brethren to the west of the Bias, and held their estates on condition of furnishing horsemen in time of war. Other *jagirdars* of the Cis-Sutlej States had received their *jagirs* as rewards for services rendered to the Lahore Darbar.

Orders issued by Lord Hardinge.

86. Lord Hardinge's orders* regarding the treatment of revenue-free tenures in the Trans-Sutlej States may be reproduced as they were adopted with some modifications in the instructions given by Lord Dalhousie to the Board of Administration after the annexation of the rest of the Panjab. He prefaced the rules which he laid down by remarking "there is certainly no reason why we should maintain in perpetuity an alienation of the Government revenues which would not have been maintained by the power we have succeeded. * * * * All grants were resumed by the Sikh rulers at will without reference to the terms of the grants whenever State exigencies or even caprice dictated. On the death of the grantor they lapsed as a matter of course and were only renewed on payment of a large *nazrana*, equal in some instances to many years' collections * * *. The decision of the British Government on these claims will give a permanency, validity, and value to the tenures hitherto unknown, notwithstanding *sanads* from Native Governments of perpetual release from all demands which the holders know mean nothing." The rules, seven in number, were as follows:—

"1*st*.—All grants for the provision or maintenance of former rulers deposed, or former proprietors dispossessed, to be maintained on their present tenures in perpetuity.

"2*nd*.—All endowments, *bonâ fide* made for the maintenance of religious establishments or buildings or buildings for public accommodation, to be maintained as long as the establishments or buildings are kept up.

"3*rd*.—All persons holding villages or portions of villages *free of rent or money payment*, and for which no service was to be rendered, by grants made by Maharajas Ranjit Singh, Kharak Singh, or Sher Singh, to be maintained in their holding free of rent during their lives, each case to be open to the consideration and orders of Government on the death of the holder, to be decided according to its merits.

"4*th*.—All persons holding land or grants as above, subject to a payment of *nazrâna*, *peshkash*, or the like, to hold for their lives, subject to the payment of quarter *jama*, and, on the death of the holders, the land to be resumed or assessed at full *jama*.

"5*th*.—All persons holding land for which service of any kind was to be rendered to the Sikh rulers, including Bedis and Sodhis, who were expected to perform religious services for the benefit of the donors, to hold for life subject to a payment of $\frac{1}{4}$ *jama*, the case of each such tenure to be reported for the consideration of Government on the death of the holder.

"6*th*.—Grants made by persons not having authority to alienate the Government revenues to be resumed.

"7*th*.—Where no *sanad* exists, a holding for three generations to constitute a title, and entitle the holder to have his case adjudicated by the foregoing rules."

* Government of India No. 78, dated 23rd February 1847, to Commissioner, Trans-Sutlej States.

87. *Jagirs* in the Trans-Sutlej States which the ancestors of existing holders had won by their swords before Maharaja Ranjit Singh established his ascendancy were known as "Conquest *Jagirs*." In the case of the assignments held by the Sikh Sardars in the plains the policy at first followed appears to have been to resume a portion considered equivalent to the military service, which was no longer required and to maintain the remainder for life. A large number of these life tenures were afterwards reconsidered in pursuance of orders passed in 1856 and were ultimately released in perpetuity. The question then arose whether succession should be confined to the heirs of the person in whose favour the perpetuity grant was made or of the person in possession when the first enquiry after annexation took place. The latter alternative was adopted, and it was decided to apply to the Trans-Sutlej Conquest *Jágirs* the following five rules, which were modelled on those laid down some years previously in the case of the Cis-Sutlej *Jagirs* :— Treatment of *jagirs* in tract between Bias and Sutlej.

"I.—That no widow shall succeed to a *jagir* share.

"II.—That no descendants in the female line shall inherit.

"III.—That on failure of a direct male heir, a collateral male heir may succeed, if the common ancestor of the deceased and of the collateral claimant was in possession of the share at or since the year of primary investigation of the *jagir* tenure, which in the Trans-Sutlej States is ordinarily 1846.

"IV.—That alienation by a *jagirdar* of portions of his holding, whether to his relations or strangers, shall neither be officially recognized nor officially recorded.

"V.—That one or more sons of a common ancestor in possession at the period of the first investigation, being entitled to the whole share possessed by such common ancestor, shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who, had they lived, would have shared with such son or sons.

The *jagirs* of the hill Rajas of Kangra were upheld in perpetuity.

Assessments in territory, west of Bias.

88. When the annexation of the Panjab was proclaimed on the 30th March 1849, the members of the newly constituted Board of Administration were instructed by Lord Dalhousie that "the very first object to which they should direct their attention was the determination of all questions affecting the validity of grants to hold land rent-free." It was obvious that annexation must be followed by a great reduction in land revenue assignments. The British Government had no need of the military contingents of the Sardars and it paid its servants by drafts upon the treasury. But besides this, it was a fixed part of Lord Dalhousie's policy to lower the position of great Sardars, and to trust to the contentment of the common people and to the presence of a sufficient military force to secure the peaceful development of the new province. Of the two great brothers who were the leading members of the Board of Administration, Sir Henry Lawrence accepted with reluctance a policy which differed widely from his own views, while Sir John Lawrence welcomed it because he was himself convinced of its soundness. This Treatment of assignments in territory west of Bias.

is not the place to discuss the merits of the course which was actually followed. It is enough to note that the settlement made was not in fact an illiberal one. It is also the case that men's faith in this, as in some other parts of Lord Dalhousie's policy, was a good deal shaken by the events of 1857 and that in many cases the original conditions of the *jagir* grants to leading families in the Panjab have been revised as opportunity offered in a generous spirit.

Lord Dalhousie's views.

89. Lord Dalhousie laid down emphatically that "by our occupation of the country, after the whole Sikh nation had been in arms against us, we have acquired the absolute right of conquerors and would be justified in declaring every acre of land liable to Government assessment." He ordered the resumption without exception of grants held by men who had taken up arms against the British Government, whether by choice or compulsion. He repeated Lord Hardinge's description of the insecurity of the tenure of *jagirs* under the Sikh Government and of the increased value which the decision of the British Government would give to any assignment that was maintained. Every assignee whose tenure was upheld was to give up all deeds of grant which he held from former Governments and to receive instead a *sanad* from the Board declaring that the assignment was the free gift of the British Government. Except in a few special cases the *jagirdars* were to be deprived of all police powers, and, every assigned estate was to be assessed "so that the *jagirdars* or other holder should not be allowed to rack rent his tenants or derive more from the land than would be taken by the Government whose place he occupies." Where grants held on condition of service were maintained a cash commutation for the aid which was no longer required was to be fixed.

Rules issued by Lord Dalhousie.

90. Lord Dalhousie reproduced Lord Hardinge's seven rules with some modifications, and added one of his own. In the first rule for the words "on their present tenures in perpetuity" the words "on their present terms subject to future diminution after the death of incumbents" were substituted. This alteration was not without significance. To the second rule a rider was added providing for the reduction of endowments which appeared to be "exorbitant," and it was remarked that "when grants of great value have been conferred for the maintenance of the State religion . . . . . they should be restricted to a smaller amount from obvious motives of political expediency." An addition was made to Rule 3 to the effect that long occupancy would of course receive the consideration of Government. The alterations in the other rules were only verbal. The additional rule was as follows:—

"8. Where chiefs or others hold lands rent free, which were not granted by Maharaja Ranjit Singh or any other ruler, but won by their own swords, they will deserve consideration, and their cases should be specially reported to Government with the Board's recommendation in each case. Any particular cases not provided for in the foregoing rules to be reported separately to Government for special orders."

Lord Dalhousie added:—

"Should cases of individual hardship arise from a strict observance of these rules, whether from indigence, infirmity, age, or sex, the Governor

General, on such being represented, will be happy to relax the severity of the rules or confer a pension upon the object."

91. In circulating these instructions the Board of Administration remarked :— Instructions of Board of Administrations.

(*a*) with reference to Rule 2 that religious endowments should be upheld in perpetuity subject to the good behaviour of the grantees and conditional on the income being devoted to the objects originally proposed by the grantor ;

(*b*) that the third rule should usually be held to apply to grants made by the three Maharajas mentioned before their accession, or by other Chiefs before their time ;

(*c*) with reference to the 6th and 7th rules that assignments unsupported by *sanads* or held under invalid *sanads* granted by *kardars*, *nazims* and the like should, nevertheless, be maintained for the lives of the present occupants where possession was of long standing, and that unbroken occupation of 20, 25, or 30 years whether by one individual or for two or more generations, should entitle the holder to a life interest ;

(*d*) that grants of recent date should, when the occupants were old, or infirm, or for any other reason objects of charity, be maintained for life ;

(*e*) that where a *jágir* had been confiscated because the *jagirdar* had borne arms against the British Government, all grants made by him to his dependents should at once be resumed. But in cases of small assignments of long standing, special recommendations to maintain for life might be made if the holder appeared to be entitled to this indulgence ;

(*f*) that grants of land free of assessment enjoyed by the headmen of villages if supported by *sanads* were to be upheld. If they had been enjoyed for many years and the amount was not excessive, they were to be maintained for life, or, at any rate, until the revised settlement, even though no *sanad* could be produced ;

(*g*) that lands held revenue-free by village servants, if the amount was moderate, were to be upheld until the revised settlement ;

(*h*) that the tenures under which gardens were held were to be liberally dealt with, and if supported by valid *sanads*, or possessed by several generations, were to be recommended for maintenance in perpetuity. If resumption was resolved on, settlement was to be made with the *ex-mafidar* at the ordinary village rates, and not at garden rates. Where the grant was new, and the garden existed before it was made, it was to be resumed and the land assessed to the best advantage.

Chaudhri's inams.

92. Shortly after the Board directed that *ináms* or money allowances enjoyed by leading members of village communities before annexation should be upheld for life, subject to good behaviour. On the death of the *inámdar* the *inám* was to be continued to his son or resumed as might seem expedient. The *inám* was to be considered as remuneration for service to Government and to the village community, and the possession of it entitled the holder to be called *chaudhri*.*

Grants to takiyas.

93. Lord Dalhousie's second rule put religious establishments and buildings for public accommodation on the same footing, and directed the maintenance of their endowments for as long as the establishment or buildings were kept up. In 1853 the question was raised whether these orders applied to Hindu *dharmsálas* or to the small roadside *takiyas* occupied by Muhammadan *fakirs*. Sir John Lawrence ruled that except in special cases grants in support of such buildings should not be released in perpetuity. The reasons he gave are characteristic, and are worth quoting—

"5*th*.—The Chief Commissioner cannot admit that the existence of such grants does not encourage mendicancy, but further considers that the existence of these *takiyas* has often a mischievous effect. Doubtless, men, who are now *fakirs*, will, for the most part, remain such; their idle habits will prevent their taking to any honest or respectable mode of livelihood. But there will no longer exist the same inducement for the young and active to join such people, and the number of their disciples will, at once, fall off. The abolition of monasteries in Protestant countries caused that class of men to disappear in a few years, and so will a similar system operate on the communities of *fakirs*. In the North-Western Provinces, where such endowments are rare, the number of this class bear no proportion to those existing in the Panjab, where they have been fostered and cherished.

"6*th*.—The people are very zealous, no doubt, for the support of such endowments because they cost them nothing; but if their zeal is genuine and sincere, they will support the *takiyas* themselves. Government have sacrificed much revenue in reducing the land tax, in abolishing customs, and giving up vexatious cases of various kinds which the people are well aware of. We can, therefore, afford that they should murmur a little at the loss of their *takiyas*.

"7*th*.—The Chief Commissioner himself has never looked on these places with favour. He has had personal experience of their gross abuse. As a magistrate and criminal judge, he has often known them to be the resort of thieves, robbers, and murderers. The whole class of *fakirs* he believes to be a bane to the country.

"8*th*.—The Chief Commissioner, moreover, does not understand how a *takiya* of the character of that in Chamyari could afford to feed travellers; eight rupees per annum would not go far in this way. He believes that the hospitality of the occupant *fakir* is almost always limited to the feeding of his own class, and that he does not do more for other travellers than give them a little water, or perhaps, in especial cases, a few whiffs of his *hukah*. Such being the Chief Commissioner's deliberate opinion, he cannot advocate the release of the land in Chamyari, nor agree to reconsider similar cases of the kind in the Jalandhar Doáb."

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* The word *inám* was used for all grants whether in cash or revenue-free land other than the *lambardars' pachotra* enjoyed by village headmen and *chaudhris* (Financial Commissioner's Circular No. 22 of 1856).

94. The enquiry regarding all service grants and all *jágirs* consisting of one or more estates was carried out by a special officer, Captain Becher. The final orders in these cases were passed by the Governor-General. This, which, politically speaking, was the important part of the investigation, was carried out promptly. The Board ordered that the enquiry concerning the smaller grant should be conducted by District and Settlement Officers, and the work was mainly done by the latter. It proved a lengthy business but was nearly complete, except as regards the frontier districts in 1860. The *jágír* enquiry.

95. It was found that in *jágír* estates there were plots of land for which revenue was paid neither to the *jágírdár* nor to Government. The Chief Commissioner ruled in 1854 that all such tenures should be investigated, and order passed for release or resumption. When any such grant lapses the benefit accrues to the *jágírdár* and not to Government. There are some exceptions to this rule, which will be noticed later on. *Mafis* in *jágír* estates.

96. In the first Panjab Administration Report, which was issued in August 1852, the revenue-free assignments and cash pensions which had been enjoyed under the Sikh Government were classified as follows:— Classification of Sikh grants.

"Section I.—*Service grants* ...	1.	Military.
	2.	Civil.
	3.	Feudal.
	4.	Household.
"Do. II.—*Personal grants* ...	5.	State Pensioners.
	6.	Royal Ladies.
	7.	Family Provision.
	8.	Allowance to influential Landholders.
"Do. III.—*Religious grants* ...	9.	Endowments.
	10.	Charitable.
	11.	"Holy men."

97. The Board described the manner in which they had dealt with the different classes of cases * Treatment of different classes of grants.

"For those grants, which in cash, or in land, are allowed in consideration of long service, the following rules have been adopted:—From twenty-five to thirty years' service, entitles the party to one-fourth of his emoluments; thirty to thirty-five years, to one-third; thirty-five years to forty and upwards, to one-half; but the first named period, *viz.*, twenty-five to thirty years, has generally been diminished to fifteen years, in favour of *jágírdárs*.

* First Panjab Administatiorn Report. Paragraph 4

"In the classified schedule of grants, with regard to classes 1 and 2, namely, grants for Military and Civil service, it will be remembered that previous to annexation these grants were chiefly in lieu of salaries; when the late Darbár troops were disbanded by the British Government some few of the recipients were taken into British employ, and the remainder were pensioned off on the one-fourth, one-third, or one-half the grant, as the case might be. If the grant was found to be a superannuation allowance, it was maintained in full. The same principle obtained with the household grants held by the attendants of the sovereign. The feudal grants (class No. 3) were held by the great barons and the dignitaries of the State. These grants are partly feudal and partly personal. That portion of the grant which was conditional on the furnishing of a contingent would be resumed, and the horsemen would be generally discharged and pensioned under the rules already given. But a portion of the grant was generally an allowance, personal to the feudal chief, and this portion would be maintained to him for life, and a portion to his legitimate male issue in perpetuity, either in virtue of prescriptive possession, or of the grantor's authority, or on special considerations of family influence and antiquity, or of individual character and services. With regard to State pensions (class No. 5), the grants were maintained for life of incumbents subject to diminution after death. In the case of the royal ladies mostly widows of Maharajas Ranjit Singh, Kharak Singh, and Sher Singh, the landed grants were not maintained, but a money commutation for their lives was effected. The family provisions (class No. 7) are allowances to the heirs or relatives of deceased chiefs, soldiers, or servants of the State, granted by our predecessors, and confirmed by ourselves. They are subject to resumption or reduction after demise of recipients. Among the grants which come under the general denomination of personal may be noticed "the *inams*" (class No. 8). This term was, under the Sikh rule, applied to certain deductions made from the revenue of an estate, in favour of some village chief, called a *chaudhri*, who, by local knowledge, aided the revenue officers in ascertaining the resources of the village, and in collecting the taxes and also in the preservation of order and harmony. The agency thus secured, and the influence thus enlisted on the side of the local authorities were important. The grants have been generally maintained during the lifetime of the grantee, upon the condition of general service. In the conducting of the new system of settlement, which chiefly works through popular agency, the *chauahris* have made themselves most useful and their services may, for the future, be turned to good account in the detection and prevention of crime, in the management of disorganized estates, in the arrangements for the public convenience, such as the furnishing of supplies and carriage, repair of roads, and the construction of useful works.

"The endowments mentioned in class No. 9 are both secular and religious, for the support of temples, mosques, places of pilgrimage and devotion, schools, village inns for the reception of travellers, paupers, and strangers, generally of a monastic character. These institutions are ornaments to the villages; they have some architectural pretension, and being embosomed in trees, are often the only shady spots in the neighbourhood. They add much to the comfort of rustic life, and keep alive a spirit of hospitality and piety among the agricultural people. The endowments, though occasionally reduced in amount, have on the whole, been regarded with liberality, and in confirming them the officers have mainly regarded the utility and efficiency of the institution. Such grants, when insignificant in amount, have been maintained even though the original grantor might have been the headman of the village.

"The grants to objects of charity, or to persons of sanctity, have frequently been paid in cash, and in such cases have been brought under the denomination of pension. In regard to the charitable grants, indeed, with regard to all grants the tenor of paragraph 56 of the Government letter has been observed; and the rigour of the rules has been relaxed in favour of parties, who, from 'indigence, infirmity, age, or sex,' might be fitting objects of special indulgence."

