be possible to enforce the land levy on account of constitutional difficulties. However, if it is eventually enforced these difficulties would need consideration.

36. Very little has yet been done to implement the ceiling law. A small staff consisting of one upper division clerk for each district headquarters and one lower division clerk for each sub-divisional headquarters has been appointed but no higher staff has been appointed. Only recently, the printed forms of the notices to be issued under section 6 of the Act, asking the land holders to submit returns have been supplied and it is understood that notices are now under issue.

37. Since the implementation of this law is so slow, it is necessary to take steps to expedite the work.

June, 1964.

4. *REPORT OF SHR1 A. N. SETH, DIRECTOR, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN BIHAR*

The progress of land reforms in Bihar was reviewed in Joint Secretary's report of June, 1964. The report was discussed in the Implementation Committee of the National Development Council on June 26, 1965 when the Chief Minister, Bihar was present.

Tenancy Reform

2. During the discussions in the Implementation Committee the Chief Minister, Bihar had mentioned that quite a sizeable area was cultivated by share-croppers called under- raiyats. If under the existing socio-economic conditions, they were to be conferred security of tenure and restored to possession where they had been illegally ejected, it was essential that they should be recorded through a record operation. Referring to the apprehension that a drive for recording under-raiyats might lead to disturbances in the country-side, he observed that such a risk had to be taken and that his government were determined to expedite the record operations in order to give adequate protection to under-raiyats.

3. On July 10, 1964, instructions were issued by the Bihar Government about the organisation of a special drive for completing assessment of rent and compensation rolls, disposal of mutation cases, record of under-raiyats and privileged persons etc. The drive was to consist in two parts. The first field drive was to include completion of field bujharat, completion of held enquiries for the preparation of compensation assessment rolls especially for petty intermediaries, initiation of proceedings for fixation of fair rent (land revenue) on, unassessed lands etc. This was to be completed by November 30, 1964. The second field drive in which the under-raiyats were to be recorded was to be taken up on. December 1, 1964 and completed by March 31, 1965. The preparatory work for the recording of the under-raiyats was to be taken up as part of the first field drive. All this was set out in detailed printed instructions enclosed with the Government letter of July 10, 1964.

4. Subsequently, on the 12th September, 1964, the Government issued a second letter (No. SD/208/64-8603 dated 12th September, 1964) which directed as follows:

> "Reports have been received about the eviction of under-raiyats and other agrarian disturbances. Government desire that every effort should be made to maintain peaceful relations between the raiyat and the under-raiyat and requisite steps should be taken to avoid any action which may give rise to disorder. In order to achieve the same, the collection of details to that extent should be kept in abeyance".

As a result, no steps have so far been taken in the field for recording of under-raiyats as part of the drive. The Bihar Government is apparently afraid of possible agrarian disturbances due to such recording.

5. The Land Reforms Commissioner. Bihar who is one of the senior most officers charged with the administration of land reforms over a considerable period felt that recording of under-raiyats was not beyond the administrative resources of Bihar Government. He was of the view that if not all, at least 50 per cent of them could be recorded From what I saw during my visits to rural areas of Bihar, I feel no hesitation in endorsing this opinion. In some of the villages, quite a few under-raiyats came forward to assert that they were cultivating lands on crop-sharing or fixed rent basis. And this they did in some cases, in the presence of landlords also. There should be no serious difficulty in recording the majority of under-raiyats, particularly in villages where substantial areas are cultivated by them. I am of the view that once a firm decision is taken at political level for recording under-raiyats, and it is made widely known, agitation by affected interests may itself

subside and the preparation of a fairly accurate record of under-raiyats become possible. Even if there is some risk of agitation, as the Chief Minister put it such a risk has to be taken if the under-raiyats are to be assured effective security of tenure and fair rents.

6. I may add that if the record is to serve the purpose in view, it would be desirable to follow, in the preparation of the record of under-raiyats, the normal procedures prescribed for record operations so that the presumption of truth may attach to it.

7. It is further suggested that as soon as records are prepared for any area a certificate should be issued to each under-raiyat indicating his possession and the rent payable by him on the basis of which he could claim rights under the law.

8. In district Purnea where under-raiyats were recorded during the course of survey operations some years back about 40,000 appeals have been filed by landlords before the civil courts to contest such entries. It was suggested in the Implementation Committee that legislation should be undertaken to bar civil courts jurisdiction so that the appeals should be heard by revenue officers only. An Ordinance has since been promulgated to give affect to this decision.

9. Regarding conferment of ownership on under-raiyats, the Chief Minister. Bihar had mentioned at the meeting of the Land Reforms Implementation Committee that once under- raiyats are recorded measures for conferment of ownership can follow. The State Government is of the view that a provision can be made to enable under-raiyats to get the status of a raiyat on payment of suitable compensation for which loans can be advanced, if necessary.

10. Practical steps for transfer of ownership to under-raiyats can be promoted only after their recording. Meanwhile it may be useful to enact suitable legislation for conferment pf ownership on under-raiyats on payment of reasonable compensation, payable in instalments spread over a period, so that as soon as the record is prepared for any particular area, steps may be taken to transfer ownership to the under-raiyats in the area. In support of *this* proposal it could be stated that once under-raiyats know that if recorded they will immediately be entitled .to ownership also, they may come forward in greater number to get themselves recorded. At the same time such a measure may create further resistance by landlords to the recording of under-raiyats. Some opposition to the preparation of the record from, landlords may be expected anyhow. This is amply borne out by the experience of district Purnea. On balance of considerations it would seem to be an advantage to undertake enactment of legislation for ownership rightway, to be implemented in any area as the record for the area is prepared.

11. The immediate need, however, is to ensure complete security of tenure and fair rents to the under-raiyats. This is necessary not merely for social considerations but more so, for considerations of agricultural production. The legislative provisions in this regard are not quite satisfactory. Under the Bihar Tenancy Act, there are-three classes of under-raiyats, namely (1) occupancy under-raiyats, (2) non-occupancy under-raiyats holding oral leases and (3) non-occupancy under-raiyats holding land on written leases, Under the law a non-occupancy under-raiyat gets rights of occupancy if he has held land continuously for a period of 12.years. Due to a desire on the part of the landlords to prevent the accrual of rights under these provisions, it was inevitable that under-raiyats should be frequently 'changed. Thus few under-raiyats acquired the right of occupancy. Non-occupancy under-raiyats holding lands on written leases are also few in number. They are liable to ejectment on the expiry of the term of lease. The bulk of the raiyats hold land on unwritten or oral leases. The law does not permit their eviction on the ground that the term of the lease has expired. This was done to discourage oral leases but it did not have the desired effect and most leases still continue to be oral. Once a serious effort is undertaken to record the under-raiyats holding land on oral leases, T am afraid the landlords may convert oral leases into written lease so that there might be no legal difficulty in evicting such under-raiyats even if they are

recorded. A specific provision in the law for conferring occupancy (permanent subsequently heritable) rights on all under-raiyats without reference to their holding lands on an oral or written lease or to the length, of the period of possession would, therefore be desirable. If this is done it will create the proper psychological conditions encouraging under-raiyats to come forward to get themselves recorded and claim rights under the law. As at present few under-raiyats feel secure. This was amply borne out by the visit to villages.

12. As regards rents, the law provides that produce rent shall not exceed 1/4th of the produce. In the case of cash rent, it is not to exceed the rent or revenue payable by the landlord by more than 50 per cent where the land is held tinder a registered deed or agreement, and 25 per cent in other cases. As the bulk of the leased area is cultivated on crop-sharing basis the latter provision is of no practical significance. In practice, in the villages visited by me, as a rule the customary rents still prevailed. In most cases it was about 50 per cent of the gross produce; in some cases even more. One fourth of the gross produce was exceptional. In the National Development Council Committee it was felt that share- cropping was a disincentive to production and should be abolished. The State Government has agreed that suitable amendment will be made as soon as possible in this regard. As regards the suggestion that rent should be converted into cash and fixed as a multiple of land revenue the Land Reform Commissioner, Bihar agreed that commutation of rents into cash would be desirable. He pointed out, however, that 1/4th of the produce, if converted into cash, would mean many times the land revenue but under the Tenancy Act it could not exceed 150 or 125 per cent of the land revenue. Any provision for commutation on this basis may therefore be strongly resisted by land-owner unless a more reasonable multiple for commutation is provided. There is force in this argument. An amendment of the existing provisions may be desirable. The State Government might work out suitable multiples so that the rents fixed on that basis might represent broadly one-fourth or one-fifth of the gross produce. It may be mentioned that in Maharashtra and Gujarat where the produce rent is not to exceed I/6th of the produce, the cash rent is between 2—5 times the land revenue.

13. Section 48E of the Bihar Tenancy Act provides for restoration to possession of under-raiyats who were unlawfully ejected, i.e. those who were ejected or dispossessed without the decree of a court. The restoration can be made by the Collector on his own motion or on the application of the under-raiyat. Once the proceeding for restoration is initiated, the matter may be referred by the Collector to a Board of Conciliation consisting of the Sarpanch of the Gram Panchayat and two other members, one of them to be nominated by the under-raiyat and the other by the landlord. The Board is required to report back to the Collector within two months from the date of reference. If the Board succeeds in bringing about an amicable settlement, it Is required to report the terms of settlement to the Collector along with the proceedings and the Collector disposes of the case in accordance with the terms of the report of the Conciliation Board. If the Board fails to bring about an amicable settlement of the dispute, it is to return the records of the cases to the Collector who may after necessary enquiry order restoration, where necessary.

14. According to a statement furnished by the Bihar Government 15,426 proceedings for restoration were instituted under Section 48 E (of Bihar Tenancy Act) by December, 1963 and dealt with as follows:

(1)	Proceedings instituted on application by under-raiyats	15289
(2)	Proceedings instituted on Collector's own motion	137
(3)	No of proceedings referred to the Conciliation Boards	5170
(4)	No. of proceedings in which amicable settlement was effected by the Conciliation Boards	1933
(5)	No. of cases rejected by the Collectors	11483

(6) No. of cases in which restoration ordered 7550

(7) No. of proceedings pending ... 455

It needs to be mentioned that the bulk of the applications for restoration—12002 out of the total of 15426—were made in the District Purnea.

15. Bihar is one of the few States where non-official element has been associated in some form with the implementation of land reforms and it would be of national interest to. study in some details the working of this experiment. No such study has been attempted so' far. I suggest that this may now be done,

16. The above data raise a number of interesting issues:

1) Why were so few proceedings referred to the Board of Conciliation—5170 out of a total of 15426?

(2) The Board effected settlement in 1938 cases. It should be useful to know the nature of settlements effected by the Board and the number of cases in which restoration of the under-raiyat was recommended by the Board, to consider the present structure of the rural society. The Sarpanches may. in most cases, belong to the landlord class and the Conciliation Boards may therefore be having, in many cases, pro-landlord bias.

(3) The bulk of the applications for restoration were rejected. It would be useful to study the grounds for the rejection of these applications. It may be that the under-raiyats were not able to establish their claims to have been in possession of the land. Considering that the bulk of the applications were made and rejected came From District Purnea where survey operations were completed a couple of years ago and under-raiyats were presumed to have been recorded in considerable numbers, it would throw doubts on the adequacy of the records prepared, unless it is presumed that the bulk of the applications were false which is hardly likely. This would seem to emphasise the need for great vigilance in the preparation of records to ensure that they reflect the true position on the ground.

(4) The provision for suo-moto action by the Collector for the restoration of disposed under-raiyats has been used very sparingly; only 137 proceedings were initiated under the provision throughout the State. A vigorous action for giving effect to the provision is desirable.

Ceiling on Land Holdings

17. The Ceiling Act came into force on 19th April 1962. It was subsequently amended. Rules were framed and published in August 1963. Section 6 of the Act requires the publication of a notice in each district calling upon the landholders holding land in excess of the ceiling area to submit a return to the collector about his holding within 90 days of the date specified in the notice. The substance of the notice was to be announced by beat of drums in all the villages and copies thereof were to be hung up at the office of the gram panchayat, the village Cutcheri, the police station and the offices of the Collector, the Sub-Divisional Officer etc. It was understood that notices had since been published in all districts. Reports have been received only from 8 districts about the issue of notices in villages. In Shahabad all the villages have been notified and in Singhbhum 3228 villages out of 4078. The number of villages notified in the remaining six districts was rather small. I understood that a considerable progress in the matter has since been made but data were not readily available. No information was available regarding the number of returns filed by the landholders. No surplus area had been determined or taken over so far. It would be desirable

to insist on the district authorities for periodical returns so that the progress can be scrutinised at the state headquarters.

18. The ceiling area varies between 20 to 60 acres according to the class of land. There is a further provision that a landholder may transfer by way of gift any land held by him to his son. daughter, children of his son or daughter, or to such other person or persons who would have inherited such land or would have been entitled to a share therein if the landholder had died intestate. With these provisions on the statute book, little surplus land is expected. During the discussions in the Implementation Committee on June 26. 1964 the Chief Minister had said that he would have the legislation re-examined and suggest suitable modifications with a view to securing sizeable area or surplus land for redistribution. On inquiry I understood that no proposal had vet been formulated. The State Government appears to be of the view that fixation of ceiling has served the purpose of dispersing ownership of land on a considerable scale and no modification in the law at this stage would be necessary.

Abolition of Intermediaries

19. About Rs.18.5 crores had been paid by June, 1964 has compensation for abolition of intermediaries. The aggregate payment by the end of January1, 1965 was about Rs.22 crores and it; is expected that by the end of the current financial year; 75 per cent of the intermediaries will have been issued. Compensatory bonds and the total payment be about Rs.25 crores. Intermediaries with large estate interspersed in different parts of the State who were entitled to a large portion of the[1] compensation amount were contending assessment of compensation which was holding up; the payment of compensatory bonds in their cases. According to the revised estimate the total compensation may be of the order of Rs.80 crores and not Rs.100 crores. As the payment of compensation will be expedited a large majority of intermediaries would have been issued compensatory bonds before the end of the - Third Plan.

Land Reform and Land Revenue Administration

20. The Land Reform Commissioner assisted by the Revenue Secretary and an Additional Secretary is incharge of the work at State headquarters. The administrative hierarchy is follows:

Headquarters	*Land Reforms Commissioner*
Divisions	*Divisional Commixswntrs* (4)
Districts	Collector (General Supervision) (17) Addl. Collector (Direct Charge of Land Reforms) (10)
Sub divisions	Sub-divisional Officers in overall charge (68) Land Reforms Deputy Collectors (67) Compensation Officers (190)
Blocks or Anchals	Block Development Officers or Anohal adhikaries (675) Circle inspectors (632) (revenue)
Village	Jaranc Karamcharies (5740 + 574 leave reserve) (6314) (10 in one Anchal or Block) Each Block or Anchal has one Surveyor, or Amin (575)

To advise on matters relating to agrarian policy, there is a. statutory commission (the Bihar Land Reforms Commission) consisting of the Minister of Revenue (Chairman) 5 M.L.A. 3. M.L.Cs. and two other nominated members with Land Reforms Commissioner as the Secretary. Besides, there is a State Advisory Board for settlement of landless agricultural worker with, the

Revenue Minister as Chairman.

21. Some changes are now being made in the above pattern. At present the officer at the block level is incharge both of revenue work and the development work. These charges are now being separated; every block will have a separate development officer. For purposes of land revenue, and land reform, blocks will be regrouped. and generally one officer of the rank of a Tehsildar will be put incharge of 2 blocks. This will be in addition to a Land Reform. Deputy Collector in each Sub-Division. The change has already been introduced in a few districts and will be extended to other districts very shortly. It is expected that this change will expedite the determination and payment of compensation to the former zamindars.

22. About the existing pattern there is one point which needs consideration. The average charge of, a Karamchari (village accountant) is about 10 villages; in terms of area it comes to about 4,000 acres of cultivated land. The karamchari is required not only to maintain land record but also to collect land revenue. In the neighbouring State of Uttar Pradesh, the average charge of a village accountant is much smaller, it is 5 to 6 Villages, or a cultivated area of about 2,200 acres. Besides, in Uttar Pradesh land revenue is collected by a separate agency and the village accountant is not directly concerned with the collection of land revenue. It would appear; therefore, that the charge of a karamchari in Bihar is much too large. If the records are to be maintained uptodate through annual revisions, it seems necessary that the charge of a karamchari should be reduced. It will become all the more necessary when entries relating to cultivating possession of under-raiyats have also to be effected annually.

Consolidation of Holdings

23. Legislation for consolidation of holdings (the Bihar Consolidation of Holdings and Prevention of Fragmentation Act, 1956) was enacted in 1956. Three pilot projects were taken up during the later part of 1957-58. The work is now in progress in 10 Blocks in the districts of Patna (3 blocks), Muzaffarnagar (2 blocks), Bhagalpur (3 blocks) and Dhanbad (1 Block) and Gaya (1 Block). About 60,000 acres were consolidated by the end of the Second Plan. About 68,000 acres have been consolidated during the first three years of the Third Plan. It was proposed to complete consolidation on 80,000 acres during 1964-65.

24. I visited two village of Block Noor Serai, district Patna. In village Pariauna, the work has been completed and possession of new holdings transferred. In village Meyor where the work was taken up in January 1961, it has been completed up to the valuation stage. New holdings have yet to be carved out.

In village Pariauna, the total number of khatas (holdings) is 346. 86 of them consist of homesteads only. Thus, there are 260 agricultural holdings. In 53 cases, the new holdings consist of a single block, in 25 cases of 2 blocks, in 16 cases of 3 blocks, in 13 cases of 4 blocks and the remaining 153 holdings consist of 5 blocks or more. As many as 38 holdings consist of 10 blocks or more. In the village there were few holdings consisting of more than 20 acres. In one case the holdings of less than an acre was scattered, even after, consolidation in 3 different places (as against six prior to consolidation). It is true that the work is at a pilot stage, the new holdings consist of too many blocks and in the process the object of consolidation has been very largely lost. It is desirable that in preparing a scheme of consolidation of holdings for a village, a limit should be fixed on the maximum number of blocks which a holding up to a given size might consist of after its consolidation. The object should be to ensure that as far as possible a holding does not consist of more than 2-3 blocks.

25. The progress made so far is rather slow and the supervision provided is inadequate In the three blocks of District Patna where the work is in progress there are 60 amins (patwaris), 9

kanungos, one assistant consolidation officer and one consolidation officer. It has been the experience of other States that the quality of work depends very largely upon the intimate guidance and effective _ supervision provided by the Assistant Consolidation Officers. The staff pattern even in the State of Punjab which has the largest experience in the field and where procedures and techniques have been evolved and perfected over a long period is one Asstt. Consolidation Officer for every 20 patwaris. In Bihar, where work is still in pilot stage, much greater supervision and guidance is required. Any additional expenditure on this account should pay good dividends. It would be desirable to review the staff pattern. It seems to me that there should be one kanungo for every four or five amins or patwaris and at least one Assistant Consolidation Officer for 20 amins or patwaris. In addition there should be a Consolidation Officer in each block.

26. The work at the State headquarters is looked after by Additional Secretary. Land Revenue who is also Director of Land Records. It is necessary that there should be a whole time Officer incharge of the work, who can constantly be on tour to provide guidance to and supervision over field staff. It has become all the more desirable now that the work is being expanded over a large area during the Fourth Plan. If an expanded programme is to be taken up from the first year of the Fourth Plan, the whole time officer should be out in position immediately so that he can go round other States, gain experience and take action for the Fourth Plan. In Bihar, which has very little of trained revenue field staff advance action for. training adequate personnel in consolidation of holdings is of considerable importance.

The tentative programme for the Fourth Plan is to consolidate 10 lakh acres at a cost of Rs.75 lakhs. Consolidation of holdings is of great importance to the development of an area and particularly in expanding programmes of minor irrigation (construction of surface water wells or tube-wells etc.) and soil conservation. Vast opportunities obtain in Bihar for expanding these programmes. It is desirable, therefore, that the programme of consolidation of holdings should be expanded on the maximum scale possible within the administrative resources of the State. In the neighbouring State of Uttar Pradesh about 52 million acres were consolidated during the Second Plan (representing about a fourth of the total area which could be consolidated), when U.P. Government was almost new to the programme. There are about 206 lakh acres of net area sown. It should not be beyond the resources of the State, therefore, to adopt a programme of about 30 lakh acres during the Fourth Plan. This would necessitate a provision of about Rs. 2.25 crores for the Fourth Plan.

In selecting suitable blocks for the expanded programme of consolidation of holdings, it may be useful to keep in view the following suggestions:

(i) The work should be taken up only in such blocks where survey and record operations have been completed.

(ii) Areas where surface water wells can be provided should receive preference. In the Punjab and Uttar Pradesh, consolidation of holdings in any area was immediately followed by construction of surface wells on a large scale.

(iii) Areas where soil conservation measures are needed on a large scale should also receive preference so that the two programmes might be dovetailed and the new holdings relaid along contours.

(iv) Blocks in the neighbourhood of U.P. where consolidation of holdings has been taken up should offer better scope for this work because of permeation of U.P. experience into these areas.

(v) Farmers naturally want to avoid taking up land development schemes in areas under consolidation, till they are in possession of new holdings. It may be desirable therefore to avoid areas where intensive irrigation programme is already in progress.

It takes a much longer time in Bihar than in other States to complete the consolidation of holdings in a given area. This is due" partly to the fact that survey and settlement operations formed part of the consolidation of holdings. As consolidation of holdings frequently results in suspension of permanent schemes of land improvement it is highly desirable that in areas where the programme is taken up it should be completed in the shortest possible time. To achieve this, firstly, the consolidation of holdings should be taken un in areas where survey and settlement operations have been completed. In fact, it should he taken up immediately after the survey and record operation in on area is completed and there should be no time lag between the two operations so that a further correction of records as part of consolidation holdings may be unnecessary. Secondly, in a block which is taken tip for consolidation of holdings. the largest possible number of villages within the block should be taken up for consolidation simultaneously. Also, within a village where the work is taken up, concerted effort should be made to complete the work in the shortest possible time by providing adequate staff,

27. The Question whether the programmes of consolidation of holdings and soil conservation should be dovetailed and if so, how, was discussed with the Director of Soil Conservation, Bihar when the Revenue Secretary was also present. It was felt that it would We useful to do so and that the soil conservation staff should prepare contour maps for the area in which consolidation of holdings is to be taken up so that new holdings may be laid along the contours and that the construction of soil conservation bunds should be taken up after the new holdings have been carved out along contours after consolidation.

With regard to minor irrigation works and consolidation of holdings, the Chief Engineer. Minor Irrigation Works was also of the view that blocks where consolidation of holdings has been completed should immediately receive special attention in preference for inclusion of I.A.D.P. area and in the execution of scheme of minor irrigation works, particularly schemes relating to construction of surface wells and tube wells.

It was also suggested that a committee should be set up, preferably under the Chairmanship of the Development Commissioner to coordinate the programme of consolidation of holdings with the development programmes of minor irrigation, soil conservation and drainage. "The committee may be headed by the Development Commissioner and should include officers concerned with the departments of consolidation of holdings, miner irrigation and soil conservation. It would be useful to constitute groups of officers in each district where consolidation of holdings is taken up with the Collector or District Planning Officer as Chairman. Within a block also, the consolidation staff should function in active association with other development departments and not in isolation as is done at present.

28. Rectangulation not done as part of Consolidation of holdings. In many districts of Bihar, lands are altogether flat and in such cases rectangulation should be useful. Besides, it would be desirable to take up planning of roads and provision of other public utilities as part of consolidation. Lands should also be set apart for provision of house sites, particularly for the agricultural labourers. Necessary provisions might be made in the law and funds for the payments of compensation for such sites provided out of the provisions for rural housing.

29. The law provides that cost of consolidation would be recovered at a rate not exceeding Rs.4 per acre. At present, the Bihar Government meets the entire cost of consolidation of holdings. No portion of it is recovered from the beneficiaries. Now that an expanded programme is to be taken up in the Fourth Plan, it needs consideration whether a portion of the cost should not be recovered from the beneficiaries.

February, 1965.

APPENDIX I

Extracts from the proceedings of the meeting held in Bihar on the 2-4-1965 in the course of which Prof. V.K.R.V. Rao, Member, Planning Commission discussed various matters relating to agriculture and allied subjects in the Bihar State.

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Prof. Rao suggested that the landless labourers should be very closely involved with the land reclamation work. The present position was that land was reclaimed by Government and after sowing a crop of sanai or Daincha it was allotted to the labourers. Prof. Rao suggested that it would be better if an undertaking was given to a group of landless labourers that after reclamation the land would be allotted to them They would then have greater interest in the work and would come in large numbers. He was informed that already 40,000 acres had been reclaimed, out of which 30,000 acres had been settled and the Collectors were busy in settling the remaining 10,000 acres. He also wanted to know if minor irrigation, consolidation and soil conservation programmes were coordinated.

Prof. Rao also felt concerned about the homestead of landless labourers, but he was informed that according to the present law of the State the labourer becomes the owner of the land on which his house stood and he could not be ousted from there.

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Taking up the land reforms Prof. Rao pointed out that leaving aside the question of ceiling, there were two items which were very important from the practical point of view, namely, consolidation of holdings and security of tenure of those farmers who were actually cultivating the land. "He wanted to know whether it would be possible to confer occupancy rights to all the under-raiyats. He was told by the Minister of Revenue that although it would be difficult to confer occupancy rights, the under-raiyats were quite safe because according to the Bihar Tenancy Act they could not be ejected. The Minister gave a brief resume of the steps he had taken in the past with a view to making the under-raiyats more safe, but as soon as enumeration started, a big law and order problem was created and he had to give it up.

Quoting the figures of cases which had gone to the Collectors and the Conciliation Board, Prof. Rao pointed out that quite a good percentage of cases referred to the Conciliation Board appeared to have been settled amicably. Under the circumstances, therefore, reference to the Conciliation Board appeared to be the only solution and he desired that a study should be carried out as to why more cases were not referred to the Conciliation Board. This study should be made by a special group not actually connected with the Bihar Land Reforms Commission. The Bihar Land Reforms Commission, however, could discuss the problems brought but by the study team. He referred to the good work done in Maharashtra and Gujarat and directed that data with regard to the procedure followed in these two States regarding the security of the tenant and the fixation of rent Should be collected from the Land Reforms Division of the Planning Commission and sent to the Bihar Government He also desired that a note on the status and working of the Bihar Land Reforms Commission should be sent to him.

The following conclusions emerged:

(1) Landless labourers should, be very closely involved, in the land reclamation work and undertaking should, be given to them that after the .land, was reclaimed it would be allotted to them.

(2) A study should be made to find out why more cases were not being referred to the

Conciliation Board for the settlement of cases pertaining to the under-raiyats.

(3) A note on the status and working of the Bihar Land Reforms Commission should be prepared by the Bihar Government and sent to the Planning Commission.

(4) Data with regard to the procedure followed in Maharashtra and Gujarat regarding the security of the farmers and the fixation of the rent should be sent to the Bihar Government by the Land Reforms Division of the Planning Commission.

5. *REPORT OF SHR1 AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN GUJARAT*

Abolition of Intermediaries

Gujarat laws relating to the abolition- of intermediary tenures generally provide only for the vesting of waste lands, forests etc. in the State, while the cultivated land (including land held by tenants) is re-settled with the intermediary concerned, who is given the status of "oc position of the tenants remains unchanged and is to be dealt with under the tenancy laws. There are, however, some laws in which rights of "occupant" accrue to inferior holders, permanent tenants (i.e. tenants holding the land from antiquity) or sub- tenants of permanent tenants and in some cases to other tenants as well. It appears that out of a total area of about 130 lakh acres affected by these tenures abolition laws, about 24 lakh acres have vested in Government and about 2.4 lakh inferior holders and tenants have become occupants in respect of 35.4 lakh acres. They were required in several cases to make a small payment of generally 3 to 6 times the assessment as occupancy price. Over 51,000 tenants have not become occupants on account of their failure to pay the occupancy price but it is understood that the periods during which the payment can be made are being ex-tended.

2. There are about 28 different laws for the abolition of land tenures of an intermediary nature of which 17 have been almost completely implemented. The implementation of other laws has been held up on account of protracted litigation or writ applications, difficulties arising from the absence of records and the reluctance or refusal of the tenants in certain areas to exercise their right to become occupants or their failure to pay the occupancy price.

3. As a result of the abolition, the additional land revenue payable to the State Government is about Rs. 116 lakhs per year. Further, Government was liable to make payments annually of Rs. 121.86 lakhs, which has been discontinued under the various measures. Most of these payments were to be made for life or hereditarily and there would consequently be quite a substantial saving. As against this, the total amount of compensation payable by the Government is about Rs. 1280.7 lakhs. Out of this amount Rs 1176 lakhs were payable in 9 districts of which Rs. 234 lakhs have been paid. In Rajkot Division the total amount payable is Rs. 104 lakhs but information is not available regarding the payment actually made. la many cases there have been large delays in payment of compensation and it is urgently necessary to expedite payments. It is also necessary to make adequate arrangements for the supply of essential information to the headquarters, so that effective supervision may be facilitated and difficulties and bottlenecks removed promptly.

4. Where tenants are generally reluctant to pay the occupancy price, as in the Kutch district, it would be desirable to take steps for speedy recovery so that the tenants may not lose those valuable rights on account of their own apathy or limited means or the pressure of landlords. Speedy action is necessary to complete the process of implementation as quickly as possible and to remove the present uncertainty.

5. In the case of the Taluqdari Tenure Abolition Act, 1949, implementation was delayed on account of the difficulty about permanent tenants. The amendment law relating to the definition of "permanent tenant" was struck down by the Supreme Court and the State Government have decided that tenants who are not deemed to be permanent tenants under the law, as it now stands would get the right under the tenancy law and enabled to become occupants on payment of reasonable compensation under the tenancy law. If there are still any difficulties they would consider the possibility of amending the law at a later stage The State Government themselves are keenly aware of the need to complete the implementation of this law as early as possible.

6. It has been observed that in several cases, the record of rights has not been brought up-to-

date or has not been correctly prepared in accordance with the provisions of the land tenure abolition laws. These defects have been pointed out to the Collectors who are being asked to rectify these defects. It would be desirable to complete the preparation of an accu rate record of rights as quickly as possible. In this connection it is further suggested that the State Government may consider the desirability of giving certificates to all persons, who acquire the status of occupant under these laws so that there may be no possibility of dispute or doubt about their rights.

Tenancy Reforms

7. For purposes of tenancy reforms. Gujarat may be divided into the following areas: —

(i) Former Bombay region (comprising 11 districts and parts of some other districts) to which the Bombay Tenancy and Agricultural Lands Act, 1948, applies;

(ii) Kutch district to which the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958 applies; and

(iii) Saurashtra area (comprising Rajkot and Junagarh districts and parts of some other districts) to which the Saurashtra Land Reforms Act, 1951, Barkhali Abolition Act, 1951, Saurashtra Estates Acquisition Act, 1952 and Saurashtra Prohibition of Leases on Agricultural Lands Act, 1953 applies.

Former Bombay Region and Kutch

8. The laws applicable to the former Bombay region and Kutch are similar and include provisions for fixation of maximum rent, security of tenure subject to the landlord's right of resumption, regulation of surrenders and purchase of land by tenants. In the Bombay region the maximum rent is 2 to 5 times the assessment but not exceeding Rs. 20/- per acre and in Kutch the maximum rent is 4 times the assessment. In both cases, the tenant is to pay the rent as well as the assessment and various cesses amounting to 52 nP to 60 nP per acre and irrigation cess in respect of irrigated lands amounting to about 20 nP per acre. The tenant has to pay the rent and cesses until he purchases the occupancy rights in the land and the purchase price is determined. (In respect of Scheduled Areas, the tenant is not required to pay the land revenue and if he has to do so on account of the default of the landlord, the amount so paid has to be deducted from the purchase price).

9 In Bombay region the rate of rent for different classes of land is fixed suo moto by the Mamlatdar and the rent is payable only in cash. In Kutch the tenant is required to apply for commutation of the rent in kind into cash rent. Information is not available regarding the number of cases in which applications were made and rent was commuted.

It would be desirable to bring the law applicable to Kutch into conformity with the law in the Bombay region to facilitate implementation. The rent should be recorded in the land records and the tenant informed about them, so that cases where the tenants pay higher rents under the pressure of the landlords are reduced.

10. There is a provision in section 10-A of the Bombay Act and section 17 of the Kutch Act that where the total payment including the rent exceed 1/6th of the produce the tenant shall be entitled to deduct the excess from the rent. No use, however, appears to have been made of this particular provision.

11. The landlord is required under the law to issue receipts for rents paid by tenants. However, it is admitted that generally receipts are not given. Information is not available whether in any case penalty was imposed on landlords for failure to give receipts.

There is no specific provision for payment of rent by money order or for its deposit in court. Since the conversion of tenants into occupants has not been completed after so many years and is not likely to be fully implemented for quite some time more, provisions regarding rent are still of considerable importance.

12. The tenants have been given security of tenure subject to liability for ejectment for failure to pay rent, destructive or injurious use of land, sub-division or sub-letting or failure to cultivate the land personally or use of land for a non-agricultural purpose Information is not available regarding the number of cases in which tenancies were terminated on these grounds.

13. I he security of tenure of the tenant is further subject to the landlord's right to resume a limited area for personal cultivation. Reliable information about the number of applications made for resumption and the area allowed to be resumed is not available. It would, however, appear from some provisional figures collected by the State Government that in the Bombay region out of 115308 applications tiled by landlords, 52388 applications were rejected and 1473 applications were allowed, the area which was resumed being 5222 acres. The information, is however, not very reliable. Further similar information for Kutch was not available.

14. The provisions regarding regulation of surrenders require that the surrender shall be in writing, shall be verified before the Mamlatdar and the landlord shall then be entitled to take possession of the surrendered land subject to some of the conditions applicable to resumption for personal cultivation. But the condition that the landlord is entitled to resume only half the holding is not applicable to surrendered land. He has thus a definite advantage and therefore an incentive to exercising pressure upon the tenants to surrender their lands. In Kutch the landlord is entitled to take possession of surrendered land upto three family holdings. As evictions often take the form of so called voluntary surrenders, it is desirable to tighten these provisions as recommended in the Plan. Information was not available about the number of surrenders, area involved and the areas which the landlords were allowed to take.

15. The most important provisions relate to the purchase of occupancy rights by tenants. In both the Bombay and Kutch regions, there is a provision for the conferment of occupancy rights upon tenants with effect from the tillers' day which in the case of the Bombay region is April 1, 1957 and in the case of Kutch April 1,1961. There is also a provision for a voluntary right of purchase in Kutch which expired on 30th December, 1960. The right of compulsory purchase becomes ineffective if the tenant fails to appear before the Tribunal or if he appears before the Tribunal and says that he does not wish to purchase the land or if he agrees to purchase the land but fails to pay the purchase money; in cases where the purchase money is to be paid in a lump sum if he fails to pay it within one year or where the purchase price is payable in instalments, if he is in default of four instalments. There is a provision empowering the Government to recover the arrears of the purchase price where the arrears are not of such nature as to make the purchase ineffective. However, effective action has not yet been taken to recover the unpaid amount as arrears of revenue.

16. In Kutch a tenant cannot purchase land if the land left with the landlord after the purchase would be a family holding (12 to 45 acres) or less. Since there would be a very large number of such landlords, the right of purchase would not be available in many cases. In the Bombay region such restriction has been removed and it would be desirable to remove it in Kutch also in order to complete the process speedily.

17. The implementation of these laws has been very slow and unsatisfactory. It is to be noted that the tillers' day in respect of the Bombay region was about seven years ago and in the case of the Kutch region about 3 years ago, but there are still a large number of cases where the purchase price has not been determined. Further there is a very large percentage of ineffective purchases

which would lead eventually to the ejectment of tenants.

It appears that out of the total of 1022639 registered tenants, 865343 tenants were deemed purchasers on 1-4-1957 or 1-4-1961. Out of these 865343 tenants, as many as 302750 persons had not acquired ownership rights because the relationship of landlord or tenant was not established or because the tenants refused to purchase the land or did not appear before the Tribunal. The purchase price has been fixed in respect of 462176 tenants holding an area of 1408589 acres. Even out of these, it has been reported that purchases have become ineffective on account of failure to pay the purchase price in as many as 15,000 cases It appears that there is considerable default in the payment of instalments. Out of the amount of Rs. 794.39 lakhs which had become due by way of payment of instalment a sum of Rs. 563.49 lakhs has been recovered which is a little over 73 per cent. The total number of defaulters is estimated at 25,330. Further in respect of 100417 tenants holding an area of 573829 acres the price fixation has yet to be done. The bulk of these cases are from the former Bombay region where the tillers day was 1-4-1957. In the case of Kutch, where the tillers day was 1-4-1961, out of 18638 tenants who are deemed to have purchased the land, price fixation appears to have been done in respect of 360 cases only leaving a balance of over 18,000 cases.

It is to be noted that the figures are not quite reliable as it is somewhat difficult to reconcile them with one another. However, it would appear that out of about 32 lakh acres held by tenants on the tillers day, purchases have been made of only about 14 lakh acres and even out of this there would be some area in which the purchases have not been effective. Out of the rest of the area, purchase price has yet to be determined for about 5.7 lakh acres.

18. The Gujarat Government are aware of the problem arising from the very large percentage of ineffective sales. The difficulties that have been experienced are due partly to defects in the law itself. These defects arose from the fact that the purchase price in the law coveted a very wide range from 20 to 200 times of the assessment and the tribunals had to determine the purchase price in different cases 'after consideration of various factors prescribed in the law. The other principal defect in the law relates to the provisions for purchases becoming ineffective in certain cases i.e. where the purchaser does not appear before the tribunal or where it states that he does not wish to purchase the land or where he makes a default of a number of instalments. In so far as these defects in the law are concerned, it may new not be possible to revise the purchase price under the law itself. However, the difficulties arising from ineffective purchases can and should be removed. It is, therefore, suggested that die State Government may consider the desirability of amending the Acts to remove the previsions relating to ineffective purchase and where the tenant makes default in payment, provision for recovery, as arrears of land revenue could be made in all cases.

19. It appears that in most cases the purchase price as well as the instalments were fixed on the basis of agreements between the landlords and tenants. Even though the tenant's capacity to pay is to be taken into account in determining the instalments, the tribunals have generally fixed the instalments only on the basis of the agreements made between the tenants and the landlords. In some cases, the purchase price is high and the number of instalments is so small as to-render payment difficult. In many cases purchases have become ineffective on account of the pressure of the landlords. It is, therefore, necessary to have a provision to refix the number of instalments where the tenant finds it difficult to pay the amount involved, subject to the maximum number of instalments prescribed in the law.

On account of the very large number of ineffective purchases which amount to nearly half of the total, action for the termination of tenancy and the disposal of the land under the provisions of Section 32.P is not being taken. It is, therefore, possible to rectify the situation.

20. Apart from the provisions suggested above, it would also be desirable to make adequate

arrangements for loans being advanced to tenants through the State Mortgage Bank. It is understood that a proposal to this effect has already been approved. It would be necessary to ensure that adequate funds arc thus made available and advances to tenants are made promptly in all cases. It may be noted in this connection that in Saurashtra where similar difficulties had arisen, Government made a provision that in the case of tenants who had not applied for occupancy rights, an application could be made on their behalf by the Settlement Commissioner. Further, arrangements were also made in Saurashtra for advancing loans to needy tenants through the Land Mortgage Banks.

Saurashtra Region

21. The principal tenures of an intermediary nature in Saurashtra were Girasdars and Barkhalidars for the abolition of which necessary legislation was passed in 1951-52 viz. Saurashtra Land Reforms Act. 1951, Barkhali Abolition Act, 1951 and Saurashtra Estates Acquisition Act, 1952. Besides these some areas, were held under the Ankadia, Aghat and Ijara tenures which were abolished subsequently in 1959.

22. The Saurashtra Land Reforms Act. 1951 provides for the abolition of Girasdari tenures. Broadly speaking, the Act provides for the conferment of occupancy rights upon Girasdars in respect of lands already under their personal cultivation or allotted to them as gharkhed for personal cultivation and for conferment of occupancy rights upon tenants. For the purpose of allotment of land for gharkhed (i.e. land for personal cultivation) the Girasdars were divided into three categories viz. 'A' class. 'B' class and 'C' class depending upon the total area or agricultural land in their estate Girasdars of 'A' class who held areas exceeding 800 acres were entitled to get three economic holdings (an economic holding varies from 20 to 40 acres); Girasdars of 'B' class who held areas exceeding 120 acres but not 800 acres were entitled to 1-1/2 times to 2-1/2 times the economic holding and Girasdars of 'C' class who held areas not exceeding 120 acres were entitled to 1 to 1-1/2 times the economic holding. Girasdars of classes 'A' and 'B' were entitled to take land for gharkhed firstly from bid land i.e. pasture lands or cultivable wastelands and secondly from lands held by a tenant in excess of one economic holding. In the case of Girasdars of 'C' class, they were entitled to take one half of the land held by each tenant. For acquiring occupancy rights, tenants, with Chav or Buta Hak (i.e. permanent and heritable rights) were required to pay 6 times the assessment. It appears that as a result of the implementation of this Act. 27,971 Girasdars were given 9,28,750 acres of land for gharkhed out of which 2,37,188 acres were taken from tenants. At the same time, 59,850 tenants got occupancy rights on 19,73,685 acres of land. The number of tenants with Chav and Buta Hak was approximately 1,000 holding an area of approximately 1,00,000 acres; others did not possess these rights and were required to pay occupancy price at 6 times the assessment.

23. The Barkhali Abolition Act. 1951 provides for conferment of occupancy rights upon the tenants without any payment and for allotment of land to Barkhalidars for personal cultivation. A Barkhalidar in whose estate the agricultural land was 2 economic holdings or less, was generally entitled to allotment of land not exceeding one economic holding. In the allotment of land, care was taken to ensure that each tenant was left with at least half an economic holding.

As a result of the implementation of this Act. 15,485 Barkhalidars were given 2,07,908 acres of land as gharkhed out of which 42,938 acres were taken from tenants. At the same time tenants got occupancy rights over an area of 4,64,917 acres.

24. The implementation of these Acts was done effectively and carefully by the former Saurashtra Government. In fact, on finding that there were a number of tenants in the Girasdari areas who had not applied for conferment of occupancy rights or who found it difficult to pay the price, provision was made empowering the Settlement Commissioner to apply on behalf of the

tenants and arrangements were also made for advance of loans from Land Mortgage Banks amounting to about Rs. 2.58 crores to the tenants to enable them to acquire occupancy rights. The quick and effective implementation of these laws was generally borne out in a survey on the effects of land reforms in Saurashtra which was sponsored by the Re- search Programmes Committee of the Planning Commission.

25. While the existing tenants were thus given occupancy rights as a result of implementation of these laws leasing in future was prohibited by the Saurashtra Prevention of Leases of Agricultural Lands Act, 1953. except in cases where the occupant was unable to cultivate the land himself (on account of being a widow or a minor or a member of the Armed Forces or suffering from physical or mental disability). Leases made in contravention of this law were void; the occupant was liable to a fine amounting to 6 times the assessment in the case of contravention for the first time. 12 times the assessment for contravention for the second time and 20 times the assessment for contravention for more than 2 times and the tenant who took the land on lease was also punishable with a fine not exceeding Rs.l,000/- and in addition was liable to summary eviction. It will thus be observed that both parties i.e. the occupant as well as lessee, were liable to penalties, the pena lty in the case of lessee being more severe as he was liable not only to a fine but also to eviction from the holding. Both parties had thus an interest in suppressing the fact of a lease having been made. Even ordinarily tenants, being in weak economic and social position, do not feel strong enough to incur the displeasure of landlord by appealing to Courts. The Act did not thus contain adequate measures for implementation of its provisions. With regard to leases that had already been made, the Act required that they should be registered. To this registration, however, certain exemptions were provided, in particular, Girasdars and Barkhalidars were not required to get any land leased by them out of their gharkhed, registered up to the year 1958. It appears that only about 2,000 leases were registered under this Act. No cases appear to have come to light regarding leases made in contravention of the Act. There is further no information about any case in which summary eviction of a lessee has to be resorted to. It appears that, in general, little, action has been taken in this regard.

26. It would be seen that the main effect of this law is that leasing of land being generally prohibited, such leases as would be made in the normal course of management would be concealed, and the tenant would be completely unprotected both as regards security as well as rent. It is not possible to judge how much of concealed tenancy exist in this area, but some estimates would put it as high as 15 to 20 per cent and it is feared that in some cases the rent actually paid may be as much as half the produce. It is understood that the Gujarat Government are considering the question of further tenancy legislation for this area.

Publicity and additional staff

27. In order to educate the people about the rights conferred upon them by law, a number of leaflets were printed and distributed. Informative notes were also published in the papers. Further, instructions were issued for holding meetings in the villages to inform them about the land reform measures. However, detailed information was not readily available about the extent to which publicity was given through these meetings.

28. Detailed information regarding the additional staff appointed for implementation of the various land tenure abolition laws and tenancy reform laws from time to time since their inception was not readily available. However, the additional staff at present in position includes 8 Deputy Collectors, 94 Mamlatdars. 3 Mahalkaris (Officers with powers similar to those of a Mamlatdar but of a lower grade and in charge of smaller talukas), about 78 Deputy Accountants and Aval Karkuns. In addition, there is separate staff for the Kutch district including 2. Special Mamlatdars 3. Special Mahalkaris, 4. Aval Karkuns and an additional Chitnis (Mamlatdar) and Aval Karkuns for the Collector's office.

Ceiling on land holdings

29. The Gujarat Agricultural Lands Ceiling Act. 1961 provides for fixation of ceiling on future acquisition as well as existing holdings. The ceiling limit varies from 19 to 44 acres in the case of perennially-irrigated land, 38 to 88 acres in the case of rice land and seasonally irrigated land and 56 to 132 acres in the case of dry crop lands. The Act came into force on 1st September, 1961. It is estimated that there are about 4,562 surplus holders and the area of surplus land is 2,15,856 acres. The law provided that every person holding land in excess of the ceiling area shall furnish a statement within 90 days to the Mamlatdar, i.e. by 1-12-1961. It appears that the statements were not filed within time in a large number of cases and instructions were issued that they may be received upto the end of another three months and no penal action need be taken in such cases.

30. No separate staff was appointed for the implementation of this Act and little attempt appears to have been made to keep watch over the progress of implementation. Regular statements about the progress of work have not been called for. It appears that information was asked for the first time in 1963. Information about the number of statements received in compliance with section 10 of the Act, notices issued under section 20 or orders passed under section 21 is generally not available. In respect of Rajkot district, it appears that upto the end of March 196.4. 116 statements were received in compliance with section 10, notices were issued under section 20 in 251 cases, but no orders have been passed under section 21. It further appears that about 839 acres have been declared surplus in 3 districts viz. Kutch, Amreli and Jamnagar.

31. There is thus little information about the implementation of this Act and practically no attention appears to have been given to the implementation of this Act which came into force about 2- 1/2 years ago.

Consolidation of Holdings

32. During the Third Five Year Plan, provision was made for consolidation of 26.70 lakh acres with an estimated outlay of Rs. 63.20 lakhs. The provision has since been reduced to Rs. 53.20 lakhs and the target to 12 lakh acres. It appears that by about the end of the third year, i.e. by about the end~ of 1963-64, consolidation schemes had been enforced in over 3.55 lakh acres while schemes had been confirmed but not yet enforced in respect of 4.58 lakh acres.

33. After the publication of the schemes under section 19 of the Consolidation of Holdings Act, the case is referred to the Settlement Commissioner, who confirms the scheme if there are no objections. But if there are objections, the Settlement Commissioner hears them and forwards his report with such amendments as lie considers desirable to Government. The Settlement Commissioner is assisted by two Personal Assistants of the rank of Deputy Collectors. The process of hearing and confirming schemes appears to be somewhat slow as it is estimated that in cases in which there are objections, it takes at least two years to confirm the scheme.

The progress of consolidation of holdings is very slow and it is necessary to' take steps to expedite it and also to expedite the process of hearing objections and confirming schemes. Appointment of additional staff would be necessary.

34. In Kutch and Saurashtra areas, the work of consolidation is not being undertaken. It was started in Rajkot district but was postponed. In Amreli district, work was going on, but when the people came to know that it had been stopped in Rajkot district, they made representations and consolidation was stopped in Amreli also.

35. The Consolidation of Holdings and Prevention of Fragmentation Act contains pro- visions

regarding the prevention of fragmentation also. Standard areas under the Act have been determined (land less than a standard area in extent is regarded as a fragment) and entered in the record of rights. The standard area is 20 gunthas in respect of paddy lands, 2 acres in respect of dry crops and varies from 20 gunthas to one acre in respect of garden lands. According to the law. no land shall be transferred or partitioned so ad to create a fragment. If such a transfer is made, it would be regarded as a breach of the provision rendering owner of the land liable to a fine not exceeding Rs. 250/- and rendering the person unauthorisedly in possession of such land liable to eviction. A fragment which already exists can be transferred only to a contiguous owner or leased to a person cultivating contiguous land. Detailed information about the implementation of the law is not available" apart from the statement that if a transfer or lease contrary to the provisions of the law comes to notice, the transaction would be regarded as illegal rendering the party liable to penal action.

Survey and Settlement

36. The total area of Gujarat State is 4,54,75,712 acres of which the area cadastrally surveyed is 3,70,48,224 acres. The area which had not been surveyed was 26,67,448 acres, besides 9,000 sq. miles of Rann of Kutch. Schemes for survey and classification of soil with a total estimated outlay of Rs. 56.76 lakhs were included in the Third Five Year Plan. These were expected to be completed by the end of the third plan except for Kutch which is likely to be completed during the fourth plan period. During these operations, cadastral survey and classification of soil are being carried out. There is no separate provision for preparation of record of rights immediately on completion of the survey and classification of land and the work is to be done by the Collectors through their normal staff.

37. In Saurashtra area, survey was taken up in 1951 and has been completed with the exception of one village. In Kutch, out of 989 villages, survey of 450 villages still remains, others have been surveyed from 1951 onwards. In the merged areas comprising about 3,300 villages, survey was started in 1955 and completed recently except in 74 villages in Baroda district. Survey in Dang district was started in December 1960 and is likely to be completed by the end of the next year.

38. The districts included in Bombay region have been cadastrally surveyed in the past. However, the dates of the last survey or resurvey fall as far back as 1899 in some cases and 1907 in other cases. A proposal has been made by the Working Group set up by the State for resurvey of the entire Bombay region.

39. There is a highly developed system for preparation of land records and for their maintenance in this State in the former Bombay and Kutch regions, record of owners as well as tenants are being maintained. In the Saurashtra area, lease of land has been generally prohibited and records of tenants were registered under the Saurashtra Prohibition of Leases Act. 1953. In Kutch and the merged areas, the record of rights was found to be unsatisfactory and revision was undertaken under the orders passed by the Chief Minister in November 1963. 44.630 entries were to be checked out of which 15,953 entries have been certified and the balance of 28,677 entries are still to be certified.

May, 1964.

6. *REPORT OF SHRI AMEER RAZA, JOINT SECRETARY,PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN KERALA*

Abolition of Intermediaries

There arc a number of intermediary tenures in Kerala viz.,

i). Edavagai estates with a total area of about 1.30 lakh acres;

ii). Pattazhi Devaswom lands comprising an area of about 9,300 acres;

iii). Jenmies in Travancore area covering about 1.56 lakh acres;

iv). Jenmies in Cochin. (The area owned by jenmies is not available. However, the

v). area of Cochin itself is about 10 lakh acres), (v) Sreepadam lands belonging to the Palace covering an area of about 14,600 acres;

vi). Sripandaravagai lands belonging to the Padmanabhaswamy temple covering an area of about 12,629 acres;

vii). Viruthi and service inam lands. The area held under these tenures is not available;

viii). Oodupally lands comprised in 15 villages and cover an area of about 2,869 acres. (These lands were owned by the Maharaja of Cochin but were situated in Travancore and Malabar area). In these areas the tenants have yet to be given proprietary rights;

ix). Thirupuvaram lands. These are ryotwari areas where the patta holder pays land tax to the government and thiruppu to the Thiruppu holder. This area comprises 26,813 acres.

2. Legislation has been enacted so far only for the abolition of Edavagai estates, Pattazhi Devaswom and Jenmies in Travancore area. Necessary action in respect of other intermediary tenures needs to be expedited.

3. The law relating to the abolition of Edavagai estates which was enacted in 1956 has been fully implemented. Consequently 51,376 landholders and tenants holding 1,23,595 acres have been made owners. Compensation payable to the estates was specified in the Act and has been paid; where annual payments were required they are being made.

4. Progress in the implementation of the remaining two acts, viz., Pattazhi Devaswom Lands (Vesting and Enfranchisement) Act, 1961 and Jenmikaram Payment (Abolition) Act, 1960 is slow:

5. The law for the abolition of Pattazhi Devaswom tenures came into force from 6th July, 1961. The compensation payable to the temple is specified in the law itself (Rs. 4.75 lakhs payable in cash with interest at 4 per cent). Tenants holding the land become proprietors and are required to pay compensation to the Government amounting to 9 times the rent on lands adapted for cultivation of paddy or 5 times the rent on other lands. In addition they are liable to pay the basic tax and the panchayat cess from April L 1963. It is estimated that the number of tenants who would come into direct contact with the State is about 10.000 of whom about 8,601 have applied for determination of the compensation to be paid by them. But compensation has been determined in 383 cases only. Out of these 383 cases, only four persons have so far paid the compensation and other dues. The progress of determination of compensation payable by tenants is slow and needs to be expedited.

6. The Jenmikaram Payment (Abolition) Act, 1960 was enforced on 23rd February, 1.961. It abolishes the rights of jenmies on payment of compensation by the Government to jenmies at rates varying from 4 to 12 times the annual Jenmikaram *minus* collection charges at 2 per cent and

religious or charitable institutions of a public nature are to be paid compensation annually, in perpetuity, equal to the annual jenmilcaram due *minus* collection charges. The tenants (Kudiyans) become full owners and have to pay an amount equal to 8-1/3 times of the amount of annual jenmikaram payable in 16 equal half-yearly instalments with interest at 5 per cent. (If he pays the entire amount in lumpsum, he is entitled to a rebate of 5 per cent). The amount payable by tenants (Kudiyans) is estimated at about Rs.191 lakhs. The number of jenmies is about 3,950 out of which 847 are religious and charitable institutions. The total amount of jenmikaram was about Rs.22.87 lakhs payable by about 2.98 lakh kudiyans. The compensation payable to jenmies is estimated at about Rs.155 lakhs; the compensation payable annually to religious and charitable institutions is estimated at Rs.4.6 lakhs. However, compensation claims have been finalised only in 13 cases. The final compensation has not been paid in any case, only interim compensation amounting to Rs.13.29 lakhs has been paid so far. Religious and 'Charitable institutions were paid annuities amounting to about Rs.11.87 lakhs.

7. This Act was struck down by a ruling of the High Court in June, 1963 and was revalidated by the Constitutional Amendment Act of June, 1964. Even allowing for this break of about a year, the fact remains that the implementation of this Act has been slow and needs to be expedited.

8. Kandukrishy Lands belonged to the Maharaja of Travancore and comprised an area of about 19,048 acres. According to the Kandukrishy Proclamation 1124 (1949 AD), the Maharaja surrendered all the Kandukrishy lands in favour of the government. In 1958, Kandukrishy Assignment Rules were framed according to which the lands are to be assigned to the holders (pattadars) on payment of 8 1/3 times the lease money (patlom) in rural areas and 25 times in Municipal or Corporation areas. The compensation is payable in lumpsum or 9 equal instalments.

9. Out of a total area of about 19,048 acres, about 18,393 acres have been assigned. The balance remaining is about 6p5 acres. The last date for filing application^ had been extended upto 31st December, 1965 and Government authorised the Tehsildars to serve individual notices on the holders of land who have not applied for registration so far. It is trusted that the remaining work will be completed quickly.

Tenancy Reform

10. From the point of view of historical development of the land system, Kerala comprises the following areas: —

(a) Travancore-Cochin areas—In Travancore area evictions had been stayed under the Holdings (Stay of Execution Proceedings) Act, 1950. In Cochin area cultivating tenants had been given fixity of tenure under the Cochin Verumpattomdar's Act and they were not even liable to eviction on the ground that the landlord required the land for personal cultivation.

(b) The Malabar area which was governed by the Malabar Tenancy Act, 1926; and

(c) Kasargod taluk of Cannanore district (excluding 33 villages) which was governed by the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 and the Madras Cultivating Tenants Protection Act, 1955.

11. A comprehensive legislation, viz. the Kerala Agrarian Relations Act was enacted in 1961. It was, however, struck down by the Supreme Court in relation to the Kasargod area in December, 1961. The Act was also struck down by the Kerala High Court in relation to the ryotwari areas of Travancore and Malabar in 1963. An interim legislation was enacted for the protection of tenants. Subsequently, the Kerala Agrarian Relations Act was repealed and replaced by Kerala Land Reforms Act. 1963. This Act contains comprehensive provisions both for tenancy reform and ceiling on holdings as briefly described in the following paragraphs and had the effect of unifying

the various land systems prevailing in the State.

12. *Security of Tenure*—The Act provides for fixity of tenure for all tenants subject to a limited right of resumption for personal cultivation or for extension of places of public worship or the construction of residential buildings. The landlords right of resumption for personal cultivation is subject to the following conditions: —

(a) A small holder, i.e., a landlord who does not have interest in land exceeding 8 standard acres (or 24 acres in extent) is entitled to resume half the area leased to a tenant. The maximum extent of land which a small holder can so resume including lands already in his possession is not to exceed 4 standard acres or 4 ordinary acres whichever is greater.

(b) A medium or large landholder can resume land for personal cultivation from a tenant only if the tenant holds more than the ceiling area.

(c) No resumption is permitted from a tenant who has already acquired fixity of tenure under previous laws; however, if such a tenant wishes to purchase ownership, the landlord will have the right to resume a limited area for cultivation.

(d) Application for resumption was to be made within one year of the commencement of the Act. (i.e., before 1st April, 1965).

13. Where a landlord has resumed land, the tenant will be entitled to restoration if the landlord fails to cultivate the land within three years of its resumption.

14. There is a provision for regulation of surrenders. A surrender by a tenant will not be valid unless it is made in writing and is admitted before the Land Tribunal and registered in the office of the Land Tribunal. The extent of land which can be surrendered to a landlord is restricted to the area which he could resume under the law.

15. *Ownership for tenants*—Provision has been made giving the tenants an optional right to purchase ownership on payment of purchase price equal to sixteen times the fair rent plus he value of structures, wells and embankments of a permanent nature belonging to the owner and half the value of timber belonging to the owner.

16. There is also a provision for compulsory transfer of ownership to tenants; the State Government has the power, by notification, to confer ownership upon tenants in respect of the non-resumable areas. The tenants will then become liable to pay the purchase price. A tenant who already enjoys fixity of tenure and holds the land from a small holder can exercise the right of purchase only if he agrees that the small holder may resume half the area held by him, subject to the condition that the total area in the possession of the small holder shall not be raised above 4 standard acres or 4 ordinary acres, whichever is greater. For acquiring ownership of the remaining portion, the tenant has to pay the purchase price.

17. *Regulation of Rent*—Provision has been made for fixation of fair rent. The rates of rent specified under the Act (in Schedule III) for some categories of land are as below: —

1. *Nilams*	
(a) Land converted into Nilam (paddy land) by tenant's labour	1/8th of the gross produce
(b) Other Nilams	1/4 of the gross produce
2. *Garden lands*	
(a) Coconut trees planted by tenants	l/10th of the gross produce
(b) In other owes .	1/3rd of the gross produce

3. *Dry lands*

(a) Cultivated with groundnut or other crops	l/8th of the gross produce
(b) In other areas	Rs. 4.00 per acre.

For the fixation of fair rent, the cultivating tenant or the landlord has to apply to the Land Tribunal.

18. Provisions have been made for the publication of data relating to the gross produce of different crops for different classes of land for different areas and also for the publication of prices of important crops for the guidance of Land Tribunals in determining fair rent.

19. *Kudikidappukaran*—Kudikidappukaran is a person who has no land of his own to erect a homestead and who has been permitted by his landlord to occupy a portion of his land for the purpose of erecting a homestead or to occupy a hut belonging to him. The Act provides for security of tenure for such persons. The owner of the land may, however, shut his Kudikidappukaran to an alternate site (not less than 3 and not more than 10 cents in area) if the land is required for his own use etc. There is a provision for maintaining a register of kudikidappukars in each village.

20. A large number of applications for registration of kudikidappukars have been received and it would be desirable to expedite registration by appointment of special staff.

21. The effectiveness of the land reform laws varies sharply from place to place. In areas where the tenants are powerful and have the support of public workers the provisions for their protection are effectively enforced; in fact, there are areas where it is the landlords who find it difficult to enforce their rights. However, in the villages visited it appeared that there were several cases of crop-sharing at the rate of half the gross produce or I/3rd of the gross produce. The provisions of the law regarding fair rents were not in some areas known to the village people; in fact, even the lower revenue officials were in some cases quite unaware of them.

22. For the effective implementation of the land reforms legislation in the State, 28 Land Tribunals have been constituted; 15 from 1st April, 1964 and the rest from 1st October, 1964. The Land Tribunal consists of a single member, who is a judicial officer of the rank of a District Munsiff, assisted by a small office. For guidance and supervision of the Land Tribunals, a Land Board consisting of a single member (First Member, Board of Revenue) has been set up at the headquarters assisted by a Secretary and other staff.

23. The following statement shows the disposal of cases by the Land Tribunals.

	Nature of cases	No. of cases	Disposed of till 30-4-65	Balance
1.	Fair rent cases which had been filed under Agrarian Relations Act and are to be disposed of according to the provisions of the Land Reforms Act.	54,446	27,403	27,043
2.	Suits for fixation of fair rent under the Malabar Tenancy Act or under the Madras Cultivating Tenants (Payment of Fair Kent) Act, 1956 which are to be disposed of in accordance with the provisions of these Acts.	2,596	1,684	912
3.		15,941	2,272	13,669
		72,983	31,359	41,624

24. It appears that the Land Tribunals have worked well and the supervision exercised over them by the Land Board has been generally effective. The average number of cases disposed of comes to about 99 per Tribunal per month. But the sanctioned strength of Land Tribunals is small. At the present rate of disposal, they will take about thirteen and half months to complete the cases which have already been filed. Besides some allowance has to be made for the fact that the cases which still remain for disposal would be somewhat more complicated or more keenly contested than many of the cases which have already been decided. Further, we must take into account the cases that may be filed after 30th April, 1965. There is thus a pressing need for strengthening the Land Tribunals whose number needs to be doubled if the cases are to be disposed of within a reasonable time, it has to be kept in mind that a large number of cases relate to fixation of fair rents and until the fair rents are determined, the tenants will have to go on paying the contract rent which was paid immediately before the commencement of the Act. It is true that the amount thus paid will subsequently be adjusted. But the difficulty about the immediate burden will remain until the cases are disposed of. Further, some of the most important provisions of the Act have yet to be implemented namely provisions for transfer of ownership upon all tenants (as opposed to the provisions for an optional right of purchase which is already in force) and for ceiling on holdings. It would hardly be possible to enforce these provisions until the bulk of the cases which have already been tiled have been disposed of. As the disposal is at present somewhat slow, there is an urgent need for strengthening the Land Tribunals. Further the provisions which have not yet been brought into force should be implemented, as quickly as possible.

25. It has to be noted that the number of cases instituted so far under the Land Reforms Act has not been large as compared to the number of cases instituted under the Agrarian Relations Act. Apart from any political reasons, this may be partly due to the fact that a large number of cases had already been tiled and did not need to be repeated and that tenants were unwilling to come forward to apply under the Land Reforms Act until tae position with regard to their rights had been settled. Most of the applications by landowners for resumption of land were received towards the end of the period of limitation. Up to 30th September, 1964, only 142 applications had been tiled, while up to 30th March, 1965, the number of applications for resumption amounted to 7,338. Out of these only a small number, i.e., 82 have been disposed of (14 allowed and 68 rejected) leaving a balance of 7,256.

26. The number of applications for fixation of fair rent tiled under the Kerala Agrarian Relations Act was over 54,000 while the cases filed under the Kerala Land Reforms Act amount to 5,795 of which 1,145 have been disposed of (as many as 494 were rejected). The balance of applications for fixation of fair rent which are still to be decided under the Land Reforms Act is 4,650. The number of undisposed of applications for fixation of fair rent under the Kerala Agrarian Relations Act and the Malabar Tenancy Act comes to 27,403 and 912 respectively. Thus altogether as many as 32,605 applications for fixation of fair rent are still to be decided.

27. The provisions for regulation of surrenders do not appear to have been much used. Upto 30th March, 1965 only 17 applications were filed, of which 10 have been disposed of. The optional right to purchase ownership also does not appear to have been exercised on any considerable scale. About 588 applications were filed of which 45 have been disposed of (15 allowed and 30 rejected), leaving a balance of 543.

Ceiling on land holdings

28. The Kerala Land Reforms Act, 1963 provides for ceiling both on existing holdings and on future acquisition. The level of ceiling which applies to a family of five members (husband, wife and their unmarried children) is 12 standard acres. A standard acre varies with the class of land in different areas between ½ and 4 acres). Allowance has been made for larger families exceeding five members at the rate of one standard acre for each additional member subject to an upper limit

of 20 standard acres. The ceiling limit in terms of ordinary acres is, however, not to be less than 15 acres or more than 36 acres.

29. All voluntary transfers made after 15th September, 1963 otherwise than

(1) by way of partition;

(2) on account of natural love and affection;

(3) in favour of a tenant holding from before 27th July, 1960; and

(4) in favour of a religious, charitable or educational institution

are to be treated as null and void. Such transfers made after 18th December, 1957 but before 15th September, 1963 are to be disregarded in computing the surplus land. The surplus land in such cases shall be taken from the transferer only.

30. *Exemptions*—The following lands have been exempted from the ceiling: —

(i) lands owned by the State or Central Government or a local authority;

(ii) lands under the management of court of wards;

(iii) lands comprised in mills, factories or workshops;

(iv) private forests;

(v) plantations (i.e., tea, coffee, cocoa, rubber, cardamom or cinnamon);

(vi) cashew estates existing at the commencement of the Act with an area of 10 acres or more in one block;

(vii) pure pepper gardens and pure arecanut gardens of more than 5 acres at the commencement of the Act;

(viii) lands mortgaged to the Government or a cooperative society or specified bodies;

(ix) lands belonging to or held by industrial or Commercial undertaking;

(x) Kayal padasekharams of Kuttanad area;

(xi) house sites;

(xii) culturable waste lands;

(xiii) sites of temples, churches, mosques etc.;

(xiv) sites of buildings including ware houses;

(xv) commercial sites;

(xvi) lands occupied by educational institutions;

(xvii) lands owned or held by a University or a religious charitable or educational institution;

(xviii) lands vested in Bhoodan Yagna Committee;

(xix) lands granted to defence personnel for gallantry.

The compensation payable for surplus land shall be 55 per cent of the market value of the tend, and improvements, if any, payable either in cash or in bonds redeemable in 16 years, with interest at 4-1/2 per cent

31. The Kerala Land Reforms Act, 1963 was brought into force with effect from 1st April, 1964. However, the provision with regard to ceiling has not yet been enforced. It is necessary to

implement this provision as early as possible.

32. At the meeting of the Central Committee for Land Reforms held on December 23, 1963, it was suggested that transfers made after 27th July, 1960 but before 15th September, 1963 would be reviewed by the State Government and if it was found that many of them were made by the parties with the object of evading ceiling provision, necessary provision would be made by an amending legislation. This review should be done as quickly as possible.

Publicity

33. Land reforms in Kerala has attracted much public attention and village people are on the whole familiar with the provisions of the Act. But there are some areas where the people of the villages and even the lower revenue officials are not well informed about the benefits conferred by the law. It is, therefore, necessary to consider what steps can be taken to give due publicity in areas where there is comparatively less political awakening and the people are not quite familiar with the benefits of the law. One of the methods by which publicity can be given is the appointment of specials officers whose duty it would be to meet the people in the villages and explain the main provisions of the Act. The work done by such special officers could be judged by the number of applications made under the various provisions of the Act. A fear was, however, expressed that if such special officers are appointed it may lead to unpleasant controversies in the villages regarding the comparative merits of the Kerala Land Reforms Act and the Kerala Agrarian Relations Act.

34. Another method would be the wide distribution of material explaining in easy language the main provisions of the Act. A hand-book on the Kerala Land Reforms Act, 1963 was published by the State Government and distributed among the public. The book was published both in English as well as in the local language, Malayalam. In order to bring the material within the comprehension of the village people and the lower staff, it is suggested that small pamphlets may be printed in the local language with appropriate illustrations describing briefly and in a very simple manner, the principal provisions of the Act. Such material could be circulated in large numbers to the people living in the rural areas. Further, the lower revenue officials could be directed to make a careful study of the law and explain it to the people. The extent to which this has been done could be looked into by the higher revenue staff during their visits to villages.

Consolidation of holdings

35. A special officer appointed by the Kerala Government has reported that holdings in Kerala are generally not scattered. 35 per cent of the land holders holding 80 per cent of the total area of the State have holdings scattered in not more than three places.

36. The published report does not include data relating to fragmentation of holdings in different districts or local areas. It is possible that there may be areas where there is considerable fragmentation. It is suggested that figures relating to districts and local areas may be examined and if there are areas with considerable fragmentation, the feasibility of under-taking consolidation of holding there may be considered.

Revenue Agency, Settlement and Records

37. The State consists of 9 districts, 55 talukas and 1,637 visages. For the administrative purposes the villages have been grouped into 1,249 territorial units, each in charge of a village officer assisted by a village assistant. The supervisory staff consists of Revenue Inspectors (154) in charge of Firkas and Tehsildars in charge of Taluks. There are 16 revenue divisions each in charge of a Revenue Divisional Officer.

38. In the visit to the villages, it was found that some of the village officers and their supervisory staff were not generally well conversant with the maintenance of village records and accounts. It is desirable that these officers are given in service training for a short period to enable them to discharge their functions more efficiently.

39. There is no uniformity in the registers and accounts maintained at present by the village officers in the different areas of the State. With a view to introduce uniformity over the entire State, a draft manual of village accounts has been prepared and is under the consideration of the State Government. It would be desirable to finalise the manual as early as possible.

40. At present the land records do not show the names of tenants or sub-tenants and the rents payable by them. No instructions appear to have been issued by the State Government for this purpose. As a record of tenancy is essential for the effective enforcement of the Act. it is suggested that it may be prepared by undertaking record operations through- out the State.

41. Under the draft manual of village accounts it is proposed to make entries about tenancy in Register A or the Land Register. In order to make these entries in the first instance a record operation throughout the State would be desirable. During these operations special officers of the level of Tehsildar could visit the villages, invite claims and objections, hear them on the spot and decide about the entries to be made with a right of appeal to special Revenue Divisional officers. The Village officers could subsequently maintain these records uptodate by making seasonal inspections, reporting any changes of possession that take place and obtaining the orders of the higher revenue agency in such cases. It would be desirable to ensure that such a record of tenancies is treated as a part of the record of rights so that it is admissible as evidence and any entries in the record are presumed to be correct unless the contrary is proved.

