

DIRECTIONS

FOP

REVENUE OFFICERS

IN 1HL

PUNJAB

RIGARDING THI

SETTLEMENT AND COLLECTION OF THE LAND REVENUE, AND THE OTHER DUTIES CONNECTED THEREWITH,

ADALTED PROM

DIRECTIONS FOR REVENUE OFFICERS

IN THE

NORTH WESTERN PROVINCES,

INDER THE ORDERS OF THE PUNISH GOVERNMENT

D G BARKLEY, M A.

OF HER MAJESTY'S BENGAL (11/1) NERVICE AND OF SINCOLN NY BARR IFS ALLIAN



I AHORE
PRINTED AT THE CENTRAL JAIL PRESS
1875



J Mahon Manage

ADDENDA AND ERRATA.

Page iv of Table of Contents of Directions for Settlement Officers, line 15, for depends read depend. Page v, to list of Appendices, add V.—Statement of the tenures on which the Estates are held, para. 188. 2, line 2 of para. 5, for lands read land. 10, line 13 of para. 28, for limit read limits. 12, line 7 of para. 37, for 168 read 186. ,, 14, line 3, for other own read their own. ,, 17, line 4 of para. 45, for 27, 28, and 41, read 25 and 26. for Superintendenent of Settlement ,, read Superintendent of Settlement. line 8 from bottom, for asses read assets. " 21, line 8 of para. 53, for the read the. 22 28, line 3, for rent-roll read revenue-roll. ,, 31, line 12 of para, 78, for rent-free read revenue-free. 35, line 5 of para. 87, for Settlement read Statement. " line 2 of para. 88, for 60 read 65. 38, line 5 of para. 95, for collector read collector. 39, line 1, before share insert a. ,, " line 7, for tee read the. line 5 of para. 96, for should read should. line 6 of para. 96, for full stop after estate, substitute comma 42, line from bottom, insert bracket (1) after Bhyachárah. 48, line 5 of para. 126, for Tálukdárí read Tálukdár. ,, 50, last line but one of para. 130, after there, dele apostrophe, and insert comma. 52, last line, for imited read limited. 53, line 18 from bottom, for these read those. ,, 62, last line but one of para. 166, dele the Pattidars and. 22 63, note, after Chapter V add of. 23 66, 1st line of para. 182, for 83 read 87. ,, last line, for 84 read 89. " 67, line 2, for 84 read 90. " , lines 5, 7, and 9, for 84 read 88. ,, 69, line 11 of para. 195, for viligance read vigilance. " 70, line 11 of para. 198, after Settlement Officers dele comma, and insert to. line 13 of para. 198, dele bracket after 1874.

74, line 4, for ear read ar

77, lines 4 and 6, for (Persian letter wau) in 1st column, substitute comma.

In Professional village map, facing page 78, insert a line between the numerator and denominator of the fraction expressing the relation of the local bigah to an acre.

Page 79, line 16 from bottom, for 88 read 89, and add one to all the numbers of the paras. given in the following lines down to the foot of the page.

,, 81, 1st line, after number of the paragraph, insert 1st.

" 85, marginal note to para. 22, for Wzayard read Wynyard.

" 103, para 85, line 13, for 81 read 82.

" " , 88, line 5, for bodd read bond

- ", 107, 2nd line of marginal note to para. 102, for now read how.
- ", ", last line ", " for 1865, " for 1865, "

,, ,, para 105, line 4, for is read in.

- ,, 112, 6th column under the sub head "Extent," for Rs. A. P. substitute Acres R. P.
- , 114, line 7, for measurments read measurements.

,, 118, para 13, line 4, add comma after sort.

, 119, line 3, for porformance read performance

- " 120, line 23, after Assistants, for semicolon substitute comma.
- ,, ,, line 13 from bottom, for Assisstant read Assistant

,, 128, last line, for seasons read season

,, 129, 1st line of 2nd note, for it read is, and for 8 and 9 read 10 and 11.

3rd note, for No. 5 read No 7.

,, 130, 1st note, insert asterisk before Rules, and for No. 7 read No 9

, 2nd note, for No 9 read No. 11.

,, 131, para. 46, line 5, for collection read collections.

", ", ", ", 6, for withs read with.
", 131, 2nd line of para 51, for one read are.

,, 131, 2nd line of para 34, for one read are , 142, line 17 of para, 72, for will read will

- , 143, line 12 of para 73, dele bracket after pre-emption.
- ,, 144, line 9, after notification, add if the arrear is not paid.
 - , ,, line 15 of para. 76, after demand, for comma substitute sernicolon.
- ", ", 16, ", after Khám Tahsíl, for semicolon substitute comma.
- ,, 146, line 16, the word 'when' commences a new para., which should be numbered 80 (89).
- ,, 151, 1st line of para. 91, insert IX before sale.
- , 161, line 4 of para. 123, for freest substitute freeest.
- , 168, line 3 of para 151, for rent roll rems revenue-roll.
- ,, 169, last line but one of para 154, for dependant read dependent,

Page 170, line 11, for conced d read conceded

, ,, line 17, for its read it.

39

37

33

11

", 179, line 6 of para. 180, in the blanks insert 165 and 168.

180, last line of para. 183, for proprieter read proprietor

,, 181, last line but one of para. 186, for appendix read Appendix

, 1st note, for notificating read notifications.

,, ,, 4th note, for XI read XII

- 183, para 190, line 6, for Remissions read Reduction.
- ,, 185, 1st line of para 19°, after (215) insert II, and for Remission read Reduction.
- " 186, 2nd line of 2nd note, for W N. P. read N. W. P.

,, 187, line 3, for 42 read 44.

,, 192, line 13, for measurements read measurements.

,, 196, last line but one of para 227, the word 'and' should begin a fresh line

, 202, 3rd line of 2nd note, for much read such

208, line 11, for for read of.

" line 15, for Accountant read Account int General.

, 209, para. 264, after number of pira insert (314)

,, 210, line 6, for Accountant read Accountant General.

213, line 6 of note, for made read mike

- 214, line 5 of para 280, for rent read revenue.
- ,, 215, 1st hae of para 284, for (833) read (338).
- " 217, line 5, for d'ingersinto read dangers into.

, 218 is wrongly numbered 128.

, 224, line 2, dele it

- ,, ,, 3, for acquired read required.
- " " ,, 11, for transer read transfer.

233 is wrongly numbered 323.

,, 246, col 12, for of read to

, 342, hne 18, ofter which add an asterisk, and at the foot of the page insert the following note -

An English form is given with the Circular which it has not been considered necessary to reprint here

- ,, 352, 1st column, 3rd class of land, for and subject read land subject.
- " 389, marginal note to para 5, for Circular XVII read Circulars XV and XXVII
- ,, 401, line 17, for 6, Jungle and Waste Grants read 4 Jungle and Waste Grants This should come before 5 Boundary cases.
- " 412, line 11, for 260 read 261.
- ,. 418, line 4, dele and the prescribed registers of revenuefree tenures.
- , 454, columns 7 and 20, for rent-roll send revenue roll.
- ,, column 16, for or after jama read ot.

Page 460, to para. 8, add as a marginal note— The despatch of cash from Taharl to Sadr.

. 463, to para, 12, add as a marginal note—

- No items of disbursement to be kept off the bocks.

 478, 4th column of Supplementary Statement, for Division read Diluvion.
- ",, 491, after line 15 from bottom, ensert 11 Cattle Fairs, and increase the following numbers by one, also add 18, Fees of Court of Wards et and of the list
- ,, 2nd line of note, for (14) and (15) read (15) and (16), ,, 493, 21th line, dele the 24 words commencing with "A portion of the security."

PREFACE

This work is an adaptation of the well known treatise of the same name, originally published in November, 1849, for the guidance of Revenue Officers in the North-Western Provinces, to the present state of the law in the Punjab, and the orders in force, issued by the executive authorities, either subsidiary to the law or on matters not provided for by law.

- 2. The following account of the original work is extracted from the preface to the first edition:—
- "1. The work is designed not for the information of the general reader, but for the direction of the public officer in the discharge of his duties. Hence the arrangement of the subjects and the style of the composition are more adapted to the exigencies of official duties than to the popular exposition of the subjects.
- "2. Officers employed in the Civil Administration of the country are guided in the performance of their daties by the Regulation and Acts of the Government in its legislative capacity, by the orders of the Government in its executive capacity; by the Circular orders and constructions of the Sadr Diwanf Adélat; by the Circular orders of the Sadr Board of Revenue; and in certain matters by the orders of the Revenue Accountant and Civil Auditor.
- "4. The object of the present work is to collect together from these different sources all that bears on the Revenue Administration of the N. W Provinces, to arrange it methodically, and to place it authoritatively before the officers employed in the department, with such additional remarks and directions as may suffice to explain the mutual relation and dependence of the several parts of the system. In pursuance of this plan, it has been considered desirable to retain as much as possible the wording of the original orders, which are often quoted in the text, or thrown into feet-metes or into the appendices. * *
- "5. Some years ago the Sadr Beard of Revenue made an important advance in this direction, by forming a compact digest of their own Circular orders, and by printing and publishing them in a convenient 8vo. form. The whole of their

orders up to that time were comprised in four numbers, entitled and dated as follows:—

- No. I. On Settlement, pp. 136, dated 9th April 1839
- No. II. On the realization of Revenue and Rent, pp 102, dated 3rd January 1840.
- No. III. On Records and Registration, pp. 148, dated 28th August 1840.
- No. IV. On Miscellaneous subjects, pp. 175, dated 4th May 1841.
- "6 These orders were clear and succinct, and were found to be of the greatest benefit, facilitating the transaction of public business. They were, however, in their nature incomplete, for they did not treat systematically the subjects to which they had reference, but were only a digest under convenient heads of orders, which had from time to time been issued to meet exigencies as they arose. In process of time, also some of the rules were abrogated or modified. When, therefore, a new edition of these Circular orders was required, it was evident that extensive additions and modifications would be necessary to adapt them to the existing state of things, and it was ultimately determined to reconstruct the whole in the present form, embodyng in the work such of the orders as remained in force, or throwing them into the appendices.
- The Direction for Settlement Officers and the two parts of the Directions for Collectors of Land Revenue were originally published separately, between 1844 and 1848. They are now collected in one volume, and republished with additions and corrections. But as the work is intended for official use. it has been considered best to retain the form and arrangement of the original works, even to the numbering of the paragraphs and of the appendices. It may be observed that the passages which have been altered from the first edition are included in brackets of this form (). Those passages which have been added are included in brackets of this form []. The first two sections or the first 126 paragraphs of the Directions for Collectors constituted the first part of that treatise, and were published in October 1846. The remainder, constituting Part II. was published in October 1848. The two have now been thrown together into one. The numbering of the paragraphs and appendices remains the same that it always was."
- The annexation of the Punjab had taken place shortly before the publication of the "Directions for Revenue Officers"

as a single work; but from paras 5 to 7 of the above extract it will be seen that, with the exception of some additions and corrections, the contents of the volume, which appeared in 1849, had previously been published in parts; and in para 12 of the Despatch constituting the Board of Administration for the affairs of the Punjab, dated 31st March 1849, the Governor General referred to the "Four Circulars" of the Sadr Board of Revenue, North-Western Provinces, "and the pamphlets published under the orders of the Lieutenant Governor," as forming "an admirable body of instructions adapted to any province where the village system obtains," and directed that they should be largely circulated amongst the officers under the Board. From this, as well as from an injunction in para 7 of the same Despatch, that the village co-parcenaries should be maintained in all their integrity, it is clear that the holding of the land by village communities, which had been found to prevail in the North-Western Provinces, and with reference to which the "Directions" had been framed, was understood to be a common feature throughout most parts of the Punjab, and while the Revenue Regulations applicable to the North-Western Provinces were, with a few exceptions, never in express terms extended to the Punjab, the "Directions" founded upon them were therefore prescribed as a guide to officers employed in that Province The edition of 1849 was, accordingly, generally circulated in the Punjab, and, with the subsequent edition of July 1858, has continued to be the principal manual of Revenue law and practice up to the present time It has been found necessary, however, from time to time to supplement the instructions contained in it, or to introduce modifications, by means of Circulars issued by the Financial Commissioner, and portions of it have been rendered inapplicable by changes in the law, The most important alterations thus effected before the passing of the Punjab Land Revenue Act, 1871, are the employment of the patwari agency instead of that of amins in field measurements, and in the preparation of the map and measurement papers required for the purposes of Settlement or of recording subsequent changes, the abolition of summary suits for arrears of rent or revenue, and the transfer of the jurisdiction in such cases to the Civil Courts, the discouragement of complete partitions of estates, and, lastly, the amendment of the law relating to the tenancy of land in the Punjab by the passing of the Punjab Tenancy Act in 1868.