98. It is interesting to observe the view taken by Sir John Lawrence a year and-a-half later of the social effects of the policy described above*— Social effects of policy adopted.

"The settlement of the country is by the present date assuming its solid and permanent proportions; the transition is well nigh complete, and the country is becoming the Panjab of the British power. The feudal nobility of Ranjit Singh, the pillars of his State, are tending towards inevitable decay. Their gaudy retinues have disappeared; their city residences are less gay with equipages and visitors; their country seats and villas are comparatively neglected. But the British Government has done all it consistently could to mitigate their reverses, and render their decadence gradual. They receive handsome pensions, or they retain for their lives a moiety of their landed grants. When any of them have been judged to possess hereditary claims, a fair share of their landed fiefs has been guaranteed to them and their posterity in perpetuity. They are treated with considerate respect by the servants of the Government; they swell public processions, and attend at ceremonial *darbars*. The sons of this nobility and of the gentry generally are seeking Government employ, and acquiring a liberal education. Their retainers similarly enjoy the bounty of the Government. The numerous dependents of the late *régime* are also provided for. Not only are the royal widows and their attendants being cared for, but also office-bearers of the Court, the chamberlains, the mace-bearers, the soothsayers, the physicians, the *savans*, the musicians, the men-in-waiting, are all borne on the pension rolls of the British State. All these classes naturally sink into obscurity, and though everything like splendour has vanished, yet it has not been succeeded by poverty; and the multitude, which surrounded and supported the throne of Ranjit Singh and his successors, exists in substantial comfort.

"The priestly classes have also every reason to bless their new masters. The Sikh holy places have been respected. The shrines at Dera Nanak, Amritsar, Tarn Táran, Anandpur, retain a large portion of the endowments which a Sikh Government had lavished on them. Liberality has indeed been extended to all religious characters, even to mendicant friars and village ascetics. These people have been allowed by the thousands to retain their petty landed grants on a life tenure. There is hardly a village mosque, or a rustic temple, or a shaded tomb, of which the service is not supported by a few fields of rent-free cultivation. These classes, though they will not become extinct, will yet greatly fall below their present numbers when the existing generation shall have passed away. In the meantime they are kept contented, and their indirect influence on the mass of the population is enlisted on the side of the Government. * *

"Among the agriculturists the influence of the *chaudhris* is on the decline. They are a species of local chiefs or principal resident gentry, who, under the Sikh *régime*, aided in collecting the revenue, and enjoyed many privileges and immunities. Many of their privileges are maintained to them but, as their services are no longer required, their power is on the wane. The undue power of the headmen also over the village

* Second Panjab Administration Report, paragraphs 496, 497, and 499.

communities has been curtailed, but their legitimate position, as representatives of the brotherhood, has been strengthened and defined. * * "

Grants in perpetuity provided for continuance to "male heirs."

99. In 1852 the Governor-General ruled that when a grant was assigned in perpetuity it lapsed to Government on the failure of legitimate male issue in the line of the original grantee, that is, of the person to whom the British Government had confirmed the grant. Unfortunately, the original orders releasing these *jágírs* provided for their continuance in favour of "male issue" or "male heirs" or "lineal heirs." The fact that this might involve the frittering away among numerous shareholders of a revenue which undivided might have sufficed to uphold the dignity of the head of a great family was either unnoticed or disregarded. The efforts which were subsequently made to correct this mistake concern all large *jágírs* throughout the province, and, before referring to them, it will be convenient to describe the origin and peculiar features of the *jágírs* of the Cis-Sutlej and Delhi territories.

Assignments in Cis-Sutlej States.

History of *jágír* tenures of Cis-Sutlej States peculiar.

100. The *jágír* tenures of the districts formerly known as the Cis-Sutlej States have a history of their own. No better account of their origin can be found than that given by Mr. Kensington in the "Ambala Gazetteer" which is reproduced in the following paragraphs :—

The Sikh conquest.

"The storm burst at last in 1763. The Sikhs of the Manjha country * * * * combined their forces at Sirhind, routed and killed the Afghán Governor Zain Khan, and * * * occupied the whole country to the Jamna without further opposition. 'Tradition still describes how the Sikhs dispersed as soon as the battle was won, and how riding day and night, each horseman would throw his belt and scabbard, his articles of dress and accoutrement, until he was almost naked into successive villages to mark them as his.'* The chiefs hastily divided up among themselves and their followers the whole country to the Jamna, and asserted themselves as rulers of the people. In a very few cases such as those of the Saiyyid Mir of Kotaha and the Raipur and Ramgarh Rajput Sardars of Naraingarh, and the Baidwan Jat Sardars of Kharar, the indigenous leaders of the country were strong enough to hold their own after a fashion, and to assimilate their position to that of their conquerors. Elsewhere the Sikh rule was supreme, and the experience undergone, by the people of the district at the hands of these merciless invaders has left its mark on the country to the present day.

State of country before the chiefs were taken under British protection.

"The history of the next forty years is made up of the endless petty warfare of these independent Sikh chiefs among themselves, except when a common danger banded them to resist the encroachments of the more powerful States of Patiála and Manimájra on the north, and Ládwa, Kaithal, and Thánesar on the south. Each separate family and each group of feudatories strong enough to stand alone, built itself a strong fort as a centre from which it could harry the whole neighbourhood. Many of these are still in existence and a marked feature of the district, recalling the extraordinary lawlessness of a period when literally every man's hand was turned against his brother. No attention was paid to the country by the British Government, which had fixed the Jamna as the furthest limit

* Cunningham's History of the Sikhs, page 110.

for political enterprise, and it is believed that profoundest ignorance prevailed both as to the constitution, the rights, and the political strength of the supposed rulers.

"From 1806 to 1808 the position rapidly changed. On the one hand the Cis-Sutlej chiefs themselves were panic struck at the sudden danger threatened to them by the rise of Ranjit Singh's power from beyond the Sutlej. In the three successive years 1806 to 1808 raids were made by Ranjit Singh in person to Ludhiâna, to Naráingarh, and to Ambala. It was openly announced by him that he intended swallowing up the whole country to the Jamna, and it was realized that one power and one only could prevent his immediate success. On the other hand, the British Government feared a new danger from the north by a combined invasion of the French, the Turks, and the Persians, and it was hastily decided to give up the Jamna as the boundary, and to trust to the new principle of alliance with a strong buffer State at Lahore. At the same time it was recognized that Ranjit Singh was himself a source of danger not to be despised, and, with the Government in this mood in 1808,* an impulse was easily given to the policy of active interference by the arrival at Delhi of a deputation represented by Jind, Patiala, and Kaithal, to invoke assistance for the Cis-Sutlej States. * * * * * It was apparently assumed that the whole territory to the Sutlej was parcelled out among a few leading States of the same character through whom the country could be strongly governed, and the efforts of authorities were aimed at the two-fold object of, on the one hand, securing an effective alliance with Ranjit Singh and on the other, extending British protection to these lesser States ranging from the Jamna to the Sutlej. The overtures were eventually successful, and a definite treaty was made with Ranjit Singh on the 25th April 1809, by which he surrendered his new acquisitions south of the Sutlej,† and bound himself to abstain from further encroachments on the left bank of that river. The treaty was followed up in May 1809, by the celebrated proclamation of Colonel Ochterlony, on behalf of the British Government to the Cis-Sutlej chiefs. This proclamation beginning with the quaint wording that it was clearer than the sun and better proved than the existence of yesterday that the British action was prompted by the chiefs themselves, is given in full * * * at page 122 of 'the Panjab Rajas.' It includes seven short articles only, of which Nos. 1 to 5 are important; Nos. 1 to 3 limited Ranjit Singh's power and declared the Cis-Sutlej chiefs sole owners of their possessions free of money tribute to the British; while Nos. 4 and 5 required them in return on their side to furnish supplies for the army, and to assist the British by arms against enemies from any quarter as occasion might hereafter arise.‡

Cis-Sutlej chiefs taken under British protection in 1809.

Cis-Sutlej chiefsbrought under British protection in 1809.

"It is impossible to read the history of these transactions without seeing that the Government were in reality taking a most important step almost in the dark. Instead of finding the Ambala territory under the control of a few central States, they soon realized that they had given it over for ever to hordes of adventurers with no powers of cohesion, who

State of Cis-Sutlej States not understood when protection was granted.

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* March 1808. The exact date is of some importance.

† There is no mention of this in the treaty, but the rock on which the negotiations nearly foundered was the unwillingness of Ranjit Singh to give up territory Cis-Sutlej acquired after March 1808. He retained the territory conquered up to that date.

‡ The best account of the transactions which resulted in the treaty with Maharaja Ranjit Singh, dated 25th April 1809, and the proclamation to the Cis-Sutlej chiefs dated 3rd May 1809, is contained in Griffin's "Rajas of the Panjab," pages 86—123.

aimed only at mutual aggression, and whose sole idea of government was to grind down the people of the country to the utmost limit of oppression. The first point was easily settled by a sharp reminder given in a supplementary proclamation of 1811,* that every man would have to be content with what he held in 1809, and that the British Government would tolerate no fighting among themselves. It was, however, found that as a fact the so-called Cis-Sutlej Sovereign States were represented, as far as Ambala was concerned, by some thirty petty rulers with estates ranging from 20 to over 100 villages, and by a host of small fraternities comprising many hundreds of the rank and the file among the followers of the original conquerors, who had been quartered over the country with separate villages for their maintenance, and who were all alike now vested with authority as independent rulers by the vague terms of the proclamation of 1809. Published works have nowhere very clearly recognized how sorely the Government repented of its mistake; but there seems no doubt as to the facts; and it is not to be wondered at that Sir David Ochterlony should have privately admitted to the Governor-General in 1818 that the proclamation of 1809 had been based on an erroneous idea. †

Relations of British Government with Cis-Sutlej chiefs and fraternities between 1809 and 1847.

"From 1809 to 1847 persistent efforts were made to enforce good government through the Political Agency at Ambala among the endless semi-independent States. The records of the time bear witness to the hopeless nature of the undertaking. They teem with references to the difficult enquires necessitated by the frequent disputes among the principalities, by their preposterous attempts to evade control, and by acts of extortion and violent crime in their dealings with villages.‡ Year by year Government was driven in self-defence to tighten the reins, and every opportunity was taken to strengthen its hold on the country by enforcing its claims to lapse by escheat on the death without lineal heirs of the possessors of 1809 or their descendants. It was thus that the British districts of Ambala gradually grew up, each successive lapse being made the occasion for regular settlements of the village revenues and the introduction of direct British rule. At the same time Government scrupulously observed the engagements of 1809, and with the exception of the prohibition of internal war by the proclamation of 1811 the powers and privileges of the chiefs remained untouched. Each chief, great and small alike, had within his own territory absolute civil, criminal and fiscal jurisdiction subject only to the general authority of the Agent to the Governor-General. No tribute was taken from them, and, though they were required in the case of war to aid the Government, yet no special contingent was fixed. The right of escheats was the sole return for its protection which the Government demanded. Throughout a long period of peace, during which, while north of the Sutlej every vestige of independence vanished before the encroachments of Ranjit Singh, the Cis-Sutlej chiefs enjoyed a complete immunity from invasion, and retained undiminished rights of sovereignty. After thirty-six years, with the exception of a few States which had lapsed from failure of heirs, each chief still found himself the ruler of the territory which he or his fathers had held at the time when they passed under British protection.

Misconduct of Cis-Sutlej chiefs in 1st Sikh War.

"In 1846-47 a fresh step had to be taken owing to passive obstruction or open hostility on the part of the chiefs when called on to assist the Government with supplies and men during its campaign against the Trans-Sutlej Sikhs in 1845. No occasion had occurred for testing their

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* Pages 127—128 of the "Rajas of the Panjab."

† Cunningham's History of the Sikhs, page 152.

‡ Compare paragraph 60 of "Karnál Gazetteer."

gratitude for the benefits secured to them until the declaration of the 1st Sikh War and the Sutlej Campaign of 1845. But when tested it miserably failed. Throughout the war few of the chiefs displayed their loyalty more conspicuously than by abstaining from open rebellion. Their previous conduct had not been such as to encourage the British Government in its policy towards them. Almost without exception they had abused its indulgence, and made the security of its protection a means of extortion and excess of every kind. There was nothing whatever to admire in the internal management or administration of their estates, as was amply testified by the universal satisfaction with which the peasants of those estates, which from time to time had lapsed, came under direct British management. It has been well said that independence for these Sikh chiefs had no nobler significance than the right to do evil without restraint and to oppress the people who were so unfortunate as to be their subjects. *

Chiefs and fraternities reduced to the position of *jagirdárs*.

"Having thus already lost the confidence of the Government, the Sikh chiefs in the Sutlej Campaign forfeited all claim to consideration. It was seen that the time had arrived for the introduction of sweeping measures of reform; and the Government unhesitatingly resolved upon a reduction of their privileges. Several important measures were at once adopted. The police jurisdiction of most of the chiefs was abolished, the existing system being most unfavourable to the detection and punishment of crime. All transit and customs duties were also abolished; and thirdly, a commutation was accepted for the personal service of the chief and his contingent. The despatch of the Governor-General, embodying this resolution, was dated November 17th, 1846. † The only States exempted were: Patiála, Jind, Nabha, Faridkot, Maler Kotla, Chhachhrauli (Kalsia), Raikot, Buria, ‡ and Mamdot. With these exceptions, the police jurisdiction was made over to European Officers. The Political Agency of Ambala was transformed into a Commissionership, under an officer styled the Commissioner of the Cis-Sutlej States. * * * * * At the same time the more serious offenders in the campaign of 1845 were visited with signal punishment. Their possessions were confiscated to Government. * * * * * * As regards minor chiefs similar severe measures were considered unnecessary, though the majority 'had not shown their loyalty in 1845 in any more conspicuous way than in not joining the enemy,' and for a short time an attempt was made to leave them the unrestricted right of collecting the revenue of their villages in kind as hitherto. It soon, however, became apparent that the chiefs, deprived of their police jurisdiction, were unable to collect their revenue. A proposal was therefore made for a regular settlement of the land revenue. But before final orders had been passed upon this point the 2nd Sikh Campaign commenced. It ended in the annexation of the Panjab, and in the removal of the political reasons which had hitherto complicated the question of the amount of power to be left to the Cis-Sutlej chiefs. In June 1849 it was accordingly declared that, with the exception of the States already mentioned, all the chiefs should 'cease to hold sovereign powers, should lose all criminal, civil, and fiscal jurisdiction, and should be considered as no more than ordinary subjects of the British

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* Griffin's "Rájas of the Panjab," page 200, Ed. II.

† Pages 191—197 of "Rájas of the Panjab."

‡ i.e., Dialgarh. It lapsed in 1851. Mamdot was not brought under protection in 1809. The sovereign powers of the Nawáb were taken away in 1856 on account of mis-government, and the *jagir* is held under the terms of a *sanad* granted in 1864 (Aitchison's "Treaties, Engagements and Sanads", Volume IX, pages 65 and 199).

Government in the possession of certain exceptional privileges'.* The revenues were still to be theirs, but were to be assessed by British Officers and under British rules. * * * * * * The final step necessitated by the march of events was taken in 1852, when the revenue settlement begun for British villages in 1847 was extended to the villages of the chiefs. Thereafter the chiefs have ceased to retain any relics of their former power. * * * * * They have sunk to the position of *jagirdars*, but as such retain a right to the revenue assigned to them in perpetuity."

Commutation for military service.

101. The commutation for the military service required by the 5th clause of the Proclamation of 3rd May 1809 was fixed at Rs. 16 per mensem for every horseman, and Rs. 6 per mensem for every footman. This, however, was changed in 1852† into a drawback of 2 annas per rupee of revenue in *jágír* estates. This is the general rate, but in some cases 4 annas and 8 annas are taken, and in a few *jágirs* the commutation was reduced to one anna on account of service rendered in the Mutiny.

Peculiar status of Cis-Sutlej *jágírdárs*.

102. The *jágírs* in the Cis-Sutlej States are not the gift of the British Government, as are those in the part of the Panjab which was annexed after the 2nd Sikh War. Nor do they stand on the same footing as the conquest *jágirs* in the tract between the Bias and the Sutlej, the holders of which are descendants of men whether originally independent or not, were subjects of the Rájas of Lahore before they came under British rule. But the Sikhs in the Cis-Sutlej States whom we transformed into *jágirdárs* in 1847, however petty their individual holdings might be, were in theory, and to a large extent in practice, independent rulers, whose ancestors had come under our protection in 1809 with a guarantee that they would "remain in the exercise of the same rights and authority" which they had hitherto enjoyed. It was indeed proposed in 1846 after the 1st Sikh War to declare all the estates forfeit on account of the laches of their holders, and to re-grant them under *sanads* from the British Government. But Lord Hardinge deemed it impolitic to proclaim to all India the misconduct of the Cis-Sutlej Chiefs and negatived the proposal. In a sense then the Cis-Sutlej *jágírdárs* great and small, are mediatized rulers, and little though they have as a body deserved at our hands, this fact should not be lost sight of in our dealings with them.

Classification of Cis-Sutlej *jágírs*.

103. Their *jágírs* are of three classes—

(*a*) Large estates.
(*b*) *Pattidári jágírs*.
(*c*) *Zaildári jágírs*.

There is no difficulty as to the general meaning of these terms, though questions have arisen as to whether a particular *jágír* should be put in the second or third class, and no authoritative list of large estates has ever been drawn up.‡

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* Griffin's "Rájas of the Panjab," page 199.

† Government of India's letter No. 1407, dated 7th May 1852. In the case of the trans-Sutlej conquest *jágírs* the rate was fixed at 4 annas.