42. Section 22 of the Kerala Land Reforms Act, 1963 provides that a cultivating tenant may within one year of the commencement of the Act (i.e. by 31-3-65) apply for the preparation of a record of rights in respect of his holding. Where an application is admitted, the Land Tribunal directs the Revenue Divisional Officer concerned to prepare a record. This is an unusual provision. In other States, where record of tenancy is kept, the record is prepared in respect of all the tenants holding land in a particular area In any case practically no use has been made of this provision. Only 83 applications were tiled, of which 27 nave been accepted and 16 rejected leaving a balance of 40.

43. The law also empowers the Government to direct the Land Tribunals for the preparation of rights regarding holdings, but this power appears to have been used so far only in respect of certain tribal areas only, in Attapaddy and Wynad Blocks. The work does not appear to have made much headway though the staff has been in position for a year.

44. The original survey of the Travancore area was conducted between 1898 and 1908. The original survey in Travancore area was not conducted in a systematic manner and the methods adopted have become obsolete. A re-survey is usually undertaken at the end of every 30 years but this has not been done so far. No proper maintenance of land record was dons in the three areas i.e. Travancore-Cochin or Malabar with the result that the existing survey records wherever they are available are extremely defective.

45. A survey of unsurveyed areas of 2,034 sq. miles comprising mainly of private forests was undertaken by the State Government in the year 1962. So far about 668 sq. miles have been surveyed at a cost of Rs.44 lakhs.

46. The State Government have also proposed a scheme to re-survey the entire State at a cost of Rs.15.8 crores spread over a period of 7 years during the Fourth Plan. It would be desirable to

complete the survey operations as expeditiously as possible.

47. The land revenue demand of the State is of the order of Rs.1.60 crores and the actual collections made during the year 1961-62 and 1962-63 were about 80 per cent of the demand which is somewhat low. As the Land Tax Act was struck down by the High Court as unconstitutional in October 1962, no collection of Basic Tax was made during the years 1962-63 and 1963-64. The Act has since been re-validated by inclusion in the Ninth Schedule. The demand of land revenue for the year 1964-65 is Rs.4.44 crores (which includes arrears of 1962-63 and 1963-64) out of which Rs.2.57 crores have been collected (58 per cent of the demand). As coercive steps were not resorted to for the realisation of land revenue, more than 2/5th of the collection has been in arrears. The basic tax is levied at a Hat rate of Rs.2 per acre and there is no provision for remission of basic tax for failure of crops etc. In addition to the basic tax, the State Government collects tax on plantation under the Kerala Plantation Tax Act, 1960, which came into force on 1-4-1960. Up to the end of March, 1965, out of the demand of Rs.98 lakhs, the collection amounted to about Rs.83 lakhs.

48. In some of the villages visited by me the revenue accounts were not kept carefully and the officials did not seem to have any understanding of the accounts, they were supposed to maintain or to check up. Inservice training of the staff up to the level of revenue divisional officer may, therefore, be desirable.

July, 1965.

7. *REPORT OF SHR1 A. N. SETH, DIRECTOR, LAND REFORMS, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN MADHYA PRADESH*

From the aspect of tenurial reforms, Madhya Pradesh may be divided into five regions, namely, the former Madhya Pradesh area i.e., Mahakoshal; the former Madhya Bharat; the former Vindhya Pradesh, the former Bhopal. and Sironj region which was transferred from Rajasthan at the time of reorganisation of States. Each of these areas had its own laws. After the formation of the new State of Madhya Pradesh in 1956, a unified law for tenancy reforms was enacted in 1959, namely, the Madhya Pradesh Land Revenue Code, 1959, which applied to the entire State of Madhya Pradesh. It came into force on October 2, 1959. It is a comprehensive law providing for all aspects of tenancy reform including security of tenure, review of surrenders, restoration of ejected tenants, regulation of rents and ownership for tenants. These provisions follow generally the recommendations set out in the Plan.

Tenancy Reforms

Every tenant or sub-tenant, other than a tenant of a person who is suffering from a disability i.e., a widow or an unmarried woman, or a minor, or a person suffering from physical or mental disability, a person serving in the armed forces etc. holding land at the commencement of the Code, becomes an occupancy tenant. Any occupancy tenant is entitled to security of tenure subject to the landlord's right to resume a limited area for personal cultivation. The maximum area which the landlord may resume is 25 acres of unirrigated land or its equivalent including the lands already under his personal cultivation. Resumption is subject to the condition that the tenant shall be entitled to retain—

(a) a minimum area of 25 acres of unirrigated land if he has been in possession of land for more than five years prior to the commencement of the Code; and

(b) 10 acres in other cases.
(One acre of irrigated land is to be deemed to be equal to 2 acres of unirrigated land and vice versa.)

The landlord was required to apply for resumption within one year of the commencement of the Code. The land which a landlord may resume is to be selected by the sub-divisional officer.

If the owner fails to cultivate the resumed land during the year next following the date on which the order for resumption was passed, the tenant is entitled to restoration.

Any tenant who had been ejected or dispossessed of any land held by him during the three years preceding the commencement of the Code otherwise than by process or law, is entitled to restoration on application to be made within two years from the commencement of the Code. If he is ejected or dispossessed after the commencement of (he Code in contravention of the provisions, he is also entitled to restoration on application within two years from the date of such ejectment or dispossession. Besides, the Tehsildar has also the power to review suo moto the cases of wrongful ejectment or dispossession, whether by surrender or otherwise, of occupancy tenants in any area to be notified by the Stole Government in this behalf. No such areas have so far been notified.

A provision has also been made for the regulation of surrenders on the lines suggested in the Plan. A surrender has to be registered in order to be valid. Even in case of a valid surrender, the landowner is entitled to take possession of the land only to the extent of his right of resumption and the excess land is to vest with the Government on payment of compensation equal to 2 times the rent.

In respect of the non-resumable lands, the occupancy tenant becomes the landowner (bhumiswami) with effect from the commencement of the agricultural year next following the date on which the application for resumption is finally disposed of. Where no application is made for resumption within the stipulated period, the right of ownership accrues to the tenant with effect from the commencement of the agricultural year next following the commencement of the principal Act.

2. Madhya Pradesh presents a classic example of a good measure of tenancy reform becoming ineffective due to lack of adequate steps for implementation. In December, 1961, the State Government was requested to furnish information regarding the implementation of the provisions of the Code. Information has so far been made available for 8 districts only. According to it, the number of tenants and the area held by them at the commencement of the Code is as follows:

Division	District	Number of tenants at the commencement of the Code	Area held by the tenants	Number of tenants to whom right of occupancy accrued	Area in respect of which right, of occupancy accrued
1	2	3	4	5	6
			Acres		Acres
Raipur	Raipur				
	Bastar	1,18,863	9,17,495	1,23,284	9,79,071
	Durg				
Rewa	Satna	21,022	42,793	12,406	26,550
	Sidhi	20,634	25,073	20,265	24,632
	Shahdol	12,959	25,073	12,618	27,555
	Chhatarpur	4,602	13,721	34	150
	Tikamgarh	37,285	1,52,808	5,500	9,417

Under section 185, the right of occupancy accrued to all the tenants who held land at the commencement of the Act with the exception of tenants of disabled persons. Application for resumption from occupancy tenants could be made within one year. It is reported that only a few applications were made for resumption in the above districts.

Division	District	Number of applications filed for resumption
Raipur	Raipur	
	Bastar	1
	Durg	
Rewa	Satna	5
	Sidhi Shahdol	-- --
	Patna	*2*
	Chhatarpur	16
	Tikmagarh	--

The period of one year expired in October. 1960. The lands held by occupancy tenants thus became non-resumable and the tenants automatically acquired ownership (bhumiswami) rights in respect of non-resumable land under section 190 with effect from the commencement of the agricultural year next following the expiry of the aforesaid period i.e.. July 1, 1961. As the right of

ownership accrued automatically, it became necessary for the Government to initiate steps for effecting mutations in favour of the new owners under sections 108 and 110 of the Code. This was not done and it was left to the tenants to make applications for acquisition of ownership. As a result only a few tenants have acquired ownership in the above mentioned districts as per information received from the State Government: —

District	Number of occupancy tenants to whom rights of ownership accrued	Area in respect of which ownership right accrued (in acres)
1	2	3
Raipur Bastar Durg	428	2,617
Satna	2	9
Sidhi	1	2
Shahdol	237	592
Panna	208	578
Chhatarpur	416	26
Tikamgarh	282	663

3. The matter was discussed with the Revenue Secretary and the Director of Land Records and it was suggested that suo moto action should be taken immediately for the implementation of sections 185 and 190 in respect of tenants who stood recorded in the record of rights at the commencement of the Act and steps taken for carrying out mutations in accordance with the procedures laid down in sections 108 and 110.

As suggested in the Third Plan, it would be desirable to complete the programme for conferment of ownership within the third plan period.

4. During my visits to District Chhatarpur, I was given a statement indicating the number of occupancy tenants and sub-tenants and the lands held by them Statement 'A' According to this statement there were 22,300 occupancy tenants during 1961-62 and 20,279 occupancy tenants during 1962-63. They held 3.45.018 and 1,81,283 acres respectively. According to information earlier furnished by the State Government there were only 4,602 tenants who held 13,721 acres at the commencement of the Act and the right of occupancy accrued to 34 of them. The two sets of figures would seem to indicate that the size of the tenancy problem has considerably increased. This increase seems to be more statistical than real. It is possible that there may be discrepancies in other districts also. The matter needs to be looked into. It may be mentioned that the law prohibits leasing except by a disabled person and any person who is admitted as tenant in contravention of the provision immediately acquires the right of occupancy in the land under section 169 and of ownership under sub section (2-A) of section 190 with effect from the commencement of agricultural year next following the date on which the right of occupancy accrues. In implementing the provisions of sections 185 and 190. therefore, it would be desirable to promote steps for effecting necessary mutations both for tenants who held land at the commencement of the Act and those who were admitted subsequently in contravention of the provisions of the Act.

5. In district Sagar, a district in Mahakoshal area, I was also given a statement indicating the number of tenants and sub-tenants Statement 'A'. According to the statement there was not a single occupancy tenant in the district during 1961-62 or 1962-63. There were, however. 10.074 sub-tenants during 1961-62 and 2.284 sub-tenants during 1962-63 i.e., tenants of disabled persons

admitted under section 168T2) and (3), tenants of village servants under section 183(2) and tenants to whom lands had been restored under section 191. These are the classes of tenants to whom occupancy rights do not accrue under the Code. In the villages visited by me, it was mentioned that few tenants had acquired occupancy or bhumiswami '(ownership) rights under the Code. It would seem to indicate that as a rule no leases were made by persons other than disabled persons. On the contrary it was freey mentioned to me in the villages that lands were given on a batai system i.e.. share- cropping. Under section 168(1) any arrangement whereby a person cultivates any land of a bhumiswami with bullocks belonging to or procured by such person (lessee) and on condition of his given a specified share of produce of the land to the bhumiswami shall be deemed to be a lease. Thus, a bataidar would be a tenant if he cultivated lands with bullocks belonging to or procured by him. It was accepted that this condition was generally fulfilled by most bataidars. Such bataidars are, therefore, lessees and where they cultivate lands of persons other than disabled persons or village servants they should have a right of occupancy, and, consequently of ownership. In the Mahakoshal villages visited by me the bataidars were not generally recorded as lessees. As a first step it would be necessary to issue instructions to the staff for the recording of such lessees.

6. The matter was discussed with the Revenue Secretary and the Director, Land Records. The Director of Land Records said that in most districts, record operations were overdue and. particularly, in areas of former Madhya Bharat and Vindhya Pradesh, they did not reflect the actual position on the ground. He felt that it was necessary to take immediate steps for a complete rcsurvey (including record operations) in the former Madhya Bharat, Vindhya Pradesh and Bhopal areas and map correction and record operations in the Mahakoshal area. The cost of the scheme is estimated at Rs. 562 lakhs over a period of 7 years as follows:

	(in lakh Rs.)
1964-65	29.90
1965-66	47.57
1966-67	75.95
1967-68	75.18
1968-69	113.92
1969-70	112.78
1970-71	106.64
Total	561.94

The map correction and record operations throughout the State would cost about Rs. 3.7 crores and the resurvey in Madhya Bharat, Vindhya Pradesh and Bhopal areas Rs. 2 crores. The scheme was referred to the Government of India and the Working Group had agreed to a provision of Rs. 20 lakhs for 1964-65. The Revenue Secretary was not sure if necessary provision was being made in the Madhya Pradesh Budget for the year 1964-65.

7. The map correction and record operation are necessarily a long term project. For the implementation of the tenancy provisions, the need for the correction of entries in the khasra register relating to tenancies is urgent. The Uttar Pradesh Government had organised a drive for the correction of such entries as part of implementation of the Land Reform Act with considerable success resulting in quite a few million corrections of entries. Similar action in Madhya Pradesh seems desirable.

For correction of entries and for carrying out mutations referred to in Para 3. above, it may be necessary to appoint some special staff, particularly in districts where sizeable area is held under

tenancies for a period of a year or two. If the work is left to the normal staff, it is feared it may - not yield satisfactory results.

Ceiling on Land Holdings

8. Legislation for ceiling was enacted in 1960 -the Madhya Pradesh Ceiling on Agricultural Holdings Act. 1960. The Act was amended in 1961 to incorporate the suggestions of the Central Committee for Land Reform. The Act as amended provides as follows:

(i) The ceiling for a person is 25 standard acres. A 'standard acre' means one acre of perennially irrigated land or two acres of seasonally irrigated land or three acres of dry land.

(ii) In the case of a joint Hindu family, each member of such family who is entitled to a share in the joint family property is entitled to a separate ceiling area. In the case of families other than joint Hindu families and having one or more heirs (son. grandson, great grandson; widow of a son. grandson, or a great grandson; unmarried daughter, unmarried daughter of a son. unmarried sister), who do not hold any land in their own right and are dependent on the principal holder, a further allowance of five standard acres per each such heir shall be allowed subject to a maximum of 50 standard acres in the aggregate.

(iii) The ceiling is to come into force on the "appointed day" i.e., the date on which the period of two years from the commencement of the Act expires. During the period of two years, the landholder is permitted to transfer his land by way of sale to any person in the specified categories i.e.,

(a) joint farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land, or a combination of such persons;

(b) better farming society, the members of which are agricultural labourers, or landless persons whose main occupation is cultivation or manual labour on land or a combination of such persons;

(c) agricultural labourers;

(d) landless persons whose main occupation is cultivation or manual labour on land;

(e) displaced tenants subject to the provisions of section 202 of the Madhya Pradesh Land Revenue Code. 1959 (20 of 1959);

(f) a holder holding less than five standard acres on the date of such transfer.

(iv) A transferee in such cases can also apply to the competent authority for determining the fair price of land which is to be equal to the compensation payable for acquisition: of surplus hinds. The compensation varies between Rs. 20 per acre for the poorest class of land and Rs. 225 plus 20 times the amount by which the land revenue per acre exceeds six rupees per acre, for the highest class of land.

The price is payable in annual instalments not exceeding 8.

(v) On the expiry of two years, the landholder is required to submit a return to Government within a period of three months from the appointed day about the lands held by him in excess of the ceiling area. If a person fails to submit the return, the competent authority may obtain the necessary information otherwise. There is no penalty for non-submission of the return. The land vests in the State with effect from the commencement of the agricultural year next following the date on which it is declared surplus.

(vi) A transfer or partition, other than transfer made to persons in prescribed categories (referred to above) made after the date of the publication, of the Madhya Pradesh Ceiling

on Agricultural Holdings Bill by way of sale, gift, exchange or otherwise, shall be void if it is found that it was done in anticipation of or to defeat the provisions of the Act.

(vii) Exemptions have been provided on the lines recommended in the Plan.

9. The Ceiling Bill was published on September 15. 1959. The Act came into force on November 15. 1961. The period of two years expired on November 14. 1963. The Director of Land Records has been appointed as the authority for the implementation of the Act. He mentioned that no return had been submitted bv surplus holders under section 9 of the Act. He further mentioned that two-fold steps had been initiated by the Government for the implementation of the Act, namely,

(a) officers registering transfers which were permissible within the period of two years were asked to furnish particulars in writing to the Collector to such transfers:

(b) necessary procedures had been worked out and proformae prepared for the preparation of statements of surplus lands under section 10 of the Act.

Copies of the pro formae and procedures referred to in (b) above were not readily available in Bhopal. (The office of the Director is in Gwalior). One point, however, needs mention As the transfers, other than those permitted to persons in prescribed categories, made after the date of the introduction of the Bill in anticipation of or to defeat the provisions of the Act, are to be void, it would become necessary to prepare statements of lands held by surplus holders on the date of the introduction of the Bill so that the transfers made thereafter may be duly scrutinised and where necessary, disregarded in determining surplus lands. It was frequently mentioned during the visit that a spate of transfers took place on the eve of the expiry of the period of two years. As one landholder put it "necessary steps have been taken by their legal advisers to take care of the surplus lands". The surplus area that may be available under the scheme of the Act is not likely to be appreciable.

Consolidation of Holdings

10. Madhya Pradesh has had considerable experience of work relating to consolidation of holdings during the past 30 years. Before the Second Plan, about 15 lakh acres had been consolidated. The work was stepped up and at the end of the Second Plan, 29 lakh acres had been consolidated. The target for the Third Plan was 23 lakh acres. About 6.6 lakh acres were consolidated during the first two years of the Plan, i.e., 1961—63. The target for 1963-64 was 5 lakh acres/It is the same for 1964-65. The working group had recommended a higher target with an outlay of Rs. 20 lakhs but the State Government have proposed Rs. 10 lakhs. The work is in progress in 15 districts, namely, Raipur, Bilaspur. Raigarh. Durg, Jabalpur, Sagar, Damoh. Balaghat, Mandla, Seoni and Hoshangabad of Mahakoshal, Bhind, Morena and Gwalior of Madhya Bharat area, and Shahdol in Vindhya Pradesh area. The scheme is being introduced in another two districts, namely, Ujjain (Madhya Pradesh) and Rewa (Vindhya Pradesh area). The work is in hand in an area of about 30.000 acres in each of the Mahakoshal districts, 50,000 acres in each of the Madhya Bharat and Vindhya Pradesh districts. About 10.000 acre each are being taken up in the two new districts.

Previously there was a school in Raipur for training consolidation staff, which has now been closed down. The staff will now be trained in land records in the 10 patwari schools, and for training in consolidation proper they will be attached to the field staff.

The cost per acre is about Rs. 2.8 out of which Rs. 0.75 is recovered from the beneficiaries.

11. The programme of consolidation of holdings has a considerable bearing on the success of soil conservation projects which have been taken upon a large scale in Madhya Pradesh,

particularly in the river valley areas. In the absence of re-alignment of field boundaries along the contours, soil conservation bunds are apt to cut across fields and create new problems of management for the farmers. Consolidation of holdings along the contours is, therefore, highly desirable for facilitating soil conservation measures. It is important, therefore, that the two programmes of soil conservation and consolidation of holdings should be dovetailed. It should be useful if each soil conservation project includes a provision for necessary staff for consolidation of holdings also. This staff while working under the administrative control of project authorities, should receive technical guidance and supervision of the Director of Consolidation of Holdings.

12. Consolidation of holdings is also equally important in the irrigation project areas and as suggested in the case of soil conservation projects, it should be useful to include provision for consolidation of holdings in the irrigation project itself so that the two programmes are properly integrated.

13. It has been the experience both in the Punjab-and Uttar Pradesh that in areas where consolidation of holdings has been done, construction of irrigation wells is taken up on a large scale. Areas in which construction of wells is technically feasible should, therefore, receive high priority.

14. Section 206 of the Code provides for initiation of consolidation proceedings. A scheme for consolidation of holdings can be prepared for a village as a whole if 2/3rds of the bhumiswamis in a village apply for or agree to the consolidation of their holdings. In the absence of such agreement on the part of 2/3rd owners, consolidation can be taken up only in respect of holdings of persons who apply for it or agree to it. The work is thus, very largely optional. This affects the programme adversely in several ways both in quantity and quality, as lot of effort is wasted in persuading the recalcitrant minority, and frequently the end product is a. patchwork, necessitated by frequent compromises. In view of its important bearing on the production programmes of soil conservation and irrigation, it is time now that the scheme of the Act is revised on the lines of the provisions in the-Punjab and Uttar Pradesh Acts to enable the Government to take up this work as a planned project.

State management of irrigation tanks

15. A large number of irrigation tanks has vested in the Government in consequence of the zamindari abolition. It was mentioned during the visits to villages that some of these tanks were going out of use for want of adequate repairs. I could not study the nature of organisation which has been created for the maintenance of these tanks. In Madhya Pradesh tanks are an important source of irrigation and it is necessary that the problem should receive urgent attention.

April, 1964.

STATEMENT "A"

Statement showing the area held by Bhumiswamis, Government Lessees and occupancy tenants etc. and also the land revenue during year ending on the 30th *Sept.*

Total occupied area	Land held by Bhumiswamis			Land held by Govt. Lessees			Land held by Bhoodan holders			Service lands		
	Number of holdings	Area in acres	Land Revenue (in rupees)	Number of holdings	Area in acres	Land Revenue (in rupees)	Number of holdings	Area in acres	Land Revenue (in rupees)	Number of holdings	Area in acres	Land Revenue (in rupees)

1	2	3	4	5	6	7	8	9	10	11	12	13
1962-63												
1,354,507	166,782	1,345,071	21,15,051	7	435	91	307	1,214	1,039	1,345	7,787	-
1961-62												
1,351.847	133,864	1,342,826	18,12,698	6	432	86	227	784	788	1,350	7,783	-

Land held by occupancy tenants				Land held by sub-tenants under sections 108(2) & (3), 183(2) & 195(1) of the code				Land revenue actually collected		Current year	Service lands	
Number of holdings	Area in acres	Rent	Incidence per acre	Number of holdings	Area sub-let for cash in acres	Area sub-let for grain in acres	Total cash sub-rent in rupees	A/C appro. valuation of grain sub-rent	A/c current year total	Number of holdings	Area in acres	Land Revenue (in rupees)
14	15	16	17	18	19	20	21	22	23	24	25	26
1962-63												
--	--	--	--	2284	10735	28079	160702	67066	159892	290995	--	--
					38814		227868					
1961-62												
--	--	--	--	10074	9732	28806	131974	67861	1531446	278467	--	--
					38529		199835					

STATEMENT *"A."—conid.*

District Chhatarpur

	Total occupied area	Land held by Bhumiswamis			Land held by Govt. Lessees			Land held by Bhoodan holders		
		Number of holdings	Area in acres	Land Revenue in rupees	Number of holdings	Area in acres	Land Revenue (in rupees)	Number of holdings	Area in acres	Land Revenue (in rupees)
1	2	3	4	5	6	7	8	9	10	11
Chhatarpur	610965	59186	428534	607073	406	1005	1335	31	180	197
Lawoli	274034	41027	274084	649878	2	4	7	2	7	25
Biyawar	294091	53865	163421	301408	2446	8316	9979	--	--	--
1962-63	1179140	159078	866039	1558354	2854	9325	11321	33	187	222
1961-62	1103046	142993	748602	1491367	2986	9246	11505	31	180	197

	Service Land			Land held by occupancy tenants			Land held by sub-tenants under sections 163(2) &(3), 113(2) & 195(1) of the code				
	Number of holdings	Area in acres	Revenue assessed but realised	Number of holdings	Area in acres	Rent in rupees	Number of holdings	Area sublet for cash in acres	Area sublet for grain in acres	Total cash rent in rupees	Approximate valuation of total grain subrent
	12	13	14	15	16	17	18	19	20	21	22
Chhatarpur	--	--	--	20269	118246	189803	9570	16360	6053	8723	3050
Lawoli	--	--	--	10	37	53	--	--	--	--	--
Biyawar	--	--	--	--	--	--	687	7285	--	12175	--
1962-63	--	--	--	20279	181263	189861	10257	23645	6053	20898	3050
1961-62	--	--	--	22800	345018	259895	10725	26180	7515	23229	3750

8. *REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMIS- SION ON IMPLEMENTATION OF LAND REFORMS IN MADRAS*

Tenancy Reforms

Fair Rent

Fair rent in Madras is very high, being 40 per cent of the *normal gross produce* in the case of wet lands and 33-1/3 per cent in the case of dry lands. A person who wishes to avail of this provision, has to make an application for fixation of fair rent lo the Rent Court. The Court will then determine the normal gross produce i.e., the produce winch would be expected from the holding if the rain-fall and the season were of a normal character and, in cases where the rent is to be paid in cash, the value thereof on the basis of the average market price during the preceding 3 months at the headquarters of the taluk. 33-1/3 per cent to 40 per cent of the normal gross produce imposes a heavy liability particularly when there is a bad season. It is true that in a bad season it the crop is less than 75 per cent of the normal, the tenant may get a proportionate reduction in the rent. Bill this again involves a reference to Court and is not given suo motu on the basis of local inquiries as is the usual practice in the case of agricultural calamities when suspension or remission of land revenue is given on the basis of local enquiries by the revenue officers.

2. A tenant has thus to weigh the doubtful advantages of this provision, against the disadvantages of a somewhat slow and burdensome procedure and the risk of incurring the displeasure of the landlord. The rent fixed after this procedure is to remain in force only for 5 years. It is not surprising therefore that during 1962 only 4,078 applications were filed for fixation of fair rent and in 1963 (from 1st January to 30th September) only 422 applications were filed by cultivating tenants and 344 by landowners. (Figures showing applications filed and disposed of since the inception of the Act were not available). During the period from January to September 1963, 49 appeals were filed by landowners and 26 appeals by cultivating tenants to the Rent Tribunals. The disposal of these cases was somewhat slow, as is shown by the fact that out of 576 applications filed by the landowners (including 232 pending cases), 350 remained undisposed of. In the case of applications by cultivating tenants, out of 518 cases including 96 pending cases) 360 remained undisposed of. The position with regard to appeals with the Rent Tribunals is no better. Out of 72 appeals from landowners, (including 23 pending cases), 47 remained undisposed of and in the cases of appeals by cultivating tenants, out of a total number of 31 cases, 19 remained undisposed of.

3. No special staff was appointed for dealing with cases under the Fair Rent Act except in Thanjavur where two Special Tahsildars were appointed for dealing with cases under the Fair Rent Act as well as the Tanjore Pannaiyal Protection Act.

4. Not much use appears to have been made of the provision of fair rent in the case of calamities. 54 applications for remission of fair rent were pending at the beginning of the period from January 1st, 1963 to 30th September 1963 and 90 applications were filed during the period making a total of 144 applications of which as many as 85 remained undecided. Relief was given in a few cases involving a total area of less than 160 acres. Figures showing remission or suspension of land revenue during the same period were not readily available.

5. The law is somewhat limited in scope. It does not apply to: —

(i) Kanyakumari district where there is no law fixing fair rent;

(ii) the Gudalur taluk of the Nilgiri district, where, however, the Malabar Tenancy Act applies, and

(iii) areas transferred from Andhra Pradesh by the Pataskar award; for this area, however, a

bill has been passed and is awaiting President's assent. (It has since been assented to and enacted).

The Act does not apply where a cultivating tenant owns or holds as tenant a total area exceeding 10 acres of wet land. Where he holds land not exceeding 10 acres of wet land, he has to surrender a part of his land so that the land remaining with him docs not exceed 6-2/3 acres of wet land, before the fair rent provisions can become applicable. Further, the fair rent provisions do not apply to sugarcane, plantain or betal vines or a crop which does not give any yield for a continuous period of 2 years or more from the time of cultivation. For such crops fair rents have not been fixed and the contract rents generally continue to apply.

6. It appears that the provisions of this Act have not been effectively enforced. Mr. Ladejinsky has in his report of Thanjavur come to the finding that 60 to 65 per cent of the crop is paid to the landlord and that it is only in the case of lands leased by the religious institutions which are managed by Trust Board that the fair rent provisions are observed. In the 3 villages of Chingleput district which 1 visited, the prevailing share was about 50 per cent of the gross produce, but the tenant gets in addition the entire straw and also a small quantity of grain in the form of sweepings. In a few cases, contract rent is a fixed rent, which is higher even than this share.

7. No records are maintained in Madras regarding lands cultivated by tenants. Mr. Ladejinsky has estimated that in Thanjavur (which is said to be the district where the problem is most acute, Trichy being the next most difficult district) the area under tenancy is more than 50 per cent of the total cultivated area. The census of landholdings showed that in 1953-54, the area under tenancy in Madras as a whole was about 10 per cent of the owned area. Considering the lack of records and the slow progress of tenancy reforms, there is likely to be much concealed tenancy.

The Adviser, Planning Commission, had observed that the high share rents paid by tenants in Thanjavur were among the causes contributing to the low use of chemical fertilizers. In the interests of agricultural production, it is necessary that the maximum rents should be brought down as speedily as possible to I/ 4th or I/ 5th of the gross produce as recommended in the Plan.

8. The following points are for consideration: —

(i) Maximum rent may be fixed at 1/4th or 1/5th of the gross produce.

(ii) Rents may be fixed suo motu throughout the State (by undertaking rent operations through special staff appointed specially for the purpose); taking into account the class of soil and productivity in different areas. For this purpose, productivity should be estimated over a period of years, including good years as well as bad, and fair rent fixed as a share of the *average* gross produce and not the *normal* gross produce. It would be necessary to give wide publicity to the fair rents thus fixed so that the tenants may be in a position to take advantage of them.

(iii) where seasonal conditions are adverse, and the production in a particular area is below the average on that account, steps may be taken to determine suo motu a proportionate reduction in the fair rent. Wherever such remission is given on account of an agricultural calamity steps should also be taken to give wide publicity so that the tenants may take advantage of the remission.

(iv) Provision has been made in the Madras Cultivating Tenants Protection Act, 1955 enabling the tenant to deposit rent in Court. This may be supplemented by a further 'provision enabling tenants to make payments through money orders, for which a suitable form could be printed and made available at post offices.

(v) It is also necessary to make a provision obliging the landowners to give receipts for payment of rent. Suitable forms could be printed and made available to the landowners at

a small price through the revenue officers. In order to ensure that the landowners comply with this provision, it would be desirable to provide that in cases where the landowner files a suit for recovery of rent or eviction of cultivating tenants for failure to pay rent, he would be required to prove that he generally gives receipts to tenants by the production of the counterfoils of receipt forms.

(vi) Provisions regarding fair rents may be made applicable to the entire area of Madras.

(vii) Fair rent may also apply to sugarcane crops as in other States. Suitable provisions may also be made with regard to special crops such as plantains or betal vines etc.—

Security of Tenure

9. Madras Cultivating Tenants Protection Act, 1955 is an interim measure for staying the ejectments of cultivating tenants. The Act was intended originally to remain in force for a period of 3 years; this period has been extended from time to time and it will now, expire on 26lh September, 1965. The Act also provides for (a) restoration of evicted tenants, (b) resumption of land for personal cultivation by landlords, (c) execution of lease deeds by the landlord and the tenant and imposition of penalty in case either party refuses to sign or refuses to lodge the lease deal in the taluk office and (d) deposit of rent by tenants in court.

10. The provision for restoration of evicted tenants has so many restrictions that it could not be much used. The Act provides that a cultivating tenant who was in possession of any land on the 1st of December 1953 and who is not in possession at the commencement of the Act i.e., on 26th September 1955 is entitled to restoration of possession. This right is however limited by a number of restrictions: —

(i) The tenant will not be entitled to restoration if he possesses either as owner or as cultivating tenant or as both, land exceeding 6-2/3 acres of wet land or if he has been assessed to any sales tax, profession tax or income tax.

(ii) The tenant will not be entitled to restoration if the land is under the personal cultivation of the landlord himself or if the landlord bonafide admitted some other cultivating tenant to the possession of the land and the total area of land held by the landlord or such cultivating tenant, as the case may be, whether as owner or tenant does not exceed 6-2/3 wet acres and if the landlord is not assessed to any sales tax, profession tax or income tax.

(iii) The most important limitation however was, that such an application should be made within 30 days of the commencement of the Act. As no measures appear to have been taken for giving publicity to the Act and informing the tenants about the rights conferred upon them, it was hardly to be expected that any considerable number among them would have had the opportunity of filing applications for restoration within the extremely short time allowed. It appears that, from the commencement of the Act, upto July 1963, 1,265 applications were received for restoration under this provision of which 329 applications covering an area of 787 acres were granted.

11. The cultivating tenants are liable to ejectment on the grounds of personal cultivation by the landlord. Resumption of land by the landlord is permitted only if he owns land equivalent to 13-1/3 acres of wet land or less and is not assessed to any sales tax, profession tax or income tax.

12. The resumption is permitted in respect of half the area held by the tenant and is subject to limit of 5 acres of wet land including any other land already in the owner's possession. It appears that upto July 1963, 4,181 applications were filed for resumption under these provisions, out of which 1,024 applications were granted covering an area of 2,810 acres.

13. In case the landlord does not carry on personal cultivation on the resumed land, within a

year of such resumption or allows the lands to lie fallow for more than a year, the cultivating tenant is entitled .to restoration. Upto July 1963, 426 applications for restoration were filed by tenants of which 92 applications covering an area of 208 acres were allowed.

14. The cultivating tenant is also liable to ejectment on the ground of negligence or destructive use of land, use of land for a non-agricultural purpose or wilful denial of the landlord's title. He is also liable to ejectment if the rent is not paid within one month of the commencement of the Act or within one month of the date on which it falls due. it appears that upto the end of I960, 21,414, applications were filed out of which orders for eviction had been passed in 5,873 cases involving 3,499 tenants. In 1962, 11,671 applications for ejectment were filed out of which 5,199 were disposed of, 4,051 were accepted and eviction ordered and 2,421 were pending. The statement for the first three quarters of the year ending on 30th September, 1963 shows that 2,421 applications were pending at the beginning of the period. 4,197 applications were filed during the period making a total of 6,618 applications. In 1,269 cases eviction was ordered from 2,823 acres of land. 4,138 cases were rejected or otherwise disposed of leaving a balance of 1,417 applications.

15. A tenant evicted for any other reason is entitled to apply for restoration within 2 months from the date of such eviction or within 2 months of the commencement of the Madras Cultivating Tenants Protection (Amendment; Act, 1956. In 1962, 939 applications for restoration were filed of which 634 were rejected. Restoration was ordered in 184 cases and 121 cases were pending at the end of the year. The number of cases pending on 1-1-1963, was 121 and 162 cases were filed during the period from 1-1-1963 to 30-9-1963. Restoration was ordered in 3 cases and 96 cases were rejected leaving a balance of 184 cases.

16. The Act provides for execution of lease deeds and their deposit in the office of the revenue divisional officer. In the year 1962, 5,886 lease deeds were deposited. In 1963 upto 30-9-1963, 3,214 lease deeds were deposited. Considering that the leases are generally for a one year period, it would appear that written leases have been given only in small number of cases and the bulk of the tenancy is oral.

17. Considering the likely extent of tenancy in the State, it appears that this law has been utilised in only a limited number of cases. I had the opportunity of visiting 3 villages in Chingleput district where the problem of tenancy is said to be light. Even in this area, there is indication of eviction of tenants otherwise than by law. As in other parts of the country, so in Madras, the landlords are generally so powerful that they have often only to ask the tenant to give up possession and the tenant is in no position to resist such a demand In this way, provisions for security of tenure can be easily evaded. The Plan, therefore, recommends that in the case of surrenders, the fact of surrender should be verified by a revenue authority and the landlord should be allowed to lake possession only of the land which ha is entitled to resume. No such provision exists in Madras. The law relating to protection of tenants is further made ineffective by the fact that there are no entries regarding tenancy in the land records. In 1956, orders were issued that entry should be made in the 'adangal' regarding lands held on lease. These orders were, however, carried out only in cases where lease deeds signed by both the parties, i.e. the landlord and the tenant were in existence. The practice of executing lease deeds is, however, not widespread and the cases where this is done are very few. In the Chingleput villages which I visited the existence of the law relating to security of tenure was not known to tenants or landlords; in fact a Karnam who was questioned, did not himself know about the existence of any law for staying ejectment of tenants. In this area no application had been filed by either the tenants or the landlords under this Act.

18. It appears that orders are now under issue that entries in the 'adangal' should be made in respect of leases also, i.e., after a period of more than eight years since the enactment of the law giving interim protection to tenants. No special staff for the purpose has been asked for or

sanctioned. Even in States where there is a history of progressive legislation for the protection of tenants, attempts at registering tenants provoke resistance and the tenants are often too weak to take the risk of displeasing the landlords by an attempt to get their names recorded. In the circumstances the intended measures for recording the names of tenants in the 'adangal' is not likely to be very effective. The difficulties can, to a certain extent, be mitigated if the following steps are taken: —

(i) The entry of tenants' rights in the land records should be coordinated with conferment of permanent rights upon them so that the tenants may feel that there is a distinct advantage in getting their names recorded and at least some of them may be in a position to stand up for their rights. At the moment, the law only stays their ejectment up to September, 1965,'i.e., for about one agricultural year more and the entry of their rights in such a situation would offer little incentive to the tenants.

(ii) The registration of the tenant's rights in the records should be carried out through revenue offices at a sufficiently high level, say, tahsildars or deputy tahsildars who may be appointed specifically for the purpose. These officers should explain the provisions of the law conferring permanent rights upon the tenants to the people in the village taking care to ensure that the tenants are also present in considerable numbers. (Ordinarily, in such gatherings, the numbers of tenants is very small partly because the tenants have to work in the fields, while the landlords very often do not, and partly because, the tenants constitute a comparatively backward section of the community and do not appear in such gatherings which are dominated by the more influential section of the community, i.e., the landlords). The tahsildars or the deputy tahsiladrs could after explaining the provisions of the law invite oral applications from persons claiming tenancy and where the landlords admit tenancy, the cases should be decided on the spot. Where the landlord does not admit the creation of a tenancy, oral evidence would have to be taken. It has been suggested in Mr. Ladejinsky's report that the work should be done with the assistance of a small group of representatives of tenants and representatives of owners. Revenue Secretary, Madras with whom I discussed this suggestion felt that it would be difficult to accept this as it is likely to create tensions in the villages. In the circumstances, the only possible course seems to be to carry out the work in the presence of as large number of the village people as possible including particularly a considerable number of tenants and agricultural workers.

(iii) The Jaw relating to land records will need amendment to provide specifically for the record of tenancies and to provide that the entries in the record would constitute presumptive evidence.

(iv) Since the interim law has been in force for over 8 years, and the landlords have had the opportunity to take lands from the tenants, it does not seem necessary to continue the right of resumption which creates uncertainty and makes the conferment of security of tenure upon tenants difficult. It is, therefore, for consideration that no further right of resumption need be allowed and tenants should be given permanent rights in the lands which they *now* hold and brought into direct relationship with the State. It would also be desirable to take steps to confer ownership upon them on payment of compensation.

(v) It is also necessary to regulate surrenders which can be used as a, device for defeating the provisions for security. It would be necessary to provide that all cases of so called surrenders should be verified before the tahsildar and the surrendered lands should not be allowed to revert to the landholder, instead, the revenue authorities may introduce another tenant upon the land. If this measure is adopted, the landlords would realise that they would get no advantage by ousting the tenants forcibly and would thus have no motive for exercising their influence in the ejectment of tenants.

(vi) Under the Madras Cultivating Tenants Protection Act, protection is given only to cultivating tenants. A cultivating tenant is a person who contributes his own labour or the labour of a member of his family in the cultivation of the land. It seems only fair that the definition of a cultivating landowner, i.e., the definition of personal cultivation by an owner corresponds to this provision. Revenue Secretary, Madras with whom I discussed this question felt that it would not be feasible to include contribution of labour in the definition of personal cultivation by the owner. He further mentioned that there are cases where cultivation is supervised through a manager, agent or other paid employees of the owner.

It is suggested for consideration that the definition of "personal cultivation" suggested in the Plan may be adopted and a tenant may be defined to correspond with it. It may, perhaps, be provided that supervision may be exercised by the landlord or a member of his family or by a paid employee. As test of supervision, residence in the village or a neighbouring village within an area to be specified, may apply to me landlord or a member of his family or to a paid employee.

Ceiling on Holdings

19. The Madras Land Reforms (Fixation of Ceiling on Land) Act, 1961 provides for a ceiling on existing holdings as well as on future acquisition in the State. The ceiling limit is 30 standard acres (24 to 120 ordinary acres). A standard acre means one acre of wet land assessed to land revenue at a rate varying from Rs. 10/- to Rs. 15/- per acre. The ceiling will apply to the aggregate area of the family; the expression family being defined to mean the person, the husband or wife, his or her minor sons and unmarried daughters and minor grandsons and unmarried grand daughters in the same male line whose father and mother are dead. In the case of person governed by Hindu law, minor sons and grandsons shall not include sons and grandsons between whom and other members of the family a partition by means of a registered instrument has taken place before the commencement of the Act, i.e., April 6, 1960.

20. For each member in excess of 5 in the family an additional area of 5 standard acres will be allowed subject to an outside limit of 60 standard acres for the family. In addition to the ceiling area a person or a family is entitled to hold 50 acres of grazing land. A further area upto 10 standard acres in addition to the ceiling area for the family, is permitted to be retained in case of Stridhan of the Wife.

21. For the purposes of determining the surplus area any transfer or partition made after the publication of the Bill (6th April, 1960) will be declared void if such transfer or partition defeats the provision of the Act.

22. The excess land will be acquired by the Government on payment of compensation in accordance with the following scale: —

Where the net annual income from the land does not exceed Rs.5,000	12 times net income.
Where it exceeds Rs. 5,000 but not Rs. 10,000	11 times net income.
Where it exceeds Rs. 10,000 but not Rs. 15,000	10 times net income.
Where it exceeds Rs. 15,000	9 times net income.

The compensation for trees, buildings, machinery, plant or apparatus acquired under the Act would be the market value of the same on the date of acquisition.

23. The following categories of land are exempted: —

(1) Land in any hill area;

(2) Plantations of cardamom, cinchona, coffee, rubber or tea in existence on the date of the commencement of the Act i.e., April 6, 1960 and any land interspersed among plantations or contiguous to any plantation in respect of which the Land Board has granted permission for the extension of plantation and for ancillary purposes not exceeding 20 per cent of the area used for growing the plantation;

(3) Lands converted on or before 1st July, 1959 into orchards or topes or arecanut gardens;

(4) Lands used exclusively for dairy farming or livestock breeding in respect of which the Land Board has granted permission;

(5) Any land used for the cultivation of sugarcane and in respect of which the Sugar Factory Board has granted permission;

(6) Any laud held by a cooperative society, provided, however, that the share of each individual member in the lands of a cooperative society will be taken into account in computing the ceiling area of the member;

(7) Lands held by any charitable or educational institution of a public nature and any trust arid university constituted by any law;

(8) Any land awarded for gallantry;

(9) Gramdan and Bhoodan lands;

(10) Lands held by industrial or commercial undertaking as approved by the State Government;

(11) Lands used exclusively for growing fuel trees in existence on the dale of the commencement of the Act.

24. The Law was enacted in 1962 and brought into force on October 2, 1962. Rules have been framed and notifications regarding appointment of Authorised Officers, Land Board, Land Tribunal, Land Commission and the Sugar Factory Board have been issued.

25. The last date for furnishing of returns by persons holding land in excess of the ceiling limit expired on December 31, 1963. According to the figures supplied by the State Government, 4,879 Landowners had tiled returns upto 31st December, 1963. Returns from 743 landowners were still due. Out of the returns received 4,783 returns have been scrutinised. 70 cases have been referred to the Land Board and Sugar Factory Board. Returns have also been tiled by 1,197 tenants. Out of these 1,070 have been scrutinised. Returns are still due from 557 tenants.

26. On a rough estimate the State Government feel that the total extent of lands likely to be declared surplus is 79,000 acres for the entire State.

Survey and Settlement

27. Survey and settlement work in this State, as in most others, was undertaken a long time ago. The last settlement look place in 1936-37 and the Government then took, the decision that no resettlement need be made and no revision of assessment has been made since then except by way of ad hoc surcharge on land revenue or increase of water rates. Recently, a phased scheme for resurvey in the course of about 18 years or so has been undertaken. Resurvey started in June 1963 in two districts. It is proposed to prepare a revised record of ownership of land, but there appears to be no proposal for recording tenancy as a part of resurvey operations. It would be desirable to make the necessary provision in the law to record tenancies also as a part of this resurvey.

28. The field staff for maintenance of village accounts and agricultural statistics appears to be

adequate. There are 14.664 villages in the State and the number of karnams is reported to be over 11.000. The karnam is responsible for maintaining village accounts and agricultural statistics. There are about 11,954 village headmen who are responsible for collection of land revenue.

February, 1964.

9. *REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN MAHARASHTRA*

1. Bombay has enacted a series of land reforms laws and has endeavoured to implement them. Legislation, particularly tenancy reforms, has been gradual, extending over more than two decades and modifications and changes have been made from time to time in the light of experience and according to the development of social ideas. A gradual development of this nature, while it seems almost inevitable in the circumstances, has its own dangers and attendant risks. Considering the strong social and economical position of the landlords, a law which is incomplete and does not go far enough, may well cause considerable harm by interfering with customary relations without giving the complete protection which is necessary when customary relations are changed by statutory regulations. Even in the law as it stands now, there are some difficulties and defects.

2. In the implementation of the law, reliance has necessarily had to be placed upon the administrative machinery as in many areas there is no organisation strong or active enough to supplement official action for the protection of the weaker sections of the village community.

Tenancy Reforms

3. For the purposes of tenancy reform. Maharashtra State falls into the following main regions:

(i) the former Bombay areas consisting of 13 districts which are governed by the Bombay Tenancy and Agricultural Land Act, 1948 as modified from time to time by about 15 amending laws;

(ii) Vidharba areas consisting of 4 districts of former Central Province and 4 Birar districts, governed by the Bombay Tenancy and Agricultural Lands (Vidharba Region and Kutch Area) Act, 1958 as modified from time to time by about 6 amending laws;

(iii) the Marathwada area consisting of 5 districts governed by the Hyderabad Tenancy and Agricultural Lands Act, 1950 as amended from time to time by about 13 amending laws.

Former Bombay Area or Western Maharashtra

4. The tenancy law provides for security of tenure subject to landlords' limited right of resumption, fixation of maximum rents and conferment of ownership upon tenants in respect of areas which are not liable to resumption. The main difficulties in this law appear to be:

(i) the law does not confer any rights *upon* sub-tenants other than the sub-tenants of a permanent tenant. In fact under Section 14, a tenant who sub-lets land is liable to ejectment (with the exception of widows, minors, members of the Armed Forces or disabled persons). There are suitable safeguards with regard to cooperative fanning society as well as hypothecation of property in consideration of loans advanced by a cooperative society or Government. Under Section 43 read with the Rules, lease of land is prohibited even after the tenants have purchased the right of occupancy except with the previous sanction of the Collector (which would be given generally only in cases where the land owner is a widow or minor or a member of the Armed Forces or a disabled person).

In effect, such provisions merely refuse to give recognition to existing sub-tenants or to tenants created in future, in the normal course of arrangements for cultivation. They may have merely the effect of driving sub-tenancy underground and leaving it completely unprotected until it gathers force and clamours for suitable regulation. As long as the creation of sub- tenancy, contrary to the law. involves merely the liability of the tenant himself to ejectment (and consequently the

ejectment of the sub-tenant also), the two parties would have common interest in trying to suppress the fact. If, therefore, leasing of land is to be discouraged in future not merely in law, but also in actual fact, it would be necessary to provide for suitable protection and safeguards for sub-tenants.

(ii) The tenant's right of purchase becomes ineffective;

(a) if he fails to appear before the Tribunal;

(b) if he appears before the Tribunal, but makes a statement that he is not willing to purchase; or

(c) if he defaults payment of the lump sum or of four instalments.

There is a limited safeguard under section 32MM that if the tenant-purchaser remains in possession, he may apply within a period of six months from the commencement of the Bombay Tenancy and Agricultural Lands (Amendment) Act. 1960 (i.e. from 9-2-1961) to condone the default and thereupon if the Tribunal is satisfied of the sufficiency of the reasons given by the tenant-purchaser, it may allow a further period of one year to pay the price in lump sum. Where the payment was to be made in instalments, the Tribunal may, if)t is satisfied of the reasons given for the default, condone the default under Section 32MM and extend the instalments upto a maximum of 16. In this case, the application has to be made within three months from the date of the default of the payment in lump sum or the last instalment. There is no information about the number of cases in which this section has-been availed of.

Where a purchase becomes ineffective, the land is deemed to be surrendered and the land owner is entitled to take the land under his personal cultivation subject generally to the limit of ceiling.

No administrative action is being taken to keep scrutiny over the payment of purchase price in lump sum or in instalments; even warnings to the tenants or demand certificates are not being issued. Action under the provision which provides for the recovery of unpaid amount as arrears of land revenue is for the present being taken only in cases where the landlord applies. There would, however, be cases where the landlord may not apply for a variety of reasons and in particular in the hope that the purchase may itself become ineffective.

(iii) The provision with regard to surrenders appears to be inadequate. The intention of the regulation was that the landlords may be discouraged from exercising pressure upon the tenants to give up their lands. This could be effective only if the landlord gets no additional benefit from such a surrender, more than the benefit he would get had he duly applied for resumption. The right of resumption is subject to the condition that the tenant must be left with half the land. But in the case of surrenders, the landlord may. in several cases, take the entire land subject to the limit of ceiling.

(iv) The law suffers from vagueness both in regard to the fixation of maximum rent and the fixation of purchase price. With regard to fixation of maximum rent, section 8 provides that the maximum rent shall be 5 to 2 times the assessment subject to an overall limit of Rs. 20 per acre. The Rules provide for the factors to be taken into account, but in effect they leave much discretion in the hands of the officers concerned. It would appear that in many cases they have fixed the actual rent at the maximum of Rs. 20 per acre. The maximum rent would need further review and careful scrutiny to ensure that the rent alone with other dues which have recently been increased do not exceed 176th of the produce as provided in section 10A. This section does not so far appear to have been used at all.

As regards the purchase price, section 32M provides that in the case of tenants (other than permanent tenants who are in limited numbers and in a special category), the purchase money may

be anything from 20 times the assessment to 200 times the assessment. In spite of the guidance given in section 63A(3) of the Act and in the Rules, this leaves a wide discretion in the hands of the Agricultural Land Tribunals. It appears that in many cases, the purchase price has been fixed somewhat arbitrarily. Previously, the intention was. perhaps, to relate the purchase price to the rents fixed under section 9 and since interest on the purchase money is calculated at *4-1/2* per cent, it was felt that capitalisation of the rent at 20 years purchase would be suitable. However, in a case which went up in appeal, the High Court upset an order of a Tribunal mainly on the ground that the rents having been fixed by statute and not by free contract between the tenant and the landlord, they can no longer be regarded as an index of the profits of agriculture or of the price of crops. In this connection reference was made also to the various factors to be taken into account as indicated in section 63-A. it is for consideration whether the difficulty can possibly be met by an amendment in order to ensure that the Purchase price is reasonable both from the point of view of the landlord and the tenant-purchaser and is within the paving capacity of the tenant-purchaser. In cases where the purchase price has already been fixed, it may not be possible to make any change at this stage, but in the large number of cases where this has still to be done, it may be desirable to reduce the element of arbitrariness inherent in the exercise of judgement and discretion by a large number of separate Tribunals. Since security of tenure has already been conferred, for all practical purposes what the landlord is deprived of when ownership is purchased is his right of receiving rent. In the circumstances, the rent could, perhaps be capitalised at 20 years purchase. An important question for consideration is whether such a law can possibly be made now in keeping with the provisions of the Constitution.

5. Bombay Government has made a serious effort to implement the law in the spirit in which it was conceived. Attempts have been made to educate the village community and in particular the tenants about the rights conferred upon them by law so that they may understand the changed position, appreciate the benefits given to them and may be emboldened to take necessary action. In certain areas, organised non-official action has supplemented the activities of the administrative machinery, but by and large implementation is. dependent mainly upon the administrative machinery and is consequently limited by all the difficulties which have to be faced in carrying out an operation of such a magnitude and complexity and largely in opposition to the strong social and economic power of the landlords. These difficulties are further enhanced by the fact that the law was made in a series of gradual steps of which the earlier ones were extremely defective and weak. The failure of the law in its earlier stages has been brought out clearly in the surveys sponsored by the Research Programmes Committee of the Planning Commission. Further *statistical* surveys and type studies are urgently necessary in order to evaluate the extent to which the law in its present shape is really proving effective in protecting the rights of the tenants. There is reason to doubt whether at least in some cases the fixation of maximum rents has not been as effective as expected and whether the level of rent actually paid is still in some cases above the maximum rent, may be even to the extent of half the produce. The provision of security would be limited firstly, by the record of rights (a difficulty which can be remedied by and large only if there is strong non-official support in the form of public opinion and leadership), by the weak economic and social position of the tenants, by an inadequate regulation of surrenders and by the difficulties with regard to the existing sub-tenants and any tenancies that may actually be created by tenant-purchasers when they acquire restricted occupancy tenure.

6. Perhaps the most disturbing feature in the implementation of the reforms is the very large number of ineffective purchases. This tends to defeat the principal objective of the reform of giving land to the tiller, since the consequence of such an ineffective purchase is the termination of the tenancy and the eviction of the tenants from the land. According to recent statistics, the percentage of ineffective purchases in the former Bombay area as a whole is 16.14 per cent as compared to the purchases which have become effective and which constitute about 34.24 per cent. As the number of purchases that have become ineffective on account of the failure of the tenants to pay lump sum

price in time or on account of defaults in instalments is also high, the position is disturbing and the object of land reforms may be defeated if remedial action is not taken. In this connection the following points may be considered :

(i) The law may be suitably amended to provide for conferment of occupancy status on the tenants in all cases on a compulsory basis. The instalments of the purchase price may be recovered as an arrear of land revenue, course being had to the extreme sanction of the sale of land (and consequent dispossession of the tenant) only in extreme cases If transfer of ownership is placed on a compulsory basis, the landlords would not be in a position to exercise influence on some of the tenants. In the interim stage, action should at least be taken to remind the tenants about the need for making payments in time and the issue of demand certificates.

7. It appears that upto the end of December 1963 out of 10,97,922 cases, purchases have become effective in 399.906 cases and the purchases had become ineffective in 190,423 case. i.e., on an average, for every two effective purchases there is one ineffective purchase.

As a result of effective purchases, 3,99,906 tenants have gained ownership of 10,53,833 acres of land while as a result of ineffective purchases. 1,90,423 tenants have been deprived of the ownership of 6,36,185 acres of land. The total area of land resumed by the land owners under section 31 is about 2,07,622 acres and under section 33B about 24,982 acres. The total area that has thus gone to the landlords either through resumption or reversion is about 232,604.

8. Another difficulty arises from the large number of incorrect entries in the record of rights. It appears that out of 1.097.992 cases which have been decided, not less than 1,64,242 cases or about 15 per cent of the cases had to be dropped on account of the incorrect record of rights. It will be, therefore, necessary to organise the correction of the record of rights on the lines of a campaign or drive. Care would need to be taken that the officers entrusted with this work are appointed in adequate strength and suitably trained, and the work of correction is entrusted to higher officers and not to officers of junior ranks. Further the actual work of correction should be carried out in the village itself.

9. Another basic difficulty is the slow disposal of cases. According to section 32, tenants were deemed to have purchased land on the tillers day, i.e. April 1. 1957. For the law to be really effective, the cases should have been decided as quickly as possible and purchase prices fixed under section 32G. This would have had the effect of relieving tenants from the burden of rent during the following period and would also have removed uncertainties. It appears, however, that out of an estimated number of about 15.71,605 cases in which enquiries under section 32G were estimated to be necessary, only 10.97,992 cases have been decided, i.e., about 75 per cent upto the end of December 1963, i.e. during the course of nearly 7 years. About 5 lakh cases have yet to be decided. Considerable additional staff has been appointed by the Government for implementation of land reforms and it is for consideration whether the balance of work could be disposed of speedily and within a reasonable period by exercising more strict supervision over the disposal of work by the various officers or whether additions to the staff have to be made. The period for application for resumption expired a long time ago, but it is reported that there was a balance of as many as 582 undisposed of cases. While some of these are remanded cases, the fact remains that the disposal has been slow and the delays have been very large.

Vidharba Areas

10. The Bombay Tenancy and Agricultural Lands (Vidharba Region and Kutch Area) Act, 1958 applies to 4 districts of former Central Provinces and Bihar district.

This law is similar to the law applicable in the Bombay region. The principal differences may

be summarised as below:

(i) The maximum rent varies from 3 to 4 times the land revenue. There is no provision as here is in the Act applicable to the former Bombay Region for suo motu action for commuting crop share rents into cash rents.

(ii) There is provision both for voluntary rights of purchase and for compulsory transfer of ownership of land to tenants with effect from April 1, 1961. This voluntary right of purchase was subject to the condition that the landlord must be left with at least a family holding. As a family holding varies from 24 to 44 acres and most of the landlords did not own areas exceeding a family holding in sire, a large number of tenants were not entitled to purchase ownership. This provision has been amended by a subsequent law which provided for compulsory transfer of ownership in the remaining cases also with effect from 1st April, 1963.

(iii) In the case of compulsory purchase, the purchase does not become ineffective on account of the failure of the tenant to appear before the Tribunal or his declaration of unwillingness to purchase the land. (Under the Vidharba law. the tenant is not required to appear before the Tribunal or to express his willingness to purchase the land).

(iv) The purchase price is fixed under the law itself, being 7 to 10 times the rent in the case of an occupancy tenant and not exceeding 12 times the rent in other cases. (In addition arrears of rent and the depreciated value of any structures, wells and embankments and other permanent fixtures made or trees planted by the landlords have also to be paid for).

11. The Act was brought into force on 30th December. 1958. Some additional staff has been appointed, but the progress so far made is very unsatisfactory. The difficulty arose on account of the fact that the record of rights in respect of ordinary tenants were not reliable. It was. therefore, necessary to prepare a record of tenancy. For this purpose, instructions were issued to the Patwaris to make necessary entries; one fourth of such entries were to be checked by Revenue Inspectors, 90 additional Revenue Inspectors were appointed for the purpose. Out of about 131.69 lakh acres in the Nagpur-Division (which comprises the Vidharba region) 27.017 lakh acres were recorded under tenants. It would have been desirable to have a work of such importance carried out by higher officials through a special record operation. In the absence of a detailed survey, it is difficult to judge the accuracy of these records and further checking by higher officers as well as statistical survey seem to be necessary.

12. The number of surrender cases instituted since 1958-59 is about 62.511 involving an area of 5.26 lakh acres. The number of applications for resumption by landlords amounted to 59.868 of which 58,292 have been disposed of leaving a balance of 1.576. The area resumed by the landlords is reported to be about 1.8 lakh acres. The purchase price has not yet been fixed in regard to compulsory transfer either in respect of lands of which the tenants became owners on April 1, 1961 or in respect of lands of which tenants became owners on April 1. 1963. The question of appointing additional Tehsildars under the Agricultural Land Tribunals is under consideration. For all practical purposes, therefore, the work of the implementation of this Act is yet to be started. So, far only some preliminary work, such as determination of family holding and preparation of list of tenants, has been done.

13. Section 7(2) provides for restoration of certain tenants, but information is not available regarding the number of cases in which applications for restoration were made or their disposal. Section 10(1) also provides for restoration of tenants. It is reported that 5,306 applications were made. Information about the disposal of such cases for the region as a whole is not available.

14. Section 13 provides for commutation of crop share rent into cash rent on the application of

the tenant or the landlord. The information available with regard to the use made of this section relates only to the period of November 1959. No care seems to have been taken to keep a check on the action taken under this or a number of other important sections.

15. With regard to surrenders, it appears that in a majority of cases the landlords take possession of surrendered land even before verification is done. In 62,511 cases, it was found that the landlords possession was not lawful, but the landlords continue to be in possession as it was decided not to evict them. These cases will now be decided in the light of the applications for resumption filed by landlords.

16. Section 32 obliges the landlords to give receipt for rent. Section 117 provided for a fine upto Rs. 100 for failure to give a written receipt. It is admitted that landlords generally do not give receipts. However, no penalty under section 117 appears to have been imposed in any case.

17. With regard to the actual quantum of rent, it has been mentioned above that the provision is inadequate as it does not provide for determination of fair rent suo moto. Instructions were given that the lawful rent should be recorded in the land records but information is not available regarding the extent to which the instructions have been complied with. It is felt that even now in the majority of cases, the tenants pay half the gross produce in batai instead of the maximum rent laid down under the Act.

18. Section 43 provides that a tenant may voluntarily purchase ownership of land on payment of compensation, 13,378 applications are reported to have been filed under this section of which 10,722 have been disposed of leaving a balance of 2,656. The manner in which the cases were disposed of or the areas thus purchased by the tenants are not known.

19. It appears that on the whole, most of the work of implementation of this Act has yet to be carried out.

Marathwada Areas

20. The Hyderabad Tenancy and Agricultural Lands Act, 1950 governs the Marathwada area, i.e. Aurangabad division consisting of five districts. This Act provides both for voluntary purchase of ownership by tenants and for compulsory transfer of ownership to protected tenants under section 38E and F and to ordinary tenants under section 38G. In the case of compulsory transfer, it is designed to be more effective than the law applicable to the former Bombay region inasmuch as if does not contain any provision for rendering purchases ineffective except where the purchase price cannot be recovered as an arrear of land revenue. If there is default in the payment of amounts due from purchaser-tenants, the arrears are to be recovered as arrears of land revenue. The purchase price is fixed under the law itself, Originally the purchase price for a protected tenant was 15 times the rent for dry lands, 8 times the rent for wet lands irrigated by other sources. By an amendment Act of 1957, the purchase price both for a protected tenant as well as an ordinary tenant has been fixed at a rate not exceeding 12 times the rent. The rent being 3 to 5 times the land revenue, the maximum payment would be anything from 36 to 60 times the land revenue depending upon the class of soil. The payment to be made in instalments not exceeding 8 years has, however, been extended to 12 years in respect of cases coming up after the Amendment Act of 1957. The interest is lower, being 3 per cent as compared to 4-1/2 per cent in the rest of the State.

21. The right of purchase is, however, restricted under this Act. In the case of voluntary purchases, the landlord has to be left with at least one family holding. In the case of compulsory purchases, however, the landlord has to be left with at least two family holdings. A family holding varies from 6 acres to 72 acres according to the class of soil.

22. The provision regarding reasonable rent is defective inasmuch as there is no action *suo moto)* for fixation of reasonable rent by the revenue authorities themselves. Reasonable rent can be fixed only on the application of a tenant or a landlord to the Tribunal. Information about the extent to which use has been made of this section is not available. From a statement in respect of two districts, viz. Aurangabad and Parbhani, it appears that no application under section 17 was made in Parbhani district while the number of applications made in Aurangabad was 21, of which 17 were decided and 4 were pending on 1st November 1963. A survey made at an earlier stage by the then Hyderabad Government showed that during the period 1951 to 1954, the number of protected tenants decreased by 57 per cent and the area held by them decreased by 59 per cent viz. due to illegal ejectment or so called "Voluntary surrenders". An enquiry sponsored by the Research Programmes Committee showed that out of the originally created protected tenants in 1951, only 45 per cent still remained to enjoy their protected status by about 1954-55.

23. The position with regard to security of tenure does not appear to have improved. Section 38-E, which provides for compulsory transfer of ownership to protected tenants, was brought into force in Aurangabad district in 1956 and in the remaining 4 districts in February and May 1957. In all 36,184 protected tenants were declared owners of about 5,12,679 acres. Of these only 16,761 were found in possession of 2,13,010 acres. Of these 10,834 protected tenants have been restored possession of 1,84,206 acres. A very large number of protected tenants, i.e. 8,589 have not yet been put in possession in respect of 1,15,480 acres. An amendment had been made in the Act in 1961, which came into effect on 17-11-1961 to enable such dispossessed tenants to get the benefit of section 38-E. Even after the lapse of well over two years, such a large number of tenants still remain to be restored possession.

24. It is further to be noted that the number of protected tenants who were declared owners under sections 38-E: and 38-F is only a small fraction of the tota.1 number of persons declared to be protected tenants under sections 34, 37 and 37-A. The total number of protected tenants was 1,80,405 out of which only 36.184 declared owners. The total area of which protected tenancy was declared amounted to 29.98 lakhs acres out of which ownership was conferred only on 5.13 lakhs acres. As mentioned above even out of this area, as much as about 3 lakh acres were not in possession of the protected tenants.

Out of 36,184 protected tenants who had been declared owners under sections 38E and 38F, purchase price had been fixed in respect of 33,260 protected tenants and it had yet to be determined in 2,924 cases. This arrear has remained after about 7 years of the enforcement of the law.

25. Section 38G provides for compulsory transfer of ownership of land to other tenants after the expiry of 3 years from the commencement of the Hyderabad Tenancy and Agricultural Lands (Amendment) Act, 1957. This Act commenced from June 8, 1959. Nearly 6 years have passed since then but the provision has not yet been brought into force.

CEILING ON LAND HOLDINGS

26. The Maharashtra Agricultural Lands (Ceiling on Holdings) Act, 1961 came into force on 26th January 1962. Rules under this Act have been framed and a detailed Manual for guidance in implementation has been prepared. In order to acquaint people regarding the main provisions of this Act, a pamphlet was prepared in English as well as in Marathi for wide publicity and sale.

27. No specific staff was appointed for the implementation of the Act as it was felt that there had been a reduction in the work of sub-Divisional Officers because of the formation of Zila Parishads and it may be possible for them to attend to the work of enquiries under the Ceiling Act and the question of appointing additional staff could be considered at a later stage. Recently the Commissioners have been asked to work out the requirements of additional staff and submit their

proposals to Government. It has been proposed that at least in cases in which returns under section 12 have been received, the enquiry should be completed and the declaration of surplus land made before 31st January, 1965 in order that surplus may be taken possession of and disposed of before the cultivation season 1965-66 begins.

When the Bill was formulated it was estimated that the total surplus land available would be about 11 lakh acres and the compensation may amount to about Rs. 16 crores. However, it appears now that the surplus area may be round about 4 to 5 lakh acres and the compensation may be about Rs. 7 crores.

So far only a very small amount of the work has been done. Upto March 1964. 9661, returns were tiled by landowners. It is estimated that the number of surplus holders who failed to submit returns would be about 8,990. the total number of cases thus being 18,651. Enquiries have been started in 1,309 cases and decisions have been taken only in 259 cases. Out of this 259 cases no surplus land was found in 98 cases while as a result of 161 cases, 4,199 acres have been found surplus.

28. Action has. however, been taken in respect of lands held by sugar factories. 36.723 acres of land held by private sugar factories have been taken in possession and handed over to Maharashtra State Farming Corporation. This action, has been taken under section 28 which has been declared *ultra vires* by the High Court; however, an appeal to the Supreme Court has been made.

29. Since this Act came into force on 26th January, 1962 and more than 2 years have passed, it is necessary to take urgent steps for appointment of additional staff wherever necessary and for implementation of the Apt as speedily a? possible.

May, 1964,

10 *REPORT OF SHR1 A. N. SETH, DIRECTOR, LAND REFORMS, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN MYSORE*

1. From the tenurial point of view, the State of Mysore consists of (i) former Mysore. (ii) former Bombay, (iii) former Hyderabad, (iv) former Madras, (v) Coorg, and (vi) Bellary from former Andhra. Excepting Coorg, where tenancies were not regulated by law, each of these areas had its own tenancy law. After the re-organisation of States, Mysore Government decided to have a unified land reform law and pending enactment of a unified law, promulgated an ordinance in March, 1957 providing for stay of ejectments and the operations of the provisions for resumption and ownership, in the Bombay, Hyderabad and Madras laws.

2. The Mysore Land Reform Bill was introduced in 1958. It became law in 1962, but was not enforced for reasons mentioned later in this note. The legislation in force at present provides in the main for stay of ejectment of tenants for a temporary period and for the regulation of rent. The maximum rent provided under the law in different parts of Mysore is as follows:—

1. *Mysore*

   Maidan area— 1/3rd of the gross produce

   Malnad area — 1/4th of the produce.

2. *Bombay area* — 3 to 5 times the land revenue but not exceeding 1/6th of the gross produce.
3. *Hyderabad area* — 1/4th of gross produce in case of irrigated lands except lands irrigated by wells & l/5th in other cases. In case of cash rent — 3 to 5 times the land revenue.
4. *Madras area* — 40% of the gross produce in case of lands irrigated from flow irrigation, 35% of the gross produce where irrigation is supplemented by lift irrigation and 33-1/3% in other cases.
5. *Coorg* — 1/3rd of the gross produce.

3. To examine problems of implementation, I visited villages in different parts of the State as follows: —

District	Village
Bangalore	Dobbspet
Mandya	Naguvanapalli
Mysore	Himaoal
South Kanara	Uruval Nekaladi
Chimagalur	Bagasagude (Malnad area) Lakshmipura (Maidan Area)
Coorg	Madenad
Shimoga	Chilur
Dharwar	Kamdod Karur

4. The size of the tenancy problem varies from area to area. It is the acutest in South Kanara which was formerly part of Madras. There the large bulk of the area is held by absentee owners. Most leases are oral leases. The names of tenants and the rents payable by them are not entered in the annual records. A tenant and crop register was prepared for the year 1958 under the orders issued by the Mysore Government in 1957. It was intended to be a five-year register, but no subsequent entries were made. The register shows the names of tenants and their status i.e.

chalgenidars or mulgenidars. The rents payable by tenants were not entered. The chalgenidars hold land on oral leases. The mulgenidars are permanent tenants. According to the Census of Land Holdings and Cultivation, which was held in 1954-55, tenants cultivated about 65 per cent of the total cultivated area. In the villages visited by me, I had the impression that a still larger area was cultivated by tenants. It might be as much as 70 to 80 per cent. This was confirmed by non-officials as well as officials. The 20 to 30 per cent area under the personal cultivation of owners is also cultivated mainly through hired labour by owners living in towns. Self cultivation by personal labour or family labour is rare. Most tenants are only lessees (chalgenidars) Permanent tenants miulgenidars) are few. Rents are generally paid as fixed produce rents or crop-share rents. Few tenants pay cash rents and they are mostly mulgenidars. Although under the law, tenants can be evicted mainly on grounds of non-payment of rent (tenants are under the impression that, landlords could evict them or change them from plot to plot if they (landlords) desired. In other words, they do not feel secure even though in practice frequent changes in tenancies were not being made. As regards rents, under the Fair Rent Act, the rent is not to exceed 40 per cent of the gross produce. In practice, the rent seems to vary between 50 to 70 per cent of the produce and no receipts were made by the landlords for the rents received. The Revenue Officers of the area agreed that it was so. I am not surprised. Produce rents are always difficult to enforce. In areas where leases are mostly oral, and tenants do not feel secure, the problem of enforcement of rent is many times more difficult.

5. It was mentioned that the tenancy problem in the neighbouring district of North Kanara which was formerly part of Bombay is equally acute. As regards other districts transferred from Bombay, quite a substantial area, about 40 per cent, is cultivated by tenants in district Bijapur. In Belgaum and Dharwar, comparatively much smaller area is cultivated on lease, about 15 per cent in Bijapur and 20 per cent in Dharwar. In these districts fairly detailed records of tenancies are maintained. I visited only a couple of villages in district Dharwar. The impression I gathered during the visits was that changes in tenancies still go on and the provisions for rents are frequently not observed. For instance, in village Karur, in a single year tenants on 37 survey numbers were changed, and 16 survey numbers which were under tenants were brought under self-cultivation.