4. At length the passing of the Punjab Land Revenue Act on the 18th November 1871 consolidated the law which forms the basis of the Revenue system of the Punjab, and

rendered necessary the issue, under the authority of the Local or of the Supreme Government, of subsidiary rules founded mainly upon those previously in force, but framed with reference to the provisions of the Act. One consequence of this has been the necessity for a revision of the "Directions for Revenue Officers," with a view to adapt them to the present state of things in the Punjab.

5 In introducing the Punjab Land Revenue Procedure Bill in the Legislative Council of the Governor General of India on the 5th September 1871, the Hon'ble J Fitzjames Stephen made the following reference * to the "Directions":—

"The system established by Regulation VII of 1822 was, in subsequent years, very considerably modified by certain instructions resured to Settlement Officers and Collectors of Revenue by the authorities of the North-Western Provinces. After some changes these instructions were consolidated into two books, the Directions to Settlement Officers and the Directions to Collectors. The author of these works was, I believe, the late Mr. Thomason, and I may observe in passing that of all the law books that have come under my notice, I should be inclined to say that they are very nearly, if not quite, the best.

"With some exceptions, to which I need not now refer, they are arranged and expressed with a degree of precision and clearness, which I do not think can well be exceeded. * * *

"I have noticed that there is an all but insuperable tendency amongst persons who have to acquaint themselves with the law to prefer hand-books to Acts. * * * The hand-books drawn up by Mr. Thomason were infinitely superior to the Acts which they were intended to explain, and the natural consequence was that they superseded them "

- 6. Afterwards, when proposing that the Bill should pass into law, Mr Fitzjames Stephen recommended that the Punjab Government should arrange for the revision of the "Directions," for the use of the officers subordinate to it. The Punjab Government accepted this suggestion, and placed my services at the disposal of the Financial Commissioner for the purpose of giving effect to it.
- 7. The revision of the work has accordingly been effected by me, but the whole of the manuscript has been submitted to the Financial Commissioner before being sent to Press, and all the alterations made have been approved of by Mm, and where

^{*} Supplement to the Gazette of India for 1871, pp. 1280, 1281.

they were of such a nature as to require the orders of Government, they have been submitted to, and been sanctioned by, the Local Government.

- It must be understood, however, that, while this work is published by authority, nothing which it contains has on that account the force of law, and that it is not intended to render reference to the law, or to the rules made under it, unnecessary, when those are applicable. It is by no means desirable that a book, the object of which is to assist officers in making themselves acquainted with the principles on which the Revenue Administration of the Punjab is conducted, should divert their attention from the legal authority on which their proceedings, so far as they require to be regulated by law, must rest, and where the terms of the law, or the rules made under it, are referred to in the body of the work, only such an account of them is ordinarily given as is necessary for the elucidation of the subject being treated of at the time. In some cases rules made under the authority of Acts are thrown into the Appendices, as in the case of the rules under the Excise Act, the rules under the Pensions Act, and the rules under the Land Improvement Act. but the rules under the Punjab Land Revenue Act are not so given, as the Act requires the republication of so much of them as requires the sanction of the Government of India every year, and it has been considered most convenient to republish those issued under the authority of the Local Government at the same time. The instructions contained in the Financial Commissioner's Circulars on subjects treated of in this work have also been collected in the Appendices, where they could not conveniently be noticed in the text, and had not been superseded by more recent rules or instructions.
- 9. Thus, while the text of the "Directions" is merely modified, as much of the original work being retained as the circumstances permitted, the Appendices are almost entirely new, and their contents are only applicable to the Punjab It has not been found possible to retain the original numbering of the paragraphs of the "Directions," but where the substance of the old paragraph is retained under a different number, the former number is added within curvilinear brackets, so that passages referred to by their old numbers, in Settlement Reports or elsewhere, may be readily traced. A list of the original paragraphs is also subjoined to the table of contents, giving the corresponding numbers of the paragraphs in this edition. Passages which have been added or materially altered from the original work are further distinguished by being placed within rectangular brackets.

REMARKS

ON THE SYSTEM OF

LAND REVENUE ADMINISTRATION

PREVALENT IN THE

NORTH-WESTERN PROVINCES OF HINDOOSTAN.

- 1. The Land Revenue of India rests upon the principle that "by the ancient law of the country the ruling power is entitled to a certain proportion of the annual produce of every bigah of land, excepting in cases in which that power shall have made a temporary or permanent alienation of its right, to such proportion of the produce, or shall have agreed to receive, instead of that proportion, a specific sum annually, or for a term of years, or in perpetuity." *
- 2. The mode in which the ruling power exercises this right constitutes the system of Revenue administration.
- 3. The characteristics of the system followed in the late Settlement of the Land Revenue in the North-Western Provinces are the following:—

First. All the inhabited part of the country is divided into portions with fixed boundaries, called mahals or estates, on each mahal a sum is assessed for the term of 20 or 30 years, calculated so as to leave a fair surplus profit over and above the net produce of the land; and for the punctual payment of that sum the land is held to be perpetually hypothecated to the Government.

Secondly. It is determined who are the person or persons entitled to receive this surplus profit. The right thus determined is declared to be heritable, and transferable, and the persons entitled to it are considered the proprietors of the land, from whom the engagements for the annual payment of the sum assessed by the Government on the mahál are taken.

Thirdly. All the proprietors of a mahál are, severally and jointly, responsible, in their persons and property, for the

* See Preamble to Reg. XXXI, 1803

payment of the sum assessed by the Government on the mahal. When there are more proprietors than one, it is determined according to what rule they shall share the profits, or make good the losses on the estate. If the proprietors are numerous, engagements are only taken from a few of the body, who, on their own parts, and as representatives of the rest, undertake to manage the mahal and to pay the sum assessed upon it.

- 4. Each of these characteristics calls for separate explanatory remarks.
- 5. First.—The division of the land into maháls or estates.* The primary division of the land is into mauzahs or townships, each of which has a distinct name and known limits, which are shown in a separate map furnished for each mauzah by the Revenue surveyor. Commonly a mauzah constitutes a distinct mahál, which is assessed at a certain sum, but this is not necessarily the case. A mahál, constituting all the land contracted for in one engagement or lease, may consist of two or more mauzahs, or parts of mauzahs, or may be only a partion of one mauzah. Provision is made for the union or division of maháls according to the wish of the proprietors, so that the number of maháls is always changing, whilst the number of mauzahs remains the same.
- 6. Each mahál is hypothecated to the Government for the sum assessed upon it. If the person or persons who have engaged to pay this sum fail to make good their engagement, the Government have the power to appropriate to themselves the whole of the net produce or rent,+ or they may sell or farm the proprietors' rights in the estate. It follows that all over-assessed estates which possess no marketable value are almost sure to be thrown on the hands of the Government, when it becomes necessary either to reduce the assessment or to improve the productive powers of the land, so as to make it able to pay the sum originally assessed upon it.

^{*} The definition of the terms mausah and mahal is given in the "Directions for Settlement Officers," paragraphs 5 and 6. The usual English equivalent for a mausah is "village," or more correctly "township," for it consists of the village site and the land cultivated attached to it, which may have hamlets or homesteads scattered over its surface. The English word estate, which is used in the Regulation (See cl. 2, Sec. 2, Reg. XLII, 1803) as the equivalent of mahál, signifies, not the property of one person, but the property held under one lease, whether by one person or by many. The interest of a sharer in a mahál is commonly called a property.

[†] By net produce or rent is meant the ryot or produce rent, paid by laborers raising their wages from the soil,—See Jones' Essay on Rent, Book I, Chap. IV, p. 102 and seq.

- Secondly The recognition of a proprietary right in the land It is needless to enquire who theoretically is the owner of the soil Undoubtedly, traces are often to be found of the existence and exercise of a proprietary right in the land on the part of individuals But so long as the sovereign was entitled to a portion of the produce of all land, and there was no fixed limit to that portion, practically the sovereign was so far owner of the land as to be able to exclude all other persons from enjoying any portion of the net produce. The first step, therefore, towards the creation of a private proprietary right in the land was to place such a limit on the demand of the Governmem as would leave to the proprietors a profit, which would constitute a valuable property. This is effected by providing that the assessment shall be a moderate portion, say two-thirds of the net produce at the time of settlement, and that the proprietor should be allowed all the benefit from improved or extended cultivation which he may be able to obtain during the currency of his lease.
- 8 But in order to ensure the improvement of the estates which this proceeding is likely to encourage, it is not sufficient merely to leave a surplus. It must also be decided who is entitled to that surplus, and when there are several persons entitled to share in the surplus, it must be fixed how they are to share. Whenever also there is unappropriated culturable land, it must be determined who is entitled to bring it into cultivation, and on what terms. In order the more fully to explain the necessity for this operation, reference must be had to the course generally followed by a native government in assessing an estate, and in collecting from it the sum assessed.
- 9. Native governments seldom recognize proprietary right as constituting a claim on the part of the proprietors to engage for the village at a fixed sum. Ordinarily the collections are made direct from the actual cultivators, either by the officer of Government, or by some farmer or assignce of the Government share of the produce. At the commencement of the agricultural year the cultivators are assembled, the extent of the cultivation ascertained, and the sum fixed, which is to be paid in the year according to the customary rates. This process is effected in communication with the cultivators through their head or representative, who becomes responsible for collecting the sum according to the agreement made, and for

^{*} See a good account of a township, and the mode of collecting from it, in a paper regarding the township of Loony, near Poonah, in the Deckan, written by Dr. T. Coats in 1820—Bombay Literary Transactions, Vol. 3, pp. 172 to 264.

paying it into the hands of the Government officer or assignee. In such a case the consent of the Government to all transfers of land is generally considered necessary, and no new land can be brought into cultivation, except under authority from the same source.

- Here at first sight it would appear that there was no private proprietary right to the estate, and such may possibly be the case. It may be that the land which was originally waste and the property of the State was brought into cultivation by the efforts of the officer of the Government in charge of the district. He may have located the cultivators on the land at the expense of the Government, and he may have discharged from the public Treasury all the expenses incident to the establishment of the village. In that case the cultivators would be mere tenants-at-will, and the Government would be the proprietor of the mahál.
- 11. It may, however, be that the whole body of the cultivators may be possessed of rights, which are quite independent of those of the Government. They may have acquired the estate by conquest in time of war, or by violence in time of civil commotion. They may have themselves reclaimed the land from a state of waste by their own labor, and at their own cost. They may have built the houses, dug the wells and planted the groves on the estate. They may have arranged amongst themselves for the cultivation of the land, and have mortgaged and sold it according to their own pleasure. The appropriation by the ruling power of a portion of the produce may have been supervenient to their own previously existent right of possession and management.
- 12. Closer enquiry will often show that these rights attach to only a portion of the whole body of cultivators. Some of the cultivators may be the descendants of the original founders or conquerors or grantees of the township. They or their ancestors may have dug the wells and planted the groves in the township, and invited settlers to aid them on certain terms in bringing the lands into cultivation. They may still hold their lands on lower rates than the others, they may receive dues from them, be entitled to all the spontaneous or manorial products of the soil, and may have a prior title to engage for the cultivation of the waste lands All or several of these or similar rights may of the township. entitle the class or classes which possess them to be considered proprietors, although they can scarcely be distinguished from the rest of the cultivators so far as regards the mode in which they are assessed, and pay their rent to the Government.