‡ The list of "major *jágírs*" appended to the "Ambala Gazetteer" cannot be accepted as an authoritative list of "large estates" in that district. In deed it includes one Mutiny grant. The list of *pattidári jágírs* in the same volume includes *zaildári jágírs* which were subordinate to a major *jágír* which has lapsed

104. Large estates are *jágírs* possessed by individual Sardars or their descendants and including a larger or smaller number of villages. The *pattidári* and *zaildári jágírs* are held by fraternities consisting of the descendants of bodies of horsemen who overran the country when it was first conquered, or who were called in later to help the original conquerors to hold it. These fraternities divided amongst themselves the villages which they seized in horsemen's shares.

Meaning of large estates, *pattidári jágírs, and zaildári jágírs.*

Where they maintained or acquired a position independent of the great Sardars their tenures are known as *pattidári jágírs*. Where their holdings were subordinate to those of the Sardars, who claimed the right to lapses of heirless shares, they were called *zaildári jágírs*.

105. The best source of information as to the rules governing the succession to the estates acquired by the Sikh conquerors of the Cis-Sutlej territory before we reduced them to the status of *jagirdars* is Mr. (now Sir) Lepel Griffin's "Law of Inheritance to Chiefships as observed by the Sikhs previous to the Annexation of the Panjab" published in 1869. In the stormy years before 1809 individual ambitions sometimes made short work of hereditary titles. But the conclusion to be drawn from the facts which Sir Lepel Griffin recorded is that the real rule of succession was identical with that prescribed by the customary law regulating the descent of landed property in the Panjab. It was but natural that peasants who suddenly found themselves princes should apply to their conquests the only law of inheritance with which they were familiar. It is noteworthy how often between the date of conquest and 1847 the title of a sonless widow to succeed to the enjoyment of wide possessions and authority was admitted, when the right was overridden this was frequently managed in a perfectly legal way still customary throughout large parts of the Panjab by means of a *karewa* marriage between the widow and her deceased husband's brother. Information regarding customary law was much more meagre when Sir Lepel Griffin wrote than it is now. Had it been otherwise he would probably have modified many of the expressions and some of the conclusions in his book, and distinguished more clearly between successions which took place before the date of protection and those afterwards enforced by the conflicting decisions of our Political Officers. Definite rules have been made to regulate the succession to *pattidári* and *zaildári jágírs*, but "The Law of Inheritance to Chiefships" can still be profitably referred to when questions arise as to the descent of "large estates."

Customary law regulating the succession to tenures of Cis-Sutlej chiefs before 1851.

106. The *pattidári jágír* rules will first be explained, and the matters in which the tenures of zaildars and of the holders of "large estates" differ from that of *pattidárs* will then be noticed.

Pattidári jágír rules to be first described.

107. In 1851 the Government of India laid down the three following rules to regulate successions to horsemen's shares in *pattidári jágírs**:—

Succession *pattidári jágír.*

(1) That no widow shall succeed,

* Government of India, No. 461, dated 12th February 1851.

(2) that no descendants in the female line shall inherit,

(3) that on failure of a direct male heir, a collateral male heir may succeed if the common ancestor of the deceased and the collateral claimant was in possession of the share at or since the period 1808-09 when our connection with the Cis-Sutlej territory first commenced.

Existing holders not entitled under the rules to retain possession for their lives, if males, and to receive pensions, if females.

Lord Dalhousie added "Though the rule now laid down may be at variance with the course which has been actually taken in many cases, the Governor-General would by no means disturb the decisions which have been given. All parties who have received possession from a British Officer should retain it for their lives, except females, who should receive pensions instead." This referred to a proposal by the Board that widows and daughters should be given money pensions, not exceeding half their husband's or father's share. In 1853 the Government of India decided that a title in perpetuity could not be acquired through females, but that males who had inherited through females would be left in possession of their shares for life. *

Rules not applicable to part of Cis-Sutlej territory annexed after the 1st Sikh War.

108. The rules do not apply to the conquests on the right bank of the Sutlej made by Maharaja Ranjit Singh, or his dependent Fatteh Singh, Ahluwalia, of Kapurthala, before March 1808, which they retained after the treaty of 25th April 1809 was made. These were annexed after the first Sikh War, and presumably the rules referred to in paragraph 87 apply to them as well as to conquest *jágírs* in the tract between the Bias and the Sutlej which was ceded by the Lahore Darbar at the same time.†

Remarks on the rules.

109. The first of the rules of 1851 was seemingly not in accordance with custom, which would have given a sonless widow a life interest in her husband's share. But, if any injustice was done, it was redressed by the Board of Directors, who in 1854 ordered that widows who had been dispossessed should have their pensions raised so as to equal in value the *jágírs* which they had lost, and that widows still in possession should not be disturbed unless they agreed to take pensions in lieu of their *jágírs*. ‡ The second rule is quite consonant with customary law. It appears that political officers had in some cases contrary to that law recognised the succession of daughters and daughter's sons. The third rule was that proposed by two of the three members of the Board—Sir John Lawrence and Mr. Mansel. The President, Sir Henry Lawrence, preferred the principle which had been followed in deciding the succession to the large estates of Jind and Kaithal, namely, that, without any reference to the state of possession in 1808-09, a male descendant of the first conqueror or occupant should inherit all that had been acquired by the head of the family before the collateral branch split off from the main stock and became master of a separate estate.

Family custom upheld when not inconsistent with the rules.

110. Family custom is upheld as regards succession when it does not conflict with these rules. The custom regulating division

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* Government of India, No. 908, dated 10th February 1853.

† See however as to the Mamdot *jágír* note to paragraph 100.

‡ Despatch No. 36, dated 23rd August 1854.

between sons by different mothers known as *chundavand** will, for example, be followed where it is shown to prevail in the particular family concerned.

Subsidiary rules sanctioned in 1852.

111. As the enquiry proceeded it became evident that the three rules sanctioned in 1851 did not completely cover the ground; and eight subsidiary rules proposed by Mr. Edmonstone, the Commissioner of the Cis-Sutlej States, were sanctioned by the Board in 1852. † These are reproduced in Appendix III to Barkley's Directions for Settlement Officers. It is only necessary to quote four of them here—

(*a*) That a specific order of Government, even though opposed to the principles and rules now prescribed, shall avail in favour of the party concerned and his lineal male heirs.

(*b*) That the official and recorded declaration of the Political Agent as to the person in possession in 1808-09 shall be accepted without question and succession continued accordingly.

(*c*) That alienations by a *jagirdar* or *pattidar* of portions of his holding, whether to his relations or strangers, shall neither be officially recognized nor officially recorded.

(*d*) That one or more sons of a common ancestor in 1808-09 being entitled to the whole share possessed by such common ancestor shall be held and be declared responsible for the maintenance of widows left by deceased brothers, who, had they lived, would have shared with such son or sons.

Investigation of *pattidári jágírs* at 1st Regular Settlement of Cis-Sutlej States.

112. To ensure the carrying out of the third of Lord Dalhousie's rules, the Settlement Officer of the Cis-Sutlej States was ordered to investigate the state of possession in 1808-09 and to draw up a genealogical tree of every family in occupation of a share of a *pattidári jágír*, tracing the descent of existing holders from the persons in possession at that period. "Family," when used in connection with a Cis-Sutlej *jágír* means a group consisting of the male descendants of the holder of the *jágír* in 1808-09.

Revision of *jágír* register of Ambala and Karnal at Revised Settlements.

113. At the Revised Settlements of Ambala and tahsils Thanesar and Kaithal and pargana Indri of Karnál, made by Mr. Kensington and Mr. Douie, the *jágír* registers of these two districts were scrutinized, and new registers in a more compact and convenient form were drawn up. These include all the three classes of Cis-Sutlej *jágírs*. The conditions of each *jágír* with a reference to the order determining them, and the rate of the commutation paid to Government were noted. A genealogical tree of each family showing all existing descendants of the person in possession in 1808-09 or other date which determines the right of succession, and a list giving the name of each of the shareholders of 1888, with the fraction

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* For explanation of the methods of division between sons known respectively as *chundavand* and *pagvand* or *bhaiband*, see Glossary.

† Board's letter No. 207, dated 21st January 1852.

representing his share and the value of that fraction in money, are included in the new registers, and a simple method of regarding successions and lapses has been provided. The rule of succession followed where there are sons by two or more wives will be found recorded in the registers.

Rules regarding *zaildari jágírs.*

114. As already indicated, the only real difference between a *pattidári* and a *zaildári jágír* is that lapses in the former benefit Government, while lapses in the latter accrue to the holder of a "large estate." It was ruled in 1852 at Mr. Edmonstone's suggestion—

(*a*) That the enquiry then being made into *pattidárs' jágír* tenures should not extend to the possessions of the *zaildárs* or dependents of an individual Sardar, during the life-time of such Sardar.

(*b*) That on the estate of that Sardar lapsing, the possession of his *zaildárs* should be enquired into, ascertained, and recorded, and that from and after the date of the lapse of the Sardar's estate, lapses of the *zaildárs'* shares and successions to the same should follow the 1st and 2nd of the rules prescribed by the orders of Government, No. 461, dated 12th February 1851.

Meaning of the 2nd rule.

115. The wording of the 2nd of these rules is not very explicit, but it seems clear that Mr. Edmonstone's meaning was that in the case of *zaildári jágírs* dependent on a "large estate," the enquiry should only go back to possession as it stood at the time when the "large estate" lapsed, and extend to successions which had taken place since. This was the course actually adopted in the case of the *zaildárs* of the Dialgarh State which lapsed about the time when Mr. Edmonstone made his proposals. They were given the status of 1852. The intention of the rule was either overlooked or misunderstood, for at the first regular Settlements of Ambala and Thanesar the *zaildárs* of several lapsed estates were given the status of 1808-09, and it has been decided that the orders then passed shall not be disturbed.*

Status of 1847 given to *zaildárs* of large estates in existence in 1854.

116. In 1854 the Chief Commissioner at the suggestion of Mr. Edmonstone, who had become Financial Commissioner, modified the two rules relating to *zaildári* tenures quoted above and decided that 1847, the year in which the Sardars were deprived of their sovereign powers, should be assumed as the basis of adjudication in all disputes between *jagirdárs* and *zaildárs* as to the shares of the latter. It is clear from the correspondence which took place at the time that the reason for taking the date 1847 instead of 1809 was

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* Paragraph 92 of Karnal-Ambala Settlement Report. While certain *zaildári jágírs* were accidentally given the status of 1808-09, the *pattidári* tenures of the *chaharami jagirdars* of Kharar and of the *jagirdars* of Talakaur in Jagadhri were originally only accorded the status of 1852 and 1853, respectively. This has, however, been rectified. For the history of the *chaharami jagirdars* of Kharar see "Rajas of the Panjab," pages 200—207 and paragraph 132 of Mr. Kensington's Settlement Report of Ambala. For the Talakaur *jagirdars* see paragraph 93 of Karnal-Ambala Settlement Report.

to protect the *zaildárs* from harsh claims on the part of the Sardars. It was felt that endless disputes and claims would arise if the status of 1808-09 were taken as defining the tenure of the former. It was soon seen that the new rule cut both ways and would in the future be prejudicial to the *zaildárs*, and in 1856 the Commissioner of the Cis-Sutlej States tried to have the rule modified, but without success. All *zaildárs* of "large estates" still in existence in 1854 have therefore the status of 1847.*

Peculiar rules regulating succession in case of *jágirs* of Mahraj in Ferozepore.

117. The numerous peasant *jagirdars* of Mahraj and Bhucho in Ferozepore, who claim kinship with the great Phulkian houses, own their *jágír* holdings and have peculiar rules of their own. Government has given up its right to lapses in consideration of a petty increase in the rate of commutation payable, and succession follows the law of inheritance applicable to the landed estate. Hence widows enjoy their husband's shares so long as they refrain from a second marriage.

No absolute rule prescribed to regulate succession in "large estates."

118. In the orders passed in 1851 Lord Dalhousie stated that he did "not see any necessity for establishing an absolute rule in the case of 'large estates.' Each case may without any difficulty and with great advantage be determined upon its own merits as it arises. His Lordship would, however, remark generally that consideration of the custom of families should have a preponderating influence in the decision of such cases." Such estates were therefore excluded from the enquiry which the Settlement Officer was directed to make regarding *pattidári jágirs*, and the Board ordered that each demise should be reported with a statement of the custom of the family.

Meaning of "large estate."

119. Some difficulty was felt in determining what was and what was not a "large estate." Mr. Edmonstone wrote to the Board :—

"I presume that the term "large estate" was meant to comprehend such estates as Buria, Shahzadpur, Manimajra, Sialba, and others, which are held not by fraternities of *pattidárs*, as the *pattidárs* of Bilaspur, Sadhara, Thirwa, Ambala, and Boh, for instance, infractional horsemen's shares but by an individual Sardar, as the Sardar of Buria, or by the descendants of one or more Sardars, as the Singhpurias. I find it difficult to propose any defination of the term "large estates," and am compelled therefore to exemplify my meaning. If the Board concur with me in thinking that the term is not exclusively applicable to the nine sovereign states, it might be sufficient to declare generally that the orders communicated with your letter above referred to are applicable only to estates which are held by fraternities of *pattidárs*, and in which the distribution of the holding according to horsemen's shares is recognized, leaving any cases which may admit of doubt after the declaration of this principle to be specially reported. Under this rule, the estates of Buria and Raipur, in regard to both of which I have received separate references from Mr. Wynyard, would be considered "large estates," and exempt from enquiry into the status of 1808-09."

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* Paragraph 90 of Karnal-Ambala Settlement Report.

The Board accepted as correct Mr. Edmonstone's view.

Status of 1808-09 how far applicable in case of "large estates."

120. It is stated in Mr. Barkley's Directions to Settlement Officers :—

"In practice the status of 1808-09 though not absolutely prescribed for guidance by Government, has almost invariably been referred to as governing claims of collaterals to succeed to large estates, the custom of the family being referred to only to determine whether the estate should descend integrally or be divided among the nearest heirs, either in equal or unequal shares, what provision should be made for widows, and other points of the like nature."

Few precedents available.

121. As early as 1859 we find the Commissioner of the Cis-Sutlej States in a letter dealing specially with large estates writing that "we have taken the status of 1809 A. D., and have declared all *jágírs* separately held at that date as separate fiefs inheritable only in a direct male line." But it seems doubtful if the question whether the status of 1808-09 does or does not govern succession to large estates has often been discussed. Very few "large estates" have lapsed in default of "direct heirs," though it is notorious that in some cases the present *jagirdars* are unrelated either to the original conqueror or to the Sardar in possession in 1808-09. No shame has been felt in foisting on Government suppositious heirs when the succession to a *jágír* was endangered by want of issue.

Date to be adopted in deciding question who was in possession in 1808-09.

122. No question is likely to arise in the case of *pattidari jáyírs* as to the exact date referred to in the phrase "the status of 1808-09." The record of the persons in possession in 1808-09 made at the first regular settlement would be treated as finally deciding from whom a claimant must trace descent in order to inherit a share. But large estates were exempted from enquiry in 1851, and if the status of 1808-09 is taken as determining the succession to a large estate, it may be necessary to decide who was in possession at a particular date in the period loosely described as 1808-09. In such a case the best date to adopt is March 1808, that being the month in which some of the principal Cis-Sutlej chiefs formally applied for the protection of the British Government.

Family custom governs succession in case of "large estates."

123. In dealing with the succession to a "large estate," Lord Dalhousie directed that special attention should be given to family custom. Primogeniture will be followed where it is the established custom, as it is in the case of the Pathan Nawabs of Kunjpura and in the Rajput *jagirdar* family of Raipur. It is probable that among Jat or Khatri Sikh *jagirdars*, no family will be found in which primogeniture is really customary. But in some families it is undoubtedly the rule to give a particular son a share larger than that allotted to his brethren under the name of Sardari to mark the fact that he is the head of the family. Where any such custom is shown to prevail, it should be enforced.

The issue of a *vyah* or sacramental marriage with a virgin, and of a *karewa* or informal marriage by *chadar andázi* with a widow, are equally legitimate, and when the rule of division between sons prevails stand on the same footing. It was ruled in the case of the Kheri *jágír* in Ludhiána that legitimate sons would always

exclude illegitimate in the succession to "large estates."* Whether illegitimacy as we understand the term is a bar to succession when there is no legitimate offspring is a question to be decided if possible by the custom of the family concerned. The sons of handmaids (*khwas*†) have succeeded to independent Rajput chiefships in the absence of children by wedded wives, and if a similar custom is pleaded in connection with any Cis-Sutlej *jagir*, the claim cannot be set aside at once as preposterous, for the customs of Jats of the Panjab as regards marriage and legitimacy resemble those of a primitive Eastern Society as depicted in the books of Genesis and Ruth rather than the law of European countries. In the case of the Sohána *jagír*, which belongs to a Jat Sikh family indigenous to the Ambala district, it was lately held that the Sardar's son by a Jat widow of good family living in his house and whom he could have espoused, but with whom no ceremony of *chadar andázi* had been performed, as entitled to inherit. The reason given was that a similar case had occurred in the family years before. The issue of an adulterous connection with a married woman would of course be excluded.

Maintenance to widows and others.

124. The amount of the maintenance to be given to widows of deceased holders should be decided mainly with reference to past practice, and this also applies to the allowances to male members of a family in which primogeniture has been established by custom or agreement.

Jagirs shared by Jat Sikhs from the Manjha and influential local chiefs or families.