6. Regarding rents, as against the provision that rent should not exceed 1/6th of the gross produce, in practice, the landlords still continue to get the customary rent of 1/3rd of the gross produce, in some cases 1/2 of the gross produce. Cash rents vary between Rs. 25 and Rs. 100 per acre. Under the law cash rent should not exceed 5 times the land revenue. As land revenue varies between -/4/- and Rs. 2/8/- per acre, this legal rent would vary between Rs. 1/4/- and Rs. 12/8/- per acre.

7. Coorg is another difficult area from the point of view of tenancy reform. There, a considerable area is cultivated through share croppers to whom the landlords provide bullocks on hire. As a rule, the produce is shared, after deducting seed, into three parts—1/3rd for land. 1/3rd for labour and 1/3rd for bullocks. The 1/3rd for bullocks is shared half and half between the landlord and the share-cropper who has to maintain the bullocks supplied by the owner. No estimate was available regarding the extent of land so cultivated through share croppers, but it was mentioned that the practice was fairly extensive. No record of tenancies is available in this area. In the Census of Land Holdings of 1954-55, it was estimated that area under tenancies was about 20 per cent of the cultivated area. I could not ascertain whether share croppers were treated as tenants in the Census. In the absence of records, the Census was necessarily based on oral inquiries and I should not be surprised if area under tenancies was under-estimated.

8. As regards former Mysore, but for a few areas, such as the Malnad area of district Chilkagalur. Srirangapatam taluq, Maddar taluq and parts of Malavalli taluqs of District Mandya and some taluqs of district Bangalore, where large areas are cultivated through tenants, the size of the tenancy problem is comparatively much more manageable; Lands are leased in by smallholders generally and the number of pure tenants is rather small. The leases are mostly oral but the names

of tenants are supposedly shown in the annual record called Pahani Patra. The Deputy Commissioner Mandya with whom I discussed the problem during my visit expressed the view that in many cases landlords had seen to it that the names of tenants were not entered; that the records in Mysore area, in their present condition, could not be sufficiently relied upon for the enforcement of any measure of tenancy reform; and that a drive for the correction of records should be organised as a necessary prelude to the implementation of land reforms. Mandya is an IADP district. The Deputy Commissioner was frankly of the view that tenurial conditions at least in some parts of the district where tenancy problem was acute, were hampering the development programme considerably; and that it became difficult to grant even short term loans to the actua l tenants who were not recorded as they would find it difficult lo establish their title to land. He mentioned that a scheme was devised to grant loans to such tenants up to Rs. 500 on their furnishing surety of any landowner; that the owners of the tenanted land generally did not like to stand as surety; and that last year there was lot of resistenance to cooperative loans to tenants on the part of landlords who were fearful that this might enable the tenants to establish their title to land. In this connection it may be mentioned that a tenant and crop register (Form No. VII) was prescribed for Mysore area also but as a rule no entries were made in these registers by the shanbhogs (Patwaries). It would be desirable, therefore, that immediate steps should be taken to organise a drive for the correction of the records particularly in districts and taluqs where considerable areas are cultivated by tenants. It is equally important that in such areas entries in the records should be checked up through officers of the rank of Tchsildar or Deputy Tehsildar, for which purpose the appointment of special officers for a temporary period may become necessary.

This applies not only to Mysore area but also to South Kanara and Coorg.

9. In districts transferred from former Hyderabad the tenancy problem is quite widespread. A record of tenancies was prepared in those districts as part of the Census of Land Holdings and Cultivation operations. 1 could not, however, visit any of these districts. I am not aware whether the record of tenancies has been maintained uptodate. The State Government may consider what steps would be necessary to ensure that records in these districts are corrected and brought up-to-date for the implementation of the Land Reforms Act.

10. As regards lard record agency, the position is as follows:

	No. of villages	Shanbhogs	Average no. of villages per - Shanbhogs
1	2.	3	4
Mysore area	19097	6,807	2.8
Bombay area	5,446	1,289	1.2
Hyderabad area	3,499	2,877	1.2
Madras area including Bellary	1,388	732	1.9
Coorg Uistt.	274	*32*	8.5
Total	20,704	11,737	2.6

Thus, the average, number of villages per shanbhog (Patwari) is a little less than 2.6, the average varying between 1.2 in Hyderabad area to 8.5 in Coorg. Without further details regarding plot numbers etc. it would be difficult to say whether there is a need for a more rational distribution of staff. There arc 666 revenue inspectors for the 29,704 villages. The average number of villages in the charge of a revenue inspector is, thus, about 45. The villages are spread over 172 taluqs each under the charge of a Tehsildar. The average number of villages in a taluq comes to about 173.

The office of the shanbhog is generally hereditary. The Mysore Government had decided to abolish the hereditary offices under the Mysore Village Offices Abolition Act, 1961. Some

patwaries were also recruited. The Act could not be implemented as soon as the officers have challenged the validity of the Act in the Supreme Court. For the present the newly recruited shanbhogs have been appointed Secretaries to Panchayats. The proposal is that shanbhog would also function as secretaries of village panchayats. The Mysore Government has decided to retain the services of the former hereditary shanbhogs who are below 50 and possess junior high school certificate. I was much impressed by most hereditary shanbhogs whom I met during the course of my visits. While I would strongly endorse in principle that the hereditary offices should be abolished, for administrative consideration, I would, however, suggest for the consideration of Mysore Government that the conditions for retaining the services of the present shanbhogs might be further relaxed. Those who possess good record might be retained irrespective of their qualifications if they are within the age of retirement. Further, if the proposal for combining the offices of the shanbhog and the panchayat secretary is to be implemented, it may become necessary, at least in some areas, to reduce the charge of each shanbhog so that he may be able to give sufficient time and attention to maintenance of village records which are apparently not in a very good shape. Whether this could be secured by redistributing the charges of the present staff on a rational basis is a point for the consideration of the Government.

Mysore Land Reforms Act

11. As stated earlier, the laws now in force in different parts of the State are of a temporary nature to be replaced by a unified law—the Mysore Land Reform Act—when enforced. The Land Reforms Bill was passed in October, 1961 and received the President's assent in March 1961. Before it received assent, the Bill was considered thrice in the Central Committee for Land Reform; the draft Bill was considered in the Committee on November 10, 1958, the report of the Joint Select Committee on the Bill on March 19, 1961 and the Bill was passed on December 7, 1961. The main provisions of the Act are as follows: —

Security of Tenure

(1) The landlord can resume half the area leased from protected tenants and ordinary tenants to make up three family holdings under personal cultivation, unless he had already resumed land under the Bombay Tenancy Act or the Hyderabad Tenancy Act. The resumption is subject to the condition that a protected tenant could not be evicted from a basic holding (1/3rd of a family holding) and in the case of protected tenants of small holders, from one standard acre.

Protected tenants are those who held land for 12 years from the same landlord in the same village including tenants deemed to be protected tenants under the existing Bombay and Hyderabad laws.

A family holding is equal to six standard acres and a basic holding, two standard acres.

A small holder is a person who owns a basic holding or less.

A standard acre is equal to one acre of wet land or garden land possessing facilities for assured irrigation and growing two crops of paddy in a year. In terms of ordinary acres, it varies between one to eight acres according to the class of land.

Surrenders

(2) A surrender by a tenant shall not be valid unless: —

(i) it is made in writing and is admitted by the tenant before the Tribunal and 5s registered in the office of the Tribunal in the prescribed manner;

(ii) in case of a valid surrender, the landlord shall be entitled to retain the land up to the ceiling limit. The excess land, if any, will be treated as surplus land.

Restoration

(3) A tenant is entitled to restoration if he had held land for not less than 6 years and was dispissessed after 10th September, 1957.

Rent

(4) The maximum rent is not to exceed in case of—

(a) land possessing facilities of assured irrigation from a -tank or a river channel.	One-fourth of the gross produce or the value thereof.
(b) any other land.	One-fifth of the gross produce or the ' value thereof.

Ownership for tenants:

(5) With effect from the date to be notified all tenants and sub-tenants in respect of non-resumable area shall come into direct contact with the State. The tenant will have the option to acquire full ownership on payment of compensation or else continue to remain as tenant under the State.

A tenant of a, small holder, who has expressed his intention not to resume the land immediately will remain tenant under the landowner in respect of the entire area.

Compensation

(6) The landlord shall be entitled to receive compensation from government equal to the aggregate of the following: —

(a) 15 times the net rent i.e. fair rent less land revenue;

(b) 50 per cent of the value of trees on the land; and

(c) depreciated value of any structure on the lands construc ted by the landlord.

Compensation will be payable in cash in lumpsum up to Rs. 10,000 and the balance, if any, in negotiable bonds, carrying interest @ 4-1/2 per annum maturing within 20 years.

The tenant who acquires ownership shall pay to Government a premium either in lumpsum or in equated instalments not exceeding a period of 20 years with interest at 4-1/2 per annum.

Ceiling

(7) The ceiling limit on existing holdings is 27 standard acres. Ceiling on future acquisition is 18 standard acres. A standard acre varies from one acre of class I land i.e. wet land or garden land possessing facilities of assured irrigation where two crops of paddy can be raised in a year to eight acres of dry land or garden land in areas in which the average annual rainfall is less than 25".

The ceiling will apply to the aggregate area of land held by a family. A 'family' has been defined to include husband, or wife, as the case may be, dependent children and grand children.

Transfers and Partitions

(8) Alienations and partitions are permitted even after the commencement of the Act up to a date to be notified.

12. The Central Committee .was of the view that the above provisions were deficient in several respects: that provision should be made to remove certain basic defects in the Bill as passed, and that the Bill should be recommended for President's assent if the State Government gave an assurance that the law would be suitably amended, if necessary by an Ordinance, as immediately as possible, and in any case, before the relevant provision of the Bill were implemented.

13. The two basic defects pointed out by the Central Committee related to (i) resumption of land by the Landlords and (ii) the effect of transfers on ceiling and resumption, in this connection, the Central Committee made the following suggestions: —

(i) It is essential that rights which have once accrued to tenants, whether with regard to security of tenure or rents should not in any case be taken away by subsequent legislation. It was pointed out that in the Bombay and Hyderabad areas, the protected tenants have been in possession for very long periods, generally about 20 years or more and the period during which reservation could be made by the landowners expired several years ago. In the circumstances it is not desirable to revive the right of resumption and thus to take away the security of tenure which has already accrued to these tenants.

With regard to rents it was pointed out that certain maximum limits were provided in the Bombay and Hyderabad laws, namely, that the maximum rent is not to exceed 3 to 5 times the land revenue. It is necessary to make provisions to ensure that rents in these areas are not enhanced.

(ii) As regards transfer, in the Second Plan emphasis was laid on the necessity for ensuring that transfer which have the effect of reducing the surplus area available under the ceiling laws should be disregarded. The question has been examined further in the Third Plan in the light of experience gained. In the Bill under consideration, no provision has been made with regard to such transfers and in fact transfers can be made even after the commencement of the Act and upto the date to be notified under clause 66 of the Bill. The Central Committee recommended that necessary provision should be made in the light of the recommendations in the Third Plan both with regard to ceiling and resumption. The Jatti Committee had recommended that transfers made after May 10, 1957 should be disregarded and the recommendation had been reiterated by the Central Committee for Land Reform in its earlier discussions. However, there will be no justification whatsoever for not disregarding transfers made after the date on which the Mysore Land Reforms Bill was published in the Gazettee i.e. 29th November, 1958.

14. The above suggestions were considered by the Mysore Government which were of the view that “since the provisions in the Land Reform Bill were incorporated on the decisions taken at the party meetings, it would not be possible for the Government to take any decision on the eve of fresh elections”, and that the matter would “have to be dealt with by the new Government which would come into existence from about the middle of March, 1962”. The Chief Minister, Mysore further observed that any new decisions on the eve of fresh elections were likely, to be exploited by other parties against the Congress Government and requested that the Bill may be recommended for assent without a formal assurance from the State Government.

Thereupon the Government of India agreed to recommend the Bill for the assent of the President. In recommending the Bi!l for assent, it was stipulated that the Mysore Land Reform Act would be implemented only when the new Government formed after the General elections had an opportunity to review the suggestions of the Central Committee and promote suitable amendments. Accordingly, the implementation of the Mysore Land Reform Act has been stayed by the Mysore Government pending consideration of Central Committee's suggestions.

15. In October, 1962, the Union Deputy Minister of' Planning discussed the matter further with Chief Minister and the Revenue Minister, Mysore at Bangalore who agreed that Central Committee's suggestions regarding resumption should be accepted, namely that the landlords of Bombay and Hyderabad areas should be permitted to resume only those lands in respect of which they had served notices, made reservations within the time allowed by law and that the onus of responsibility for providing that such notices/statements of reservations had been issued/filed would be on the landlords.

With regard to rents, it was noted that there would be no tenancies as a rule, the only exception being in the case of landlords suffering from disability such as widows, unmarried women, members serving in the armed forces etc. and that the regulation of rent, therefore, would cease to be important.

As regards transfers, the Chief Minister and the Revenue Minister, Mysore, agreed that Central Committee's suggestion for disregarding transfers subsequent to the date of the publication of the Mysore Land Reform Bill (29-11-58) should be accepted subject to the condition that in respect of all bonafide transfers for valuable considerations and evidenced by registered documents, the extent to which the interest of the vendees and the vendors could be protected might be examined.

The suggestions of the Government of India with regard to the exemption of lands comprised in plantations were also agreed to. With regard to linaloe plantations, however, it was decided that as the existing plantation might qualify for exemption as an orchard or efficiently managed farm, it might not be necessary to make any special provision for its exemption in the law.

The suggestions regarding surrenders that the landlord would be permitted to take possession of only such portion of the surrendered land which he could have resumed under the Act if the surrender had not taken place and that balance of the land would be treated as surplus and placed at the disposal of Government was accepted.

It was also agreed that the condition in the Mysore Land Reform Act that only such dispossessed tenants would be entitled to restoration as had been in possession of land for six years on prescribed dates should be omitted.

16. No action has, however, been taken to implement the above conclusions. In September, 1963, the Planning Commission was informed that the Mysore Government had given further consideration to the matter and had decided not to accept the suggestions of the Central Committee regarding resumption and transfers which had been agreed to at the Inter-Ministerial meeting between the Union Deputy Minister of Planning and the Chief Minister and Revenue Minister of Mysore on October 2, 1962.

17. I discussed the matter with the Revenue Secretary, during my visit. With regard to Central Committee's suggestion that in the former Bombay and Hyderabad areas resumption should be permitted only to such landlords who had serviced notices or had made reservations within the time prescribed under their respective law, the main arguments of the State Government in not accepting the suggestion are as follows: —

(i) The State Government were committed to having a uniform law for the entire State.

(ii) The tenants in the Bombay area had not secured any rights as the sections under which tenants could have got rights were declared to have had no effect by the Ordinance, promulgated in March, 1957.

(iii) As the notices issued by landlords were declared to have no effect, it was open to

landlords not to have maintained any records relating to such notices and to the authorities of the taluk offices to have destroyed whatever documents they had with them. It would not be. therefore, legal to burden the landlords to produce evidence of issuing such notices. Any such provision is likely to be unreasonable and, therefore, legally void and unenforceable.

(iv) As regards Hyderabad area, the State Government agreed that there would be no objection in law to circumscribe the right of landlords to resume land only where statements had been filed by them in time. They do not. however, consider it "reasonable to discriminate against the holders of land only in the Hyderabad area".

18. I pointed out to the Revenue Secretary that there would be no objection in having ii unified law for resumption but resumption under such law should be permitted only where such rights was available to the landlords under the provisions of the Bombay and Hyderabad Laws, under the Bombay law, the landlord were to serve notice by December 31, 1956 and there would be no objection to permitting the landlords who had served the notices on tenants by that date, to resume land under the Mysore Land Reforms Act. The landlords who had not served notices within the prescribed date had forfeited their rights to resume land under the Bombay Act before the promulgation of the Ordinance of March, 1957; their tenants became tenants of non-resumable lands, not liable to eviction; and it would be unconscionable to permit their eviction on grounds of resumption. With regard to the argument that taluk offices may have destroyed copies of notices and that it would net be, therefore, legal to impose burden on landlords to produce evidence of issuing such notices, I checked up the records in the taluk office, Ranibennur in District Dharwar and as may have been expected, copies of notices had been recorded properly, duly indexed and entered in a register in the Taluq office. Copies of notices may have similarly been duly entered, and recorded in other Taluk offices also. The implementation of the suggestions of the Central Committee in this regard should not, therefore, raise administrative or legal difficulties.

19. Central Committee's suggestion for disregarding transfers made after the date of the publication of the Land Reforms Bill was accepted at the meeting held on October 2, 1962. The Mysore Government has now observed that transactions in a majority of cases are bonafide and it would not therefore be reasonable to reopen the past transactions.

Transfers affect both resumption and ceiling. They may be utilised for extending the scope of resumption. Resumption involves ejectment of tillers of soil. It is highly desirable that attempts at extending the scope of resumption through the devise of transfer should be defeated, resumption being permitted to transference only in such cases where the transferer had the right to do so and to the extent he had such a right.

As regards ceiling a distinction may be made between (a) transfers among the members of a family (b) benami transfers and other transfers which have not been made for valuable consideration and through registered documents, and (c) transfers made for valuable consideration through registered documents. Under the Mysore Land Reforms Act, ceiling applies to the aggregate area held by the members of a family, the family being defined to consist of husband or wife and their dependent children and grandchildren. Therefore, if transfers among the members of a family are disregarded no hardship would generally accrue and if they are not disregarded, surplus is not likely to be affected provided the expression dependent is properly defined. As regards benami transfers and other transfers which have not been made for valuable consideration and through registered documents, they would generally be palpably malafide transfers made with a view to defeating the ceiling provisions, and should therefore be disregarded altogether. The Revenue Secretary, Mysore said that in principle there would no objection to disregarding malafide transfers made with a view to defeating the provisions of the law. He, however, felt that although most transfers made for valuable consideration were registered, yet a transfer without registration

might not necessarily be malafide. In this connection, it may be mentioned that the revenue law recognised transfers made without registration also.

The question has to be examined from practical consideration. It should be possible to work out a provision which, without causing any real hardship should, at the same time, achieve the objects of the law without unduly prolonged litigation in courts regarding the bonafides or malafides of each individual transaction.

With regard to transfers made for valuable consideration through registered documents as stated in the Third Plan, they may need to be dealt with differently in view of the fact that some of the transfers may be small owners or landless persons who may have purchased some land. It may be necessary to protect such transferees, at any rate up to a prescribed limit say, a family holding. If transferees are protected upto a family holding, no hardship would accrue in case of purchases by small owners or landless persons. Further, in order to ensure that the transferer also is not rendered landless, it could be provided that transferer should also be left with a family holding.

20. In the note received from the State Government with their letter of September 1, 1963, it has been stated that the Mysore Government propose to include a special provision to enable religious and charitable institutions under the management of Government to resume their lands from the tenants.

The above suggestions are open to two-fold objections. Firstly, it would not be reasonable to make a distinction between institutions which are under the management of Government and those which are not under the management of Government and whatever provision has to be made for institutions under the management of Government should be applicable also to institutions which are not under the management of Government. Secondly, all tenants, whether they are tenants of institutions or of individuals, should have the same rights, and be subject to the same liabilities. The maintenance of an institution should be the responsibility of the community and the Government representing the community. There is no reason why a few tenants should be subjected to a disability for the maintenance of certain institutions. It may be mentioned that an institution may be a Hindu institution while the tenants may be non-Hindus, and vice-versa, and in such cases, the tenants would have little interest and they might resent being subjected to disabilities for the maintenance of institution to which they belong.

The Revenue Secretary, mentioned that the lands under reference were generally very valuable lands because of their potential use for non-agricultural purposes and that the object in including such a provision was mainly to resume the lands intended for non-agricultural use. He further mentioned that the area involved was in any case not large and that many tenants would not be affected by such a provision.

21. To sum up, immediately after the formation of the new State of Mysore in 1956, the operation of the main provisions of the land reforms laws in different parts of the State was stayed pending the enactment of a unified law. The Mysore Land Reforms Act which is to replace the present laws came on the statute book in March 1962. Before it was passed, it was discussed thrice in the Central Committee. The suggestions of the Central Committee were discussed again between the Union Deputy Minister of Planning and the Chairman and the Revenue Minister of Mysore in October, 1962 and the State Government agreed to implement the recommendations of the Central Committee and a number of other suggestions made by the Planning Commission from time to time. The Mysore Government again expressed their inability to implement the main, important recommendations. For two years the enforcement of the Act has been withheld pending its amendment to incorporate the agreed modifications. Thus, for about 8 years temporary laws have been in force in different parts of the State. As is well known temporary land reforms laws are rarely effective. This has created conditions of uncertainly in rural areas which are not conducive to

agricultural production. It is desirable, therefore, that the land reform Act should suitably be amended and brought into force without any further delay. Any long distance correspondence or discussions at official level are not likely to be fruitful and it is suggested that the matter may be reconsidered in the Central Committee to which the Chief Minister, the Revenue Minister and such other Ministers who may be proposed by the Chief Minister, may be invited so that final practical steps may be taken to end the stalemate. Meanwhile necessary action may be taken to prepare and revise the record of tenants in South Kanara Kollegal Taluk and Coorg and to correct the records in other areas. This may necessitate the appointment of special staff in several districts for a temporary period. The staff that may be appointed for the preparation and correction of records would be available later for the enforcement of the provisions of the Land Reforms Act. If funds for the purpose could not be secured out of the normal budget provision, a separate scheme could be considered for inclusion in the Plan. The amount of money that may be required is not likely to be large and it should not therefore, be difficult to find necessary funds for the new scheme through adjustments in due course within the Plan ceilings.

April, 1964.

11. SECOND REPORT OF SHRI A. N. SETH, DIRECTOR, LAND REFORMS. PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORM ON MYSORE

The Mysore Land Reform Act is a comprehensive measure which provides for tenancy reforms as well as ceiling. The Act came into force on 2-10-1965. Its main provisions are: —

Rent

(1) The maximum rent is not to exceed l/4th or l/5th of the gross produce depending upon the class of land or its cash equivalent. For the fixation of fair rent, the gross produce per acre is to be the average yield of the principal crops grown on the class and grade of land to be determined by the prescribed authority. The average yield so determined will be in force for a period of five years. The value of the produce in cash is to be commuted at prices to be determined and notified by the Government.

Security of Tenure

(2) The landlord can resume half the area from protected and ordinary tenants to make up three family holdings (18 standards acres) for personal cultivation. This is, however, subject to the condition that a protected tenant shall not be evicted from two standard acres (in case of protected tenants of small holders, i.e. persons holding not more than tour standard acres from one standard acre).

A standard acre varies between 1 to 8 ordinary acres according to the class of land.

(3) Provision has been made for the regulation of surrenders on the lines recommended in the Plan. There is also a provision for restoration of tenants dispossessed illegally after 10th September, 1957.

Ownership for tenants

(4) With effect from a date to be notified all tenants and sub-tenants in respect of non-resumable lands shall come into direct relationship with the State. The tenants will have the option to acquire full ownership on payment of compensation or else continue to hold as tenants. There are special provisions for small holders. If a small holder expresses the intention not to resume any land immediately, his tenant cannot acquire ownership in respect of any portion of the land.

Ceilings

(5) The ceiling on existing holdings is 27 standard acres. Ceiling on future acquisition is 18 standard acres. Ceiling applies to the aggregate area held by a family, family being defined to include husband and wife and their dependent children and grand-children.

Land Tribunals

(6) The above provisions are to be implemented through land tribunals to be constituted by the State Government. A land tribunal is to consist of a judicial officer of the rank of a Munsif.

2. The Land Reforms Bill was introduced in 1959. The law was passed in 1962. Its implementation was, however, held up as some of the suggestions made by the Central Committee for Land Reform had not been provided. The law was amended in 1965 to provide for the suggestions made by the Committee. Many of these suggestions have been provided. There has, however, been some difficulty about two of these suggestions:

(i) In the former Bombay and Hyderabad areas (which were merged in the State of Mysore in 1956) under the laws then in force. landlord's right to ask for reservation of the land for resumption had become time-barred. The new law gave them a fresh right of resumption which meant taking away permanent rights which had already accrued to tenants. The Central Committee felt that it was essential that the rights which had once accrued to tenants whether with regard to security of tenure or rent should not in any case be taken away by subsequent legislation It was pointed out that in the Bombay and Hyderabad areas the protected tenants had been in possession for very long periods, generally about 20 years or more, and the period during which resumptions could be made by land owners expired several years ago. It was not, therefore, desirable to revive the right of resumption or reservation and thus take away the security of tenure which had accrued to tenants.

The amendment passed in 1965 provides that the extent of land, if any, resumable by any landlord in the Bombay or Hyderabad area shall be subject to the restrictions and conditions specified in the Bombay and Hyderabad laws. The precise implementation of this provision is not clear. Revenue Secretary with whom the matter was discussed mentioned that being an additional provision it could be construed to imply that conditions under the Mysore Land Reforms Act and the Bombay and Hyderabad laws would have to be satisfied simultaneously in determining the extent of land to be resumed by the landowners. This might also mean that in the Bombay and Hyderabad areas where the right of resumption or Reservation had expired, a fresh right would not be available under the Mysore Act. If so, the suggestion of the Central Committee stands implemented. The right interpretation of the provision will depend upon the pronouncement of courts. However, it was agreed that the Law Department would be consulted about their precise implications.

As regards rent, there is no much difference between the provisions in the Mysore Act and the former Hyderabad Act. In the Bombay area, however, the rent as fixed under the Bombay Tenancy and Agricultural Lands Act was I/6th of the gross produce or two to five times the land revenue, whichever was lower, which is less than the rent, as might be fixed under the Mysore Act. There is, however, a provision in Section 8 of the Mysore Act that where the rent payable by a tenant under any contract is less than the maximum rent, such tenant shall not be required to pay more than the contract rent. "Contract Rent" presumably will mean rent payable under the former (Bombay) law. It seems, therefore, that in the Bombay area, where the rent determined under the Bombay Act is lower than the rent that could be fixed under the Mysore Act. the former determination will prevail and the rights formerly enjoyed by tenants in the Bombay area in this regard would be protected.

(ii) The other suggestions of the Central Committee related to disregarding transfers in determining the resumable lands and surplus lands above the ceiling limit. As regards resumption provisions have been made in sub-sections 10(a) and 10(b) of Section 16. Transfers made after November 18, 1961, would be disregarded in computing the land to be resumed by the transferor. There, is. however, no such restriction on transferees who would be entitled to resume the area so transferred. To that extent the scope of resumption and consequently of eviction of tenants would be widened. This needs to be rectified by a suitable amendment.

As regards ceilings, the provisions for disregarding transfers are similar to those for resumption. The law does not provide that the surplus that may be determined by disregarding a transfer made after November 18. 1961 could be taken from the transferee as well. To that extent the advice of the Central Committee has not been provided.

Implementation

3. The Revenue Secretary is in charge of implementation of the Land Reforms Act, He is assisted by a special Deputy Secretary for Land Reforms. The officer who was appointed some time back as special Deputy Secretary has been transferred. A new officer has been appointed

recently. He is also due to retire shortly. Frequent changes in these appointments are not conducive to expeditious implementation. The implementation of land reform Act which is a comprehensive measure will mean a great deal of workload and will necessitate frequent visits to villages for supervision of and preparation of records and implementation of the Act. The Revenue Secretary is a very busy officer and could hardly afford to give necessary time and attention to the implementation of land reforms. In several states, an officer of the rank of a Commissioner has been appointed to look after the implementation of land reform. The Mysore Government might also consider the appointment of a whole time senior officer for the implementation of land reforms from among senior collectors with a wide field experience.

4. In the implementation of the Land Reforms Act. land tribunals will play a vital role. The duties of land tribunals are set out in section 112. They include determination of rents and of resumable and non-resumable lands, restoration of dispossessed tenants, fixation of compensation payable by tenants in respect of non-resumable lands, determination of surplus lands and the compensation payable in respect of them etc.

No special tribunals have been constituted at present. The Taluq Munsifs have been empowered to act as tribunals. The Revenue Secretary said that the appointment of special tribunals will be considered when there is enough work for them.

5. As stated earlier a tribunal is to consist of a judicial officer of the rank of a munsif. In the neighbouring states of Maharashtra and the former Hyderabad area, land tribunals consisted of revenue officers of the rank of a Tehsildar (Mamlatdar). In Madras also the Rent Court is to consist of a Tehsildar. The provisions relating to resumption are also to be implemented through revenue divisional officer and the jurisdiction of civil courts in this matter has been barred. It is well known that the procedures in the revenue courts are summary procedures and therefore much more expeditious. Proceedings before judicial officers are apt to be prolonged and costly. And, naturally, therefore, the poorer and more backward parties i.e. tenants are apt to be at a disadvantage. It seems desirable, therefore, that the State Government should reconsider the constitution of similar land tribunals on the lines of tribunals, say, in Maharashtra.

6. The enforcement of the provisions relating to rents require the determination and publication of gross produce i.e. the average yield of the principal crops grown on different classes or grades of lands. Under the Rules, Tehsildars are required to determine and publish the average yields. In the two taluqs visited by me. the determination of average yields had not been taken up. Possibly this is the position in other taluqs as well. This needs to be looked into. Until the average yields are determined and published, the tenants could not get the benefit of the provisions of fair rent. To keep a watch on the progress made in this direction it will be desirable to obtain monthly periodical reports for the Tehsildars.

7. The prices for commutation of rents into cash are to be notified by the Chief Marketing Officer (Rule 6). This does not seem to have been done so far and needs to be expedited.

8. In regard to commutation of rents into cash, there is one deficiency in the law which needs to be rectified. The payment of rent in cash or kind is left to agreement between the landlord and his tenant. Thus, there can be no commutation of rents into cash. Produce rents are difficult to enforce. Besides, they are a disincentive to investment and production. As tenancies will continue over a sizeable area even after the provisions of the land reforms Act have been implemented, it would be desirable to provide for commutation of rents into cash. A provision on the lines of the Bombay Act for fixation of rent at two to five times the land revenue is highly essential.

9. Applications for resumption are to be made to the land tribunals within one year of the enforcement of the Act i.e. by October 2. 1966. No information was available with regard to the

number of applications which had been filed. It would be desirable to keep a watch on the progress made in this direction by obtaining periodical reports from the Land Tribunals for expeditious disposal of applications so that special tribunals may be constituted where necessary.

10. The provision regarding transfer of ownership and ceiling; can be implemented only after the resumable and non-resumable lands have been determined. The determination of resumable and non-resumable lands, therefore, is of crucial importance to the implementation of schemes of the Act.

11. During my-visits to villages I met quite a number of people from among different groups: owners, tenants and landless. Few of them were aware of the provisions of the Land Reforms Act. Even some of the lower revenue officers were also not aware of the provisions of the law. This is rather sad. It is little wonder that in the absence of any awareness of the basic provisions of the law, there has been little enforcement. Wherever I made inquiries the customary rents are half the gross produce. The lands still continue to change hands from tenant to tenant or from tenant to owners. I understand that translation of the Act in the local language was under print and would be made available to the staff shortly. Much more needs to be done in this direction. Firstly, pamphlets containing a brief summary of the basic provisions of the Act in the local language should be prepared and widely distributed not only among officials but also among panchayats, cooperatives. It would also be made available in large numbers to landowners and tenants. Illustrative posters should also be useful. Secondly, the revenue officers and officers of development blocks should be asked to give wide publicity to the provisions of the Act by holding meetings, discussion etc. thirdly, the Revenue officers should be told specially in the form of instructions as to what part they can and should play in the implementation of this important socio-economic measure.

12. In the former Bombay and Hyderabad areas, the land records include information about the names of tenants and the rents paid or payable by them. In the former Mysore, Madras and Coorg, areas, they do not. The Mysore Land Revenue Act of 1964 includes provisions for the preparation of records of rights which are to include information about tenants also. Under Section 133 of the Act presumption of truth applies to entries in the record of rights and the certificated entries in the register of mutations. The record of rights has yet to be prepared under the Act. Thus, there is no record of tenancies in the former Mysore, Madras and Coorg areas. In the absence of such records determination of resumable and non-resumable lands by the tribunals is apt to take a long time and may result in much litigation between tenants and landlords. In fact in the absence of such records many tenants may not be able to establish their claims to possession of lands. An immediate action for the preparation of these records is,, therefore, of great importance and a special drive is called for. A scheme at a cost of about Rs. 38 lakhs has been prepared which is under reference to the Ministry of Food and Agriculture. The State Government has asked for the entire cost as assistance from the Centre and this could not be provide under the existing pattern of assistance which is 50 per cent by the Centre and 50 per cent by the State. The State Government has, therefore, to find 50 per cent of the cost from within the State Plan. The matter needs urgent attention of the State Government.

13. The Deputy Commissioner. Land Reforms who accompanied me during visits to villages felt that even *suo motu* enquiries by the revenue officers in the preparation of land records may not elicit information in many cases with regard to lands held by tenants, as the landlords will try to suppress this information. He was of the view that a strong penal provision against withholding of such information would be desirable if a correct record of tenancies is to be prepared. I entirely agree with him. Under sub-section 3 of section 130 of the Land Revenue Act. a person who fails to furnish the required information is liable to nay a penalty not exceeding Rs. 25/-. This penalty seems to be inadequate. In this connection attention is invited to the provision in sub-section (3) of section 197 under which any person committing breach of any rule is. on convictions, punishable to an imprisonment not exceeding one month or with fine not exceeding Rs.500/- or both. A similar

provision is called for to prevent withholding information for the preparation of records also.

14. In the villages, owners and tenants were also agreed that to avoid prolonged litigation early preparation of record of tenancies was necessary. They also agreed that such a record should be prepared in the villages in consultation with their representatives. The suggestion for associating local committees consisting of representatives of tenants, landlords and some independent persons in the preparation of records found universal support.

15. For the preparation and correction of records it is necessary that there should be adequate staff in the field, particularly at higher levels. Appointment of special Naib Tehsildars would be necessary. This will be provided in the scheme for the preparation of records. There is enough of staff at the village level. At present this agency consists of hereditary shanbhogs but under the new law the hereditary agency is being abolished. This is a welcome measure. At the same time, it is necessary that the present experienced shanbhogs should be retained and reappointed as stipendiary officials to the maximum extent necessary by relaxing qualification where necessary. I was given to understand that record of work (character rolls) of Shanbhogs was not being presently maintained and their selection or retention on the basis of past performance was not, therefore, possible. In the circumstances, if I may venture a suggestion, the policy should be to reappoint the existing hands on probation, except those who are above the prescribed age, for a temporary period of, say, 3 years. At the end of this period those whose performance is good may be confirmed. This will provide the necessary psychological urge for good work and at the same time make it possible for the Government to retain all experienced hands which is necessary for the preparation and maintenance of records and implemention of the Land Reforms Act.

Consolidation of Holdings

16. There has been some progress in consolidation of holdings in the former Bombay area. The law for consolidation of holdings had been enacted in the former Hyderabad area also and the work was taken up on a small scale, but not much progress has been made. Tn the former Mysore, Madras and Coorg Areas, the scheme has yet to be taken no. A unified Bill for consolidation of holdings was introduced in 1965 and referred to a Select Committee. The Committee is still working on it and is likely to report during: the next session of the State Legislature. I was given to understand that the Committee was whittling down the provisions by restricting consolidation of holdings to such lands which consisted of fragments, i.e., plots of less than half a standard acre each. Plots which are not fragments will be left out of consolidation. Thus, if a person holds 5 fragments and 10 plots which are not fragments, his holding may still be scattered over 11 places or more even after' consolidation of holdings and will not consist of one or two blocks, as in most other States and which is necessary for promoting schemes of land improvement, efficient land management and village planning. It seems desirable that this matter should receive a careful reconsideration before the scheme of the Act is finalised.

17. As stated, above, Mysore has gained considerable experience of consolidation of holdings in the former Bombay area. It has got trained personnel. The State is. therefore, in a position to push forward the programme in a big wav, provided an appropriate law is enacted and sufficient financial provision is made. Consolidation of holdings facilitates construction of minor irrigation works and soil conservation measures by re-alignment of holdings along contour lines. In a State like Mysore where less than 9 per cent area is irrigated and large areas are undulating which require immediate soil conservation practices, consolidation of holdings need to be taken up as a major agricultural programme.

May, 1966.

12. REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN ORISSA

The main work of implementation of land reforms in Orissa would commence when the law relating to ceilings on holdings and comprehensive tenancy reform is enforced. Orissa Land Reforms Act which was passed in 1960 contains provisions for ceiling and tenancy reform. However, as there were a number of shortcomings in the law. it was decided not to enact it pending suitable amendments. The matter was discussed in detail during a visit of the Deputy Chairman. Planning Commission to Orissa in August, 1961, Subsequently an amendment Bill was introduced in September 1961. The suggestions of the Planning Commission were further discussed by the Adviser, Planning Commission in July. 1962. The Bill was reported upon by the Select Committee but in view of the Supreme Court's judgement striking down the Kerala Agrarian Relations Act, the matter was kept pending until the Constitution had been amended Recently a Bill for amending the Orissa Land Reforms Act. 1960 has been taken up. The suggestions made by the Planning Commission with regard to this Bill are contained in the Appendix. (Many of these suggestions have not been incorporated in the Bill which has since been passed).

Pending enforcement of comprehensive tenancy reforms, interim legislation for protection of tenants and fixing maximum rents was enacted. (The interim legislation has been replaced by the Land Reforms Act which has since been enforced).

Abolition of Intermediaries

2. The Orissa Estates Abolition Act. 1951 provides for the abolition of intermediaries on payment of compensation varying from 15 to 3 times the net income. The total number of intermediary interests in the State is 3,99,966 out of which 3,51,795 estates including permanently settled, temporarily settled, revenue free estates and tenures etc. have been abolished from time to time. The first batch of notifications vesting[1] the intermediary estates was issued on 27th November 1952 and the latest on 14th July 1964. This leaves 48,171 estates which have still to be abolished. In addition there are 0.479 trust estates which have also not been' abolished. It will thus be observed that though about 12 years have passed since the work was started, the process has not been completed.

3. Out of an estimated total compensation of Rs. 6.25 crores. Rs. 3.86 crores have been paid and the balance has yet to be paid. It appears that the total Peshcush and cess paid by zamindars as well as tenants of Khas Mahal area prior to the vesting of estates was Rs. 1,28,79,000 and the corresponding figure fof 1963-64 was Rs. 2,51,59,000. Out of this increase of Rs. 1,22,80,000 about Rs. one crore is enhancement due to the vesting of estates. It would thus appear that with the abolition of intermediaries an additional income of about Rs. one crore has accrued to the State Government.

4. The Orissa Estates Abolition Act. 1951 provides for the cancellation of fraudulent leases made after January 1. 1946 under section 5(i). It has been, reported that 4,505 cases for such cancellation had been instituted out of which 4263 have been disposed of.

5. The Act provides that on abolition of intermediary interests, homesteads and agricultural lands in their khas possession shall be settled with the intermediaries. The Act also requires settlement of personnel jagirs in estates on raiyoti rights with the jagirdars. Out of 3,33,878 applications received, 1,35,354 have been disposed of leaving a large number of about 2 lakh applications undecided.

As has been mentioned above that out of about 4 lakh estates about 3.5 lakhs have been abolished. Compensation assessment rolls have been finalised in about 26,000 cases.

6. Information was not readily available on a number of important points, such as, lands vested in Government as a result of abolition, areas retained by the intermediaries under their khas possession, number of cases in which landlords were allowed to resume land to make up holding of 33 acres and the number of tenants brought into direct relationship with the State.

It would appear that the abolition of intermediaries and the ancillary work consequent upon abolition has been delayed and it is desirable to take steps immediately to complete the entire work. The revenue administration would also need tightening up in view of the large arrears of land revenue collection. It would appear that in 1963-64 out of a total demand of Rs. 348 lakhs, 219 lakhs, i.e.. 63 per cent was collected leaving a balance of Rs. 129 lakhs, i.e., 37 per cent of the total amount. It was mentioned that a considerable part of the arrears amounting to about Rs. 80 lakhs would be set off against the compensation.

Tenancy Reforms

7. The difficulties of implementing land reforms were aggravated by the wide variety of land tenures and systems of revenue administration which prevailed in different parts of the State. Orissa is a composite State which includes areas with different historical backgrounds : —

(i) parts of former Bihar and Orissa, (Cuttack, Puri and Balasore) generally under permanent zamindari settlement. Tenancies in the areas were regulated under the Orissa Tenancy Act of 1913.

(ii) parts of former Madras (Ganjam and Koraput districts) comprising permanently settled zamindaries, inams and riyotwari holdings. Tenancies were regulated under the Madras Estates Land Act. 1908,

(i) (Hi) parts of former Central Provinces (Sambalpur and Kalahandi) comprising zamindari and malguzari tenures. The Central Provinces Tenancy Act applies to this area; and

(iii) former princely States; Orissa Merged States (Laws) Act, 1950 applies to this area. In most of the merged States, laws were not codified and the land system was mainly governed by custom and usage.

8. Pending the enactment of a comprehensive legislation, the Orissa Tenants Protection Act. 1948 was enacted, followed by the Orissa, Tenants Relief Act, 1955. This Act is a temporary measure protecting tenants including sub-tenants of crop-sharers from ejectment and fixing maximum rents. The maximum rent is 1/4th of the gross produce not exceeding the value of 4 standard maunds of paddy in the case of dry lands, 6 maunds of paddy in the case of wet lands and 8 maunds of paddy in the case of certain special crops. Where a tenant holds land with permanent and heritable rights, the maximum rent is 1/6th of the gross produce. Tenants are protected from ejectment subject to the landowner's right to resume land for personal cultivation. The landlord was required to intimate selection of the land for personal cultivation by June 15, 1955 and the right to evict the tenant was to be exercised on or before the 15th days of May, 1956 or after service of notice in the prescribed manner on the tenant within a period of 90 days ending with March 31. 1956. If the landlord after evicting a tenant for personal cultivation failed to personally cultivate the land during the first three quarters of the next agricultural year, the tenant was entitled to restoration.

9. The Act was published in the Orissa Gazette on 1st April. 1955 and was given retrospective effect from July, 1954. After the publication of the Act, the landlords had only a very short time in which to intimate their selection of land for personal cultivation. The Administration Enquiry

Committee appointed by the Orissa Government, reported in about 1958 "that the number of cases filed under section 4 of the Act was only a few". However, precise information about the number of landlords who applied for resumption, or the areas selected by them and the tenants, if any, evicted and the area involved was not readily available. The Act provides for eviction of tenants for failure to pay rent, but information was not readily available regarding the number of tenants evicted under this provision and the area involved. Information was also not readily available with regard to a number of other important points such as, the number of cases in which the Collector restored possession to tenants and the area involved under section 9(7); number of cases under section 9(6) (such cases relate to the tenants claiming that he was prevented from cultivation of land by the landlord); number of cases of restoration of tenants on account of landlords' failure to cultivate land after resumption etc. At an earlier stage, the Orissa Administration Enquiry Committee had reported that the number of cases instituted in, several districts in respect of 2 years 1955-56 and 1956-57 was as below: —

Puri	3,501
Cuttack	534
Balasore	185
Ganjam	109
Koraput	13
Sambhalpur	46
Mayurbhanj	126
Dharknral	65
Bolangir	23
Pbulobani	1
Sundergnrh	6
Kalahandi	2
Koonjhar	1
Total	4,612

It would appear that in several districts very little use had been made of the provisions of this Act. As regards maximum rent, the law requires that the market value of paddy should be notified from year to year. The notification required under this provision has been made from time to time. The provisions, do not however, appear to be effective.

10. It appears that there is a fairly common practice of cultivating land through crop- sharers known as *bhagchasis.* The bhagchasis have no security to tenure and it is freely admitted that they are liable to eviction at the will of the landlord. The names of bhagchasis are generally not entered in the record. Further the rents paid by the bhagchasis, in many cases amounts to as much as half of the gross produce. The interim tenancy law is thus largely ineffective. In order to enforce comprehensive tenancy law when it is enacted, it would be necessary to give very wide publicity to the provisions of the law and in particular to educate the beneficiaries about the provisions of the law. It is also desirable to take steps for the completion as early as possible of the land records which are being prepared during the settlement operations, ensuring that the names of tenants and crop-sharers are duly entered in the records, and to give to the tenants certificates or ledgers showing the number and area of plots of which they are recorded tenants and the rent payable and the actual rents paid by them. In order to make provisions regarding maximum rent effective, it

would be necessary to take action *suo motu* for fixing rents in respect of all the tenants holdings.

Revenue Administration and Survey and Settlement

11. In several parts of the State, land revenue was being collected through hereditary village headman. The system of revenue administration through village officers has been abolished largely through mutual agreement. In other cases, use would be made of the Orissa Merged Territories (Village Officers Abolition) Act. 1963.

Orissa comprises of 48.898 villages. There are 962. revenue inspectors (wholetime government employees in the pay scale of Rs.80—135). Survey and Settlement operations have been completed in parts of Cuttack, Puri, Bolangjr, Kalahandi, Augne, Oanjam, Koraput and are in progress in other areas. It is expected that the work will be completed by the end of the Fourth Plan period.

November, 1964.

APPENDIX

The amendment proposed by the Orissa Government to the Orissa Land Reforms Act, I960 were considered at an informal meeting at Bhuvneshwar on August 13, 1960 and the following conclusions were reached: —

Ceiling on holdings Level of Ceiling

It is proposed to lower the ceiling to 20 standard acres for a family of five members. Allowance will be made at one standard acre for every additional member of a family exceeding five subject to a maximum of three standard acres over the ceiling area. A point was raised whether the allowance of one acre for every additional member would not be regarded as discriminatory and thus attract the provisions of the Constitution and it was decided that the point should be examined in the Ministry of Law.

(2) The proposals for the modification of the definitions of the expressions "standard acre", "perennially irrigated land" and "seasonally irrigated land" now proposed were agreed to.

Transfers

(3) It was agreed that all transfers made after January 1. l958 (a) among the members of a family and (b) benami transfers and other transfers which had not been made for valuable consideration and through a registered document should be totally disregarded in computing the surplus area of the transferer and the surplus so determined should be taken from the transferer and/or the transferee as may be necessary. In respect of transfers made for valuable consideration through registered documents it was agreed that such transfers should also be disregarded in computing the ceiling area of the transferer and the surplus so determined should be taken from him to the extent of lands available with him. No land would, however, be taken from transferees in such cases if the lands held by them were within their ceiling limit.

With regard to partitions, the proposed amendment was agreed to, namely, that partitions made after January. 1.1958 would also be disregarded except where family partition of holdings had taken place by metes and bounds and by separation of the rent and an application has been filed before the revenue authorities before the date and is pending final orders, if such partition is accepted by the revenue authorities by final orders.

Exemptions

(4) It was explained that there were no coffee, tea or rubber plantations and it was not, therefore, necessary to make provision for their exemption. It was also explained that there were no arecanut plantations. It was agreed that sugarcane farms owned by sugar factories would be totally exempted from ceiling and the outside limit of two ceiling area would not be applicable to them.

With record to exemption of plantations and orchards it was pointed out that the Second Plan recommended their exemption from the ceiling altogether and the upper limit of two ceilings should not apply in their case. It was further mentioned that if any limit was imposed upon them there was the risk of large scale cutting down of trees.

With regard to lands held by cooperative farming societies it was agreed that while the lands held by a society as such would be exempted, the share of an individual it the lands of the society will be taken into account in computing his ceiling area.

Acquisition and disposal of surplus land

(5) The proposal for the State acquisition of surplus land was agreed to.

As regards disposal of surplus land, a suggestion was made that all surplus lands should be settled only with cooperative farming societies of landless agricultural workers ejected tenants and small holders and pending formation of such societies, the land could be given on a temporary lease. It was agreed that unless a provision was made on these lines, the preference in favour of cooperative farming societies would remain inoperative in practice. There was some difference of opinion on this. A view was expressed that as it will take some time to organise cooperative societies, such a provision might hold up effective utilisation of lands. It was agreed that the matter may be examined by the State Government.

(6) The proposal for payment of compensation to landholders for the surplus lands in 10 annual instalments was agreed to. A suggestion was made that the issue of compensator/ bonds should also be considered in consultation with the Ministry of Finance and the Reserve Bank of India. With regard to the proposal for payment by allottees in seven annual instalments, it was decided that there should be a provision to spread the payments where necessary, over a period of 10 years.

Penalty

(7) The proposal for penalties to ensure submission of the prescribed returns was agreed to.

Tenancy Reforms Rents

(8) Proposal of commutation of produce rents into cash on the basis of 2 maunds of paddy for dry land. 4 maunds for rainfed land, 6 maunds for seasonally irrigated land and 8 maunds for perennially irrigated land was agreed to. A suggestion was also made that for purposes of commutation, price to be taken into account should be the average price over a period of five years.

It was also agreed that the proviso to section 13 of the Act should be omitted and the provision for fixation of maximum rent of 1/4 th of the gross produce should apply in all cases irrespective of the terms of contract.

Security of Tenure Surrender

(9) It was agreed that the provision would be made for regulation or surrenders as follows:-

(i) every surrender shall be registered with the revenue officer;

(ii) even where a surrender is permitted by a revenue officer, the landlord shall be permitted to occupy the surrendered land if he is entitled to resume and to the extent he is entitled to resume the land under the law of resumption for personal cultivation and

(iii) any surrendered land which a landlord is not permitted to occupy shall be declared surplus land and vested in the Government on payment of compensation at rates applicable to surplus lands above the ceiling.

Resumption

(10) With regard to resumption, it was felt that the proposals for resumption would lead to too much fragmentation and would leave very little land with tenants for cultivation. Tenants should be permitted to retain a larger proportion of the area and they could be charged compensation for the lands which they are permitted to retain. The cases of landlords owning a, basic holding or less would, however, need special consideration. In this connection the following suggestions were made, namely,

(i) In view of the long period that has elapsed, it should be reconsidered whether, landlords owning more than a family holding should be allowed to resume any land;

(ii) The right of landlords owning between a basic holding and a family holding, should be limited to half of the area owned (including the lands already under cultivation);

(iii) In the case of landlords owning a basic holding or less the provisions should be liberalized further;

(iv) In order to avoid abuse of the provisions for resumption all transfers and partitions made after 1st January, 1958 should be disregarded for purposes of determining resumable and non-resumable lands.

There was some difference of opinion about the above suggestions. The Deputy Chairman, Planning Commission recommended that the suggestions should receive careful consideration

Definition of Personal Cultivation

There was some difference of opinion. The Deputy Chairman emphasised the need to provide for the conditions of residence and personal labour in order to ensure that resumption was permitted to *bonafide* cultivators only and suggested that the matter should be considered further.

13. REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN PUNJAB

1. The basic principles underlying land reforms and the scope of the programme are somewhat different in Punjab as compared to other States. It seems that in Punjab the main object of tenancy reform is to enable a "small landowner" to have unfettered right over his land, unlettered by any opposing claims of the tenant. The expression "small land owner" as used in the Punjab law does not seem to have its ordinary meaning and includes all people who own land up to the permissible limit, i.e., 30 standard acres or up to 60 ordinary acres. It, thus, includes practically all the landowners in the State, medium or small excluding only about 35,000 or so of the biggest landowners who have lands exceeding 30 standard acres. Within this limit the owner has the right to take the land back if he wishes either to settle another tenant or to cultivate it personally. The law restricts the rent to 1/3rd of the gross produce (which exceeds the Maximum limits of 1/4th or 1/5th of the gross produce suggested in the plan), and also confers security until alternative land is found for the tenant. However, provisions with regard to security and with regard to maximum rent do not appear to be elective.

2. Punjab is the only State which has not enacted ceiling legislation. There is a ceiling on existing holdings in the former Pepsu area but not in the former Punjab area, though power has been taken to utilise surplus land above the permissible limit of 30 standard acres for the settlement of tenants who are ejected or who are to be ejected to enable the landowners to resume their land up to 30 standard acres. The tenants settled, in this manner on the surplus land will not ordinarily have the right to acquire ownership under the existing law, it has, however, been decided that when tenants are resettled on surplus land, an amendment would be made giving them ownership rights on payment of purchase price.

The main objects of ceiling legislation are (i) to impose a maximum limit upon land which an individual may own and (ii) to find some land for re-distribution to landless agricultural workers or uneconomic holders. The law applicable to the Punjab area does not contain any provision for the resettlement of landless agricultural workers or uneconomic holders nor does it in its present form impose a limit upon ownership of land. Punjab Government have indicated that if any surplus land is left after the resettlement of tenants it will be utilised for the settlement of landless agricultural workers. It does not, however, seem likely that any considerable areas of surplus land above the permissible limit would be available for the purpose.

Tenancy Reforms

3. The State falls into two parts, namely, the former Pepsu area covering 5 districts which is governed by the Pepsu Tenancy and Agricultural Lands Act, 1955 and the former Punjab area covering 15 districts which is governed by the Punjab Security of Land Tenures Act, 1953.

4. In both the Acts, the maximum rent is I/3rd of the gross produce. The landowner has the right to eject tenants and take over land up to the permissible limit of 30 standard acres (up to 40 standards acres in the case of displaced persons in Pepsu and 50 standard acres in Punjab). After ejecting the tenants, he may either cultivate the land himself or give it to another tenant, as he wishes. The law provides, however, that the tenant is not to be ejected from an area up to five standard acres (including any other land held by him) until he has been settled on alternative land by the State Government. In the Pepsu law, security has been given up to five standard acres whether the tenant holds land from a big or a small landowner. But in the Punjab law, a tenant holding from a big owner is not to be ejected at all until he has been provided alternative land while a tenant holding from a small owner has been given security up to five standard acres. There is another difference in as much as under the Pepsu law, a tenant with continuous, possession for 12 years at the commencement of the President's Act (3rd December, 1953) has been given security of

tenure in an area not exceeding 15 standard acres.

These differences are not, however, of any great importance as tenants can be ejected in both the areas through the device of voluntary surrenders, which have remained unregulated. The law regarding security of tenure appears to be on the whole somewhat illusory, this is supported by the fact that the number of tenants in existence in the Punjab area at the time when the Punjab Security of Land Tenures Act was amended in 1955 has greately decreased. From the information supplied by the State Government on March 30, l951, it appears that the total number of tenants including tenant-cum-owners in the State was, 5,83,400 (enclosure to Shri A. L. Fletcher's D.O. No. PA-55/99, dated 2nd April, 1955 to Shri Tarlok Singh). From the information supplied by the Punjab Government recently, it appears that the number of tenants who were holding land at the commencement of the Act and are still holding land as tenants is 80,520. It seems difficult to account for the large difference between these two figures. Even if we treat all the post Act tenants (who were admitted upto October, 1960 and are going to be resettled) as those in existence in 1955 the difference between the two figures still remains large. Corresponding figures of the Pepsu area are not available but the position would not be different from that obtaining in the Punjab area.

5. The provisions with regard to maximum rent do not appear to be effective in many cases. Neither of the Acts provides for the determination of the maximum rent *suo motu.* It is to be determined only when an application is made for the purpose. Information regarding the number of applications made for determination of rent is not available. However, it appears that rents exceeding the level provided in the law and going up to half of the gross produce are quite common in many cases. It is not surprising in the circumstances that receipts for rents are not given though the laws applicable to both Punjab and Pepsu areas contain provisions making it obligatory to issue receipts. The Punjab Security of Land Tenures Act, i9J3 provides that a landowner who fails to give receipts shall be punishable with line which may extend up to Rs. 100. In the Pepsu law there is a penalty not exceeding 3 times the land revenue. Information is not available regarding the number of cases in which action was taken under these provisions.

6. The bulk of the landowners, i.e.. persons owning land not exceeding permissible limit were not required to reserve -land which they wanted to take from the tenants. All the tenants holding land from such landowners were, thus, under the threat of eventual eviction as and when alternative land was allotted to them. Only the big landowners holding land exceeding 30 standard acres were required to reserve land. The date up to which reservation could be made in Pepsu expired on June 2, 1954. In Punjab, the period during which reservation could be made was up to 14th October, 1955. However, by a ruling of the Punjab High Court with reference to an interpretation of certain sections including section 5-B, which was inserted by an amendment Act of 1957, the period was extended to 20th June 1958. Information regarding the number of cases in which reservations have been made is not available.

7. Both Punjab and Pepsu laws contain provisions enabling tenants voluntarily to acquire ownership in the non-resurnuble area i.e., land outside the reserved area of a big landowner and in Pepsu also land held by a tenant of 12 years standing up to 15 standard acres.

The compensation payable in the Punjab Act is 3/4th of the market value and in Pepsu 90 times the land revenue (including rates and cesses) or Rs. 200 per acre, whichever is less.

It appears that in the Punjab area, 13,353 tenants have acquired proprietary rights on 89,704 acres of land and in the Pepsu area 5,989 tenants have acquired proprietary rights in 38,090 acres of land. Altogether, in the State as a whole. 19.342 tenants have acquired proprietary rights in 1,27,794 acres of land.

It appears that it has been decided to confer rights of ownership on tenants *suo motu by*

amending legislation; the purchase price being determined according to the respective laws in the Punjab and the Pepsu areas. However, it would be desirable to reconsider the purchase price in the Punjab area as 3/4th of the market value may be beyond the paying capacity of the tenants in many cases. The recommendation in the Plan is that the total burden of annual payment falling upon the tenant including instalment of the purchase price and the land revenue to the Government should not exceed l/4th or 1/5th of the gross produce.

Suggestions have been made from time to time for filling up the gaps in the law (as for instance, in a meeting of the Central Committee for Land Reform held on 16th December, 1958 copy enclosed as Appendix). It would be desirable to take necessary action for. filling up gaps that still remain in the law as early as possible.

In filling up the gaps with regard to ceiling legislation in the Punjab, it would[1] also be) desirable to provide for exemptions from ceiling as has been done in the Pepsu area in order to remove disparities between the two areas. In this connection, it would be necessary, in particular, to provide for exemption of specialised farms engaged- in cattle breeding, dairying, wool raising etc.

Ceiling on Holdings

8. As mentioned earlier, there is no law with regard to ceiling on existing holdings in the Punjab area but the State Government has been empowered to take over surplus land above the permissible limit of 30 standard acres (up to 50 standard acres in the case of displaced persons) for resettlement of tenants who are ejected or who are to be ejected. The persons to whom the land is allotted would pay rent to the owner. In the Pepsu area, there is a ceiling legislation providing for State acquisition of land beyond the permissible limit of 30 standard acres (in the case of displaced persons up to 40 standard acres) on payment of compensation on a graded basis. It appears that out of 34,896 cases 34,303 have been decided and only a small number of 593 cases are pending. 2.554 applications for exemptions were made of which as many as 2,523 have been decided and only about 31 are pending. In these cases 19,193 standard acres and 205 ordinary acres were granted exemption. 3,91,837 standard acres and another 106 ordinary acres have altogether been declared surplus in both the Punjab and the Pepsu areas.

9. In Punjab exemptions are given to lands in cooperative garden colonies, lands granted for gallantry to armed forces, orchards in existence at the commencement of the Act, well-run farms and tea estates.

10. The law provides that all transfers or dispositions of land (except by way of inheritance) made after April 15, 1953 would be disregarded in determining the surplus area. However, a difficult situation arose because many small owners had bought small areas of land and resisted ousting. So, instructions were issued that where a transfer was made up to 30th July, 1958 and the transferee was not within prescribed degree of relationship with the transferor and the total holding of the transferee including land owned by him previously did not exceed 10 standard acres the area was to be deemed to have been utilised. On this account 58,770 acres of land though declared surplus will not be utilised for resettlement of tenants. Orchards planted after commencement of the Act and up to 30th July, 1958 comprising 2,407 standard acres are also not to be disturbed. The total area which has, thus, been deemed to be utilised i.e. which has in effect been exempted comes to 61,177 standard acres.

11. It appears that out of a total area of about 3.9 lakh standard acres declared surplus, about 2,64,474 standard acres constitute lands which are available for disposal as no appeal is pending. Out of this area. 1,22.262 standard acres has been utilised for the resettlement of 63,520 tenants. Physical possession has, however, been given only on 65,466 standard acres. In a number of cases difficulties have been experienced in settling tenants on surplus lands particularly where the area to

be allotted is small, or at a considerable distance from the place where the tenant resides. 61,177 standard acres have in effect been exempted. A large part of the surplus area, however, is still available and action for allotment of the surplus land needs to be expedited.

Revenue Administration and Records

12. The State has a well established system of revenue administration. Its total area is 47,205 sq. miles divided into 20 districts and 74 tehsils. There are 22,737 villages in the State and the number of patwaris is 8,030, making an average of about 3 villages per patwari. The number of kanungos is 946 i.e., about one kanungo for 9 patwaris. There is a well established system with regard to the maintenance of land records. However, for various reasons the records regarding the tenancies are incomplete. It would, therefore, be necessary to undertake measures for revising and correcting the records with regard to tenancies.

October, 1964.

APPENDIX

Comparison with Plan Recommendations

In the following paras an attempt has been made to compare the provisions in the law with the recommendations of the Plan.

Rent

Both in Punjab and Pepsu areas the maximum rent has been fixed at 1/3rd of the gross produce as against 1/4th or 1/5th recommended in the Second Five Year Plan.

There is a further provision in the Punjab law that in computing the maximum rent payable such portion of rent as represents the consideration for services or facilities provided by the landowner is not to be taken into account. The implications of this provision are not quite clear.

Security of Tenure

Both in Punjab and Pepsu, the owner is permitted to resume land upto the permissible limit i.e., 30 standard acres (in case of displaced persons 50 standard acres in Punjab and 40 standard acres in Pepsu). The tenant is, however, entitled to retain temporarily up to 5 standard acres till he is provided with alternative land by the State Government. The tenant will thus vacate even this minimum area also when an alternative land is provided. The provision was included in the Punjab Act by an amendment of 1955 i.e., more than 3£ years back. In the Pepsu law, the provision was included by an amendment of 1956. We have no information as to the extent of land from which the tenants would be moved from one land to another. But as bulk of the leased area is held *from* owners owning less that 30 standard acres. it is likely that many of tenants would have to be moved. It is likely that until the position is stabilised neither the owner nor the tenants in respect of such lands would be interested in making improvements.

Further the owners are entitled to resume land by ejecting tenants not only on grounds of personal cultivation, they are entitled to settle new tenants on the lands resumed (except in the case

of persons who own more than 30 standard acres in Punjab area.

The Plan visualises that resumption should be permitted only for *bona fide* personal cultivation. In permitting resumption, the tenant is to be left with a portion of the holding or a minimum area outlined in paras 23 and 24 of the Second Five Year Plan.

Period of Resumption

In both Punjab and Pepsu landowners were required to reserve land within six months. No period has, however, been prescribed during which the owners must actually resume land or apply for resumption.

Tenants' Right of Restoration

If resumption is to be permitted as suggested above, on grounds of personal cultivation, all the tenants should have the right to restoration if the resumed land is not personally cultivated.

Ownership for tenants

There is a provision for an optional right of purchase. In Pepsu, tenants may purchase ownership in respect of non-resumable land. In Punjab, there is a further restriction that tenants of non-resumable land can acquire ownership provided they are in possession for 6 years. We have no information as to what extent this right has been exercised. There is no provision on the lines suggested in the Second Five Year Plan for bringing tenants of non- resumable area into direct relationship with the State and making them owners of land.

As regards purchase price in the Punjab, it is to be fixed at 3/4th of 10 years' average market value of similar lands payable in 5 years. It is not clear whether for computing market value the value of lands under personal cultivation would be taken into account or of tenanted land. It is well known that the market value of tenanted lands represents only a fraction of the market value of lands which are personally cultivated by owners.

In Pepsu area the purchase price is to be 90 times the land revenue or Rs. 200 per acre whichever is less. This is payable over a period not exceeding 6 years.

The suggestion in the Second Five Year Plan is that the total annual liability upon the tenant including the instalments of purchase price, interest on unpaid amount and the land revenue should not exceed the level of fair rent i.e., I/4th or I/5th of the gross produce. It appears that both in Punjab and Pepsu area the annual payments by the tenants would be much in excess of fair rent.

It may be mentioned that in considering the Pepsu legislation the Central Committee had suggested that: —

(i) purchase price in case of 12 years tenants should be 25 times the land revenue or Rs. 25 per acre whichever is less. (Under the Act they are also liable to pay compensation equal to 90 times the land revenue or Rs. 200 per acre whichever is less);

(ii) the purchase price should be payable in 20 annual instalments as against 6 provided in the Pepsu law.

Definition of Personal Cultivation

Both in Punjab and Pepsu personal cultivation includes cultivation by owner's labour and the labour of members of his family or relatives and through servants or hired labour. In Punjab,

owner's supervision is required. In Pepsu even this condition is not specified. There is no provision that: —

(i) owner must bear the entire risk of cultivation;

(ii) personal supervision should be accompanied by residence in the village or in the adjacent village within a distance to be prescribed; and

(iii) contribution of personal labour where the land is resumed for personal cultivation by ejecting tenants.

Regulation of surrenders

The Second Five Year Plan recommends that surrender of land by a tenant should not be regarded as valid unless it is duly registered by the Revenue authorities. Further the land- lord should be entitled to take possession of land only to the extent of his right of resumption. No such provision has been made in the Pepsu or Punjab laws. If a provision for regulation of surrenders is made, it is also for consideration whether further provision should be made for review of surrenders made during, say, the past 3 years as recommended in the Plan.

Ceiling

There is a provision for imposition of a ceiling and State acquisition of surplus lands in Pepsu area. In the Punjab the Government can utilise the surplus for resettlement of displaced tenants. There is no provision for State acquisition and distribution of land.

The procedure adopted in the Punjab for exemption of efficiently managed farms also needs to be considered. In judging the efficiency of a farm the yields of land are to be taken into account. There is a provision for annual recurring inspections etc. These procedures may introduce an element of subjectivity.

Lands belonging to the religious and charitable institutions

In the Pepsu area lands held by religious and charitable institutions are exempted from the purview of the entire Act. The tenants do not get any security of tenure and even their rents are not regulated. The Central Committee has generally taken the view that tenants of institutions should have the same rights as any other tenant and the Government should accept the responsibility to ensure existing income based on fair rental to the institutions.

Defence Personnel

The following provisions in respect of Defence Personnel may be considered: —

(1) The members of the armed forces who have failed to reserve land under the provisions of the Punjab and Pcpsu Acts should be given another opportunity for reservation of land.

(2) A provision may be made in the Punjab Act that—

(i) members of the armed forces and other persons suffering from a disability who let land after commencement of the Act will also have the right to resume land upto the permissible limit and

(i) a tenant who has sublet land shall not be ejected on grounds of subletting if he is a member of the armed forces or is suffering from a disability.

(3) The Pepsu Act provides that where a tenant has sublet the land, the right of purchase of ownership shall be exercised by the sub-tenant to the exclusion of the tenant-in-chief. Since disabled persons, including defence personnel have the right to sublet, they should continue to have the right of purchase of ownership.

Banjar Land

In Pepsu, there was a provision for State acquisition of Banjar lands on payment of compensation equal to 45 times the land revenue. This provision has been dropped. In the Central Committee, it was agreed that this provision should be retained. Although under the ceiling law the Government may acquire Banjar land above the permissible limit, it would still be desirable in the interest of agricultural production that where owners have failed to bring Banjar land under cultivation even within the permissible limit, the Government may step in and acquire these lands. It is a matter for consideration whether a similar provision should be included in the Punjab law also.

Extract from summary record of the meeting of the Central Committee for Land Reforms held on December 16, 1958 *lo consider matters relating to land reforms in Pepsu*

Chief Minister. Punjab observed that further land reform measures were under consideration of the Punjab Government. The points raised in the notes circulated for the meeting, other than those relating to the two amendment Bills, could be considered in formulating the proposals. If necessary, they could be discussed in the Committee only after the Punjab Government's proposals have been formulated and made available to (he Commission. It was accordingly decided that these points may be taken up when the Punjab Government's proposals are received.

14. REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN RAJASTHAN

Land reform in Rajasthan was a huge task, which was made more difficult by the power and influence of the intermediaries, the confusing varieties of land system in the different princely States which are comprised in Rajasthan, lack of an efficient or uniform system of revenue administration and lack of reliable land records. In spite of these immense difficulties, land reform has been carried out with considerable success. The legislation on the subject is sound in conception and carefully considered in detail. But some of the ancillary work consequent upon various measures for land reform has not yet been completed and in some cases the progress is slow. Further, reliable information on the stages reached in the implementation of various provisions is generally not available.

2. However, the position with regard to tenants admitted after the commencement of the law is disturbing. The Rajasthan law seeks to regulate rents (the maximum permissible rent being 1/6th of the gross produce) but it does not provide for security of tenure. It is not surprising that in the absence of any provision for security the provision for maximum rent is ineffective. The tenants are in actual fact, rack-rented tenants-at-will, paying rent amounting to half of the produce in many cases.

3. The implementation of ceiling law has not made much headway partly on account of delays in determining the standard acre and partly on account of suits challenging its validity. With the inclusion of the Act in the Ninth Schedule of the Constitution, it is hoped that the implementation of the law would now be expedited.

Abolition of Intermediaries

4. Of the total area of 836 lakh acres in Rajasthan about 60 per cent was held under intermediary tenures, namely, jagirdars, zamindars and biswadars. Only about 40 per cent of the land was held d4rectly under the State as khalsa area.

5. The abolition of intermediaries was carried out under the provisions of the Rajasthan Land Reforms and Resumption of Jagirs Act. 1952. Aimer Abolition of Intermediaries and Land Reforms Act, 1955 and the Rajasthan Zamindari and Biswedari Abolition Act, 1959 Intermediaries in the Abu area transferred from the former Bombay State and Sunel Tappa area of the former Madhya Bharat State were abolished before re-organisation under the laws of the respective States, namely the Bombay Merged Territories and Areas (Jagir Abolition) Act 1953 and the Madhya Bharat Abolition of Jagirs Act, 2008 Bk. respectively.

6. In Ajmer the estates of bigger intermediaries had been abolished under the Aimer Abolition of Intermediaries and Land Reforms Act, 1955 before the merger of the former State of Ajmer in Rajasthan. The remaining intermediaries were abolished with effect from July 1,1958.

7. Resumption of jagirs was. in the initial stages, delayed on account of stav orders obtained from the courts by some jagirdars. Subsequently the jagirdars entered into negotiations with the State Government and the points at issue were referred to the Prime Minister for arbitration. The Act was then amended in the light of the Prime Minister's award and the work of resumption was taken up. However, some of the land holders started an agitation and the matter was again referred to the Prime Minister who gave an award in January 1959.

8. The resumption of jagirs was carried out on different dates according to the income groups to which the intermediaries belonged. It was. however, completed by 1st July 1958. Religious jagirs were resumed from 1959 to 1963. A detailed statement showing the dates on which the jagirs were

resumed is at Appendix I.

9. The Zamindari and biswadari tenures which prevailed in some 5,000 villages spread over 9 districts of Rajasthan were abolished in 1959 (settled zamindaris and biswadaris) and in 1960 (others).