- 13. It may, however, be the case that the headman of the village, though a cultivator, and paying rent for his lands, like the rest, to the Government, is himself the possessor of rights of the nature described above, and is alone entitled to all the privileges which under the British system would accrue to a proprietor.
- 14. It may further happen that, besides the cultivators occupying or possessing the land, as above described, there may be some superior person who, from special grant of the ruling power, or from other cause, sanctioned by long prescription, is entitled to make the annual contract with the cultivators, to collect the amount from them, and to pay into the Government Treasury either a certain fixed sum or the amount collected after deducting a certain percentage for himself.
- It is evident from the above detail that there may be numerous claimants of a share in the proprietary rights which by the limitation of the Government demand to a fixed moderate sum for a long term of years, have acquired a value which they never before possessed These rights may be quite independent of, and in fact superior to, those of the person with whom the Government contract was made, and who has thus become primarily responsible for the payment of the sum assessed on the village. It is not sufficient simply to fix the sum to be paid from the land, however moderate the demand may be, and to determine by whom it shall be paid. Such an operation in itself would be only the signal of strife and discord in the whole community. The several claimants would have recourse to violence or to legal stratagems to gain what they conceive to be their rights, instead of all uniting to improve the estate and better their condition by labor and industry. It may be that the superior right, talents, wealth or influence of one or more of the number may over-bear the rest, and induce acquiescence for the time in their claims; but unless there be some legal or authoritative declaration on the subject, strife is always likely to arise.
- 16. Nor is it enough to leave such disputes to the decision of the ordinary courts of law on the suit of the parties claiming the rights. The claimants are often ignorant people, scarcely sensible of the real change in their position which the new system of the Government has occasioned, and quite unable to place their claims in a light which can be understood. A plaintiff always is under a great disadvantage in going into an ordinary court of justice to prove a right which can only be established by obscure analogies. The onus probandi necessarily rests upon him, and if he fails in his proof, he is in a worse case

- than before, though his antagonist may not be able to show equally good proof in support of the possession he has attained. When a person is unable himself to perceive and seize upon the advantage which is placed within his reach, he is likely for a time sullenly to acquiesce in the usurpation of another, and to wait some favorable opportunity for throwing off the yoke and asserting his right. He will hold what he has, and be on the constant watch to resist the exercise of the rights of the more successful rival, or to appropriate what may be advantageous to himself.
- 17. No legislative enactment can afford an effectual remedy to this state of things. The cases are so various that no declaration can be made in favor of any one class, however designated, without running the risk of great injustice to many. The utmost that can be done is to describe in general terms the most numerous classes of claimants and their rights, and to leave to tribunals, specially constituted for the purpose, the reference of individual claimants to one or other of the specified classes.
- 18. This has been the course followed in the N. W. Provinces In Regulation VII, 1822, the tenures, which most commonly occur, are classified and described, and the Revenue Officer, who, by imposing a limitation on the Government demand, has given a value to the property, is empowered to determine who are entitled to enjoy that property As, however, it is possible that, from the multiplicity and difficulty of the subjects which engage his attention, he may fall into error in the performance of this duty, any person who considers himself wronged by his decision is at liberty to separate his own case from the rest, and to sue in the Civil Courts to set aside the award of the Revenue Officer, and to obtain what he considers to be his right.
- 19. It may happen, and in some parts of the country it is not unfrequently the case, that there is no party entitled to claim the proprietary right. Under such a system as has been described to prevail in Native States, it would not be surprising if all proprietary right were sometimes extinguished. In that event all the cultivators would be reduced to the same level, holding from year to year at the pleasure of the ruling power, and the headman would be merely, "primus inter pares," selected by the Government for his superior abilities or influence, and liable to be displaced at pleasure. The Government, however, has no desire to retain the proprietary right in its own hands, and in such cases commonly confers the

right on any one who, by local influence or by successful exertion in the management of the township, may have a preferential claim to the indulgence. Sometimes the proprietary right is put up to competition at public auction, and is sold to the highest bidder. Neither of these courses should be ever followed, without previous careful ascertainment that no existing rights of any kind connected with the possession or occupation of the land are hereby compromised.

- Thirdly The joint responsibility of the co-pareeners in an estate. It is by no means an essential characteristic of the system that there should be more than one proprietor of an estate. The estates may be of any size; they may even be no larger than what in the Madias or Bombay Presidency are called fields. It is, moreover, in the option of any co-parcener in a joint estate, to obtain a separation of his interest from that of the rest, and to form his property into a distinct mahal or estate, of which he will be the sole proprietor. Ordinarily, however, in the North-Western Provinces, the estates are large, and held by more than one proprietor, and often by a large community of cultivating proprietors. This is a peculiar feature of the existing tenures in land, and it is no small recommendation of the system that it is able so completely to adapt itself to this state of things, as to maintain unimpaired the ancient form and character of the tenure, under circumstances very different from those which existed when the usage first arose.
- 21. The peculiar form and constitution of the village communities in India have been often described.* N. W. P they were found, on our first acquisition of the country, to exist in great numbers and in full possession of their privileges. They were well calculated to resist the violence to which they had formerly been exposed, and it became of some importance so to adapt our own institutions to their peculiar framework as to admit of the continued free exercise of their functions. This has been effected by allowing the village communities to engage with the Government through their elected representatives, and by requiring and encouraging them to place on record a full detail of all their peculiar customs, with a register of the rights possessed by each. All the members are considered severally and jointly responsible for the entire sum assessed upon the estate. So long as this sum is punctually paid, they are perfectly tree to manage their own affairs, and

^{*} See Elphinstone's History of India, Vol. I. Chap. II, page 121.

if they conduct themselves peaceably, there is no reason why any officer of the Government should intertere with them.

- But if they fall into arrears from any cause, such as misfortune of season, quarrels amongst themselves, or the like. the Collector is then able, after consulting the record of rights and habilities in the village, to come to a satisfactory conclusion as to the cause of default, the persons who have occasioned the default, and the best mode of recovering the arrear due It is his duty to effect this, so as least to disturb the mutual relations of the several members of the community, and so as to produce the greatest possible combined effort for the payment of the amount. In attempting this, he will be materially aided by the firm conviction on the minds of all that the whole brotherhood are likely to be affected by the misfortune or misconduct of one of their number They will be the more disposed to assist any member of the community when in distress. to restrain him when inclined to be turbulent or improvident. and to expel him from amongst them when they find him to be incorrigible, and to take on themselves the duties and liabilities which he failed to discharge
- 23 These are new function, which the members of the community are required to perform Self-government was before forced on them by the absence of all law, and for purposes of self-preservation. It is now most important that the law be so administered as to continue their habits of self-government, and only to interpose for their control or punishment when they are incompetent to manage their own affairs. Now, as formerly, a distracted or ill-disposed community will occasionally fall into disorder and be ruined, but the means are open to all, by thrifty and industrious habits, to maintain the free exercise of their cherished institutions, and to secure to themselves all the benefits which the combined efforts of a united brotherhood are well calculated to produce.
- An attempt has thus been made to point out the leading characteristics of the system, which is minutely described in the following pages. It has been called the mauzahwar system, but perhaps mahalwar would be a more correct term. A few observations will be added on its general working and effects.
- 25. The system can be introduced into any part of the country, and adapted to the existing state of property, whatever that may be. One of its chief features is, that it professes to alter nothing, but only to maintain and place on record what it finds to exist. Rights which are held undisputed are confirmed

those which are ambiguous are defined and rendered certain; those which are contested are authoritatively fixed and placed in the possession of the party which is considered best entitled. This operation is undoubtedly a very difficult one, and it is one in which error may be committed and injustice done, but it is one which is essential to the security of the property, which it is the chief object of the system to create. Those to whom is entrusted the civil administration of the country must provide for its careful performance, and there can be little doubt that in the lapse of time, when the people themselves understand and appreciate its benefits, it may be brought to a degree of accuracy and completeness, which seems at present almost unattainable.

- 26. Caution must be used in the introduction of this, as of any other new measure, into a part of the country where it has not hitherto prevailed. The nature and value of the rights which it confers will at first be little understood; the responsibilities which it imposes will not be fully felt and the severe penalties attaching to a breach of the obligation which it imposes will not be comprehended. Some time must clapse before its effects can be felt in developing the resources of the country and stimulating the industry of the people. It may be well to commence with short leases, for 3, 5 or 10 years, till confidence is felt in the Government, and till the people become accustomed to the mode of procedure.
- The feature of the system, which is least understood by the people of India, and yet which is essential to the attainment of the objects it contemplates, is the compulsory alienation of landed property, either in satisfaction of a private debt under the orders of a Civil Court, or in liquidation of the demand of Government in virtue of the lien possessed by the Government upon the land. Abstractedly considered, this is the just and necessary result of the definite property in land which is created by the system, but it is a process unknown to the native governments from the very absence of all recognition Voluntary transfers of land were known under of fixed rights. native governments, but compulsory sales of land could not take place, because they would have implied a pledge on the part of the Government, which was never given, or a confidence in its moderation, which was never felt. But there is no necessity for the immediate or peremptory enforcement of this process. Careful discrimination and much forbearance should be shown till gradually the people are brought to feel that the preservation of their much cherished interest in the soil depends on their own thriftiness and industry.

- The system is evidently one which is not calculated to yield the largest amount of land revenue. It cannot be introduced into a highly cultivated and fully-peopled country which had been administered according to the native or any other similar method of Ryotwar management, without an apparent immediate diminution of the Government demand on account of land revenue. The compensation for this would be sought in the increased prosperity of the people and the consequent increase of the sources of indirect taxation, in the more complete control maintained over the persons employed in collecting the revenue, in the diminished cost of collection, and in the greater certainty of punctually realizing the sum actually assessed. On the other hand, wherever there is much waste land, and the country is poorly cultivated, and the population is scanty, it causes the rapid reclamation of the waste and the increase of the population. A valuable property is thus created, from which, in the course of time, the State may derive a largely increased amount of land revenue.
- The collection of the land revenue under this system will always require much judgment and discretion in effecting A certain and fixed rule of procedure cannot be prescribed if it is desired to secure the full benefit which may be produced As regards certain classes of tenures, a fixed course may be prescribed. Thus, for instance, in estates held by wealthy individual proprietors, who are not resident on the spot, it is better to abstain from all vexatious proceedings against the person or personal property, and to put up to sale the estate on which the arrear has occurred for the sum due from it. But as regards the generality of tenures, no such rule can be laid down. When the land is minutely subdivided and held by numerous cultivating proprietors, the greatest care is requisite. It may sometimes be prudent or necessary to suspend or remit the Government demand on the occurrence of disastrous seasons, and it will always be necessary to decide whether process should issue against the proprietary rights of the defaulter in the estate, or against his person or personal property, and whether the individual defaulter should be held alone responsible, or the joint responsibility of the whole community be enforced. These proceedings will often involve the exercise of functions whicheare essentially judicial, and will require promptitude, discrimination, and temper for their successful conduct.
- 30. This evidently results from the diverse and complex nature of the tenures. The system adapts itself to all their forms, but in its operation must be used according to the

particular requisitions of each case. The rights of the Government cannot be justly enforced without careful regard to all those peculiarities. The object has been to devise a scheme which shall meet the exigencies of each case, and not to bring all cases to one uniform standard which might be treated by a fixed and simple course of procedure. In proportion as the tenures are uniformand simple, the mode of treating them may be simplified. It is impossible to say how far uniformity of tenure may hereafter prevail, and so produce simplicity of procedure, but if this is ever the case, it should arise from the free and spontaneous choice of the people, and should not be accomplished by the compulsory operation of laws unsuited to the existing state of property.

J THOMASON.

Sinda, August 25 1849

DIRECTIONS

FOR

SETTLEMENT OFFICERS.

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SETTLEMENT OFFICERS.

SECTION I -Introductory.

Under Indian Governments there is practically no other limit to the demand upon the land, than the power of the Government to enforce payment, and the ability of the people to pay. Thus the Government is in fact the landlord of the whole country. It is the true interest of the Government in this capacity to limit the demand, so as to create a valuable property in the land and encourage its improvement. In order further to encourage this improvement, it is necessary to determine the persons to whom all the benefits belong, which arise out of the limitation of the demand on the land. To perform these operations is to make a Settlement. Under ordinary circumstances the prosperity of the country depends on this being justly and perfectly done. The object of the present rules is to point out how it should be done.

2 There are evidently two distinct operations in the formation of a Settlement. The one is fiscal,—the determination of the Government demand, the other is judicial,—the formation of the record of rights. Ordinarily the two operations are performed at the same time, and there are many reasons which render such an arrangement very desirable. But if from any cause the judicial part was omitted when the fiscal was performed, there is no reason why the former should not be subsequently carried into execution, without disturbing what had been previously done towards the latter.