125. When the Sikhs overran the country between the Sutlej and the Jamna, they found some chiefs and families who were too strong to be dispossessed. Hence we find among the Cis-Sutlej *jágírs* some large estates held by Rajputs like the Raos of Raipur or Pathans like the Nawab of Kunjpura. Some influential families were conciliated by being allowed to retain a share of the revenues of conquered villages. A case of the kind is that of the *chaudhrís* of Kharar who have a seventh share of the revenue of 42 estates. They were put on the same footing as regards lapses and commutation as other Cis-Sutlej *jagírdars* except that the succession was limited to heirs male of the person in possession in 1853, when the above orders were passed. In the same way in the Jagadhri tahsil of Ambala a Rajput family has a share in the Leda *jágír*, and the Afgháns of Khizrabad divide the revenues of eleven British and some Kalsia villages with Jat Sikhs and have always been treated as ordinary *jagírdars*.

Chaharami tenures in tahsil Thanesar of the Karnal district.

126. There is a strong analogy between these mixed *jagírs* and the *chaharmi* tenures in the Thanesar tahsil of Karnál described in the 96th paragraph of the Karnal-Ambala Settlement Report. But they have not been treated in quite the same way. The *chaharami khwas* are for the most part full owners or have superior proprietary rights in the lands of which they enjoy a share, usually

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* Panjab Government No. 766, dated 23rd June 1860.

† Such sons are known in the hills as *sartora*. In 1893 the succession of a *sartora* son to the Wazíri Rupi *jagir* in Kulu was sanctioned, the opportunity being taken of modifying the conditions on which the *jagír* was held.

half, but sometimes one-fourth or one-fifth of the land revenue.* The shares are often extremely small, and lands subject to the *chaharami* right have not infrequently been sold or mortgaged, the *chaharami* passing with the land to the transferee. No final decision as to these tenures was arrived at at the first regular settlement, and the conditions on which these peculiar assignments are held were only finally settled in 1889. There was, it was allowed, no real analogy between *chaharmis* and *zaildari jagirs* but Sir James Lyall considered that it had been the intention of the Settlement Officer at the first regular settlement to treat them as on the same footing. He accordingly gave the following ruling:—

"According to this view the *chaharami* holdings in each village will be treated as *zaildari* holdings created by the original Sikh *jagirdar* conquerors of the village; and so long as in each village a part of the Sikh *jagir* remains unresumed so long these holdings will not be resumed. Whenever in any village the whole of the Sikh *jagir* has lapsed the whole of the *chaharami* grants will be resumed at once. Till then, in accordance with the analogy of Rule 12 (V) of the supplementary rules for *jagirdars* alienations will not be treated as a good ground for resuming part of a *chaharami* grant."

The contingency of the whole of the shares held by Sikh *jagirdars* in the *chaharami* estates lapsing is probably a very remote one, but it may be pointed out that it is not a feature of the *zaildari* tenure that the shares of *zaildars* should lapse to Government when the major *jagir* escheats of which they are dependents.

Mafis in Cis-Sutlej *khalsa* estates.

127. Ordinary *mafis* in *khálsa* estates in the Cis-Sutlej territory are governed by the same rules as those in the Panjab proper. The case of *mafis* in *jagir* and shared estates will be noticed later.

Assignments in Delhi territory.

Mr. Barkley's remarks on assignments in the Delhi territory.

128. It is stated in Mr. Barkley's Directions for Settlement Officers† published in 1875 that "investigations in the portions of the (province) which were formerly under the Government of the North-Western Provinces, made prior to their annexation to the Panjab, took place under the Regulations XXXI and XXXVI of 1803, and tenures released in perpetuity under these regulations descend by the ordinary law of inheritance and are transferable. Where any limitation was imposed by the terms of the grant either upon the succession or upon the right to transfer the tenure, this of course does not apply, and the Panjab rules are applicable to the fullest extent to grants made after 1857." This statement of the case requires some amplification and correction.

Regulations XXXI and XXXVI of 1803.

129. Regulation XXXI of 1803 declared what grants other than "royal" or "*bádshahi*" grants should be considered valid in the "ceded provinces," and provided for their registration and for adjudication upon them in the Courts of law. Regulation XXXVI of

* *Chaharami* properly means the right to one-fourth of the produce of the land, or to one-half of the "ruler's share," it being assumed that a chief was entitled to take one-half of the produce of the soil.

† Paragraph 4 of Appendix III.

1803 enacted similar provisions for "royal grants" *i.e.*, "all grants made by the supreme power for the time being." The full definition of royal grants includes assignments made by several authorities who were only nominally subject to the Delhi Emperor, but probably all "royal grants" in the Delhi territory emanated direct from the Emperor or from Daulat Rao, Sindhia, or one of "his predecessors in authority" as Mayor of the palace.*

Assignments confirmed under the Regulations regarded as private property and therefore transferable.

130. The theory of the nature of a land revenue assignment embodied in these two regulations is wholly opposed to that which has always been held regarding such grants in the Panjab. They were looked upon as private property which could be transferred from hand to hand. Revenue-free tenures were classed as "hereditary" *i.e.*, perpetuity grants, and "life" grants. "Hereditary" grants were transferable by gift, sale, or otherwise, but in the case of life grants the only alienation permitted was a mortgage of the revenue for the life of the grantee.† It is needless to describe what under these regulations were declared to be sufficient grounds for accepting a claim to hold land revenue-free. It is enough to note that assignments of land not exceeding 10 bighas‡ in extent and "*bona fide* appropriated as an endowment for temples or for other religious or charitable purposes" were put on a specially favourable footing in this respect. Certain unfamiliar terms which are met with in discussions regarding assignments in the Delhi territory, *altamgha, aima, madad m'ash, taiul,* are explained in the glossary.§

The Regulation law not strictly applicable to the Delhi territory.

131. The Delhi territory formed no part of the "ceded provinces", which came under British rule in 1801 and to which the above regulations alone applied. It was part of the "conquered provinces" annexed after the battle of Laswari in 1803. Regulation VIII of 1805, which extended these and other regulations to the "conquered provinces" excepted the Delhi territory from their operation. But Regulation V of 1832 which abolished the office of Resident at Delhi and annexed the Delhi territory to the jurisdiction of the Sadr Board and Courts of Justice at Allahabad enjoined the Commissioner of Delhi and all officers under his control ordinarily to "conform to the principles and spirit of the regulations" in their civil, criminal, and revenue administration. In 1838 and 1841 the Sadr Board issued orders regarding the investigation of revenue-free tenures, which were not in exact accordance with the regulation law. ‖

Orders passed in 1880.

132. The question of the conditions on which assignments in the Delhi territory made before its annexation to the Panjab was carefully gone into in connection with the revenue-free tenures of tahsil

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*Section II of Regulation XXXVI of 1803.
Section XXIV of Regulation VIII of 1805.

† Section II (6) of Regulations XXXI and XXXVI of 1803.
Section XV of Regulations XXXI and XXXVI of 1803.

‡ The *bigha* referred to is the *shahjahani bigha* which is equal to ⅝ths of an acre.

§ In the Delhi territory a revenue-free tenure is popularly known as "*milk*," and the assignee as *milki*.

‖ Letter No. 46, dated 28th August 1838, from the Sadr Board of Revenue to the Commissioner of Delhi.

Sadr Board's Circular G., dated 30th November 1841. (Reprinted in Panjab Government Revenue Proceeding No. 2 of November 1880).

Pánipat and pargana Karnál of the Karnál district, a report on which was furnished by Mr. Ibbetson in 1880.* It was then held—

(*a*) that the regulations were never actually in force in the Delhi territory. While, therefore, any orders which the revenue authorities of the day passed in accordance with the regulation law, should be upheld, Government was also free to maintain orders, if any, passed by them in special cases which were not in accordance with that law;

(*b*) that "hereditary" grants were alienable, as similar grants under the regulation law were, but that they lapsed to Government on entire failure of heirs of the original grantee notwithstanding any intermediate alienation;

(*c*) that the condition "continued until further orders" found to be attached to some of the assignments was analogous to the condition "during the pleasure of Government" common in the case of grants in the Panjab. It was not equivalent to a grant in perpetuity, though the contingency of the grant being really a perpetual one was not definitely excluded as in the case of an order sanctioning an assignment "during the pleasure of Government," which implies an absolute decision that a perpetuity title has not been made out;

(*d*) that it was the intention that orders passed by a Settlement Officer confirming assignments of less than 10 bighas as an endowment for temples or other religious or charitable purposes should be final, and that the assignments should be released in perpetuity;

(*e*) that the Board of Revenue of the North-Western Provinces had no power to sanction release in perpetuity. Where an order of the Board is the only sanction for such a release, the confirmation of the Panjab Government is required. Final sanction not having been given in the case of such assignments before 1858, they are not transferable.

Succession to perpetuity grants.

133. Being regarded as private property assignments made before 1858 in the Delhi territory descend by the rule of inheritance applicable to landed estates to which the grantee's family is subject. Any express condition of a grant, however, which conflicted with this rule, would prevail.

***Istamrar* grants.**

134. The revenue-free tenure known as *istamrar* is not wholly confined to the Delhi territory.† But as the large Mandal grant in connection with which the incidents of this tenure have been chiefly discussed is situated in the Karnal district, it will be well to explain the term here. An *istamrar* is simply an assignment for life or perpetuity of the right to receive the revenue of a tract of land subject to the obligation to pay to Government of a lump sum of

* This report and the correspondence connected with it will be found in Panjab Government Revenue Proceedings No. 2 for November 1880, which should be referred to by any one requiring further information on assignments in the Delhi territory.

† The Khattak Nawab of Teri holds a large tract in the Kohat district in *istamrar*.

money year by year. This sum is sometimes loosely described as a quit rent. It is really a *nazráná* of fixed amount. The *istamrardár* may also be sole proprietor or may have the right of a superior owner or *talukdar* in the assigned tract. But whatever may have been the real origin of any such rights which he may possess, they are under our revenue system viewed as something entirely apart from the *istamrár*. Except as regards cesses imposed in addition to the land revenue, Government neither gains nor loses by the re-assessment of estates held on an *istamrár* tenure, and any losses due to remissions fall on the *istamrárdár*.

Sukhlambari grants in Hissar.

135. The *sukhlambari* grants in the Hissár district are grants of land revenue-free for three generations made to troopers and officers of regiments of irregular cavalry disbanded after the conclusion of the Pindari Campaign in 1818 or 1819. As revenue-free assignments they are now nearly extinct, and are only interesting as an early experiment in the colonization of waste lands.*

Inams of Biloch tumandars.

136. The history of the *jagirs* or *inams* of the Biloch *tumandars* of the Dera Ghazi Khan district present some peculiar features and is also deserving of notice on account of the emphatic way in which the principle that *jagirs* involve an obligation of service has been asserted and enforced. An excellent account of it is given in the 98th paragraph of Mr. Diack's Settlement Report from which the following extracts are taken :—

"The greater part of the assigned land revenue is enjoyed by the chiefs of Biloch tribes, and is well repaid by the important administrative and magisterial functions which they discharge. It was not until the last settlement that any considerable amount of revenue was assigned to them. From annexation up till then they occupied the position of *mustajirs*, that is to say they collected in kind from their tribes the share of the produce, varying from one-seventh to one-third, which was under native rule taken by Government and they paid into the treasury the cash land revenue assessed upon the villages of their tribe. At the regular settlement of the district it was decided that assignments of land revenue should take the place of the profits which, owing to mild cash assessment, increase of cultivation, and rise of prices, they derived from this arrangement. The cash value of the assignment to each chief was fixed with reference to his previous income from this source, to his expectations, and to his responsibilities. But although the value of the assignment was calculated in cash, the power of collecting in kind was not withdrawn but was merely limited to selected villages, whose cash assessments made up the sanctioned amount of the chief's *inám*. The power of collecting assigned revenue in kind was legalized by Frontier Regulation No. VII of 1874. The custom of collecting in kind had fallen into abeyance in two tribes, those of the Kasránis and the Khosás, and was not revived in the former tribe, but was in the latter to the extent of one-fourth of the revenue. The share of the produce to be taken by the

* For details see paragraphs 259—261 of Mr. Wilson's Sirsa Settlement Report and Hissar Gazeteer pp. 160,161.

chief was to be fixed so as not to exceed that portion of the produce which might be deemed fairly to represent the Government demand.

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All the grants were conditional upon good and loyal service to be rendered by the *tumandárs* on occasions of importance whenever called upon by the district officer, and in connection with this condition it was stipulated that *sowars* should be supplied by each chief to ascertain value, the *sowar's* pay being fixed at 4 annas a day, any *sowars* required in addition to the number making up the fixed value to be paid by Government. The assignments were made for term of settlement and subject to reconsideration on its expiration. The grants have had an excellent effect in improving the condition of the chiefs and through them of their tribes which are generally in excellent control, and there was no question at this settlement of discontinuing the allowances to the chiefs. The working of the system by which they are allowed power to collect in kind was however considered very carefully with reference to the provision which had been made at the regular settlement, that the power would be enjoyed only during the pleasure of Government, and would be liable to be withdrawn should such a course be deemed to be expedient. The conclusion arrived at was that the system should be continued except in the Khosa tribe.*

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The decision to continue the privilege in the case of the other chiefs who had hitherto enjoyed it, necessitated a reconsideration of the cash value of the *inams*, for in villages which have improved during the period of the late settlement the share of the produce taken by the *tumandár* is the equivalent of the cash assessment as now enhanced, and, while the amount received by the *tumandars* is the same as in recent years, his *inam* expressed in terms of the Government cash revenue is greater than it was."

In sanctioning the *inams* for the term of the new settlement the supreme Government remarked—†

"The Government of India cordially endorse the views of the Lieutenant-Governor as to the importance of maintaining the position and influence of these chiefs. * * * * The *inams* are subject to the same conditions of loyalty and service as heretofore. * * * * * The Government of India entirely concur in the decision * * * to permit collections in kind to continue, in all cases (except that of the Khosa *inam*), in which they had hitherto been authorized. It is very important in the interests of good administration on this part of the border to prevent, as far as possible, any weakening of the tie between the *tumandar* and his tribesmen."

"*Kasurs*" in Dera Ghazi Khan.

137. The "*Kasur*" assignments of the Dera Ghazi Khan district are identical in origin with the "*Chaharams*" referred to in paragraph 82. The principal "*kasurs*" are in the territory held by the Mazari tribe, about half the revenue of which is released in this form.

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* Panjab Government letter No. 40, dated 5th March 1897.

† Government of India Foreign Department, No. 2847 F., dated 31st October 1899

"They are held by the family of the Chief of the Mazari tribe of Biloches and by the other leading families of the Balachni section of the tribe, to which section the Chief belongs. Those Balachanis hold among them assignments of land revenue in all the villages of the Mazari country, though they are not landowners in all of them. Most of the assignments are of half the Government share of the produce, though some are of a smaller fraction, and it is from their being of a fractional nature that they have derived the name *kasur* (the Arabic plural of *kasr*), by which they are locally known. They appear to have been granted from time to time by the rulers who established their authority in this neigbourhood—the Nahrs of Sitpur, the Makhdûms who succeeded them, and the Amirs of Sindh—and were a proof of the strength and turbulence of the tribe and the weakness of the rulers' control."*

The principal *kasurs* were continued for the term of the revised settlement by Government of India, Revenue and Agricultural Department, No. 21663=290=2, dated 31st October 1900.

Military reward grants.

138 A very common way of rewarding native officers for distinguished war services has been to give them grants of Government waste land revenue free for a certain number of years, with a promise of ownership when the lands had been brought under cultivation. Many such grants were made in the Panjab. Owing to the diminution in the area available it was decided in 1888 that they should be limited to a fixed number yearly, and at the same time the terms on which they should be held were laid down as follows :—

(*a*) the land to be held revenue-free for the first two years, on a light assessment, together with *malikana* for the next three years, and thereafter at a full assessment ;

(*b*) canal rates and cesses to be paid in full by the grantee from the beginning of the lease ;

(*c*) the grant to be leasehold for the first ten years, and proprietary right to be given after the end of that term, if the land has been properly brought under cultivation, and the grantee has made good use of his grant.†

Jagirs may be substituted for grants of waste land.

The matter was re-considered in 1893, and it was settled that, where it was inconvenient to make grants of waste land, the reward might take the form of a *jagir*. At the same time the maximum value of a grant of land was fixed at Rs. 400 *per annum* clear of all deductions.

"When the Local Government is prepared to provide a grant of land and the grantee accepts this form of reward, it will be open to the Local Government to arrange for the bestowal of the privileges connected with

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* Panjab Government No. 62, dated 7th August 1900.

† (Government of India, Military Department, Resolution No. 2525 B., dated 1st December 1888). The above conditions are not necessarily applicable in all cases. It is left to the Local Government to arrange the grant as it chooses provided its capitalised value is equal to 25 times the annual value specified in the order making it. (Government of India, Military Department, No. 1271 B., dated 12th April 1901).

the grant in such a way that the difference between the value of the grant on the terms given and the market value may amount approximately to 25 times the annual value specified in the orders of the Government of India on each case, such value being limited to the maximum of Rs. 400 as noted above. Should the Local Government not be prepared to give land, or the grantee be unwilling to accept his reward in this form, the grantee will be given an assignment of revenue from any village or estate that may be selected. If an assignment of revenue be given, such assignments will be for three lives only, the maximum amount of revenue assigned to the original grantee being Rs. 600, to the first heir Rs. 300, and to the next heir in succession Rs. 150. The method in which the assigned revenues are to be paid, *i.e.*, whether from the State treasury or by the land owners direct will be left to Local Governments to decide, but the amount should be fixed in cash and not in terms of the land revenue. When the grantee is a landholder the assignment may take the form of a remission of a specified amount of the revenue due from himself."*

The Financial Commissioner at the time pointed out the objections which existed to the creation of new *jagirs* except—

(*a*) when the *jagirdar* is owner of the land of which the revenue is assigned;

(*b*) when he stands in a tribal relation to the revenue-payers and the recognition of his status is in accordance with their ideas;

(*c*) in the absence of the above conditions, when he has nothing to do with the collection of the revenue, which is paid to him through the *tahsil*.†

The Local Government acquesced in these views.‡ In practice no difficulty has arisen, for in all *jagirs* of this class hitherto created in the Panjab the assignee receives the revenue through the *tahsil*.