10. It was not considered necessary to take publicity measures such as organisation of meetings in villages or publication of pamphlets or other literature through the department. However, knowledge of the land reform measures was very widely disseminated in villages through political and other meetings and through the measures taken by the Government for collection of the rental demand from the tenants who were brought into direct relationship with the State. It appears also from the visits to some villages that the main features of land reform are generally known to the people.

11. Though several years have elapsed since the abolition of intermediaries a considerable part of the work consequent on abolition of intermediaries still remains to be completed.

12. The Rajasthan Land Reforms and Resumption of Jagirs Act, the Ajmer Abolition of Intermediaries and Land Reforms Act and the Rajasthan Zamindari and Biswedari Abolition Act made all lands of the ex-intermediaries liable to payment of land revenue. All tenants of intermediaries who were entered in the revenue records as having heritable and transferable rights retained their rights and were called khatedar tenants. The khudkasht lands of the intermediaries were settled with them under khatedari rights. The laws also provided for allotment of land as khudkasht to former intermediaries in cases where the land already held by them as khudkasht was not considered adequate. It appears that out of 15,228 applications 13,794 applications have been disposed of while 1,434 still remain pending.

13. Progress in the determination and payment of compensation and rehabilitation grant is also slow. The total number of jagirs which have been resumed has been reported as 2,59,025. Against these jagirs which have been resumed, the number of claims that have been filed is reported as 2,31,578 of which 2,28,229 claims have been finalised and 3,345 are reported to be still pending.

14. In the case of religious jagirs the total number of jagirs resumed has been reported as 59,931. 18,400 claims were filed of which 13.257 have been finalised and 5,163 are reported to be still pending. Where the intermediaries have not been able to file claims, the Jagir Department is engaged in getting the statements prepared. In respect of jagirs under the Aimer Abolition Act, the total number of jagirs resumed is reported to be 12,290; 13,795 claims were filed of which 12,670 have been finalised leaving a balance of 1,125. With regard to zamindaris and biswadaris out of 3.18.860 estates resumed, claims have been prepared for 2,12,313 of which 55,316 still remain to be finalised apart from the large number of claims which have not yet been filed.

15. As regards the payment of compensation and rehabilitaton grant, reliable information is not available. However, it appears that something like Rs. 24 crores had been paid either in cash or in bonds along with interest while an amount of about Rs. 43 crores including bonds, cash and interest has still to be paid. Besides, it is estimated that an amount of Rs. 3 crores will be paid under the Nehru Award subsequently after the amount of compensation and rehabilitation grant has been paid.

16. It will be observed that the progress of various important items of work connected with the abolition of intermediaries, such as. final disposal of applications for allotment of khudkasht, preparation of claims, finalisation of claims for compensation and payment of compensation and rehabilitation grants etc. is slow. It would be desirable to take immediate steps to complete these items of work without further delay and for the purpose it may be worthwhile to appoint

implementation officers with specific territorial jurisdiction who would maintain close and intimate knowledge of conditions in the field.

17. Information on some of the important aspects of the implementation of land reforms is either not available or else is so incoherent and inconsistent that little reliance can be placed upon it. Without up-to-date and reliable information, it is difficult for the State Government to keep a watch on the progress of implementation, to supervise and co-ordinate the activities of various agencies concerned and to remove difficulties and shortcomings as they are experienced. It is, therefore, suggested that arrangements may be made for the collection of essential statistical information regarding progress of implementation. It would be useful to associate a statistical expert with this work and to take steps to explain in detail to the officials concerned the items on which information is required.

In the absence of reliable information, it is difficult to judge the overall effect of the abolition of intermediaries.

18. It appears that the total amount of compensation payable to the intermediaries is Rs. 69.32 crores. Out of this a sum of Rs. 23.91 crores has been paid in cash and bonds and towards interest. A sum of Rs. 45.41 crores still remains to be paid (including Rs. 3 crores to be paid under the second award). The State Government is in addition liable to pay perpetual annuities amounting to Rs. 17 lakhs per year to religious institutions plus pensions to some ex-jagir employees and maintenance to widows.

19. The extent of land allotted to jagirdars for khudkasht is 10.65,154 acres and 41.451 bighas (the information received from the districts refers to different units of land i.e.. acres or bighas and it is difficult to present this information in terms of one unit on account of the fact that bigha is a local unit of measurement and differs in extent in different areas). The area left with the intermediaries on abolition as khudkasht has been reported as 21,04,586 acres and 14,42,766 bighas. The total area of khudkasht thus amounts to 31.69.740 acres and 14,84.217 bighas. On a very rough estimate 14.84 lakh bighas would amount to 9.28 lakh acres. The total area of khudkasht may thus be put at approximately 41 lakh acres Comparable figures with regard to tenants are unfortunately not available. It has been reported that the number of tenants who acquired khatedari rights under section 15(1) of the Rajasthan Tenancy Act of 1955 is 5,21.020 and the area involved is about 34.89.472 acres and 11,36.592 bighas (or roughly a total of about 42 lakh acres or so). Unfortunately, these figures do not seem credible. The aggregate of khudkasht land (about 41 lakh acres) and land in which tenants acquired khatedari rights (about 42 lakh acres) comes to about 83 lakh acres, which is very far short of the total cultivated area of Rajasthan which is estimated at about 326 lakh acres and 60 per cent of which (i.e. the jagirdari area) would amount to about 196 lakh acres. It does not seem very likely that out of 196 lakh acres only 83 lakh acres is held in khatedari rights and the rest in Ghair-khatedari rights. Information regarding waste-lands and forests which vested in the State as a result of the abolition of intermediaries is also not available.

Tenancy Reforms

20. The Rajasthan Tenancy Act, 1955 which applies to the whole of the State is a comprehensive measure providing for fair* rents, security of tenure for the tenants subject to a limited right of resumption for the landowner leading eventually to conferment of ownership upon the tenants and for ceiling on land holdings.

21. As Rajasthan is a composite State containing many former princely States it had a large and confusing variety of land systems. The abolition of intermediaries, the protection of tenants and the building up of a uniform land system and revenue administration were thus tasks of great magnitude. Immediately after the merger of States an Ordinance (The Rajasthan Protection of

Tenants Ordinance. 1949) was promulgated on June 21, 1949 to check the growing and widespread tendency for ejectment of tenants. In most of the jagir areas where settlement operations had not taken place, the rent payable varied from 1/4th to 1/2 of the produce the usual rate being 1/3rd and in some cases 1/4th of the produce. In order to prevent rack-renting, the Rajasthan produce Rent Regulating Act. 1951 was enacted. This was applicable to the unsettled areas where produce rent was generally paid. The maximum rent was put at 1/4th of the gross produce, which was later reduced to 1/6th of the gross produce in 1952. These prompt measures for the protection of tenants created a situation very favourable for land reform. Subsequently, these measures were replaced by the comprehensive provisions of the Rajasthan Tenancy Act Generally speaking the Act provided for conferment of khatedari (heritable and transferable rights) upon all tenants except—

(a) persons to whom land had been leased temporarily in Ganga Canal area, Bhakra, Chambal or Jawai Project areas;

(b) tenants holding land in Rajasthan Canal area;

(c) tenants of pasture lands and other special categories of lands such as land used for casual or occasional cultivation in the bed of a river, land under shifting or unstable cultivation, land situated within the Units of a cantonment etc.;

(d) tenants of khudkasht and sub-tenants.

22. In the lands mentioned in clauses (a) to (c) above, ghair-khatedari rights were conferred upon all tenants. Ghair-khatedari rights are heritable but not permanent or transferable. In the case of tenants of khudkasht and sub-tenants, an optional right to purchase ownership was first given, followed by an amendment Act which provides for compulsory transfer of khatedari rights upon tenants of khudkasht and sub-tenants on payment of compensation to the landholder i.e., khatedar tenant. The conferment of khatedari rights upon tenants of khudkasht and sub-tenants was subject to a limited right of resumption by the landholder, the landholder was allowed to resume for personal cultivation land held by a tenant of khudkasht or sub-tenant in excess of the prescribed minimum area. The minimum was intended to provide a net income of Rs. 1,200 per year and varied between 15.6 acres and 125 acres depending upon the productivity of the land the conditions of the local area in which it is situated etc. The right of resumption could be exercised by an application within 3 years from the commencement of the Act i.e. by 14-10-1958. In respect of the minimum area varying from 15.6 acres to 125 acres the tenants of khudkasht and sub-tenants became khatedar tenants with effect from 5-4-1959. In respect of areas which were subject to resumption but were not actually resumed the right of a khatedar tenant accrued with effect from 5-4-1961.

23. The compensation payable to the landholder is 15 times the rent for unirrigated land and 20 times the rent for irrigated land, payable in annual instalments not exceeding 10,

24. It appears that the optional right of purchase was availed of by very few tenants of khudkasht or sub-tenants 'Subsequently khatedari rights were conferred on all such tenants and sub-tenants with effect from 5-4-1959 or 5.4-1961). Unfortunately with regard to the number of tenants or area involved no information is available on which reliance can be placed. In respect of 24 districts, the State Government had earlier intimated that the total number of tenants of khudkasht and sub-tenants who were in possession during 1958-59 (i.e. at the commencement of the Amendment of 1959) was 5,33,758. In a later statement in respect of 23 districts it has been mentioned that the total number of persons who were eligible for conferment of khatedari rights under section 19(1) of the Rajasthan Tenancy Act amounted to 1,70,174 and that 1,31,056 persons were recorded as khatedar while mutations have been effected only in favour of 1,07,619 persons. The area of land held by persons who have been recorded as khatedars is reported to be 6.65.889

acres and 11.413 bighas. However, little reliance can be placed on these figures.

25. As regards payment of compensation in respect of lands on which khatedari rights have accrued to tenants of khudkasht and sub-tenants, the landholders were required to file claims for compensation. The compensation is to be deposited in the tehsil and the same is payable from there to the person entitled to receive it. It is reported that 9,601 landholders find filed claims for Rs. 45,22,519. Out of these 7,492 claims involving a sum of Rs. 39,64,718 have been disposed of and the remaining are pending.

26. The Rajasthan Tenancy Act permits leasing in future, subject to certain restrictions: —

(1) The khatedar tenants can lease land for a maximum period of 5 years and there should be an interval of at least 2 years between one lease and another. The Ghair-khatedar tenant can lease land only for one year.

(2) In either case, the maximum rent should not exceed I/6th of the gross produce.

27. It is freely admitted that there is a common practice for leasing out land to share-croppers, but the restrictions imposed by law are not effective. In the villages visited, the prevailing custom is for the share-cropper to give half the produce to the landholder though in some cases where the land is poor, the landholder's share may be about 1/3 or l/4th of the produce. Where the landholder supplies the bullocks and bears the entire cost of cultivation, the share-cropper's share may be as little as about l/4th of the produce. 3/4th being appropriated by the landholder. While previously such lessees were allowed to remain in possession of the same area of land for considerable periods, the landholders now change the share-croppers pretty frequently out of the fear that if they are allowed to retain the same land for any length of time, they may claim tenancy rights in the land. In order to avoid this danger, the landholders sometimes got the share-croppers to sign documents to the effect that they are attached labourers or servants. Most of such share-croppers are not recorded in the khasra-girdawri which is a quadrennial record and contains a column showing changes in possession. On account of the misuse made by the patwaris of the power to record changes in possession instructions were recently issued withdrawing the power of recording changes from the patwari. In the three districts visited, namely, Tonk, Udaipur and Jaipur, the instructions seem to have been mis-understood by revenue officials to mean that the sub-tenants are not to be recorded at all.

28. It would thus appear that the lessees have no security of tenure at all. (The law itself does not seek to confer this). They are also obliged to pay excessive rents, amounting in some cases to as much as half the produce. The law intends to regulate rents, but this is simply not possible unless at the same time security is also given.

Ceiling

29. The ceiling law was enacted on March 12, 1960 but the rules were finalised more than 3 years afterwards, on 1st December, 1963. The ceiling limit under the law is 30 standard acres, a standard acre being defined to mean an area of land yielding 10 rounds of wheat or in case of land not growing wheat, its equivalent in money value. (The determination of the standard acre proved to be a very difficult task and took a long time. (The ceiling area as thus determined varies from 22 to 336 ordinary acres).

30. The law has been enforced from December 15, 1963. The State Government propose to enforce it by stages. To begin with, declarations have been called for from persons with holdings of 150 ordinary acres and above. From the figures now collected by the State Government it appears that 39,690 holdings fell in the catagory of holdings of 150 acres and above. (The total number of holdings in Rajasthan is 33,36,945).

31. It will thus be seen that though the ceiling law was enacted more than 4 years ago little progress has so far been made. The calling of declarations from persons holding 150 ordinary acres and above has been challenged in the courts and the Supreme Court has issued stay orders. The Act has now been included in the Ninth Schedule to the Constitutions by the Constitution (Seventeenth Amendment) Act, 1964 and it is hoped that it should now be possible to implement it expeditiously.

Land Records

32. As the maps and records were out-of-date, survey and settlement operations had to be taken up practically in the entire State. Except for some small areas, the work has already been completed and a sound system of revenue administration has been built up The entire area of Rajasthan has been surveyed and settled except 348 villages comprising an area or 7,722 square miles. Regular settlement operations are in hand in the non-settled villages of Jaisalmer. The average cost of survey is Rs.380 per square mile and of settlement Rs.360. The average cost of survey and settlement per acre comes to Rs.1.15 P.

33. There are 7,932 patwaris for 34,528 villages, i.e., about 1 patwari for 4 to 5 villages. The total number of land records inspectors (excluding office kanungos and assistant sadar kanungos) is 679, making an average of about one inspector for every 10 patwaris). The arrangements for training of patwaris are extremely inadequate, there being only 2 schools with a capacity of training about 160 patwaris annually. The patwaris were until of late responsible only for the maintenance of land records and agricultural statistics. However, recently the lamberdari system has been abolished and the patwaris have been entrusted with the duty of collection of land revenue.

34. Even though the intermediaries were abolished about 6 years ago and the land system has been radically changed by the Tenancy Act, it is a surprising fact that the old land record forms are still being used and have not been modified in accordance with the new land system. It was mentioned that a committee has recently reviewed this position and has made a number of suggestions for rationalising the land records which are under consideration. It is suggested that the work of revision of land records forms may be carried out as expeditiously as possible.

35. It is to be noted that while collections against the current demand represent about 82 to 91 per cent there are still large arrears which have been outstanding for some time and have still to be collected. Special efforts are therefore, necessary to improve the collection of land revenue.

36. A statement showing incidence of land revenue per acre is appended as Appendix

Consolidation of Holdings

37. The Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 came into force on December 11. 1954. The actual work of consolidation of holdings was started in May, 1957. In some of the areas declared as colonies, such as, Bhakra Project area, the Rajasthan Canal Project area, the work is being done by the Colonisation Department, while in others it is being done by the Consolidation Department.

38. It will be observed that the progress is satisfactory as compared to the target for the third plan period. However, the target itself is very low and it is necessary to review the position and draw up a programme for completing the work of consolidation of holdings in the State as expeditiously as possible.

Consolidation Fee

39. Section 27 of the Rajasthan Holdings (Consolidation and Prevention of Fragmentation) Act, 1954 authorises the State Government to recover the cost of consolidation (to be assessed in the

prescribed manner) from the beneficiaries. In view of the physical conditions and the benefits accruing from consolidation, the State has been divided into three different zones, namely. (a) project areas (b) fertile areas and (c) desert areas. The following rates of consolidation fees are being charged: Project areas—Rs. 3/- per acre, fertile areas Rs. 2/- per acre, and desert areas, Re. -/8/- per acre.

August, 1964.

APPENDIX I

Statement showing the resumption of various categories of Jagirs

Serial No.	Notification number with date		Appointed data of resumption		Income group	No. of jagirs resumed
1	F4(388) Rev A/53	8-6-54	15-6-54	3,00,000	and above	4
2	F4(388) Rev A/53	25-5-54	1-7-54	50,000	to 3,00,000	64
3	F4(388) Rev A/53	26-7-54	1-8-54	30,000	to 50,000	48
4	F4(388) Rev A/63	26-7-54	1-8-54	20,000	to 30,000	90
5	F4(388) Rev A/53	26-7-54	1-8-51	5,000	to 20,000	910
6	F4(388) Rev A/53	15-10-54	29-10-54	4,000	to 5,000	330
7	F4(388) Rev A/53	15-10-54	29-10-54	3,000	to 4,000	464
8	F4(388) Rev A//53	15-10-54	29-10-54	2,000	to 3,000	877
9	F4(388) Rev A/53	17-12-54	1-1-66	1,000	to 2,000	2,146
10	F4(388) Rev A/53/8546	31-8-57	15-9-57	500	to 1,000	3,624
11.	F4 (388) Rev A/53/ 1822	16-5-58	1-7-58	251	to 600	5,702
12	F4(388) Rev A/53/1822	16-5-58	1-7-58	1	to 250	2,44,767
					Total	2,59,025

Jagirs returned under Ajmer Act

	1-8-55	500 and above	2,146
	1-7-58	1 to 500	10,144
Religious Jagirs resumed			
D.22081/F.1(290) Rev./A/58 dt. 27-11-68	1-1 -59	10,000 and above	
D.16806/F.1(403) Rev. /A/59 dt. 30-10-59	1-11-59	5,000 to 10,000	
F.I.E.(31)Rev/A/60dt. 18-7-60	1-8-60	1,000 to 5,000	50,931
F.I.D.(63) Rev/A/61 dt. 13-3 61	1-7-63	Below Rs.1,000	

Zamindaris & Biswedaris resumed				
F.l(152) Rev/A/59 Dt.3-11 59		3-11-59	Settled	
F.l(162) Rev/A Dt.28-12-60		15-1-60	Unsettled	3,18,860

APPENDIX II

Statement showing the position of arrears required vide Item, No. 7 of the list of subsidiary points of Fourth Finance Commission in respect of land revenue

Serial No.	Name of District	Land under cultivation	Land Revenue	Per acre land revenue	Remarks
1	**2**	**3**	**4**	**5**	**6**
1	Bikaner	9,17,178	2,06,398	0.23	
2.	Churu	21,20,416	6,50,810	0.30	
3	Sikar	12,53,683	8,45,368	0.67	
4	Barmer	8,65,967	1,45,220	0.14	
5	Jaisalmer	32,171	8,967	0.28	
6	Jalore	17,34,058	6,29,935	0.36	
7	Jodhpur	24,42,053	4,71,842	0.30	
8	Nagour	22,61,981	21,26,208	0.94	
9	Pali	9,50,597	8,69,666	0.91	
	Total	1,25,78,104	59,54,414	0.47	
10	Ganganagar	23,68,995	31,39,928	1.32	
11	Alwar	9,94,491	22,55,237	2.27	
12	Bharatpur	11,17,650	33,63,363	2.01	
13	Jaipur	16,19,036	56,45,700	3.49	
14	Jhunjhunu	9,24,334	21,47,378	2.32	
15	Swai Madhopur	9,74,814	29,17,939	2.99	
18	Tonk	8,01,042	19,82,385	2.49	
17	Sirohi	2,82,820	3,25,147	1.14	
18	Bundi	4,42,979	10,74,709	2.42	
19	Jhalawar	5,72,469	18,96,725	3.31	
20	Kotah	14,69,688	37,88,910	2.58	
21	Banswara	3,86,061	7,93,477	2.05	
22	Bhilwara	5,37,273	22,12,339	4.11	
23	Chittor	6,23,932	23,50,122	3.76	
24	Durgarpur	2,38,575	7,93,636	2.70	
25	Udaipur	5,60,214	25,87,808	4.61	
	Total	1,39,20,373	3,70,92,103	2.74	
	Grand Total	2,64,98,477	4,30,46,517	1.62	

15. REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN UTTAR PRADESH

Abolition of intermediaries and tenancy reforms were generally planned and carried out jointly in Uttar Pradesh both as regards legislation as well as implementation. A small class of persons (consisting mainly of certain categories of tenants of zamindars homefarms or sub-tenants of tenants, or occupants) were given a transitional form of tenure called "adhivasis". Soon after zamindari abolition these persons were also given permanent rights as "sirdars", and brought into direct relationship with the State. In Uttar Pradesh resumption of land by the owner for personal cultivation and consequent ejectment of tenants was not allowed and all the tillers of the soil were brought into direct relationship with the State and the rights of intermediaries or tenants above them were abolished.

2. Zamindari abolition has been carried out in whole of the State except a few small areas where the prevailing tenures and conditions are different from the rest of the State. In a small area in Mirzapur district, the work has been held up on account of litigation regarding the applicability of the definition of the term 'estate' to the lands in question. In Kumaun and Uttarakhand Divisions (hilly regions in the north-western part of the State), cadastral survey had been made. The maps and the records were not reliable. Further, the land system differed considerably from the land system obtaining in the plains, it was, therefore, necessary to carry out survey and settlement operations in these areas before zamindari abolition. The work was initiated in 1955 but has not yet been completed.

3. It is necessary to expedite the work and implement zamindari abolition and land reform in the small areas where it has yet to be carried out, as speedily as possible.

4. The law prohibits leasing of land in future, except in the case of persons suffering from a disability (or where the lease is made to a recognised educational institution). In spite of this prohibition a practice has grown for leasing out land on 'batai'. It appears that the general custom is for the tenure holder to pay the land revenue for the holding while the entire cost of cultivation is borne by the bataidar or share-cropper, who pays half of the produce and half of the straw as rent. The bataidars are usually not allowed to remain on land for any length of time lest they claim tenancy rights. Further, the landowners take care to give land on batai only to persons in whom they have trust and who, they believe are not likely to make such claims. Such arrangements are generally not recorded in the land records and the bataidars are unable to claim the rights accruing to them under the law. They are, in fact, rack-rented tenants-at-will. Tenancy poses an ever recurring problems; as soon as it is dealt with in one form, it re-emerges in another. It will be necessary to study the extent to which this illegal and un-recognised leasing of land exists, and to take steps for dealing with the situation.

5. Ceiling law has been enforced with effect from January 3, 1961, i.e., about 3-1/2 years ago. Out of 8,052 tenure holders having land above the ceiling, so far 4,170 cases have been finalised. Compensation has been finalised only in 783 cases. Progress in the implementation of ceiling legislation is thus slow and unsatisfactory and needs to be expedited.

6. Consolidation of holdings has been taken up in the State as a major projects. Out of a total area of approximately 300 lakh acres in which consolidation is to be carried out, over half i.e., about 165 lakhs acres have been brought under consolidation operation. It is expected that the entire work will be completed by about the middle of the Fifth Plan period.

7. The State has considerable experience regarding the maintenance of land records and the present machinery is adequate and the land records are on the whole maintained efficiently except for crop-sharers who are generally not being recorded.

Abolition of intermediaries and tenancy reforms

8. The Uttar Pradesh Zamindari Abolition and Land Reforms Act 1950 (U.P. Act 1 of 1951) applies to the entire State with the exception of Kumaun and Uttarakhand Divisions, urban areas and certain other specific areas. Before the Act could be applied in the above areas, it needed certain modifications, on account of differences in local conditions and tenures. The areas where modifications were necessary included Pargana Kaswar Raja, former Benaras State, former Rampur State, portion of Mirzapur district, South of Kaimur range, various enclaves of Indian States and Government estates. The Act was enforced in the bulk of the State in July 1, 1952 while in other areas some modifications were necessary, it was enforced on subsequent dates from 30th September, 1952 to 1st July, 1959, as shown below—

S. No.	Areas	Date on which the Act was enforced in these areas
1.	Pargana Kaswar Raja in Varanasi district	30-9-1952
2.	Former Benaras State excluding Government Estates without intermediaries	30-6-1953
3.	Government Estates without intermediaries ill the former Benaras State	1-7-1954
4.	Former Rampur State (excluding Government Estates therein)	30-6-1954
5.	Government Estates in the former Rampur State	26-1-1956
6.	Enclaves of former Indian States absorbed in U.P. (Excluding Govt. Estates without intermediaries therein)	30-6-1953
7.	Government Estates without intermediaries in the enclaves of former Indian Estates, absorbed in U.P.	1-7-1954
8.	Portion of the Mirzapur district South of Kaimur Range (Excluding Government Estates without intermediaries)	30-6-1953
9.	Government Estates without intermediaries in the portion of the Mirzapur District South of Kaimur Range	1-7-1954
10.	Government Estate with or without intermediaries in 32 districts	31-3-1955
11.	Government Estates to which Thekadari Abolition Act (Act I or 1959) applies	1-7-1959

11. The compensation payable to intermediaries was over Rs.70.97 crores. Out of this about Rs.67.27 crores have been paid leaving a balance of about Rs.3.71 crores. The rehabilitation grant amounts to about Rs.58.22 crores out of which Rs.56.60 crores have been paid leaving a balance of Rs.1.62 crores.

12. It was mentioned that reasons for non-payment are as below:—

(1) The amount involved in many eases was so small that the payees did not consider it worthwhile to go to the Tehsil to receive the amount. In order to meet this difficulty, provision has been made for payment of small amounts by Money Order or where the intermediary agrees for the amount being treated as his contribution to the Defence Fund.

(2) A considerable part of the arrears is payable to waqfs and trusts and is now being deposited in the form of stock certificates. The institutions will be entitled to receive the interest due on the face value of the stock certificates.

(3) With, regard to rehabilitation grant, it is further mentioned that the delay was largely due to the fact that previously there was no limitation for an application for payment of the rehabilitation grant. In order to expedite payment, the period of limitation was provided by amendment of section 79 of the Act. However, in order to ensure that intermediaries who are entitled to rehabilitation grant are not deprived of their rights, Government counsel have been instructed not to object even where the application is filed after the period is over.

14. In Pargana Jaunsar Bawar of Dehra Dun District, adequate records did not exist and settlement operations had to be carried out. A separate legislation was made for this area, namely, the Jaunsar Bawar Zaniindar Abolition of Land Reform Act 1956 (U.P. Act XI of 1956). After the completion of settlement, zamindari was abolished with effect from 1st July 1961. The assessment of compensation is in progress. It is estimated that the compensation would amount to about Rs. 3 lakhs which will be payable in cash. Considering that vesting of estates took place over 3 years ago, it is necessary to expedite the assessment and payment of compensation to the intermediaries.

15. In urban areas also demarcation of agricultural lands from non-agricultural lands and, in many cases, record operations for making records up-to-date were necessary. A separate law, namely, the U.P. Urban Areas Zamindari Abolition and Land Reforms Act, 1956 (Act IX of 1957) was enacted for the purpose and demarcation operations taken up in the urban areas. Out of 357 urban areas where agricultural lands existed, zamindaris have been abolished in 332 areas on different dates varying from July 1, 1961 to July 1, 1964 as indicated below—

No. of Urban areas	Date, of vesting
187	July 1, 1961
41	July 1,1902
90	July 1,1963
34	July 1,1964
332	

The total expenditure involved in the demarcation of agricultural areas is estimated at Rs. 95,200. The estimated compensation payable works out to about Rs. 4.5 crores. The work of abolition has yet to be carried out in 25 urban areas. Like the main U.P. Zamindari Abolition and Land Reforms Act, the Act relating to urban areas can also be extended to certain areas with suitable modifications and exceptions. The Act has not yet been extended to these areas.

16. Progress in the preparation and finalisation of compensation rolls has been slow. Zamindaris were abolished in as many as 167 urban areas over 3 years ago yet no compensation has so far been paid. It was estimated that in respect of 298 urban areas out of 332, where zamindari abolition had been carried out, the total number of compensation rolls required to be prepared would exceed one lakh forty thousands, out of which only sixty-six thousand rolls are reported to have been prepared. The rolls have been finalised in only 170 cases. It is thus evident that the progress of work is very slow and urgent action appears to be necessary to expedite the work.

17. In the earlier stages there was hesitation about the abolition of zamindaris and enforcement of land reforms in the hilly areas of Kumauu and Uttarakhand. Considering that this area had not been cadastrally surveyed that the records were not reliable and did not in many places, show the names of sirtans (tenants or sub-tenants) it was considered necessary to undertake settlement operations before the zamindaris could be abolished.

18. Survey and Settlement operations were taken up in this area in the year 1955. As a temporary measure, ejectment of tenants was stayed under the Kumaun Agricultural Lands (Misc. Provisions) Act, 1954. This Act prohibited the ejectment of tenants except through an order of a competent

court on account of failure to pay rent, detrimental use of the land or sub-letting. Sub-letting was prohibited except in the case of a widow or a minor or a person otherwise disabled from cultivating the land. Rent was not regulated, though provision was made for commutation of kind rent into cash rent.

19. Survey and Settlement operations which were initiated in 1955 have not yet been completed. According to programme, the entire operations have to be completed by the end of March, 1965. The total expenditure from 1955-56 to 1963-64 amounts to Rs.1,65,18,000 and the expenditure in 1964-65 is expected to be 16.5 lakhs.

20. Enforcement of land reforms in Kumaun and Uttarakhand Divisions has been pending for a very long time now and it is necessary to complete the work without further delay.

21. The Adhivasis tenure which was a transitional form of land tenure, was abolished by an amendment (Act XX of 1954) to the U.P. Zamindari Abolition and Land Reforms Act, 1950. With effect from 30th October 1964 all the adhivasis became 'sirdars' paying land revenue directly to Government. Land holders of former adhivasis were entitled to compensation.

22. The work of preparation of statements started in March 1955, and continued up to 1957. Out of the estimated compensation of Rs.13 crores payable on this account, Rs.10.4 crores have been paid. The bulk of the payment i.e. Rs. 10.1 crores was in cash.

23. The position of work which stood on 31-3-1964 is as below :

1.	No. of rolls to be dealt with	38,12,222
2.	No. of rolls finalized	38,11,973
3.	Balance of rolls to be finalised	249
4.	Amount of compensation determined in respect of finalized rolls.	12,30,82,208
5.	Amount of cash compensation due for payment	11,16,26,159
6.	Amount paid in cash	9,78,07,352
7.	Additional amount paid in cash	32,21,721
8.	Compensation paid in bonds/stock certificates	29,23,750

Additional staff was sanctioned for the implementation of the scheme as detailed below :—

Divisional Staff —	
(1) Naib Tehsildars	8
(2) Peons	8
District staff	
(1) Naib Tehsildars	152
(2) Clerks	408
(3) Moharrirs	3,680

Ceiling of holdings

25. Ceiling law has been enforced with effect from January 3, 1961 i.e. about 3-1/2 years ago. The surplus area through imposition of ceiling is estimated at 2 lakh acres. The expenditure involved in connection with the imposition or ceiling on land is estimated at Rs. 6 crores. Out of 8,052 cases, 4,170 cases have been finalised and an area of 1,43,714 acres declared surplus, which includes 4,593 acres of surplus land from 82 mechanised farms.

26. For the implementation of the Ceiling Act, temporary staff of clerks was sanctioned during the

years 1961-62 to 1963-64. In the year 1961-62, additional posts of Moharrirs for a period of 3 months were also sanctioned.

27. Compensation has been finalised only in 783 cases involving an amount of Rs. 14,34,335 out of which only Rs. 4,35,452 have actually been paid. Progress in the implementation of the ceiling legislation is thus slow and unsatisfactory and needs to be expedited.

Consolidation of holdings

28. Consolidation of holdings has been taken up in the State as a major project. Out of a total area of approximately 300 lakh acres in which consolidation is to be carried out, over half i.e. about 165 lakh acres, have been brought under consolidation operations at a total cost of Rs.1,405 lakhs. Up to 31st March, 1964, the extent of area over which transfer of possession is effected conies to about 124 lakh acres.

In terms of villages, the scheme has so far covered about 40 thousand villages out of the total of a lakh villages in the State. The average cost of consolidation works out to Rs.11/- per acre and about 50% of the cost is recoverable from the beneficiaries. It is expected that the work of consolidation over the entire State will be completed by about the middle of the Fifth Plan period.

29. An evaluation study conducted by the Planning and Action Institute of the Government of Uttar Pradesh to assess the impact of consolidation on the cultivators reveal that the programme has brought about a reduction of about 80% in the fragmentation of holdings. This enabled them to make permanent improvement in their fields on a large scale which resulted in higher agricultural production.

30. The general policy in regard to consolidation of areas in which large scale soil conservation programmes and irrigation projects are contemplated is to defer consolidation till the other programmes are completed, as the dovetailing of consolidation with other programmes present considerable practical difficulties.

31. The Administrative set up for the consolidation of holdings consist of Consolidation Commissioner assisted by two Joint Directors. One Joint Director looks after the administration of the Department and the other helps in the judicial work connected with consolidation. 4-5 districts are incharge of a Deputy Director assisted by Settlement Officers, one for each district. Each Settlement Officer supervises 4.5 consolidation circles. There is an Assistant Consolidation Officer circle for every lakh of plots to be consolidated. The Asstt. Consolidation Officer is assisted by a Consolidator and a Lekhpal. The average expenditure for one consolidation circle comes to about Rs. one lakh per year.

Land Records and Land Revenue

32. The State has considerable experience regarding the maintenance of land records and the present machinery is adequate and the land records are on the whole maintained efficiently except for crop-sharers who are not being recorded.

33. The primary reporting agency responsible for maintenance of land record consists of lekhpals in the plains and patwaris in the Hill pattis. The Supervisory staff consists of supervisor Kanungoes, Naib-Tehsildars, Tahsildars, Sub-divisional Officers and Collectors at District level. The ultimate responsibility and coordination rest with the Board of Revenue.

34. The principal land records are (1) the village map which gives the boundary of the village with its configuration. (2) Khasra or field book which records the plots serially with all details and (3) Khatauni which gives the record of rights of tenure holders (owners and tenants). Entries in the

records are made annually. Khatauni has been made triennial record since 1363 fasli.

35. The general principles with regard to making of entries or corrections of entries in the land records are that the lekhpal is not authorised to make any entry of possession in the land records on his own authority except on the basis of an order from the competent authority. To prevent the misuse of powers by the lekhpals in making qabiz entries in remarks column of khasra, which was of the order of 24 thousand in the year 1962-63, the matter was considered by a Committee which recommended that such entries should not be made by the lekhpals. The suggestion has been accepted by Government and draft amendments in the land Record Manual prohibiting Lekhpals from making qabiz entries in the remarks column of the Khasra (which will now be made under the authority of Supervisor Kanungos) is being made.

36. The existing strength of land records agency both permanent and temporary in position is as follows :—

	Plains	Hills
Lekhpal Patwaris	18,332	273 plus 13 Asst. Patwaris
Peshkars	21	
Kanungos	-	28
Naib Tahsildar	994	
Tahsildars	307	. .
Sub-divisional officers	225	. .
Collectors	54	

37. The gross demand of land revenue for the entire State is of the order of Rs. 25 crores. The net demand for the year 1961-62 was Rs. 22.73 crores and the actual collections made during the year amounted to Rs. 20.75 crores i.e. about 92% of the net collections. In the same year, the arrear in land revenue was of the order of Rs. 2 crores while remissions and suspensions amounted to Rs. 3.4 crores, The collections for the year 1962-63 includes a surcharge of 25% on land revenue. The net demand for the year was Rs. 28.5 orores, the amount collected being Rs. 26.24 crores i.e. about 92%. Complete figures for the year 1963-64 are not available.

38. Direct collection of land revenue was introduced in the State in the year 1952 after the abolition of intermediaries. In the initial years, the staff which consisted of Naib Tahsildars, Amins, supervised by the District Collection officers, was seasonal. In December 1953, the integrated collection scheme for collection of land revenue, canal dues, taccavi etc. was introduced. This provided work for the staff throughout the year and consequently the bulk of them was made permanent. The existing strength of permanent and temporary stall' working in the integrated collection scheme is as below :—

	Permanent	Temporary	Total
Amins	5,371	1,073	6,444
Peons	5,371	1,073	6,444
AWBNS	810	155	965
CINS	206	2	208
Clerks	138	5	143
Tahsildars		183	183
Peons (seasonal)		6,422	6,422

39. In 1959, the Government also introduced a special scheme for the correction of land revenue demand. The object of the scheme was to determine the land revenue over grove lands which had lost their character as such Gaon Samaj land in which trespassers had become sirdars under section 210 of Zamindari Abolition and Land Reforms Act and other cases. The scheme was continued up to September 1962 which resulted in the increase of about Rs.58 lakhs in the annual demand.

July, 1964.

16. REPORT OF SHRI AMEER RAZA, JOINT SECRETARY, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN WEST BENGAL

West Bengal is one of the leading States in regard to several aspects of land reforms. Just as it was the first area to come under permanent settlement, so also it is the first State in which a detailed and carefully considered proposal for abolition of intermediaries was made by a Commission (vide report of the Floud Commission in 1940). But the enactment of legislation i.e. the West Bengal Estates Acquisition Act, 1953 (Act I of 1954) was considerably delayed. By that time legislation had already been enacted in most of the States. It has, however, to be noted that the West Bengal Estates Acquisition Act, 1953 (Act I of 1954) is a comprehensive measure providing not only for abolition of intermediaries but also for a ceiling on existing holdings at 25 acres. By an amendment of 1955, the ceiling was extended to raiyats and under-raiyats also, who were deemed to be intermediaries for the purpose. In addition, provision was also made for tenancy reform so that a person holding land from a raiyat or an under-raiyat came into direct contact with the State without making any extra payment for the abolition of intermediary rights between him and the State.

2. The ceiling in West Bengal is among the lowest in the country. It has, however to be noted that unlike West Bengal, legislation for abolition of intermediaries in other permanently settled areas provide that the intermediary shall retain land under his personal cultivation, or his private home farm lands in which he is deemed to have a special right of cultivation, in West Bengal, on the other hand, intermediaries were allowed to retain khas lands upto the ceiling limit of 25 acres i.e. they were allowed to retain lands of various categories (such as waste lands) other than lands given to tenants i.e. raiyats and under-raiyats.

3. The most difficult question relates to the rights and obligations of bargadars. Bargadars who hold an area of about 15% of the total cultivated area of West Bengal are not recognised as tenants. They pay to the landowner a share of the produce which is among the highest in the country. The bargadars have very limited security. The owner can resume the entire land for personal cultivation if he holds less than 7-1/2 acres (and most of the owners belong to this category), and two thirds of the area if he holds above 7-1/2 acres. There is no regulation of surrenders and no provision for bringing bargadars into direct relationship with the State.

Abolition of Intermediaries

4. The West Bengal Estates Acquisition Act, 1953 (Act I of 1954) applies to the entire State of West Bengal except Calcutta Corporation. It is a comprehensive measure providing for

(i) abolition of intermediaries; and bringing raiyats into direct relationship with the State;

(ii) tenancy reform abolishing the right of a raiyat who has let his land to an under-raiyat and abolishing the right of an under-raiyat who has let his land to a tenant and thus bringing all under-raiyats and tenants into direct relationship with the State ; and

(iii) ceiling on agricultural lands at 25 acres (whether held by an "Intermediary" ordinarily so called, or held by a raiyat or under-raiyat).

The provisions of the Act relating to abolition of intermediaries and ceiling on agricultural lands held by an intermediary ordinarily so called were brought into force with effect from 14th April, 1955 and the provisions relating to tenancy reform and the ceiling on agricultural lands of raiyats and under-raiyats with effect from 14th April, 1956.

5. Certain areas were transferred from Bihar to West Bengal as a result of the reorganisation of States, namely, portions of Purulia Sub-division from Manbhum District and portions of Kishanganj Sub-Division from Purnea District. The Bihar Government had before merger abolished all estates and tenures in the Islampur area and 21 estates and tenures in the Purulia area. Under section 61 of the West Bengal Estates Acquisition Amendment Act, 1963, estates or interests which had vested in the Bihar Government were deemed to have been vested in the West Bengal State and remaining estates and tenures were abolished with effect from April 14, 1964.

Excluding the territories transferred from Bihar, the number of estates is 1.14 lakhs and the total number of intermediaries (including raiyats and under-raiyats who were also deemed to be intermediaries for purposes of tenancy reform and ceiling under section 52 of the Act) is 24-31 lakhs.

6. The estimated amount of compensation (excluding annuities and interest) is about Rs. 59 crores 7 lakhs. In addition, annuities amounting to about Rs. 63 lakhs are to be paid every year for 25 years to intermediaries whose income from rent in kind does not exceed Rs. 1,000/- per year. A perpetual annuity estimated at about Rs. 15.5 lakhs is payable to religious and charitable institutions. Interest at 3% is payable, on compensation from the date of vesting to the date of the publication of the final assessment rolls. Part of the compensation is payable in cash on a graded slab basis and the balance in bonds with interest at 3% payable in 20 equated annual instalments. The aggregate amount of interest payable up to the end of the Fourth Five Year Plan period has been estimated at Rs. 2,254 lakhs. The Act also provides for annual ad interim payments to intermediaries in cases where the determination and payment of compensation is delayed.

It appears that the total final amount of compensation paid in cash so far amounts to Rs. 2.84 crores and the ad interim compensation paid so far amounts to Rs. 16.68 crores. No payment has yet been made in the form of bonds.

7. Out of 24,30,994 intermediaries, draft publication of compensation assessment rolls has been carried out in 17,88,596 cases, leaving a balance of 6,42,488; the number of cases in which draft publication has not been done, thus, exceeds l/4th of the total rolls. The total number of compensation rolls which has been finally published up to 30-11-1964 comes to 17,38,574 cases. It would, thus, be seen that though 9 years have passed since the date of vesting, the progress made in determination and payment of compensation is slow. It has been mentioned that in about 2i lakh cases, the intermediaries have not turned up to receive compensation. Further, it is said that the bulk of the people who were in difficult circumstances had applied for and were being given ad interim compensation. However, the fact remains that delay in the assessment and payment of compensation causes much distress to intermediaries. Broadly speaking only about Rs. 19 crores have been paid against an estimated amount of Rs. 59 crores of compensation.

It would, therefore, be necessary to take urgent steps in expediting the determination and payment of compensation and to strengthen the staff, wherever necessary.

8. It has been estimated that the revenue demand before the abolition of intermediaries was of the order of Rs.154 lakhs and the present rental demand of the Government is estimated at Rs. 580 lakhs, i.e. an increase of approximately Re. 430 lakhs a year.

The total amount of extra expenditure in the year 1963-64 comes to about Rs. 323 lakhs.

There is also an estimated loss of about Rs. 13 lakhs per year in cesses. However much of the extra expenditure, i.e. the expenditure on staff employed for determination and payment of compensation and expenditure on settlement operations is of a transitional nature. The financial position of the Staff consequent on abolition is very sound.

9. In most States, all the lands not under cultivation either by the intermediary or by the tenant, i.e. all waste lands and all forests, were acquired by the State as a result of intermediary abolition. But in West Bengal, forests only (about 8.5 lakhs acres in area) vested in the State as a result of abolition. Waste lands were not acquired as such (apart from acquisition of land above the ceiling) khas lands (which include the intermediary's private lands as well as other lands not held by raiyats, under-raiyats or non-agricultural tenants) could be retained by an intermediary up to 25 acres in respect of agricultural lands and 15 acres of non-agricultural lands and lands comprised in homesteads, buildings or structures and land appurtenant to them.

10. As regards homesteads, the law provide? that where a homestead is not a part of the holding of a raiyat or an under-raiyat, he shall have the rights of raiyat if the homestead is held from an estate holder or tenure holder and the rights of an under- raiyat if the homestead is held from a raiyat. A raiyat or under-raiyat would thus come into direct relationship with the State in respect of his homestead land as a result of the abolition of intermediaries.

In the case of homestead held by other classes such as bargadars, landless agricultural workers, artisans, shop-keepers etc., the homestead land would be either (i) the non-agricultural tenancy of the bargadar, landless workers, etc. or (ii) the khas land of the zamindar, if the bargadar, landless agricultural worker etc. holds it under "Permissive possession". It has been mentioned that the land is recorded as non-agricultural tenancy where the persons claiming possession has a document of lease or a receipt of rent. In the bulk of the cases, such documents are forthcoming and homesteads had been recorded as non-agricultural tenancies and have gone to the person in occupation. In only a very few cases the land under homesteads is being treated as falling under "permissive possession"' and included in the khas land of the intermediary. Precise statistical information on the subject was, however, not available. The question of rights over homesteads is one of considerable importance and it would, therefore, he desirable to collect information regarding the number of cases in which rights over homesteads are not held by the person in possession but continue to be held by an intermediary.

It was mentioned that people in possession of homesteads in rural areas ordinarily pay a rent which may vary from about Rs. 6 to Rs. 9 per acre. However, instructions were issued by the State Government in August, 1963 for exemption of homestead land not exceeding l/3rd of an acre, from payment of rent and cesses. The exemption applies only to persons who do not have lands exceeding a specified limit. Further, it applied to rural areas and excludes homesteads located within the limits of a municipality or a notified area. These instructions are similar to provisions in Chapter IV of the West Bengal Land Reforms Act 1956 which has, however, not yet been enforced. It is proposed to amend this Act and an amendment Bill for the purpose is under consideration of a Select Committee of the State Legislature.

Tenancy Reforms

11. The West Bengal Estates Acquisition Act provides that where an under raiyat holds land from a raiyat or a tenant holds land from an under-raiyat, the landlord shall be treated as an intermediary and the under-raiyat or the tenant will be brought into direct relationship with the State. These provisions were enforced in former West Bengal areas with effect from 14th April, 1956 and in former Bihar area with effect from 14th April, 1964. Information about tenants holding from under-raiyats is not available. But it appears that about 8 lakh acres were held in khas possession by under-raiyats and such under-raiyats would have come into direct relationship with

the State (with the exception of areas exceeding the ceiling or area sublet to a tenant).

12. The raiyat or under-raiyat who is treated as an intermediary is entitled to compensation at the same rates as other intermediaries i.e. proprietors and tenure holders. However, separate figures for compensation payable to raiyats or under raiyats in respect of lands acquired from them are not available.

Ceiling on holdings

13. The West Bengal Estates Acquisition Act also provides for a ceiling on existing holdings at 25 acres in respect of agricultural lands. The ceiling is applied uniformly and no distinction is made with regard to different classes of soil or productivity.

14. The rates of compensation are the same as for intermediary abolition i.e. 20 times to 2 times the net income on a graded slab basis. For purposes of determining compensation, the annual income of agricultural lands which ordinarily yields an agricultural produce is taken to be 1/3rd of the normal crop of paddy on that land. An estimate of the paddy that can be grown on the land is made by the compensation officer after local inquiry.

15. Tea gardens including land for ancillary purposes, orchards, lands used for the purposes of livestock breeding, poultry fanning or dairying and lands comprised in mills, factories and workshops and acquired for the purpose, are exempted from the ceiling. Lands held by religious or charitable institutions under khas possession or by cooperative societies (but not exceeding the maximum area which the members of the society would have been separately entitled to retain) and land in hill areas of Darjeeling District are also exempted.

16. It appears that a total area of 7,76,615 acres was deemed to be surplus land above the limit of 25 acres. The break-up of this is as below:—

	Acres
Cultivated	4,71,168
Fruit bearing orchards	12,443
Fallow, old and new	1,55,541
Cultivated waste	1,37,463
Total	7,76,615

Previously if any proprietor or tenure holder did not exercise his option regarding the land to be retained by him and the land to be acquired by the State, the entire land was deemed to have vested in the State Government. But a raiyat or under- raiyat was required to file a statement only if he held land above the ceiling. If such a raiyat or under-raiyat did not exercise the option, the entire land held by him was also deemed to have been vested in the State. However, these provisions led to considerable difficulties and the law has now been amended and gives a further right of the selection of the lands to be retained by the intermediary. It is, thus, expected that the area vesting in the State as surplus land would be considerably reduced. However, possession has already been taken of about 4.35 lakh acres. The rest of the land would need demarcation between areas to be retained by the intermediaries and the areas to be acquired by the State. Pending final settlement, the lands are being licensed out on a temporary basis.

17. Separate figures regarding the estimated amount of compensation for the surplus lands above the ceiling are not available. It appears, however, that compensation for surplus lands above the ceiling has been determined in 85,852 cases. But the number of cases in which compensation has yet to be determined is not known.

18. Section 5A of the Act provided that cases of transfers made after 5-5-1953 (the date of the introduction of the Bill) could be enquired into. A transfer declared malafide was to be cancelled and the entire surplus land was to be taken over. In the case of a bona fide transfer made after the specified date, the transfer was allowed to stand but the land was to be taken into account for purposes of determining the ceiling as if it had not been transferred but retained by the transferor or chosen by him as land to be retained by him.

In the bulk of the cases (i.e. in 50,157 cases) the transfers have been declared bonafide. In a few cases (numbering 56,281) transfers have been declared malafide. Inquiries are pending in 746 cases. As a result of declaring transfers malafide it appears that 38,789 acres had vested in the State. In case of transfers declared bonafide it is estimated that only a small area would vest in the State.

Bargadars

19. Bengal Tenancy Act, 1885 defines a tenant to mean a person holding land under another person and who is or but for a special contract would be liable to pay rent. By an amendment of 1928, it was explicitly provided that a bargadar shall not be regarded as a tenant except in certain special circumstances. It seems that the basic distinction between a person regarded merely as a bargadar and a person regarded as a tenant (raiyat or under-raiyat) was whether he was or was not recognised by the landlord to be a tenant, or adjudicated by a court to be a tenant or not. The Floud Commission which examined the question as far far back as 1940 had recommended that the provisions of an even-earlier Bill should be restored by which it was proposed to treat as tenants bargadars who supply the plough, cattle and agricultural implements. If it was thought too difficult to frame a workable definition, then all bargadars should be declared to be tenants. They also stated that "the provision in the Tenancy Act of 1928 which definitely declared the bargadars with few exceptions to be labourers was, we hold a retrograde measure". In the Second Plan reference is made to the fact that in a number of states, crop sharing arrangements which have all the characteristics of tenancy are not regarded as such and crop-sharers are denied the rights allowed to tenants. The position of bargardars has been the subject of considerable correspondence and discussion between the Planning Commission and the State Government, but the State Government have not decided to give to bargardars the rights that are given to tenants.

20. The West Bengal Land Reforms Act, 1955 (Act X of 1050) which replaces the Bargadars Act, 1950, purports to give protection to bargadars (under Chapter III). It has come into force with effect from 31st March, 1956. (Section 19A and 19B of this Act (dealing with penalties and restoration of bargadars which were inserted by an amendment) have, however, come into force with effect from 16th February, 1958.

21. The Act contains, provisions with regard to the maximum share payable by bargadars to the landowner and security of possession over the land. It provides that in cases where the landowner supplies plough, cattle, manure and seeds, necessary for cultivation, he shall get half the produce and in other cases, the landowner shall get 40 per cent of the produce. A bargadar is liable to ejectment from his land if he fails to cultivate the land or neglects to cultivate it properly or uses it for purposes other than agriculture or does not cultivate it personally. A bargadar is also liable to ejectment if the owner requires the land bonafide for personal cultivation in which case the owner shall be entitled to take the entire land if he owns less than 7-5 acres. But if he owns more than 7-5 acres, he can resume only so much land which together with any land under his personal cultivation does not exceed 2/3rdof the extent of land excluding homesteads.

22. Disputes between the bargadar and landowner which were previously under the jurisdiction of Bhagchas Conciliation Boards under the Bargadars Act, 1950, are now decided by revenue officials, In the areas where work is heavy, special officers have been appointed. There are 23 such officers, 12 in the district of 24-Parganas and 11 in the district of Midnapore. In other areas there are 140 part-time officers.

23. The number of bargadars recorded in the settlement operations is 10,28,160. The area held by bargadars does not appear to have been compiled from the settlement records. According to the census of 1951, the area under the possession of bargadars was about 20 lakh acres. 24. The West Bengal Land Reforms Act, 1955, provides for issue of receipt of delivery of share of the produce from the landowner to the bargadar and vice versa. (Section 17(2) provides that in cases where land has been resumed from a bargadar, the bargadar will have the right to purchase the land if the landlord fails to bring the land under personal cultivation or if he gives it for cultivation to another bargadar within 2 years. Section 18 provides among other things for the settlement of disputes regarding division or delivery of the produce. Section 19B provides for restoration of bargadar if an owner terminates his cultivation of land in contravention of the provisions of the law. Information on the actual use made of these provisions is not available.

25. Section 18 also provides for termination of cultivation by the bargadar on various grounds. Information about the cases under this section is as below:—

Year	Number of cases tiled	Number of Cases decided in favour of the landlord	Number of cases decided in favour of bargadars	Applications pending
1961	6,830	1,338	3,459	2,033
1962	5,364	1,012	2,639	1,713
1963	4,709	821	2,519	1,459

The number of evictions of bargadars thus recorded is not very large. The following table shows the number of bargadars whose eviction was ordered:-

Year	Number of eviction cases filed	Number of bargadars Evicted
1957	N.A.	2,279
1958	N.A.	2,049

1959	10,162	1,846
1960	8,924	1,440
1961	6,830	1,125
1962	5,364	639
1963	4,799	575

It would thus be seen that it has been possible to put a check on the eviction of the bargadars in so far as cases filed before the revenue officers are concerned. Eviction in the form of a voluntary surrender (particularly in the case of an unrecorded bargadar) would be another matter.

26. Prof. S. K. Basu, of the Department of Economics, Calcutta University who made a survey under the auspices of the Research Programmes Committee with regard to the implementation of land reforms in West Bengal has stated that it was not possible to study the incidence of eviction for want of reliable information but added that the situation in this respect had very probably stabilised as in about 80 per cent of the barga plots, the same bargadar has been continuing to cultivate the land for the last 4 years. He has also mentioned that the question of whether the eviction has been according to the due process of law or not, had not been studied. As information of this nature is essential for evaluation of the implementation of land reforms, it is suggested that the Committee of Direction of the Research Programmes Committee of the Planning Commission maybe asked to examine whether the necessary information can now be collected. (A copy of an extract from Prof. Basu's report which contains a summary of his principal findings is at Appendix A)

27. With regard to the number of bargadurs who were recorded in the settlement operations, estimates vary. The findings of Prof. S. K. Basu is that only about 25 percent of the plots actually under barga were recorded as such (the unrecorded areas being thus as high as 75 per cent). A more conservative estimate would put this at 50 per cent. According to some official estimates, however, the percentage of unrecorded barga plots may be much less than Shri Basil's findings and may possibly be about 10 to 15 per cent.

28. With regard to the share of the produce, Prof. Basu found "That the law even after 10 years of operations has hardly been effective in changing the traditional system of sharing in produce and of sharing in costs. In most of the cases, a bargadar gets 50 per cent of the gross output, but he has to bear the costs as well. In the northern parts of West Bengal the seed cost is largely borne by the owner. But in other regions even the seeds have to be supplied by the bargadar. Other costs are not as a rule, met by the owner". It would appear from the Report that the law i.e. largely ineffective.

Publicity

29. It appears that considerable publicity had been given to the provisions of the West Bengal Estates Acquisition Act. 1953 through issue of posters and pamphlets and radio talks. A film on abolition of zamindari .system was also prepared. As and when any provision of the. Act is enforced, it is explained through press note and the distribution of leaflets. Each time the Act was amended, five lakh leaflets were distributed. The provisions of the law with regard to the abolition of intermediaries, imposition of ceilings and bringing under-raiyats and tenants of under-raiyats into direct contact with the State are thus widely known.

30. With regard to the provisions of the West Bengal Land Reforms Act relating to bargadars, no departmental publicity was considered necessary. It has been mentioned that political workers have been active and have taken steps to propagate information about the provision of the law.

As it appears that in a number of cases, the bargadars are not recorded or are not in a position to claim the rights regarding the share of the produce (and in some cases continuity of possession), it would be desirable to undertake a fresh publicity drive through both public leaders and official agencies and through the publication and distribution of a large number of leaflets.

31. It would also be desirable to issue certificates or khata books to bargadars whose names have been entered in the record.

Consolidation of Holdings

32. Chapter V of the West Bengal Land Reforms Act provides for consolidation of holdings. But this Chapter has not yet been enforced. There may be some difficulties in undertaking consolidation of holdings under this law. For instance, it provides that consolidation can be undertaken only when 2/3rd 01 more of the owners of the holdings which will be affected by such consolidation agree to it. Further, the law provides that every owner shall got an area which shall be as far as possible of the same quality and value as the lands held by him before consolidation. No raiyat shall be entitled to receive any land in excess of the area held by him prior to acquisition. If a person is to be given land of the same quality, same value and same area as before, it would be very difficult to consolidate holdings. It is suggested that while every owner should be entitled to get after consolidation, land of the same value as the land held by him before consolidation, the area or the quality of land may vary. Further, the Act does not provide for re-planning of the village or reservation of lands required for public purposes such as streets, drains, housing and other needs of the village. The law would, thus, need some amendment.'

33. Administratively, very little has been done so far with regard to consolidation. An officer has been appointed. It is suggested that the actual work may be started early and organised progressively on as large a scale as possible. For the. Fourth Plan, it would be desirable to lay down a fairly high target of physical achievement and financial outlay.

Survey, settlement and Records

35. Survey and settlement operations undertaken in the State relate mainly to the preparation and revision of record of rights. In the bulk of the area, re-survey was not necessary as there were only small areas which had not been surveyed. Revisional settlement operations under Chapter V of the West Bengal Estates Acquisition Act were, therefore, taken up in respect of former West Bengal areas from the stage of attestation of district settlement records and maps. The record of rights in the former West Bengal areas were published by about 1957 except in small areas where survey was also necessary. However, in an attempt to complete the task as expeditiously as possible, certain processes such as khanapuri and local explanation or bujharat were not undertaken. On the final publication of the record of rights, a large number of complaints were made arid the law had, therefore, to be amended giving further opportunities for correction of records both on application and suo moto. A further revision of the record of rights thus became necessary. It appears that a great deal of the work of the revision has been done and it is likely to be completed in a year and half.

As regards the territories transferred from Bihar on reorganisation of States (an area of about 3,157 sq. miles), the work was started in 1957. Over the bulk of the area, the work is at the stage of attestation.

The cost of these operations from 1955-56 to 1963-64 amounts to about Rs. 891 lakhs.

36. In these operations, the names of the persons who now hold land directly from the Government as well as the names of bargadars were recorded. However, there is no administrative

machinery for maintaining the records up to date. Eventually, when Chapter VII of the West Bengal Land Reforms Act is enforced the maintenance of land records would also be taken up. As up to date maintenance of land records is essential for effective enforcement of the law, it is suggested that the State Government may make the necessary arrangements for maintenance of the records as early as possible.

37. As mentioned above there is no agency for the maintenance of land records. With regard to the collection of rents payable to Government there is a well established system. The actual work of collection is done by Tehsildars who are part time Government servants. The Tehsildar gets Rs. 27 per month and commission on rents collected varying from 2-1/2 to 4-1/2 per cent. The rental amount under the charge of a tehsildar ranges from Rs.5,000 to Rs.10,000 per year. In the State as a whole, there are at present 6,366 tehsildars. Supervision is exercised through junior land reforms officers numbering 196 (including 9 leave reserve posts). The jurisdiction of a junior land reforms officer comprises one or two thanas with a rental amount of Rs. 3 to 4 lakhs. The Junior Land Reforms Officer is assisted by circle inspectors (numbering 211 including 9 leave reserve posts). Higher supervision is exercised through the Sub-Divisional Land Reforms Officers (numbering 50) additional District Magistrates etc.

38. A statement showing the demand and collections for the last four years is at appendix B. The collections are only a small percentage of the demand. It would, therefore, be necessary to review the whole position with regard to the collection of government dues and provide for more strict supervision and better collection of government dues. An agency for the maintenance of records also needs to be established February, 1905.

APPENDIX A

Extracts from "Land Reforms in West Bengal" by Dr. S.K. Basu and Dr. S.K. Bhattacharya

It remains now to summarise our findings so that some assessment can be made of the implementation of the recent land reforms legislations in West Bengal with respect to two of their main objects, viz., (i) regulation of the barga system of cultivation, and (ii) acquisition by the government of all agricultural lands in excess of 25 acres in 'khas' possession of any body, with a view to reconstructing the agrarian structure on the basis of peasant proprietorship.

In regard to barga cultivation, we found that the law, even after ten years of operation, has hardly been effective in changing the traditional systems of sharing in produce and of sharing in costs. In most of the cases, the bargadar gets 50 per cent, of the gross output, but he has to bear the costs as well. In the northern parts of West Bengal, the seed cost is largely borne by the owner. But in other regions, even the seeds have to be supplied by the bargadar. Other costs are not, as a rule, met by the owner. The existing law appears to be defective in so far as it does not provide for mixed cost-sharing which is widely practised all over West Bengal.

The law provides checks against arbitrary eviction of bargadars but does not specifically visualise any system of registration of bargadars. The settlement operations undertaken after the Estates Acquisition Act, 1953 had come into force, provided for recording of bargadars' names. Our finding, however, is that about 25 percent only of the plots actually under barga were recorded as such. As it is unlikely that change-over from owner-cultivation to barga-cultivation during the intervening period of about five years was of such high order, the settlement recording must be considered to have been of very inadequate coverage.

It was not possible for us to study the incidence of eviction for want of reliable information. We found, however, that the bargadar was possibly changed at least once in not less than 45 per cent of the 'barga' plots, assuming that the proportion of land under barga had not changed materially from that in 1953. The situation in this respect has very probably stabilised, as in about 80 per cent of the 'barga' plots the same bargadar has been continuing to cultivate for the last four years. We did not study at all the question whether eviction, where it took place, had been according to the due procedure of law.

In regard to the ceiling programme, the task of finding out the extent of malafide transfers was indeed a very difficult one. No list of persons owning more than the ceiling as on some date 2-3 years prior to 1953 with details of their holdings was available. Under the circumstances, we had to scrutinise the non-inheritance transfers made between 1949 and 1955 (approximately) from as many angles as were likely to yield fruitful information. The preliminary estimates of malafide transfer were then checked up on the basis of other supplementary information collected in the survey.

We found that during our reference period the proportion of cultivable land transferred by ways other than inheritance to near relatives like son, father, brother, wife, etc., varied broadly between 10 per cent and 25 per cent of the total area of such transfer in the eight districts of our survey. Also, our survey largely confirms the belief that quite a number of malafide transfers were made in anticipation of the law. In most districts, the process began very likely in 1951, though, for purposes of our study, we decided to lean on the conservative side and restricted the anticipatory period back to 1952 only. For certain sections of the Estates Acquisition Act, the government also accepted this basis.

Taking the year of transfer and the relationship with the transferee together, we found that during 1952-54 the proportion of cultivable area transferred to relatives was 15.3 per cent of the

total such area in four of the northern districts; the corresponding percentage in four of the southern districts was 11.1 per cent. Allowing for other considerations, the proportions transferred malafide were taken as 12 per cent and 9 per cent respectively in the two regions.

The study of the nature of conveyance by relationship with the transferee and by year of transfer gave us no reasons for scaling down our previous estimates of proportion of malafide transfers. In this connection, we found that considerably large proportion of non-inheritance transfers were attested with the help of unregistered instruments whose dates are, naturally, subject to suspicion. Of course, the data indicate that malafide transfers were made, in no small measure by means of registered instruments also. Other studies on the basis of supplementary information on 'reason of transfer' holding of transfer before 1953 and on 'reason of transfer' as given by the transferee, broadly corroborated our previous estimates of proportion of malafide transfers.

On a conservative basis, our estimate is that not less than 105,600 acres of agricultural land was transferred in recent years for the purpose of evading the ceiling legislation. The Government claims to have taken possession of 211,000 acres agricultural land so far. As further acquisitions by the Government are not expected to be substantial, the ceiling programme may be taken to have been implemented, broadly speaking, to the extent of two-thirds of surplus lands. Interestingly, these estimates are largely in agreement with the estimates originally put forward by the Minister-in-charge of Land and Land Revenue at the time of moving the bill in the West Bengal Legislative Assembly en 10th November, 1953.

APPENDIX B

Position of demand and collection of land revenue for the years 1367 B.S. to 1370 B.S. The rent demand is related to the agricultural year, i.e. Bengali Calendar and hence the position of collection vis-a-vis the demand is given below according to the agricultural year. It may be stated that the Bengali year and the financial year are only about 15 days' apart—the Bengali year begins from the middle of April.

Bengali year	Arrears outstanding at the beginning of the year	Current demand for the Year	Total demand for the year.	Amount collected	Amount remitted or written off	Balance carried forward to the subsequent year	Deduct amount remitted Col. 4-6. Percentage over the amount collected
1	2	3	4	5	6	7	8
1367-B.S. (1960-61)	4,74,95,733	5,83,99,850	10,58,95,583	6,13,00,435	43,391	4,45,51,757	57.9
1368-B.S. (1961-62)	4,45,51,757	5,83,47,732	10,28,99,489	5,08,34,182	7.10,763	5,13,54,544	49.7
1369-B.S. (1962-63)	5,13,54,544	5,79,92,526	10,93,47,070	7,14,47,349	7,07,819	3,71,91,902	65.7
1370-B.S. (1963-64)	3,71,91,902	575,68,726	9,47,60,628	5,76,31,304	2,44,390	3,68,84,934	60.9

The above figures represent land revenue only excluding cesses and other miscellaneous items.

17. REPORT OF SHRI A.N. SETH, DIRECTOR, LAND REFORMS, PLANNING COMMISSION ON THE BARGA SYSTEM IN WEST BENGAL

In 1953, the Government of West Bengal enacted legislation to abolish all intermediaries. Under the legislation not only tenants of zamindars but also sub-tenants came into direct relationship with the State and became owners of their holdings. Thus, a large number of sub-tenants (under-raiyats) became owners of about 8 lakh acres and they were not required to pay any compensation for the acquisition of ownership.

Incidents of Barga system

2. Under the Bengal laws the share croppers called bargadars were not deemed to be tenants and the benefit of the above legislation did not, therefore, accrue to them. A bargadar in West Bengal has all the characteristics of a tenant. As a rule bargadar provides management, capital and labour and shares the risk of cultivation. He provides bullocks, fertilisers, manures etc. Seed is sometimes shared half and half between him and the owner. Usually the produce is shared half and half between the bargadar and the landlord, after deducting the quantity of seed to be apportioned among the owner and the bargadar according to their respective contributions. There were few written agreements. The barga arrangement is mostly on year to year basis. In practice, however, a bargadar may continue to cultivate the same land for several years, some time for generations, but always at the will of the landlord.

Size of the problem

3. Quite a large area is cultivated under the barga system although the size of the problem varies considerably from district to district. Frequently, petty owners took some lands on barga to improve the size of their holding. In the survey and settlement operations conducted in 1954—56, about 7.7 lakh persons were recorded as bargadars. According to 1961 Census, about 34 per cent cultivators were bargadars—about 13.4 percent pure bargadars and 21 per cent as part-owner-part-bargadars. In the survey sponsored by the Research Programmes Committee of the Planning Commission it was estimated that during 1960-61 the area under the barga system varied between 25 to 46 per cent of the total cropped area in the eight districts to which the survey related and that another 11 to 38 % of the area was cultivated through landless labourer.

4. The data collected in the Census on bargadars appear to be incomplete. The number of bargadars recorded in the settlement operations during 1954-56 exceeded the number indicated by the 1951 Census, (vide annexure). According to several settlement officers the data collected in the settlement operations were also under-estimates. The R.P.C. survey observes that'only in about one out of every four plots, the bargadar seems to have his name recorded as such on the settlement record'. The size of the barga problem may be much larger than what is indicated by the Census and the settlement operations.

5. It is difficult to say categorically whether the size of the problem, has been increasing or decreasing. Different estimates of it have been made at different times. According to the Floud Commission (1940) 22.5 per cent of the area was cultivated by bargadars. This was supported by the 1941 Census. According to Ishaque Survey, in 1944-45, about 24.8 per cent area was cultivated through bargadars. This, however, related to the whole of Bengal as before Partition. Compared to these estimates, the data collected in 1961 Census would seem to indicate that the problem has grown in size Considerably. Some of the settlements officers had also observed in their reports that the problem was on the increase. Due to imposition of ceiling, about 7 lakh acres cultivated under the barga system have vested in the Government, which is temporarily being leased out by the government to the cultivating bargadars on year to year basis pending their final disposal. To that extent the magnitude of the problem will have decreased. Even so, the area under barga has been

estimated by the Revenue Department of the West Bengal Government at about 34 lakh acres. As the lands under cash crops such as jute, potatoes, sugarcane etc. are generally cultivated by the owners themselves, the area cultivated on barga constitutes about 34 per cent of the area under rice.

Reform of the barga system

6. The first measure of reform of the barga system was enacted in 1950—The Bargadars Act, 1950. The Act provided for stay of ejectment, regulation of the cropshare payable by a bargadar and the constitution of Bhagchas Conciliation Boards for settlement of disputes between bargadars and landowners. This Act was replaced by the provisions in the Land Reforms Act, 1950, which provides as follows:—

(1) Security of tenures:—A bargadar is liable to ejectment if the owner required the land bonafide for personal cultivation, in which case the owner is entitled to take the entire land if he owns less than 7.5 acres but if he owns 7.5 acres or more, he may resume two-thirds of the land owned by him (including the land already held under his personal cultivation (excluding homesteads). There is, however, no time limit for resumption. The right of resumption is thus a continuing right.

(2) Rent:—Where a landowner supplies plough, cattle, manure and seeds necessary for cultivation, he can get half the produce; in other cases, the landowner can get 40 per cent of the produce.

(3) Machinery for implementation:—The Bhagchas Conciliation Boards constituted under the 1950 Act have been abolished and replaced by revenue officers.

(4) Restorations:—Although there is no provision that the bargadar shall be restored to possession if the landowner fails to cultivate the resumed land personally, a provision has been made that in such cases he may purchase the land on payment of market price.

Implementation

7. For the settlement of disputes between the bargadars and the landowners, special officers have been appointed in areas where the work is heavy. There are 12 of them in the District of 24-Parganas and 11 in the District of Midnapur. In other Districts the Junior Land Reforms Officers who are incharge of collections also function as part-time Bhagchas officers.

8. Reference has been made above to the attempts at recording bargadars in the last survey and settlement operations during 1954—50. The entries were not, however, kept up-to-date through annual revisions. The available records my net, therefore, reflect the actual situation obtaining now.

9. Although no special steps were taken to give departmental publicity to the provisions of the law, yet there is much more awareness of the provisions of the law in West Bengal than it obtains in most other States, possibly due to a considerable amount of political activity in the rural areas of West Bengal. In spite of it, the provisions were not as effective as one might expect. As stated earlier, as a rule the cost of cultivation is met by bargadars. Under the law, therefore, a landlord is entitled to receive 40% of the gross produce (subject to adjustments on account of seed). In practice, however, he gets 50 per cent of the gross produce. As regards security of tenure, observance of the provisions is somewhat uneven. Provisions for resumption have not been resorted to on a large scale. In some areas, the bargadars enjoy a substantial measure of security of tenure; in others, however, the landlords are still quite powerful and the bargadars hold lands at the will of the lords.

10. Cultivation through bargadars is not conducive to agricultural development. Even where a bargaclar is not evicted, he does not feel secure. The provision for resumption hangs as

Damocles' Sword on his head. He is required to part with half of the produce. If he invests on agricultural development and there is an increase in the yield, the landlord will take away half of the increased yield without any contribution by him. This acts as a disincentive and consequently little investment in the development of land is made by bargadars. They hesitate to use fertilisers. The cost of fertiliser may not be less than the value of half the increased produce, which would be his share. It was estimated by the Adviser, Programme Administration (Shri Sivaraman) in his tour report that by applying Rs. 20 worth of ammonium sulphate, the return by way of extra paddy would he about Rs. 35 per acre. If a bargadar was to give away half of this increase as landlord's share, he would get a net return of Rs. 17.50 as against an investment of Rs. 20. A bargadar would be u fool to make such an investment. Crop-sharing may have been all right in the past when the main investment in agriculture was labour. If money investment is to be promoted in manures, fertilisers, seeds and insecticide, etc. crop sharing had to go.