Both operations are performed in a first Regular Settlement. But in most cases the first Regular Settlement has been preceded by a Summary Settlement, consisting of the assessment only, without a complete record of rights, and after a first Regular Settlement has been made there may be a

re-Settlement either for the purpose of revising the record of rights without disturbing the assessment, or for the purpose of fixing the amount of Revenue to be paid after the expiration of the term for which the Settlement has been made. In the latter case the record of rights may be revised or not as Government may direct.

3 In the present rules it will be supposed that both operations, the fiscal and the judicial, have to be carried out, and the several steps of the formation of a Settlement will be treated in the order in which they should be taken

First —The Adjustment of Boundaries

Second -- The Survey

Therd—The Assessment

Fourth - The Record of Rights

SECTION II - The Adjustment of Boundaries.

- 4 The first step in the formation of a Settlement is to lay down the boundaries of each Mauza or village
- 5 A Mauza (commonly called a village) is a parcel or parcels of lands having a separate name in the Revenue records and known limits—(See hereafter para 38).
- 6 A Mahál † or Estate is any parcel or parcels of land which may be separately assessed with the public Revenue, the whole property of the persons settled with in the Mahál being held hypothecated to Government for the sum assessed upon it. The definition is introduced here only for the sake of distinction. The boundaries of each Mauza, not of each Mahál, have to be marked off, or, in other words, the survey should be Mauzawár, and not Mahálwár.

[The observations in the note to para 5 and in para, 6 of Mr Thomason's Remarks on the System of Land Revenue Administration in the North Western Provinces, which are

^{*} See Sections 10 and 11, Act XXXIII of 1871—The Punjab Land Revenue Act.

† See Act XXXIII of 1871, Section 1.

prefixed to this work, will be found useful, both as elucidating the distinction drawn in the text between a village and an estate, and as explaining the sense in which those words are used throughout this treatise and in Acts of the Legislature relating to Land Revenue. The word "village" is not defined in the Punjab Land Revenue Act, 1871, though it enters into the definition of estate there given, and village communities are also mentioned. It is necessary to remember that it is not used in the ordinary English acceptation of the term, but as the equivalent of Mauza.

On selecting a Parganah or Tahsil for Settlement, the first step should be to draw out a list of Mauzas, which are to be separately marked off and surveyed requires more care than may at first be supposed necessary to decide in what cases separate properties in the same Mauza should be separately surveyed and formed into distinct Mauzas, and in what cases Mauzas constituting the same property may be surveyed together and formed into one new Mauza When several Mauzas, the property of the same persons, and held on the same title, lie together, it is better not to separate them, but to mark them off and survey them as one, giving to the whole circuit the name of the several constituent Mauzas. Thus Mauza Baurúah Garrúá means a new Mauza made up of the former separate Mauzas of Baurúah and Garrúa. The list should be drawn out in Urdú, Hindí and English, the arrangement being strictly according to the Urdú Alphabet, and the Urdú being converted into English according to the system adopted for the Imperial Gazetteer * The names in English of the villages having thus been once fixed should be afterwards maintained both by the Surveyor and the Settlement The boundaries of the villages should be decided and marked off as nearly as can be according to this list, but some modifications of the list will be found necessary in the course of the work, and it is not till the boundaries of the Parganahs have been determined, as hereafter explained in para. 43, that the list can be considered complete and finally fixed.

[The list should include every village, whether paying Mr. Christian's instructions, 2, 2. assigned (Jágír). The numbers given to the villages (which are known as Hadbast numbers)

Punjab Government Resolution No. 21st dated 13th February 1872.—See translated and table of equivalents given in Appendix No. 1

are subject to revision. Uninhabited estates, if belonging to one man or family, and not shared in by the other proprietors of the village in which the owners reside, should be separately marked off; but if the property of the proprietors of an adjacent inhabited village or of a sub-division of such village, they should be included in the boundary of such village?

- 8 The principles on which the boundaries should be laid down are the maintenance of possession where it is clear and undoubted, the determination of it where it is questioned, and the conferment of it where it is unascertainable
- 9 The possession of cultivated land can never be unknown The possession of uncultivated land is sometimes marked by the right to wells or houses, or the enjoyment of the fruits of the trees or spontaneous products of the earth, but these indications are often obscure. As a general rule, cultivated land should be marked off according to possession, and disputes only recognized in uncultivated land. Wherever the quantity of waste uncultivated land is very large, and no title to it can be proved, it should be marked off separately and declared the property of Government, to be disposed of as may be thought fit.

[If the quantity of waste land belonging to an estate appear to be in excess of the requirements of the estate for pasturage or other useful purpose, the case should be reported for the orders of the Financial Commissioner, who may direct, under Section 27 of the Punjab Land Revenue Act, 1871, that such land should be separately demarcated and assessed?

- 10 Care is requisite in admitting the existence of disputes One man must not be allowed to disturb the undoubted possession of another. Wherever possession is evidently doubtful and a dispute is found to exist, the limits of the disputed tract must be first accurately defined.
- 11. [When this has been done, a notice should be issued to the contending parties under Section 22 of the Punjab Land Revenue Act, 1871, requiring them, within a specified time, to come to an agreement as to the common boundary, and to erect boundary marks sufficient to define

- In the interval every means should be used to bring them to an anticable arrangement.
- 12. At the expiration of the specified period, if the boundary has not been so defined, the Settlement Officer should proceed to adjust it, if empowered to do so,* making such investigation as may be necessary for this purpose.
- 13. In cultivated land, the possession of which is certain, that possession must be maintained, whether it agrees with the professional plan of the village or not. But in waste tracts, or in cultivated land of which the possession is doubtful, recourse must be had to the professional plan or to arbitration. In such cases, the fact that the legal possession is with neither party, or is doubtful, should be recorded in the final proceeding. The boundary established by the Settlement Officer will then define the limits of the estates for Revenue purposes; but the proprietors may establish their title to any land beyond such boundary by Civil suit, or may be sued for land within the boundary of their estate.

In most cases, however, where possession is doubtful, the parties will agree to abide by the boundary laid down in the professional plan or other record of the previous boundary, when any such record exists. An engagement to this effect should then be taken from them, and the boundary The best plan is to identify two remarkable restored. points, such as triple junction (sehaddi) points, or very marked angles, in the plan and on the ground; and restoring the boundary between them as nearly as possible, to survey and protract it on the same scale with the plan. The comparison of the two surveys will at once show what errors have been made. 1

14. Charcoal should be buried at all triple junction points, and they should be marked by masonry platforms, four feet square. † The intermediate boundary marks should

It will be observed that in the case of a first Regular Settlement, the Notification of Settlement, under Section 11 of Act XXXIII of 1871, must declare whether the boundaries of villages and estates are to be adjusted. In re-settlements the only powers which can be exercised in regard to boundaries are those given by Section 22.

If The planting of cross of a special and lasting description, one within the area of each of the villages which meet at this common point, at the distance of one karam from the platform, and equidistant from each other, has also been emidined, where this is practicable.—Financial Commissioner's Book Cincolar Ro. [X of 1864.

be constructed of masonry, or a deep trench should be made, where the boundary has been decided by reference to the professional plan, or by arbitration: in other cases earthern pillars may be used, or other convenient method.

Whenever a boundary, different from the former one, has been adopted, it should be protracted in red ink on the village plan; and in the final proceeding a note of the discrepancy should be made.*

- 15. A sketch of the boundaries of a village should be made (*Thákbast* map +), and with this sketch should be kept a record showing how each boundary was laid down, whether by consent of parties, according to possession, according to the professional plan or other record of the previous boundary, or as determined by the Settlement Officer with the assistance of arbitrators appointed either with or without the consent of the parties.
- 16. When demarcation has once been completed, the greatest care should be taken to maintain the marks and to prevent the unnecessary raising of disputes again. The boundary marks should be placed in charge of the village watchmen, and if either party is dissatisfied with the demarcation, and appears likely to injure it, the marks should be made over specially to that party, who should be held responsible for their safe custody. [Section 22 of the Punjab Land Revenue Act, 1871, provides for the maintenance of the boundary marks at the expense of the parties, and intentional injury to them is punishable as mischief under Section 426 or Section 434 of the Indian Penal Code.]
- 17. It remains to describe the agency through which this operation is to be performed. [That which is now generally adopted in the Punjab is as follows.]
- 18. [One of the officers mentioned in the notification of Settlement is appointed to be Superintendent of the Settlement of a Tahail or other sub-division of the District, the Kanango

^{*} Paras. 11 to 14 of the original work have been omitted as inapplicable to the Punjab. Of the corresponding paras, here given, Nos. 11 and 12 are new, and Nos. 13 and 14 are based upon Nos. 15, 16, 18 and 19 of the Saharanpur Rules appended to the N. W. Provinces edition of 1858.

[†] See No. 12 of the rules under the Funjab Land Revenue Act, Section. 15, relating to the documents to be contained in the Record of Rights.

and Patwaris of the sub-division are placed under his orders, and he is provided with a subordinate establishment qualified to supervise and check the work of the Patwaris. The tract in charge of the Superintendent is divided into survey circuits, consisting, where possible, of the villages in the charge of two neighbouring Patwaris,* who are associated together for the purpose of effecting the measurements and preparing the map and measurement papers. After the Patwaris have received such instruction as may be necessary, and inefficient men have been replaced by others, the Superintendent proceeds in person to the sub-division, and the boundaries are laid down and marked off, or the former boundary marks restored, as may be necessary?

- 19 The importance of carrying on the work, as much as possible with the concurrence of the people and of using their best endeavours to adjust and reconcile differences, should be impressed upon the Superintendent and all members of the establishment under his orders. Orders under Section 22 of the Panjáb Land Revenue Act, and orders relating to the adjustment of disputed boundaries, must be issued by the Superintendent or other Settlement Officer of superior rank, the powers of subordinate officials being limited to marking off boundaries and creeting or restoring boundary marks where the boundary is undisputed, or has been amicably adjusted by the parties themselves a dispute is found to exist, a brief report should be made to the Superintendent, accompanied by a sketch showing the position and extent of the ground disputed The Superintendent should then visit the spot, call the parties before him and endeavour to bring them to an agreement. If this prove impracticable, recourse must be had to the procedure described in paras. 11 to 13.+1
- 20. The greatest activity is requisite in the superintendence of the several working parties. Weekly reports should be made, either orally or in writing, to the Settlement Officer by the Superintendent, and the former should be always accessible to every complaint that may be made to

† This and the preceding para, have been modified from the corresponding paras, of the original, the Patwari establishment being now employed to do the work for which Amins were formerly appointed.

^{*}Where Patwaris' circles are large, so that such an arrangement would delay the completion of the measurement, the survey circuits are made to correspond as nearly as possible with Patwaris' circles and the measurements are effected by the Patwari with an assistant.

hnn by any person at any time and in any way, and should always be ready to proceed to the spot and judge there for himself of the fairness of any proceeding which may be called in question. While the immediate supervision of the work of the survey should be entrusted to the Extra Assistant Settlement Officer, and, under his orders, to the Superintendent, the Officer in charge of the Settlement should satisfy himself, by frequent and careful personal inspection, and by occasionally testing the documents prepared, that the work progresses rapidly and is accurately done

The actual expenses of marking off the boundary,* as well as incidental expenses of peons, &c, in serving process, will be borne, as in all other cases of judicial decision by the parties whose interests it affects. If the scheme be virorously and watchfully worked out the expense will be inconsiderable but unless great attention be paid to this point, the cost will be very heavy and burdensome to the people. The work will never be well done till both Patwaris and Superintndents are made to feel that it is their interest that the work be quickly well and economically performed [One great source of delay in the adjustment of boundaries has been removed by employing the Patwaris in the measurements instead of Amins or Native Surveyors specially entertained for the purpose, who were likely to profit by disputes and who, even if disposed to try to check them, did not possess the local knowledge which would enable them to interpose effectually Under the mesent system delay is most likely to arise from errors in measurements, arising from the Patwaris being set to work before they have been sufficiently instructed, and being imperfeetly supervised while the work is going on. It is better that the commencement of operations should be delayed, than that any Patwari should have duties entrusted to him which he is not qualified to perform, and it is essential that the work should be carefully tested at each stage as it proceeds]

Section III -Survey.