The rule of descent in the case of these military *jagirs* is as follows—

"On the death of the original holder one-half of the grant should descend integrally to a single heir. The heir will be selected by the district officer, but will ordinarily be the eldest male heir in the eldest branch of the deceased's descendants. On the death of the selected heir one quarter of the original grant will descend integrally to one of his heirs similarly chosen by the district officer. The selection made by the district officer will in all cases be subject to confirmation by the Commissioner of the division."§

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* Government of India, Military Department, Resolution No. 867 B., dated 27th February 1893.

† Financial Commissioner's No. 11 C., dated 25th May 1893.

‡ Panjab Government, No. 343 S., dated 1st July 1893, and 758, dated 24th August 1902.

§ Government of India, Military Department No. 3293 B., dated 24th October 1893.

140. As already stated, a marked change of feeling is observable after the Mutiny as to the value to the State of a class of men holding a privileged position and fitted thereby to act as leaders of the people. In 1859 the Lieutenant-Governor, Sir Robert Montgomery, proposed that, as a rule, the heirs of *jagirs* enjoyed by families of importance should be declared subject to selection by Government.* Lord Canning replied that he did not see how such a declaration could be made in regard to existing *jagirs*. He added, however,— *Jagirs* granted after 25th November 1859 heritable by a single heir.

"With regard to *jagirs* which may hereafter be granted His Excellency has no objection to impose the general condition that the estate shall be inherited integrally. * * * * * As to the one single heir His Excellency is disposed to think that it will be quite enough for the Government to require that his inheritance shall need confirmation or recognition by Government before it is considered complete, and to make it known that this recognition may, if cause should arise, be withheld."

The letter containing this order was dated 25th November 1859, and all *jagirs* subsequently granted are, unless the contrary is clearly expressed in the grant, heritable by a single heir, whose succession requires to be confirmed by Government.†

141. Before these orders were issued the Lieutenant-Governor had proposed to consult the principal Sardars in the Cis-Sutlej and Trans-Sutlej divisions as to the propriety of abolishing *chundavand* where it existed, and also of making primogeniture the rule of descent for their *jagirs*. In advocating primogeniture the Cis-Sutlej Commissioner, Mr. Barnes, had written :— Proposal to introduce primogeniture in case of the principal *jagirs*.

"I should desire in all feasible cases to institute the law of primogeniture, as was recently done in the case of Ramgarh, and thereby to secure a powerful and influential aristocracy, who, with such guarantees, would doubtless be as loyal and as useful to Government as they proved to be during the recent rebellion."

142. *Chundavand* had been denounced as immoral and as encouraging polygamy. Lord Canning wisely brushed that argument aside. But as regards primogeniture his reply was encouraging. The proposal to consult the leading *Sardars* regarding it was approved, but anything like arbitrary legislation on the subject was deprecated, and it was laid down that "no alteration in the rule of inheritance should be made in a family unless with the consent of its head and of the chief members interested.‡ Proposal agreed to by Lord Canning.

143. The reasons given by Lord Canning for his decis ion are worth quoting :— His reasons.

"It is politically desirable that primogeniture shoul be encouraged. The Governor-General believes that a more unfortunate prospect cannot be before a people, especially a people amongst whom society is of a feudal form, than that of the gradual dissolution of all their wealthy

* Panjab Government No. 678, dated 4th October 1859.

† Government of India No. 476, dated 25th November 1859.

‡ Government of India No. 1718, dated 12th May 1860.

and influential families into numerous poor and proud descendants. His Excellency also believes that the task of governing such a people in contentment becomes more and more difficult as this change progresses."

Instructions issued in 1861.

144. The enquiry which followed seemed to show that a number of the larger *jagirdars* were ready to elect for primogeniture, and in April 1861 the following instructions* were given to Cis-Indus Commissioners:

"Those *jagirdars* holding in perpetuity whose revenue exceeds Rs. 250 *per annum* and who wish the succession of their *jagirs* to be regulated in future by the rule of primogeniture must execute a deed to that effect. You will explain to them that this deed when confirmed by Government will hereafter be binding on their successors in the *jagir* for all generations. Where such a deed has already been taken it need only be reviewed with reference to the instructions now conveyed.

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"4. The deed will regulate the succession only to *jagir* lands, not to *malguzari* lands or other real and personal property.

"5. The *jagirdar* executing the deed should be invited to record separately the nature and amount of the maintenance which he would propose to assign to the younger branches of his family. The custom regulating such maintenance in the case of the younger brothers of chiefs in whose families the rule of primogeniture has been long established will serve as a guide for other *jagirdars*.

"6. It should be explained that the rights of collaterals are in no respect affected by the introduction of the rule of primogeniture."

Informing the Government of India of the action that had been taken the Lieutenant-Governor remarked:—

"One important point only remains to be adverted to, namely, the force of the deed executed by the *jagirdars* declaring that primogeniture shall be the rule of succession to their *jagirs*. * * * * This point, however, will be discussed at length when the reports of the several Commissioners and the deeds themselves shall have been transmitted to this office."

Negotiations prove abortive.

145. The number of deeds executed was forty-seven. Many of these declared that primogeniture should thereafter be the rule of succession and fixed a rate of maintenance for younger sons, others provided for division among sons, but allotted a larger share to the eldest or fittest son. By some mischance these deeds were never confirmed by Government, but several have since been accepted, and where the circumstances of each case were consistent with the provisions of Section 8 (1) (*b*) of the Descent of *Jagirs* Act mentioned in paragraph 157, a rule of primogeniture has been notified.

Reasons why evil results have not been worse.

146. The failure to carry the negotiations with the leading *jagirdars* to a successful conclusion is much to be regretted. The matter was not dealt with again comprehensively for a whole generation during which sub-division went on unchecked. The resultant evils would be even more apparent than they are, but for the fact that

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*Paragraphs 2, 4, 5, 6 of Circular Letter No. 246–252, dated 6th April 1861.

many of the large *jagirdars*, at least in the Cis-Sutlej territory, have found it difficult to perpetuate their families at all, and have considered themselves fortunate when they have had a single son to inherit their family honours. As regards the important political *jagirs* in the trans-Indus districts little difficulty has arisen, for most of them were granted or confirmed after 1859, and in the case of some *jagirs* of earlier date the succession of a single heir is either provided for by the original order of release or has been established by subsequent decision or family agreement.

147. In Hazara the *jagirs* granted at annexation were made subject to certain limitations of the succession proposed by Major James Abbott. Further, *jagirs* were granted for service in 1857 without any similar reservation. Among the Hazara Settlement Rules to which legal force was given by Regulation XIII of 1872 were two dealing with assignments of land revenue— Remedy applied in case of Hazara *jagirs*.

"18. The Settlement Officer shall ascertain for each class of revenue assignments granted for more than one life, or for the period of settlement, or for each of such cases where necessary, what rule is best calculated to secure to Government the attainment of the object for which the grant was given. The result of his enquiries shall be submitted for the sanction of Government.

"19. All cases in which orders of succession contrary to the orders to be laid down under Rule 18 have been passed shall be reported to the Commissioner, who is hereby empowered to revise the previous orders in the spirit of rule 18, or in such modified way as the peculiar circumstances of such cases may call for."

Under the first of these rules the Lieutenant-Governor passed the following general order:—

"All *jagirs* and political pensions released for more than one life or for term of settlement shall devolve integrally ordinarily to the eldest son. * * * * *

"The succession shall not necessarily be maintained in the direct course should the immediate heir be devoid of merit, or deficient in the necessary qualifications of character, influence, control over his tribe and family, or good disposition towards the British Government."*

In the case of certain *jagirs* Government reserved the option of dealing with the succession in the above manner, or of dividing the *jagir* among the male issue of a deceased grantee.† In Hazara, therefore, the matter of succession to *jagirs* has been put on a thoroughly satisfactory footing.

148. It was provided by Section 8 of the Panjab Laws Act IV of 1872 that— Section 8 of Panjab Laws Act IV of 1872.

"In all cases in which Government has declared any rule of descent to prevail in any family or families of assignees of land revenue, such rule of descent shall be held to prevail and to have prevailed amongst them from the time when the declaration was made.

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* Panjab Government No. 1706, dated 22nd December 1873.

† For list of these see page 282 of Captain Wace's Settlement Report of Hazara.

In 1890 the Government of India refused to make use of this section in connection with a proposal to declare the rule of succession in the Raipur *jagir* family in the Ambala district to be primogeniture, on the ground that it had only retrospective effect.*

Attitude of Government of India on question of right to regulate successions.

149. The Government of India have never asserted a right to regulate successions after the conditions of a grant have been laid down in the order of release. But on a few occasions they have decided that the rule of succession in a particular *jagir* restricts descent to a single heir.

Primogeniture introduced in case of Ramgarh *jagir*.

150. In a letter No. 1490, dated 1st April 1859, Lord Canning sanctioned primogeniture as regulating in future the succession of the *jagir* enjoyed by one branch of the Ramgarh family in Ambala "as this proposal has emanated from the younger sons themselves." The family is a Rajput one connected with the Raja of Bilaspur.

Case of the Chachi *jagir*.

151. In 1862 the Government of India declined to sanction a deed respecting the devolution of his *jagir* executed by Sir Nihal Singh, Chachi, on the ground that "as the Sardar has more than one son, Government has no power to fetter or unfetter the Sardar as to his old estates, his power over which must be decided should any dispute arise by the ordinary law applicable to such estates in the Panjab.†

In 1874, however, Sir Henry Davies, then Lieutenant-Governor of the Panjab, declared that, as Sir Nihal Singh, who had died in 1873, had never revoked the wish expressed in 1862, the law of primogeniture was applicable to the whole *jagir*, which therefore descended to his eldest son, Amrik Singh.‡ These orders were plainly inconsistent with the view taken by the Government of India in 1862. But in 1902, in passing orders upon the succession, which had again opened out on the death of Amrik Singh leaving no children, the Government of India, took the view that "Section 8 of the Panjab Descent of *Jagirs* Act, 1900, relates to declarations in fact issued, irrespective of their authority, and that the deliberate employment of the term "Government," which includes a "Local Government, has placed the two letters" (*i.e.*, Government of India letter No. 1156, dated 11th September 1862, and Panjab Government letter No. 250, dated 29th January 1874), "for the purposes of that particular enactment, on the same footing. Having, therefore, two separate but inconsistent declarations, both falling under terms of the section, the Government of India consider that the fair and

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* Government of India No. 4156, dated 8th December 1890. The Local Government nevertheless ordered that the rule of primogeniture should be applied on the ground apparently that it had been actually adopted in several successions, and it was also probable that such a rule would exist in the case of an ancient Rajput family. Moreover, in 1861, the *jagirdar* in possession had executed an agreement providing that the eldest son should inherit the *jagir*.

† No. 156, dated 11th December 1862. The "old estates", were the *jagirs* granted before 25th November 1859.

‡ Panjab Government No. 250, dated 29th January 1874.

natural construction is that the later declaration must, from the date of its issue, be held to have superseded the earlier."*

The whole of the *jagirs* consequently descended to Tek Singh, eldest son of Gopal Singh, who was the second son of Sir Nihal Singh, and the rule of primogeniture may be held to have been established in the family.

Succession of a single heir in case of (*a*) *Jagir* of Shahzada Jamhur.

52. The *jagir* of Shahzada Jamhur, Saddozai, in the Kohat district, was originally released in favour of the grantee "and his male issue in perpetuity." In 1877 the Government of India agreed to a modification of the terms providing for its devolution on "the heir, being a descendant of the original grantee, whom Government might select." †

(*b*) The Makhad *jagir*.

153. In the case of the Makhad *jagir* in Rawalpindi where the grant provided for descent to "legitimate male issue," but the Financial Commissioner held that a *quasi*-custom of primogeniture had been proved to exist, the Government of India in 1881 sanctioned the succession of the eldest of four sons subject to the condition of fitness.‡ This ruling also applied to the Shakardarra *jagir* in Kohat held by the same family.

(*c*) *Jagir* of Raja Sir Sahibdial.

154. In 1882 the Government of India allowed one of Raja Sir Sahibdial's *jagirs* released in 1854 in favour of himself and "his legitimate male issue for two generations" to descend to his grandson, his sons being passed over for reasons stated in the correspondence.§

Proposal of Panjab Government to introduce primogeniture authoritatively.

155. In 1898 the Panjab Government urged on the Government of India the necessity of taking measures to put a stop to the sub-division of *jagirs*, and the gradual deterioration in consequence of many of the leading families in the province.‖ The history of the question in the Panjab was reviewed, and the various orders of the Government of India referred to in the preceding paragraphs were cited. The conclusion drawn was that in the Panjab assignments of land revenue had always been regarded from a standpoint different from that adopted in some other parts of India, and that the principle had been asserted that assignees have, in virtue of the grant of a share of the revenue of the State, public duties as well as private rights. It was a natural deduction from this that Government had an inherent right to regulate the course of succession "from time to time as occasion requires," and so to maintain the capacity of the *jagirdar* to do public service. Sir Mackworth Young quoted with approval a dictum of the Officiating Financial Commissioner, Mr. Ogilvie, that "all assignments are from the essential nature of their tenure held subject to the pleasure of Government unless the contrary be distinctly stated in the deed of grant. * *

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* Government of India No. 1232-156-4, dated 5th August 1902.

† Government of India No. 383 F., dated 27th July 1877.

‡ Government of India No. 45 J. R., dated 27th May 1881.

§ Government of India No. 256, dated 22nd November 1882.

‖ Panjab Government No. 261 S., dated 16th June 1898.

It is a great mistake to regard and treat these deeds of grant like the title deeds of an estate * * * * the general provision that the grant shall descend to direct heirs male does not * * * debar Government from the exercise of its inherent right to regulate the succession between recognized heirs." The Lieutenant-Governor therefore proposed to introduce authoritatively by executive order the rule of descent to a single heir in the case of all *jagirs* of a yearly value of Rs. 250 and upwards.

Proposal modified by Government of India.

156. This proposal was rejected by the Government of India which held that the end in view could only be reached by legislation, and that the consent of the *jagirdars* in possession was essential to the introduction of primogeniture. In the letter conveying this decision it was remarked that—

"The Governor-General in Council is in entire accord with His Honor the Lieutenant-Governor as to the political expediency of preventing the larger *jagirs* from being parcelled out through a recurring process of sub-division. But having given the most careful attention to the subject, he is satisfied that the decision come to in 1860 by Lord Canning that, though *jagirdars* might very properly be invited to accept the rule of primogeniture, it should not be applied without the consent of the head to any family in which it has not hitherto prevailed is correct, and should be substantially maintained. That the Government when granting or confirming an assignment of land revenue possesses an absolute power of regulating the succession, at the time of such grant or confirmation, is undoubted. But when once the conditions of a grant have been prescribed and the grant has actually been made, this absolute power is lost. This is the well-recognized rule of English law governing grants from the Crown, and is founded on principles of equity and common justice. There no doubt exists a distinction in kind between an estate in land and an assignment of land revenue. But taking an assignment of land revenue as analogous to a pension, the State by the principles of English law has no inherent right to regulate or vary at its pleasure, after the assignment or the pension has been granted, the order of succession in either the one case or the other. Nor is the Governor-General in Council satisfied that if such powers were assumed they would meet with the hearty approval of the *jagirdars*.

"An examination of the various orders passed between 1850 and 1860 by the Governor-General shows that great care was taken to protect decisions already given. Thus, in 1851, when a certain rule as to collateral descent was laid down, decisions already given in particular cases to a contrary effect were allowed to stand. Again, at a later date, in the case of the Ramgarh *jagir*, substitution of succession according to primogeniture for division among the heirs was only sanctioned because the younger sons of the *jagirdar* themselves applied for it.

"In paragraph 13 of your letter other instances are cited in which the Government of India have interfered, since Lord Canning's decalaration of policy in 1860, to regulate successions. Examination of these cases shows that there was no real deviation from the policy of 1860. In the first case cited the terms of the grant were revised on the occasion of the amount of the grant being increased, and apparently with the assent of the grantee. In the second case the custom of

primogeniture was proved to exist in the *jagirdar's* family. In the third case the terms of the grant were modified with the consent of the original grantee."

157. In accordance with the decision of the Supreme Government an Act No. IV of 1900, amending Section 8 of the Panjab Laws Act IV of 1872, was passed by the local Legislative Council and received the assent of the Governor-General. The main provision of the Act is as follows :— Panjab Act No. IV of 1900.

"8. (1) Where the Government has heretofore declared or at any time hereafter declares that any rule of descent in respect of succession, to any assignment of land-revenue shall prevail in the family of assignees, such rule of descent shall be deemed to prevail, and to have prevailed from the time when the declaration was made, anything in any law or contract to the contrary notwithstanding :

Provided that no such declaration shall hereafter be made unless and until—

(*a*) the Government is satisfied that the rule of descent to be so declared actually prevails in the family, and has been, continuously and without breach, observed in all successions (if any) to the assignment since it was made, or

(*b*) the assignee or his successor in interest for the time being has by written instrument duly executed by him, either before or after the passing of this Act, signified, on behalf of himself and his family, acceptance of the rule of descent to be so declared, and either no succession has taken place since such acceptance, or else in all successions which have taken place since such acceptance the assignment has in fact not devolved otherwise than it would have devolved had the said rule of descent been in force.