Barga system and procurement

11. Presuming that the conservative estimate made by the West Bengal Government that 34 per cent of the rice area is under barga is correct and that half of the gross produce is paid as rent, the landlords obtain about 17 per cent of the total produce of rice in West Bengal from bargadars as their share. In quantity, it comes to 9.3 lakh tonnes of rice. Much of it belongs to a comparatively few big landowners who were able to retain substantial areas, in spite of the ceiling of 25 acres, by making benami transfers among their family members, which they get cultivated through share croppers. Being politically and socially powerful, they were in a position to evade procurement. If the Government were to interpose itself between landlords and bargadars, collect landlord's share of the produce and pay its cash equivalent to the landlord, the Government could collect 9.3 lakh tonnes of rice as rent at the prevailing rate of rent. If the collection is made at the rate of fair rent prescribed in the law i.e. 40 per cent of the produce, it will come to about 7.5 lakh tonnes. If the fair rent were to be reduced to 33 per cent, the total annual collection would come to about 6.2 lakh tonnes.* The total quantity of rice procured by the West Bengal Government as part of its food policy during 1964-65 was only 3.35 lakh tonnes and during 1965-66, 5.7 lakh tonnes. Thus, if the rent payable by bargadars is converted into fixed produce rent on the basis of one-third of the gross produce and it is recovered by the government itself, it will ensure effective enforcement of fair rent, give considerable relief to the hard pressed bargadars and, at the same time, enable the government to procure a sizeable portion of the marketable surplus of rice.

12. The above suggestion is not made as a substitute for the West Bengal scheme of procurement, but as a supplement to it. The owners cultivate about 60 per cent of the total rice land and thus own about 60 per cent of the total annual produce of rice. A sizeable portion of it would be coming into the market and so also a portion of the produce out of bargadars' share. The Government would, thus, continue to procure a portion of the marketable surplus from these sources, which would be quite sizeable.

13. In this connection it would be of interest to refer to the experience of Japan. Back in the early thirties, the Japanese Government had converted all rents into fixed produce rents, the rents in Japan there exceeded 40 per cent of the gross produce. The rent was collected by the Government in kind but the landlords were paid its cash equivalent. Later in the thirties, the Government took to monopoly procurement of the entire marketable surplus; but even then the Government continued to collect rents in produce. With the advent of war, there were sharp increases in the prices of rice but the cash rent payments to landowners by Government were kept frozen at the level of 1939. The price which the Government paid to the actual cultivators for the rice procured from them was steadily stepped up; and thus, over a period the price payable for produce rent deliveries came to

* These estimates are based on the assumption made in the Ministry of Food and Agriculture that the normal gross produce of rice in West Bengal in an average year is about 55 lakh tonnes.

represent less than 35 per cent of the price payable for rice procurement from actual cultivators. The Government thus appropriated the entire increase in the price of produce rent deliveries. The profits from this source were utilised by the Government in financing distribution of foodorains at reasonable prices. It is of interest to note that these policies were adopted in Japan as part of a national policy uninfluenced by political considerations by a Government which was very pro-landlord.

14. In the course of discussions a question was raised that the collection of landlord's share by the Government will deprive a class of landowners of rice for self-consumption; that it will then become government's obligation to feed them, thus placing additional burdens on the State. To analyse the implications of the proposal the landlords may be divided into two broad categories, namely, these who are absentees working and residing in towns and cities and others who reside in their villages. The former, big or small, may already be drawing their rations from the Government and selling their share of the produce from bargadars on exhorbitant prices to the rural poor. The latter may again be divided into three categories, (1) those who own larger areas than they can cultivate personally and thus give the excess lands to others on barga, (2) those who due to some disability were not able to cultivate lands personally, and (3) those who had very petty holdings which were unprofitable for cultivation and were, therefore, given out on barga. As regards owners in category (1) who give out a substantial area on barga, they will not be problems as they will be cultivating substantial areas themselves thus having considerable produce of their own. The persons in category (2) such as widows, minors etc. will have to be provided with ration if they are not cultivating any lands on their own. But their number will be small and liability on their account will not be much. As regards persons with petty holdings, those who are bonafide cultivators they mostly try to take some additional lands on barga rather than give out their land on barga. The petty owners who give up cultivation usually migrate to towns for non-agricultural employment. The number of such persons who give their lands on barga but continue to reside and work in the rural areas, say, as agricultural labourers is usually small. There may not therefore, be much increase in Government's liability to feed people on this account. On the other hand if the produce share is fixed at 33 per cent as against the prevailing 50 per cent, a large number of the rural poor will retain much more than they do now and consequently, on the whole, government's liability to feed the people in the rural areas should decrease rather than increase.

If necessary, to avoid any possible hardship to resident households owning petty holdings of, say. an acre or less, they might he exempted from the purview of this porposal and permitted to receive produce rent- The Government's liability to feed them would also be avoided. As the area owned by such household will be very small, may be less than 1 per cent of the area under barga, this exemption may not materially effect the operation of the scheme. However, such exemptions are apt to give rise to one difficulty which has to be guarded against. There may ho attempts at evasions by comparatively larger holders by making benami transfers and partitions. It will become necessary, therefore, to avoid such transfers and partitions and adopt ‘household’ and not individual as the unit for purposes of exemption.

15. To summarise, a large area in West Bengal is motivated on barga. The problem seems to be on the increase. Burgadars provide management, capital and labour and share the risk of cultivation. Though Bargadars are not regarded as tenants under the West Bengal laws, Barga arrangement possesses all the characteristics of tenancy. The present laws regulating the barga system are inadequate and their implementation has been ineffective. As a rule, the bargadar pays about half the produce to the landlord as rent. He is still liable, to ejectment on grounds of resumption which hangs like Democles sword on his head. The barga system is a disincentive to land development and agricultural production. It also results in the accumulation of a large portion of the marketable surplus in the hands of a comparatively few landholders who are powerful enough to evade procurement and sell large quantities to the rural poor on exhorbitant prices.

For all these considerations it is desirable that the system should be abolished. In this direction the following proposals are recommended for consideration:—

(i) Every bargadar should have permanent and heritable rights. The right of resumption should terminate forthwith.

(ii) As resumption frequently take the form of "voluntary" surrenders by tenants, adequate provisions should lie made to prevent surrenders. Hereafter surrender should be made to the Government only, which should have the right, to let out the land to another person. The landlord should not enter upon the land that may be surrendered or abandoned otherwise. Instead, he should report the matter to the prescribed authority, which would induct another lessee on the land.

(iii) All evictions that may have taken place after 1-4-1966 should be reviewed with a view to providing for restoration of evicted bargadars. Where an eviction was made on the grounds of resumption for personal cultivation and the landlord failed to bring the land under personal cultivation or had let it to another person on barga or otherwise, the evicted bargadar should have the right to restoration.

(iv) Landlord's share of the 40 per cent of the gross produce as prescribed in the present law is much too high and It is desirable to bring it down to the level recommended in the Plan i.e. one-fourth or one-fifth of the produce. As a first step, it should be reduced to one-third of the gross produce forthwith.

(v) Share-cropping is a disincentive. It should be abolished and all payments converted into fixed produce rent on the basis of one-third of the gross produce. For this purpose, the gross produce may be the normal produce or the average produce over a period of 5 years.

(vi) The Government should interpose itself between the landlords and bargadars, collect landlord's share of the produce and pay its commuted value to the landlord after deducting a recovery charge. For purpose of commutation, the average price prevailing over a period of past five years may be adopted.

(vii) If any bargadar fails to pay landlord's share to the Government within a stipulated period, he may be made liable to ejectment and the dues recovered from him as arrears of land revenue.

(viii) Every bargadar should have the right to make improvements on land. To enable him to make improvement, he should also have the right to raise short, medium and long-term loans on the security of his rights in the land. In the event of his ejectment he should be entitled to compensation for the improvements made by him.

16. For the implementations of the proposal outlined above, it is desirable that the record of bargadars should be immediately revised and brought up-to-date. To facilitate the revision of the record, tripartite committee may be set up for groups of villages, It would facilitate the preparation of the record, if both the landlords and bargadars are required to file statements supported by affidavits about the lands cultivated on barga. Any owner who fails to furnish the statement in prescribed time should be liable to a penalty to be prescribed in the law. Every bargadar who is so recorded should be granted a certificate indicating the land held by him and the produce rent payable by him.

17. The conversion of bargadars into owners by suo moto action by Government may be taken up in the second stage of the programme. Meanwhile bargadars should have the optional right to purchase ownership on payment of compensation equal to 10 times the produce rent payable by him. The compensation together with the interest on the unpaid amount at 5 per cent may be paid in 10 equated instalments over a period of 10 years. The annual payment by a bargadar on this

account will thus come to about 40 per cent of the gross produce, i.e. the rent which he is required to pay currently.

October, 1966.

APPENDIX

It is well known that suppression of the interest of Bargadars takes place on a fairly wide scale whenever an attempt is made, in the course of Settlement Operations or otherwise, to record Bargadars' interest or any survey or enquiry is undertaken to ascertain the incidence of the Barga system. All the available data suffer from this limitation and we should not be unjustified in assuming that all the available figures regarding the incidence of the Barga system are somewhat of an under-estimate.

2. On the other hand, any authoritative statement on the incidence of the Barga system in the state has to be based on the results of authoritative surveys and enquiries. We have the results of the following surveys and Census :—

(a) Sample Survey undertaken in the year 1940 under the aegis of the Bengal and Revenue Commission (Floud Commission).

(b) 1941 Census.

(c) Ishaque's Survey in 1944-45.

(d) 1951 Census.

(e) Sample Survey by Basu and Bhattacharya in eight districts of West Bengal under the aegis of the Research Programmes Committee of the Planning Commission.

3. So far as Ishaque's Survey is concerned, District-wise figures are not available. What we have is an average for the undivided Bengal. As already stated, Basu and Bhattacharya's Sample Survey was undertaken in eight out of fifteen West Bengal Districts. The District of Purulia has not been covered by any of the other Surveys. Cooch Behar and Darjeeling were covered only by the 1951 Census and not by the 1941 Census or by the Sample Survey under the Floud Commission. Collection of data regarding the incidence of Barga system was not undertaken during the course of the 1961 Census.

4. A comparative statement of the five sets of available data is placed below. So far as District-wise figures are concerned .there are wide divergence. On the other hand so far as State-wise average is concerned, the available data will fall broadly into two groups—

(A) Floud Commission, 1941 Census, Ishaqu's Survey, 1951 Census.

(B) Basu and Bhattacharya's Sample Survey.

5. On the basis of Group A, we cannot put forward a figure higher than 25 percent as the State-wise average. Basu and Bhattacharya's Survey would indicate a considerably higher figure.

6. According to the publication "A Short Note on Agricultural Development in West Bengal 1965-06", published by the Department of Agriculture and Community Development, the area under cultivation in West Bengal is now 135 lakh acres. On the assumption that the incidence of Barga system is 25 per cent, the area under Barga cultivation would work out to about 33.7 lakh acres. As cash crops, e.g. Jute, Sugarcane, potatoes, oil seeds, etc. are not usually cultivated under the Barga system, most of the land under Barga cultivation would be paddy lands. Since the area under paddy cultivation is about, 115 lakh acres, it can be assumed that 34 per cent of paddy lands are under Barga cultivation.

7. According to the 1951 Census, the land under cultivation which was covered by the 1951 Census was about 75.89 lakhs acres against about 117 lakhs acres which was then the total area under cultivation, according to the figures of the Agriculture Department. The 1951 Census gives

the break-up of the 75.89 lakhs acres of land into holdings of different sizes. It also gives the percentage under Barga cultivation in respect of each such group of holdings. A statement compiled from the 1951 Census is also enclosed herewith. It will be seen that about 21.66 lakhs acres out of the 75.89 lakhs acres covered by the Census was under Barga cultivation. Assuming that the same pattern persists even now and applies to the whole of the cultivated area, the present acreage under Barga cultivation can be calculated as $21,66,000/75,89,000 \times 135 = 38,53,000$, a figures not so very different from the 34 lakhs assumed above.

8. A comparative District-wise statement of the number of Bargadars, according to the 1951 Census and according to the present Revisional settlement records, is also enclosed. The two figures agree fairly closely.

Sd. K. Sen
30-7-1966 Member Board of Revenue
Bengal

Number of Bargadars

District	1961 Census (According to Bargadar's statement)	Revisional Settlement Operations 1954-56
1	2	3
Burdwan	73,719	28,931
Birbhum	33,042	27,000
Bankura	34,894	72,382
Midnapur	1,54,219	2,01,908
Hooghly	52,235	19,120
Howrah	21,447	17,786
24-Parganaa	1,12,644	1,06,052
Calcutta	129	
Nadia	24,045	20,808
Murshidabad	41,897	35,000
Malda	31,965	49,820
West Dinajpur	48,755	76,054
Jalpaiguri	64,239	72,981
Darjeeling	9,990	6,170
Cooch Behar	48,925	28,115
Total	7,47,845	7,71,127

1951 Census

Size of holding of owner cultivator	Percentage of Land in cultivated Barga	Acreage under Barga
1	2	3
0-1 acre	16.0	19,887
1-2	15.9	70,001
2-3	15.7	94,380
3-4	17.8	1,20,656
4-5	21.3	1,29,571
6-0	22.8	1,16,238
6-7	24.0	1,24,090
7-8	26.0	1,09,795
8-9	25.3	95,585
9-10	28.7	1,31,164
10-15	30.3	2,26,882
15-20	30.1	2,14,896
20-25	40.7	1,69,743
25-33-1/3	41.0	1,67,080
Above33-l/3	55.3	3,74,167
		21,66,354

Area of land wider Barga cultivation as percentage of total cultivated area

District	Floud Commission 1940	1941 Census	Ishaque's Survey 1944-45	1951 Census	Basu and Bhattacharya under the aegis of Research Programmes Committee of the Planning Commission 1961
1	2	3	4	5	6
Burdwan	25.2	25.2		29.2	25.0
Birbhum	24.8	24.8		22.1	
Bankura	29.2	29.2		27.4	
Midnapore	17.1	17.1		19.0	36.0
Hooghly	30.5	30.5		20.4	
Howrah	23.4	23.4		15.0	
24-Parganas	22.3	22.3		13.3	26.0
Nadia	24.1	24.1		15.6	
Murshidabad	25.8	25.8		20.2	30.0
Malda	9.6	9.6		18.2	27.0
Dinajpur	14.5	14.5		21.4	28.0
Jalpaiguri	25.9	25.9		32.0	46.0
Darjeeling				7.9	
Cooch Behar				19.8	31.0
Purulia					
West Bengal	22.5	22.6		20.3	
Bengal	21.1		24.8 (Bengal)		

18. REPORT OF SHRI A. N. SETH, DIRECTOR, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN HIMACHAL PRADESH

The land tenure structure in Himachal Pradesh is essentially the same as in the neighbouring State of Punjab. The landowners or proprietors are generally called zamindars. There are occupancy tenants and non-occupancy tenants; in some parts there are sub-tenants under the occupancy tenants. The total cultivated area (including fallow lands) is about 7.2 lakh acres of which the tenants hold about 2.2 lakh acres. The number of tenants is estimated at about 2.9 lakhs.* As Himachal Pradesh includes a large number of former princely States with varying tenurial conditions, the size of tenancy problem varies a groat deal from district to district as follows—

District	Number of tenants	Area held (acres)
Kinnaur	12,043	4,961
Mahasu	49,645	48,820
Sirmur	99,669	38,555
Bilaspur	42,795	41,547
Mandi	59,406	60,050
Chamba	29,459	26,777
Total	2,93,017	2,20,710

2. Information was not readily available with the State Government regarding the distribution of tenancy area between occupancy tenants and non-occupancy tenants. Information was also not available regarding the extent of land cultivated by sub-tenants. It was mentioned that the extent of lands held by occupancy tenants varied a great deal from district to district depending upon the erstwhile princely States comprised therein. The rents payable by tenants also varied a great deal. Quite frequently, occupancy tenants pay cash rents, in terms of land revenue, although majority of them may be paying produce rents as a share of the crop. Non-occupancy tenants pay mostly crop share rents.

3. The bulk of the occupied area (excluding hills and reserved forests) in the State has been surveyed and settled but for small portions of unmeasured lands which are generally unoccupied. Land records are maintained and kept upto date through annual revisions. The names of tenants are entered in the annual crop register. The entries are transferred every four years to the jamabandi. There are 9,831 villages and 525 patwaris which means an average of 19 villages per patwari. The cultivated area per patwari is about 1,400 acres. The work of the patwari is supervised by the kanungo whose average charge consists of about 8 patwar circles. Considering the difficult terrain in the hilly tract and large areas of uncultivated lands, the charge per patwari appears to be large. This is apt to affect the efficiency of maintenance of land records. Re-organisation of patwari's charge needs consideration.

4. The Himachal Pradesh Abolition of Big Landed Estates and Land Reforms Act, 1953 which is a comprehensive land reform law includes provisions for occupancy tenants and non-occupancy tenants and, in a limited way, for sub-tenants also. Unlike Punjab, no separate legislation was enacted for the conferment of proprietary rights on occupancy tenants. The Land Reforms Act also includes provisions for ceiling on land holdings which were patterned on the provisions contained in the Hyderabad law.

5. The Land Reforms Act came into force on January 26,1955. The main provisions of the Act are as follows:

* This possibly represents the total number of leases rather than tenants (a tenant may be holding more than one lease).

(1) All tenants (whether occupancy or non-occupancy) and sub-tenants enjoy security of tenure. Resumption of lands by landowners was permitted from non-occupancy tenants on grounds of personal cultivation from a maximum area of five acres, subject to a further provision that no tenant would be evicted from more than l/4th of the area leased to him. Applications for reservation of land for personal cultivation were to be made within six months of the commencement of the Act and applications for actual possession within one year. These dates were later extended to March 1, 1958 and September 30, 1956 respectively. The right of resumption thus expired several yean ago.

(2) The maximum rent payable by a tenant is l/4th of the gross produce.

(3) With regard to ownership there are three sets of provisions—

(i) Under section 27 of the Act, the lands held by owners assessed to more than Rs. 125 vested in the Government from the date of the commencement of the Act, free from all encumbrances, landowners retaining the lands under their personal cultivation. The tenants are to pay compensation to the Government at rates mentioned in (ii) below. The Government would pay compensation to the landowners at rates set out in the schedule to the Act, varying between 24 to 2 times the land revenue for occupancy tenants, and 48 to 4 times the land revenue for non-occupancy tenants, depending upon the size of their estates.

(ii) With regard to lands leased by owners paying Rs. 125 or less of land revenue, the tenants have an optional right of purchase under section 11 of the Act. The compensation is fixed as a multiple of land revenue, the rate of compensation varying for occupancy tenants and non-occupancy tenants. Compensation payable by non-occupancy tenants is 48 times the land revenue plus rates and cesses. In the case of occupancy tenants it varies according to the rent payable by them. Those paying produce rents are to pay 24 times the land revenue plus the rates and cesses. Others paying cash rent are to pay one to twelve times the land revenue plus rates and cesses. The Act provides for the appointment of compensation officers for the implementation of these provisions.

(iii) Section 15 of the Act empowers the State Government to bring all tenants, within an area to be notified, into direct relationship with the State by the issue of a notification. The compensation is the same as in the case of (ii) above.

(4) The ceiling is 30 acres in District Chamba and land assessed to Rs. 125 in other districts. Efficiently managed farms whose break up would lead to a fall in production are exempted. Orchards are to be taken into account in computing the ceiling area but if the ceiling results in breaking up the orchard, the owner is permitted to retain the whole area of the orchard.

Partitions and transfers made on or after April 1, 1952 are to be disregarded in computing the ceiling area.

(5) There is neither a provision for the regulation of surrenders nor has the expression "personal cultivation" been defined.

6. Although the Land Reforms Act came into force on January 26, 1955, the validity of some of the important provisions was challenged in the Supreme Court through writ petitions and stay orders were passed preventing the State Government from taking possession of lands under sections 15 and 27 and Chapter VIII (regarding ceiling). The stay orders, however, did not apply to the provisions relating to resumption, rents and the voluntary right of purchase by tenants. The stay orders were vacated finally in April, 1960.

7. I had also visited Himachal Pradesh in June 1961 to study the implementation of the Act. Little progress had then been made in this direction. A number of suggestions were made in the tour report. Some of them were—

(i) the appointment of a special officer for the implementation of the Act at the State headquarters;

(ii) four compensation officers had been appointed for the implementation of sections 11 and 27. Appointment of tehsildars as compensation officers for their respective tehsils was suggested for expediting implementation. It was also suggested that tehsildars should be relieved of their routine duties which should be taken over by special naib tehsildars to be appointed for the purpose:

(iii) amendment of the law to provide for the regulation of surrenders, definition of "personal

8. A Land Refoms Commissioner was appointed in 1962. The tehsildars have been delegated powers of compensation officers recently. No special naib tehsildars have, however, been appointed so far, but in some districts, the normal revenue staff has been strengthened by the appointment of additional naib tehsildars.

9. With regard to the amendment of the law, a comprehensive proposal was formulated in 1962 in the Ministry of Home Affairs in consultation with the Planning Commission and the Ministry of Law. It was also approved by the Advisory Committee. In view of the impending decision for the creation of local legislatures for Union Territories, the introduction of the Amendment Bill was deferred. These proposals for amendment are now under the consideration of the Himachal Pradesh Government. In formulating the amendment proposals it was, however, agreed that the implementation of the law would be proceeded with. In practice, little progress was made in implementation during 1962 and 1963 either but for the formulation of Rules. Rules under Chapter VIII (relating to ceiling provisions) and some other sections have yet to be framed. Some progress has, however, been made during the current year in the implementation of sections 11 and 27 of the Act.

Security of Tenure

10. As stated above, the right of resumption expired several years ago in 1956. No resumption could be made from tenants admitted after the commencement of the Act, except where a person serving in the armed forces had let out land with the prior permission of the Collector under section 48 of the Act. Few leases are made with the permission of the Collector. Thus in law, practically all tenants and sub-tenants (occupancy f or non-occupancy) enjoy full security of tenure. In practice also, the occupancy tenants and non-occupancy tenants of big landholders (i.e. persons paying more than Rs. 125 as land revenue who are mostly former rulers of princely States or temples) generally enjoy security of tenure. It could not, however, be said about the non-occupancy tenants of other landholders or sub-tenants. They do not always enjoy security of tenure. This was true of villages Sarahan and Baonte where the landowners (not hit by section 27) freely mentioned that they were not leasing their lands after the enactment of the Land Reforms Act. When asked what happened to the tenants to whom lands had been leased before the commencement of the Act and whether they had been ejected, there was no answer. The old village records were not available on the spot.

Under the standing instructions, all tenants and sub-tenants are to be recorded in Khasra annually and the entries are then to be transferred every four years to the jamabandi. The patwari of the above mentioned villages said that there were informal tenancies. They were not recorded as neither landowners nor tenants came forward to have them recorded. The patwari was not sure whether he could record tenancies on his own initiative. It would be desirable to issue clear

instructions on this point to the field staff. It is difficult to say to what extent such informal arrangements still continue or the ejectments go on. It is also difficult to say to what extent ejectments had taken place in the past years as comparable data had not been tabulated from records. "Voluntary surrenders" are not regulated. Some ejectments still go on. Presently, however, it seemed that ejectments were not taking place on any large scale.

Rents

11. In the villages visited by us, the occupancy tenants frequently paid cash rents, although it was mentioned that for the State as a whole the majority of occupancy tenants still paid rents in kind, mostly as a share of the produce. It is difficult to say to what extent the provisions in the law for the fixation of maximum rent at l/4th of the produce are observed in practice.

Under the law, a tenant may file a suit for the reduction of rent under section 37. No information was available regarding the number of suits filed under this section. The law also provides for the commutation of rents payable in kind into money rents under section 29. No information was available regarding the number of applications made under this section. It should be useful to collect information in these regards periodically. It seems that the former practice of payment of rent in kind still continues without any material change.

There is no provision for the fixation of rents as a multiple of land revenue. Section 39 however, provides that the value of the crop or rent shall, when necessary, be determined by the Collector in accordance with the Rules to be framed by the Financial Commissioner. The exact scope of this provision is not quite clear. No rules have been framed under it. It seems that it should be possible to provide in the Rules for the determination of rents in cash by the Collectors for different areas. If the rents are so determined and notified it should facilitate effective enforcement of the provisions for fixation of rent.

Ownership

12. There were about 2.56 lakh* tenants holding 1.57 lakh acres who were eligible to exercise the optional right of purchase under section 11. It is reported that 19,705 tenants had applied for purchase of ownership between the period 26th January, 1955 to 31st August, 1964 involving an area of 26,729 acres. 13,004 applications have been decided. District-wise break-up is set out in the Appendix. With the appointment of tehsildars as compensation officers for purpose of section 11, the rate of progress in the disposal of applications has somewhat quickened.

13. The compensation can be paid in instalments not exceeding 10 during a period not exceeding five years as may be determined by the compensation officer. As soon as the first instalment of compensation has been deposited in the Government treasury, the compensation officer grants a certificate declaring the tenant the landowner in respect of land specified in the certificate. This is a healthy and useful provision.

14. It was mentioned that in some cases there were mortgage charges on the land purchased by the tenants and that there was no clear provision in the law that the ownership shall vest in the tenant free from such encumbrances. This needs to be examined. Apparently, the intention of the law is that the tenant shall acquire the land free from all encumbrances. Whatever encumbrances are there on the land prior to its purchase could be a charge on the compensation amount, if necessary. If the law does not admit of this interpretation, it may have to be suitably modified.

15. The number of tenants who had applied for the purchase of ownership constitute only a fraction of the total number of tenants eligible for it. Both the Revenue Minister and the Laud

* Another 36,000 tenants will get ownership under section 27.

Reforms Commissioner were of the view that landlords were discouraging the tenants from doing so. It was noticed that tenants applying for ownership were frequently dragged into prolonged litigation and thus prevailed upon to accept compromises out of court. Although there are instructions to the staff that the disposal of the work in this regard should be accelerated, yet it was apparent that there was considerable amount of uncertainty arising out of the talks of the amendment of the law. A statement by the Government in this regard should be useful for facilitating expeditious enforcement of the law.

16. The existing state of affairs emphasises the desirability of early enforcement of the provisions of section 15 so that suo motu action may be taken by Government to terminate the landlord-tenant nexus by bringing the tenants into direct relationship with the State. Member (Agriculture), Planning Commission has already demi-officially written to the Chief Minister on August 22, 1964 suggesting early action for the enforcement of section

15. The Revenue Minister agreed that it was desirable to do so. One objection was, however, made to the early enforcement of section 15. It was stated that if landlord's rights were to be acquired, it would involve payment of compensation to the tune of Rs.1.5 crores, which would be difficult for the Stat e Government to manage unless the Government of India were prepared to assist.

The law provides for the payment of compensation in cash or bonds. There is no specific provision for payment in instalments in case of cash payments. Rules could, perhaps, be made for payment in instalments also. Once the tenants are brought into direct relationship with the State, the main hurdles in the way of converting tenants into ownership (landlord's pressure, prolonged litigation etc.) would be out of the way and the tenants would acquire ownership in large numbers. The landlords could then be paid compensation as it is recovered from tenants. It may become necessary in cases of hardship to pay compensation in lump sum and it should not be difficult for the Government of India to provide additional funds for that. The tenants involved in such cases would not in any case be large.

Implementation of Section 27

17. As regards the implementation of section 27, it was estimated that 278 landowners were hit by the section. Seven of them were located recently. There may be otter cases attracting Section 27, who are still not located. The method at present adopted in locating such landowners is based mainly on personal knowledge of local officers. It was mentioned that an attempt was made to collect information about persons paying more than Rs.50 as land revenue in one village. Even this approach leaves unfilled gaps. There would be normally no difficulty in locating persons owning lands within a single village or a patwari circle. The problem arises in cases where a person owns land in a number of villages in more than one patwar circle or in more than one district. The best approach would be for a patwari to prepare lists of all non-resident landowners holding land in his circle indicating the area held by them and send the lists to patwaris of the villages of their residence. Thus, data regarding a landowner will get compiled in the village of his residence. As the law does not require substantial landowners to furnish statements of holdings accompanied by affidavits as in the Punjab, the responsibility of the administration in locating the affected landowners is all the greater and a scientific approach in the matter is necessary.

18. It was mentioned that mutations with regard to lands vesting in the Government under section 27 had been completed almost in all cases and that compensation had been paid in 102 cases out of a total of 278 cases. The progress made in the transfer of ownership to tenants of such lands was, however, slow. Up to 3lst August, 1964, ownership was conferred only on 1213 tenants in respect of 1158 acres as against 36,307 holding 63,177 acres entitled to ownership under this section. This should be expedited.

19. A number of problems have arisen in the implementation of section 27, very largely due to delayed implementation and partly due to defective provisions—

(a) Under the law, lands leased out on the date of commencement of the Act are to vest in the Government and the ownership in respect of lands so vested has to be transferred to the cultivating tenants. A number of tenants who were in possession of lands on the date of vesting i.e., January 26, 1955 have since lost possession of the land through eviction, surrenders or otherwise. The Government has to work out a policy and frame rules with regard to their restoration. In this connection, the following suggestions may be considered:—

(i) If a tenant was evicted after January 26, 1955, under the orders of a court on the suit of a landowner, it was obviously a wrong order as the landlord had no locus standi in the case. In such cases, the evicted tenant should, therefore, be restored to possession.

(ii) If a tenant was evicted without an order of a court or if he was made to surrender land, and subsequently a new tenant (not an immediate relation of the landlord) was admitted bona fide, the land might be settled with the new tenant if he is personally cultivating the land. But in making orders in such cases, the original (evicted or dispossessed) tenant should be made a party to the proceedings.

(iii) If the land is now in the personal cultivation of the owner, it should in the first instance be offered to the tenant who was dispossessed or evicted. If the tenant is not willing to accept it, the land may be settled with any other person in an order to be prescribed. If the landowner himself is left with no land in any case as a result of the operation of section 27, the land could be settled with him upto 5 acres which is the limit of resumption for all landowners.

(iv) In this connection; another problem was mentioned as to how to take possession of the land from landowners who had brought lands under personal cultivation after evicting tenants. As the lands have vested in the Government under the operation of section 27, the status of the landowner in respect of such lands is that of trespasser and as such he could be evicted under section 163 of the Land Revenue Act.

(b) The tenants have been paying rents to the landowners in respect of lands which vested in the Government from January 26, 1955 under section 27. As these rents had accrued due to Government, the rents paid to the owners will have to be adjusted against the compensation amount payable to them.

(c) In some cases, tenants have purchased under section 11 the lands which had vested in the Government under section 27. The compensation so recovered by landowners from tenants will ha veto be adjusted against the compensation payable to them under section 27.

(d) In a number of cases, the Government has acquired under the land acquisition Act lands which had otherwise vested in the Government under section 27 and paid compensation therefore under the Land Acquisition Act in excess of what the landowners were eligible under the Land Reforms Act. The excess compensation so paid may have to be adjusted against the amount payable to the landowners under section 27.

(e) Section 27 provides that landowners would retain lands held under personal cultivation. Under the definition the term ‘land’ includes lands held or let for agricultural purposes or for purposes subservient to agriculture or for pastures and also includes orchards and ghasnis (grazing lands). This would mean that all the pasture lands ghasnis and wastelands which are not cultivated lands and could not, therefore, be claimed to be under personal cultivation would vest in the Government. In some cases, these lands have been mutated in favour of Government. The Government has, however, passed orders that no more mutations of such lands should be made in favour of Government and that where mutations

have already been made the landowner should be permitted to retain possession thereof pending further orders. Such orders are apt to cause uncertainty about the implementation of the Act to which reference was made earlier. It would be desirable to vest these lands in the Government so that they could be managed and developed in the interest of the entire community. If necessary, compensation can be provided for the vesting of waste lands in the Government.

(f) It was mentioned by the Revenue Minister that large areas of unassessed lands which are sometimes cultivated but are generally uncultivated, were held by several landowners. It was suggested that if the lands are assessed to land revenue, several land owners who are not at present hit by section 27 might come within its purview. As re-assessment could not be given retrospective effect, it is doubtful if reassessment of lands could be helpful in bringing them within the scope of section 27. The problem if it obtains on a large scale could be met only through amendment of the law in due course.

Rehabilitation Grant

20. Section 27 also provides for the payment of rehabilitation grant to small land-owners. The exact intentions of this provision arc not clear as section 27 affects only large landowners holding lands assessed to more than Rs.125. However, there may be cases, where as a result of the operation of section 27 a person's holding may be reduced to below, say, five acres. In such cases rehabilitation assistance could be given over and above the compensation amount. No rules have yet been framed in this regard. This may be kept in view in framing the Rules.

Ceiling on Holdings

21. The provisions of Chapter VIII relating to ceiling on land holdings have not yet been implemented. Rules have not been framed either. It is desirable that this should now be done. Delayed implementation of the provisions is bound to give rise to further problems due to transfers and partitions which may go on in spite of provisions of the law.

Sub-tenant

22. A tenant generally includes a sub-tenant. The optional right of purchase under section 11 is, however, not available to sub-tenants. It is also doubtful if anything can be done to give ownership to sub-tenants under section 15 either. Their problem will have to be tackled by a fresh provision in the law.

Sub-section (4) of section 27 provides for the transfer of ownership of land vesting in the government under this section to a tenant who cultivates the land. As the expression 'tenant' includes sub-tenant, this provision could be interpreted to mean that ownership shall be transferred to the sub-tenant on the land; there is no provision, however, with regard to what compensation would be payable by the Government to the principal tenant above him. The law Department might consider whether the provision could be so interpreted and if so whether the principal tenant should not be paid compensation equal to the difference between the compensation recovered from a sub-tenant and the compensation payable by the principal tenant to the land-owner.

Conclusion

23. To conclude, I found a considerable amount of uncertainty both among the staff and among the cultivators about the implementation of the law. The State Government is hesitating to enforce the provisions of section 15 of the Act which provides for transfer of ownership to tenants. The provisions of Chapter VIII providing for ceiling on land holdings have yet to be enforced and even rules have yet to be framed. The Government has issued instructions staying the vesting of waste

lands in the Government under section 27. Proposed amendment of some of the important provisions of the Act is another contributory factor. It is little wonder, therefore, that all this should give rise to uncertainty. The law which was enacted in 1954 has been meagrely enforced so far, partly due to reasons beyond the control of the State Government. This has already done much damage. Any revision or hesitation in the rigorous and expeditious enforcement of the provisions at this stage may seriously jeopardise the implementation of the legislation and also adversely affect agricultural programme. It is suggested that early steps should be taken to proceed with the implementation of section 15 and Chapter VIII so that the basic work in this regard is completed, before the end of the Third Plan period. It is agreed that the law needs modification in several respects; but if its amendment is taken up at this stage, it may revive old controversies and further delay the implementation of land reform laws in the State. The best time for promoting further amendments would be when the principal provisions have been enforced and largely implemented so that they would no more constitute a subject of any serious controversy in the legislature.

December, 1964.

APPENDIX

Statement showing the total number of applications instituted, and decided under Section 11 of the H.P. Abolition of Big Landed Estates and. Land Reforms Act, 1953 during the period from 26th January, 1955 to 31st August, 1964 (Districtwise)

District	Total number of applications instituted	Area involved (in acres)	Number of applications decided	Area involved (in acres)	Amount of Compensation paid by the tenants (Rs.)	Number of applications pending on 1-9-1964	Area involved (in acres)
Kinnaur	951	552	902	509	13,078	49	43
Mahasu	4,183	2,012	4,009	1,472	3,52,805	174	540
Sirmur	2,178	3,636	2,095	3,294	2,30,390	83	342
Bilaspur	5,942	14,202	1,923	2,624	1,44,159	4,019	11,578
Mandi	3,411	3,556	2,478	2,616	59,203	933	940
Chamba	3,040	2,771	1,597	1,271	1,76,591	1,443	1,500
Total	19,705	25,729	13,001	11,786	9,76,220	6,701	14,943

19. REPORT OF SHRI A.N. SETH, DIRECTOR, LAND REFORMS, PLANNING COMMISSION ON IMPLEMENTATION OF LAND REFORMS IN GOA

Goa consists of three territories, namely—

(i) Province of Goa;

(ii) Daman; and

(iii) Diu.

The total area of the three territories is about 3.7 lakh hectares, out of which Daman and Diu account for no more than 10,000 hectares. The rest of it is comprised in Goa province. The principal crops in the coastal area is paddy (33 per cent) and in the hills, small millets (18 per cent) Coconut and cashew account for 14 and 25 per cent respectively and vegetables another 6 per cent.

Land Revenue Administration .

2. Till recently there was no revenue staff in the field. Land revenue was paid by landowners directly at the taluk revenue office called Fazenda. A collector has now been appointed at State headquarters and in each taluk a Mamlatdar has been posted. No land records are maintained. Posts of 149 patwaris have been created but not yet filled. There is no revenue inspector and no post of revenue inspector has, it seems, been provided.

3. By tenures, the distribution of land is as follows:

1. Communidades	11%
2. Religious & Charitable Institutions	3%
3. Ryotwari lands	54%
4. Government lands	32%
Total	100

Communidades

The composition and organisation of communidades has been set out in detail in the report of Goa Land Reforms Commission. Briefly, a communidade is a joint proprietary body. It may own a whole village or a part of it. The bulk of the lands in the coastal areas is held by communidades. Small areas are owned by them in other parts as well. Although the communidades own about 11 per cent of the total area of the province of Goa, yet they own about 31 per cent of paddy lands and a till larger percentage of the khazan lands i.e., lands reclaimed from sea or backwaters by raising huge bunds. The members of a communidade hold shares and the net income earned by a communidade is distributed among them on the basis of the shares so held. No member has a direct interest in any piece of land. As a rule, the lands are leased out to members or non-members by auction to the highest bidder, some time annually and some time once in six years. The last auction was made in 1961 and the period of lease was six years. Events were fixed in terms of a certain quantity of produce per hectare (generally about one-half of the gross produce or more) to be commuted into cash at prices fixed by Government under the Code of Communidades. The working of the Communidades has been regulated under the Code of Communidades. There is a separate office which supervises their work through three Administrators. All the lauds held by communidades have been surveyed and the yield of each field has been assessed. Tenants have been recorded. Most operational holdings are small. Sometimes tenants get lands cultivated through sub-tenants. The extent of problem could not be assessed as sub-tenants are not recorded. The Revenue Minister mentioned that the number of sub-tenants was considerable. As even the tenants in-chief did not have permanency of tenure, the sub tenants are, as a rule, tenants-at- will.

5. After Liberation, it was ordered that the rent should not exceed 40 per cent of the assessed yield and the produce was to be commuted into cash @ Rs.24 per kandy, the market price ranging between Rs.45 to Rs.50. (Under the Tenancy Act of 1964, the rent has been reduced to l/6th of the produce).

Religious and Charitable Institutions

6. The lands held by institutions are cultivated through tenants. Their rights were not regulated.

Ryotwari Lands

7. No information is available about, the pattern of land holding and cultivation of ryotwari lands. The Chief Minister and the Revenue Minister were both of the view that bulk of the ryotwari holdings were cultivated through tenants. Names of tenants are not entered in the records.

Survey and land Records

8. Much of the ryotwari lands have been surveyed. This was done a long time ago. The matter was discussed with the Director of Survey and with the officials of the Fazenda (Revenue) office. He was of the view that most of the survey records were out of date and out of shape. The Fazenda officer at each taluk, however, maintains a register of all rural properties giving details of the lands comprised in the property, its productivity in terms of yield as well as value thereof, the land revenue assessed etc. which forms the basis for the collection of land revenue. The Fazenda officer claimed that this record is fairly up to date and each property could be located. These records do not, however, show names of tenant-cultivators. The Director of Survey mentioned that a programme of survey or re-survey of the entire area had been worked out, spread over a period of 10 years at the cost of about Rs. 44 lakhs. The main problem was to get necessary staff for survey. Even on the basis of a 10-years programme, the staff requirements are:

Surveyors	160
Head Surveyors	16
Inspectors	4

The Government of Goa is trying to obtain suitable officer from neighbouring States for this purpose.

9. As stated above, no information is available in the survey records or in the registers of properties maintained at the Fazenda office about tenants cultivating ryotwari lands. Instructions, have been issued by the Government for the preparation of tenants' register. In Villages registers have been prepared showing the names of tenants and the rent payable by them. The procedure is that only such tenants would be entered in the register who put in applications in the prescribed form. I was told that many tenants were hesitating to make applications and consequently the majority of them were not being recorded. This applies in the case of sub-tenants of communidade lands also. It seems to me that the procedure adopted is not likely to yield good results. It seems desirable that *suo-moto* enquiries should be made in every village about the lands cultivated by tenants. If we depend merely on tenants' applications for recording them, under the existing socio-economic conditions many tenants may not come forward to get themselves registered.

10. There is a Mamlatdar in each of the 11 taluks. It will be useful to have an additional officer of the rank of a Mahalkari or Naib Tehsildar in each taluk for a period of, say, one year to assist the Mamlatdar in the preparation of the records of tenancies. He could go round to villages on appointed dates for making summary enquiries and recording tenants according to well-organised procedures. Posts of 149 patwaris have been sanctioned for the maintenance of records but no

appointments have been made so far. The Revenue Minister mentioned that the Government would like to make local recruitment and then train them before they are posted. This may take some time to recruit and train patwaris. A training school for patwaris has yet to be set up. It will be desirable to promote early steps for recruitment and training of staff. Meanwhile, the Goa Government might obtain about 50 patwaris from the neighbouring States for a temporary period on deputation to assist the Naib Tehsildars and Mamlatdars in the preparation of records. As the now local recruits are trained, they may be posted in the first instance as apprentices to these patwaris for a period of, say, three months before they are given independent charge of villages.

11. There is no provision for the appointment of revenue inspectors to supervise the work of patwaris. If it is decided not to appoint any revenue inspectors, the Naib Tehsildars who are appoizited for the preparation of records could then function as supervisory officers.

12. In order that such records may be useful in the implementation of the Tenancy Act, it would be desirable to provide in the law that presumption of truth shall attach to the entries in these records.

Government Lands

13. The bulk of the Government owned lands consist of forests or wasteland. Information regarding the extent of wastelands was not readily available. It was mentioned that quite a sizeable area of culturable wastelands has been given out on conditional leases. If the lessee does not bring the land under cultivation within the period stipulated in the deed, the Government has the power to cancel the lease and resume the land. The Chief Minister mentioned that leases of about 10,000 acres (or hectares) have recently been cancelled and the lands made available for redistribution among the landless people. Information regarding the total extent of land given on conditional leases was not readily available. It would be useful to compile the data so that systematic steps may be taken to cancel leases where the lands have not been brought under cultivation.

It should also be useful to undertake a rapid survey of waste lauds so that a proper land use pattern may be worked out. Whatever lands cannot be brought under plantation crops like cashew or areca should be put under agricultural crops. Funds for the survey can be obtained from the Ministry of Food and Agriculture—Department of Agriculture.

Tenancy Act, of 1964

14. In 1963, the Government of Goa set up a Land Reforms Commission. On the basis of its recommendations and in consultation with the Government of India, the State Government has enacted an interim measure providing for security of tenure for tenants and regulation of rents. A comprehensive measure is to be enacted after cadastral survey has been completed and necessary data regarding the size and distribution of holdings and the pattern of cultivation becomes available.

15. The main provisions in the Tenancy Act are as follows :

(1) Every tenant holding land at the commencement of the Act has been given security of tenure. He cannot be evicted except on usual grounds i.e. failure to pay rent, sub-letting or destructive use of land. He is also liable to ejectment from a limited urea on grounds of resumption by the landlord for personal cultivation. The maximum area which a landlord can resume is 2 hectares of khazau or ker land and 4 hectares of any other class of land. The tenant or sub-tenant is, however, entitled to retain half the area in each case. All transfers and partitions made after July 28, 1904 shall be disregarded in computing the resumable and non-resumable lands. If the landlord fails to cultivate personally the resumed area within one year the ejected tenant is entitled to restoration. Provisions for resumption will come into force only after the completion of survey and settlement of the

area.

(2) The expression 'personal cultivation' has been defined to mean cultivation on one's own account by one's own labour or by the labour of any member of one's family or by hired labour or servants on wages payable in cash or kind, but not in crop-share. In the latter case, personal supervision is necessary. 'Personal Supervision' being defined to include the condition of residence in the village in which land is situated or in a nearby village within 7 kilometres thereof during the major part of the agricultural season by the person or a member of his family.

(3) A surrender is to be made in writing to be admitted before a Mamlatdar. The Mamlatdar may refuse to approve the surrender or submit the case for orders to Government which may lease the land to any other person (a communidade, a village panchayat or a cooperative).

(4) A tenant evicted after 1st July, 1962 is entitled to restoration, unless the landlord proves that the termination of the tenancy was made on any of the grounds prescribed in the Act. If the tenant was evicted before July 1, 1962 but after 19-12-1961, he could recover the possession of land on application if he proves that eviction was malafide and intended to defeat the provisions of the Act. Provision has also been made that if the Government is satisfied that the tenant has, for reasons beyond his control, omitted to take steps for restoration of possession within the specified time it may on its own motion direct the Mamlatdar to entertain and dispose of the application for restoration.

(5) The maximum rent will be l/6th of the gross produce. The second crop raised during the year is not to be included in the gross produce unless there is a recognised practice of paying rent in respect of the second crop and it is raised with substantial assistance from the landlord. The rent can be paid in cash or kind at the option of the landlord. The eon version rates for payment of rent in cash are to be notified by government from time to time. These provisions have been given retrospective effect from September 1,1964. Provision has also been made for fixation of maximum rent as a multiple of land revenue, not exceeding five. This provision will however, come into force from a date to be notified after survey and settlements have been done.

(6) The tenant will be responsible for carrying out works of maintenance and repairs of tanks, bunds or ridges in respect of khazan or ker land at his own expense.

It will be also the responsibility of the tenant to maintain any sluice gate or other contrivance for regulating supply of water for irrigation.

(7) Provision has been made for setting up land tribunal for carrying out the purposes of the Act.

(8) There are provisions for prescription of standards for efficient cultivation and for the eviction of a tenant for any default in observing the standards.

Implementation of the Act

16. The Act came into force on 8-2-1965. As the Act has been in force only for a few months, much progress in implementation could not be expected. During my visits to villages I gathered the impression that not many farmers were familiar with the provisions of the Tenancy Act; in some cases even the local officers were not familiar with the provisions. It is suggested that a brief summary of the provisions may be prepared in the local language and widely distributed among the village officials such as V.L.Ws., Secretaries of Panchayats, Secretaries of the Communidades and teachers and also among the cultivators. It would also be useful to prepare instructive posters for giving publicity to the principal provisions of the Act. The political parties could do a great deal in informing the people about their rights and obligations under the Tenancy Act.

17. Effective implementation of the provisions for security of tenure and rent regulations will depend upon the speed with which the record of tenancies is prepared on the lines suggested earlier. It may be stressed that if immediate steps are not taken in this direction and landlords are given the opportunity to consolidate their position many tenancies may go underground and the provisions of the Act- may be defeated. As soon as tenancies and sub-tenancies are recorded, each tenant/sub-tenant may be granted a certificate of possession.

18. The present land revenue organisation is outlined in para 2. The Collector is overall incharge of implementation of the Tenancy Act. At the taluka level, the Mamlatdar is incharge of implementation. It seems desirable that a Senior Deputy Collector with experience of survey, settlement and record operations should be appointed at state headquarters to assist the Collector in the implementation of the Act and to supervise and guide the work of the Mamlatdars and the preparation of record of tenancies. Suggestions have also been made in para 11 about the appointment of Mahalkaries or Naib-Tehsildars and Patwaris.

19. As the Tenancy Act was enforced only recently, much progress in the implementation of the law could not be expected. In order to keep a close watch on the progress of implementation it will be useful to require every Mamlatdar to furnish a monthly statement indicating the progress of implementation of the various important provisions of the Act on a form to be prescribed by the State Government.

20. It has been the experience of several States that tenants are ejected in large numbers in the early stages of implementation of the law and quite often immediately before the enactment of the law. These ejectments usually take the form of surrenders. The provisions in this regard in the Goa Tenancy Act have been set out above. It would be desirable to keep a close watch on the situation and ensure effective implementation of the provisions for surrenders under the law. The Mamlatdar can pass orders or take action about a surrender where an application about the surrender was made before him. Under section 46, all enquiries and proceedings before the Mamlatdar or Tribunal are commenced by an application. Difficulties may arise, as it often happens, where a tenant surrenders land without any application to the Mamlatdar. A question was asked how the Mamlatdar could, in such cases, initiate proceedings on his own. The matter was discussed with Law Secretary, Goa. The parties which would be interested in the surrendered lands are the Government, the communidade, cooperative society, if any, and the panchayat (who are entitled to the lease of such lauds). It was agreed that a provision might be made in the Rules that the local officials such as V.L.W-, the panchayat secretary or the secretary of the communidade and the officials of the local cooperative society may be authorised to make applications where lands are surrendered out of court to fulfil the requirements of section 46 for the commencement of the proceedings before Mamlatdars.

21. In view of the fact that the Act was enforced late in the season (early this year), many tenants could not make use of the provisions giving retrospective effect. Instructions have been issued that the communidades should refund the excess rent charged from the tenants for the past year.

22. The rent is not to exceed l/6th of the gross produce of the land. There is also a provision for fixation of rent as a multiple of land revenue not exceeding five. The latter provision will, however, come into force only after survey and settlement of agricultural lands has been completed. It will take several years to complete the survey and settlement. Crop share rents are difficult to enforce. The 'Fazenda' registers generally contain information about the gross produce of each holding. During discussions a suggestion was made that yields as shown in the Fazenda registers with suitable modifications where necessary might form the basis for the conversion of rents into cash. The yields so revised might be published under sub-clause (iii) of clause (2) of section 23 of the Tenancy Act and the rents of holdings determined on the basis of the yields so published, and the

commutation rates to be notified by the Government under sub-section (5) of section 23.

23. The provisions of the Tenancy Act are not applicable to lands growing fruit bearing trees like coconut, arecanut, cashew or mango. No information was available as to the extent of such lands under such trees held on lease and planted by tenant. It will be useful to collect this information also when the. record of tenancies is being prepared so that, if necessary, the provisions of the Tenancy Act may be extended to such lands. Meanwhile, the Government might consider whether it will not be desirable to stay ejectment of tenants who may have taken land on lease and raised plantation at their expense.

24. The khazan and ker lands constitute the granary of Goa. The maintenance of embankments arid bunds which stretch over thousands of kilometres is, therefore, of crucial importance to the agricultural economy of Goa. Any breach in an embankment would flood lands with saline water and make them uncultivable, at times for years. As stated earlier, the bulk of this area belongs to the communidades and at present it has been the responsibility of the communidades to keep embankments and bunds in repair. Under the Tenancy Act this responsibility has now been transferred to tenants. Each embankment usually protects the fields of a large number of cultivators who are mostly tenants and some times owners. Each work has, therefore, to be maintained through their joint efforts. Just at present, the cultivators have no organisation of their own which could undertake this responsibility. Previously the embankments were kept in repairs by an organisation of tenants called 'Boase' which was getting the rental proceeds of the fields earmarked for this purpose. The law of communidades was later amended in 1961 and the responsibility for repairs was transferred to communidades. The State Government is considering the question of reviving the 'Boase'. This organisation has yet to be reorganised. The rains are imminent and annual repairs have to be taken up immediately. The only organisation which is equipped to do it at present is the communidades. Their working is supervised by the Government through three Administrators, who are assisted by engineering .staff, the cost of the staff being recovered from the commuidades in annual contributions. For practical considerations it would seem desirable that these repairs may be undertaken during the current year by the communidades. As their rental income has been cut down from 1/2 to l/6th, cost of repairs may have to be recovered from the beneficiaries. It could be adjusted against the excess rent recovered from tenants for the past year.

25. From a long term point of view, it would be desirable to entrust the work to a statutory organisation of tenants and owner cultivators. As the bulk of the khazan lands are owned by communidades, they might also be represented on the proposed statutory organisation. This will also ensure that the experience of communidades in the maintenance of embankment is available to the proposed organisation. Necessary provision for setting up such an organisation may be made in the Tenancy Act. A provision should also be made empowering the government to issue directions to the local organisation or to take over management where any local organisation fails to carry out its functions effectively.

26. Another important agricultural improvement in Goa is the sluice gates constructed to regulate the inflow and outflow of sea water during high tides and fresh water during monsoons. These are mostly in the coastal areas which are largely owned by communidades. So far it was the responsibility of the communidades to maintain them. Under the Tenancy Act, it will now be the duty and responsibility of tenants. As in the case of repairs of embankments it will be desirable to entrust the maintenance and repairs of sluice gates also to the organisation of cultivators proposed above.

27. An important and difficult question is to find adequate sources of revenue for the proposed organisation to enable it to undertake maintenance and repairs of embankments and sluice gates. So far, the communidades have been responsible for such repairs. As stated earlier, the funds for the purpose were obtained by the communidades from the rental income of fields specially earmarked

for the purpose. They had also income from trees growing on embankments and from the fish caught at the sluice gates. As the duty and responsibility of maintenance has been transferred under the Bill to the tenants, the communidades may not be expected to make available the income from the rental proceeds of fields earmarked for the purpose to the new organisation of cultivators. It is true that reduction in rents will reduce the income of communidades considerably but with the transfer of communidades' responsibility for the maintenance and repairs of embankments and bunds to the tenants (on which the communidades were spending about a third of the gross income) and consequent reduction in the administrative charges, their liabilities will also be curtailed a great deal. The income from trees on the embankments and fish from sluice gates should, therefore, be made available to the organisation of cultivators for their maintenance and repairs. The embankments suffer annually considerable damage from barges and ferries plying in the rivers along these embankments. The government might impose a special cess on them and make the proceeds available to the cultivators' organisation for maintenance and repairs of the embankments. The Tenancy Act requires the State to contribute up to 50% of the cost for maintenance of embankments. The revenues so available to the cultivators' organisation may, if necessary, be supplemented by the beneficiaries, whether owners or tenants, in the form of a fixed annual payment as may be determined by the government for which provision will have to be made in the law.

Re-organisation of communidades

28. The Tenancy Act will have a far reaching effect on the organisation and working of communidades. The Revenue Minister mentioned that some tentative proposal for reorganising communidades had been formulated which he would like to discuss with me. These discussions could not take place before I left. It may be stated that the communidades are performing a number of useful social functions also for which funds were made available out of the income of the communidades. This aspect would need consideration in formulating proposals for re-organisation.

July, 1965

ANNEXURE II

COMMENTS OF STATE GOVERNMENTS ON REPORTS OF OFFICERS.

ANNEXURE H

COMMENTS OF STATE GOVERNMENTS ON IMPLEMENTATION REPORTS

I. COMMENTS OF ANDHRA PRADESH GOVERNMENT

Para 1 to 6—No remarks.

Para 7—According to the statistics collected by the Government in connection with Telengana Abolition of Inams Bill, the following is the number of Inamdars with extents in each District.

Serial No.	Name of the District	Number of Inams	Area
1	Adilabad	3,386	50,100-15-1/2
2	Karimnagar	4,415	12,954-16
3	Khammam	2,390	26,949-21
4	Medak	26,237	1,33,716-14
5	Nalgonda	10,625	1,73,330-28-1/2
6	Warangal	7,356	42,259-78
7	Nizamabad	12,343	24,243-03-3/4
8	Mahaboobnagar	15,063	2,57,107-44
9	Hyderabad	10,435	74,957-53

Para 8—The Joint Select Committee on the Andhra Pradesh (Telengana Area) Abolition of Inams Bill, 1954 has finalised its report and the redrafted Bill has been presented to the Legislative Assembly. The Assembly has referred the draft Bill as reported by the Joint Select Committee to the Andhra Pradesh Regional Committee for consideration and report.

Para 9—No remarks

Para 10—As on 31st March 1965, the following are the details:

Area of the estates vested in the Government (Approximate pending final survey)—16,049.30 square miles.

Area in which settlement rates have been introduced, i.e., area which has been brought on par with the regular Government villages—14,750.51 square miles.

Under the Scheme of the Estates Abolition Act, 1948, with the vesting of the estates in the Government the link between the holder of the estate and the. Estate areas concerned has been cut off. The rights and privileges enjoyed by the ryots of these taken over estates are enforceable against the Government directly. In this view of the matter it can be said that there is no other settlement with the laud holder than the vesting of the estate areas in the Government. Regarding the settlement with the tenants, it may be stated that with the introduction of settlement rates, it can be said that the rights and liabilities of the ryots get finally determined, as against the Government and that, therefore, the settlement with the ryots has been done in an extent of 14,750-51 square miles.

Para 11—The estimated liability of Rs. 12-1/2 crores referred to in this para is with reference to

the provisions of section 54-B of the Estates Abolition Act. This overall liability is for the composite State of Madras. The share of the Andhra Pradesh State in this liability has not yet been determined. It is under consideration. Further, this overall liability relates to zamin and post-settlement under tenure estates only and not to inam and pre-settlement under tenure estates. The compensation payable for these latter categories of estates is not having any ceiling as in the case of zamin and post-settlement under tenure estates.

As on 30th September 1964 the total amounts deposited with the Estates Abolition Tribunals on account of compensation, etc. are detailed below:—

Advance compensation	4,10,89,051.55
Interim payments	2,40,85,051.87
Final compensation	4,53,00,254.85
Interest on deficit interim payments.	5,57,554.18
	11,10,31,912.45

The compensation payable, in respect of any one estate depends upon the quantum of the gross ryotwari demand m respect of lands for which any person other than the land holder gets ryotwari patta. This will be known only when settlement operations are completed and ryotwari pattas are completed. This apart, miscellaneous revenue derived by the Government during the 3 years subsequent to the fasli in which the estate is notified and taken over is one of the items which goes into the calculation of compensation. This revenue is a fluctuating one, depending upon many factors including favourable and timely monsoons. So until the actual particulars are available for each one of the estates, it will not be possible to state even approximately, the total amount of compensation payable. In these circumstances, it will not be possible at this juncture to say what will be the overall liability of the state on account of compensation and interim payments.

Para 72-Every possible step is being taken to speed up the notification of the remaining estates, with a V1ew to achieve finality to the objective of the Estates Abolition

Para 13-It is not correct to say that only half the estimated amount of compensation has been paid so far. Under section 54-A of the Act, half the estimated compensation is payable immediately after an estate is taken over by the Government. The balance payable will be determined and paid after survey and settlement operations are over. The details furnished earlier m this note indicate the amounts paid on account of advance compensation and final compensation. The amounts paid as final compensation excludes the amounts paid as advance compensation and indicated in the figures relating to advance compensation. The final compensation in respect of almost the entire area of 14,750.51 square miles can be said to have been paid fully, though of course in a few cases appeals or revisions are pending.

Para 14-Necessarv action is being taken to complete the work of abolition of the remaining inams as early as possible.

Para 7-5-The Andhra Inams Abolition Act, 1956 extends to the scheduled areas also and no separate legislation is necessary in this regard.

Tenancy Reforms

Paras 16 to 20—No remarks.

Para 21—The number of persons recorded as protected tenants in the area now included in Andhra Pradesh was 2,88,012. Subsequently the entries were revised as representations were

received and according to the progress reports received from the Collectors the total number of protected tenants is 2,99,246 as on September, 1964.

Paras 22 to 25—No remarks.

Paras 26 & 28—This information has to be gathered from tahsil offices with reference to the files opened in connection with the transfer of "Registry maintained yearwise. Much time and labour have to be bestowed for this purpose and it does not seem necessary to collect these particulars at this distance of time.

Para 27—The scheme of compulsory transfer of ownership has been put into operation in Khamam and Mulug Taluk of Warangal district. Khamam was selected because it had an acute tenancy problem and a large tribal population living as tenants of mostly absentee landholders. It was proposed to extend the application gradually to the remaining areas of the State. In the meanwhile, the States Reorganisation took place and as a result the new State of Andhra Pradesh had come into existence. A unified tenancy legislation for the entire State has been felt necessary and a draft Bill has, accordingly, been introduced in the Legislature and is under its consideration. The Bill envisages the repeal of the Hyderabad Tenancy Act of 1950. Pending finalisation of the Bill, no further action for extending the provisions of Section 38-E to the remaining districts of the Telangana has been taken.

Para 29—The total number of protected tenants is 2,99,246 in respect of 16,56,992 acres, out of them 14,284 protected tenants are reported to have purchased an area of 1,05,533 acres, upto October, 1964.

Paras 30 & 31—No remarks.

Para 32—The suggestion made for scrutiny of the possession of the protected tenants may require the employment of additional staff which may not be feasible during the present emergency.

Para 33—No remarks.

Para 34—Information regarding the number of applications filed for reservation the area involved, the number of applications filed for ejectment, the area involved and the number of cases in which voluntary surrenders have taken place can be obtained only from the tehsil level by tracing out the old files. This is a laborious work and may require appointment of special staff which may be difficult in the present emergency.

Para 35—The suggestion to undertake a survey with regard to concealed tenancy requires special staff and it is not possible at present in view of the emergency.

Para 36—Implementation of suggestion may not be necessary at present as the unified Bill now under consideration of the Government envisages the repeal of the present Act altogether.

Paras 37 to 39—The Board of Revenue is being requested to issue suitable instructions to all the Collectors in the Telangana area.

ANDHRA AREA

Paras 40 & 42—No remarks.

Para 43—Surrenders are being regulated under clause 10 of the unified Tenancy Bill which is under consideration. It has been laid down therein that no surrender shall be effective unless it is established by the tehsildar during an enquiry that it is voluntary.

Paras 44 and 49—No remarks.

Para 50—The Board of Revenue is being requested to entrust case studies to the revenue divisional officers in some representative villages about rent and security who can submit their reports through their collectors.

Para 51—The Andhra Pradesh Tenancy Bill is under the consideration of the State Government.

Ceiling on Agricultural Holdings

Paras 52 to 57—No remarks.

Consolidation of Holdings

Paras 57 & 58—No remarks.

Para 59—The Government nave *suo motu* powers only to the extent of introducing the scheme of consolidation of holdings in any village, taluk or part thereof under section 15 of the Consolidation Act. Under section 16 of the Act. the consolidation officer shall have to prepare the scheme of consolidation of holdings in consultation with the village advisory committee and under rule. 9(3) thereunder it has been made incumbent for the consolidation officer to take into consideration the suggestion made and the advice tendered by the owners and the village committee. So, it can be said that in a way the scheme is voluntary but not compulsory.

It is not correct to say that actually no attempt has been made at replanning of the village. Under the provisions of sections 18 and 19 of the Consolidation of Holdings Act, action is taken with regard to the amalgamation of roads and reservation of lands for common purposes wherever necessary. As a matter of fact, in Madapalli village of Siddipet taluk, which Shri Ameer Raza visited, such replanning measures were taken.

With regard to the areas consolidated and exchanged it must be made clear that under the scheme of consolidation of holdings the entire, land of an owner need not be exchanged. Generally the 'major portion' rule, is observed in the allotment of holdings. ‘Major portion’ rule means an owner gets a compact block (in particular categories of land) at the place, where he holds the land in large portion. For example, if 'A' held altogether 20 acres of land (of one category) in four scattered fragments and out of which 15 acres at a place and the remaining 5 acres in three scattered plots, then to consolidate his holding into a compact one at the place where he holds the major portion of 15 acres, only 5 acres have to lie exchanged, though the area consolidated would be 20 acres. Here the area consolidated can be differentiated from the area exchanged.

With regard to the statement that the entire work of consolidation consists merely in persuading a few people to effect mutual exchange of a few plots on voluntary basis, the following may be offered to explain the issue:—

As has already been stated, the scheme, is not compulsory but, in a way it is voluntary. However, it is not true to say that consolidation work is confined only to the holdings where the owners mutually agree to exchange their lands. There are various reasons for the. limited scope for the consolidation of holdings. Briefly, some of them are given below:—

(a) Under rule 9(1) the lauds in the village shall he grouped into separate blocks, having regard to (i) the kind and number of crops grown (ii) the quality and fertility of the soil and (iii) the nature of irrigation facilities, if any, available. Further consolidation of holdings shall, as far as possible, be effected with respect, to the plots situated within the same blocks and the allotment

of plots shall be made, having regard to (i) the location of residence of the owner and (ii) the improvements, if any, made by the owner of the land.

The lands in Telangana area are different in nature, soil, fertility, etc., besides, the lands are always uneven and undulant. Fertility of soil differs from field to field. Most of the tracts are dry and where irrigational sources exist they are not common to all. However, the lands are divided into 6 groups and 18 kinds as can be seen in form VI appended to the Consolidation of Holdings Rules 1957. Exchange is not permissible between one kind and the other. Moreover, lands are not being exchanged on uneven values.

There are no major irrigation projects existing in the Telangana area and the wet cultivation which is done, on a negligible scale is mostly dependent on sources like tanks, kuntas, etc. Irrigation under small streams, wells and other lift sources is prevalent in this area. So, exchange of lands under wet groups becomes possible only when the plots are cultivated under similar or like sources. In some, cases though both plots which may be considered for exchange are irrigated under like sources, it is found that some plots have a comparative advantage of raising a second crop. In such cases, exchange becomes impossible.

In dry lands too, various difficulties exist in drawing up consolidation proposals. Generally, the dry lands are blocked into four groups i.e. B.C.T., B.O.T1. Block Chalka and Red Chalka. They are further divided into 12 kinds. Inter-exchange of lands from one category to another is not permissible, though they may be situated within the same block. Moreover, due to the difference in fertility impossibility is not uncommon to exchange the, lands even if they belong to the same category. The undulancy also deters easy exchange.

(a) Under section 2(b) of the Consolidation of Holdings Act, 1956, an 'owner' means a person who has permanent and hereditable rights of possession of land and when alienated land has been mortgaged, owner means the mortgager. The consolidation is done on owner occupancy. The various laws in force restrict the scope recognising the actual possessor as the owner for the purpose. For example the shikmidars of bilmaqtedars and protected tenants cannot be treated as owners until they purchase and are declared as owners of the lands they cultivate. The illegally alienated lands have also been excluded from the purview of the scheme till the sales are validated.

All these factors are responsible for reducing the scope and possibility to extend the consolidation of holdings to all the fragments in a village. However, wherever the scheme can be implemented, it is being done with unspared effort. But it would not be correct to suggest that the consolidation of holdings is being done only in respect of the holdings the owners of which mutually agree to the scheme.

Para 60 —The matter is under the consideration of the Government.

Para 61—A Bill has been drafted for extending the scheme to Andhra area and the suggestions made by the Government of India, thereon are under the consideration of the Government.

Para 62—The question of taking up survey and settlement operations of the agency tracts was considered and deferred previously owing to heavy financial commitments and the poor economic conditions of the tribals in the agency areas. But in view of the advantages of the survey & settlement operations the question of possibility of taking up the survey of these areas as one of the multi-purpose tribal welfare schemes being under the 5 year plans is separately under consideration.

Paras 63 to 65 and 67 to 69—No remarks.

Paras 66 and 70—Necessary instruction will be issued by the Board of Revenue in this regard.

January, 1966.

2. COMMENTS OF ASSAM GOVERNMENT ON IMPLEMENTATION REPORTS

Paras 1 to 5—No comment.

Para 6—With the acquisition of 1124 tenures almost all the tenures have been acquired this year with effect from 14th April 1965 leaving a very small number of tenures, which is pending for further scrutiny. It is expected to be completed by the next year.

99 tenures remain to be acquired in Karimganj subdivision. The rest have been acquired this year i.e. with effect from 14th April 1965.

Para 7—About a crore of rupees has been paid as final and ad-interim compensation up till now. Bonds to the extent of Rs.29 lakhs are expected to be issued during the current year from the Public Debt Office (Reserve, Bank of India) on behalf of the Government of Assam. All preliminary works for issue of the bonds have since been completed.

Paras 8 to 10—No comments.

Para 11—Vide comments on para 6 above.

Paras 12 to 73--The Statistics mentioned in the Report will be available as soon as the formal settlement to the erstwhile proprietors and tenants is completed. Steps are being taken to collect statistics regarding acquired forests. The accurate figures will be available only after finalisation of records-of-rights.

Para 14—Steps have been taken to expedite payment of compensation as quickly as possible. One additional compensation officer has also been appointed at Dhubri since 1963.

Paras 15 and 16—The Civil Rules challenging the validity of the Act have been discharged only in May, 1965. All the deputy commissioners have been requested to expedite implementation of the Act as quickly as possible.

Paras 17 to 19—The State Government are not inclined to agree with the view that the temporarily settled areas are not of ryotwari system and that the distinction is only of historical value. On the contrary, the very system of settlement of lands with the ryot directly coupled with the restrictions in annual lease, keep the incidence of tenancy at a very low percentage. The implementation of the Ceiling Act and Adhiars Protection Act has further checked the growth of absentee landlordism in the plains districts of Assam. These areas also contain regular Government agency for maintenance of records-of-rights prepared on behalf of the Government.

Paras 20 and 21—The preparation of records-of-rights have been done in all resettlement operations and steps are also being taken to start such an operation in the areas where the next resettlement is still far off.

Paras 22 and 23—Abolition of intermediaries in respect of these lands is not considered expedient by the State Government on the following grounds:—

(i) The quantum of such lands is not appreciably large.

(ii) A large number of owners of such lands are themselves cultivators cultivating their own lands by the members of their families or by hired labourers while giving only small portion to adhiars or tenants.

(iii) Limitation period for resumption of lands for personal cultivation under Section 24 of the Ceiling Act having already expired on 15th February 1963, the interests of tenants

against evictions etc. are fully secured, added with other safeguards provided in the existing tenancy laws in the State.

Para 24—The State Government agree that "land to the tiller" is a sound policy but the State Government do not think that compulsory purchase of land by the tenants from the large number of peasant proprietors would be a practical proposition at this stage.

The State Ceiling Act provides for restriction on resumption of land for personal cultivation beyond February, 1963. This period has already expired and uptil now no case of resumption has come to the notice of Government. Various tenancy laws will, in the opinion of the State Government hold out sufficient security to these tenants.

Paras 25 and 26—No comments.

Paras 27 and 28—So far as annual lease holders in the temporarily settled areas are concerned, they get permanent, heritable and transferable rights as soon as their annual lease is converted into periodic. This conversion is a continuous process in Assam and since the Government Land Settlement Resolution of 1958, particular emphasis has been given to expedite this process. As regards the non-occupancy raiyats, they are also not evictable after 15th February 1963 and to that extent their rights are secured.

Para 29—Adhiars and non-occupancy raiyats are unejectable under Sect. 24 of the Assam Fixation of Ceiling on Land-Holdings Act, 1956 after February, 1963, since for the purpose of the Ceiling Act, adhiars have also been treated as tenants.

As regards the other categories (i.e. under-raiyats of permanently settled and temporarily settled areas), the matter requires further examination.