²² As soon as the boundaries are marked off and disputes adjusted, the Parganah or Tahsil is ready for survey, and as little time as possible should be suffered to clapse between the two operations.

^{*} Act XXXIII of 1871, Section 22

- [In a first Regular Settlement it is necessary, before the measurements are begun, to prepare for each village a rough Khewat or abstract statement of the holdings and liabilities of the proprietors. In a re-settlement, including revision of the record of rights, this statement may be dispensed with, if the Patwaris' annual papers for the preceding year are correct: otherwise it must be prepared. This statement is verified and attested by any officer to whom the officer in charge of the Settlement may entrust this duty, and is afterwards placed in the hands of the person making the measurements for his guidance.]
- 23. (25.) The Survey is for Revenue purposes. It consists of two branches—the scientific survey conducted by the Survey Department on the European method, and the field measurements conducted by village accountants, using the plane table and chain.
- 24. (26.) The scientific survey is intended to lay down with accuracy, and on a fixed scale (20 chains to the inch or 4 inches to the mile),* the village boundaries and the geographical features of the country, such as the village site, roads, rivers, lakes. &c., and to show the limits of the cultivated, culturable and waste areas.
- 25. (27.) The scientific survey is made with the theodolite and chain on the system of circuit surveys, from which the area is calculated by means of the universal theorem.† It is found to be the best plan to survey first large circuits comprising many villages, and then to divide these large circuits off into smaller circuits, till the circuit of each village has been completed. The geographical features are laid down by intersecting lines and bearings from the several stations round the village.
- 26. (28.) In order to show the cultivated area, it is necessary to send another party to the village, which should take up the points fixed by the circuit surveyor, and from them lay down the cultivated area by means either of the

Extensive waste cracts have in some cases been merely surveyed topographically on a scale of one or two inches to the mile. Revenue there rapps drawn on the four-inch scale are now reduced by photography to a scale of one inch to the mile.

the Manual of Surveying by Lieutenant-Colonels Smyth and Thuillier, the third addition of which is now in the press at Calcutta.

- plane table or the common surveying compass. This is valuable as a check upon a Native Khasrah survey of the cultivation. (See Appendix No II)
- 27 (23) The object of the field measurements is to give accurately the size and position of each field, the quality of the soil, the crop it yielded at the time of the measurements, and the persons then in possession as owners or cultivators. Enquiries are at the same time made with regard to the statistics of the village
- 28 (24) A field is a parcel of land lying in one spot in the occupation of one cultivator or of several persons cultivating jointly, held under one title, and generally known by some name in the village. The plot of ground surrounded by a ridge of earth (mend) is not necessarily a field. Some of these ridges are more permanent than others, and serve to divide the land into fields, bearing separate names. The boundaries of fields are well known to the people and are sometimes distinguished by peculiar marks, such as the growth of certain grasses, stones, &c. In rich and irrigated land the separation into fields is generally permanent, but in light, unirrigated (bhúi) lands it is liable to constant alterations. The field register (khasrah) should show where the limit of fields are fixed, and where variable. The Patwári should be careful not to show two fields as one, nor to divide one field into two.
- 29. The measurements, and the facts ascertained by the enquiries made while they are in progress, are recorded in the village field map (shajrah) and the field register (khasrah). The shajrah is drawn according to scale, and small plots, the possession of which is separate, are shown upon an enlarged scale on the margin. Each field and each parcel of land represented in it bears a number, corresponding with which is an entry in the khasrah, showing the dimensions and area of the parcel of land, the occupant, nature of the scil, and the crop growing on it, or other mode of occupation at the time the measurements were made [The form and contents of these documents are regulated by instructions issued by the Local Government under Section 15 of the Punjáb Land Revenue Act. 1871.*

^{*} More detailed instructions will be given in a manual on the plane table system of surveying, which the Financial Commissioner proposes to have prepared for the use of Patwaris and supervising officers engaged in Settlement operations.

Before the commencement of the field measurements, the Officer in charge of the Settlement should determine, with reference to the special circumstances of the tract under settlement, the principles upon which land should be classed as barren, culturable, or lately thrown out of cultivation, irrigated or unirrigated, and manured or not, and the classification of soils to be adopted, the terms locally in use being employed as far as possible. Land which has been cultivated within three years is ordinarily shown as lately thrown out of cultivation, but the term may vary. Such land should be distinguished from fallow which has been cultivated in the season immediately preceding that in which the measurement takes place, or on which a crop is to be grown in the following season.

Fallow land should be entered as cultivated, the crop grown in the autumn season being shown, if the measurements takes place in spring, and the spring crop for which arrangements have been made, if it is measured in the autumn. The average area which can be irrigated from one well in good order should be ascertained, and used as a check upon the returns of irrigation [

- 30. In estimating the value of these two surveys it will be seen that the slagrah and khasrah are the important documents to the Settlement Officer. The scientific survey is of great value as a check upon the Patwárís' measurements, and as giving much important topographical and statistical information; but these objects are secondary so far as the Settlement is concerned
- \$1 In order to ensure the rapid and accurate execution of the scientific survey, the most cordial co-operation of the Settlement Officer with the Surveyor is necessary.
- 32. The scientific survey cannot proceed uninterruptedly unless the boundaries are well marked off, and unless the subdivisional officers of Government, the Zamindárs or their agents, and the village officers are present to show the boundaries, give the names of villages, and state everything regarding their which it is necessary for the Surveyor to know and record.
- 33. As soomes the Surveyor enters the Parganah, the Settlement Officer should make over to him the list of Mauzas mentioned in para, 7, corrected after the boundaries have

Directions, edition of 1858, page 89 (Appendix V.); Cust's Manual, age 72; Colvin's Settlement Manual, pages 19, 20,

been marked off. He should also appoint, to be in constant attendance on the Surveyor's camp, a responsible officer of the Tahsal establishment, and one or more of the Kánúngos of the sub-division

- 34. The particular modes in which the scientific survey is likely to suffer interruption are the following .—
 - I The boundaries not having been settled and marked off,
 - II The marks having been subsequently changed or obliterated,
 - III. No persons being in attendance to point out the boundaries;
 - IV. The Zamindars and Patwaris not being in attendance.
- 35. The directions contained in Section II provide against any impediment from the two former causes. The avoidance of the two latter requires previous concert between the Surveyor and the Revenue Officers. The head of each survey should forewarn the Revenue Officer on the preceding day, what villages he intends to survey, and from what point and at what hour he will commence. When so forewarned, it becomes the duty of the Revenue Officer to ensure the attendance of persons competent to give the required information, and to provide that nothing be done to mislead the Surveyor.
- 36. In like manner the attendance of the Patwars and Zamindars or their agents on any Officer engaged in testing the Patwars' measurements is requisite, in order to give him the names of the fields, their occupants, and the rent paid for them. Their attendance must be ensured, immediately it is wanted.
- 37. It should be explained to the Zamindars and all connected with them that their own ease and interest will be best consulted by the quick and accurate completion of the survey. The detention of the Surveyor, or his betrayal into error by their devices, will only serve to prolong the paried to their harassment, and will probably lead to their purishment [see Sections 174 to 177, 179, 168 and 187 of the Indian Penal Code]

Difficulty is likely to be experienced from a remarkable disposition of the lands of a village, which prevails in some parts of the country. The definition of a Mauza, already given in para. 5, does not render it necessary that all the parcels of land composing the Mauza should lie in one spot. It sometimes happens that the lands of two Mauzas are completely intermixed with each other. All the fields are known to belong to one Mauza or another, and bear the name of their own Mauzas, but they do not lie together in compact masses and it is impossible to mark them conveniently The admixture may be more or in their respective circuits It may be so great that there is no distinguishing the two Mauzas, and then it becomes necessary to throw the two into one circuit, giving the circuit the joint names and numbers of the two Mauzas, and to measure the whole as one, both professionally and in the native method It may be that the site of one Mauza, and the great bulk of its lands, he together, whilst a few outlying fields are scattered about within the area of other surrounding Mauzas In this case the bulk of the fields should form one circuit, and bear the name of the Mauza, and be measured separately, both professionally and in the native method. The circuit should be determined beforehand, as nearly as possible, by the Settlement Officer, and marked off separately, and wanning of the intermixture given in his Parganah list Care should be taken to ensure that exactly the same areas are represented both in the Professional and Native Maps, and that the position and size of the intermixed fields are accurately shown in the sharrah and khasrah. This being done, it will be easy, by subtracting from each circuit the fields of other Mauzas lying within its limits, and by adding to the remainder its own fields outlying in other circuits, to give exactly the area of each village this has been once done, and the area of each Mauza determined, the Settlement Officer of course is no further inconvenienced, but deals with the whole area as though it lay compact in one grouit. This disposition of the fields is called khet-bat, though that term is also applied to the mode in which a Mauza of several Mauzas are divided into two or more Mahals, which in a distinction with which the Surveyor has no concern. The survey is Mauzawar, and not Mahalwar. When the fields of a maura have been accurately represented, they can be distributed without difficulty to the estates to which they respectively belong.

to Mr. Christian's instructions for the demarcation of boundaries, he classifies khet-but villages as follows —

- (1).—Villages containing detached lands of one or more other villages, but having no detached lands of other own.
- (2)—Villages having detached lands in other villages, but containing no detached lands of other villages.
- (3).—Villages having both detached lands of others in them and lands of their own in others,
- (4)—Adjacent villages having a common village site.

He says that there are instances on record where two or three villages have their lands inextricably mixed up, and have at the same time detached lands in several other villages, and contain within their circuit the detached lands of other villages. Such cases, however, are rare

He adds a caution against confounding with the *khet-bat* disposition of fields, lands held in one estate by the proprietors of another, who have acquired them by purchase or mortgage. For such lands the owners will rank as proprietors in the estate to which the lands belong]

- 39 After every precaution it will still be probable that errors may creep into the field map and registers. The size of some fields may be unduly swelled at the expense of others, whilst the irrigation or quality of the soil may be misstated, and the entries of the crop or occupation of the ground may be erroneous. If the Patwari has been thoroughly trained before commencing work, and is employed in the circle of which he previously had charge, such errors will be less likely to occur than where an incompetent man or a stranger is employed The system of giving extracts of the rough khatauni to all occupants of land, as each holding is measured. will also be found a useful check, their attention being thus called to the entries, so that they may be in a position to bring any mistake which may be made to notice when the measurements are tested. But to secure accuracy it is essential that the supervising establishment should be thoroughly efficient. and that the work should be carefully tested, both while in progress and on the conclusion of the measurements of each village.]
- 40. [The Superintendent and the Native officials under his orders are expected to check a certain proportion of the

entries, and to cause all errors which are found to have been committed to be corrected.] After this has been done, the field map and register should be submitted to the Settlement Officer, who will test a certain number of fields taken indiscriminately, and will contract or extend his scrutiny according as he finds the documents trustworthy, or the reverse. He should receive no such documents as the basis of his Settlement till he has fully satisfied himself of their accuracy. He must also provide that the Patwarı of the village has an exact counterpart of the shajrah and khasrah as finally corrected and adopted, for the correct preparation of the remaining Settlement papers depends almost entirely upon this.

- [Mr. Auckland Colvin, in his Settlement Manual for the North-Western Provinces, observes (page 24) that "the chief points in the Settlement Officers' scrutiny are as follows:
 - a. To test at different points the boundary or base line laid down by the plane table, and to ascertain whether the maps of adjacent villages fit accurately into each other.
 - b. To test the interior measurements.
 - c. To test especially the accuracy of entries regarding
 classes of soil, the extent of manured land, and of lands irrigated and irrigable,—a task needing the utmost patience, temper and caution.
 - d. To test the entries regarding cultivators and co-sharers."

He draws attention (page 27) to "the extreme importance of obtaining the greatest accuracy both in the shajrah and khasrah. On the trustworthiness of these papers the success of the whole Settlement hinges; and errors in either of them will seriously mislead the Assessing Officer, be multiplied and re-multiplied in the Record of Rights, and continue a fertile source of dispute long after Settlement operations are finished. Constant personal scrutiny and systematic supervision is the only way of ensuring accuracy in the measurements."]