(2) Any declaration made under sub-section (1) may be amended, varied, or rescinded by the Government, but always subject to the proviso thereto.

When the rule of descent declared to prevail involves the devolution of the assignment to a single person, it cannot be attached by order of Court [Section 8 (3)]. In declaring the rule of descent Government may attach to it the following conditions :—

(*a*) that each successor to the assignment shall be approved by Government, and

(*b*) that he shall, if required by Government, make such provision as Government deems suitable for the maintenance of the widows and other members of the families of previous assignees [Section 8 A (*a*) and (*b*).].

The Government is bound in approving of a successor to accept the nearest heir according to the declared rule who is not unfit (provisos to Section 8 A).

158. An important ruling is contained in Panjab Government letter No. 108, dated 13th December 1903, determining the interpretation of the conventional expression "succession to heirs male" when used in the original order conveying sanction to a grant. Interpretation of "succession to heirs male."

Sir Dennis Fitzpatrick held that "the rule applicable to a grant of this sort in the Panjab is that it descends to a single heir, unless a different rule of succession is specially prescribed."

Several subsequent decisions have been based on this view and the grants notified under Section (8 (1) (*a*) of the Descent of *Jagirs* Act accordingly.

For the purpose of this ruling the term "male issue" may be taken to be the equivalent of "heirs male."

Succession of single heirs prescribed in case of small grants for service to be performed.

159. To prevent the splitting up of small grants made in consideration of service to be rendered to village communities, it was ruled in 1865 that "small grants given in lieu of service to be performed or responsibilities to be fulfilled should be held from generation to generation by one individual only. * * * Ordinarily this individual should be the eldest heir of the deceased incumbent, but, where special reasons exist for superseding him, it will be within the discretion of the local authorities so to arrange, provided this be in accordance with the wishes of those interested in the service to be rendered." *

The occupation of existing holders was not to be disturbed, but advantage was to be taken of future successions to get rid of the joint enjoyment.†

Grant of right of adoption to ruling chiefs.

160. In some part of the Panjab great families are perhaps in more danger of extinction by entire failure of heirs than of degradation by partition of their estates among a numerous progeny. When the current of opinion changed after the Mutiny the privilege of adopting an heir in the event of their having no sons was conferred on many ruling chiefs in the Panjab and elsewhere. In the case of Sikh chiefs it is hardly possible to represent this as the restoration of a right which ought never to have been denied. Sir Henry Lawrence ‡ and Sir Lepel Griffin § both stated emphatically that no such right had ever existed, and Lord Canning at first refused the request of the Phulkian Rajas to be permitted to adopt on the ground that the concession would be an innovation on the custom which had always prevailed among the chiefs of the Cis-Sutlej territory.‖

Grants of adoption *sanads* to selected *jagirdars*.

161. In 1862 adoption *sanads* were conferred on two important *jagirdars*, Raja Tej Singh and Sardar Shamsher Singh, Sindhanwalia, who before the annexation of the Panjab had been members of the Lahore Council of Regency. No other *jagirdar* enjoyed the right down to the year 1888, when it was given to Sardar Lal Singh, Kalianwala. In connection with Lal Singh's case Sir Charles Aitchison proposed to the Government of India that the right of adoption should be bestowed from time to time on carefully selected *jagirdar* families. He remarked :—

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* Panjab Government No. 414, dated 30th May 1868.

† Financial Commissioner's Book Circular No. 13 of 1865.

‡ Paragraphs 34 and 45 of postscript to Major H. Lawrence's report on his Summary Settlement of Kaithal,

§ Rájas of the Panjab, pages 225, 226.

‖ Rájas of the Panjab, page 228.

"It would be necessary to make a very careful selection of the *jagirdars* deemed worthy of the right of adoption. Each case would be weighed on its own merits, and the concession would be allowed as an honour and a reward. In the work of selection regard would be had to the influence, position, history, and services of the family; to its loyalty and activity in the cause of good government in times of peace; and the reputation of the *jagirdars* for kindness towards dependents and to the landholders and others living on the *jagir*. In this way, the Government would always have in its hands a powerful incentive to good and loyal services; and those not granted the concession in the first instance might hope in time to win it by proved deserts. It might further be provided that the privilege should be liable to forfeiture for disloyalty or other misconduct which might be defined.

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"It may be asked what would be the advantages of the concession, both public and private, but of such a nature that the Government, acting in the public interests, could fairly take them into view? It is well known that the grant adoption *sanads* to Chiefs has not operated to increase the number of adoptions, but to allay disquietude of mind. Many cases that have come before the Lieutenant-Governor have convinced him that the practice of declining to consider grants till the death of the grantees gives the grantees much unnecessary anxiety in their declining years. It is natural and laudable on the part of heads of families to desire before they die to know that their houses will survive them and their relations will be provided for. The Lieutenant-Governor knows that much anxiety prevails in this matter which it is within our power to remove; and one measure which would tend to set these painful uncertainties at rest would be the grant of adoption *sanads* to selected *jagirdars* holding in perpetuity.

"It may be admitted, however, that the purely public advantages would be much more important. The measure in contemplation would give great political strength to the Government. In the Panjab in particular the boon would be a proper recognition of the loyal and faithful services, in peace and war, of the most prominent men in the British territories of this part of India—services rendered in most cases with unswerving zeal and praiseworthy alacrity for more than a generation. The men who have thus served us are the men who stood by us in the storm of the Mutiny; and we know by the heartfelt offers made during the Afghan War and later at the time of the Panjdeh incident, that the spirit which animated them and their fathers thirty years ago still lives. We desire its perpetuation; we desire that the families who have aided us in the difficult task of continuous administration and have proved themselves our friends in time of need shall not die out of the land. We need leaders of the people, and times may come again in which the diminution of that class would be felt as a serious public calamity. The measure proposed would tend directly to the attainment of these objects, and would invigorate and cheer the performance of those duties of which it was the reward, and for the continued performance of which it would be a security."*

The Government of India accepted the views put forward by the Lieutenant-Governor, but considered that the objects aimed at would "be best attained by selecting from time to time in individual cases the *jagirdars* to whom it is proposed to give the privilege of adoption."

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* Panjab Government No. 224½, dated 30th March 1887.

Grants of adoption *sanads*.

162. This opinion, however, has since been re-considered. It was represented that the grant of merely pesonal *sanads* of adoption went but a little way towards furthering the policy of the Panjab Government in regard to the maintenance of their *jagirdars* as a source of real political strength. It was urged that the need for men of good family who have influence in the country and are ready to use it on our side certainly had not diminished in the years which had elapsed since Sir Charles Aitchison put forward his views in the official pronouncement quoted above: that on this ground alone it was to our interest to preserve the old families whose influence was naturally greater than that of new grantees could be: and that, this being admitted, it was, on the assumption that suitable adoptions could be made, a matter of no consequence to us whether the successor was an adopted son or a son of the body.

"We have in fact an aristocracy of high traditions, and sentiment apart, we ought to uphold it in our own interests. . . . . We wish to preserve the families of our great *jagirdars* in order that they may be useful to us: that they may help us in ordinary times in the suppression of crime and support us with their own strength in the country in times of trouble. . . . . What they want and may well have, if I rightly apprehend the policy—is an assurance that Government does not desire the lapse of their *jagirs*. The present concession rather suggests that Government is not prepared to forego the fiscal gain of occasional lapses.*"

These arguments were supported by the Government of India and accepted by His Majesty's Secretary of State; the rules† framed to carry out the policy thus approved are as follow:—

(1). The privilege contained in the grant of an adoption *sanad* shall be an heritable one.

(2). Such a *sanad* shall only be granted to *jagirdars* who are found specially worthy of the honour, and they shall be selected with reference to their possession of the qualifications already laid down as necessary by Sir Charles Aitchison in the passage already quoted in paragraph 160 above.

(3). Its grant shall be subject to the following conditions: *(a)* The acceptance by the *jagirdar* of the maintenance conditions specified in Section 8A of the Panjab Descent of *Jagirs* Act, No. IV of 1900; and (*b*) The sanction of the Government of India.

(4). An improper or unsuitable adoption may be vetoed by the Local Government.

(5). The succession shall be regulated by a rule of integral descent to a single heir, usually the rule of primogeniture.

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* Extract from a note by the Hon'ble Mr. C. L. Tupper, C.S.I., Financial Commissioner, Panjab, dated 9th December 1900, forwarded to the Government of India with Panjab Government letter No. 17, dated 26th February 1901.

† Financial Commissioner's Circular No. 4951, dated 22nd September, 1902.

168. It will thus be seen that the grant of an adoption *sanad* while conferring a valuable privilege upon the grantee is also useful as furthering the policy enunciated in the Descent of *Jagirs* Act of limiting succession to a single heir and of preventing the minute sub-division of *jagirs* with its consequent loss of prestige and influence to the *jagirdar*.

Use of adoption *sanad* of in connection with Descent of *Jagirs* Act.

164. Unless assignments of land revenue are incapable of transfer by the grantees and of attachment by order of Court their public uses may easily be destroyed. In 1852 the Government of India order the insertion in *sanads* relating to perpetual grants of a clause prohibiting alienation.* It will be remembered that one of the subsidiary succession rules sanctioned in 1853 in the case of the Cis-Sutlej *jagirs* declared that (past) alienation whether to relations or strangers should not be officially recognized or recorded. In 1857† Lord Canning sanctioned a proposal that each successor to a Cis-Sutlej perpetual *jagir* should receive it unencumbered by any liability for the debts of his predecessor if he refrained from appropriating any of his real and personal estate apart from the *jagir*.‡ This order was declared applicable to all perpetual *jagirs* in the Panjab by Financial Commissioner's Circular No. 8, dated 3rd February 1857. The Court of Directors, to whom the order was communicated, expressed surprise that it should have been thought necessary to issue it, and remarked—

Perpetual *jagirs* declared inalienable.

"We should have supposed that there could be no necessity for notifying this as a rule, since it follows from the very nature of a *jagir*, which cannot be alienated and can only be attached for the life of the holder."§

165. Probably the Directors only referred to grants for more than one life. But in his Consolidated Circular ‖ on "*Jagirdars* and *M'afidars*" issued in 1860, and again in his Revenue Manual published in 1866, the Financial Commissioner, Mr. Cust, wrote—

Mr. Cust's Revenue Manual declares all *jagirs* and *m'afis* to be alienable.

"It is scarcely necessary to remark that the *jagirdár* or *M'afidar* has no power of sale, mortgage, gift, or sub-lease, of his revenue assignment, except under special circumstances which must be proved. Contracts, of this kind will not be recognized by the Revenue Courts, and the parties in possession on those pleas will be considered only the private agents of the holders with no legal rights."¶

166. It is to be regretted that no distinct legal provision exists declaring assignments even for a term inalienable. Section

As signments may be treated as inalienable xecpt in the Delhi territory.

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* Government of India, No. 2990, dated 27th August 1852. The letter refers to *jagirs* in the Panjab north and west of the Sutlej.

† See paragraph III.

‡ Government of India No. 109, dated 9th January 1857. The additional rule which allowed the heir, while repudiating the debts to redeem the family mansion and the *jagir* land held in proprietary right (Financial Commissioner's Circular No. 65 of 1857) could not now be legally enforced.

§ Despatch, Political Department, No. 51, dated 30th August 1858, quoted in Financial Commissioner's Book Circular No. XXXVII of 1858.

‖ No. LIII of 1860, paragraph 4.

¶ Cust's Revenue Manual, page 15.

12 of Act XXIII of 1871 (an Act to consolidate and amend the law relating to pensions and grants by Government of money or land revenue) refers only to pensions, and in the preamble to the Act a distinction is drawn between pensions, and grants of land revenue. There are, however, judicial decisions to the effect that a pension may take the form of a land revenue assignment. Be that as it may, it is clear that under Sections 4 to 6 of the Act no Civil Court can take cognizance of any claim to a grant of land revenue based on an alleged transfer unless the Collector gives a certificate permitting it to do so. In deciding whether to issue such a certificate and in his action generally with respect to assignments a revenue officer is as a rule fully justified in treating private transfers of the right to receive a share of the revenue due to the State as a breach of the conditions of the grant. In the case of *m'afis* for the support of institutions it is obvious that, if the manager mortgages the income on account of his private debts, the conditions are broken. Unless arrangements can be made for the speedy removal of the encumbrance the remedy lies in resumption or in suspension of payment till the persons interested in the institution can arrange for the appointment of a new manager, who would feel himself under no obligation to continue the diversion of the endowment from its proper uses. Probably this would hold good as regards grants for the maintenance of institutions even in the Delhi territory, though assignments in that part of the province are ordinarily transferable (paragraph 130).

Early authorities declare assignments to be capable of attachment.

167. The law regarding the attachment of assignments by decree of Court is in a somewhat doubtful state. In the despatch quoted in paragraph 163 the Court of Directors wrote that *jagirs* can only be attached for the life of the holder." Mr. Cust remarked—

"*Jagir* and *m'afi* holdings are liable to attachment under decree of the Civil and Revenue Courts. The revenue will be collected by the *tahsildar* and paid to the parties holding the decrees. With the death of the life holder all claim of the creditor expires. Grants to institutions are not liable for the personal debts of the manager."*

This practically assumes that aseignments are private property in which the existing holders have life interests. It ignores the view that the possession of them involves public duties.

Doubtful state of the law.

168. Section 11 of Act XXIII of 1871 provides that "no pension granted or continued by Government on political considerations, or on account of past services, or as a compassionate allowance ——— shall be liable to ——— attachment ——— in satisfaction of a decree or order of any ——— Court." Political pensions are exempted from attachment by Section 266 (*g*) of the Civil Procedure Code. In one case (C. R. 137 P. R., 1890) the Chief Court of the Panjab held that, though a grant of land revenue may be, and no doubt often is, a distinct thing from a pension, there is no reason why a pension should not take, as the mode of payment, the form of an assignment of land revenue. In a later case (C. R. No. 47 P. B. of 1893) the

* Custs' Revenue Manual, page 15.

former Panjab rulings on the subject were considered, and the law summed up as follows :—

"These cases are sufficient to show that while some *jagir* income may be liable to attachment, other *jagir* income may not."

Duties of Collector in connection with attachment of assignments.

169. Assigned revenue is an "interest in land," and an order for its attachment made by any Civil or Criminal Court must be addressed to the Collector,* and must direct "the person by whom the revenue is payable to pay it to the Collector and the Collector to hold it subject to the further orders of the Court."† In execution proceedings the Collector is the agent of the Court, and must obey its order without demur. But, after the attachment has been made, he would be justified in pointing out to the Court any reasons why in his opinion it should be withdrawn. It is for the Court to decide whether the reasons are valid. If the matter were properly represented, it seems probable that a Civil Court would hold that revenue granted for the support of an institution should not be attached in execution of a decree on account of the private debts of the manager.

Provisions of Section 8 (3) of Panjab Act No. IV of 1900.

170. In 1898 the Panjab Government proposed the amendment of Section 11 of Act XXIII of 1871 so as to protect all assignments of land revenue from attachment.‡ The Government of India held that it would be enough to exempt those *jagirs* only in respect of which primogeniture has been, or shall be, declared to be the rule of descent.§ As noticed in paragraph 75 this was provided for by Section 8 (3) of Panjab Act IV of 1900. As regards other *jagirs* the Government of India remarked that they saw no particular reason for exemption, as their liability to be sub-divided among numerous heirs divested them of any political importance.

Questions regarding succession.

171. Questions of succession do not as a rule cause much trouble. The terms of the grant usually indicate clearly who the successor or successors must be.

Registration of heirs in *jagirs*.

172. Every shareholder in a Cis-Sutlej *jagir* is required to report the birth of a son within a week of its occurrence in order that the necessary entry may be made in the genealogical tree. No investigation, public or private, should be instituted into the truth of the relationship of the child to his reputed father, when there are kinsmen in the line of succession to the *jagir*, unless they have moved in the matter in their own interest. If there are no such kinsmen it may become necessary to make some private enquiry, but only if rumours of fraud have reached the ears of the Collector. If private enquiry seems needful, the Collector must obtain the sanction of the Commissioner before making it, and report the result for orders. Alleged posthumous births will usually require verification, especially if the Collector has received no notice that the widow declares herself to be pregnant. Such declarations are often not to be trusted, and enquiry to be effectual must be made before the birth takes place

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* Section 141, Act XVII of 1887.

† Section 142, Act VII of 1887.

‡ Panjab Government No. 86, dated 24th August 1898.

§ Government of India No. 341 A—277—2, dated 9th February 18

or is according to the widow's statement, due. In such cases it may be advisable with the Commissioner's sanction to arrange, if possible, for the service of a competent lady doctor for the personal examination of the widow.*

Succession to small grants for service.

173. The rule limiting the succession to a single heir in the case of small grants for service to be performed has already been noticed (paragraph 159).

Succession to small grants assigned to several persons for their lives.

174. When the revenue of a plot has been assigned to two or more individuals collectively without specifying that the share of each shall lapse on his death, the survivors of the original assignees are entitled to the whole assignment, and on the death of the last of them the whole will lapse. This rule only refers to petty grants.

Succession to grants for religious institutions.