Paras 30 to 38—The State Government desires that (a) for a fuller appreciation of the situation, Government should collect information regarding various provisions in the Adhiar Acts of other States, including those for crop-sharing and Conciliation Board, (b) pending decision otherwise, the present structure of constitution of "Adhi Conciliation Boards" should continue, (c) but to give a more democratic touch to the nomination of non-official members of the Board, Anchalik Panchayats should be requested to recommend a panel of 3 or 4 members through the Deputy Commissioners/Sub-divisional Officers to Government one of whom will be selected by Government.

Paras 39 to 43—No comments.

Para 44—It is felt that the progress of work has not been as expected, for various reasons. The procedure, as necessarily it has got to be, is protracted and enquiries laborious. The Deputy Commissioners, who are the implementing agencies were, however, recently called in a Conference and impressed with the urgency of expediting completion of the work as quickly as possible.

Paras 45 to 47—Steps are being taken for improvement of publicity arrangement. The translation of Adhiar Act in Assamese has been done and this has been circulated in the districts.

Para 48—The State Government is considering appointment of a whole time officer of the rank of Deputy Secretary to be put exclusively in charge of land reforms and publicity matters in connection therewith.

Paras 48 and 50—No comments.

Para 51—Same comments MS in paragraph 48.

Para 52—Consolidation of Holdings (Amendment) Bill, 1964, on the basis of Planning Commission's suggestions has boon approved by Government. It is now awaiting introduction in the next session of Legislative Assembly. Government of India (Planning Commission) has been moved for comments on the Bill.

Para 53 —Arrangements are being made to depute officer and land records staff to Uttar Pradesh and Punjab for (raining on consolidation of holdings.

Para 54—No comments,

Para 55—The operations for preparation of records-of-rights of tenants and adhiars are in progress in the plains districts of the State along with the district settlement operations. Notification for such an operation has already been issued in respect of the Sub-divisions of Silchar and Nailakandi in the Cachar District.

Para 56—No comments.

Para 57—Under a planned scheme for strengthening of primary and supervisory land records agency for collection of agricultural statistics, the strength of the land records staff at the mandals' and supervisor Kanungos' levels is proposed to be doubled.

Para 58—Inclusion of subjects on land reforms and procedures in the syllabus of the courses of mandals and supervisor Kanungos training is under contemplation.

Paras 59 to 60—No comments.

Para 61—The question is under examination of Government.

October, 1965.

3. COMMENTS OF GUJARAT GOVERNMENT ON REPORTS IMPLEMMTATION

The land reforms relate to tenures, tenancy, consolidation of holdings and co-operative farming. They have been evolved in the following stages :—

1. The abolition of tenures ;

2. The prevention of fragmentation and consolidation of holdings ;

3. The settlement of relations between landlords and tentants;

4. The major tenancy reforms, and

5. The Ceiling Law.

Tenancy Law in ex-Bombay area

In Bombay there was no special law regulating the relations between landlords and tenants. The relations were mostly governed by mutual contracts or local usage and custom. The provisions of section 83 of the Bombay Land Revenue Code, 1879, constituted the tenancy law of the State. It was left to the Congress Ministry to enact the first tenancy legislation called the Bombay Tenancy Act, 1939. This Act introduced a new concept of protected tenant. This class of tenants covered those tenants who held lands continuously for a period of not less than six years immediately preceding the 1st January, 1938. This Act gave to the tenants, for the first time, fixity of tenure, a ceiling on rentals, rights in house sites and trees and protection subject to eviction under certain circumstances. In the administration of this Act. however, some defects were noticed and in order to remedy them and also to improve the position of tenants still further, a comprehensive legislation called the Bombay Tenancy and Agricultural Lands Act, 1948, was enacted. It retained the beneficent provisions of the Act of 1939 and added others. The Act of 1948 underwent several changes. In order to upgrade the tenants to the status of occupants, this Act was further amended by the Bombay Act XIII of 1956, which provided that on the 1st April, 1957, described as a Tillers' Day, every tenant whether permanent, protected or ordinary, shall be deemed to have purchased from the landlord, the land leased to him subject to the conditions that the tenant cultivated the land personally and his total holding does not exceed ceiling area and the purchase price does not exceed 200 times the assessment. This Act was also further amended by the Gujarat Government to strengthen the provisions and facilitate implementation.

Kutch area

In Kutch the Bombay Tenancy and Agricultural Lands Act, 1948, was adopted when Kutch was governed by the Central Government as 'C' Class State. The tenants were given right to purchase by the Bombay Tenancy and Agricultural Lands (Vidarbha Region and Kutch Area) Act, 1958. Under this Act, the 'Tillers' Day' is 1st April 1961. The provisions of this Act do not materially differ from the provisions of tenancy law of Bombay Region, except in case of payment of rent which is allowed to be made in kind and is converted into cash only on application.

Saurashtra Region

A similar law for the Saurashtra Region is under contemplation.

The Prevention of Fragmentation and Consolidation of Holdings

The Bombay Prevention of Fragmentation and Consolidation of Holdings Act, 1947, was brought into force in 1948. The Act empowers Government to specify for each locality the standard

area as the minimum necessary for profitable cultivation. This standard area is not synonymous with an economic holding. All plots of land less in area than the standard area are treated as fragments. The Act prohibits the transfers of fragments except to the holders of contiguous plots. It also prevents transfers of any land which would create a fragment. The Act also empowers Government to frame and execute schemes for consolidation, and, where necessary, for redistribution of holdings so as to reduce the number of plots in the holdings. The cost of the schemes is not recoverable from the parties but is borne by the State or Central Government. In the nature of things, a consolidation work is a time consuming process entailing expenditure on Government and comparatively slower in process as the masses have to be educated, the scheme being voluntary.

Abolition of Tenures and Intermediaries

Although the zamindari system of the Bihar and Uttar Pradesh type did not exist in the State, the non-ryotwari tenures, such as taluqdari, maleki, mehwassi, bhagdari, narwadari, ankadia, mulgiras, matadari, jagirs etc. were many and varied and complicated. Each tenure had special incidents and tenure holders had special rights. It was because of this fundamental difference in the incidents of the tenure that unlike the zamindari estates in other parts of India, Government had to take separate legislation for each tenure although broadly there was a uniformity in treatment. One omnibus legislation covering all these tenures would have created considerable difficulty, first in enacting and then in implementing it at the village and taluka levels. After the settlement of the relations of the landlords and tenants under the Bombay Tenancy and Agricultural Lands Act, 1948, Government proceeded to settle the relations between the State and the tenure holders by enacting separate legislation for each tenure. While abolishing the tenures, the tenure holders or others actually on the land are not dispossessed (except in case of ex-Saurashtra State area) but are allowed to continue the same in their possession on/or without payment of occupancy price. The scope of the tenure abolition laws enacted by the former Bombay State and the present Gujarat State has been restricted primarily to the abolition of various inams and non-ryotwari tenures and to the conversion of lands held on these tenures into lands on the occupancy tenure recognised by the Bombay Land Revenue Code, 1879.

Ceiling Law

The Gujarat Agricultural Lands Ceiling Act, 1960, was brought into force on 1-9-1961. It imposed restrictions upon holding agricultural lands in excess of certain limits and provides for the acquisition of surplus agricultural lands for the allotment thereof to persons who are in need of lands for agriculture.

The following observations on the suggestion made in the report of Shri Raza sent by the Planning Commission are made in the light of the background stated above.

In para 1 of the report, regarding implementation of land reforms sent by the Planning Commission, it is observed that over 51,000 tenants have not yet become occupants as they have not paid the occupancy price so far for one reason or another. In this connection it may be said that in some areas, it is due to agitation and disputes (e.g. Talukdari Tenure Abolition Act and Inam Act of Kutch), in some cases it is due to Repeated drought years and poverty, and in some cases it is partly due to the ignorance and partly due to carelessness on the part of cultivators. In order to overcome all these difficulties, arrangements are being made for putting into operation a voluntary scheme for advancing loans to such tenants through the Land Mortgage Bank. The disputes in Talukdari areas are also being solved and it is hoped that by March, 1965 most of the, cases (out of the total of 16,000) must have been solved. In case of Kutch also, special efforts to solve the difficulties are in progress and it is hoped they will be solved by the end of this year which would mean solving of problem of other 30,000 tenants. In addition to this, the period during which the

payment is required to be made has been and is also being extended from time to time enabling such tenants to acquire occupancy rights.

As regards the observation that the total amount of compensation payable by the Government is Rs. 1280.7 lakhs and that out of this amount Rs. 161 lakhs were payable in 9 districts of Gujarat, and Rs. 1015 lakh were payable for Kutch District. It may be stated that in Gujarat region the total compensation payable is 261 lakhs of rupees out of which Rs. 234 lakhs have been paid. In the ex-Saurashtra region, the total compensation payable is Rs.1015 lakhs in about 21 years of which Rs. 845 lakhs have been paid. The payment of compensation, it will be seen is quite satisfactory. No doubt, in some cases there was delay in settling the compensation due to complicated nature of the claims, the attempts made by the tenure holders to delay the implementation of Acts by resorting to litigations etc., but once the claim is settled, the payment has been made quickly.

It has been observed in report that it is necessary to make adequate arrangement for the supply of essential information to the Head Quarters so that effective supervision may be facilitated and difficulty and bottlenecks removed promptly. The necessity of having accurate statistics and bringing them up to date from time to time has been rightly impressed upon. In this connection the State Government had appointed a Special Officer to supervise the implementation work and to collect the statistics required for the purpose. On account of variety of tenures and the large number of different classes of Indian States merged in Gujarat as also the fact that the present Gujarat State is the out-come of two re-organisations the task of supervising and having the statistical information ready was a very difficult one. We have, therefore, now opened a Statistical Cell and have entrusted the work of collection and compilation of the statistics to this organisation. When Shri Raza visited, the information was in the process of reconciliation and tabulation, and, therefore, certain information could not be made available to him but all efforts are in progress to collect the accurate information in required pro formas which may be useful for the evaluation of this work. In this connection all Collectors were also impressed upon the necessity of having accurate statistics and they were also directed to see that in their districts necessary information was maintained up to date both from the point of progress regarding statistics as well as from the point of evaluation.

It has been suggested that where tenants are reluctant to pay occupancy price for example in Kutch District, it would be desirable to take steps for speedy recovery and to complete the process of implementation as quickly as possible. In the Kutch District there are various reasons such as outcome of political difference, repeated drought conditions etc. for the non-payment of occupancy price but as the period of payment of occupancy price has been extended upto December 1963, and as the political differences obtaining in the area are also being slowly solved and besides, this agricultural season is a good season in the Kutch District it may be possible to empower the resources in the major portion of the district during the current year 1964-65. Besides arrangements are also being made for putting into operation a voluntary scheme for advancing loans to such tenants through Land Mortgage Bank. During the prescribed period, in Kutch the payment of occupancy price is voluntary and the tenants are being advised to pay the dues and not to put their valuable rights to stake but even in case some people fail to pay the dues, the money so fixed will be recovered as arrears of land revenue as after the expiry of the prescribed period, occupancy price from the tenants in Kutch District is recoverable as an arrear of land revenue within one year from the date of expiry of the prescribed period.

In the report it is observed that in several cases, the record of rights has not been brought up to date or has not been correctly prepared in accordance with the provisions of the land tenure abolition laws. In this connection it has been suggested that State Government may consider the desirability of giving certificates to all persons who acquire the status of occupants under these laws so that there may not be any possibility or doubt about their rights. The State Government is aware of this problem and it has already taken steps to make the record of rights up to date. Special

staff was appointed for this purpose in Kutch District and appreciable results have been achieved. The campaign of bringing out the record of rights up to date in the remaining parts of State has been started this year on the lines of the Kutch District. The Saurashtra Land Reforms Act, 1951, and the Saurashtra Barkhali Abolition Act, 1951, provide for grant of occupancy certificate to the tenants. The Bombay Tenancy and Agricultural Lands Act, 1948 also provide for an issue of a certificate of purchase. Some of the earlier abolition laws do not provide for issue of such certificates but it is now too late at this stage to amend those laws so as to provide for giving occupancy certificates. In order, however, to overcome this difficulty the State Government has decided to issue a Khata book to each individual holder showing the lands held by him, tenure area, assessment, etc., which will be in no way less effective or valuable than the occupancy certificates now given under some enactments. This Khata book may perhaps prove a better title book of his holding as it will be brought up to date from time to time on every transfer etc.

It has been pointed out that a tenant is required to pay rent as well as the assessment and various cesses or in other words he is burdened with so many payments etc. In this connection it may be said that the provisions making the tenant liable to pay land revenue and cesses do not apply to (1) the tenants in scheduled area (2) tenants who, by custom, usage, agreement etc. pay rent which is less than the maximum or minimum and (3) the tenants who cultivate lands which are wholly or partially exempt from the payment of land revenue and besides the total liability of the tenant inclusive of rent, assessment and cesses is not supposed to exceed 1/6 of the gross agricultural produce, and if it so exceeds, the rent is reduced to the extent that the total incidence does not exceed 1/6 of the gross produce *(vide* sub-section 2 of Section 10-A) or in other words, special care has been taken to see that no undue burden falls on the tenants. Besides most of the tenants have now acquired the right of occupancy and they have ceased to pay the rent from 1-4-1957.

In the report it is observed that in Bombay region, the rate of rent for different classes of land is fixed *suo moto* by the Mamlatdar and the rent is payable only in cash. In Kutch, the tenant is required to apply for commutation of rent in kind into cash, rent. This observation suggests that law applicable in Kutch is not similar to law applicable in the Bombay region. Commutation of rent into cash and fixation of rent for a particular class of land are two different problems. In Bombay region, rent became payable in cash only alter August, 1955. Prior to that it was payable either in cash or in kind limited to l/6th of crop produce. In Kutch, rent as crop-share continues to be payable by the tenant but he can apply for its commutation into cash. Prior to 1958, the Bombay Tenancy Act as it stood on 1-8-1953 was applicable to Kutch area and there it was provided that the rent shall not exceed l/6th ot the crop produce. The tenant is allowed to have an option either to pay in kind or to get it commuted into cash. Again the tenant's liability is to pay the land revenue etc. but the rent as crop share plus land revenue etc. is not supposed to exceed the value of l/6th of the produce in each year. This is also subject to the similar restriction as under law in Bombay region (vide sections 13 and 17 of Kutch Tenancy Act).

In Bombay region, the Mamlatdar *suo moto* fixes the rate of assessment for different classes of land, the rent is not fixed for any individual holding of tenant. If any dispute arises as to the actual rent in respect of a particular holding, the party aggrieved has to apply to the Mamlatdar to fix rent in respect of that holding (vide sub-section 2 of Section 9-A of Tenancy Act in Bombay Region). In any case the suggestion to fix the rent in cash in Kutch is worth considering and the State Government will be examining this matter and will decide it.

The suggestion to record rents in the land records at this stage would not be commensurate with the labour involved because the tillers' day in Kutch has already come into operation from April, 1961 and the majority of the tenants have become deemed purchasers.

It is also not correct to say that the provisions of Section 10-A of Bombay Act and Section 17 of the Kutch Act have not been made use of. In fact, the conversions and maximum and minimum have been so fixed that the rent together with assessment etc. in no case exceeds l/6th of the average produce in any area.

It is true that the law required a landlord to issue a rent receipt and the receipts are generally not given. But there have been no complaint that the landlord refused to give a rent receipt or not admitted the payment of rent. Refusal to give receipt has been made a cognisable offence, [Section 81(2) Bombay Act and Section 117 of Kutch Act] and is punishable with fine upto Rs. 100/-. This provision itself has been a check in the matter, however in stray cases, if complaints have been found they are filed in the courts of law not with the Mamlatdars. Compilation of this data was not considered necessary.

It is observed that there is no provision for payment of rent by money order or for its deposit in Court. In fact the tenant does pay rent in some cases by money order and this is a general practice particularly where the landlord refuses to accept the rent. The provisions regarding the deposit of rent in court is not made because it may be very inconvenient to the tenants of distant villages and the procedure of accounting the receipts of rents and their payment would cause much hardship to both landlord and tenant. In fact the number of tenants who have still continued to remain as tenants is not large, as most of the tenants have become deemed occupants on 1-4-57 arid they are not liable to pay any rent irrespective of fact that the purchase price has been fixed, paid or not. The provisions relating to termination of tenancy for failure to pay rent, destructive or injurious use of land etc. are existing in the tenancy law since the enactment of Bombay Law of 1939.

As regards surrenders, in Bombay Region there can be no surrenders now by tenants who are deemed purchsers with efteot from 1-4-57. Tenancies of disabled landlord and disabled tenants are continued but cases of surrender by exercise of pressure have never been complained of even during the tour of the Land Reforms Implementation Officer or the Ministers. The provisions regarding surrender do not therefore require any change at this late stage.

As regards action to recover unpaid amount of purchase price as an arrear of land re-venue, instructions have been issued in 1961 to employ all coercive processes by stages, but any drastic action in the recovery process is Likely, in all probability to lead to dis-content amongst the cultivators. In fact in recent attempts for enforcing recoveries by minor and major coercive processes, the right, title and interest of the tenant purchaser was put to auction and yet the tenant purchaser did not pay any thing at auction and the bid was offered by the ex-landlord. It would not therefore be desirable to resort to major coercive steps unless the tenant is a continuous defaulter but in such cases it would be proper to allow this purchase to be ineffective rather than resort to attachment auction proceedings. Inspite of this all efforts are being made to enforce recoveries and progress has been fairly satisfactory. By the end of June, the percentage was 74. As an alternative measure, Government is also considering granting loans through the Land Mortgage Bank for the specific purpose of paying the purchase price.

In the report it is observed that in Kutch, a tenant cannot purchase land if the land left with landlord after the purchase would be less than a family holding and it has been suggested to remove this restriction stating that when there is no such restriction in the Bombay Region there should be no reason to keep it here. The statement that a tenant cannot purchase the land if the land left with the landlord after purchase is less than the family holding is not correct. The restriction in section 42 is in respect of the provision made for voluntary purchases by tenants prior to the 1-4-1961. The right of compulsory purchase is not restricted. In this respect the provisions in Kutch Region and in Bombay Region do not differ. The question of removal of disparity does not seem to arise.

It is observed in the report that effective action has not been taken to recover the purchase

price from the tenants, wherever it is recoverable as an arrear of land revenue. The position regarding purchase price upto 30-6-64 is shown below :-

		Rs. In Lakhs
a.	purchase price fixed	2,161
b.	purchase price due for recovery	972
c.	purchase price actually recovered	719
d.	purchase price paid to the landlords	656

The above would show that the progress of recovery of purchase price is quite satisfactory.

It is also observed that the implementation of the tenancy laws has been very slow and unsatisfactory and that in large number of cases, the purchase price is not determined. In this connection, it may be pointed out that in about 80 per cent, cases in the Bombay Region, the purchase price has already been determined. The determination of the purchase price is protracted due to many factors, such as applicability of tenure laws, the landlords' attempts to deny the status of cultivators by resort to the litigations etc. The State Government is fully aware of this aspect of implementation of the tenancy law. The State Government is also aware of the ineffective purchases due to failure of the payment of purchase price by the tenants for which the law is proposed to be amended and arrangements are being made for putting into operation a voluntary scheme for advancing loans to the tenants through the Land Mortgage Bank.

It is pointed out that the law was defective in prescribing a wide margin from 20 to 200 multiples of assessment. In this connection it may be said that this has been done to meet with the local conditions. Some lands are too poor and some lands are very rich and the conditions differ from place to place and from district to district. The law specifically provides for payment of *reasonable* price and not market price. Market price in some cases may even go to 500 to 1,000 multiples. In any case, it may be said that all possible care has been taken to look to the interest of tenants and particularly those in scheduled areas where further restrictions were placed as a result of which on the whole even in the area out side the scheduled area the average price, already fixed has been between 100 to 120 multiples of assessment and not the maximum.

It is true that we should see that the ineffectiveness of sale does not arise from the price on a higher side and consequently the inability of the tenant to pay but this care has been taken adequately and the ineffectiveness wherever it has occurred has been for the reasons other than that of the amount of the price. Government is proposing to amend the law and give the cultivators possessing lands whose sale has become ineffective a chance to purchase it again.

As regards the collection of the statistical data, the suggestions made in the report are accepted and this work *is* in progress.

In the report, it is observed that the implementation of the Saurashtra Land Reforms Act, the Saurashtra Barkhali Abolition Act and the Saurashtra Estates Acquisition Act was done effectively and carefully by the former Saurashtra Government. In regard to the Saurashtra Prevention of Leases of Agricultural Lands Act, it is observed that the Act did not contain the adequate measures for implementing its provisions in cases where the landlord and cultivator join hands in suppressing the leases made in contravention of the law. The law makes such leases void and it also contains penal provisions. Government is contemplating to enact a comprehensive tenancy law for the Saurashtra region.

Most of the land reforms laws were enacted before bifurcation and, therefore, data regarding

the publicity and additional staff was not readily available. It is likely to take a considerable time to unearth the data in this respect from the districts. However, this material is being collected as far as possible for evaluation purposes and will be sent to the Planning Commission when ready.

It is observed in the report that no separate staff has been appointed for implementation of the Gujarat Agricultural Lands Ceiling Act and that regular statements about the progress of work have not been called for. It is also observed that practically no attention appears to have been given to implementation of the Act though it was brought into force about 2-1/2 years ago. Under this Act, surplus land is to be acquired and is to be allotted. Section 25 of the Act provides that the amount of compensation payable under this Act shall be payable in cash or in transferable bonds. The question regarding the issue of bonds, their denomination and their forms is under correspondence with the Reserve Bank. Before the surplus lands are acquired, it is necessary to finalise the question regarding issue of bonds and to make arrangements for their distribution. Even if the question regarding the issue of bonds is finalised, it may not be practical to acquire lands without making sufficient arrangements for their disposal. Necessary steps in this respect are already already in progress. Government is appointing separate staff for this purpose wherever the work has been commenced.

In the report, it is observed that the process of hearing and confirming schemes appears to be somewhat slow and it is estimated that if there are objections, it takes at least two years to confirm the scheme. A scheme generally covers a large number of holdings and, therefore, hearing of objections takes time. At the recent Collectors' conference, the question of accelerating the implementation was discussed and a committee has been formed to study the measures leading to expeditious implementation of consolidation schemes. Action taken on the report of this committee will be communicated to the Planning Commission.

October, 1964

4. *COMMENTS OF KERALA GOVERNMENT ON IMPLEMENTATION REPORTS*

I. *Abolition of Intermediaries*

(i) Edavagai Rights Acquisition Act has already been implemented and the intermediaries have been abolished.

(ii) The question of expediting the implementation of Pattazhi Devaswom Lands (Vesting and Enfranchisement) Act and the Jenmikaram Payment (Abolition) Act by engaging additional staff is being considered.

(iii) In order to extinguish the right of Jenmies in Cochin Area to receive Jenmikaram, a legislation similar to the Jenmikaram Payment (Abolition) Act passed in respect of jenmom lands in Travancore area is necessary.

(iv) Enactments for the enfranchisement of Sreepadam lands, Viruthi and Inam lands and Oodupully lands are under consideration. The question of abolition of thiruppuvaram payment charged on lands is also under the consideration of Government.

(v) A bill for the abolition of the Sree Pandaravagai tenure has been sponsored to the Government of India and the matter is now under correspondence.

(vi) The assignment of Kandukrishy lands is expected to be completed shortly.

II. *Tenancy Reforms*

(i) The question of expediting the registration of Kudikidappukans by engaging special staff is being considered.

(ii) The suggestion to strengthen the Land Tribunals was considered and it is seen that the redistribution of jurisdiction effected from 1st August 1965 would distribute the work of Land Tribunals evenly and that there is no urgent need to appoint more Land Tribunals at present. However, the position will be reviewed as and when the need for additional Land Tribunals is felt.

(iii) Steps are being taken to enforce the remaining provisions of the Kerala Land Reforms Act *viz.,* compulsory vesting of landlords' right on tenants, ceiling on holdings and constitution of an Agriculturists' Rehabilitation Fund.

(iv) The question of conducting a review of transactions effected between 27th July 1960 and 15th September 1963 was examined and it was decided that no amendment to the Act was necessary in this regard.

(v) The suggestion to give wide publicity to the provisions of the Act is being examined.

(vi) The question of preparation of a State-wide record of tenancies is under examination.

(vii) The question of expediting the preparation of record of rights in Wynad area and in Attappady Tribal Block by engaging additional staff is under consideration.

III. *Consolidation Holdings*

The data relating to fragmentation of holdings has been furnished in Chapter XVI of the report on Consolidation of Holdings. The Special Deputy Collector conducted detailed investigation in 5 villages in four different districts. The detailed report of investigation in respect of these villages may be seen in appendices IX to XIII of the report. Moreover, data received from 436 villages of the State on fragmentation of holdings was also analysed and made use of.

IV. *Reorientation of Revenue Agency*

The suggestion to give Refresher Courses to the Officers and staff of the Department will be examined.

Finalization of the Village Accounts Manual ia also being expedited.

V. *Need to undertake ami complete re-survey operations*

It has already been decided to start the lesurvey by the beginning of the next year

December, 1965

5. *COMMENTS OF MADHYA PRADESH GOVERNMENT ON IMPLEMENTATION REPORTS*

Attention has been drawn in the report to the provisions contained in section 202 of the M.P. Land Revenue Code for restoration of ejected or dispossessed tenants who were so dispossessed during the three years of the commencement of the Code otherwise than under process of law. Section 202(9) provides that the tahsildar has the power to review *suo moto* all cases of wrongful ejection in any area notified by the State Government in this behalf. It has also been stated in the report that no area has been so notified in Madhya Pradesh.

The State Government was fully aware of these provisions and all Commissioners and Collectors were consulted. Their reports did not indicate the existence of such a malpractice in any appreciable measure in any area. Issue of a notification was, therefore, not necessary.

2. The next question raised in the report concerns occupancy tenants under the M.P. Land Revenue Code. Bhumiswami rights have accrued in favour of these tenants by the operations of section 190 of the Code. While there is no doubt that such rights have accrued automatically there are also provisions that the original bhumiswamis could resume these lands under certain conditions. Thus whether ultimately bhumiswami rights have accrued or not is a matter of records and mutation entries have to be made in these records. Obviously no haste should be shown in such affairs as it involves extinguishment of the rights of certain persons and accrual of those very rights in favour of certain other persons. Once the records of rights show any tenant's name in occupancy rights at the commencement of the Code, his rights are protected unless extinguished under the process of law and any delay cannot adversely affect these rights. By the very nature of thing? the recording of this accrual of rights had to be subjected to a further scrutiny as prescribed for mutation of entries in the record of rights and village papers. In fact we have a glaring case (of Indore) where a very valuable piece of land of a bhumiswami suffering from certain disability was treated by the tahsildar as bhumiswami land of his tenant. The tahsildar did not even bring the heirs—widow and the minors—on record before treating the occupancy tenant as a bhumiswami. All this happened because the tahsildar did not follow the procedure prescribed for mutation of entries. The risks in recording the accrual of right without any scrutiny cannot be ignored.

3. Considering all these difficulties it was decided that the best course of dealing with cases of accrual of bhumiswami rights in favour of occupancy tenants would be to bring all the cases in the mutation register. Once this is done, the tahsildar or the naibtahsildar who goes to the village for certification of the mutation entries will have to follow the procedure laid down from section 110 onwards and the affected parties will, therefore, get an opportunity of disputing the accrual of rights, if any such dispute really exists. Instructions were, therefore, issued *vide* our circular No. 2570/333 of 1st May, 1964.

4. The success of any land reforms will depend on the accuracy of the record of rights. The question of correcting the record of rights has, therefore, been engaging Government's attention very seriously. A case has been prepared for inclusion of the scheme of correction of record of rights in the last two years of the 3rd Five Year Plan and in the fourth Five Year Plan. The case is before the State Development Council for their concurrence. These operations when started will provide a good opportunity for checking up all cases of occupancy tenants so that any cases which may have been left out by the district officers in spite of our circular of the 1st May, 1964, will be brought to light. The provisions in the Coda will, therefore, not be allowed to rust.

5. Reference has been made in the report to some discrepancies in the number of tenants and sub-tenants in certain districts. We have addressed the Collectors and Commissioners to reconcile these figures. We shall correct the figures as we get information from the Collector.

6. Attention has been drawn in the report to the provisions of section 168(1) under which any arrangement whereby a person cultivates any land of a bhumiswami with bullocks belonging to or procured by such person (lessee) on the condition of his giving specified share of the produce of the land to the bhumiswami, shall be deemed to be a lease. Director Planning Commission has added that during his tours in the State he came across many such instances and found that these leases were not recorded in the village papers. He has, therefore, suggested that steps should be taken to see that the recording is completed so that the accrual of bhumiswami rights in their favour may become possible. This matter was already in State Government's notice and instructions were issued *vide* No. 6299/VII-N-I, dated the 29th December, 1962 (copy enclosed), insisting on the Tahsildar's verifying such cases on the spot. The gram panchayats were also brought in the picture so that the lower land records staff could not play with the interest of the tenants.

7. To determine whether the so-called bataidar is a lessee or not will depend on whether he was a bataidar or a servant working on wages and has now come forward with the story of being a bataidar. The bataidar must also come forward himself as we have no other means of knowing that such an arrangement exists. The State Government have found that in a number of cases, bhumiswamis actually enter into written agreements with the so-called bataidars under which the latter are treated as servants and in return are paid wages in cash or kind but do not have any share in the crop. Under sub-section (Z-2) of Section 2 of the Code, the term 'to cultivate personally' has been defined to include cultivation by servants on wages payable in cash or kind but not in crop-share. Therefore, as long as these documents exist, there is no crop-sharing and no lease is treated. However, in view of the fact that such instances have been found we would reiterate the instructions contained in our circular of the 29th December, 1962. State Government are also asking the Director of Land Record to examine if the practice of these agreements is defeating the purpose of the land reforms.

Comments about the Ceiling Law

8. It has been pointed out that the M.P. Ceiling law provides for no penalty for non-submission of return of surplus laud by the landholders. While it is true that no such penalty was provided for non-submission of the return required under section 9, (the landholder was expected to inform the competent authority of the surplus land within three months of the appointed day), a penalty has been provided under section 10(2) against a person who without reasonable cause fails to furnish a return of surplus land within the time specified in the notice under section 10(1) requiring him to file the return. So far as the former is concerned there is little that can be done now as the three months' period after the appointed day is already over. In regard to the latter it may be pointed out that, when the State Government launches a drastic measure of land reforms like fixing of ceilings on holding, it is necessary that initially the job of collecting information is done by the Government themselves. It was perhaps on this consideration that the law was drafted in the manner it obtains. In any case there is nothing that is required to be done now about the comments in the report.

9. It has been mentioned that the spate of transfers that took place during the period after the ceiling law was enacted and has expressed fears that the surplus land that may now be available is not likely to be appreciable. While the State Government cannot do anything beyond the law which was enacted by the Legislature, we have spared no pains in collecting the information of these transfers. Even information in respect of the transfers which took place after the publication of the ceiling Bill and before it was passed into a law is also being collected as some of these transfers can be declared void under some circumstances. Special staff has been appointed in each district and the progress in collection of the information has been very good and a stage has now reached when the actual cases of determination of surplus land would be started before the authorities competent to deal with such cases.

Consolidation of Holdings

10. In respect of consolidation of holdings, reference has been made primarily to the question of making consolidation operations compulsory on the basis of provisions in the Punjab and U.P. Acts. This was examined along with the amendments to the M.P. Land Revenue Code but it did not find much favour. The whole question has now been referred to the Working Group dealing with the preparation of 4th Five Year Plan on the subject of consolidation of holdings. We would await the opinion of this Working Group before we could reach any decision on this matter.

11. The difficulties that are experienced in the field on account of the consolidation of holdings on one hand and contour bunding as a measure of soil conservation on the other have been pointed out in the report. In fact this point was already under the consideration of the State Government and was raised at the time of visit of Director Planning Commission by our Director of Land Records who has studied these difficulties with great care. This was also discussed with the Development Commissioner and the Officers of the Agriculture Department and it has been generally agreed in principle that the Collector who is the head of both the consolidation operations and the soil conservation operations should organise the two schemes in such a way that the disadvantages feared do not overtake us. In fact Revenue Department has already issued instruction in this behalf.

12. We would like to add one more difficulty in this behalf. The present rate of our consolidation is much faster than the rate of soil conservation. The fears that have been expressed will not be completely solved in spite of all our efforts unless the Planning Commission provides larger funds for soil conservation so that it can keep pace with the consolidation. In fact this position also runs counter to the proposal to increase the pace of consolidation by making it compulsory.

13. A very large number of tanks, over 15,000, have vested in the State Government as a result of the abolition of various systems of proprietary rights. It is not possible for the Government to take up the repairs of all these tanks simultaneously. Therefore, a scheme of repairs has been evolved and has been in operation since 1959-60 under which a sum of Rs. 23 lakhs is sanctioned every year for carrying out repairs to minor irrigation tanks. An amount of Rs. 70 lakhs has already been spent in this behalf. 887 tanks were repaired in 1961-62 alone.

14. All irrigation tanks which have the capacity to irrigate 100 acres and above have now been transferred to the Public Works (Irrigation) Department. They would ensure the proper upkeep of these tanks. A survey has also been taken up of the other tanks which irrigate more than 25 acre* with a view to find out as to how many of these could be looked after by the P.W. (Irrigation) Department. The idea is that Revenue Department should be concerned with such tanks only which cannot be looked by the Irrigation Department.

July, 1964

GOVERNMENT OF MADHYA PRADESH
REVENUE DEPARTMENT
MEMORANDUM

No. 6299/VII-N-I *Bhopal, dated 29-12-1962*

To

All Commissioners of Divisions,
Madhya Pradesh.

SUB.—*Recording of leases in patwari papers*

Complaints have been received by Government to the effect that patwaris record names of certain persons in patwari papers as lessee of certain land although no lease has been granted by a Bhumiswami and thereby such person becomes entitled to the right of occupancy tenant and can later acquire ownership rights on payment of premium at 15 times the land revenue under section 169 and section 190(2-A) of the M.P. Land Revenue Code, 1959. This procedure is, therefore, detrimental uo the interests of the Bhumiswami.

2. Complaints have also been made to Government that though certain Bhumiswamis lease out land, the names of such lessees are not recorded by the Patwaris with the result that such lessees do not get advantage of the provisions of the law.

3. The State Government are, therefore, pleased to direct that names of lessees and sub-lessees of Bhumiswamis and occupancy tenants should be recorded by the Patwari in Jamabandi and Khasra in 'remarks' column against the survey numbers concerned with area and rent or sub-lease money, as the case may be. The State Government are further pleased to direct that the Patwari shall annually send by the 15th July a list of such lessees to the Tahsildar through the Gram Panchayat and where there is no Gram Panchayat, through the Patel. The Revenue Inspectors and other Revenue Officers should check these entries while on tour by actual verification on the spot.

Sd/-- M.P. SINGH,
Under Secretary to Government,
Madhya Pradesh,
Revenue Department.

No. 6300/VII-N-I *Bhopal, dated 29-12-1962*

1. Copy forwarded to all Collectors, Madhya Pradesh for necessary action.
2. Copy forwarded to Director of Land Records, Madhya Pradesh, for information and for favour of incorporation of suitable instructions in the Land Records Manual.
3. Copy forwarded to Land Reforms Deptt. for information.

Sd/-- M.P. SINGH,
Under Secretary to Government,
Madhya Pradesh,
Revenue Department.

GOVERNMENT OF MADHYA PRADESH
(REVENUE DEPARTMENT)
MEMORANDUM

No. 2570/333/VII/NI *Bhopal, dated the 1st May, 1964*

To

All Commissioners of Divisions, Madhya Pradesh,
All Collectors, Madhya Pradesh

SUB. - Conferral of ownership rights on tenants under the Madhya Pradesh Land Revenue Code, 1959.

Under section 185 of the Madhya Pradesh Land Revenue Code, 1959, certain persons holding lands on the date of coming into force of the Code, except persons holding land from Bhumiswami suffering from disability, became occupancy tenants. Under section 189 of the Code, a Bhumiswami could apply for resumption of land for his personal cultivation in certain cases within one year from the date the Code came into force. Under section 190 of the Code, if a Bhumiswami failed to make an application under sub-section (1) of section 189 within the specified period, the rights of Bhumiswami would accrue to the occupancy tenant with eftect from the commencement of the agricultural year next following the expiry of the aforesaid period. The Code came into force on 2nd October, 1959. Therefore, if a Bhumiswami did not make an application for resumption of the land upto 1st October, 1960, the rights of Bhumiswami would accrue to the occupancy tenant with effect from 1st July, 1961. In cases, where a Bhumiswami has made an application under subjection (1) of section 189 for resumption of land, the right of Bhumiswami would accrue to the occupancy tenants in respect of the land remaining witn him after resumption, with effect from the commencement of the agricultural year next following the date on which the application was finally disposed of.

2. Under section 190 of the Code, an occupancy tenant becoming a Bhumiswami shall pay to his Bhumiswami compensation equal to 15 times the land revenue either in 5 equal instalments or in lumpsum. If it is not paid, it oan be recovered as an arrear of land revenue and paid to the Bhumiswami.

3. Under the provisions referred to above the accrual of the rights of an occupancy tenant and the rights of a Bhumiswami is automatic. The accrual of these rights is not contingent on any application by a tenant or on payment of compensation by him.

4. Since these rights accrued to such tenants automatically it is necessary to record their rights in the records to implement the measures of land reforms. With a view to implement these provisions, the following procedures should be followed. Lists of all tenants who were recorded as tenants on 2nd October 1959 should be got prepared from the Patwari's records and every tenant should be entered provisionally as Bhumiswami in the register of mutations. The procedure for inviting objections against such entries laid down in section 110 of the Code should be followed. If there are any disputes with regard to the accrual of the rights, including objections for non-accrual of these rights in respect of lands held by persons under disability. Such disputes should be decided by the Revenue Officers before finally recording them as Bhumiswami of such land.

5. The question how the amount of compensation shall be paid should also be determined in

these proceedings.

6. Government direct that action should be taken *immediately* as indicated above for correction of the Records and for recording the occupancy tenants as Bhumiswamis to whom the rights have accrued automatically under the provisions of the Code.

7. Any point on which further clarification may be necessary should be referred to the Director of Land Records, Madhya Pradesh, Gwalior.

Sd/-- M.P. SINGH,
Under Secretary to Government,
Madhya Pradesh,
Revenue Department.

6. *COMMENTS OF MADRAS GOVERNMENT ON IMPLEMENTATION REPORT*

At the outset, the Madras Government wish to point out that the various observations and suggestions made in the report are found to be substantially the same as those made, from time to time by the Land Reforms Division of the Planning Commission and also, recently, by Mr. Wolf Ladejinsky of the Ford Foundation. The State Government had examined those observations and suggestions and had communicated their views thereon to the Government of India. In this connection, attention is invited to the Madras Government letter which contains their views on the report of Mr. Wolf Ladejinsky appended to this note.

In regard to the Madras Cultivating Tenants (Payment of Fair Rent) Act, 1956 (Madras Act XXIV of 1956), the suggestions made by the Joint Secretary (Land Reforms), Planning Commission, may be briefly summarised as follows—

(i) Maximum rent may be fixed at l/4th or l/5th of the gross produce.

(ii) Rents may be fixed *suo moto* throughout the State, taking into account the class of soil and productivity in different areas.

(iii) Steps may be taken to determine *suo moto* proportionate reduction in fair rent whenever adverse seasonal conditions result in the reduction of the produce.

(iv) Provision may be made in the Madras Cultivating Tenants Protection Act 1955 (Madras Act **XXV** of 1955) to enable the tenants to make payments of rents through money orders.

(v) Provision may be made to make it obligatory on the part of the landowners to issue receipts to their tenants for payment of rents.

(vi) Provisions regarding fair rents may be made applicable to the entire area of Madras State.

(vii) Provision may be made to apply the fair rent in the case of sugar-cane and other duffasal crops.

The remarks of the Madras Government to the above suggestions are as follows:—

Suggestion (i)— The rates of fair rent for the different classes of lands, fixed in the Fair Rent Act, were decided upon after deep consideration, taking into account the conditions then prevailing in this State and in the neighbouring Andhra State where the maximum rent was 50 per cent. The view has been expressed that the reduction in rent has considerably affected the landowners and that any further reduction in rent, besides being unjustifiably harsh on the landowners, will further accentuate the tendency already noticed of reluctance or indifference on the part of the landowners to make the usual monetary advances, to the cultivating tenants, for cultivation purposes, which, in turn would have an adverse effect on food production. However, the question of reduction of rent is bound to come up for consideration in connection with the comprehensive tenancy bill, which this Government propose to introduce soon, when it will be gone into in detail.

Suggestion (ii)— A similar suggestion was made by Mr. Wolf Ladejinsky. Madras Government's remarks thereon are contained in para 15 of the letter appended to this note.

Suggestion (iii)— This suggestion has reference to the provision in section 5(2) of the Fair Rent Act, under which whenever adverse seasonal conditions result in the reduction of the gross produce from any particular crop to the extent of more than 25 per cent, the landowner shall be bound to remit a proportionate part of the fair rent due to him from his cultivating tenant, in respect of that land, for that period. It has been reported that when there is failure of crops due to adverse

seasonal conditions, the land-owners generally remit the payment of rent due to them from their tenants without driving the latter to the rent court for relief. There may be stray cases, where the land-owners refuse to remit the rent, thereby driving the tenants to the rent court. The Government consider that, for the sake of these stray cases, it is not necessary to take any special steps to effect a proportionate reduction in fair rent in areas affected by adverse seasonal conditions.

Suggestion (iv)— It is always open to the tenant to remit the rent to the landowner by money order and it is also open to the landowner to refuse to accept the money order, thereby driving the tenant to the Revenue Court for the deposit of the rent in the Court. By depositing the rent in Court, the tenant can save the money order commission of fifteen naye paise for every ten rupees of rent or part thereof. The Government do not consider that t!here is any need for making a provision as suggested.

Suggestion (v)—As the Planning Commission has already been informed the question of making a provision for the landowners giving receipts for the rents received by them will be considered in connection with the comprehensive tenancy bill.

Suggestion (vi)—The Fair Rent Act and the Cultivating Tenants Protection Act do not apply to Kanyakumari district and the Gudalur Taluk of the Nilgiris district.

So far as Kamyakumari district is concerned, it has been reported that there is no tendency for rack-renting and that the Holdings (Stay of Execution Proceedings) Act, 1950 and the Travaucore-Cochin (Prevention of Eviction of Kudikidappukars) Act, 1955, which are in force there, afford sufficient protection to tenants from eviction. Certain special tenures are prevalent in that district and the Government have recently introduced tnret Bills for the abolition of the special tenures. The Government have also introduced a Bill for the introduction of ryotwari settlement in that district, on the lines of the ryotwari settlement prevalent in the rest of the State. After the special tenures are abolished and ryotwari settlement is introduced, the question of extending the Fair Rent Act and the Cultivating Tenants Protection Act to that district will arise. But, by that time, it is expected that the Acts will have been replaced by the proposed comprehensive tenancy legislation, which may be made applicable to Kanyakumari district also.

As regards Gudalur taluk, the Malabar Tenancy Act, 1929 prescribes fair rents and give» protection to tenants from eviction. The jenmi system is in force in that taluk. The question of undertaking legislation for abolishing this system is now under the active consideration of this Government. When this system is abolished, the question of extending to that taluk, the Fair Rent Act and the Cultivating Tenants Protection Act, or the comprehensive tenancy legislation of it has taken shape by then, will arise.

Suggestion (*vii*)—This question also will be considered in connection with the comprehensive tenancy bill.

Regarding the remarks of the Joint Secretary (Land Reforms), Planning Commission, in para 7 of this report, that no records are maintained regarding lands cultivated by tenants, the Madras Government have since issued orders, in G.O.Ms. No. 529, Revenue, dated 26th February 1964, to the effect that entries should be made in Village Account No. 2 (Adangal) to show the particulars of all leases of agricultural lands to cultivating tenants, whether the leases are oral or written. After the orders in the G.O. are implemented, the village account referred to will contain the particulars of lands cultivated by tenants.

Regarding the Madras Cultivating Tenants Protection Act, 1955, (Madras Act XXV of 1955), the suggestions of the Joint Secretary (Land Reforms), Planning Commission may be summarised as follows:—

(i) The entry of tenants' rights in the land records should be coordinated with the conferment of permanent rights on them.

(ii) Registration of the tenants' rights in the land records should be carried out by tahsildars or deputy tahsildars specially appointed, after giving due publicity in the villages and in the presence of villagers consisting of tenants and agricultural workers.

(iii) The law relating to land records will need amendment to provide specifically for the record of tenancies and to provide that the entries in the record would constitute presumptive evidence.

(iv) The right of resumption of land by landlords for personal cultivation provided for under section 4-A of the Madras Cultivating Tenants Protection Act, 1955, need not be allowed further and tenants should be given permanent rights in the lands which they now hold 'and brought into direct relationship with the State.

(v) Regulation and verification of surrenders of land made by tenants.

(vi) The definition of the term "personal cultivation" suggested in the Second Five Year Plan may be adopted and it may be provided that supervision may be exercised by the landlord or a member of his family or a paid employee and as a test of supervision, residence in the village or a neighbouring village within a specified area may apply to the landlord or member of his family or employee.

The remarks of the Madras Government on these suggestions are as follows:—

Suggestions (i) and (iv)— A suggestion similar to these was made by Mr. Wolf Ladejinsky. The views of this Government thereon contained in para 13 of the letter appended to this note.

Suggestions (ii) and (iii)— A suggestion similar to these was made by Mr. Wolf Ladejinsky. The views of this Government thereon contained in para 12 of the letter appended.

Suggestion (v)— There is no large scale ejectment of tenants or voluntary surrenders of tenancies in this State. Even in the few cases of such surrenders, it is reported that the tenants take the money value of their rights.

Suggestion (vi)— The Madras Government do not consider that the definition of "personal cultivation" should be amended, so as to insist on residence of the landowner in the village or a nearby village, as such a restriction would be considered to be stringent.

In para 10 of his report, the Joint Secretary (Land Reforms), Planning Commission, has observed that due publicity does not appear to have been given to the provisions of section 4 of the Madras Cultivating Tenants Protection Act, 1955, which provides for the restoration of evicted tenants and that consequently considerable number of tenants would not have availed themselves of the opportunity of filing applications for restoration within the stipulated time. He has also given certain figures in support of his statement. But these figures relate to the number of applications filed under section 4(5) of the Act, during the period from January 1962 to July 1963 and are not relevant. Actually, it was reported that 2,054 applications were filed under section 4 of the Act, which shows that due publicity of the provisions of that section had been given, and tenants had availed themselves of this provision.

April, 1964

APPENDIX

GOVERNMENT OF MADRAS

COPY OF GOVERNMENT OP MADRAS LETTER (Ms) No. 198, REVENUE, DATED 28-1-1964

I am directed to invite a reference to the correspondence cited, relating to the report of Mr. Wolf Ladejinsky of the Ford Foundation, on the tenurial conditions in Thanjavur district and their impact on the Package Programme.

2. In the D.O. letter No. 72096-R/63-5 Revenue, dated 3rd October, 1963 it was stated that the Madras Government were not sure how far the conclusions and recommendations of Mr. Ladejinsky, made after investigation in a few villages, would admit of acceptance as being of general application with reference to the position obtaining in the district as a whole. It was also stated that a detailed and objective survey in about sixty representative villages in Thanjavur district would be undertaken and that, with reference to the factual data obtained at the survey, this Government would offer comments on the recommendations of Mr. Ladejinsky. The Collector of Thaujavur has since made detailed enquiries and sent a clear and factual report. After examining the report the Government now consider that no survey as previously contemplated is necessary and that the report contains sufficient material to answer Mr. Ladejinsky's points and to show that his conclusions are, for the most part, untenable.

3. In the first instance, the Government would like to point out that the investigation made by Mr. Ladejinsky was a very cursory one. He visited only 8 villages and even these 8 villages are not representative of large portions of the district. Several talukas of the district, like Papanasam, Mayuram, Sirkali, Nandilam and Mannargudi were not visited by him at all. He did not also make any exhaustive or detailed enquiries. He appears to have asked questions of the ryots assembled at the places he visited and drawn his own conclusions on the basis of the replies given by them. He did not have talks with any pattadars. He did not discuss with the Collector or with the officers of the Agricultural and Cooperative Departments, the facts as ascertained by him, to test their veracity, and dependability, before he could form conclusions based on the data.

4. The Collector has furnished a statement showing the particulars of pattas of various values held in the district, for fasli 1371. It is seen there from that about 19 percent of all lands held on patta, is held by pattadais paying less than Rs. 10 i.e., by pattadars owning land roughly equivalent to not more than 1.25 acres of wet laud. Such pattadars form 67-8 per cent of the total number of pattadars. About 13.5 per cent of all lands held on patta is held by pattadars paying more than Rs. 250, i.e., by pattadars owning land roughly equivalent to 30 acres or more of wet land. Such pattadars form slightly more than 0-5 per cent of the total number of pattadars. Even if only wet lands are taken into account, the pattadars owning 30 acres or more of wet land hold only 17.5 per cent of all wet lands. Thus, the statement of Mr. Ladejinsky that those who own more than 30 acres hold 45 per cent of all the cultivated lands, is nol correct. It should also be pointed out here that, after the implementation of the Land Ceiling Act, the size of the bigger holdings will be considerably reduced and the percentage will be still less.

Mr. Ladejinsky has incidentally remarked that there is practically no surplus land in the district for acquisition under the Land Ceiling Act. Buf it is reported that about 25,000 standard acres of land are likely to be declared as surplus in the district.

5. A quick, survey made by the collector allows thab the total extent of land held under tenancy is 2- 67- lakhs of acres or roughly 17 per cent of all cultivated land. Even if it is assumed that all lands leased out to tenants are wetlands, such lands form only 30 per cent of all registered

wet land in the distiict and certainly a smaller percentage of all actual wet land. As regards oral leases, the available figures show that the extent under oral leases ih' not more than half the total area under tenancy. The statement of Mr. Ladejinsky that most tenancies are held on oral leases is apparently, impressionistic and not true facts.

The Madras Cultivating Tenants Protection Act, 1955 provides that in the case of every tenancy agreement, a lease deed shall be executed. It also provides that if the landlord, refuses to execute the lease deed, the tenant can lodge the deed in the taluk office with a declaration that the landlord has refused to execute it. Inspite of these provisions, it is a fact that many tenants prefer to keep their leases oral. This Government consider it neither practicable nor advisable to resort to compulsion for execution of written lease-deeds.

6. The Collector's enquiries in the two villages, Thirumandurai and Kanjanur, visited by Mr. Ladejinsky, show that actual rents vary from 40 per cent to 50 per cent and do not go upto 60 per cent, except in one village. His enquiries in other typical villages also show that while there are cases where the rent exceeds 40 per cent, it is seldom more than 50 per cent. The correct position appears to be that where there are written leases, the rent is generally 40 per cent of the estimated or actual gross produce and where the leases are oral, the rent varies from 40 per cent to 50 per cent and in a few cases exceed 50 per cent. Mr. Ladejinsky's statement that the actual rent is 60 to 65 per cent is not correct.

Similarly, his statement that fixed quantity rents have been steadily moving upward is also not correct. There may be odd cases of raising of fixed quantity rents, but there is not large scale tendency for such rents to rise and there has been no complaint in this regard.

In this connection, this Government wish to point out that not all cases of rents higher than 40 per cent can be condemned as unjustified violations of the law. There may be a variety of reasons for the tenants agreeing to pay higher rate of rent than that stipulated in the Fair Rent Act. There may be long-standing cordial relationship and an attitude of give-and-take between the landlord and the tenant. The landlord may be meeting the expenditure on Kudimaramath (an increasingly important activity in the district), may not be claiming a ?hare in the straw and catch-crops raised on the land and may be affording credit to the tenant for cultivation and more especially for marriages, festivals, or expenses of a personal unproductive nature for which institutional credit is not so freely available, etc. Further, the fact that 10,000 applications have been filed before the Rent-Courts for fixation of fair rent after the fair Rent Act became law shows that the tenants have not been at the mercy of the landlords in the matter of rent. In any case, the number of cases where rents are higher than 40 per cent is not large enough to justify any special measures.

7. Mr. Ladejinsky has remarked that tenants are changed frequently from holding to holding, to prevent any possible claims by them to "occupancy" rights. The Collector's report, after a survey of typical villages in the district, however, shows that there have been actually very few cases of shifting. The figures of cases dealt with under the Madras Cultivating Tenants Protection Act in this district also bear out this conclusion. Out of 4,058 applications for eviction of tenants filed in 1962, eviction was ordered only in 330 cases. In 1963, out of 1,473 applications for eviction of tenants, eviction was ordered only in 53 cases upto the end of September, 1963. In no case, resumption of land by the landlord for personal cultivation, was allowed either in 1962 or in 1963 upto the end of September, 1963.

8. Mr. Ladejinsky says that the provision in section 4-A of the Madras Cultivating Tenants Protection Act for the resumption of land by the landlord for personal cultivation hangs like 'Democles sword'over the heads of tenants. The Government do not agree. Where the landlord is incapable of taking up personal cultivation, as for example, where the landlord is a widow, minor,

disabled person, an institution or absentee landlord, the tenant knows very well that there is no danger of resumption. Further, in a majority of cases, the landlord, though having a right to resume land for personal cultivation, is unlikely to exercise it and the tenant is only too fully aware of this position.

9. It should also be stated here that Mr. Ladejinsky's remarks that the officials behave as if the Madras Cultivating Tenants Protection and Fair Rent Acts are not meant to be enforced, is grossly unfair, unsustained and incorrect.

10. Mr. Ladejinsky has stated that oral lessees are at a considerable disadvantage when compared to lessees with written lease-deeds, in securing loans under the Package Programme. There is a factual inaccuracy in his remarks on this point. According to him, a tenant on an oral lease, can be advanced only a maximum loan of Rs.50 as against Rs.1,000 allowable to an owner cultivator. Till the beginning of 1963, the position was that short term loans were granted at the rate of Rs.150 per acre subject to a maximum of Rs. 1,000 per cultivator, except to tenants on oral leases, for whom the maximum was Rp. 250, and not Rs. 50 as stated by Mr. Ladejinsky. Since then, there has been no difference in the ceiling on loans between tenants on oral leases and others and recently, instructions have been issued that farm plans should be prepared for tenants on oral leases also and that they should enjoy the Fame credit facilities as written lease-holders. Wide publicity has been given to these instructions. The collector of Thanjavur has reported that the presidents of cooperative societies have been advised that in every case where it is proposed to give a loan to a tenant on oral lease, they should give publicity to the proposal in the village and thereby satisfy themselves that there is no objection from any quarter to the grant of the loan. This Government consider that as a result of these steps, any distinction that might have existed between tenants of oral leases and those with written lease-deeds *in* the implementation of the Package Programme, will completely disappear soon.

11. Mr. Ladejinsky has also remarked that the tenure position in Thanjavur district being what it is, there is no inducement to the tenants to use large quantities of fertilisers. But it is observed that the cultivators of Thanjavur district, in general, are very reluctant in the matter of application of fertilisers, either because of their conservatism or because they are not sure that the application of a large dosage straightaway will not do any harm to the land and this fear is not confined to tenants alone but is noticeable even among pattadars. If Mr. Ladejinsky's premise is therefore not borne out by facts his conclusion too becomes erroneous.

12. Coming now to the recommendations made by Mr. Ladejinsky, the first recommendation is that a basic record of tenancies should be prepared, with the assistance of a committee of non-officials. The main purpose of the recommendation is to see that all tenants, whether on oral lease or with written lease-deeds, are brought on record, thereby ensuring security of tenure to the tenants and the proper execution of the Package Programme. But the preparation of a record of rights on the lines suggested by Mr. Ladejinsky will mean a complicated and long-drawn out procedure. This Government consider that it is sufficient, for the purpose in view, if particulars of all tenants, whether on oral lease or with written lease-deeds, are brought to the village Adangal for cultivation account, maintained in this State. A cent-per cent check of the entries made by the village officer in the Adangal by *an* officer superior to him would ensure accuracy. This matter is now engaging the attention of this Government and suitable instructions will be issued shortly.

13. The second recommendation is that the right of the landlords to resume land for personal cultivation should be terminated forthwith and permanent occupancy rights should be conferred on the tenants in respect of lands which they now hold. The recommendation is that legislation should be enacted for the transfer of ownership in respect of the non-resumable lands of the landlords to the tenants. In this connection, the view has been expressed that as one of the main purposes of tenancy legislation is to encourage personal cultivation of one's own land, there is no

reason why a land-owner should be prevented from doing so, when he wants to. It is also pointed out that a minor, whose lands have been leased out, may, on becoming a major, wish to take up personal cultivation, or a person, who is unable, for personal reasons, to take up personal cultivation, may later be able to do so and that his right to do so should not be taken away. It is further pointed out that as the holding of the landowners will be reduced under the land Ceiling Act, there is no justification to confer occupancy rights on the tenants on the limited extent which the landowners are allowed to retain within their ceiling. However, these matters will be examined carefully and suitable decisions taken at the time of consideration of the comprehensive tenancy bill, which this Government has under his earnest consideration now.

14. The fourth recommendation of Mr. Ladejinsky is that should be reduced to one-third of the gross produce This is also a matter, which will be gone into, in detail, in connection with the comprehensive tenancy bill.

15. The last two recommendations of Mr. Ladejinsky are that-the system of crop-share rent should be abolished in favour of a fixed quantity of produce or its value in money and that, so long as the present provision for the rent being a proportion to the normal gross produce continues, the cultivated lands in a local areas should be divided into a few broad categories according to their productivity and the average of norm-mal produce of land in each category should be determined and notified. This Government are advised that it would be difficult to categorise the lands into a few enough groups, to make Mr. Ladejinsky's scheme of division of cultivated lands into categories according to their productivity, work It is also pointed out that it is very doubtful whether the variation inside each category will be so negligible as to render the scheme attractive to the tenants themselves. As regards Mr. Ladejinsky's long-term suggestion that rents should ultimately be payable only as a fixed quantity of grain or cash, it is pointed out that this will go, particularly, against the interest of the small landlords. If the rent is made payable in cash, the landlords will lose the benefit or any increase in the value of grains. Further, it is generally recognised that the rent on wet land should be paid only in grains, miles? the landlord prefers io have it in cash. Having regard to these considerations, this Government ar not in favour of these two recommendations of Mr. Ladejinsky.

16. In conclusion, this Government wish to point out that so far as the Madras State is concerned agricultural land is already being put to a very high degree of profitable use, as is proved by the fact that yields per acre of rice and other food grains in this State are far higher than in most other States, and it may be derived from this experience that increase in food production has not so suffered as to warrant any immediate drastic interference with the existing tenurial set up. Recently, there was also a discussion under the chairmanship of the Chief Minister on the implementation of the Package Programme and the tenurial conditions in Thanjavur district in which the landlords, tenants, legislators, panchayat union chairmen and officials participated and no practical difficulties, as have been apprehended by Mr. Ladejinsky, were brought to notice.

7. *COMMENTS OF MAHAEASHTRA GOVERNMENT ON IMPLEMENTATION REPORT* VIDHAKBHA AREA

Observation (1) in the report

It would have been desirable to have a work of such importance (preparation of lists of tenants under sec. 8) carried out by higher officials through a special record operation in Vidharbha area. In the absence of a detailed survey, it is difficult to judge the accuracy of these records and further checking by higher officers as well as statistical survey seem to be necessary.

Remarks of State Government

This observation relates to the 'Mode of cultivation statements' which were got prepared by the Patwaris by way of preliminary arrangement. Such a step was considered necessary because the crops statement and "Pere Patraks" maintained in the Vidarbha Region did not contain adequate information about the persons actually cultivating the land. Therefore, for the purposes of preparing lists of ordinary tenants as required by section 8 it was necessary to prepare such statements. These lists of tenants were prepared by the Tahsildars on the basis of the entries made in those statements and were finalised after following the prescribed procedure, i.e. by giving due publicity in the village and after enquiry into the objections filed against the entries made in those lists. The Tahsildar's decision in respect of such objection was subject to appeal to the Collector, and revision by the Maharashtra Revenue Tribunal. It would thus be seen that the work of preparing lists of tenants was not done by lower revenue officers.

Observations (2) and (3)

(2) The maximum rent varies from 3 to 4 times the land revenue. There is no provision as there is in the Act applicable to the former Bombay region for *suo moto* action for commuting crop share rents into cash rents.

(3) With regard to the actual quantum of rent also the provision is inadequate as it does not provide for determination of fair rents *suo moto.*

Remarks

It is true that unlike the Bombay Tenancy Act, 1948 the Vidarbha Tenancy Act, 1958 does not contain any provision for fixing rates of rent (within the minimum and maximum limits laid down by the law) in respect of different classes of land in local area. But even in the case of the Bombay Act it was not considered necessary or feasible to make a provision for fixing actual rate of rent in respect of each plot or field. Again whatever may be the provision in the final analysis it is for the tenant to exercise his rights and to claim the benefit of the provisions of the Act. Instances are, however, not wanting where the tenants have not only applied for fixation of reasonable rent but have also obtained refund of the excess amount recovered by the landlords. The exact number of such cases cannot, however, be stated. In fact detailed statistical information has not been maintained in respect of the cases filed under sec. 13 or similar other provisions of the Act. It must, however, be remembered that these cases are dealt with by different Revenue Officers at Tahsil level. And it has not, therefore, been found possible to obtain or collect accurate statistical data about these cases in good time.

Observation(4)

With, regard to surrenders, it appears that in a majority of cases the landlords take possession of surrendered land even before verification is done. In 62,511 cases, it was found that the landlords' possession was not lawful, but the landlords continue to be in

possession as it was decided not to evict them. These cases will now be decided in the light of the applications for resumption filed by landlords.

Remarks

It is a fa,ct that during the. initial period of the. enforcement of the Vidarbha Tenancy Act, 1958, in a large number of cases the landlords obtained possession of land from the tenants without following the procedure laid down for verification of surrender etc. In this connection it may be stated that out of the 8 districts of the Vidarbha region, there was no protection to the tenants of agricultural land (except in a few cases of occupancy tenants) in the 4 districts of Nagpur, Wardha, Chanda and Bhandara. In regard to the remaining four Berar districts a certain measure of protection was given to a particular class of tenants viz. protected lessees. When the question of taking up a comprehensive tenancy law for the Vidarbha region was first examined it was thought that in order to ensure that the protection becomes available to all tenants an Ordinance was promulgated in 1957, extending the periods of all one year-leases and generally prohibiting eviction of all tenants. Thereafter the Tenancy Act of 1958 was enacted and brought into force on 30-1.2-1958 with the result that the landlords in this region were prevented from getting back their land from the tenants at the end of the agricultural season as they were usually doing till then. The landlords, therefore, resorted on a large scale to putting pressure and influence on the tenants to secure surrender of tenancy and thus get back lands. The Act of course contained a provision for dealing effectively with such cases of unlawful acquisition of land. However, as generally the landlords and the tenants belonged to more or less the same social group it was not considered desirable to impose the extreme penalty of forfeiture of land. It was felt that the proper course would be to regularise, such cases by allowing the landlords to exercise their right of resumption in respect of these lauds. So far as small landlords were concerned (i.e. persons whose holding did not exceed l/3rd of a family holding and who earned their livelihood principally by agriculture or agricultural labour), they were also allowed a fresh right of resumption by inserting new Section 39-A. In a sizeable number of cases, however, the tenants did exercise their right to get back possession of the land. The reports pertaining to the period ending December, 1963 show that as many as 2,504 tenants who were evicted unlawfully or by way of involuntary surrenders, were restored possession of their lands.

Observation (5)

The purchase price has not yet been fixed in regard to compulsory transfer either in respect of lands of which the tenants became owners on April 1, 1961 or in respect of lands of which tenants became owners on April 1, 1963. The question of appointing additional Tahsildars under the Agricultural Lands Tribunal is under consideration. For all practical purposes, therefore, the \\ork of the implementation of this Act is vet to be started.

Remarks

In regard to the scheme relating to the compulsory purchase of land by tenants, it was necessary for the proper implementation of the scheme first to collect some data about the holdings of tenants, landlords etc. For this purpose, suitable land registers and holding sheets etc. were prescribed. Detailed instructions were also issued for Compilation of these registers. Normally the scheme relating to the compulsory purchase of land under section 46, would, therefore, have been implemented sometime in the year 1962-63. However, later on it was found that a very small number of tenants were likely to get the benefit of the scheme of sec. 46. It was, therefore, considered desirable to extend the benefit of the scheme to all tenants by deleting the condition about the minimum area to be left with the landlord. Accordingly, the condition contained in section 42(c) was deleted and a provision was inserted (by adding new section 49-A) for compulsory transfer of ownership of the remaining land to tenants with effect from 1-1-1963. Since

the tenants thus purchased land on two different dates, it was considered necessary to give detailed instructions about the procedure to be followed by the Revenue Officer in dealing with these inquiries. These instructions have been recently finalised and accordingly a Manual has been published and supplied to all Revenue Officers concerned. Necessary additional staff has also been sanctioned and the work has accordingly been taken up and it is expected to be completed by another year or two.

WESTERN MAHARASHTRA

Observation (1)

The law does not confer any rights upon sub-tenants other than the sub-tenants of a permanent tendnt. The provisions merely refuse to give recognition to existing sub-tenants or tenants created in future in the normal course of the arrangements for cultivation. This may have merely the effect of driving the sub-tenancy underground and leaving it completely unprotected until it gathers force and clamours for suitable regulation. If leasing of land is to be discouraged in future not merely in law, but also in actual fact it would be necessary to provide for suitable protection and safeguards for sub-tenants.

Remarks

Creation of sub-tenants by a tenant has been prohibited in the Western Maharashtra right from the year 1941, since when the Tenancy Act of 1939 was first brought into force in the former Bombay province. The existing tenancy law also prohibits the creation of fresh tenancies by the tenants who have become owners of land under the compulsory transfer of the ownership provided for in sections 32 to 32-R. One of the objects of the legislature in enacting the Bombay Tenancy and Agricultural Lands (Amendment) Act 1955 was to create peasant proprietorship and to do away with absentee landlordism. It is with this object in view that the Amending Act on one hand, provided a final chance to the non-cultivating landlords to convert themselves into owner cultivators by resuming land from the tenant for personal cultivation and on the other provided for compulsory transfer of ownership to the tenants in respect of lands which were not resumable or resumed by the landlords after the final chance given to them. In order that new absentee landlords are not created provision was made on one hand to confer compulsory right of purchase on a tenant whose tenancy was created after the Tillers' day, and on the other to prohibit the tenant purchasers under the compulsory purchase scheme from leasing their land without prior permission of the Collector. If as suggested by Shri Ameer Raza subtenancies and tenancies created by tenant-purchasers were to be recognised it would again result in creating absentee landlords and in course of time we would again revert to the position which existed prior to the enactment of the tenancy legislation in this State. The suggestion to recognise tenancy and to provide for safeguards to sub-tenants cannot, therefore, be accepted.

Observation (2)

The provisions with, regard to the surrenders are inadequate. The intention of the regulation was that landlords may be discouraged from exercising pressures upon the tenants to give up their lands. This could be effective only if the landlord gets no additional benefit from such a surrender more than the benefit he would get had he duly applied for resumption. The right of resumption is subject to the condition of the tenant being left with half the land. But in the case of surrenders the landlord may, in several cases, take the entire land subject to the limit of ceiling.

Remarks

The position pointed out is no doubt true. It was, however, created as a result of the interpretation of section 15 by the Maharashtra Revenue Tribunal and the constitutional difficulties in amending section 15 to provide that the same conditions as are applicable to landlords while resuming land from the tenant for personal cultivation should apply to the return of land surrendered by a tenant. As a result of the implementation of the provisions contained in section 32 to 32-R for compulsory transfer of ownership, the position now is that, tenancies cease to exist in all other cases. Consequently, the problem of landlords bringing pressure and influencing the tenants to get surrender of tenancies is no longer a serious one in this area. It, however, does not mean that landlords have ceased to exercise their influence and pressure on tenants to get back their land. The *modus operandi* now is to ask the tenant to express his unwillingness to purchase the land under sec. 32 or in the alternative to commit default in payment of the purchase price, both of which result in the purchase becoming ineffective and the land going back to the landlord. So far as the first part is concerned the position is that the mischief is already done and it is now difficult to make any provision to undo this. So far as the latter part is concerned, viz. commission of deliberate defaults in payment of the purchase price, this Government has already considered the matter and decided to amend the Act to ensure that purchase of land in such cases does not become ineffective. It is proposed to provide for the recovery of the purchase price from the tenant as arrears of land revenue and further to provide that the purchase shall become ineffective only in the event of. the recovery of the price as arrears of the land revenue not succeeding. It is hoped that this provision will go a long way to ensuring regular payment of purchase price by tenants and protect them from becoming defaulters and thereby rendering their purchases ineffective.

Observation (3)

The law suffers from vagueness in regard to the fixation of maximum rent and would need further review and careful scrutiny to ensure that the rent along with other dues which have been recently increased do not exceed l/6th of the produce as provided for in Sec. 10-A.

Remarks

As mentioned against point (2) the incidence of tenancy has reduced considerably in this area as a result of compulsory transfer of ownership of land to tenants. The question of the quantum of rent is not of as much importance as it was prior to the enforcement of the compulsory transfer of ownership to tenants. Tenancies now exist only in respect of lands leased by disabled categories of landlords and lands covered by section 88-B. It is no doubt true that the existing provisions regarding payment of rent are unnecessarily too flexible in that tne rent is made payable at rate which is to be fixed by the Mamlatdar for a period of 5 years within the maximum limit of five times the assessment or Rs.20 per acre, whichever is less, and the minimum limit of two times the assessment. Further there is an over-riding provision that the rent together with land revenue and other cesses like irrigation cess, local fund cess, village panchayat cess should not exceed one sixth of the crop for that year. Where the maximum limit of rent is itself fixed at the low level of five times the assessment or Rs.20 per acre, whichever is less, and the minimum level is fixed at two

times the assessment, there is really very little scope for fixation of different rates of rent for different areas, and much less to justify the labour and administrative inconvenience involved in it. In the Vidarbha area as well as in the Marathwada area the maximum rates of rent are fixed at 3 to 5 times assessment depending upon the year in which the settlement is made. There is, however, no provision as in the Western Maharashtra for fixation of rates of rent for different areas within the maximum limit. The provision is that within the maximum limit the tenant is liable to pay rent at the rate agreed between him and the landlord and in the absence of such agreement the rent payable according to usage and in the absence of both the reasonable rent is to be determined by the Tahsildar. There is also no provision that the rent should be paid in cash. But the tenants in Vidarbha area have been given a right to have the rent commuted into a cash by making an application to the Tahsildar. In Marathwada the tenant has an option to pay rent in cash or in equivalent produce grown on the land estimated at the market value thereof. It will be evident that when the maximum limit of the rent is reduced to the low level of 3 to 5 times the assessment, there is very little point in providing that the rent should be at the agreed rate or according to usage and in the absence of both at the reasonable rent to be fixed by the Tahsildar, since there would hardly be any cases where the agreed rent is likely to be lower than the maximum rent. The provision thus unnecessarily keeps the quantum of rent vague as observed in the report. It would, therefore, be more convenient not only from the administrative point of view, but also from the point of view of tenants and landlords to have a flat rate of rent for the entire State, fixed in multiples of assessment and made payable in cash. Considering' the existing maximum levels of rent fixed in the three areas, we may fix a flat rate of rent at three times assessment or Rs.20 per acre, whichever is less for the entire State. If this is done, it will also result in unifying provisions regarding rent in all the three regions of the State. A definite rate of rent as multiple of assessment would have the advantage that the landlords as well as the tenants would know exactly what rent is payable for any land. It may be that if this flat rate is adopted rents in some areas may be increased by a single assessment or decreased by that much amount. But having regard to the level of assessment and the fact that the maximum limit in any case does not exceed Rs.20 per acre, the increase or decrease in rent as a result of fixation of a *flat rate of rent is not likely to make much difference in the burden on the tenants. However, as the question is not of much urgency we, may consider a change of these provisions on the above lines when the stage of unification of the tenancy laws in the three regions is considered.