41. I While the survey is in progress, the Patwaris and supervising officers will collect such statistical information as the Settlement Officers may require, such as I returns of permission, number of cattle, number of wells and ploughs.

All these statements should be examined and verified by the Settlement Officer in such manner as may be in his power before he uses them for assessment, purposes.

- 42. Besides the village maps the Surveyor will furnish district maps. These are generally on the scale of two miles to an inch, and show the site and boundaries of every village, the roads, rivers, lakes and other geographical features of the country, and are colored according to Parganah or Tahsíl subdivisions.*
- 43. (44.) The Surveyor, as soon as he has finished the scientific survey of any Tahsíl or Parganah, should furnish the Collector with a rough plan on a scale sufficient to show distinctly the outline, name, and number of each Mauza. With this before them, the Settlement Officer and the Surveyor will easily be able to decide upon a suitable Tahsíl or Parganah boundary. The consultation of the two is desirable, because the arrangement depends on the natural features of the country, as well as on the disposition of property in the Parganah. The Surveyor is the best judge of the former, whereas the Settlement Officer is better informed respecting the latter.

On the completion of the scientific survey of the district the Deputy Commissioner and Settlement Officer should consult together as to whether any re-arrangement of the Revenue sub-divisions of the district would be desirable. If any alteration is proposed, they should, if possible, discuss the details with the Surveyor, as in deciding upon a suitable boundary for a Tahsil, Parganah, or Zail, regard must be had to the natural features of the country, as well as to the prevailing races or tenures. The Surveyor will be the best judge of the former, while the Deputy Commissioner and Settlement Officer will be better acquainted with the latter. Before the boundary of a district or tahsil can be altered, the proposed alteration must be reported through the Commissioner and Financial Commissioner for the sanction of Government, a map showing the former and the proposed boundary being submitted with the report. Due publicity should be given to any contemplated alteration of boundary, to enable the parties whose interests are affected to represent any objections which may exist. I

^{*} Recent Revenue Survey maps are in many cases published in sheet, on the scale of one mile to an inch.

- 44. (45.) The village plans and the villages themselves in the several lists for each Parganah should be re-numbered, being arranged in topographical order according to assessment circles and Patwaris' circles. This numbering should be final, and thenceforward the village should always be designated by its proper number in all lists and registers in the Revenue Department. If smaller Mauzas are subsequently formed by partition of the larger one, each component Mauza should retain its original number, with a subsidiary figure to distinguish it from the others, thus: 38-1, 38-2, 38-3, &c, Mauzas which have a number on the list will be called Asali, and smaller Mauzas, which may afterwards be formed, Dákhilî.
- 45. (46.) The documents to be obtained by the Settlement Officer from the Surveyor are the following:—
 - I.—The professional village map with tables,*—paras 27, 28 and 41.
 - II.—The district map,—para. 42

[These are prepared in English. The shajrah or field map, and the khasrah or field register, described in para. 29, are prepared by the Patwaris under the orders of the Superintendenent of Settlement, and are in vernacular, as are also any other maps prepared for purposes of the Settlement.]

SECTION IV .- The Assessment.

- 46. (47.) The object of the fiscal part of the Settlement is to fix the demand upon the land for a certain period of years prospectively, within such limits as may leave a fair profit to the proprietors, and create a valuable and marketable property in the land.
- 47. (48.) This end cannot be attained with certainty by any fixed arithmetical process or by the prescription of any rule

*The village map are now ordinarily drawn upon sheets, each of which contains a group of villages, to facilitate the process of copying them by photography. Separate village maps can still, however, be obtained on payment, if required; and it is very desirable that such maps should be procured and bound up with the village statements to which they belong.

this it is not meant that the jama of each estate is to be fixed at one-half of the net average assets, but that in taking these assets with other data into consideration, the Collector will bear in mind that about one-half, and not two-thirds as heretofore, of the well ascertained net assets, should be the Government demand."

In the Instructions for the Re-settlement of the Gorakhpúr District, afterwards issued by the Board, it was directed that, in applying the principles of assessment laid down in the Saharanpúr Rules, "due advertence" should be "had, as well to prospective capabilities as to present assets, and also to any expenditure of capital by a proprietor for which he may not have had the means of obtaining a fully remunerative return."

52. [In 1860 it was ruled by the Lieutenant Governor of the Punjab that * for the future no assessment should be made at a higher rate than "half assets" as defined in Rule 36 of the Saháranpúr Instructions, and in 1864 the Commissioner of Settlements was instructed that this rule was to apply to all Settlements of Land Revenue. †

In the instructions issued under Section 9 of the Punjab Land Revenue Act, 1871 regarding the principle on which the land revenue of the districts of Dehli, Gurgáon and Karnál is to be assessed, the rule is thus stated. "The general principle of assessment, to be followed is that the Government demand for land revenue shall not exceed the estimated value of half the net produce of an estate, or in other words one-half the share of the produce of an estate ordinarily receivable by the landlord, either in money or in kind." It has been found necessary to mention payment in kind, as in large tracts in the Districts named, as well as in most other parts of the Punjab, cash rents are comparatively rare, and where they occur, are often much below the value of the share of the produce ordinarily receivable by landlords in the neighbourhood, being paid only by tenants who hold on very favourable terms. Such tenants in some cases pay only the amount of the land revenue and cesses, while in other cases they pay a certain percentage on the land revenue besides, and rents determined in this way would obviously form a fallacious basis for estimating the value of the net produce of an estate. It is therefore necessary to leave out of account the rates of rent paid by tenants,

Financial Commissioner's Book Circular No. IAII of 1860, para. 7.
 No. 3229 dated 17th September 1864, from Financial Commissioner to the Commissioner of Settlements.

whether privileged with regard to enhancement or not, who hold on more favourable terms than those which the landlord could ordinarily demand; and cash rates can only become a guide where they fairly represent the actual letting value of the land.

In almost every district of the Punjab, the area cultivated by tenants is greatly exceeded by that cultivated by the proprietors themselves, and this circumstance, together with the prevalence of rents in kind, renders careful estimates of the amount and value of agricultural produce very important. In the instructions above referred to for Dehli and the adjoining districts, special attention has therefore been directed to be given to produce estimates.]

53. [The first step towards the assessment of a Tahsíl or Parganah is the determination of the assessment circles into which it should be divided. These should be formed by grouping together neighbouring villages which are in general similarly circumstanced as regards quality of soil, facilities for irrigation, and proximity to markets. The differences in the staples grown in adjoining tracts will often be found a useful guide in fixing the limits of the assessment circles. If the assessment circles adopted at a previous Settlement were based on natural features, they should be adhered to, unless important changes have taken place which render a new grouping necessary, as, for instance, the introduction of canal irrigation.]

54. [A map of the tract should then be prepared showing the limits of well-known sub-divisions, and all physical features, such as rivers, streams, large marshes, high land, low land, and forest or jungle, and the irrigation from canals.

The boundary of the assessment circles adopted by the officer in charge of the Settlement should be entered, and the average depth of wells (inclusive of the depth of the water) in each circle should be noted. If the circle includes both high and low lands, separate averages should be given for each class.

- 55. It may also be found useful to take a map upon a larger scale, showing the village boundaries, and note upon it the rate at which the old assessment falls upon each village, the number and depth of the wells, population, and other particulars which may serve as illustrations of the relative resources of adjoining villages. This can be done while the officer in charge of the Stillement is engaged in personally inspecting the tract of country under Settlement.
- 56. (53.) While the measurements are in progress, the officer in charge of the Settlement should obtain from the District

and Tahsil Offices a report on each village, with reference to the past assessments, to the collections on account of Land Revenue, and to other matters bearing upon condition of the village, such as litigation, sales and mortgages of land, and the price realized by such transfers. [The sums paid as compensation for land taken up for public purposes may also be noticed. The precise heads upon which information is expected, either from the District or the Tahsil Office, should be stated beforehand by the Settlement Officer, and such assistance as may be necessary should be given by him to the Deputy Commissioner under the orders of the Commissioner, by providing substitutes for the men engaged in drawing up these reports. Statements should at the same time be compiled in Urdú, under the orders of the Settlement Officer, from the records of the former Settlement, and from the last annual papers furnished by the Patwari, showing for each village the cultivated, culturable, lákhiráj (i. e., land of which the revenue is paid to assignees holding under grant from Government), barren and total area, the revenue demand, and the rate at which it falls per acre on the total assessable and cultivated areas, as recorded at Settlement and as at present existing. In these statements the villages should be arranged under the assessment circles in topographical order.]

- 57. [On the completion of the measurements of each village, the Patwari should be required to furnish a return of the area under each crop, for the kharif and rabi seasons respectively, during the year in which the measurements were made. In this return the irrigated and unirrigated areas should be separately shown. A careful enumeration of cattle. distinguishing between plough cattle and other cattle, and of sheep, goats, &c., should also be made by the Patwari under the orders of the Settlement Officer, and he should collect any other statistical information which the Officer in charge of the Settlement may require. All such returns should be tested by the Kánúngo and other members of the Settlement establishment. If a fresh census of the village is required for the purposes of the Settlement, it should be taken by the Patwari and Lambardars, and a member of the Settlement establishment should be appointed to supervise the operation.]
- 58. [It will generally be found possible to ascertain from the books of grain dealers, or from other sources, the harvest prices prevailing in the circle for a series of years. These should be procured for a period of twenty years if possible, and an average struck.]

- 59. [From the information thus collected, and from the Settlement measurements, the village statements should be filled in. The form (F) appended to the rules made under Section 66 of the Punjab Land Revenue Act, 1871, with reference to the reports to be furnished by Settlement Officers, though not absolutely prescribed, may be referred to as an illustration of what these statements are intended to contain.]
- 60. [The Officer in charge of the Settlement should then proceed to frame, for each assessment circle, estimates of the value of the share of the produce which it is proposed to take as the basis of the assessment. For this purpose average yield rates for the different crops grown should be determined, and applied to the total area under each crop. When the same crop is grown both in irrigated and unirrigated land, or in different soils, the rates of yield from which are so different as to make separate rates necessary, the produce from each description of land should be separately estimated. Crops grown as fodder for the cattle employed in agriculture should. as far as possible, be excluded, as this estimate is intended as a guide in assessment, but they will of course appear in the Patwari's return of crops. Allowance should be made for the variations, both in the area under crops, and in the amount of yield, which are liable to be caused by vicissitudes of seasons. The value should be calculated at the rates which a consideration of the harvest prices of past years, and of the present circumstances of the locality, may warrant the assessing officer in applying.

When there is reason to expect that a considerable extension of cultivation will take place shortly after Settlement, or when jungles or pasture land bears a large proportion to the cultivated area, and forms an important source of income to the proprietors of the village, an estimate should be made of the sum which may fairly be added to the assessment on these grounds.]

61. (54). [The Officer in charge of the Settlement may also consult any of his native subordinates whose knowledge, position, and character are such as to render their views deserving of consideration, as to the assessment which would be suitable for a rillage or circle. He may obtain estimates of assessment from Chaudhrís, Zaildárs, Jágírdárs and their agents, and other persons possessing local knowledge, but he should be careful not to accept unreservedly the opinions of

persons who may be biassed by their interests or predilections.] He should pay attention to the character of the people, the system of cultivation, the facilities for bringing produce to market, and the capability for improvement. [If tenants paying cash rents are numerous, and any standard rates of rent are found to be generally recognized, he should enquire into these, and ascertain how far they depend upon custom, and how far they may have been influenced by competition.] He should, in short, lay himself out diligently to collect information, and to correct and verify that which he has already obtained by free communication with the people, and by careful enquiry from every person and in every quarter whence he is likely to derive assistance.