175. The cases of succession which cause most difficulty are those relating to endowments for the support of religious institutions. Unfortunately the death of the head of a monastery or of the guardian of a tomb or shrine is often followed by a dispute among his disciples as to who shall occupy the vacant seat. It is no part of a Collector's duty to settle such matters. It is the policy of Government, as laid down in Act XX of 1863, to abstain from interference in the management of religious institutions, and five years before that Act was passed the same principle was clearly stated in Chief Commissioner's Circular No. 23, dated 25th August 1858. If the succession is contested, the Collector should either pay the revenue to the claimant who is actually in possession, or suspend payment altogether till the dispute is settled. He should adopt the latter course when litigation is protected, and it is clear that funds intended for religious or charitable purposes are being diverted into the pockets of lawyers.

Resumption for breach of conditions.

176. An assignment may be resumed when the conditions attached to it are broken. These conditions may be either expressed or implied.†

Breach in case of assignments for support of religious institutions.

177. Fishing enquiries as to the disposal of the income of grants made for the support of religious or charitable institutions are unwise. But if the building is falling into ruins or has been deserted, or if the endowment in clearly being misapplied, interference is necessary. It is equally so if the guardian is notoriously a man of bad character, and complaints reach the Collector's ears that a house of prayer has become a den of thieves or gamblers, or that respectable women can no longer visit it for purposes of worship. A time can be set within which the persons interested in the institution must arrange for the repair of the building or the remedy of the abuses which have infected its management, failing which resumption will be proposed.

The condition of loyalty and good conduct.

178. Many grants are by their terms expressly conditional on loyalty and good conduct. The form of a *sanad* sanction for perpetual assignments in 1870 declares that the grant is held on the above conditions during the pleasure of Government. This

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* Panjab Government No. 558, dated 4th December 1895.

† Panjab Government Notification No. 1386, dated 27th October 1873.

as an expression of the policy of Government announced to the grantees when they received their *sanads* is important. But, in deciding what the terms of old grants are it is necessary to look to the original order of release rather than to the wording of a general form of *sanad* prescribed many years later.

Every assignment really liable to forfeiture for flagrant misconduct.

179. But, whether the original grant stipulates for good conduct on the part of the grantee or not, Government is justified in holding that there is a point in the case of every assignment at which the misbehaviour of the assignee will justify an order of forfeiture. What that point is must depend largely on the history of the grant. Considering the origin, for example, of many of the *jagirs* in the Cis-Sutlej and Delhi territories, it would be wrong to mete out the same measure to them as to assignments which have sprung simply from the bounty of the British Government.

Assignment forfeited if grantee is guilty of treason or of a capital offence.

180. The title of any person to hold or to inherit a *jagir* or a share in a *jagir* is forfeited when he is convicted of a crime involving a death sentence. If he is in possession, the *jagir* will lapse entirely. If his interest in the *jagir* is contingent, it will cease as regards himself, but survive as regards his children or other heirs. The Government of India ruled in 1856 that the share which the criminal would in ordinary course have inherited should be confiscated entirely when the *jagirdar*, whose heir he was, died,* but the Court of Directors refused to accept a ruling which involved the doctrine of "corruption of blood."

They remarked—

"Forfeiture of the whole property of a convicted felon is one of the punishments prescribed by law, and for this there may be sufficient reason, notwithstanding the hardship which results to his innocent offspring. But in the present case you have pronounced a prospective confiscation of landed rights which have never vested in the offenders, but which would have legally descended to them on the death of their father who still survives, thus adopting the principle of corruption of blood, known to the ancient law of this country, but long stigmatized by the best authorities, and condemned by the opinion of the present age. We cannot sanction this principle, and we direct that the children of Nihal succeed to their father's share on the death of their grandfather in the same manner as if their father had died in the course of nature."†

A grant is also forfeited by the commission of any act of treason or disloyalty. ‡

Ruling of Panjab Government in 1883.

181. In 1883 the cases of two sharers in Trans-Sutlej conquest *jagirs*, who had been convicted respectively of attempted burglary and of receiving stolen property, were brought to the notice of Government. It was then ruled that, "when the deed of

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* Government of India No. 4170, dated 8th August 1856.

† Despatch No. 44, dated 18th August 1858.

‡ Financial Commissioner's Book Circular No. LIII of 1860.

grant contains nothing which reserves to Government the power of resumption, (perpetual) grants . . . . can only become liable to forfeiture for treason, or when the holder commits an offence for which under the ordinary law the Court could pass a sentence of forfeiture of all the property of the offender. *"

Later attitude of Panjab Government.

182. It is very doubtful whether this doctrine, which treats a right to a share of revenue due to the State as standing on the same footing as private property, would now be accepted. It is inconsistent with the view of the nature of assignments in the Panjab which was put before the Government of India in 1898.† In a recent case belonging to the Peshawar district a perpetuity *jagir* was on the death of the holder converted with the sanction of the Government of India into a perpetual cash pension of much smaller amount, because of the failure of the deceased *jagirdar* to show active loyalty, or to treat, the local representatives of Government with proper respect. In recommending this action Sir Mackworth Young remarked that he supported it "not so much because the grant was originally one of Rs. 1,000 and was increased subject to Government service as well as good conduct, though this might . . . . perhaps be argued, but on the broad ground that every assignment of land revenue is held on the understanding that the assignee maintains a loyal attitude towards the Government, and failing this is liable to have his grant confiscated."‡ A few years ago a *jagirdar* belonging to one of the leading families in the Panjab was warned that "*jagirs* are granted for public objects and that, with respect to the condition attached to his grant, circumstances might arise in which Government might be compelled reluctantly to resume it."§ In that case the *sanad* stated that the grant was conditional on good conduct and loyal service.

Lapses in favour of *jagirdars*.

183. In some cases the benefit of a lapse accrues to a *jagirdar* and not to Government. The circumstances under which this takes place are described in Revenue Circular No. 37.

Settlement made in some cases with ex-*m'afidars* or their heirs.

184. When an assignment lapses the person entered in the record of rights as landowner usually becomes responsible for the payment of the land revenue to Government. In technical phrase "the settlement is made with him." But it may be found that the connection of the late *m'afidar* with the land really amounted to a proprietary or sub-proprietary tenure, and in that case he or his heir is entitled to claim the settlement. This subject, which in practice is a somewhat difficult one, is dealt with in paragraphs 182—185 of the Settlement Manual.

Treatment of assignments at settlement.

185. When a general re-assessment of a district takes place it is the business of the Settlement Officer to examine and attest all existing assignments of land revenue. Some remarks on the subject will be found in paragraphs 568—575 of the Settlement Manual.

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* Panjab Government No. 194, dated 23rd April 1883.

† See paragraph 155.

‡ Panjab Government No. 506, dated 30th July 1901.

§ Panjab Government No. 949 S., dated 25th August 1898.

186. The main duties of the Collector of a district in connection with revenue-free grants are— Duties of Collector in connection with assignments.

(1) as regards term-expired grants to see that lapses are enforced without delay, on a recommendation made for a re-consideration of the original order, should resumption appear undesirable;

(2) as regards other assignments—

(*a*) on the death of the existing holder to pass orders promptly about the succession;

(*b*) to satisfy himself that the conditions of the grant are substantially fulfilled by the assignee.

The discretion of the Settlement Officer or Collector to resume of his own authority assignments of which the term has expired is not unfettered. In a few cases he has been forbidden to do so, and as regards others lines of policy have been laid down to which he must conform.

187. Grants on account of services rendered in 1848 or during the Mutiny orginally made for a term may not be resumed without reference to the Financial Commissioner.* There are strong reasons for showing liberality in such cases, which are well explained in the following remarks by Sir James Lyall†:— Grants for service in 1848 and during the Mutiny.

"4. In certain cases which came before him as Financial Commissioner Sir James Lyall recorded an opinion that it was good policy to maintain in perpetuity grants for services rendered at the Mutiny, on the ground that such grants remain as evidence of the result of loyalty and have a considerable political effect. To these views Sir James Lyall still adherees, and is strongly of opinion that in the case of the small *jagir* or *mafi* grants, which were made to the best of the Sikh and Panjabi Muhammadan Native Officers in 1859 and 1860 in recognition of their having obeyed our call and joined our standard at a critical time and distinguished themselves as soldiers, it would generally be good policy and well worth the money to continue the grant or part of it to a selected heir, provided that the family has continued to show itself loyal and well disposed and ready to do service. The money value of these grants is small, but the value put on them is great, as in this country of peasant proprietors they give the family which holds them a high social status in the eyes of the rural population, and mark it out for recognition by the officers of Government. It is these land-holding families, better off though they be than the mass of the peasantry, but still only what may be termed yeomen proprietors, which furnish the men who are the flower of the present cavalry and infantry of the Indian Army, and who make the best Native Officers. They have some ancestral military traditions and feelings of gentility, and also a certain small amount of capital. They serve more for the love of the thing than for profit, and eventually retire and live on their lands. It is in Sir James Lyall's opinion a great object to keep alive the spirit which induces men of this class to serve in our Army, and which might die out any day. The continuance of small grants in their villages to the heirs of the men

* Panjab Government Nos. 104, dated 30th August 1859, and 141, dated 6th December 1889.

† Panjab Government No. 192 S., dated 6th July 1889.

who joined our standard in 1857 and then much distinguished themselves will be one way of keeping alive this spirit and of encouraging future generations to follow the example if similar critical times ever occur again."

Bedi and Sodhi grants.

188. One of the rules prescribed by Lord Hardinge and Lord Dalhousie provided for the re-consideration on the death of the holders of assignments conferred for service of any kind to be rendered to Sikh rulers, including grants to Bedis and Sodhis, which were originally confirmed only for the lives of the incumbents.* This instruction was reproduced in the rules under the first Panjab Land Revenue Act, XXXIII of 1871. Definite directions have since been given for the resumption of Bedi and Sodhi revenue-free grants on the deaths of existing holders and the grant of cash pensions to their male descendents, widows, and daughters.†

"1. On the death of any male pensioner one-half of his pension will be continued to his direct male heirs, and divided among them according to the ordinary custom of inheritance; provided that all pensions of not more than Rs. 50 per annum claimable under this rule shall be compulsorily commuted at the ordinary rates.

"2. On the death of any male pensioner, one-half of his pension will be continued to his widow (if any) or (if there are several widows) divided among his widows in equal shares; provided that, if the deceased pensioner leave motherless and unmarried daughter or daughters, the share of his pension to be allotted to his widows or widow shall be calculated as if the mother or mothers of such daughter or daughter were alive.

"3. On the death of any male pensioner, other than the head of the house for the time being, leaving motherless and unmarried daughters, the said daughters of each mother shall receive in equal shares one-half of the pension to which their mother would have been entitled under Rule 2, in case she had survived her husband.

"4. On the death of any widow in receipt of a pension under Rule 2, one-half of such pension shall be continued to her unmarried daughters (if any) upon equal shares.

"5. Pensions to widows under Rule 2 are life pensions. Pensions of daughters under Rule 3 or Rule 4 cease upon death or marriage of the pensioners; but when they cease for the latter reason the pensioners are eligible for dowries under the ordinary rules.

"6. All pensions are held during the pleasure of Government and subject to the usual conditions of good behaviour, loyaltys and service. The Local Government may refuse to grant any pension claimable under these rules, if the claimant appear to be an unfit recipient of Government bounty."

Pensions of Anandpur Sodhis.

189. These rules are applicable to the pensions of the well-known Sodhi family of Anandpur, in Hoshiarpur, for which indeed they were originally framed.‡ But the head of that family for the time being is in each generation entitled to receive a cash pension of Rs. 2,400 a year. Hence in applying the rules to the Anandpur Sodhis they

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* See paragraphs 86 and 90.

† Panjab Government Nos. 197, dated 5th December 1884, and 87, dated 4th July 1889.

‡ Government of India, Foreign Department, No. 1992 G., dated 16th October 1884.

must be read with certain additions, "other" being inserted before "male pensioners" in Rule 1 and "other than the head of the house for the time being" after "male pensioner" in Rule 2.

Powers of Collectors with reference to Bedi and Sodhi grants.

190. Collectors will accordingly be able to dispose on their own authority of all cases of lapsing Bedi and Sodhi pensions and *jagirs* and *m'afis*, only reporting for orders of higher authority cases in which they consider that pensions should be refused or that more liberal pensions should be allowed, or in which for special reasons they think that a lapsing grant in the form of a *jagir* or *m'afi* should be continued in that form. Cases in which more liberal pensions than the rules allow can properly be recommended will be extremely rare. But it is probable that some cases will occur in which it may be advisable to propose continuance, in its original form of a lapsing life tenure Sodhi or Bedi *jagir* or *m'afi* grant. Such a proposal should not, however, be made unless the release of the grant can be recommended for some term other than life, such as during the pleasure of Government, in the case of a very ancient grant held by a family of some distinction, or during maintenance of a religious or charitable building or institution, or of a roadside garden where such building or garden is found to exist in connection with the grant and to be worthy of support. *

Policy of Government with reference to grants in favour of religious and charitable institutions.

191. It has always been the policy of Government to be especially liberal in maintaining the grants made by native rulers for the support of religious and charitable institutions. The orders of Lord Hardinge and Lord Dalhousie on the subject are given in paragraphs 86 and 93, and the rule in force in the Delhi territory is noted in paragraph 132 (*d*). Orders issued in 1860 required district officers to refrain from resuming life grants in favour of a mosque or temple, if the institution was valued by the people and resumption was likely to prove distasteful to them. Such cases were to be reported for orders. The same course was to be followed as regards life grants for the support of *dharmsalas, takiyas*, or *khankahs*, if resumption would cause "serious dissatisfaction."

These injunctions were repeated in a more general form in the rules under the Land Revenue Act, XXXIII of 1871, and in 1881 Settlement Officers were told that grants to religious institutions released originally for the term of the first regular settlement should be continued for that of the revised settlement, if there were no new or special reasons to the contrary.† The same policy is embodied in the more detailed instructions drawn up by Mr. Lyall as Financial Commissioner in 1883 quoted below. These related in the first instance to the treatment of land revenue assignments in the Una tahsil of Hoshiarpur, which was under settlement, but they were reproduced in a circular of the Settlement Commissioner.

Instructions issued by Mr. Lyall in 1883.

192. The principles laid down by Mr. Lyall were as follows:—

"(*i*) Where the grant is attached to a *dharmsala* or *takiya* which still exists, and is served in the same fashion as at last settlement the grant should be maintained, subject to revision by the

* For further instruction see Revenue Circular 38, paragraph 11.

† Panjab Government No. 447, dated 13th April 1881, and Financial Commissioner's Circular No. 25 I, of 1st August 1881.

Deputy Commissioner on the death of present holders notwithstanding that the building may be only *kacha*, and that the grant in value or area may be very petty and may have originally been granted by the villagers only.

"(*ii*) Where the grant is attached to a *thakurdwara*, *shiwala*, or *khankah* consisting of a mosque or tomb containing a chapel for prayers, it should be maintained for another term of settlement, if the building be a real religious edifice still kept up as a place of worship, whether in the same village or district or not.

"(*iii*) If the *thakurdwara* to which the grant is attached is merely the residence of a Brahmin with a *thakur* in some room of it, it should generally be resumed if the grantee of last settlement is dead and the present holder is not a fit object of charity.

"(*iv*) Where the grant is not supposed to be attached to any building which worshippers can enter, but to small erections of the nature of Muhammadan graves, Hindu cenotaphs, Sarwar Sultan *makans*, platforms of *pirs* or *devis*, &c., the grant should generally be resumed.

"(*v*) Where the grant was given by the villagers to Brahmins for service as *pandit*, *pandha*, *parohit*, or *acharaj*, or to artisans and *amins* for village service, it should be resumed or, at most, be only continued for life to old men or women out of charity.

"(*vi*) If such a grant as that last described was made by a Raja or ruler to a respectable family of Brahmin *parohits* as a subsistence grant, it may be maintained for another term of settlement if the family is still respected and engaged in religious offices.

"(*vii*) If the grant was made either by a ruler or by the villagers to men for keeping a school or for supplying water on a public road to travellers, it should be treated as a grant for public rather than for village service, and should be maintained, unless it appears that the orginal purpose is not fulfilled."

Where grants were resumed the villagers were to be given an opportunity of excluding the land from assessment in distributing the revenue of the estate over holdings.

Proposal to adopt a less liberal policy as regards petty village *m'afis*.

193. In 1886 the Financial Commissioner represented, that these instructions were too liberal as regards "petty village *m'afis*." They wished to draw a broad distinction between institutions which benefited only the village in which they were situated and those which were places of general resort. They proposed to resume assignments in favour of the former so far as Government was concerned, leaving it to the landowners to continue them, if they pleased, as grants from themselves in the way described above. They therefore drafted a circular on "petty village *m'afis*" of which the second paragraph may be quoted—

"In general, such grants when made for the term of settlement or for some period not precisely defined (but not for a life or lives) should be

resumed from the date of the introduction of a new assessment, except in cases in which some distinctly public convenience is secured by their existence. Thus grants to the more important *tatiyas* and *dharmsalas* which are situated on roads frequently used by travellers would in most cases be maintained. The same remarks apply to all schools which are fairly well managed, even though their pupils may be drawn from single villages. But grants attached to Muhammadan graves, Hindu cenotaphs, *nishans* of Sarwar Sultan, platforms of *pirs* and *devis* and other similar objects, are useless so far as the public good is concerned, and should as a general rule be withdrawn. Similarly grants made to village priests or religious teachers, or to village menials and artisans should not be continued, nor should grants to mosques and temples which are not places of general resort. In fine, the principle to be borne in mind is that grants in connection with purposes of general public utility, whether material, social, or moral, should be maintained, but grants in connection with purposes which are either useless or benefit individual villages only should be resumed, the former recipients being left to the beneficence of those interested in the performance of their functions."

Rejection of proposal by Mr. Lyall.