Observation (4)

In regard to the purchase price the amendments may be considered for ensuring that the purchase price is reasonable both from the point of view of the landlord and the tenant-purchaser and is within the paying capacity of the latter.

Remarks

The enquiry under section 32-G for determination of purchase price in respect of lands deemed to have been purchased by tenants under sec. 32 are now almost over in all districts except Kolaba and Ratnagiri. It would not, therefore, be desirable to consider at this late stage any change in the quantum of the purchase price on the lines suggested in the report. Such a course may result in discrimination between the large number of tenants in whose case purchase prices have already been fixed under the existing provisions and the tenants whose cases are yet to be decided. No amendment may, therefore, be considered on this point.

Observation (5)

The position regarding ineffective purchase on account of default in payment of purchase price or instalments thereof is disturbing and the object of the land reforms may be defeated if remedial action is not taken and the law- is not suitably amended to provide for conferment of

occupancy rights on tenants in all cases on compulsory basis.

Remarks

It has already been explained in the comments against point (2) that amendments arc proposed to be undertaken to effectively check purchases becoming ineffective as a result of non-payment of purchase price.

Observation (6)

It is noticed that nearly 15 per cent of the cases regarding tenants' right of purchase had to be dropped on account of incorrect record of rights. It is, therefore, necessary to organise the corrections of the record of rights, on the lines of a campaign or drive and care would have to be taken to see that the officers entrusted with this work are appointed in adequate strength and suitably trained etc.

Remarks

As mentioned earlier the inquiries are now almost over in all the districts except Kolaba and Ratnagiri and there would be no point in organising the campaign suggested in the report. Apart from this, the inquiry itself seems to find out the correct factual position and to correct the record of rights. In fact the inquiries are themselves a campaign to correct the record of rights.

Observation (7)

The disposal of the tenancy cases particularly cases under sec. 32 is slow. For the law to be really effective these cases should have been decided as quickly as possible and purchase price fixed under sec. 32-G. This would have had the effect of relieving tenants from the burden of rent during the following period and would have also removed uncertainties.

Remarks

It is no doubt true that considerable time was required to complete the inquiries of compulsory transfer of ownership under Sec. 32. However, as mentioned earlier the enquiries are now almost over in all the districts except Kolaba and Ratnagiri. Government has already taken steps to appoint additional tribunals and other ancillary staff in these two districts to ensure that even in these districts the inquiries are completed early.

Observation (8)

The tenancy law was made in a series of gradual steps of which the earlier ones were extremely defective and weak. The failure of the law in its earlier stages has been brought out clearly in the surveys sponsored by the Research Programmes Committee and further statistical surveys and type studies are therefore urgently necessary in order to evaluate the extent to which the law in its present shape is really proving effective in protecting the rights of tenants.

Remarks

Such a survey may preferably be taken after the scheme relating to the compulsory, transfer of ownership tenants is fully implemented in all the three regions of the State.

Observation (1)

The provisions regarding reasonable rent is defective in as much as there is no action *suo mot* of or fixation of reasonable rent by the revenue authorities themselves. Reasonable rent can be fixed only on the application of a tenant or a landlord to the Tribunal.

Information about the extent to which use has been made of this section is not available.

Remarks

Please see remarks in respect of observation at Serial No. 3 pertaining to the Bombay Tenancy Act, 1948 in force in Western Maharashtra.

Observation (2)

The inquiry earlier sponsored by the Research Programmes Committee into the working of the Hyderabad Tenancy Act showed that out of the originally created protected tenants in 1951, only 45% still remained to enjoy their protected status by about 1954-55. The position with regard to security of tenure does not appear to have improved. Out of 36,184 protected tenants declared owners in 1956 or 1957 under section 38-E as many as 19,483 tenants were found out of possession of the land.

Remarks

It is understood that steps were taken by the former Hyderabad Government in 1951-52 to prepare tenancy record and to issue protected tenancy certificates to all persons whose names were recorded as protected tenants. At that time the position in respect of record of rights and other village records was far from satisfactory with the result that the entries in the tenancy record were also in many cases found to be incorrect. In fact Tenancy Record Correction Rules, 1955 were specifically framed to allow parties another opportunity to get these entries corrected. It is not, therefore, surprising that later on many recorded tenants were found to be out of possession. Apart from this till 1954 the law did not require that the surrender should be in writing. The provision regarding verification of surrender by the Revenue Officers and for imposing ceiling limit on the landlords' right to retain the surrendered land was also for the first time made by the Amending Act of 1957 which came into force on 8th June, 1958. Till 1958, therefore, it was open to the landholder to secure voluntary surrender of land from a tenant without much difficulty. Again there was also no provision for dealing effectively with cases in which landlords were in unlawful possession of land. Such a provision has now been made by inserting section 98-C in the Act. Thus adequate steps have since been taken to ensure security of tenure to the tenant.

Observation (3)

An amendment was made in the Act in 1961 which came into force on 17-11-1961 to enable dispossessed protected tenants to get the benefit of compulsory transfer of ownership under section 38E. Even after lapse of well over two years, as many as 8,589 tenants have not yet been restored possession.

Remarks

The reason as to why a large number of protected tenants were out of possession is already explained in the remarks against observation (2) above. Adequate progress could not be made in the work of putting the dispossessed protected tenants in possession because in some cases the

protected tenants themselves refused to take possession while in some cases their whereabouts were not known.

Observation (4)

Out of 36,184 protected tenants who had been declared owners under sec. 38-E, and section 38-F, purchase price had been fixed in respect of 33,260 protected tenants and it had yet to be determined in 2,924 cases. This arrear has remained after about 7 years of the enforcement of the law.

Remarks

The cases regarding fixation of purchase price have remained in arrears mainly because in the first place it was not possible to secure the presence of dispossessed protected tenants. Again in view of the High Court decision the cases could not be taken up till the dispossessed protected tenants were actually put in possession. The work will now be completed once the question of restoring possession to dispossessed tenants is solved. According to the latest report only 445 cases are now in arrears.

Observation (5)

Section 38-G provides for compulsory transfer of ownership of land to ordinary tenants after the expiry of 3 years from the commencement of the Hyderabad Tenancy and Agricultural Lands (Amendment) Act, 1957. This Act commenced from June 8, 1958. Nearly 6 years have passed since then but the provision has not yet been brought into force.

Remarks

It is a fact that the provision relating to the compulsory transfer of ownership of land to ordinary tenants could have been implemented after 8th June, 1961. The matter was, however, postponed as the implementation work of similar provision of section 38-E was not making satisfactory progress particularly because of the problem of dispossessed protected tenants. Again the new form of records of rights was introduced in the year 1958 and it was, therefore, considered desirable to take up the work only after the records were rewritten. Again as sec. 38-G conferred only a limited right of ownership the question of enlarging that right by removing the condition about any minimum area being left with the landholder as contained in the first proviso to sub-section (1) of section 38E was also under consideration for some time. It has since been decided to implement the provision in its present form. Certain preliminary arrangements about preparation of lists of tenants who are likely to get the benefit of the scheme etc. are to be made. This matter is proposed to be discussed in the meeting of all land reforms officers in the Aurangabad Division to be held at Aurangabad some time next month. It is expected that all necessary arrangements would be completed by another 3-4 months and it 'would be possible to issue necessary notification under section 38-G some time in November, 1964.

LAND CEILING

Observation

Since this Act came into force on 26th January, 1962, and more than two years have passed, it is necessary to take urgent steps for appointment of additional staff wherever necessary and for implementation of the Act as speedily as possible.

Remarks

In accordance with the instructions issued by Government the Prant Officers (SDOs) and the Collectors are attending to the inquiries under the Land Ceiling Act. We have also asked them to see that the inquiries in respect of the returns already received are completed by 31st January; 1965 so that surplus land could be disposed of to landless persons etc. before the cultivating season of 1965-66 begins. So far about 9,000 acres land has been declared surplus. The Commissioners have been asked to submit proposals for additional staff wherever considered necessary in order to ensure that the work is completed by the target date.

July, 1964

8. *COMMENTS OF ORISSA GOVERNMENT ON IMPLEMENTATION REPORTS*

1. The report deals with matters relating to the comprehensive land reform legislation, abolition of intermediaries, and operation of the interim tenancy law. The position in regard to the comprehensive legislation is indicated in the following paragraphs:

(a) Resumption from tenants

2. The amending Bill as introduced in 1961 allowed resumption upto half of the tenanted lands where the aggregate of tenanted lands and lands held for personal cultivation of the landlord exceeds 5 standard acres and upto 2/3rd of the tenanted lands in other cases subject to marginal adjustments. The Select Committee of 1961 considered these provisions in detail and felt that in this matter, the provision should be as simple as possible so as to facilitate its proper implementation. It, therefore, provided that in every case the landlord should have the right to resume land upto 50 per cent from each tenant. This question was again gone into by the Select Committee while recently examining the amending Bill of 1964. The Committee felt that the minimum area of a basic holding need be assured to every tenant before resumption is allowed. It has suggested necessary amendments in the Bill. This suggestion of the Select Committee will bring in some amount of complication in the operation of these provisions though it will help the tenants to a great extent.

(b) Definition of 'personal cultivation'

3. It has been suggested that the definition should contain an element of residence in the village concerned or within a prescribed distance. The condition about residence of the cultivator in or near about the village where the land is situated is considered too rigid and harsh for many cultivators who arc used to 'Pahi' cultivation in this State, i.e. the practice of cultivating the land from a distance without residing in the village where the lands are situated. Any change in this practice is likely to upset the rural economy in certain areas. The Land Reforms Act provides that any one who fails to cultivate the land personally will be evicted. These provisions are considered adequate to deal with malafide cases.

(c) *Surrender*

4. There is no problem of surrender in this State and, therefore, no provision has been made in the Bill on this point.

(d) Rent

5. It has been suggested that for purposes of commutation of kind rent, the price to be taken into account should be the average price for a period of 5 years. This is perhaps intended to effect reduction in the unearned income of the landlord. There is such provision in the Bill which provides that the price of paddy has to be notified every year. This provision is on the lines of the provisions of the Orissa Tenants Relief Act which has been in force for the last ten years. Any change in this pattern is considered not expedient.

(e) *Ownership for tenants*

6. The amending Bill of 1964 as it has emerged out of the Select Committee provides that the tenant will pay ten times the fair rent or 50 per cent of the market value of the land whichever is less in 10 annual instalments. The Select Committee considered this to be reasonable for both the landlords and the tenant. The provision regarding ejectment of the tenant for failure to pay compensation in respect of non-resumable lands has been completely omitted by the Select Committee. Payment of compensation at market value in respect of trees, wells and tanks standing

on non-resurnable lands, does not involve double payment because this compensation is meant for the assets created by the landlord. It will not, therefore, be expedient to change this provision.

(f) Ceiling on land holdings

7. The points raised in the tour report have been carefully examined. The provision in the Bill was also examined in detail by the Select Committee. It is not considered expedient to make any change in the Bill.

(g) Transfers and partitions

8. A suggestion has been made that transfers made and partitions effected after a particular date should be ignored for purposes of applying the ceiling provisions. It has been the experience that retrospective provisions affecting any substantive right in landed property are virtually impossible to enforce particularly because our land records are generally not up-to-date and also because it involves elaborate enquiries resulting in continuance of proceedings for years together which causes difficulties not only for the persons concerned but also for administration and in the ultimate analysis, the purpose of legislation is defeated.

(h) Acquisition and disposal of surplus lands

9. It has been suggested that Co-operative Farming Societies should get preference in the matter of settlement of surplus lands. In this State there are very few Co-operative Farming Societies of landless agricultural workers and. therefore, the provision will not be of much practical importance. This question was also examined by the Select Committee. It felt that continuous raiyats having one acre of land or less should get the first priority in the matter of settlement of surplus land.

10. Government felt that instead of issuing compensatory bonds it would be better to pay compensation in cash and close transactions as quickly as possible.

ABOLITION OP INTERMEDIARIES

11. The delay in completing action regarding abolition of intermediaries has been commented upon in the report. This State Government started the process of abolition in 1952 and by the end of 1953 all big estates had been notified for abolition. In 1954 and 1955 a number of Inams were notified for abolition. These notifications were challenged in a large number of writ petitions that led to protracted litigation upto the Supreme Court. Thereafter, the Act had to be amended. Secondly, Government felt that it would be risky to abolish the existing state of revenue administration without making adequate arrangements for a substitute. The basic need of land administration is an up-to-date land record which was not available in this State. The land records were prepared about 40 to 50 years back and were hopelessly out of date. The lowest unit of revenue administration was the sub-division which was considered too big for a raiyatwari pattern of land administration that emerges after abolition of intermediaries. The sub-divisions were, therefore, divided into Tahsils and this pattern of administration has been in existence for about ten years and has stabilised by now. Government feels that by the end of the current year it will be possible to complete abolition of the existing estates other than those owned by charitable or religious trusts of public nature. The abolition of estates belonging to such trusts will be taken up after the general abolition is completed.

12. The delay in disposal of applications for settlement of cash rent for Khas lands and service Jagirs under section 6, 7 and 8 of the Estates Abolition Act is largely due to apathy of the

persons concerned. Government have taken all possible steps to expedite the work.

13. Non-availability of up-to-date information as to the picture that emerges after the abolition of estates has been commended upon in the tour report of Sri Raza. The basic difficulty is want of up-to-date land records.

14. Government Lave felt the need of tightening up the existing land revenue administration. The difficulty in achieving this objective earlier is that Orissa is a composite state having inherited a number of systems of revenue administration. To add to this difficulty the land records are hopelessly out of date. These two factors had contributed towards accumulation of certain arrears of land revenue. A major portion of the arrears are payable by the ex-intermediaries and these arrears were adjusted from their compensation. In the ex-States, there is also appreciable amount of pre-merger arrears most of which are claimed to be not payable and enquiry has been and is being conducted to finalise such claims. Here again want of land records ia delaying the work.

OPERATION OF THE TENANCY LAW

15. It has been mentioned in the report that provisions of the tenancy law are not taken advantage of by the people to any appreciable extent. It goes without saying that in any law regulating the relationship between the landlord and the tenant the social structure plays an important role. As the social structure is not under the control of the Government it would not be advisable for the Government to take suo moto action in enforcing any law relating to landlord and tenant as such a step is likely to seriously upset the social structure creating bigger problems and in particular, problems of law and order. But in cases where clear harassment of tenants has been brought to the notice of the Government and a general question of principle involved, Government have given necessary legal help to the tenants to fight out the litigation against the landlords.

16. Generally speaking the Orissa Tenants Relief Act seeks to apply certain correctives in the relationship between the landlords and the tenant that was developing in an undesirable manner after the last Great War. There is reason to believe that this enactment has to a very great extent achieved this object. There may be cases where a landlord may still be recovering as much as 50 per cent of the produce as rent. There are also cases wuere the tenant is paying nothing to the landlord who is too poor to enforce himself against the strong body of tenants. In the pattern of landlord-tenant relationship that exists in this State it is not correct to presume that generally the tenants are too poor to enforce their rights and require protection in shape of suo motu action by the State. It may be that absence of a record in favour of the tenants may have created difficulties for some of them. Government have taken note of this position and in the recent survey, record-of-rights and settlement operations that are now going on, all tenants are being recorded. The operations are expected to be completed by the end of the Fourth Plan.

17. It has been suggested that Government should take action to fix cash rent in respect of tenants. Payment of rent in kind by tenants is still commonly used. Fixing it in cash in all cases may mean drastic revision of business in the land lord-tenant relationship and might be inconvenient for the tenant himself in many cases. This will have the effect of directly affecting the social structure to a very great extent.

April, 1965

9. *COMMENTS OF RAJASTHAN GOVERNMENT ON IMPLEMENTATION REPORT*

The Rajasthan Government offers the following comments on the report regarding the "Implementation of Land Reforms in Rajasthan".

2. The references to paragraphs are to the paragraphs of the copy of the Report.

3. *Para 2*—With the total abolition of intermediaries, and the bringing of all tenants into direct relationship with the State, there are no estate-holders or landowners now, who can let their lands: they have all become khatedar tenants in respect of their khudkasht lands. The reference in this paragraph and in para 28 must, therefore be deemed to be to sub-tenants. Under the law as it stands today, there can be no ejectment of a tenant or a sub-tenant except through the revenue courts on any of the grounds mentioned in the Rajasthan Tenancy Act (Section 161). It is, however, a fact that while our law lays down the maximum period for which a tenant may sublet (cf. section 45), it does not prescribe the minimum period for which a sub-lease shall be given, nor does it provide for automatic renewal of sub-leases and for what the Planning Commission terms as 'resumption' for personal cultivation. That being the position in law, year-to-year sub-leases are not ruled out and a tenant may sub-let a particular field to one sub-tenant in one year and to another sub-tenant, after two years because there must be a two years' interval of personal cultivation [cf. sub-section (2) of section 45]. In the report this has been regarded as absence of a provision for security of tenure and it is considered that, because of the absence of a provision for a minimum period of sub-lease and for automatic renewal of sub-leases—except when the tenant-in-chief requires the land for his personal cultivation—we have been unable to enforce the provision regarding maximum sub-rents payable by the sub-tenants to the tenants-in-chief.

4. The law lays down that where land revenue has been settled and rent is payable by tenants in cash, the maximum rent recoverable by an estate-holder shall not be more than two times the amount of such land revenue (cf. section 98); and that in areas where rent has been settled and sub-tenants pay rent in cash, the maximum rent recoverable by a tenant from his sub-tenant shall not exceed twice the amount payable by such tenant (cf. section 99 of the Rajasthan Tenancy Act, 1955). It is, however, a fact that, by and large, this maximum is not being enforced and the tenants who sub-let their holdings do charge rent in excess of the prescribed minimum from their sub-tenants.

5. The law also lays down that where rents are payable in kind, the maximum recoverable from a tenant by the landholder shall not exceed one-sixth of the gross produce (cf. section 104), but in reply to one of the questions included in the questionnaire issued by the Rajasthan Revenue Laws Commission it was reported that produce rents in excess of the prescribed maximum are being charged, and this was also the evidence of some of the persons who appeared to give evidence before the Commission.

6. As regards the proposal that there should be a minimum period for each sub-lease, we have all along taken the stand that it is not practicable to lay down any such minimum period and that if this were done, it would not be possible to enforce this provision and there would be contraventions and evasions and it may lead to corruption. We also feel that if a minimum period of sub-lease of, say, five or ten years were prescribed, and there was also provision that the sub-lease would continue automatically unless the tenant was able to prove that he required the land for his personal cultivation, the persons concerned would much rather let the land lie idle than give it out on sub-lease, and this would not only adversely affect production of food-grams, but would also make it extremely difficult, if not impossible, for landless persons to secure land for cultivation on sub-leases. There are a number of cases where the tenants do cultivate their lands personally but in some particular year because of their own illness, or the death of some major son, or the loss of cattle or some such calamity, they are unable to cultivate their lands personally

in any one year, and they wish to give the land for cultivation for just that one year. We do not wish to prevent such sub-leases.

7. The whole question of sub-letting and crop-sharing was discussed thread-bare both in the Tenancy Committee of the Revenue Laws Commission, as well as in the Commission* itself; and while the Commission was anxious to ensure that persons who hold land cultivate it themselves, the Commission felt that if there is a genuine need for getting it cultivated by others, they must sub-let it to the village panchayat, or if the village panchayat does not wish to take the sub-lease, sub-let it to some other persons with the approval of the village panchayat. The Commission has proposed that sub-leases may be granted for a maximum period of five years and only when the village panchayat or the prescribed authority is satisfied that there are *bonajide* reasons for the tenant not to cultivate the land himself, and that the land is likely to remain uncultivated if such permission is not granted (para 55 of the Commission's first report). The Commission has also expressed the view that "we are unable to agree that a minimum period of five years should be laid down for the grant of sub-leases. It is neither practicable, nor desirable. We are rather of the view that the tenant must be given a chance to let out the laud even for a lesser period. After the fixation of ceiling on holdings, there, are likely to be very few persons who may be called substantial owners of the land. It is not possible to lay down that a sub-tenant should automatically acquire permanent right in the land on the expiry of a particular period. If a tenant wants to execute lease after the period of the expiry of one lease, he must again apply to the village panchayat for permission and such permission should not be granted when there are no reasons for the tenant for not cultivating the land himself. In the matter of sub-letting these provisions are somewhat drastic, but they would achieve the object of weeding out absentee-landlords. At the same time, it is ensured that the land does not remain uncultivated." (para 55, pages 58-59 of the Commission's first report).

8. As regards crop-sharing, this matter has also been dealt with at great length by the Revenue Laws Commission, *(vide* paragraph 52 at pages 35-36 of the Commission's first report, extract copy attached for ready reference), where they have given full reasons for the proposals made by them.

9. Para *3*—The position in regard to ceilings was explained in para 25 of the note on the "implementation of land reform programmes and difficulties experienced in expeditious and effective implementation", sent to Sim G.L. Nanda by the Chief Minister, Rajasthan, on the 25th January, 1964, and again in the brief note on the "land reforms in Rajasthan" sent to Shri G.L. Nanda with the Chief Minister's D.O. of the 5th August, 1964. The working out of the ceiling areas for all the nearly two hundred tahsils of Rajasthan and of the hundreds of soil-classes and hundreds of assessment circles was a stupendous and time-consuming task. We recently moved the Supreme Court to take up the writ petitions challenging the law relating to ceilings and dispose of these in view of the protection given to the Rajasthan Tenancy Act, 1955, by the Constitution (Seventeenth Amendment) Act, 1964 but because of a challenge to the Constitution (Amendment) Act itself, the disposal of the writ petitions challenging the law relating to ceiling is likely to be delayed somewhat. *

10. *Paras 4 to 18*—All jagirs, religious as well as non-religious, have been resumed and all zamindari and biswedari estates have been abolished and acquired. The estates of the Rulers of covenanting states of Rajasthan have also been acquired recently. There are thus no intermediaries left in Rajasthan now. Lakhs of claims of the intermediaries for the payment of compensation have been settled, but it is a fact that a very large number of claims remain to be finalised. The progress of settlement of claims has no doubt been slow for which there are various reasons—filing of writ petitions, arbitration proceedings, filing of appeals, inadequacy of staff, etc. The real difficulty is

*** The Rajasthan Revenue Laws Commission.**

that there are lakhs of petty biswedars, some of whom may get a few paise as compensa- tion who are not at all interested in preferring any claim for compensation and similarly there are thousands of petty jagirdars who may get such a petty amount as compensation that they are not seriously interested in prefering any claim. There have been at least two awards by the late Prime Minister, Shri Jawahar Lal Nehru, and each award increased the work very considerably. The determination of the additional rehabilitation grants payable to the smaller jagirdars as a result of the second Nehru award will alone involve a great deal of labour and time. The lowest category of religious jagirs was resumed only last year with effect from the 1st July, 1963.

11. A high-powered Committee under the chairmanship of Chief Secretary was recently appointed to examine the extent of work that remains to be done in the Jagir Department and to devise ways and means of getting the remaining claims settled *as* quickly as possible. Energetic steps are being taken to dispose of all these claims within the shortest possible time.

12. Information on the financial aspects of the abolition of intermediaries is being collected and arrangements are being made for the urgent collection of essential statistics, and information regarding progress of implementation. In so far as the finalisation of claims for compensation and for paying out of rehabilitation grants are concerned this does not affect the cultivator* in the field and merely affects the former intermediaries, and there is no question of any intimate knowledge of conditions in the field. Proposals are also under consideration for the appointment of a special officer to implement the land reforms programme and for the establishment of a statistical wing in the Revenue Secretariat.

13. *Para 19*—At the commencement of the Rajasthan Tenancy Act, 1955, there were thousands of tenants in the various covenanting states who had heritable and transferable rights, and there were others who had no such rights. As the Rajasthan Land Reforms and Resumption of Jagirs Act, 1952 (VI of 1962), and the Ajmer Abolition of Intermediaries and Land Reforms Act, 1955 (Ajmer Act 3 of 1955), had already come into force before the commencement of the Rajasthan Tenancy Act, 1955, heritable and transferable rights had accrued to some tenants of the intermediaries. The total area of Rajasthan is eight-crore-and-twenty-seven lakh acres. All the jagir lands resumed from the possession of the Jagirdars and all the zamindari/biswedari lands acquired from the possession of the zamindars/ biswedars were not culturable. There were thousands of acres of forest lands and other categories of unculturable lands, such as, hills, ravines, nalas, cremation grounds, abadi lands, etc. etc. Naturally khatedari rights could not possibly accrue in all such lands. There is no question of even ghair-khatedari rights in euch lands.

14. It is hoped that with the appointment of a special officer for implementation and the establishment of a statistical wing, accurate information regarding the impact of land reformu and tenancy legislation will be available within a short period.

15. *Para 27*—The circulars and instructions issued by the Rajasthan Government about the discontinuance of the preparation and distribution of girdawari slips and the discontinuance of the filling in of columns 16, 24, 32 and 40 of the khasra girdawari by the patwari are clear and definite. The whole idea was to prevent the patwaris from making entries according to their own sweet-will for ulterior reasons.

16. The Revenue Laws Commission dealt with the question of recording of the names of the sub-tenants at great length, and in the new Land Revenue Bill, that is under preparation, there is going to be a provision about the preparation of a register' of sub-tenants and the future maintenance of this record.

17. *Para 28*—These remarks relate to sub-tenants and not to the tenants-in-chief.

18. *Paras 32 to 36*—The existing Land Records Rules were made at a time when there were intermediaries between the cultivators and the State, and hence column No. 5 of the form of "Khasra Girdawari", and column No. 4 of the form of "Jamabandi" contain a reference to estate-holders, jagirdare, zamindars, etc. The whole of the existing Rajasthan Land Revenue Act, 1956, is at present under revision at the hands of the Rajasthan Revenue Laws Commission, and with the passing of a new Act, the existing Land Records Rules will also have to be amended. In the meanwhile action is being taken to omit the headings relating to estate-holders in the existing forms of khasras and jamabandis.

19. *Para 35*—There are various reasons for the accumulation of arrears, the principal reason being the recurrence of scarcity and famine conditions. Steps are, however, being taken to improve the collection of land revenue.

October, 1964

APPENDIX I

Copy of paragraphs 52 and 53 (pages 35—37) of the first report of the revenue laws commission, rajasthan

Crop-sharing—Clause 20 of the Draft Bill is a new provision framed by us. The underlying object of this provision is that as far as possible, the tenant should cultivate the land personally and should not get it cultivated by any other persons and keep the profits to himself. He should not be permitted to sub-let the land or enter into any agreement with any person for crop-sharing. Further, the sub-tenant cultivating the land should not be permitted to be exploited. This is necessary in order to root out the evil of absentee-landlordism. At the same time, we have taken note of the existing conditions prevailing in many parts of the State. A tenant, not for the purpose of exploiting, but on account of genuine necessity, takes into partnership some other person to carry on his agricultural operations. The evidence recorded by us is definite on the point that now and then a tenant takes some one in partnership to assist him in cultivation, even though there is a provision in the existing law that there shall be no crop-sharing except in the circumstances mentioned in Section 105 of the Rajasthan Tenancy Act, 1955. In carrying on actual agricultural operations, there are bound to arise circumstances in which the tenant may, out of necessity, be called upon to take the assistance of some other person, in order that the land may not remain uncultivated or that the agricultural operations may be carried out speedily and efficiently. These circumstances may vary at different times arid in different places. The tenant may be in genuine necessity of finding labour, or means of ploughing, weeds or other such things. Sometimes he may manage by taking these things on hire or on credit. Sometimes it may be to his advantage that the person supplying these things should become a partner with him in cultivation for a limited time and share the produce for exploitation. This had become a part of the village economy. It would be unrealistic not to take notice of it. The evidence that has been recorded by us leaves no room for doubt that this arrangement is likely to go on for a considerable period, whatever law maybe framed. We consider that it would be no use framing an artificial law. We have, therefore, thought it proper that such an arrangement should be recognised by law. In order to minimise the chances of exploitation, we have thought it proper that such an arrangement should be made permissible only when the tenant is himself cultivating the land. In the Explanation to clause 20, we have laid down that a tenant shall be deemed to be cultivating the land himself if he cultivates the laud by his own labour or by the labour of any member of his family. This means that it is not open to a tenant to take any person in partnership in case he is not personally cultivating the land. We have ruled

out cultivation by hired labour in the case of such a tenant. He must not be a person who would be reaping the fruits of the labour of any other person. He must put in personal labour in carrying on agricultural operations. This does away with the evil of absentee-landlordism. At the same time, he is also not in the danger of being exploited by his partner. A tenant cultivating the land himself would normally be a dominant partner and will take the help of the other on such terms and conditions as are mutually advantageous. In our view there is no risk of exploitation of such a tenant. We devoted considerable thought to the point whether it is possible for us to circumscribe the terms and conditions of such an agreement. The varied nature of the circumstances in which such partnership can be entered into defy any attempt to do so. It is not even possible to lay down any definite proportion in which the share of the crop is to be divided. A tenant cultivating the land personally may be taking very limited help from the other partner, and it would be altogether inequitable if we put any upper limit on the extent of his share in the crop. We have, therefore, thought it proper that this matter should be left to the agreement between the parties.

53. Another point which arises for consideration is whether this agreement should be in writing. Looking to the general conditions prevailing in Eajasthan, we have thought it proper not to insist upon it. Clause 20 appears to us to be not only in consonance with the conditions prevailing in Rajasthan but also one which would lead to increased agricultural production by attracting investment from other quarters. Again, when a provision of this nature is made, we would be justified in laying down stringent conditions under which sub-letting should be permitted.

APPENDIX II

Extract from Rajasthan Government note on the implementation of Land Reform Programmes and difficulties experienced in expeditious and effective implementation sent by the Chief Minister, Rajasthan to the Union Minister for Home Affairs.

Ceiling on Land Holdings

The provisions for 'restrictions on holding land in excess of ceiling area' are contained in the Rajasthan Tenancy (Amendment) Act, 1960 (Rajasthan Act 4 of 1960), which was first published in the Official Gazette on the 21st of March, 1960. Before the Act could be brought into force, ceiling areas for the whole of Rajasthan had to be worked out and statutory rules to give effect to the provision of the Act had to be made. The ceiling areas were worked out and a draft of the rules was published on the 5th of June, 1963, for inviting objections and suggestions. The rules were finally published on the 1st of December, 1963, and the law relating to fixation of ceiling has been brought into force from the 15th of December, 1963. To begin with declarations have been called for from all persons with holdings of 150 ordinary acres and above. The fixation of ceilings is to be done by stages. Our law relating to ceilings does contain provisions about transfers of land made with the object of defeating the said legislation. Any voluntary transfer effected on or after the 25th of February, 1958, otherwise than *(i)* by way of partition, or *(ii)* in favour of a person who was a landless person before the said date and continued to be so till the date of transfer, is to be deemed to be a transfer calculated to defeat the provision of the law relating to the fixation of ceiling on holdings and shall not be recognised and taken into consideration. Any transfer made even to a landless person after the 9th of December, 1959, will also not be recognised. Land in excess of the ceiling area applicable to a person will have to be surrendered to the State Government, and all such surplus lands will be allotted to individual landless persons or to co-operative fanning societies of such persons.

10. *COMMENTS OF UTTAR PRADESH GOVERNMENT ON IMPLEMENTATION REPORT*

In the review on Uttar Pradesh, this State is required to abolish zamimlaris in few remaining small areas and to quicken activity in certain other spheres of land reforms.

The notable areas, Avherein land reforms have yet to be introduced, are of Kumaun and Uttarakhand Divisions including the Government Estates of Tarai Bhawar and Garhwal Bhawar. It was in 1956 that a decision was taken to enact fresh legislation and to start survey, record a nd settlement operations in the two Divisions. The record operations are now over everywhere except in Pithoragarh and a part of Almora district. Attempt is being made also to obtain assessment proposals for the districts of Uttarkashi, Naini Tal and a Tahsil of Tehri since under law it is not possible to enforce reforms unless the new records prepared in the course of settlement operations have remained in force in the previous agricultural year. It may, therefore, be possible to enforce the Act in some areas of the Divisions from July 1, 1965 and in the remaining ones from July 1, 1966. Introduction of land reforms in the Government Estates of Tarai and Garhwal Bhawars will also follow preparation of new records regularising the position about applicability of the existing laws. The new records have been prepared but the problem relating to trespassers still remains to be solved. In this connection, the question whether it is legally possible to adapt the Kumaun Zamindari Abolition and Land Refoims Act in its application to Fiich areas of the Government Estates as nave tenures according to the Tenancy Act is now being examined. The State Government in their anxiety to finalize the adaptation of the old Act and ensure liquidation of Zamindari in the two Divisions have appointed an Officer on Special Duty at the Headquarters. Further, action is also being taken to apply the provisions of the Urban Areas Zamindari Abolition and Land Reforms Act to the special areas mentioned in the Schedule appended thereto.

Regarding payment of compensation under the various Acts, the position is that compensation under the Jaunsar Bawar Zamindari Abolition and Land Reforms Act was made payable in cash in lumpsum if the amount was upto Rs. 50/- and in 10 annual instalments if the amount payable exceeded Rs. 50. The rule has now been amended to provide for payment of the entire amount in cash in lumpsum. It is hoped that this change will now expedite payments in the area. As regards urban areas, the work of preparation of compensation rolls was taken in hand after the issue of vesting notifications. While, this work was in progress, a large number of revisions were filed before the Board of Revenue challenging demarcation of the agricultural areas. The revisions affected a large number of rolls which could thus not be finalized. The district authorities have now been asked to expedite preparation and finalization of the rolls in those cases which are not affected by the revisions pending before the Board. So far as compensation under the Ceiling Act is concerned, the seemingly slow progress is mainly due to the institution of about 2,300 cases, including writ petitions, by affected persona and stay orders obtained by them.

This State Government are aware of the situation created by prevalence of the *Batai* and are trying to find a workable solution to the problem with reference to the present provision regarding sub-letting.

August 1964

11. *COMMENTS OF WEST BENGAL GOVERNMENT ON IMPLEMENTATION REPORT*

	Observations in the report	Comments of the State Government
1.	Taking of urgent steps for expediting determination and payment of compensation and for strengthening the staff wherever necessary.	Every step is being taken by this Government for expediting determination and payment of compensation under the Estate Acquisition Act. Separate officers and staff have been appointed for determination of compensation and for payment thereof. Assessment of compensation is being made by the staff employed under the Directorate of Land Records and Surveys and payment of such compensation is being made by the staff employed under the Additional Collectors in charge of Estates Acquisition work in the districts. Wherever it has been found necessary, the staff employed on this work has been strengthened. If necessary, the strength of such staff may be increased in future to enable them to do the work smoothly, efficiently and expeditiously. It is estimated that it is necessary to prepare about 25 lakh compensation assessment rolls. Of them, about 17 lakh rolls involving about Rs.11.50 crores have been completed. The number of rolls yet to be completed, although smaller in number would account for a larger amount, as they relate to big intermediaries. The Reserve Bank of India is printing bonds for payment of compensation in bonds. Steps are being taken for issuing the bonds as and when they will be received from the Reserve Bank of India.
2.	Unlike in most States, waste lands have not been acquiredi n West Bengal under the Estates Acquisition Act.	Under the Estates Acquisition Act, intermediaries have been allowed to retain waste lands either as agricultural lands or as non-agricultural lands. So they have retained such lands within the prescribed ceilings of 25 acres or 15 acres respectively. Where the intermediaries have retained such lands as agricultural lands, they will have to use them for the purpose of agriculture only, failing which the lands will be liable to be acquired by Government under section 4 of the Land Reforms Act. Where the intermediaries have retained such lands as non-agricultural lands but do not use them for a gainful or productive purpose within a specified period they may be resumed by Government under the Estates Acquisition Act on payment of compensation determined in accordance with the principles laid down in the Land Acquisition Act, 1894. Thus, although waste lands have not been acquired outright under the Estates Acquisition Act, provisions, have been made for their subsequent acquisition if they are not used for any gainful or productive purposes. It will not be out of place to mention here that the density of population in purely rural areas of West Bengal is over 700 per square mile, and comparatively speaking, large quantities of waste land were not available here, particularly in large blocks.

Besides with the ceilings imposed, intermediaries preferred to retain lands already under plough rather than waste lands which in the process vested in Government.

3. Collection of information regarding the number of cases in which rights over homesteads arc not held by persons in possession but continue to be held by intermediaries.

Persons who are in permissive possession of home-stead lands would be either bargadars or landless labourers while the owners would be either intermediaries or Government according as the home-steads stand on lauds retained by such intermediaries or lands vested in Government. Where the home-steads stand on lands vested in Government the position of the permissive possessors is quite secure, for Government would not only not interfere with their possession but would in course of time give them full rights of ownership also. The permissive possessors have nothing to fear where the homesteads stand on lands retained by intermediaries also for such owners are not likely to evict them as long as they work on their lands. Where however they take these lands back from them it is hardly likely that the bargadars and the labourers would themselves like to continue to live there. They would naturally look for new employment elsewhere and settle where they find it. In neither event, therefore, is the information likely to be of much practical utility. In any case the number of cases in which rights over home-steads are not held by the persons in possession would be very few and it is extremely doubtful if the result of the proposed work will be commensurate with the labour and the cost that it will involve.

4. Collection of information on the actual use made of the provisions of section 19B of the Land Reforms Act relating to restoration of lands to bargadars in cases where they, were possibly evicted by their landlords.

The information so far received from the District Officers (all except two) regarding the cases filed under section 19B of the Land Reforms Act is given below :-

Year	Number of cases filed	Number of cases in which land has been restored	Number of cases pending	Number of cases dismissed, amicably set tied or decided in favour of landlords etc.
1962	--	164	56	10
1963	--	170	48	41
1964	--	121	30	50
		455	134	101

5. Reconciliation of the discrepancy between the number of bargadars evicted and the number of cases filed by landlords and decided in landlord's favour during the years 1962 and 1963.

There appears to be no discrepancy in the figures furnished by the Department regarding the number of bargadars evicted and the number of cases filed by landlords and decided in their favour during the year 1962 and 1963. Eviction orders are executed in the years of passing of the orders. Some of them are executed in the following years while some orders cannot be executed for various difficulties or reasons. Besides, there may be eviction orders against a bargadar in more than one case. Hence the number of bargadars evicted is less than the number of

	cases in which eviction orders are passed.
6. The Bhagchas Law is largely ineffective inasmuch as in most of the cases particularly in the northern part of the State a bargadar gets 50% of the output although they have to bear the costs as well.	Under section 16 of the Land Reforms Act, the produce of any bargaland is divided between the bargadar and the owner: - (a) in the proportion of 50 : 50 in a case where plough, cattle, manure and seeds necessary for cultivation are supplied by the owner. (b) in the proportion of 60 : 40 in all other cases. Thus if the bargadar supplies the necessaries of cultivation such as plough, cattle, manure and seeds, he is entitled to get 60% of the produce. If the owner gives the bargadar 50% of the produce, the bargadar can take the matter to the local bhagchas office for settlement. The law is, therefore, there. If any bargadar does not take advantage of the provisions of law Government can hardly do anything in the matter. Such rights as the bargadars have under the law has been given wide publicity in the rural areas and different political parties also keep them apprised of these legal rights.
7. As in a number of cases the bargadars are not recorded or are not in a position to claim the rights regarding the share of produce (and in some cases continuity of possession), it would be desirable to undertake a fresh publicity drive through public leaders and official agencies and through the publication and distribution of a large number of leaflets.	A bargadar can lawfully claim his due share of the produce from his owner irrespective of whether his name has been recorded in the record of rights or not. Under the Bagchas Law no distinction has been made between a recorded bargadar and an unrecorded bargadar. All the same, to remove possible misunderstanding in this respect the legal position has been made clear in a leaflet recently published by this Department and widely circulated in rural areas through the Officers of this Department and the Information and Public Relations Department. It is also proposed to amend the Land Reforms Act to provide for imposition of penalties (fine and imprisonment) on these owners who resort to forcible eviction of their bargadars.
8. The area held by bargadars has not been compiled from the settlement records.	Statistics on share-croppers are being compiled. The work win, however, take sometime.
9. Certificate for khata books should be issued to bargadars whose names have been entered in the records.	There may be no objection to issuing certificates (khatians) to those bargadars whose names have been recorded in the record-of-rights. Such certificates or khatians will, however, be issued to them on applications made by them.
10. While every owner should be entitled to get, after consolidation, land of the same value as the land held by him before consolidation, the area or the quality of the land may vary. Further the land Reforms Act	The existing provisions of Chapter V of the Land Reforms Act relating to consolidation of holdings are not considered adequate for undertaking consolidation of holdings effectively. Therefore, the question of replacing the existing provisions of the Act relating to consolidation of holdings by a separate and independent legislation has been under the consideration of this Department for some

does not provide for replanning of the village or reservation of lands required for public purposes, such as streets, drains, housing and other needs of the village. The law should thus need amendment.

time past. The suggestion of the Planning Commission will be examined along with other proposals for effecting consolidation of lands at the time of drawing up the proposed legislation.

11. As the programme of consolidation of holdings is of great importance from the point of view of increasing agricultural production, the actual work should be started early and organised progressively on as large a scale as possible. For the Fourth Plan, it would be desirable to lay down a fairly high target of physical achievement and financial outlay.

The following programme for consolidation of holdings has been drawn up for the whole of the State for the remaining period of the Third Plan and the Fourth Plan :-

Third Plan

Preliminary work, propaganda, finalisation of legislation, training of staff, setting up of organisations for operational work.

Fourth Plan

1st Year	Operation in the district of Hooghly	1,178 sq. miles
2nd and 3rd year	Operation in the districts of--	
	(1) West Dinajpur (part)	1,382 sq. miles
	(2) Burdwan	1,000 sq. miles
4th and 5th year		
	(1) West Dinajpur (Residual area)	702 sq. miles
	(2) Burdwan (Residual area)	1,616 sq. miles
	(3) Howrah	544 sq. miles
	GRAND TOTAL	6,422 sq. miles

The Ministry of Food and Agriculture, Government of India have been informed accordingly in our letter No.155-L.P., dated the 2nd February, 1965.

12. As upto date maintenance of land records is essential, necessary arrangement for maintenance of records should be made as early as possible. An agency for the maintenance of records should also be established.

Necessary provision for maintenance of an up-to-date village record of rights has been made in Chapter VII of the Land Reforms Act. Such record-of-rights may be maintained up-to-date by incorporating therein the changes on account of :-

(a) Mutation of names as a result of transfer or inheritance;

(b) partition, exchange or consolidation of lands comprised in holdings, or establishment of Co-operative Farming Societies;

(c) new settlement of lands or of holdings;

(d) variation of revenue;

(e) alteration in the mode of cultivation, for example, by a bargadar;

(f) such other causes as necessitate a change in the record-of-rights.

Exhaustive provisions have also been made in Chapter VII of the Land Reforms Act as amended by the West Bengal Land Reforms (Amendment) Act 1965 for revision of the record-of-rights.

The question of establishing an adequate agency for maintenance of up-to-date record-of-rights will be examined after the enforcement of the provisions of Chapter VII of the Land Reforms Act relating to maintenance and revision of the record-of-rights.

13. The whole position with regard to the collection of Government dues should be reviewed and more strict supervision and better collection of such dues should be provided for.

Collection of land revenue in this State is made by salary-cum-commission paid Tahsildars. There is an adequate agency for collection of Government dues from the tenants in the rural areas in this State. Collection of revenue in a particular area depends on many factors. They have to be taken into consideration. In a Welfare State it is not desirable that Government dues should be collected by oppressive methods. The officers, are, therefore advised to be firm but not harsh in collecting land revenue. This pays good dividends for by this means the realisable arrear demand on this head has been brought down to 25% or so of the current demand.

July, 1966

12. *COMMENTS OF HIMACHAL PRADESH GOVERNMENT ON IMPLEMENTATION REPORT*

Reference to para Number of the Implementation Report	Comments, action taken or proposed to be taken
Para 1-2	These are introductory remarks and require no comments.
Para 3	It is correct that the charge per Patwari in this Pradesh is comparatively heavy. A scheme for strengthening the revenue agency was prepared and has been approved by the Planning Commission. But formal sanction is yet awaited from the Government of India, Ministry of Food and Agriculture.
Para 4	Needs no comments.
Para 5	This deals with certain provisions of the Act and therefore, hardly calls for any comment.
Para 6	No comments.
Para 7	Refers to the previous visit of the Director, Land Reforms, Planning Commission, to this Pradesh and some of the suggestions made by him in his tour report. No comments.
Para 8	It has recently been decided to post one Naib Tehsildar in each Tehsil to assist the Tehsildar in the discharge of his routine work and with a view to making the latter responsible for implementation of the laud reform in the Tehsil. 12 Naib Tehsildars already sanctioned for the land reforms scheme are proposed to be posted. Accordingly in order to provide, in each Tehsil one Naib Tehsildar, 4 additional posts of Naib Tehisildars shall have to be created. Necessary steps are in hand for obtaining the sanction of the Government of India in this behalf.
Para 9	The Draft Amending Bill is under active consideration of this Government. However, progress achieved in the implementation of the land reforms in this Pradesh during the years 1962-63, 1963-64 and 1964-65 is as under :-

	1962-63	1963-64	1964-65
SECTION II			
1. Number of tenants who have acquired proprietary rights.	1630	3571	5393 (Upto 28-2-1965)
SECTION 27			
2. Compensation paid	--	Rs.2 lacs	Rs.7.66 lacs
3. Landowners abolished	--	72	112
4. Number of tenants on whom proprietary rights have been conferred [Sec. 27(4)]	--	--	--

5. Framing and publication of the rules	During the year 1963-64, the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms (Mode of payment of Compensation and Grant of Proprietary rights) Rules, 1963, were framed and adopted. In the year 1964-65, the Himachal Pradesh Abolition of Big Landed Estates and Land Reforms (Manner of determination and sanction of rehabilitation grant) Rules, 1964, were framed and published for inviting of objections/ suggestions from the general public.
6. Collection of data from the districts and tehsildars for taking preliminary steps for enforcement of provisions of Chapter VIII of the Act.	

Para 10 (Security of tenure)

After the enforcement of the Act even a sub-tenant enjoys security of tenure. It is, no doubt, true that landowners are now hesitant to create now tenancy because they are fully aware, of the provisions of the law which enable a tenant voluntarily to acquire ownership in tenancy land.

Entries in khasra-girdawari are made, checked and where necessary revised to co-relate to the actual situation and fact every six months during harvest inspection.

Cases of informal tenancies have not conic to our notice. There are already clear-cut instructions in the Land Records Manual in regard to the recording of entries in the khasra girdawari. It is through the Khasra-girdawari that alterations in tenancies-at-will find their way in the record of-rights. At the time of harvest inspection, if interested parties come forward to support creation of any new tenancy, the Patwari has to record it mentioning the fact in his diary and he does not need instructions from any higher authority. The process of recording girdawari is subject to supervision by the Field Kanungo, Sadar Kanungo, Tehsildar, Revenue Assistant and Collector.

Voluntary Surrender — Procedure has been laid down for relinquishment of tenancy by applying to the Revenue Officer in the Draft Amending Bill by substituting Section 50 of the Principal Act by a new Section, reproduced below :-

"50. RELINQUISHMENT OF LAND BY TENANTS"

(1) A tenant desiring to relinquish his tenancv shall apply to the Revenue Officer before the 15th January of any year and shall clearly specify his intention to relinquish the land at the end of the agricultural year then current.

(2) If after making such enquiry and in such manner as may be prescribed, the Revenue Officer, is satisfied that the proposed relinquishment is *bona fide,* ho shall by order grant permission to the tenant to relinquish the land and also to the landlord to take possession of the land to the extent to which the landlord is entitled

to eject the tenant under clause (6) or clause (c) or clause *(d)* of sub-section (1) of Section 54.

(3) The Revenue Officer shall take possession of any land which the tenant has been permitted to relinquish but of which the landlord has not been permitted to take possession under sub-section (2), and lease it out to such persons and subject to such terms and conditions as may be prescribed.

(4) The tenant who relinquishes his land otherwise than in accordance with the provisions of this Section or abandons the land shall continue to be liable for the rent in respect there of until the date on which the landlord is permitted to take possession or on which the Revenue Officer take possession of the land.

(5) A landlord who takes possession of any land relinquished by the tenant shall, unless the Revenue Officer has granted permission to do so under sub-section (2), be liable to be ejected therefrom and shall also be punishable by a Revenue Officer not below the rank of Assistant Collector 1st Grade with fine which may extend to rupees one thousand.

(6) The provisions of sub-section (2), sub-section (3) and sub-section (5) shall, so far as may be, apply to lands abandoned by a tenant".

This Government is not aware of ejectment of tenants.

Penal provision already exists in the Principal Act for wrongful dispossession of the tenants under Sections 62 and 63 of the Principal Act.

In order further to safeguard the interests of the tenants, a fresh provision is contemplated to be incorporated in the Principal Act which runs as follows:-

"63-A, CERTAIN MORTGAGES TO BE DEEMED AS TENANTS UNDER THE ACT

(1) Where, after the commencement of this Act, land comprising the tenancy of a tenant is mortagaged to him with possession by the landowner and such land is subsequently redeemed by the land owner, the tenant shall, notwithstanding such redemption or any other law in force, be deemed to be the tenant of the landowner in respect of such land on the same terms and conditions on which it was held by him immediately before the execution of the mortgage as if the mortgage had never been executed.

(2) Where a tenant referred to in sub-section (1) has been dispossessed by the landowner in execution of a decree or order of redemption, he shall be entitled to be restored to his tenancy in the prescribed manner on the same terms and conditions on which it was held by him immediately before the execution of the mortgage on an application made by him to an Assistant Collector .of the 1st Grade having jurisdiction within a period of one year from the commencement of the Amendment Act.

	(3) Any application received under sub-section (2) shall be disposed of by the Assistant, Collector 1st Grade in the manner so far as it is applicable as Laid down in Section 62".
Para 11	Generally speaking, the tenants in this Pradesh are not now paying more than the maximum rent *i.e.* one-fourth of the produce. Information will regard to the suits filed for reduction of rents under Section 37 and applications made for commutation of rent under Section 39 is being collected. The practice of payment of rent in kind continues subject to the restriction that the rent paid does not generally exceed one-fourth of the produce. Rules under Section 39 have already been framed and enforced for the purpose of determining the value of the crop (the Himachal Pradesh Abolition of Big Landed Estates and Land He forms Financial Commissioner's) Rules, 1959.
Paras 12 & 13	No comments
Para 14	In the Draft Amending Bill, necessary amendment has been proposed.
Para 15	Efforts are being made to ensure expeditious implementation of the provisions, particularly Section 11 and Section 27 of the Act. The question of amending the law is receiving active attention of this Government.
Para 16	The State Government is already very much anxious to take steps in order to give land to the tiller and for that matter Section 15 is contemplated to be amended suitably in the proposed Amending Bill. The advice rendered by the Director (Land reforms) Planning Commission, will also lie considered at the appropriate time.
Para 17	The amending proposal contains a provision making it obligatory on the part of the landowner to furnish periodically information, supported by an affidavit, regarding his total holding.
Para 18	The work connected with transfer of ownership to tenants under Section 27(4) was initiated after April 1964. The payment of compensation to the affected landowners was for the first time made during March 1964, It may be mentioned that 5000 tenants Lave already been transferred ownership rights under Section 27(4) upto the end of February 1965, and 184 landowners have been paid compensation under Section 27(3) so far.
Para 19 (a)	*(i)* A decree of a Court unless set aside or revised by an appellate or revisional court, has got a finality about it. In the circumstances, it is doubtful if possession of land to a tenant evicted in pursuance of execution of the decree, could be restored. *(ii)* The suggested procedure is being observed. *(iii)* The suggested line of action has, more or less, been adopted. The Revenue Officers have been advised to take re-course to Section 163 of the Himachal Pradesh Land Revenue Act, in such cases.
Para 19 *(b)*	Necessary provision has been made in the Amending Bill to govern such cases.
Para 19 (c)	This is being done.
Para 19 (d)	In a number of cases where the amount of compensation received under Land Acquisition Act by the landowner fell short of the amount of

compensation payable under Section 27(3) of the Land Reforms Act, the Compensation Officers have made necessary adjustments. But it is a problem to deal with cases where the amount of compensation received under the Land Acquisition Act is, far in excess of the amount payable as compensation under Section 27(3).

The desirability of affecting necessary adjustments, so far as possible, has been impressed upon the Compensation Officers, time and again. But difficulty is experienced for want of suitable legal provision. In the Draft amending Bill such provision has been proposed to be inserted.

Para 19 (e) — Terms 'cultivation' and 'personal cultivation' have been denned in the proposed Amending Bill.

Para 19 (f) — Question of assessment of un-assessed land is not material for the purpose of implementation of Section 27. Instructions hay« already, b«en issued that for the purpose of Section 27(1) of the Act, the land revenue already assessed and assessable in respect of any area of land held by a landowner throughout the State of Himachal Pradesh, is to be taken into account. (This Government letter No. 1-6/63-IRC, dated the 28th September, 1964.)

Para 20 Para 21 — Rules have since been framed and published. These will be finalised for enforcement shortly.

Necessary data has been/is being collected by this Government to enable it to take further steps for implementation of Chapter VIII.

Para 22 — A provision has been included in the proposal for amending the law to entitle a sub-tenant to acquire ownership rights.

Necessary provision is being made in the Amending Bill to provide for amount of compensation to such intermediaries.

Para 23 — Uncertainty, mainly arises out of somewhat ambiguous or indefinite terminology of certain provisions of the law. Recently, the Judicial Commissioner, Himachal Pradesh has placed an interpretation on the meaning of Section (1) read with Section 27(3) of the Act, which conflicts with the legal opinion of our Law Department forming the basis for the various processes of implementation already gone through by the Land Reforms Department. The question of amending this Section alongwith other proposals is being examined by this Government. For enforcement of provisions of Chapter VIII, necessary information is being collected from the districts, but it would lie desirable to point out that the effective implementation of the Chapter would be feasible only after Section 27 has been implemented.

This Government is anxious to see, that land reforms legislation, particularly that part thereof which, provides for conferrment of ownership rights on the tenants is implemented as early as possible. Certain definite steps were taken in this direction. The number of Compensation Officers was raised from 4 to 32 through investment of necessary powers on the Tehsildars and Magistrates. Out of the total number of 279 landowners, it was planned to finalise the payment of compensation in respect of 200 landowners. Additional amount for payment of compensation to the extent of Rs. 2.64 lacs was asked for. Although the Compensation Officers had expedited disposal of cases for payment of the additional amount, we could not get the sanction from the Government of India. As a last resort, the matter was taken up

with the Finance Department and allotment of a sum of Rs. 1.66 lacs was arranged under the second supplementary demands, in the last month of the financial year 1964-65. We could have utilised larger funds, if the proposal submitted in August 1964 to the Government of India, Ministry of Food and Agriculture, had been approved and sanction conveyed during January, 1965.

The Land Reforms Department is much handicapped for want of additional staff for which a reference was made to the Government of India eleven months back, and sanction is till awaited despite repeated reminders and personal contacts.

This Government has decided to introduce amendments to the Act in the near future so that, ambiguities may be removed and the implementation of the Act becomes smooth.

May, 1965.

13. *COMMENTS OF GOVERNMENT OF GOA ON IMPLEMENTATION REPORT*

No action is expected on para 1 to 3 of the Report.

Regarding para 4 on the Communidades in Goa, it is stated that lease of the Communidades lands and rent liabilities were being regulated by a "Code of Communidades". Since the new legislation namely the Goa, Daman and Diu Agricultural Tenancy Act, 1964 came into force the situation of the Communidades lands has been kept away from the said Code and tenureship and rent liabilities of these lands are regulated by the new legislation. Through the sub-tenants in the Communidades lands are not recorded in a record maintained by the Communidades, such sub-tenants are assured of their rights under section 4 of the Tenancy Art. All the sub-tenants are treated as deemed tenants. The tenancy record which is being prepared by this Administration will account for the rights of the tenants and sub-tenants as well.

Regarding para 5, it is to be made clear that under the Tenancy Act the rent calculated at l/6th of the gross produce of the crop is to be recovered in cash or kind at the option of the landlord. The rent to be paid in cash will be at the conversion of such rate based on the market price of each seasonal year.

As regards para 6, it is to be clarified that the lands belonging to the Religious and Charitable institutions are exempted from the operation of the Tenancy Act. The exemption is granted only on application made by the Institution to the Government and on satisfying that the entire income of such lands is utilised for the purpose of such institutions, the exemption is granted by Government.

Mostly the ryotwari lands (para 7) are cultivated through the tenants. The rights of the tenants are being brought to the Register maintained at village level.

As regards survey and land records (para 8) the cadastral survey is being introduced from this year. The scheme is taken up under "Plan Scheme" of the Fourth Five Year Plan. The staff required has been demanded, at initial stage, from neighbouring State of Maharashtra on deputation and the personnel are joining for the work. It is expected that the survey work would be completed within a period of five years. Local recruits are also being made to the post of surveyors etc. who will be given sufficient training of the work. Two officers from the Survey of India are made available on deputation as instructors for training to the new recruits. They are yet to join their services. A scheme of rough record of rights of the proprietorships is also being formulated.

As regards the recommendations in para 9, it is stated that registers prepared at the village level through the help of Panchayat Secretaries are in rough size and they are to be certified by the revenue authorities. After certification of the said record, suo moto enquiries will also be taken to bring all missing tenants to the record and the registers will, thereafter, be maintained up-to-date.

As regards the suggestion in para 10 in respect of the appointment, of an Officer of the rank of Mahalkari or Naib-Tehsildar for each taluka for the preparation of record of tenancy rights, this Administration have already created a post of one Awal Karkun competent to certify the record, for each taluka to assist the Mamlatdar on permanent basis. It is considered that the tenancy record should be brought to the line with the help of them, besides the Talathis (Kulkarnis) to be appointed at village level. The posts of Talathis (Kulkarnis) have already been got created at the rate of one at village level. Local recruitment will be made for these posts and after giving them sufficient training, the village administration will be entrusted to them. It is not feasible to bring such hands on deputation, as they are low paid servants, the scale of pay being Rs. 85-128 and there will also be difficulty of local language.

The Government of India is being approached for the sanction of required number of the posts

of Circle Inspectors. These posts are shown in permanent set up of the village administration in the neighbouring States (Para 11).

Regarding the suggestion made in para 12 of the report about the presumption of truth to be attached to the entries in the tenancy record, it is to be pointed out that the Tenancy Act itself contemplates provisions for the preparation of record, by prescribed rules. The record prepared under such rules will have legal validity and will be useful for the implementation of the Act. There does not seem to be necessity of providing the value of presumption of truth thereto as suggested. The views of the Law Department of this Administration are being obtained on this point.

As regards para 13 of the report, steps hare already been taken to verify the leases and cancel the deeds of Government lands granted, wherever the lands are not brought under cultivation. Full fledged programme for survey of all types of land has already been-in hand which will make available data on Government waste lands in the course of time.

Regarding para 14 and 15, no action is expected.

As regards para 16 of the Report, it is stated that this Administration has recently published instructive posters in the local language with the view to give summary of the main provisions of the Act for the knowledge of the people.

As regards the suggestion made in para 17 of the Report about issue of a certificate to the tenants and sub-tenants assuring their rights, it is to be stated that the Registers which will be preserved at village level will stand as standard record assuring the tenants rights. There is therefore, no propriety of issuing a certification to that effect. The tenants can obtain copies of the entries in the register for use at any time.

The Government of India is being approached for sanction of a post of Deputy Collector to assist the Collector at District Headquarters, as per the suggestion made in para 18 of the Report.

So far as the suggestion in para 24 is concerned, the responsibility of maintenance of embankments, bunds etc. is that of the tenants under the Tenancy Act. Since the Communidades are equated with the landlords, they cannot be forced for undertaking current years works. The question of reviving "Boucos" is still under consideration of the Government.

Monthly reports are being collected regularly from the Mamlatdars on the progress of the implementation of the Tenancy Act as per recommendation contained in para 19 of the Report.

As regards para 20, the point has been noted. Necessary provision will be made in the Rules.

The contentions in paras 21 and 22 are noted.

Regarding para 23 about the fruit bearing trees, it is stated that this Administration has already issued an order on 3rd April 1965, that no tenant of cashewnut and arecanut will be evicted without the order of the Mamlatdar. This prohibits unlawful ejectment of the tenants by landlords.

Regarding para 25 and 26, it is stated that as a result of the imposition of responsibilities of the works of repairs of bunds, sluice-gates etc. tenants organisations are coming to shoulder joint responsibilities of the works. Section 37 of the Tenancy Act empowers the Government to prescribe standards of cultivation in order to bring agricultural economy to a higher level. It is being examined whether tenants organisations could be given any statutory recognisation in the programme to be prescribed. In that case the tenants organisation will play all round activities in addition to accepting responsibilities of repairs and maintenance of works of sluice-gates, bunds, embankments etc.

As regards suggestion in para 27, it is to be mentioned that a special tax on the movement of barges is already imposed and is being collected. The tax has been imposed during ex-portuguese regime in accordance with the Decree No. 39,553 of 4-3-1954. It is continued to be recovered at the following rates :

(1) 1% on transport of iron ore.

(2) 2% on transport of manganese ore.

(3) 3% on the export of ore not specifically specified.

(4) 2% to 10% on all mining sources while transporting occasionally by private individuals other than companies.

This is known as "Fundo Economico".

The Government earns good deal of income from this taxation. The fund collected are placed at the disposal of the Bunds Committee appointed by Government for utilising it for the following purposes by way of granting subsidy and other kind of facilities in the agricultural activities.

1. For the purpose of water storage.
2. For construction of wells.
3. For any other irrigation purposes.
4. For reconstruction-, maintenance of bunds.
5. For paddy cultivation.
6. Help to the Agriculture Cooperative Societies.
7. For construction of stables and godowns for agricultural purposes.
8. For purchase of seeds, manure, machines necessitated for agriculture purposes.

So far as the Tenancy Act is concerned, upto 50% of the expenditure on the works of repair's and maintenance of bunds, embankments etc. is borne by Government. The organisations that will come upto function in a role will not require to be rendered any extra financial assistance, as they can manage with their contribution sharing all in the work by way of putting personal labour etc.

Reorganisation of Communidades is under consideration of this Administration and steps are being taken to review the position. Any way the reorganisation will take place on a model form.

In conclusion, Report contains valuable and useful suggestions. This Administration will try to bring them into implementation wherever possible.

January, 1966.

Annexure III

MEETINGS OF IMPLEMENTATION COMMITTEE

Summary record of the first meeting of the Land Reforms Implementation Committee of the National Development Council held in New Delhi on

December 23, 1963

PRESENT

Shri Gulzarilal Nanda, Minister of Home Affairs (Chairman)

Shri Swaran Singh, Minister of Food and Agriculture

Shri Shriman Narayan, Member in-charge land reforms, Planning Commission

Shri K.B. Sahay, Chief Minister, Bihar

Shri Shamsuddin, Prime Minister, Jammu & Kashmir

Smt. Sucheta Kripalani, Chief Minister, Uttar Pradesh

Invitees

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh, Member, Planning Commission

Shri Bir Chand Patel, Revenue Minister, Bihar

Inaugurating the meeting, Minister of Home Affairs referred to the discussions held in the meeting of the National Development Council in November, 1963 for expediting implementation of land reforms programmes. This Committee was set up for the purpose of suggesting to the Council specific measures for expediting implementation after re- viewing the difficulties experienced in the States in implementation of land reforms. In cases where legislation has not been provided or where laws have been passed but not enforced because of certain basic defects pointed out by the Central Committee for Land Reforms, the matter could be considered directly by this Committee. In cases where legislation has been passed and enforced it has to be found out to what extent the social and economic objectives of the measures have been achieved and if not much has been achieved what were the factors responsible for it. There might be gaps in the legislation or defects in administration. All this information should be made available before any concrete suggestions could be made. The chairman suggested that, this should be done early so that a report could be placed before the National Development Council at its next meeting.

Deputy Chairman, Planning Commission, emphasised the need for correct and up-to-date record of rights for effective administration of laud reforms. He pointed out that in certain States such as Bihar, Kerala and Orissa requisite information about tenants was not available. But even in States where the records were there, implementation had been faulty. The difficulties in such cases have to be found.

Shri Tarlok Singh was of the view that it should be possible for the State Governments to collect information regarding implementation of certain provisions of the legislation without much difficulty. He also stated that with a view to expediting preparation and correction of records-of-rights such States schemes had been made eligible for Central assistance to the extent of 50%. In some States provision to this effect has been made in the Annual Plans. It has, however, been

noticed that in States where the work is most needed the amount involved is not small and the State Governments find it hard to provide for their part of 50% of the expenditure within the ceiling for Plan schemes.

Minister of Food and Agriculture mentioned that in a number of States up-to-date records-of-rights were maintained and even the name of the tenant who cultivates the land was mentioned. The problem of building up requisite records necessary for administration of land reforms as a special measure would be confined to a few States such as Bihar and there should be no difficulty in finding financial provision in such cases.

Prime Minister, Jammu & Kashmir stated that in his State up-to-date records were available. The land reform measures which Were enacted in 1950 had been implemented. The State Government has set up a Land Commission for advising on further measures of land reform.

Chief Minister, Bihar stated that the ceiling laws in most States were not likely to make much land available for re-distribution in view of high level of ceiling and provisions relating to transfers, in Bihar, requisite measures have been taken to implement the ceiling legislation but with best efforts not even a lakh acres would become available. So far as the land records arc concerned the main task before them was to enter the rights of the under-raiyats in the records. The main difficulty has been inadequate finances to undertake the work. He also referred to the suggestion for commutation of rents and felt that it was advantageous to the under-raiyat to pay in kind as a share of the produce.

Chief Minister Uttar Pradesh stated that in Utter Pradesh about 2 lakh acres would become available on implementation of the ceiling legislation. Up-to-date record-of rights including information about the actual tiller was available with them which enabled expeditious implementation of land reform laws.

Shri Shriman Narayan stated that whatever information could be gathered from the State Governments had been included in the State-wise notes circulated at the meeting. If further information was required it should be done expeditiously. The matter could then be discussed with the concerned Governments.

It was decided that detailed information regarding implementation of land reform programmes and the difficulties experienced in expeditious and effective implementation should be reported to the Committee in three months time. An officer should also be specially deputed to go round the States for this purpose.

Minister of Home Affairs also agreed to write to the State Governments to make available the requisite information. He suggested that the next meeting of the Committee might be convened one day before the National Development Council meeting some time in April-May, 1964, so that the report of the Committee could be considered by the National Development Council.

Summary record of the second meeting of the Land Reforms Implementation Committee of the National Development Council held in New Delhi on June 25, 1964

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs (Chairman)

Shri C. Subramaniain. Minister of Food and Agriculture

Shri Shriman Narayan, Member Planning Commission

Shri K. B. Sahay, Chief Minister, Bihar

Shri R. Sankar, Chief Minister, Kerala

Shri V. P. Naik, Chief Minister, Maharashtra

Shri G. M. Sadiq, Chief Minister, Jammu and Kashmir

Invitees

Shri Hukam Singh, Revenue Minister, Uttar Pradesh

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh. Member Planning Commission

Prof. V.K.R.V. Rao, Member Planning Commission

The Chairman said that the National Development Council attached great importance to the speedy implementation of land reforms particularly in view of its close bearing on agricultural production. The National Development Council had appointed this high-level body to review the implementation of land reforms in the larger context of social and economic objectives, to make, a qualitative assessment of the extent of implementation, identify the failures wherever they have occurred and bring them to the notice of the State or the Central Department concerned so that they may be quickly rectified. In making this review, the Committee has to examine the land reform programme largely from the point of view of agricultural production, although the social objectives of the programme, to reach justice to the people at the lowest rung in agrarian society, were equally important. Referring to the sweeping and somewhat one-sided comments of some foreign observers, he said that the observers did not seem to be aware of the difficulties and limitations under which the country had to work since independence. Considering the limitations it could be stated that quite a great deal had been done. At the same time it has to be recognised that there have been considerable failures also. It is for the Committee to ascertain the factors that come in the way of fuller implementation of laud reform. He said that it was not a question so much of policy, as the general principles set out in the Plans were acceptable all over the country. But the acceptance was qualified in many cases and loopholes were left which rendered the implementation ineffective. As a result provisions for security of tenure and rent were not enforced. This leads to problems of production. The tenants, for lack of security, cannot get necessary supplies and credit and in view of high rents they have to pay, they cannot utilise such facilities even if they were available.

The Chairman made the following suggestions with which the Committee agreed to ensure effective administration of land reform laws :—

(1) Bach State should appoint a Special Officer assisted by such staff as may be necessary to implement the programme according to a fixed schedule to be drawn up by the State Governments;

(2) There should be a high level committee in each State, including Cabinet Ministers and other representatives of public opinion which should review the progress of implementation periodically, say, every six months so that timely steps are taken to fill the gaps that may be noticed in the implementation of the programme ;

(3) The State Governments should be requested to report to the Government of India every six months the progress made in the implementation of different measures ;

(4) It should be ensured that the tenant-cultivators are provided with necessary financial assistance to enable them to participate fully in production programmes.

(5) Early steps should be taken to prepare a record of tenancies where this is not being done at present and to revise it where it obtains.

Minister of Food and Agriculture observed that land reforms fell into two broad categories, namely, ceiling and tenancy reforms. With regard to ceilings he said that considering the provisions of the various laws which had been enacted, surplus land would be extremely negligible, as opportunities had been freely given for lands being transferred and partitioned. However, this process had any way dispensed ownership on a considerable scale. Referring to tenancy legislation, the Minister felt that the problem had not been dealt with on a permanent basis, and that in some states like Madras, temporary laws still obtained which were being extended from year to year. Lands were given out on informal tenancies on a large scale. Such tenants were not recognised or recorded and in many cases did not even venture to put forward their claims. The problem had become acute particularly in the IADP and Intensive Crop Production areas. The tenant was not able to prove his possession and so the packages of improved practices were not available to him. Even if the packages were to be available to him, in view of the high share rents he had to pay (it some times amounted to 50, 60 or 70% of the produce), he had no incentive to use them. Records of rights should be prepared but its utility would be limited as it would take time to prepare such records and even then many tenants were not likely to be recorded. Thus, quite a sizeable area which would still be claimed under personal cultivation would actually be cultivated through informal tenancies. The actual cultivators would thus not be in a position to avail of the package of improved practices. As a result agricultural production would suffer. He suggested that it would be necessary to lay down norms of efficient management and cultivation which the landowners should be required to observe in respect of lands claimed under personal cultivation and where the norms were not observed the State should have the right to take over management of such lands.