- 62. [To assist him in determining the assessments and distributing them over the villages embraced in the assessment circle, the Officer in charge of the Settlement should visit each village and make notes of its condition and other circumstances which may be found useful in estimating the capabilities of the estate, or in checking the village statements. In his visit to one estate he may often be able to gather valuable information as to the condition of the neighbouring estates. An exception may be made when estates consist of single wells in jungle or "bar" tracts, but otherwise the visit of the assessing officer should never be omitted. He should refer to these notes when about to enter his remarks in the village statements.
- 63. [The assessing officer will then proceed to form general rates for the assessment circle, founded upon a comparison of the produce estimates with the other estimates obtained by him, with the estimate (if any) and rates of the previous Settlement, and with the information he has gained as to the condition of the villages. These rates, which are known as Revenue rates, he should test by calculating the revenue which they would yield if applied to villages known to be fairly assessed, of which some are sure to be found in each assessment circle; and if this seems in any case to be much above or below the fair assessment, by considering whether there is anything exceptional in the circumstances of the estate to account for the difference. The Revenue rates, and the opinions which he has formed as to the assessment which individual estates might properly bear, will thus act as a mutual check upon each other, and, where they differ unaccountably, will suggest further enquiry and reconsideration. Other tests are furnished by rates

on ploughs, or on wells, where the system of distributing the revenue by such rates is familiar. After determining a fair average rate for each plough or well, the total revenue which the application of such rate would give for the assessment circle is calculated and compared with the produce estimate.]

- 64. [While the produce estimates form the standard by which the assessment of a tract of country will be judged as a whole, the Revenue rates will be applied to soils or classes of land, and not to crops. The rates for each soil or class of land may be calculated in various ways. For example, having ascertained the fair assessment of the whole circle by the comparison of the produce estimates with other data which has already been suggested, the assessing officer may take the totals of each kind of land to be dealt with, and ascertain by enquiry the relative value of the lands of each class, having regard both to the amount of their produce and the certainty of yield. The value of land of the lowest class being taken as unity, the rate applicable to it will then be obtained by multiplying the area of each class of land by its relative value, adding up the totals and dividing the proposed assessment of the circle by the result, and from that rate the rates for the superior classes may easily be calculated.* The fairness of the result will of course depend upon the relative values of the soils being justly stated; but they are generally so well known that this can be done without difficulty; and, when they are ascertained, any assessment may be distributed by this or other similar method. It is not intended, of course, to restrict the Settlement Officer to this particular method of calculating Revenue rates. He is at liberty to use any other method which may commend itself to his judgment; but whatever method he adopts, he should explain it clearly in reporting on the Revenue rates.]
- 65. [When the assessing officer has determined the Revenue rates which he considers suitable for the assessment

then $2,000 \times 3 = 6,000 \atop 5,000 \times 2 = 10,000 \atop 8,000 \times 1 = 8,000$ Total 24,000

The rate for soil of the third class will be $\frac{10,000}{24,000}$ = five-twelths of a rapee, or 6 anas 8 pie per acre. That for soil of the second class will be 6 a ras 8 pie \times 2 or 13 anas 4 pie, and that for soil of the first class will be 6 a ras 8 pie \times 3 or 1 rapee 4 anas,

^{*}Thus, let the soils for which rates are to be found be of three kinds, 2,000 acres of the first class, 5,000 of the second, and 8,000 of the third, the relative values of which are as 3, 2, and 1, and let the proposed assessment of the circle 6 ks. 10,000:—

circles of a Tahsil or smaller tract of country which it may be convenient to report upon separately, he is required to submit to the Commissioner a report of the proposed rates, of the reasons which have led to their adoption, and of the revenue which will result from their application as compared with the revenue previously paid. This report is forwarded by the Commissioner, with his opinion as to the suitability of the proposed rates, to the Financial Commissioner; and when the rates have received his approval, the Settlement Officer proceeds to determine the amount at which each estate should be assessed.]

- 66. The estimated value of the produce of the estate, as calculated by the application of the average yield rates and prices for each crop which have been adopted for the assessment circle, will be useful as a guide in making the assessment; but it does not supply a sufficient means of determining the amount which should be fixed. In order to effect this, the assessing officer must take into account all the information which he has gained as to the circumstances of the estate. When he has satisfied himself as to the proper assessment of the estates included in the tract, the Revenue rates of which have been sanctioned, a further report is necessary * of the proposed assessment of each estate, and the grounds on which it has been When these are fully stated in the report on the computed. proposed rates, it will be sufficient to refer to that report; but any considerable difference between the general result and that which would have been given by applying the Revenue rates should be explained.
- 67. [After receiving this report, the Financial Commissioner will give the officer in charge of the Settlement † such instructions as he thinks fit in regard to the terms on which tenders of engagement for the revenue should be received; and it then becomes the duty of that officer to offer the Settlement on such terms, to the persons with whom Settlement is to be made, or to the village headmen as their representatives, informing them that the Local Government may refuse to accept their tender, and may direct a fresh offer to be made to them on other terms If they accept the offer, they will be called upon to sign a tender of engagement (durkhwást málguzárí), in the form prescribed in the rules made by the Local Government under Section 15 of the Panjab Land Revenue Act, 1871. When this

Act XXXIII of 1871, Section 31, and rules under Section 66,
 Act XXXIII of 1871, Section 32.

has been done, the officer in charge of the Settlement records an order, accepting the tender, subject to the confirmation of the Local Government, and specifying the instalments by which, unless otherwise ordered by the Local Government, the Revenue is to be paid, and the date from which the assessment comes into operation.]

68. (59). It must be remembered that, if the proprietor rejects the terms offered, and the estate is ultimately leased to a farmer, or held under direct management, the proprietor will be entitled to an allowance* of not less than five per cent, nor more than ten per cent. on the net amount realized by the Government from the land, either in the shape of a money payment, or in that of favorable terms for his personal cultivation, if preferred by him. This is not an unimportant check on over-assessment.

If, on the other hand, the proprietor accepts the terms proposed to him, and the assessment is confirmed by the Local Government, Government is bound to adhere to those terms, even though it should be subsequently discovered that the grounds on which they were fixed had been erroneously assumed. If, for instance, it should afterwards appear that the cultivated land had been undermeasured, or fields omitted, or assets concealed, the perpetrators of such frauds may be otherwise punished, but the word of the Government, once pledged in the limitation of the public demand, is inviolable. The amount agreed upon limits the demand upon the entire area within the specified boundaries of the mahal. A distinction must, however, be drawn with regard to the entries of cultivated or culturable land under the head of minhai, or lands excluded from assessment. These portions of land are left unassessed, either because they are reserved by the Government for public purposes, or because they are assigned by competent authority as revenue-free tenures, or for the support of village servants, or as a provision (nankar) for privileged persons, or on various accounts sanctioned by local custom. In the first case, if the land is no longer required by the Government for public purposes, it must be made over to the málguzár on a fair assessment, corresponding with that of the est of the village. † It must not on any account be sold rentfree to the highest bidders, as has sometimes erroneously been done. If there are valuable buildings upon it, the land and buildings may be sold to the highest bidder, subject to the

^{*}See Section 37, Act XXXIII of 1871.
† See No. 37 of the Rules for Settlements under Section 41 of the Panjab
Land Revenue Act, 1871

payment of a fair rent to the málguzár. In the second case, if the revenue-free tenure be subsequently resumed, it will be assessed and brought on the rent-roll.

- 69. (56.) In fixing the assessment, the main assets to be taken into account are the products of the cultivated land, but there are also other items, called sayer or sawai collections, which are much prized by the proprietors, and which in some cases constitute a valuable property. In so far as these consist of petty dues or services from the inhabitants, in the shape of small periodical collections or presents, they are never taken into account in fixing the Government assessment. When they come to be of considerable value, such as the rent of water-mills, the piscary of large tanks, the produce of fruit trees, or forest produce, like wax, lac, &c., all of which come under the denomination of jalkar, phalkar, and bankar, they may be considered in estimating the assets. The only question then is, how far the permanency of such assets can be counted upon during the currency of a long lease. Dues of a religious nature, such as the share of offerings at certains shrines, &c., ought never to be considered an asset, Government having entirely renounced all claim to participate in such profits.
- 70. (57.) It must be remembered that the right of the proprietor to make the *sawai* collections mentioned above is quite a distinct question from that of the right of Government to assess them, and will be found discussed hereafter in para. 152.
- 71. Plantations of timber trees and gardens of fruit trees of slow growth, in which ordinary crops are not cultivated, may be excluded from the assessable area, or exempted from assessment for a portion of the term of settlement, or assessed at half the rate of assessment for land with similar advantages not under trees, according to circumstances, subject to the condition that if the land is subsequently brought under ordinary cultivation or cleared of trees, it shall be assessed at full rates. In the case of fruit trees, the term of exemption should be fixed with referenceto the time which must elapse before the garden becomes The land for which such favorable terms are given should not exceed ten per cent. of the cultivated area of the estate, or where the shares are held separately of the share of the estate of which it forms part. Favorable terms need not be given for gardens of fruit trees which

come to maturity speedily and yield an early return. But in no case should the rate of assessment for 'and under timber or fruit trees exceed the village rate for land with similar advantages not under trees.]

- 72. [Lands which would be assessed, if private property, should not be excluded from assessment on the ground that they are nazúl property, unless exempted from assessment by competent authority. While the rent on such lands should be treated as other nazúl income, the revenue assessed upon them should be incorporated with that of the villages in which they are included, and collected and credited as Land Revenue.]
- 73. [When leases, protecting for a term of years proprietors who have spent money upon irrigation works, either from their private funds, or from advances under the Land Improvement Act, 1871, or the Takkávi rules previously in force, against any assessment in excess of ordinary unirrigated rates, have not expired, it will be necessary for the assessing officer to make a deduction from the full assessment of the village for the remainder of the term of the leases, on account of the difference between the assessment of the land protected by the leases, at irrigated, and at unirrigated rates. This can best be done by fixing a progressive assessment, the reduced assessment taking effect at once, and being increased as each lease expires, until the full assessment is arrived at when all the leases have fallen in.]
- 74. (60.) The preceding detail will show how much must depend on the care and good sense of the Settlement Officer. It is impossible to lay down any fixed rules for the exercise of these qualities, but it may be useful to give some precautions, and to note down some circumstances which are likely to mislead. The following circumstances should always be kept in mind.
- 75. [It is the duty of the officer in charge of the Settlement to endeavour so to pitch the assessment that, on the one hand, Government shall receive approximately that proportion of the produce which it has declared its intention of demanding, unless he can show reasons sufficient to satisfy Government of the expediency of taking a smaller proportion in any particular case; and that, on the other hand, it shall not deprive the proprietors of the profits which Government is anxious to secure to them, nor be such as to endanger

the prosperity of the tract under settlement. Under present circumstances the danger of over-assessment in the Panjab is comparatively slight. The existing settlements were in most cases made during a period of low or falling prices of agricultural produce. Since they took place there has been a considerable rise of prices, cultivation has in many places largely extended, and the improvement of communications has provided a ready market in localities where the demand was formerly comparatively limited. Assessments which, when they were made, were adequate or even high, may, owing to the combined action of these and other similar causes, now be very low, and may admit of a considerable increase without becoming really burdensome. Officers, with the warnings before them against the danger of over-assessing with which the old Settlement Reports abound, will probably not be tempted to over-rate the general improvement which has taken place, though they may sometimes make the mistake of fixing too high an assessment on particular estates, for want of sufficient acquaintance with the circumstances and condition of the property. Their aim should be to make a moderate assessment, neither unduly high nor unduly low, and to distribute it in such a manner that it should not press too severely upon some villages, while others bear much less than their fair proportion 1

- 76. [Though there does not at present seem to be any probability of the lessons learnt in the early Punjab Settlements in regard to the mischief of over-assessment being soon forgotten, and there may in some cases be danger of officers, while properly exercising every caution to avoid this evil, going to the opposite extreme and sacrificing the just rights of Government, it may still be useful, as a guard against the possible recurrence to the extreme of over-assessment, to repeat here the warnings against it which were given with such force in previous editions of the Directions.]
- 77. (61.) It is a more fatal error to over-assess than to under-assess. The Government will not test the Settlement by the mere amount of direct revenue which it brings into the Treasury. They will judge of it by the soundness of the reasons assigned for fixing it at the amount assumed. If the jama is less than it was before, they will be satisfied, if the reasons for the reductions are sound and sufficient: if it is the same as before, or more, they will expect that the grounds be explained on which the increase has been renowned or taken. No officer who performs his work properly will have

any difficulty in assigning reasons for what he has done, or in convincing the Government that he is right. If he is in doubt which of two james to fix, a high one or a low one, he should always incline to the latter. Over-assessment discourages the people, and demoralizes them by driving them to unworthy shifts and expedients, and it also prevents the accumulation of capital, and dries up the resources of the country. Viewing the question simply in a financial light an assessment which presses hard upon the resources of the people is most injurious. It checks the population, affects the police, and is felt in the Excise, in the Stamps, and in the Customs. It is evident that the prosperity of the people and the best interests of the Government are inseparably bound up together.