194. Mr. Lyall, who was now Lieutenant-Governor, objected strongly to the change of policy suggested, and refused to sanction the draft circular in which it was explained. He remarked*—

"His Honor sees no reason for any change of policy, and considers a change in the direction of less liberality very inexpedient. Any change now-a-days should be in the opposite direction, as the work of reducing the inordinate amount of revenue assignments in the province has been accomplished and the amount left is not very great. Mr. Lyall thinks that Settlement Officers and Deputy Commissioners are apt to be influenced somewhat unduly towards the resumption of petty grants because they give trouble, and because they are, so to speak, anomalies and awkward exceptions from general revenue rules. But we ought not to be led to adopt a severe and unpopular line of policy by such considerations. It is well known that *m'afis* are valued much beyond their worth by the people, and sympathy with this feeling should be shown, when the money value involved is not serious.

"The general principle stated in paragraph 2 of the draft circular that petty village *m'afis* should as a rule be resumed from the date of introduction of a new assessment, except in cases in which some distinct public convenience is secured by their existence, appears to His Honor to be wrong in itself, a departure from past practice, and politically very inexpedient; and Mr. Lyall thinks that the proposal to extend this principle to grants made to village priests and religious teachers, or to village menials and artizans, and to mosques and temples which are not places of general resort, is far too sweeping. The rule given in paragraph 34 of Appendix III to Barkley's Directions to Settlement Officers, page 38, is still substantially in force as indicating the right policy; that is to say, it is expedient that all endowments *bonâ fide* made for the maintenance of religious establishments or buildings for public accommodation should be maintained as long as the establishments or buildings are kept up, provided that when such grants are of great value they should be restricted to such smaller amounts as it may be thought politically expedient to grant. Where the terms of the original order were release during maintenance or during the pleasure of Government, the Settlement Officer or Deputy Commissioner can only propose an alteration

* Panjab Government No. 70, dated 20th July 1887.

if he finds the establishments or buildings not kept up for their origina purposes. When, however, the original order was for release for the term of settlement, the case is different. Such cases are provided for by paragraph 2 of this office letter No. 447, dated 13th April 1881, published with Financial Commissioner's Circular No. $\frac{S.\ IX}{25\ S}$ of 1st August 1881.

"In the case of all grants for life or lives, except Bedi and Sodhi grants, the Deputy Commissioner or Settlement Officer can resume in the ordinary course in accordance with the original terms of release. But the case of grants for the term of settlement is peculiar, as the meaning of these orders was not that the grants should be resumed at the end of the term of settlement, but merely that they might be reconsidered at the end of that term, and the intention was no doubt that expressed in paragraph 2 of the letter of the Panjab Government above referred to, *viz.*, that in default of special reasons or new orders such grants would ordinarily be continued if no material change in character had occurred.

"As regards resumption of life *m'afis* on lapse, no new orders are necessary in the case of purely personal grants, which do not purport to benefit other persons than the holders; but it is advisable that the Settlement Officer should take the opportunity of the settlement to review the case of all life *m'afis* which appear to have been granted in return for service of any kind to the public or to the people of the village, or to be connected with any institution such as a school, temple, mosque, *dharmsala*, or *takiya*. The original orders sanctioning for life only were very hurriedly made, and in many cases really amounted only to a refusal to release in perpetuity. Such cases were treated differently in different districts; in some the release was ordinarily allowed for life of holder; in others for the term of settlement. Hence it has been the practice to permit and encourage reconsiderations in such cases on lapse. But this is very troublesome and inconvenient and tends to very unequal treatment. Hence it is advisable that the Settlement Officer should generally review such cases, whether lapse has occurred or not, and if he thinks the grant should be continued for a longer term than the life of the incumbent, he should enter the case in a register for report, and should generally propose to release for the term of settlement, as that is safest, and allows reconsideration.

"In respect to purely village service or village institution *m'afis* of which the sanctioned term is for the period of settlement or for life the Settlement Officer should be empowered in the case of petty grants of not more than 3 acres in extent to practically resume at settlement, so far as Government is concerned (without, however, actually imposing any assessment or bringing the land into calculation in fixing the *jama* of the village) by recording orders in the *m'afi misl* and the *fard lakhiraj* that the grant shall be struck off the *fard lakhiraj* and the registers, and the land be included at the *bachh* in the *malguzari* area, with permission, however, to the *zamindars* if the majority so wish, to exclude the land from the *bachh* during their pleasure. In such cases if the *zamindars* decide to exclude, the fact will be noted in the *bachh rubakar*, and the land will be held revenue free from the *zamindars* only, but, as far as Government is concerned, will be considered as *khalsa*. The adoption of this procedure will place a number of these petty grants in their proper position of grants held from the *zamindars*. They were originally allowed by the Government at the request of the *zamindars*, but by granting them independently of the *zamindars'* wishes and authority we have altered their charcter in an

undesirable way. The exclusion of the grants from the registers will save much trouble at a very slight loss to Government, which loss will only be for the term of the settlement. But this procedure should not be followed where there are clearly no grounds for continuance, and where the grant serves no good purpose, *e.g.*, where no service is now rendered, and the *zamindars* clearly do not care for the grant to be continued. In life tenure *m'afis* of this kind, where the term has not yet lapsed, the case cannot, of course, be so treated, but the order may be passed that at the death of the holder the *m'afi* will be assessed, and the revenue will go to the village *malba*."

Special treatment of village grants of an annual value not exceeding Rs. 20.

195. The special treatment sanctioned for village *m'afis* of not more than three acres really met the wishes of the Financial Commissioners to a large extent, for many of the grants with which their circular dealt are very petty. The limit has since been raised from "three acres" to "an annual value of Rs. 20."* The proportion of village grants which bear a higher assessment than Rs. 20 must be extremely small.

Existing orders as to small village grants.

196. The existing orders as regards such grants for village service or in favour of village institutions therefore are—

"The Settlement Officer is empowered to adopt either of three courses—

"(1) In the case of unexpired life *m'afis* he may either record that on expiry they should be resumed and assessed in the ordinary way, or he may report them to the Financial Commissioner for sanction to maintain them for term of the new settlement should that be longer than the life term already sanctioned:

"(2) In the case of *m'afis* for the term of settlement only he may either resume and assess in the ordinary way: or

"(3) He may resume as a grant from Government, but leave the land unassessed for one period of settlement in order to see whether the *zamindars* will agree to continue the *m'afi* as a grant from themselves by a *kharij parta* arrangement.

"In the latter case orders will be recorded in the *m'afi misl* and the *fard lakhiraj* that the grant shall be struck off the *fard lakhiraj* and the registers, and the land be included at the *bachh* in the *malguzari* area, with permission, however, to the *zamindars*, if the majority so wish, to exclude the land from the *bachh* during their pleasure. The objects of these instructions is to put these small *m'afis* on their original footing of lands released by the *zamindars*. In order to effect this change more smoothly, and with as few resumptions as possible on the part of the villagers, the Government agrees to give up for one settlement the revenue which might have been assessed on these resumed *m'afis*. By this procedure it costs the villagers nothing to continue the grant as one from themselves, and they are therefore more likely to adopt this course. At the same time if they *do* elect to assess these plots, it becomes clear that the assessment is their work and not ours."

* Panjab Government No. 144, dated 7th December 1894.

It is of course open to the Collector of a district to propose that a life *m'afi* for village service or in favour of a village institution, the term of which has expired by the death of the holder, should be continued for the period of the current settlement of the district.

Assessment of lands of which the revenue is assigned.

197. The law and practice as regards the assessment of lands of which the revenue is assigned are explained in paragraphs 180-81 of the Settlement Manual. It is rarely necessary for the Collector to make a new assessment when a grant is resumed. Rules 214 and 215 under the Land Revenue Act, XVII of 1887, provide that—

"214. When in any district or tahsil an assignment of land revenue is resumed, if that land revenue was assessed in the same form and by the same method as that in and by which land revenue paid to Government on the same estate or on adjacent estates was assessed at the last general assessment, no new assessment of the resumed assignment shall be made until a general re-assessment of the district or tahsil is undertaken.

"215. If the land revenue enjoyed by the assignee was not so assessed, or if, where the assignee was himself the landowner, no assessment of his land has hitherto been made, the Collector shall assess land revenue on the land of which the revenue has been resumed in conformity with the principles and instructions on which the current assessment of the tahsil or district was made."

Revision of assessment and suspensions and remissions.

198. The owners of land of which the revenue is assigned are entitled to exactly the same treatment as regards revision of assessment, and suspensions and remissions on account of calamities of season, as the proprietors of *khalsa* lands.* Special vigilance is required in enforcing this principle where a *jagirdar* is still allowed to collect the revenue direct from the landowners.

Jurisdiction of civil courts as regards assignments barred between annexation and 1867.

199. Lord Dalhousie's declaration that "by our occupation of the country, after the whole Sikh nation had been in arms against us we have acquired the absolute right of conquerors and would be justified in declaring every acre of land liable to Government assessment" has already been quoted (paragraph 89). Commenting on this in the case of Sardar Bhagwan Singh *versus* the Secretary of State (*Panjab Record*, 1875, No. 1), the Judicial Committee of the Privy Council observed—

"It appears to their Lordships that by these directions to the Board it was contemplated by the Governor-General to make what may be called a *tabula rasa* of tenures of this kind, and to re-grant them on terms entirely at the discretion of the British Government, the Government no doubt intending to act with all fairness and consideration, especially to those who appear to have been not unfaithful to them, but at the same time in a manner which appeared right and just to themselves, and which they did not intend to be inquired into or questioned by any Municipal Courts."

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* Financial Commissioner's Book Circular No. LIII of 1860.

The Board of Administration ruled in 1853 that the civil courts should not take cognizance of "claims of relatives to participation under the general laws of inheritance in rent-free holdings which have been conferred on particular individuals by orders of Government".* And by Sections 1—10 of the first part of the Panjab Civil Code published in 1854 the jurisdiction of these courts was barred as regards "any matter relating to *jagir* rent-free tenures, or tenures or other grants made by Government * * * * or to the succession thereto, or to the shares, rights, and interests therein * * * * but if the *jagirdars* or *m'afidars* shall have farmed those rents or revenues to a third party, possessing no proprietary rights in the estate, then suits between the *jagirdar* or *m'afidar* and such third party may be entertained by the courts."

The first Code of Civil Procedure was extended to the Panjab from 1st October 1866, and between 1867 and 1871, when the Pensions Act was passed, the Chief Court claimed, and in a few instances exercised, jurisdiction in *jagir* cases.

Provisions of the Pensions Act, XXIII of 1871.

200. The matter has been finally settled by Sections 4 to 6 of Act XXIII of 1871, which provide that—

"4. Except as hereinafter provided, no civil court shall entertain any suit relating to any pension or grant of money or land revenue conferred or made by the British or any former Government, whatever may have been the consideration for any such pension or grant, and whatever may have been the nature of the payment, claim, or right, for which such pension or grant may have been substituted.

"5. Any person having a claim relating to any such pension or grant may prefer such claim to the Collector of the district * * * or other officer authorized in this behalf by the Local Government; and such Collector * * * or other officer shall dispose of such claim in accordance with such rules as this Chief Revenue authority may, subject to the general control of the Local Government, from time to time prescribe in this behalf.

"6. A civil court, otherwise competent to try the same, shall take cognizance of any such claim upon receiving a certificate from such Collector * * * or other officer authorized in that behalf that the case may be so tried, but shall not make any order or decree in any suit whatever by which the liability of Government to pay any such pension or grant as aforesaid is affected directly or indirectly."

Cases in which a certificate may be granted.

201. Rules 43 and 44 issued under Section 14 of Act XXIII of 1871† provide that—

"43. When a claim relating to a hereditary pension or grant of money or land revenue is perferred to a Deputy Commissioner under Section 5 of the Act, and the inheritance of any other property, or of a share in the property, of a Hindu joint family is in dispute between the parties, the Deputy Commissioner may, with the sanction of the Financial Commissioner, certify that such may be tried by a civil court. uch certificate shall be forwarded to the civil court having jurisdiction in regard to the other property in dispute.

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* Board Circular No. 5 of 1853.

† Panjab Government Notification No. 4 B., dated 9th January 1873.

"44. When a claim relating to a hereditary pension or grant of money or land revenue, which is, according to law or by the terms of the grant, transferable, is preferred to a Deputy Commissioner under Section 5 of the Act, the Deputy Commissioner may certify that such claim may be tried by a civil court."

The second rule refers to assignments in the Delhi territory made before its annexation to the Punjab (paragraphs 128—133).

Recovery of cost of assessment from *jagirdars*.

202. The rules regarding the recovery from *jagirdars* of the cost of the assessment of lands of which the revenue is assigned will be found in one of the Appendices to the Settlement Manual.

Book II.—Organization for Purposes of Land Administration.

CHAPTER IV.

Scheme of Revenue.

ADMINISTRATION.

Revenue divisions districts. and tahsils.

203. For the purposes of revenue management the Panjab is divided into 29 districts, each in charge of a Deputy Commissioner or Collector. These districts are grouped into five divisions, each under a Commissioner. The Commissioner exercises control over all the revenue officers and courts in his division, and is himself subject to the general superintendence and control of the Financial Commissioner, who, under the Lieutenant-Governor, is the head of the revenue administration. At the head-quarters of a district there are, in addition to a large ministerial staff, several officers appointed by the Local Government who exercise executive and judicial functions under the orders of the Deputy Commissioner. They are known as Assistant Commissioners, if they are members of the Panjab Commission, and as Extra Assistant Commissioners if they belong to the Provincial Service.* One of these Assistant or Extra Assistant Commissioners, chosen for his special aptitude for revenue work, and called the Revenue Assistant, devotes almost the whole of his time to business connected with land administration.† A district is divided into several *tahsils*, to each of which a *tahsildar* and *naib-tahsildar* are appointed.‡ The position of the *naib-tahsildar* with reference to the *tahsildar* is like that of an Assistant Commissioner with reference to the head of the district. *Tahsildars* and *naib-tahsildars* exercise administrative and judicial functions within the limits of their own *tahsils*. In a few there are two *naib-tahsildars*. In such cases the one who possesses the larger experience sometimes has a definite part of the *tahsil* assigned to him within the limits of which he resides. In the same way in some districts one or more *tahsils* are formed into an outpost or sub-division, and put in special charge of a resident Assistant or Extra Assistant Commissioner. Within his own sub-division such an officer performs all the duties usually entrusted to a revenue assistant.

Villages and *zails*.

204.—The unit of revenue administration in the Panjab is the estate or *mahal*, which is usually identical with the village or *mauza*. Of these estates, large and small, a *tahsil*, as a rule, contains from two to four hundred. Each of them has a separate land revenue assessment, which it is the business of the Deputy Commissioner to collect, and a separate record of rights and register of fiscal and agricultural statistics, which it is his duty to maintain. All its proprietors are by law jointly responsible for the payment of its land revenue, and in their dealings with Government they are represented

* Act XVII of 1887, Sections, 6, 7, 8, 11 and Act XVI of 1887, Sections 78 and 79.
† For the origin of this office, see paragraphs 272 and 275.
‡ Act XVII of 1887, Sections 6 and 9.
See Settlement Manual, paragraphs 123-124;

by one or more headmen or *lambardars*. The bond which unites the proprietary body may be a strong and natural, or a weak and artificial, one. At the one end of the scale are the compact village communities of Rohtak and Karnal, whose landowners are held together by real or assumed ties of kinship; at the other, the estates of the South-Western Panjab, which are often mere collocations of independent well holdings. No Deputy Commissioner can rightly perform his duties without a full knowledge of the land tenures of his district.* A careful perusal of the *Gazetteer*, and the reports of past settlements, will supply the foundation, but the superstructure must be built up by personal observation and enquiry, and by the examination of village note-books and records of rights. The village system of North-Western India, properly organized and wisely worked, forms a powerful engine of administration. To make it still more effective, clusters of villages, which are united by the bond of tribal or historical association, or of common interests, are usually formed into circles or *zails*, over each of which is appointed a *zaildar* chosen by the Deputy Commissioner from among the leading village headmen. The *zaildars* receive their emoluments from Government, the headmen are paid by the communities which they represent. Together they form a very valuable unofficial agency, through which the Deputy Commissioner and the *tahsildár* convey the wishes of Government to the people and secure the carrying out of their own orders.

Patwaris' and *Kanungos'* circle.

205. But there is also an official chain connecting the village with the *tahsil*. For the purpose of the maintenance of revenue records and agricultural statistics estates are grouped into small circles to each of which a *patwari* or village registrar is appointed. About twenty of these circles form the charge of a field *kanungo* whose duty it is to supervise the work of the *patwaris*. *Kanungos* and *patwaris* are servants of Government.

The Directors of Land Records and Agriculture.

206. To aid Deputy Commissioners and Commissioners in the maintenance of records of rights and revenue registers, and to advise the Financial Commissioner and the Government on these matters and on measures for the promotion of agricultural efficiency provincial officers, known as the Directors of Land Records and Agriculture, are appointed.† They have no administrative functions; their business is to inspect, advise, record, and report. Their appointment therefore is in no way intended to set aside or lessen the powers and responsibilities belonging to Deputy Commissioners and Commissioners and to the Financial Commissioner in connection with every branch of revenue administration.

Duties of Director of Land Records

207. Among the principal duties of the Director of Land Records are—

(*a*) The supervision of the *patwari* and *kanungo* agency, and the inspection of the records of rights and statistical records compiled through its means.

(*b*) The control of the income and expenditure of mutation fees and of all charges on account of the permanent *kanungo* agency.

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* For a description of village tenures see Chapter VIII of the Settlement Manual.
† For the origin of these offices see paragraphs 271, 274 and 275.