Shri Tarlok Singh said that the implementation of the suggestion would need legislation. In this connection he referred to the recommendations made in the Second Five Year Plan and the work of the committee which had been set up by the Panel on Land Reforms. He also referred to the difficulties in working out proper norms.

Prof. V. K. R. V. Rao said that apart from the difficulties that would arise in making assessment of production of each holding in relation to its potentialities, such land management legislation would have necessarily to be enforced in respect of holdings whether they were actually owner-cultivated or were cultivated through concealed tenancies. In that case such a regulation would become a big project. Referring to the norms he said that it was not found easy to prescribe suitable norms even in case of factories. In agriculture the problem would be many times more difficult. However, the idea was attractive and we might try it out in a district or two.

The Minister of Food and Agriculture agreed that suitable laws could be enacted by States and, if necessary, Ordinances promulgated. He further stated that in the IADP and ICP areas, the conditions had changed; there were production plans for each farm and it should not, therefore, be difficult to work out proper norms and to enforce them in such areas.

The Chief Minister, Maharashtra said that there were provisions in their law to enforce land management practices but they had not been used much.

It was decided that the suggestion might be tried out in a few selected IADP or ICP areas with a view to gaining experience and that a technical committee might be appointed to examine the entire question in detail and submit its recommendations by August 1, 1964.

Referring to share-cropping, the Minister of Food and Agriculture said that share cropping was a disincentive to production and should be abolished. He felt that it was necessary to convert crop share rent into fixed rents so that the benefit of the increased production may be fully enjoyed by the tenant-cultivator. Prof. V. K. R. V. Rao suggested that rent should be converted into cash as multiples of land revenue.

Summary record of the third meeting of the Implementation Committee held on June 26, 1964 in Vigyan Bhavan, New Delhi to review the progress of land reform in Bihar

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs—*Chairman*

Shri C. Subramaniam, Minister of Food and Agriculture

Shri Shriman Narayan, Member Planning Commission

Shri B. Sahay, Chief Minister, Bihar

Shri R. Sanker, Chief Minister, Kerala

Invitees

Shri Hukain Singh; Revenue Minister, Uttar Pradesh

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh, Member Planning Commission.

Chief Minister, Bihar explained the history of the ceiling legislation in Bihar and said that under the Ceiling Act, a landowner was permitted to transfer land to other members of the family up to the ceiling limit. As a result landholders were able to retain large areas which has made ceiling infructuous and hardly any surplus would be available for redistribution among the landless. In this connection he referred to an earlier Bill of 1954 which provided for the fixation of ceiling at 25 acres for a family of 5 members. If that Bill had become law, it would have yielded a surplus of 10 lakh acres. The Bill was, however, withdrawn after it was reported upon by the Joint Select Committee. He suggested that if the Committee approves, he would have the whole legislation re-examined so that it might be so modified as to yield an appreciable area of surplus land.

Chief Minister, Bihar further observed that the provision for a land levy was also not likely to yield any land; and that it was likely to cause undue harassment. He was of the view that the provision for levy might, be omitted. In this connection Shri Shriman Narayan explained the constitutional position and said that if the levy provision was to be retained, the compensation would have to be the market value.

Minister for Food and Agriculture said that in the interest of agricultural production it was necessary to avoid frequent changes in the legislation so that there should be stability in the agrarian situation; and that unless the Bihar Government was of the view that substantial area

would be available for re-distribution by making suitable amendments in the law, it would be useful to proceed with the implementation of the present law.

Shri Tarlok Singh also felt that as the transfers had already taken place any revision of the ceiling might not yield much surplus. The Chief Minister, Bihar said that he could not make any firm commitment at this stage as to the extent of surplus land that might be available by the revision of the law, but he was hopeful that quite a sizeable surplus area could be obtained by amending the law.

It was agreed that the Chief Minister might re-examine the position and suggest suitable modifications, if sizeable area of surplus laud could thereby be obtained.

With regard to tenancy reform, the Chief Minister, Bihar said that quite a sizeable area was cultivated by share-croppers called under-raiyats who did not enjoy security of tenure in practice. He referred to the provision in section 48-E of the Bihar Tenancy Act which enables the revenue officers to take suo-moto action to restore possession to under-raiyats and said that under the existing socio-economic conditions the under- raiyats did not have the courage to make applications for restoration. If the under- raiyats were, to be conferred security of tenure and restored to possession where they had been illegally ejected, it was essential that they should be recorded through a record operation. He further stated that there was some apprehension that if a drive for recording under-raiyats was launched there would be disturbances in the countryside. He was, however, of the view that such a risk had to be taken and said that his Government were determined to expedite the record operations in order to give adequate protection to under-raiyats.

In this connection the Chief Minister further stated that in Purnia district where during the course of survey operations the under-raiyats were being recorded, 40000 appeals had been filed before civil courts to contest such entries. He said that his Government proposed to promulgate an Ordinance so that such appeals might be heard by revenue officers instead of civil courts. It was agreed that this would be a useful step.

The Deputy Chairman, Planning Commission said that it would be desirable to complete record operations as quickly as possible and that in this connection preference should be given to record operations in Shahabad district which was an IADP area

Regarding conferment of ownership on under-raiyats the Bihar Chief Minister said that once the under-raiyats were recorded and security of tenure conferred on them, other measures for the conferment of ownership would follow.

Shri Shriman Narayan said that it would be necessary to modify the legislation to confer ownership on the large body of under-raiyats as under the existing law ownership rights were limited only to such under-raiyats who held land from surplus holder and the number of such under-raiyats was likely to be very small.

The Chief Minister, Bihar also referred to the legislation for providing security of tenure to privileged tenants of homesteads and said that inspite of legislation, ejectment had taken place and that the Government had consequently passed orders for suo moto action for restoration of the ejected tenants.

Referring to the delays in the payment of compensation, the Chief Minister said that it was proposed to expedite the issue of bonds for the payment of compensation so that the whole work was completed during the next six months.

Summary record of the fourth meeting of the Land Reforms Implementation Committee of the National Development Council held on September 28,1964 at 9.00 A. M. in Vigyan Bhavan, New Delhi

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs—*Chairman*

Shri C. Subramaniam, Minister of Food and Agriculture

Shri Shriman Narayan, Member Planning Commission

Shri V. P. Naik, Chief Minister, Maharashtra

Shri M. Bhaktavatsalam, Chief Minister, Madras

Invitees

Shri Hukam Singh, Revenue Minister, Uttar Pradesh

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh, Member Planning Commission

The Chairman referred to his recent talks with the Prime Minister and said that the Prime Minister desired that whatever remained to be done should be completed within a year or within the third five year plan period. He observed that dual charges were being made. Some said that land reforms were not being carried out while others were saying that land reforms had led to uncertainty. There was no doubt that uncertainty arising out of lack of implementation was having an adverse affect on production; it was highly desirable therefore that land reform programmes should be completed with utmost speed.

The Committee then took up the consideration of land reforms in *Madras.*

Shri Ameer Raza, Joint Secretary, Planning Commission explained the existing provisions in the Act in respect of fair rents and security and said that the present legislation was ineffective largely on account of the fact that it was of a temporary nature. The law was enacted in the first instance for only a year in 1955 and had since been extended from time to time. The rights which the law conferred were of a temporary nature. In the circumstances, the tenants could hardly afford to displease their landlords by asserting rights under the temporary law. He further explained that most tenancies in Madras were informal oral tenancies and were not recorded. In the absence of a proper record of rights, it would not be possible to implement land reforms. Orders had recently been issued for recording tenancies but the tenants would come forward to get themselves received only if the law confers substantial rights on them.

Chief Minister, Madras said that a comprehensive Bill was under consideration of the State Government and that it would take some time before it was finalised.

Shri Shriman Narayan suggested that the comprehensive legislation should be enacted within one year. The Chief Minister agreed to expedite the enactment of the legislation.

Minister of Food and Agriculture said that while it was desirable that the legislation should be enacted early it would inevitably take some tune to complete the processes involved in the enactment of such legislation. He felt that the most important task was to ensure complete security of tenure. Once this is done, tenants will be able to assert other rights and reduction in rents and ownership for tenants would follow in due course. The tenants should be given permanency of tenure and should not be liable to eviction except on prescribed grounds of non-payment of rent etc.

The Chairman said that the security of tenure could become effective only if "voluntary surrenders" were also regulated. Minister of Food and Agriculture agreed and said that to make the regulation of surrenders effective, it should be provided that the management of all surrendered land should vest hi the Government. This would reduce landlord's incentive in pressing for surrenders.

It was agreed that pending enactment of comprehensive legislation, the existing law should be amended to provide for permanent and heritable rights for the tenants and regulation of surrenders, ejectment being permitted only on specified conditions' of non-payment of rent etc. There should be no right of resumption. Gaps in the law which made implementation difficult should be removed.

The Committee then took up the consideration of land reforms in *Maharashtra.*

Chief Minister, Maharashtra said that the suggestions made in the report of the Joint Secretary (Land Reforms) were being considered. He would try to provide for them as far as possible. Referring to the provisions in the Bombay Tenancy and Agricultural lands Act applicable to "West Maharashtra, he said that it was true that the provision giving the Land Tribunals the power to fix the compensation between 20 to 200 times was delaying the progress of implementation. But any change in this provision at this stage when the legislation had already been implemented in a large number of cases would lead to difficulties. With regard to the situation arising out of ineffective purchases, the Chief Minister said, that his government was anxious to take effective steps for preventing ineffective purchases and that proposals in this regard were under the active consideration of the Government.

Shri Tarlok Singh stated that the officers of the Reserve Bank of India were mentioning that the tenants who were deemed to be owners were not able to get medium or long term credit. He suggested that a provision should be made in the law to overcome this difficulty by enabling the tenant to raise loans on the security of land pending acquisition of clear title to ownership.

Revenue Minister, Uttar Pradesh said that in U.P. the sirdars who did not have transferable rights had been given the right to raise loans from cooperatives and government on the security of lands. A similar provision in Maharashtra might meet this difficulty.

Chief Minister, Maharashtra agreed to have the matter reviewed in the light of the suggestions made in the Committee.

Referring to sugar factory farms Chief Minister, Maharashtra said that the lands were being managed much better after they had been taken over by the Government. Action was taken to ensure that no land was left fallow.

Shri Shriman Narayan referred to defects and deficiencies in land records with regard to entries of tenants and said it was desirable that the State Government should take special steps to correct the records and bring them up to date. Such steps were necessary not only in Maharashtra but in other States as well.

The Committee then took up consideration of land reforms in *Uttar Pradesh.*

Revenue Minister, Uttar Pradesh said that his government was taking steps to ensure expeditious implementation of land reforms in the Tarai and hill districts. Referring to the implementation of the Ceiling Law, he said that in the case of practically all big, mechanised or sugarcane farms, the implementation of the provisions had been stayed through writ petitions and surplus lands could not, therefore, be taken over so far.

Referring to the new problem that was being created by concealed tenancies in the form of batai, he said that the U.P. Government had appointed a sub-committee to consider necessary measures to meet this problem.

Shri Ameer Raza, Joint Secretary, Planning Commission mentioned that in Uttar Pradesh leasing was completely prohibited except by disabled persons. The problem of concealed tenancies was due partly to defective provisions in this regard. While in case of leases by Bhumidars, the lessees acquired sirdari rights, in the case of leases by sirdars (which was the more prevalent tenure), both the sirdars and the lessees were liable to ejectment for making a lease and they, therefore, colluded to defeat the pro- vision prohibition leasing.

The Chairman said that situations for leasing do arise in certain cases and it was necessary to provide for them. The best course would be to bring leases into the open. To curb abuses it should be provided that such leases were made through panchayats or prescribed authorities for a prescribed period. In this connection, Shri Tarlok Singh referred to the suggestion in the Five Year Plan that every lease shall be for a minimum period of five to ten years.

Minister of Food and Agriculture mentioned that the. panchayats were still dominated by landlord elements and could hardly be an effective instrument for implementation of such provisions. Shri Shriman Narayan suggested that special committees might be appointed at block level, through which leases could be made. These committees could consist of official representatives of panchayats and other non-official representatives of various interests.

It was agreed that leasing may be permitted in special cases for short periods. In order to ensure that the tenant-cultivator cultivated the leased lands effectively, he should be given a minimum tenure for a period of, say, five years as suggested in the Plan. Leases should be made through special committees appointed by the government at the block level, including both officials and non-officials.

Minister Food and Agriculture further suggested that each case of succession should be reviewed to ascertain whether the new owner would be able to cultivate lands personally or not. If this is done, absenteeism would gradually disappear. He proposed that the suggestion might be examined and a paper prepared suggesting steps that might be taken in this regard.

Summary record of the fifth meeting of the Land Reforms Implementation Committee of the National Development Council held on October 27,1964 at 0-00 A.M. in Vigyan Bhavan, New Delhi

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs—*Chairman*

Shri C. Subramaniam, Minister of Food & Agriculture

Shri Shriman Narayan, Member Planning Commission

Shri K. B. Sahay, Chief Minister, Bihar

Smt. Sucheta Kriplani, Chief Minister, Uttar Pradesh

Shri Mohanlal Sukhadia, Chief Minister, Rajasthan

Shri Balvantray Mehta, Chief Minister, Gujarat

Invitees

Shii Maldevji Odcdra, Deputy Minister, Revenue, Gujarat

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh, Member Planning Commission

Prof. V.K.R.V. Rao, Member Planning Commission

Shri G.R. Kamat, Secretary, Ministry of Food & Agriculture

Shri S. Chakravarti, Secretary, Ministry of Community Development and Cooperation

The Committee took up discussions about Gujarat.

Abolition of Intermediaries

Chief Minister, Gujarat said that the Gujarat Government was expediting the completion of all processes including payment of compensation. He agreed with the suggestion that it would be desirable to give certificates of Khata books to all persons who had acquired the status of occupancy under the relevant abolition laws so that there might be no possibility of doubt about their status.

It was also agreed that the suggestion was of general applicability, not only in the context of intermediary abolition but also in regard to acquisition of ownership as part of tenancy reform throughout the country and may be endorsed to all State Governments.

Tenancy Reforms

Chief Minister, Gujarat said that the main problem arising in the course of implementation of tenancy legislation was that tenants did not get clear title to land till the compensation payments were completed. He felt that it was desirable to expedite these payments so that a clear title might accrue to tenants. In this connection he mentioned that the Land Mortgage Banks were prepared to finance payment of compensation to the landowners but the Reserve Bank was not agreeable to providing long term credit for this purpose to the banks. The Reserve Bank was of the opinion that in view of limited finance, assistance could be given for development purposes only.

The Minister of Food and Agriculture said that the payment of compensation to the landowners in instalments spread over a long period results in frittering away the compensation payment and they do not get invested in the economy. It would be desirable to work out the payment of compensation in such a manner as to assist the landowners to invest it in development projects. This would also help them in their rehabilitation.

The Chairman agreed that the suggestion needed consideration and that it should be taken up separately. The Chairman suggested that the problem of compensation payment deserved consideration from the point of view of the tenant-cultivator also. It would be desirable to ensure that the burden of payments on the new owner should be such as to give him some relief compared to what he was paying as tenant and that a compensation instalment payable by him should be less than the rent which he was paying as tenant.

The problem of ineffective purchases was then considered. The Chairman said that these ineffective purchases were resulting in the eviction of a large number of tenants and it was desirable that the State Government should give careful consideration to the problem with a view to plugging the loopholes in the law and the administration thereof. He further suggested that provisions for voluntary surrenders should also be reviewed.

It was agreed that the process of fixation of purchase price by the Tribunals should be expedited and that effective steps should be taken to ensure speedy recovery of instalments payable by tenants

so as to avoid purchases being rendered ineffective for non-payment of instalments.

In regard to tenancy reforms in Saurashtra, Deputy Revenue Minister, Gujarat explained that the tenancy laws applicable to Saurashtra provided for registration of all leases subsisting at the commencement of the law and prohibition of future leases except by persons suffering from a disability, lie mentioned that his Government was considering the extension of the Bombay Tenancy Act to registered leases in Saurashtra. It was suggested that the problem of unregistered, informal leases should also be considered and necessary provisions made.

The Chairman said that the question of future leasing had come up for consideration on more than one occasion. In this connection he referred to the suggestion made at the previous meeting of the Committee for leasing through specially constituted committees. Reference was also made to the decision taken by the Agriculture Production Board recently. The Chairman was of the view that unless personal cultivation was properly defined to include both residence and personal labour, complete prohibition of leases could not be effective and in the interest of agricultural production, it might become necessary to permit leasing in certain circumstances. The matter should be carefully examined and proposals in this regard formulated and circulated among Members for consideration at the next meeting of the committee.

The Chief Minister, Bihar said that land reform raised complicated issues, which needed detailed, careful consideration. He felt that it would be desirable that the meetings of the Implementation Committee should not be linked up to meetings of the National Development Council as it made it difficult to give it due consideration because of other pressing engagements. The Chairman agreed that a meeting of the Committee may be convened to consider the special problems referred to by the Chief Minister.

Summary record of the sixth meeting of the Land Reforms Implementation Committees of the National Development Council held on May 4, I960 at 11.00 A.M. in Yojana Bhawan, New Delhi.

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs (Chairman)

Shri C. Subramaniam, Minister of Food and Agriculture

Shri V.K.R.V. Rao, Member, Planning Commission

Shri V.P. Naik, Chief Minis ter, Maharashtra

Invitees

Shri S.G. Barve, Member, Planning Commission

Shri Bali Ram Bhagat, Minister of Planning

Shri Ram Prasad Ladha, Deputy Minister (Revenue), Rajasthan Government

Land Reforms in Rajasthan

The Committee reviewed the implementation of land reforms in Rajasthan. Regarding the suggestion of the State Government for permitting share-cropping arrangements, Deputy Minister (Revenue), Rajasthan explained that the landowners who were bonafide cultivators some time felt difficulties in securing necessary supplies for the cultivation of lands from cooperatives or other

institutional sources. They had, therefore, to enter into arrangements with private parties for supplies of, say, bullocks, camels, labour etc. on payment of a snare of the produce. Such arrangements were in the interest of agricultural production and effective cultivation of lands. It was agreed that in principle there wa.4 no objection to permitting partnership arrangements in cases of bonafide cultivators. At the same time it is also necessary to ensure that such a provision is not utilised for defeating the tenancy provisions. The expression "personal cultivation" should, therefore, be carefully denned so that a person entering into such an arrangement is responsible for the organisation, supervision and cultivation of land. He should reside in the village where the land is held and also participate in the cultivation of the land with his own or his family labour. The definition of the expression "personal cultivation" in Rajasthan should be examined in the light of these suggestions.

With regard to State Government's proposal about inheritance by women, the Deputy Minister, Rajasthan explained that if daughters are permitted a share in the land holding, it may eventually lead to absentee landlordism on a considerable scale and to avoid such a situation the Rajasthan Government had proposed that while the male heirs would retain the land the female heirs would be compensated in cash. It was felt that the matter was of importance to all the States. Some States were already considering the problem. In this connection reference was made to the proposal under the consideration of the Punjab Government. It was also felt that the suggestion that brother should compensate sister in cash in lieu of her share in the land, might lead to heavy financial burden on the brother cultivating the land. It was decided that the matter should be considered in detail at the next meeting of the Committee.

With regard to Rajasthan Government's proposal about future leasing reference was made to the note circulated in the Committee by the Land Reforms Division. It was decided that the advice of the Committee would be made available to the Rajasthan Government after the matter has been fully considered at its next meeting.

Prescription of norms of efficient cultivation

Prof. V.K.R.V. Rao referred to the views expressed by the Governments of Andhra Pradesh, Bihar and Madras and suggested that it might be useful to undertake a study through the agro-economic centres into the possible difficulties in the prescription of standards and the technical problems of enforcement. The suggestion was agreed to. The Chairman further suggested that the matter should be looked into from the positive aspect of providing incentives for efficient cultivation.

Preparation of records of tenancies

Prof. Rao referred to his discussions in Bihar regarding the difficulties in the preparation of records of tenancies and the apprehension expressed by the Chief Minister, Bihar that a drive for recording tenants might create law and order problem as in the case of District Purnea. The Minister of Planning observed that the situation which had arisen in District. Purnea was due to the fact that there was a large number of big landholders who had great influence and had created law and order problem to hold up the preparation of such records. He was of the view that the records could be prepared in the State. The Chairman said that for the effective implementation of measures of tenancy reform it was essential that the records of tenancies should be prepared immediately and corrected where necessary. Any difficulties in this regard would have to be met and overcome. This was agreed to.

Review of action taken by State Governments

The Committee noted the action taken in the States for the implementation of the conclusions

arrived at its previous meetings.

Summary record of the seventh meeting of the Land Reforms Implementation Committee of the National Development Council (Delhi Members) held at 10-00 A.M. on October 27,1965 at Yojana Bhavan, New Delhi

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs—Chairman

Shri C. Subramaniam, Minister of Food and Agriculture

Prof. V.K.R.V. Rao, Member, Planning Commission

Shri Tarlok Singh, Member, Planning Commission

Planning Commission	*Ministry of Food and Agriculture*
Secretary	Secretary
JS(Agri.)	Special Secretary
JS (Land Reform)	Extension Commissioner
Director (Land Reforms)	*Ministry of C.D. and Cooperation* Secretary

I. *Joint Stock Companies in Agriculture*

1. The Minister of Food and Agriculture stated that there was a sizeable area of culturable wastelands which was lying uncultivated due to lack of investment. The main object of the proposal was to utilise these wastelands for development of seed farms and livestock farms through joint stock companies which would be in a position. to arrange necessary investment.

With regard to the suggestion for promoting the growing of export oriented crops on the joint stock farms, the Minister of Food and Agriculture said that export-oriented crops might be taken out of the purview of the joint stock farms. For keeping up soil balance, it would, however, be necessary to permit the raising of subsidiary crops as part of local crop-rotation. The State Government should have the power to issue directives to joint stock farms about what crops might or might not be grown. Besides, the State Government should be entitled to acquire 25% shares in such farms and local farmers another 25%.

Prof. Rao observed that the suggestion for the establishment of joint stock farms on wastelands would make it difficult for the State Government to implement the programme for the settlement of landless agricultural labour which, had been implemented in a meagre way so far. He further observed that the State Governments which had found it difficult to implement the recommendation for exemption of sugar-factory farms would find it still more difficult to accept the suggestion for the exemption of joint stock farms from ceiling. He was also of the view that once joint stock farms were permitted on wastelands, there might be a further demand on the part of farmers to pool cultivated lands in the joint stock farms as their contribution towards share capital. The implementation of land policy set out in the Plan may thus be affected adversely.

The Minister of Home Affairs said that it would be necessary to stipulate adequate safeguards to avoid abuse of the exemption. He also felt that as it would constitute a departure from the present policy, the decision will have to be taken at the highest level.

Prof. Rao suggested that joint stock farms should be required to sell their produce to

government at stipulated prices.

Shri Tarlok Singh suggested that lands should be given on lease-hold and not freehold. The Minister of Home Affairs agreed and suggested that the lease may be for a period not exceeding 20 years.

After a general discussion, it was provisionally agreed that the formation of Joint stock companies might be permitted on government owned wastelands for the establishment of seed farms, live stock farms and specialised farms for raising such other crops as the State Government may consider necessary in the national interest. Raising of subsidiary crops as part of local crop rotations should be permitted on such farms. Such joint stock companies may be exempted from ceiling. To avoid abuse the following conditions may be stipulated—

(i) Joint Stock Companies would not be allowed to purchase or acquire cultivated lands;

(ii) Waste lands may be given to joint stock companies on lease-hold for a period not exceeding 20 years;

(iii) Joint stock farms should be set up in collaboration with State Governments which should be entitled to contribute 25% of the capital or more. Another 25% share capital may be offered for contribution by local cultivators.

(iv) The Government should have the power to issue directives to such farms about what crops might not be grown and also about the sale of crops or cattle raised to the government at prices to be fixed from time to time by the government.

(The proposal was subsequently considered at the highest level and not found practicable.)

II. *Tenurial conditions and Cooperative Credit in Package Districts*

The Minister of Food and Agriculture referred to his earlier suggestion for the adoption of land management practices and said that it would be useful to consider the matter further at the meeting of the Chief Ministers

Secretary (Agriculture) referred to the note circulated by the Land Reforms Division on the preparation of records and said that in several States the Jaw did not provide for recording tenants and it was necessary that a provision be made in the law for the purpose so that presumptive evidence value may attach to the records so prepared. He further suggested that where records were prepared, there should be a provision for annual maintenance also.

Chairman felt that in view of the emergency during the next year or two the emphasis should be on implementation of programmes which would bring about immediate increases in production. In this context, the preparation of records of tenancies was of great importance not only i o the implementation of land reforms but also for provision of necessary credit and other facilities to the actual cultivators.

It was decided that—

(i) A special drive should be made for recording tenants where it was not being done at present and for correcting the records, where they obtained;

(ii) In States where the present law did not provide for recording tenants, necessary legislation should be enacted immediately to provide for it so that presumptive value should attach to the records so prepared.

(iii) Provision should also be made for maintaining records up-to-date through annual

revisions.

Summary record of the eighth, meeting of the Land Reforms Implementation Committee of the National Development Council held on December 4, 1965 in Committee Room 131, Yojana Bhavan, New Delhi

PRESENT

Shri Gulzari Lal Nanda, Minister of Home Affairs (Chairman)

Shri C. Subramaniam. Minister of Food and Agriculture

Prof. V.K.R.V. Rao, Member, Planning Commission

Shri M. Bhaktavatsalam, Chief Minister, Madras

Shri Sadasiva Tripathi, Chief Minister, Orissa

Invitees

Shri S.N. Sarma, Revenue Minister, Assam

Shri Ram Murti, Minister of Community Development, Uttar Pradesh

Shri M.V. Krishnappa. Revenue Minister, Mysore

Shri K.R. Arya, Minister of Revenue, Rajasthan

Shri M.F. Solanki, Deputy Minister (Revenue), Gujarat

Shri R.P. Ladlia, Deputy Minister (Revenue), Rajasthan

Shri P. Mallik, Deputy Minister (Revenue), Orissa

Proposals for the Fourth Plan Ceiling on holdings

The Committee took up consideration of the proposals for the Fourth Plan. The progress in the implementation of ceiling legislation was first reviewed. The Minister of Food and Agriculture observed that ceiling had had little effect as most of the substantial owners had managed to retain their lands by making benami transfers. He also referred to an earlier suggestion made by the Committee that land reforms should be completed by the end of the Third Plan period and said that not much progress had since been made, and this was giving rise to uncertainties which were not conducive to agricultural production.

Prof. V. K. R. V. Rao said that the programme of ceilings which was aimed at obtaining a sizeable area for distribution to the landless agricultural labour had failed in its principal objective and he felt that a statement should be made to that effect in the Fourth Plan.

Deputy Minister (Revenue), Rajasthan observed that although governments had not been able to secure sufficient surplus for re-distribution through ceilings, a sizeable area had passed into the hands of agricultural labourers as a result of transfers made by substantial holders in anticipation of ceilings. He further observed that the State Governments had also distributed to the landless people substantial areas of culturable wastelands which had vested in them as a result of abolition of intermediaries. In Rajasthan, over a million acres had been re-distributed.

Revenue Minister, Assam said that the objectives of ceiling were two-fold, namely, *(i)* to

remove sharp inequalities in land ownership and *(ii)* to make lands available for re-distribution. As a result of ceiling on ownership, the tenants on lands above the ceiling limits were being converted into owners and thus inequalities in land ownership had been reduced. In Assam, not much area was cultivated in large holdings and not much land would therefore be released for re-distribution due to ceilings.

Revenue Minister, Mysore also observed that re-distribution of ownership had taken place as a result of various measures of land reforms which had been adopted and implemented.

The Chairman observed that the programme set out in the Plan had been much diluted in its implementation in the States. There were deficiencies in the law and there were delays both in the enactment of laws and in their implementation. Re-distribution of ownership was an aspect of tenancy reform. The main objective of ceiling was to make available a sizeable area for re-distribution to the landless at reasonable prices on a planned basis. This object had been largely defeated. In the absence of any reliable data it would be difficult to support the conclusion that much lands had passed into the hands of agricultural labourers or small farmers as a result of transfers. He emphasised the need to complete implementation of the ceiling laws expeditiously. He further observed that in view of the fact that the state of implementation differed from state to state, no single date for the completion of the process for all the States would be feasible. The best course would be that each State should draw up immediately a phased programme for implementation and set up a target date for the completion of the process.

Abolition of intermediaries

The progress of payment of compensation to intermediaries was then reviewed. It was observed that considerable progress had been made in many States in the determination and payment of compensation or issue of compensatory bonds but the issue of compensatory bonds in Bihar, Rajasthan and West Bengal needed to be expedited.

The Deputy Minister (Revenue), Rajasthan stated that there was considerable litigation about the assets of intermediaries and this had delayed determination and payment of compensation. He, however, felt that the process would be completed very shortly. Chief Minister, Orissa stated that the issue of compensatory bonds did not amount to payment of compensation. He felt that most intermediaries were men with small means and it was desirable that compensation payments be made in fewer instalments. To expedite it, he suggested that States may be permitted to raise funds for the purpose by floating loans from the Reserve Bank or from other sources. The Minister of Food and Agriculture observed that this might be made applicable to redemption of bonds also.

The Chairman observed that there were two possibilities of giving relief. One was to increase the rate of interest and the other to cut down the period of instalments or redemption of bonds. Any modification in the mode of payment at this stage would be inequitable to whose whom payments had already been made. Besides, the compensatory bonds being transferable had passed into the hands of speculators in many cases. It would not be desirable, therefore, to make any changes in this regard at this stage.

Tenancy Reforms

After a brief review, the following conclusions were reached in this regard.

(i) The States where the rent still exceeded the level recommended in the Plan, *i.e., 1/4*th or l/5th of the gross produce should take early steps to bring down the rents to that level;

(ii) It is necessary that crop-share rents should be abolished and replaced by fixed cash rents

so that uncertainties arising out of annual fluctuations in rents may be eliminated and the tiller assured of full benefit of his investment;

(iii) The best course would be to fix the rents as a multiple of land revenue and this should be the objective of all legislation. It was pointed out that in some areas settlements had been made on widely different dates and consequently there were large variations in the assessment rates for lands of equal productivity. Fixation of rent as a multiple of land revenue would not therefore be equitable or desirable. The Chairman said that the difficulty might be met by adopting a range so that different multiples could be adopted in different areas according to local conditions and the dates of settlements;

It was also mentioned that in some areas settlements had not taken place and that fixation of rent as a multiple of land revenue would lead to anomalies. It was agreed that in such cases it would be best to work out and notify cash equivalents to l/4tn or 1/5th of the gross produce for different areas on the basis of the data available with State Governments about yields of different classes of land without much elaborate enquiries.

(iv) The suggestion that rents should be recovered by the Government and paid to the owners after deducting a recovery charge so that direct landlord- tenant nexus might be broken, was generally supported. It was, however, agreed that the State Governments should have the discretion to adopt the suggestion keeping in view the progress made in converting tenants into owners and the present size of the tenancy problem.

(v) As regards conferment of ownership on tenants, two models came up for consideration, namely, the Mysore-Rajasthan model and the Maharashtra- Gujarat model. It was generally agreed that the adoption of the former model would ensure effective and expeditious implementation and it would be better, if the State steps in and accepts the responsibility for payment of compensation and its recovery from tenants in suitable instalments. This would, however, involve some financial obligation which would not arise in adopting the latter course. However, where Maharashtra-Gujarat model is to be adopted and direct payments by tenants to the owners are to be permitted, it will be necessary to provide that a purchase would not become ineffective for non-payment of instalments, which should be made recoverable as arrears of land revenue.

(vi) The Chairman observed that complete prohibition of leases might result in lands being left fallow, which would not be in the interest of agricultural production. The effect would be the same if there is a fear of accrual of adverse rights in the leased lands. Leasing had to be permitted in certain circumstances. The tenants who are admitted, should however, enjoy a measure of security of tenure to enable them to undertake planned production. They should also have the benefit of fair rents.

(vii) There was some discussion with regard to the circumstances in which leasing should be permitted. It was decided that details in this connection should be worked out and if necessary considered at the next meeting.

(viii) The question whether owners should be permitted to lease lands directly or required to do so through an agency to be prescribed under the law was next considered. It was agreed that if direct leasing is permitted it might lead to the re-emergence of landlordism on a large scale. It was necessary, therefore, to provide an agency with which every lease should be registered. This agency would scrutinise each lease, the terms and conditions thereof and the eligibility of the proposed lessee. With regard to the nature of the agency, the suggestion that the work might be entrusted to panchayats or to committees of various interests (owners, tenants and agricultural labourers) did not find

much support. It was felt that it would be best to set up official land tribunals in each block with which the leases should be registered and which should also be made responsible for the enforcement of terms of lease.

The Minister of Food and Agriculture observed that several States were in the process of enacting their laws and it was desirable that the above suggestions should be discussed with them immediately so that they are duly provided in the legislation under their consideration.

With regard to problems of implementation of land reforms in Mysore and Orissa, it was decided that at this stage the matter may be discussed at official level and then placed before the Committee at its next meeting.

As regards devolution of agricultural lands, it was decided that the matter should be considered at the next meeting.

Summary record of the ninth meeting of the Land Reform Implementation Committee of the National Development Council held on 21st July 1966 in Yojana Bhavan, New Delhi

Present

Shri Gulzari Lal Nanda, Minister of Home Affairs (Chairman)

Shri C. Subramaniarn, Minister of Food and Agriculture

Prof. V.K.R.V. Rao, Member Planning Commission

Dr. Y.S. Parmar, Chief Minister, Himachal Pradesh

Invitees

Shri Asoka Mehta, Deputy Chairman, Planning Commission

Shri Tarlok Singh, Member, Planning Commission

Shri S. G. Barve, Member, Planning Commission

Shri Karam Singh, Revenue Minister, Himachal Pradesh

Shri P. Mallik, Deputy Minister (Revenue), Orissa

ANDHRA PRADESH

The Chief Minister could not attend. The Revenue Secretary who was present explained the position with regard to records of tenants and said that a complete and up-to-date record of tenants was maintained in the Telangana area and in regard to Andhra area instructions had been issued for recording tenants in the village account No. II- Adangal. He would furnish a note on the actual position shortly. He further stated that in order to give presumptive evidence value to the record it would be necessary to make a specific provision in the law.

The Committee concluded that it would be desirable to organise a special drive for the preparation of record of tenants in Andhra area. The record should show the name of tenant, the period for which the land was held by him and any other claimant to the possession of land. It would also be desirable to give presumptive evidence value to the record but even without necessary legislative provision the record should be useful. It was also mentioned that tripartite committees might be set up to assist in the preparation of records.

Regarding the suggestion for the appointment of a Land Reform Commissioner, the Revenue

Secretary mentioned that there was a senior officer in the Board of Revenue who was designated as Commissioner for Land Revenue and was incharge of preparation of land records and implementation of land reforms and it might not be necessary to appoint a separate land reform commissioner.

With regard to consolidation of holdings, the Revenue Secretary said that although it was a plan scheme the real difficulty was that adequate funds were not available. The Committee emphasised that in view of its importance to agricultural production it was desirable that the programme should be pursued with vigour in Telangana area and also initiated in the Andhra area. Necessary financial provision for the scheme may be made in the plan.

ORISSA

Deputy Minister (Revenue), Orissa explained the background of the amending Bill now pending for President's assent and lie said that the Bill would be more in the interest of tenants than of the owners. In this connection reference was made to the gap in the provision regarding land in respect of which neither the owner nor the tenant applies for determination of resumable or non-resumable lands. The Committee felt that while it was desirable that the gap should be filled the proposed amendment was no solution to the problem. The committee concluded that there should be no further extension of time limit for resumption of tenanted land. It would be desirable to take immediate steps for preparation of a simple record of tenancies which should snow the name of the tenant, the period for which he has been in possession and any other claimants to the land so that the tenants so recorded could be made owners of land. It was pointed out that even for preparing such a record, it would take about four years and that its financial implications will have to be gone into. .

HIMACHAL PRADESH

The Chief Minister explained that in view of the impending reorganisation of States, the State Government had decided to drop the amendment Bill for the present and that meanwhile the State Government would proceed with the implementation of the legislation.

Summary record of the meeting of the Central Committee for Land Reforms held on 23-6-1964 to consider Land Reforms in Mysore

Present

Deputy Chairman, Planning Commission
Minister for Home Affairs
Minister for Food & Agri.
Member (Agriculture)
Member (I)
Member (E.S. & I.T.)
Member (A. & T.)
J.S. (R. & S.)
J.S. (L.R.)
Director (L.R.)

Chief Minister, Mysore
Revenue Minister, Mysore
Agent for Mysore in Delhi
Revenue Secretary, Mysore
Ministry of Law
Joint Secretary
(Shri R. R. Desai)

Member (Agriculture) referred briefly to the previous discussions regarding the Mysore Land Reforms Act and the points that still remained for discussion and emphasised" the importance of speedy legislation and implementation. After discussion the following agreed conclusions were reached :—

1. The Mysore Land Reforms Act would be amended in order to ensure that the rights which had already accrued to tenants would not be curtailed. The rights of the landlords to resume land would be limited :

   i). in the former Bombay area to cases in which notices had been given within the time prescribed by the Bombay Law;

   ii). in the former Hyderabad area to cases in which notices for resumption had been made within the time prescribed in the Hyderabad law.

   The resumption will be governed by the conditions and limitations laid down in the erstwhile Bombay and Hyderabad laws.

2. Transfers made after the date of the passing of the Mysore Bill by the State Legislature would be disregarded both for the purposes of tenancy reform and ceiling.

3. Chief Minister, Mysore explained that rights of cultivation in lands held by religious and charitable institutions under the management of Government were generally sold by auction once in 5 years and very often the highest bidders to whom the lands were auctioned were well-to-do people and did not cultivate the lands themselves. They also did not maintain any records of the persons through whom the lands were actually cultivated. Further some of the lands are near growing towns and would thus be needed for non-agricultural purposes. It was agreed, taking into account all these circumstances that the lands might he sold as quickly as possible so that the landlord tenant system might not continue for long and the person who purchased the land became the full owner thereof.

4. Chief Minister, Mysore mentioned that the Mysore Land Reform Act provides for cash payment of compensation up to Rs. 10,000. As this imposes a very heavy financial liability upon the State, it was proposed to reduce this to Rs. 2,000. There was no objection to this proposal.

Summary record of the discussions held on December 17, 1985 between Governor, Kerala and Member, Planning Commission

Progress of implementation of the Kerala Land Reform Act was reviewed at a meeting between the Governor, Kerala, Shri A.P. Jain and Member, Planning Commission, Prof. V. K. R. V. Rao on December 17, 1965 at 12-30 p.m. with special reference to the working of the Land Tribunals and preparation of land records. The Governor mentioned that the principal agency for the implementation of the Land Reforms Act consisted of land tribunals. Under the Land Reforms Act these tribunals were comprised of District Munsifs who were used to elaborate civil procedures. As a result, determination of fair rents was taking too much time and was not making satisfactory progress. Member observed that in most States land tribunals consisted of revenue officers like mamlatdars and tehsildars and there should be no objection to re-constituting the land tribunals on similar lines. It was agreed that the law might be suitably amended to provide for that.

With regard to the land records, the Governor said that although a record of owners was available for the bulk of the area there was no record of tenancies, without which the provisions of the Land Reforms Act could not be implemented effectively. He also emphasised the importance of

settlement operations for raising resources for the Plan and said that in Kerala land revenue had been fixed at a uniform rate of Rs. 2.00 per acre and yielded about a crore of rupees. It could be increased appreciably by relating it to the productivity of land. It was necessary, therefore, to complete resurvey and settlement operations over the entire State within the Fourth Plan period for which a provision of Rs. 15.7 crores should be made in the Plan.

Member agreed that it was important that the records should be prepared as expeditiously as possible. A record of tenants was necessary for the implementation of land reforms and of agricultural programmes. He also agreed that settlement operations should enable the State Government to raise additional resources. The member, however, felt that record of owners being available, it should be possible to complete the record of tenants expeditiously and «i a comparatively small cost. He suggested that the scheme of survey and settlement operations might be taken up in two parts, namely, (i) preparation of records of tenants, and *(ii)* settlement operations, i.e. determination of productivity of different classes of land and of land revenue rates based thereon. If this is done, the provision of Rs. 56 lakhs in the annual Plan for 1966-67 should make it possible to prepare the record of tenants in about 3 districts out of 9 during 1966-67. In view of its bearing on raising increased resources, a separate scheme for settlement operations could be considered. As this scheme would cost a considerable amount, the Governor might like to mention about it to the Prime Minister.

The Governor agreed that he would have, the matter re-examined.

ANNEXURE IV

REPORT OF THE TECHNICAL COMMITTEE ON NORMS OF EFFICIENT MANAGEMENT AND CULTIVATION

The Land Reforms Implementation Committee in a meeting held on June 25, 1904 decided upon a number of steps for the implementation of land reforms. Minister of Food and Agriculture pointed out that considerable areas of land were held by tenants through informal arrangements. Such tenants were not recognised or recorded in the land records and being mainly share-croppers, they were unable to take advantage of the package of practices. Further, in view of the high share rents payable by them, they had no incentive for making necessary investments. As a result, agricultural production suffered. The problem had became important, particularly, in the IADP and intensive Crop Production Areas. To meet these and other circumstances, where landowners did not avail themselves of the available facilities to adopt improved cultivation which the landowners should be required to observe in respect of lands claimed under personal cultivation and where the norms were not observed, the State should have the right to take over management of such lands and get it cultivated either through the existing tenant (who would, in that case, be duly recognised and be in a position to adopt the package of practices or through some other suitable person. The landowner would receive rent at a permissible flat rate in cash. It was suggested that the suggestion might be tried out in a few selected areas with a view to gaining experience and that a Technical Committee might be appointed to examine the entire question in detail and submit its report by 1st August, 1964.

The Technical Committee consisting of Secretary, Agriculture (Chairman), Dr. Randhawa (Special Secretary), Joint Secretary, Land Reforms and Dr. M. P. Singh Project Director, Extension Directorate, met on 27th June for preliminary discussion and decided that the matter should be discussed in detail with the District Collector and Project Officers of three package districts (Tanjore, West Godavari and Shahabad and some representatives of the Ford Foundation on July 8,1964. The matter was subsequently discussed among the members of the Technical Committee whose suggestions are contained in the following paragraphs.

The report of Mr. Wolf Ladejinsky who visited a number of IADP districts to study tenurial conditions and their effect on the package programme makes it clear that in four out of five districts visited by him, namely, Tanjore (Madras), West Godavari (Andhra Pradesh), Shahabad (Bihar) and Ludhiana (Punjab), the tenurial conditions are extremely unsatisfactory. Considerable areas of land are held by tenants who have no security of tenure and who pay excessive rents, generally as a share of the produce and who are unable to participate in production plans. It is, therefore, necessary in the interest of agricultural development that such tenancies should be duly recorded in the land records, crop share rents converted into fixed rents, tenants given security of tenure and necessary financial assistance to enable them to participate fully in the production plans. However, as the progress of recording tenants is likely to take considerable time and as a substantial number of tenants would, in any case, be unable to take advantage of the rights conferred upon them by land reform laws, it is desirable that measures for implementation of land reforms are supplemented by land management measures in order to reduce the adverse effect of the tenurial system upon agricultural production.

The following questions would rise in this connection :—

The basis for prescribing norms:

It was felt that in the IADP districts, it should be possible to prescribe norms of management based upon the package of practices proposed for each holding. Officials incharge of the package districts of Shahabad, West Godavari and Tanjore, who were consulted in this connection, however,

mentioned that it would be difficult to lay down norms as they would vary from cultivator to cultivator depending upon such factors as his skill, soil fertility, farm resources etc. The village level worker may not be able to recommend a package of practices tailored to the needs of each cultivator.

It is true that the production plan is based largely on general technological recommendations applicable to an area and does not sufficiently take into account individual variations with regard either to the nature of the soil in each holding or the resources and skill of each cultivator separately. However, a production plan offers some guidance regarding the measures which it is necessary for the cultivator to adopt and it could, therefore, be used as the basis for prescribing norms for efficient cultivation and management. It is to be understood, of course, that there are adequate facilities within cultivator's reach for supplies and services like fertilisers, plant protection, credit etc. to enable him to adopt sound cultivation practices. As further experience is gained, the production plan will be progressively improved and provide a more detailed and precise basis for laying down norms.

The norms would be related to the extent to which the package of practices have been adopted and not to the yields obtained. In this connection reference is invited to the report of a sub-committee on land management practices that had been appointed by the Panel on Land Reforms for the Second Plan. This sub-committee had observed that—

> "An obvious test of good husbandry may appear to be the comparative yield of crops, or the gross production per acre. The sub-committee is, however, of the view that firstly we do not possess adequate statistical data to ascertain with any degree of accuracy, the gross produce which different types of land should yield under reasonably efficient methods of cultivation; secondly, the determination of yield in the case of numerous disputed fields would present numerous practical difficulties; thirdly, which is most important, the yield varies with a number of factors whose effects cannot be assured quantitatively, such as location, the fertility and texture of the soil, the vageries of the climate, the incidence of epidemic etc. which, by and large, are beyond the control of a farmer. It is, therefore, essential that the tests should be such as will facilitate an objective judgement by inspection of the fields, and carry conviction to an impartial observer. They should reduce, the chances of injustice or apprehension by biased judgment."

Agency for enforcement

The officers connected with the IADP were strongly of the view that the Extension Agency was called on to assist in the enforcement of land management legislation it would make the agency unpopular and might even cause a set-back to the agricultural extension programme. They felt that it would be better to provide positive incentives to cultivators, such as assured minimum price, reduction in the cost of fertilisers, pesticides etc. rather than to introduce measures of legislative compulsion to bring about necessary standard of efficient cultivation.

It cannot be denied that there is a certain amount of risk that compulsory enforcement of improved practices through law and the imposition of penalties may make the extension agency unpopular. It should, however, not be foregotten that the use of law is not inconsistent with extension methods. There are various development plans such as social conservation, use of pesticides and consolidation of holdings etc. in regard to which legislation exists in various States. Use of legal sanctions and sound extension activity are not mutually exclusive. In fact the two go together, each reinforcing and supplementing the other.

The extension staff who are responsible for making recommendations would also be responsible for reporting upon the extent of the adoption of the package of practices. They would

be in the best position to judge whether the practices as recommended by them have been adopted or not. The responsibility for reporting failure to comply with the norms would thus have to rest on the extension agency. For this purpose it would be desirable to set up small committees for groups of about ten villages, consisting of, say, the Pradhans of village panchayats of all the villages falling in that group, a member of the village panchayat from each village (to be elected by the village panchayat concerned) and the village level worker. This Committee should make periodic inspection in each village to observe the extent to which the package of practices is being followed by each cultivator and the cases of non-adoption could be reported by this committee to the Block Development Officer. The Block Development Officer should report cases of serious default (for which, in his opinion, action under the law needs to be taken) to the Revenue Authorities. For this purpose the Block Development Officer could make further inspections, if necessary, either personally or through extension officers at the block level. The Block Development Officer would also have the power to initiate cases on his own and report to +he Revenue authorities cases of default even where they are not pointed out by the village level committee referred to above.

Such revenue authorities as may be prescribed (say, the Deputy Collector incharge of the Sub-Division or Tehsil) would, upon receiving the report, call upon the party concerned to show cause why Government should not assume management of the land. Where the party concerned satisfies the officer that the default was due to reasons beyond his control (such as unfavourable weather conditions, failure of supplies, or failure to obtain credit in time or unsuitability of the package of practices recommended), no further action would be taken. In other cases orders may be passed for taking over the management of the land.

Extent of Default

There would be causes where some of the practices recommended are actually carried out by the cultivator and some are not or there may be cases where a particular practice is partly but not wholly carried out. It would be necessary, in such cases, to decide whether there is on the whole a substantial failure to comply with the norms or not. For this purpose it may be advantageous to assign marks for different practices and to take action against farmers who got marks below a certain percentage, which may be prescribed. The marks to be assigned for different practices would naturally depend upon the local conditions in each area and the importance of each practice in relation to that area. However, for purposes of illustration. the marks assigned to different practices in the Punjab Security of Land Tenure Rules, 1956 may be of some interest.

Allotment of land

Where a cultivator obtains less than the prescribed minimum of marks, say, less than 60% and the revenue officer is satisfied that the failure is due to wilful default on his part, the land could be leased out by Government to some other person. In making the allotment, the revenue officer would first ascertain whether the land is being cultivated by any person as tenant through an informal arrangement and if so, settle the land with him as a tenant holding land from Government. If no such person is forthcoming, the land could be settled with a landless agricultural worker who has the necessary skill for good cultivation. The procedure for allotment could be the same as the procedure applicable to the allotment of Government waste lands. The officers connected with the IADP districts of Tanjore, Shaliabad and West Godavari have pointed out that the enforcement of land management measures would prove difficult and in some cases it may even be necessary to use police force for taking over possession of land. Moreover, there may be difficulties at time, in finding another person to take up cultivation in a land of which some other cultivator is dispossessed. In that case, enforcement of the law would be impossible, unless such land is taken up by the State for cultivation. This difficulty is real, but it is felt that with suitable education and creation of public opinion in support of the proposed measure, the difficulties can be greatly reduced.

As compensation, the owner would be entitled to get a fixed rent (to be fixed by the revenue authorities according to the existing law). What is of importance is that the rent is not allowed to vary from year to year according to the produce obtained. The rent may be collected by Government from the allottee and paid to the owner. The allottee would be obliged to carry out the package of practices recommended for the holding and if he fails to do so, he will be liable to ejectment. In order to ensure that the tenant gets advantage of even comparatively long term investment and has, thus, the necessary incentive, it would be desirable to settle the land for a reasonable long period, say, 5 or 10 years and the tenant should, in addition, get the same rights as he would have got if he had been admitted as a tenant by the landowner himself.

Scope of the Programme

The proposal was originally conceived against the back-ground of informal tenancies and the programme relates specially to lands which an owner claims to be under personal cultivation but which is actually cultivated through informal tenancies. It is, however, felt that the restriction of this measure only to lands claimed to be under the cultivation of the owner may arouse some criticism and resentment that they are being discriminated against. Further, only a small fraction of the lands are recorded under the cultivation of tenants and excluding tenants from the scope of this measure would not substantially reduce the magnitude of the administrative problem involved. It is, therefore, suggested that the measure may apply to all cultivators whether owners or tenants.

In view of the difficulties pointed out by the local officers it would be desirable, however, to take up the measure on a pilot basis in a few selected areas, say, 2 blocks in each of three districts. The scope of the measure could be widened as further experience is gained.

Legislation

The proposal can obviously not be enforced unless a suitable law exists. While various States have enacted legislation with reference to different development schemes, such as, soil conservation, pest control etc. it appears from the available information that a law comprising the various proposals made above does not already exist in any of the States where a pilot scheme has been suggested. It is, therefore, recommended that suitable legislation may be enacted by the States concerned.

VIEWS OF STATE GOVERNMENTS ON PRESCRIPTION OF NORMS OF EFFICIENT CULTIVATION

The Government of Andhra Pradesh, Bihar and Madras were requested that the suggestion relating to prescription of norms of efficient cultivation as examined in detail by a Technical Committee might be tried out in a few selected areas.

2. The Andhra Pradesh Government has observed that while the recommendations are good in themselves, the 'State Government has not experienced any difficulty in the package district and there is no need for undertaking any legislation on the lines proposed.

3. The Chief Minister, Bihar has observed that it is unlikely that the cultivator would not try to get the best yield due to wilful neglect on his part. Failure to get the maximum yield may be due more to his inability to undertake risks due to financial and other difficulties. Besides, to entrust the power to the village committees for the enforcement of the norms of cultivation might result in abuse and create discontent. The revenue officer may also find it extremely difficult to dispossess a person in possession and to induct another co-[v]illager on lands against the will of the owner or the

tenant, as the case may be, as there may be lack of cooperation in village itself. In this connection, the Chief Minister has referred to the Bihar Emergency Cultivation and Irrigation Act, 1955 which already empowers the Government to take over uncultivated lands.

4. The Madras Government has observed that the scheme bristles with numerous difficulties : *(i)* It will be impossible to determine norms of cultivation with regard to inputs in any part of the State including the package district inasmuch as conditions and circumstances of each and every cultivator and even each field vary considerably and the nature and range of the agricultural practices are diversified, *(ii)* it will be also difficult to devise *a* machinery w Inch could prescribe the norms in a satisfactory manner and assess the performance with any degree of correctness, accuracy, impartiality and promptness. The Committee of representatives of panchayats and the extension staff suggested for reporting cases on non-adoption of norms is hardly likely to fill the bill. If the block staff is to be diverted to this work their normal and more important work of extension may tend to get neglected with adverse effects on agricultural production, *(iii)* The State Government also feels that this might give rise to unrest and uncertainty in the minds of owners and tenants leading to problems of law and order and political repercussion, especially if the enforcement is piece-meal, confined to a few areas only or in stages involving particular persons or groups of persons in an area. The scheme may thus involve the government in a complicated situation with no concrete benefit to the cause of food production.

5. Referring to the situation in district Tanjore, the State Government has observed that steps have been taken to ensure that farm plans are prepared for oral leases also and that they enjoy the same credit and other facilities for increasing food production as written leaseholders.

LAND REFORM

CHAPTER VIII—FOURTH FIVE YEAR PLAN—A DRAFT OUTLINE

Objectives

The land reform programme outlined in the Five Year Plans is an integral part of the scheme of agricultural development and rural reconstruction. Its objectives are to remove such motivational and other impediments to increases in agricultural production as arise from the agrarian structure inherited from the past, to create conditions for evolving au agricultural economy with high levels of efficiency and productivity and to eliminate elements of exploitation and social injustice within the agrarian system. With these objectives in view, the policy of land reform to be followed in the States, as part of the national plan, was outlined in the First Plan and further elaborated in the Second and the Third Plans. "Land to the tiller" was adopted as the main plank in the scheme of land reform, which contemplated that owner-cultivation should be established on the widest possible scale and all cultivators should come into direct relation with the State.

Progress

2. Fifteen years ago when the First Plan was being formulated, intermediary tenures like *zamindaris, jagirs* and *inams* covered more than 40 per cent of the area. There were large disparities in the ownership of land held under ryotwari tenure which covered the other 60 per cent area; and a substantial portion of the land was cultivated through tenants-at-will and share-croppers who paid about one-half the produce as rent. Most holdings were small and fragmented. Besides, there was a large population of landless agricultural labourers. In these conditions, the principal measures recommended for securing the objectives of the land policy were the abolition of intermediary tenures, reform of the tenancy system, including fixation of fair rent at one-fifth or one-fourth of the gross produce security of tenure for the tenant, bringing tenants into direct relationship with the State and investing in them ownership of land. A ceiling on land holding was also recommended so that some surplus land may be made available for redistribution to the landless agricultural workers. Another important part of the programme was consolidation of agricultural holdings and increase in the size of the operational unit to an economic scale through cooperative methods.

3. *Abolition of Intermediaries*—During the past 15 years, progress has been made in several directions. The programme for the abolition of intermediaries has been carried out practically all over the country. About 200 million tenants of former intermediaries came into direct relationship with the State and became owners of their holdings. State Governments are now engaged in the assessment and payment of compensation. There were some initial delays but a considerable progress has been made in this direction in recent years and it is hoped that the issue of compensatory bonds will be completed in another two years.

4. *Tenancy Reforms*—To deal with the problem of tenants-at-will in the ryotwari areas and of sub-tenants in the zamindari areas, a good deal of legislation has been enacted. Provisions for security of tenure, for bringing them into direct relation with the State and converting them into owners have been made in several States. As a result, about 3 million tenants and share-croppers have acquired ownership of more than 7 million acres :

State	Number of tenants (in 000's)	Area in respect of which ownership conferred (in 000 acres)
Gujarat	462	1,408
Madhya Pradesh	358	
Maharashtra	618	1,674
Punjab	22	147
Uttar Pradesh	1,500	2,000
West Bengal		800
Telangana region of Andhra Pradesh	33	202
Delhi	29	39
Himachal Pradesh	24	28
Tripura	10	12

5. Provisions for regulation of rent have been adopted in all States. In Assam, Bihar, Gujarat, Kerala, Maharashtra, Mysore, Orissa, Rajasthan and the Union Territories, the maximum rent has been fixed at a quarter or less of the produce. In Andhra area, Jammu & Kashmir, Madras, Punjab and West Bengal, the fair rent or the share of the produce as fixed by law is still a third to one-half of the gross produce.

6. *Ceiling on Holdings*—Laws imposing ceiling on agricultural holdings have been enacted in all the States. In the former Punjab area, however, the State Government has the power to settle tenants on land in excess of the permissible limit although it has not set a ceiling on ownership. According to available reports over 2 million acres of surplus areas in excess of the ceiling limits have been declared or taken possession of by Government in the following States:

State	**Surplus Area (in 000 acres)**
Assam	34.0
Gujarat	38.8
Jammu and Kashmir	450.0
Maharashtra	162.5
Madhya Pradesh	67.1
Madras	20.2
Punjab	368.5
West Bengal	776.6
Uttar Pradesh	222.7

More land will become available as implementation proceeds. The surplus lands are being distributed to tenants, uneconomic holders and landless agriculturists.

7. *Extension of Owner-cultivation—The* "land to the tiller" policy followed during the last 15 years has helped to establish owner-cultivation on a large scale. This is borne out by the data collected in the Census of 1961. Out of every 100 cultivators 76 were owner-cultivators, 15 were owner-cum-tenant cultivators and only 8 were pure tenant cultivators.

8. There were, however, shortcomings in several directions. Substantial areas in some regions of the country wore still cultivated through informal crop-sharing arrangements; there were ejectments of tenants through the device of voluntary surrenders; the fair rent provisions were not enforced effectively in all cases; and the ceiling had been evaded through the well-known device of transfers and partitions and not much laud was made available for distribution to the landless.

9. *Review by Committee of the National Development Council*—In November, 1963, following the Mid-term Appraisal of the Third Plan, the National development Council reviewed the progress made in the implementation of land reforms in different States. It noted that on account of legal and other factors in some States the laws had not been fully enforced. The Council emphasised that speedy execution of land reforms was vital for increasing agricultural production and strengthening the rural economy, and called upon all State Governments to complete the implementation of land reform programmes before the end of the Third Plan. The Council also constituted a Committee with the Minister of Home Affairs as Chairman and the five Chief Ministers who are Vice-Chairmen of the Zonal Councils, the Minister of Food and Agriculture and the Member in charge of land reforms in the Planning Commission as members to review the progress of land reform in different States and propose measures for securing the implementation of the land reform legislation. Officers were deputed to visit the States to review the progress of implementation and examine the difficulties encountered in giving effect to the programme. Most of the States have since been visited by the officers. Their reports and the resulting recommendations in respect of the States of Andhra Pradesh, Bihar, Gujarat, Madras, Maharashtra, Orissa, Rajasthan, Uttar Pradesh and Himachal Pradesh have been examined in the Committee in consultation with the States concerned and their attention has been drawn to the problems laced. As a result several States have taken steps to strengthen implementation.

Programme for the Fourth Plan

10. The land policy to be pursued in the States has been outlined in the first three Plans. The emphasis in the Fourth Plan should necessarily be on finding solutions to the problems which have been observed in the States in which implementation has lagged behind. The main points which call for immediate attention are set out in the following paragraphs.

(i) Administrative arrangements for enforcement and supervision are often inadequate and public opinion has not been sufficiently built up to quicken the pace of reforms. These arrangements need to be strengthened to ensure better implementation by following a phased programme to be drawn up by the State Governments. It would be necessary to supplement administrative action by enlisting support and assistance of public workers. A high level committee comprising Ministers and representatives of public opinion may be set up in each State, which should keep the progress of implementation of the policy under constant review, district by district, so that timely action is taken to fill the gaps in the law and expedite implementation.

(ii) Records of tenants do not exist in several States and are often incomplete and out of date oven where they do. For effective enforcement of tenancy reform, it is imperative that records of tenancies should be prepared and kept up to date whatever the difficulties in the way. It should assist in the preparation and revision of records if tripartite committees representing landlords and tenants and presided over by an independent person or a revenue official are constituted for groups of villages. Entries in the records so prepared should have presumptive evidence value. Each tenant, so recorded, should be issued a certificate indicating his rights in the laud and the rent payable by him. Such a step will facilitate enforcement of the legal provisions. To Help the States to bring the records of tenancies up-to-date, a Centrally sponsored scheme has been included in the Fourth Plan.

(iii) The economic condition of tenants, even where they have been conferred permanent rights, still continues to be weak. It is important to confer on them the right to make permanent improvements to the land and to ensure adequate compensation to them in the event of eviction. Adequate and timely agricultural credit should be available to them. For this purpose, they should enjoy the right to mortgage their interest and title with the Government agency, co-operative society and other lending institutions for raising loans for effecting various improvements on their land. It will be helpful in the expeditious disposal of loan applications if the cooperative societies are supplied with a copy of the tenants' record of rights.

(iv) In some States, such as Andhra Pradesh, Assam, Bihar, Madras and West Bengal (in respect of Bargadars), the existing provisions for security of tenure are of a temporary nature. Comprehensive measures for converting tenants and share croppers into owners have not yet been adopted. Delay in enacting comprehensive legislations creates a great deal of uncertainty which is inimical to efforts for increasing agricultural production. Speedy action is called for to rectify this situation.

(v) Even the apparently restricted right of resumption for personal cultivation has, in practice, widened the scope of ejectments. Besides, such resumption upsets the economy of small owner-cum-tenant farmers who had leased in small areas to make up viable units of cultivation. The right of resumption was originally intended for exercise only during a limited period of 5 years. This period having elapsed, the right of resumption should now be terminated, and permanent and heritable rights conferred on all tenants.

(vi) Numerous ejectments of tenants have occurred under the guise of Voluntary surrenders'. This has tended to defeat one of the major aims of land reforms, namely, providing security of tenure for the tiller of the soil. The Third Plan document drew the attention of State Governments to this distressing phenomenon und made two recommendations—

(a) surrenders should not be regarded as valid unless they were duly registered with the revenue authorities; and

(b) even where the surrender was held to be valid, the land-owner should be entitled to take possession only up-to his right of resumption permitted by law.

This has been acted upon by only a few States, namely, Kerala, Madhya Pradesh, Mysore, Manipur and Tripura and partially by Bihar, Gujarat, Jammu and Kashmir, Maharashtra and Rajasthan, As the *bonafides* of most surrenders are open to doubt, it is important that early steps are taken to remove legal and administrative loopholes. As no more resumption is visualised, all surrenders should hereafter be made to Government only, without any right for the landowner to take possession of the land so surrendered.

(vii) The rents as fixed by law are still high in Andhra area, Jammu and Kashmir, Madras, Punjab and West Bengal and should be brought down to the level recommended in the Plans—to one-fourth or one-fifth of the gross produce. Besides, produce rents which are difficult to enforce should be abolished and replaced by fixed cash rents so that uncertainties arising out of annual fluctuations in rents may be eliminated and the tiller assured of the full benefits of his investment. As suggested in the Third Plan, it would facilitate enforcement if fair rent is fixed as a multiple of land revenue. The difficulty arising out of variations in the land revenue rates for lands of equal productivity owing to different dates of settlement and other factors might be met by adopting a range of multiples so that different multiples can be adopted in different areas according to local conditions and the date of settlement. In areas where regular settlement has not taken place, it might be convenient to work out and notify cash equivalents of l/4th or l/5th of the gross produce on the basis of data available with the State Governments about yields of different classes of lands.

11. Security of tenure for tiller is crucial to the whole scheme of tenancy reform. It enables him to obtain various aids and inputs and to participate fully in the production programmes. Experience of the regulation of tenancies has shown that it is difficult to ensure security of tenure and effective enforcement of rentals so long as the landlord- tenant bond remains unbroken. Besides, ownership provides the psychological stimulus for maximising agricultural production. The objective should therefore be to put a complete end to the landlord tenant nexus and covert the tenants into full owners. To this end, the State might step in, acquire ownership of leased land and transfer it to the tenants. In States where legislation has been enacted for coverting tenants into owners, any gaps in

the law should be filled immediately and the legislation implemented with speed. In States where such legislation has not been enacted, steps should be taken to pass the necessary law. As a first minimum step, there should be immediate legislation to break the direct landlord-tenant relationship, the State interposing between landlords and tenants to collect fair rents from tenants and pay them to landlords after deducting land revenue and a collection charge. As State Governments are already equipped to collect land revenue from millions of small holders, such a step is not likely to throw any excessive additional burden on them. This should apply to all tenants who held land on a given date, say, April, 1966. Provision should also be made for the restoration on application of those who may have been illegally dispossessed, say, during the past three years. The tenants who thus came into direct relationship with the State should have, besides permanent, and heritable rights, and optional right to purchase ownership on payment of reasonable compensation to be prescribed in the law.

12. The programme of ceilings sot out in the Plan has been diluted in implementation. There were deficiencies in the law and delays in its enactment and implementation resulting in large scale evasions. Several States had made provisions for disregarding transfers made after a specified date, but often those provisions proved to be ineffective and not much surplus land has been available for redistribution. The main object of ceiling which is to re-distribute land to the landless at a reasonable price on a planned basis has thus been largely defeated. In the absence of any reliable data it would also be difficult to say that as a result of transfers much land has passed into the hands of agricultural labourers or small farmers. However, as stated in the Third Plan, once legislation has been enacted, amendments should aim primarily at eliminating deficiencies and facilitating implementation rather than introducing fundamental changes in the principles underlying the legislation. As transfers take place generally between the members of a family, the States might consider the suggestion earlier made by the Panel on Land Reforms (and this has already been provided in some laws), namely, to apply ceilings to the aggregate area held by all the members of a family rather than to individual holdings, the family being defined to include husband and wife, their dependent children and grand children.

13. Land reform has been too often regarded as something extraneous to the scheme of agricultural development and implemented in isolation. It needs to be re-emphasized that it is an integral part of the programme of agricultural development as it helps to establish owner-cultivation and removes an important impediments arising out of defects in the agrarian structure. At the same time it should be recognised that land ownership is just one of the components, though an important one, of the package required for higher production. Unless the beneficiaries of land reforms, namely the tenants and the new owners created as a result of tenancy reforms and settlements on lands, are provided with adequate agricultural credit, physical inputs and other essential services and facilities, it could not yield the expected results. This aspect needs special attention.

Settlement of Landless Labourers

14. Apart from the surplus lands above the ceilings, a sizeable area of culturable waste lands had vested in the State Governments on the abolition of intermediaries. Such lands had already belonged to the Government in ryotwari areas. During the past 15 years, about 10 million acres of such land are reported to have been distributed to landless agricultural workers. More lands for distribution are being located through surveys undertaken by the union Ministry of Food and Agriculture and the State Governments.

15. It was emphasized in the Third Plan that such lands as became available on imposition of ceiling, along with the waste lands and lands donated to Bhoodan and Gramdan, should be pooled and systematic schemes of resettlements speedily implemented. A provision of Rs. 7 crores was made under a centrally sponsored scheme for the resettlement of landless agricultural workers. With a view to expediting implementation of the scheme, the matter was reviewed in consultation

with the leaders of Bhoodan—Gramdan Movement at a conference in November, 1963. Following the recommendations of the Conference, the pattern of assistance for the scheme was libralized. As a result, a number of schemes of resettlement have been worked out in the States which are now in progress. With a view to studying the problems of resettlement more closely and the impact of the schemes on the socio-economic conditions of the settlers, a survey is being undertaken through the Programme Evaluation Organization of the Planning Commission.

16. The Fourth Plan proposes an outlay of Rs. 45 crores for reclamation of land and another Rs. 10 crores for subsidy and loans to new settlers on waste lands and surplus lands. This programme ought to play an important role in favour of the weakest layers of our agrarian structure and should be pursued with vigour.

Sub-division and Fragmentation

17. A large number of holdings in India are small. They are becoming progressively smaller through the operation of the law of inheritance. Legislation has been adopted in several States to prevent sub-division below a prescribed minimum size. But on account of excessive pressure on land and the difficulties in providing non-agricultural employment to the progressively increasing population such laws have not proved to be effective in practice. The solution seems to He in promoting cooperative farming. The development of cooperative farming on a voluntary basis will take time. The immediate problem is to devise ways and means of raising the productivity of small holdings and the level of living of the small farmers. That this can be done is amply demonstrated by the experience of Japan, where, on quite small holdings, the farmers are able to achieve high productivity and produce enough for a reasonably comfortable standard of living. In this, the cooperative movement has to play an important role in providing credit and other important materials and facilities for increased production to small holders by bringing them within the fold of service cooperative societies as early as possible. At the same time, the existing arrangements for credit and supplies need to be strengthened with a view to ensuring that they reach the tenants and the small farmers no less than the medium and large farmers.

Consolidation of Holdings

18. Another obstacle to planned development of agriculture arises out of the fragmental structure of holdings. Most holdings are not only small but they also consist of widely scattered fragments. Solution to the problem lies in the consolidation of holdings. The Third Plan set a target for the consolidation of 28 million acres, which is likely to be fully achieved. About 25.5 million acres were consolidated during the first four years of the Third Plan as follows—

(in million acres)

State	Area consolidated up to 1960-61	Third Plan target (area)	Area consolidated between 1964-65
1	2	3	4
Andhra Pradesh	0.31	0.45	0.50
Assam		0.02	--
Bihar	0.06	0.50	0.09
Jammu and Kashmir	---	0.18	0.01
Madhya Pradesh	3.52	2.50	1.43
Maharashtra	1.54	2.26	3.22
Mysore	0.99	1.16	0.59
Orissa	--	--	--

Punjab	14.73	7.82	7.11
Rajasthan	1.40	1.50	2.57
Uttar Pradesh	5.39	9.00	9.16
West Bengal			
Delhi	0.13	0.04	
Himachal Pradesh	0.13	0.38	0.18
Total	29.62	28.01	25.50

19. Consolidation of holdings is an important agricultural programme. It is desirable that the programme should be expanded to the maximum extent administratively feasible. In the Fourth Plan it is proposed to double the target and to provide for an outlay of Rs. 32 crores for consolidation of holdings. The distribution of the target by States is being worked out in consultation with the State Governments. In the Punjab and Uttar Pradesh, the programme will have been completed over the entire area of the State during the Fourth Plan. Gujarat, Madhya Pradesh, Maharashtra and Rajasthan which have acquired wide experience in the field, should be in a position to accelerate the programme considerably. Some experience has also been gained in the Telangana area of Andhra Pradesh, in "Bihar and in areas transferred to Mysore from the former State of Bombay. It should be possible to expand the programme substantially in these States. Other States should initiate preliminary steps and take up pilot projects in different regions to gain experience and demonstrate the potentialities of the programme so that it could be taken up in a big way in the Fifth Plan.

20. The lack of up-to-date records of owners and tenants has been a major hurdle in expanding the programme in some parts of the country. Once this obstacle is out of the way it should be expected to make rapid progress. It would be an advantage if the preparation or revision of records and consolidation of holdings are carried out as inter-linked programmes area by area.

21. Consolidation of holdings facilitates management and promotes investment in the improvement of lands. In undulating areas it should assist in soil conservation measures by replanning consolidated holdings along contours and in other areas in developing irrigation and drainage projects. It is desirable that there should be close co-ordination in the execution of these programmes.