- 78 (62.) Too much stress should not be laid on the former assessment, or even the former collections from a mauza. Whenever the former assessment was made without careful enquiry into the state and probable capabilities of a village, the jama may have been made good from sources which must be renounced on fuller enquiry. The possession of land is so much prized by the people that they will often go to great lengths to retain then hold of it. The jama may have been run up to an excessive amount by the enmitty of a local Revenue Officer, or by the bidding of a rival claimant of the estate, whilst the excessive demand may have been made good from other property (perhaps from a rent-free estate subsequently resumed), or even from the criminal resource of depredation on other villages, on the part either of the proprietors themselves, or of tenants who paid highly for shelter and protection (see para 194)
- 79. (63.) In like manner it must not be too readily assumed that a jama is fair, because the proprietor accepts the estate on the proposed terms. He will often do this under the apprehension of immediate ejectment, and clinging to the hope that by appeal, or by one of the numerous chances our system affords, he may yet obtain more favourable terms. It is weak to vacillate or recede easily from a matured demand once made. but there is an opposite fault of pertinacious adherence to a rashly assumed position, to which some minds are prone, and against which it is necessary to guard. As a general rule, it will be wise to hear patients what the objector urges, especially if he beaman of respectable character, and to reply to what he says. It materially strengthens one's hands to silence by force of argument one captious recusant: it never weakens one to yield

to the forcible representations of a candid and reasonable pleader. It is quite a mistake to suppose that the natives of the country fail at once to appreciate the strength which results from complete mastery of the subject, or to detect the weakness which shows itself in reluctance to argue a question.

- a desire to maintain equal averages, whether those averages are struck on general area, or on different qualities of soil. The productive power of contiguous lands often differs very materially, and the yield from lands of the same quality is often very different, according to the means of irrigation, mode of cultivation, or access to markets. Averages should always be regarded, and deviations from them explained, but diligent enquiry should be made after possible causes of variation, and due allowance should be given for those causes. It has frequently been found that the Settlements are favourable to good villages, but press too heavily on poor villages.
- (65) There is a great tendency, amongst natives especially, to assess heavily the poor and industrious classes of cultivators, such as the Jats, Sainis, Arains, &c, and to be more lenieut towards the powerful or the indolent, such as Syads, Brahmans or Gujars. It is certainly impossible to fix the same jama on land of the same quality when held by the latter as when held by the former: what would be unnecessarily indulgent to the former might be ruinously oppressive to the latter, but the former should not be denied a present fair profit, because they are industrious, and may increase it; nor the latter allowed a present unfair profit, because they are unthrifty, and are inclined to squander it. Whenever the value of land has been much raised by the expenditure of capital in providing irrigation, locating labourers, or in other modes, care should be taken lest by too high an assessment an unfair tax be laid on the profits of the capital, over and above the just right of the Government to a share of the produce of the land.
- 82. (66.) Caution is necessary against too rapidly increasing a jama. Where proprietors are cultivators, and the population has kept pace with prosperity of the village, so that the profits, though large, afford a scanty pittance to each, it is evident that the jama cannot be raised without inflicting much hardship. The same is the case when the effect would

be materially to reduce the circumstances of a single wealthy proprietor, who has many dependent on him; and thus also in talukahs, where there are separate properties of different kinds, the jama must be lower than where there is only one property. This caution is peculiarly necessary when a resumed Muáfi is settled with the former Muáfidar.* Reasons of humanity require that the demand should be considerably less than would be made upon a Khalisah village similarly situated.

- 83. (67.) Experience will suggest to every Settlement Officer other precautions besides those enumerated above. These may serve as specimens of some of the errors to which he is liable. † In the first assessment of lands which had not been before on the revenue roll, such as resumed revenue-free lands and those acquired from Foreign States, the former fiscal
- * See the rules for Settlements under Section 41 of the Panjáb Land Revenue Act, 1871, No. 3, IX, which provides for the cettlement, in special cases of hardship, of revenue-free plots held free of revenue demand for three generations, with the heir of the late assignee, at half rates of assessment. In para 439 of Mr. Holt Mackenzie's Memo., dated 19th October, 1826 on the Settlement effected under Regulation VII of 1822 (Selections from Revenue Records, North-Western Pravinces, A. D. 1822-1833 Allahahád 1872, page 151) he notes as a special reason for moderation, when the previous assessment appears to admit of considerable cuhancement, that "the discovery of extensive assets beyond those recognized at former Settlements brings the case within the principle which applies to the resamption of rent-free or mukarrari tenures. The habits of the people must of course have been formed on the income which they have interro derived from the land, and the sudden enforcement of the strict dues of Government would probably involve them in much distress." He therefore recommends (para 440) that for a time at least the full increase should not be taken.

Lu para, 14 of a letter from the Mombers of the Western Board of Revenue, dated 22nd July 1831, to the Government of India (at page 303 of the same volume), they give the following illustration of the mode of adjusting the Government demand in cases where an increase of Revenue might be demanded, which Mr. Holt Mackenzie used to suggest in conversation. Supposing the rental of an estate to be Rs. 1,000, and the existing assessment to be Rs. 200, then a third being deducted from the rental would leave a demand of about Rs. 667, or an increase on the former jama of Rs. 467. Mr. Mackenzie proposed that only half of this latter sum should be demanded, making the jama of the new Settlement Rs. 433 instead Rs. 667.

*† In Mr. Cust's Panjáb Revenue Manual, at page 85, he notices as a fatal error which has come to light in Panjáb Settements, the mode of classifying land as irrigated, "the whole of the land susceptible of irrigation from its proximity to the well" having been assessed at well-rates, without reference to whether the amount of water was sufficient to supply all the land in one season.

The extent of land which a well is capable of irrigating should never be lost sight of in determining how much of the land attached to it should be treated as a rigated.

history of the estate may not be known, and greater caution is requisite in fixing the demand. It is impossible to lay down any rule of procedure in such cases. The ingenuity and resources of the Settlement Officer will be taxed to deduce fair rents from the actual or estimated out-turn of former years.

- 84. (68.) The more surely to guard against error of judgment, provision has been made for the supervision of the Settlement Officer's proceedings by the Commissioner or some other similar officer of matured experience. The essential feature of this supervision is, that it should not be confined to appealed cases, or depend for its effective exercise on the showing of the another party, but that it should extend to all the proceedings, and reach to every possible bearing of a questionable principle—It should also be exercised, not simply on perusal of written proceedings, but by personal communication in the field and amongst the people, as well as in a house or office, and at a distance from the parties interested.
- 85 (69) In the determination of the assessment, this supervision should be exercised with peculiar diligence and Appeals against over-assessment should not be peremptorily rejected, on the ground that the petitioners, by accentance of the terms of the settlement, have shut themselves out from further appeals, nor ought they to be encouraged by being readily received, and made the occasion of open question and report. It will probably be better to receive them. ascertain exactly the nature of the objections, and lay them aside for consideration on some convenient opportunity, when the subject comes under review in ordinary course, either of personal conference with the Settlement Officer, or of final report of the proceedings. But under any circumstances the work will be found so disposed and laid out that it will be easy for the supervising officer, by going over the papers, to detect himself its weak or questionable points, and to seek for full explanation regarding them. If the average falls lighter or heavier upon one village than another, he will ask the reason, and enquire not only the cause of the difference. but also the reason why the difference was fixed at the amount he finds it, and he will search whether there were not other causes at work which ought to increase or lessen the difference. and which had not been brought into the calculation. Any Commissioner who takes to task a Settlement Officer in this manner, not only on one occasion or in one Parganah, or at the close of his work, but repeatedly, in every part of his

district, and in every stage of his operations, caunot fail to come to the most distinct understanding as to the character of the Settlemeut, and will find himself able to correct and prevent many erroneous practices and principles, which the most elaborate written instructions could never effect.

[The following reference to the directions contained in this and the preceding para, was made by the Punjab Board of Administration in their Circular No. 23 of 1851, rule 15:—

- "The Board cannot conclude these instructions without impressing on the Commissioners of Divisions the immense importance of constant, active and vigilant supervision on their part during Settlement operations. The Board would especially beg their attention to paras. 68 and 69 of "Directions to Settlement Officers" in which the duties of Commissioners are so forcibly and lucidly laid down. Without diligent supervision on their part, there cannot be unity and system in the work. Each Settlement Officer, whether experienced or not, will pursue his own course, and it will only be after the lapse of a long period, and after much waste of time and money, besides distress to the people, that errors which have crept in will be discovered and remedied."]
- 86. (70.) It remains to explain the mode in which the Settlement Officer should exhibit and report this portion of his work.
- 87. [The information collected regarding the constitution and statistics of each estate, the remarks of the Superintendent as to its condition and capabilities, and the data upon which the assessment has been based, are embodied in a Village Settlement (see para. 59): this is translated into English, and the assessing officer adds his remarks, explaining the grounds of his assessment, and recording any further information of interest which he may possess regarding the condition and prospects of the estate. If the proposed assessment differs materially from the value calculated from the Revenue rates determined for the assessment circle, the cause of the difference should be explained.]
- 88. [The Village Statements are not submitted with the Report on the proposed Revenue rates referred to in para. 60, but they accompany the Final Settlement Report. The Report on the Revenue rates is, however, accompanied by a General

Abstract Statement compiled from the Village Statements, which shows, for each assessment circle, the area, resources and proposed assessment, with the rates and estimates used to calculate or check it, to which are added, for purposes of comparison, the corresponding statistics of the previous Settlement. Statistics of produce, and statements showing the area held by tenants with and without rights of occupancy respectively, and the range of prices during the last 20 years, if this can be ascertained, are also furnished with this report. Its contents and the forms of the statements required to accompany it are prescribed in the rules for Reports to be furnished by Settlement Officers made under Section 66 of the Punjab Land Revenue Act, 1871.]

- 89. (74) The report on the proposed assessment of estates referred to in para 66, takes the form of a General Statement of Area, showing, for each village, the details of the area and assessment, with the rates at which the proposed assessment falls on the total area, on the total assessable area, and on the actual cultivation. This statement accounts for the entire area of the Tahsil or other tract reported upon, whether included in any estate, set apart as a Government preserve, or undemarcated
- 90 [Besides the Village Statements, an Annual Demand Statement is given with the Final Report, showing the proposed demand on each estate, the assessment of which is intended to be progressive, for each year until the maximum demand is reached, the aggregate demand on the remaining villages, and the general total for the Tahsíl or other tract.]

Section V -Record of Rights.

91 (76) The Assessment having determined the value of the property in the land, it then becomes necessary to declare the rights possessed in that property. The object of the investigation is not to create new rights, but to define those that exist. The full exercise of old acknowledged and still existing rights may have been partially in abeyance, and these it may be necessary more fully to develop; but, generally speaking, no change should be made in existing rights or in the mode of their exercise, without the full concurrence of those whose interests may be thereby affected. [Persons

claiming rights of which they are not in possession, and which are not acknowledged, must be referred to a Civil suit to establish their claim.]

(77.) It is first requisite to point out what is meant by proprietary right, and what is to be considered the test of such right. This is more especially necessary in a newly acquired territory, or in the settlement of resumed revenuefree grants, not originally granted by the proprietors them-Those who possess a heritable and transferable property in the soil are considered proprietors, whether in Mahals where the properties are of different kinds, they are possessed of the superior right, as Talukdárs, or of the inferior right, as Biswahdars; or whether in Mahals where the properties are of the same kind, they are the persons under direct engagements with the Government as the representatives of the community, the Lambardárs or the subordinate coparceners, the Pattidárs. The term Zamindár is of indefinite signification It is generally used as equivalent to land-owner, but is sometimes erroneously applied, as signifying the possession of the entire right in the whole Mahal to the exclusion of all other co-existent eights of whatever kind The term Malguzár is applied to all who pay land revenue to the Government, whether as proprietors, farmers or in any other capacity Those who pay direct to the Government and not though a representative are distinguished as Sadr Malguzár There may be proprietors of all kinds in revenuefree Mahals, as in Mahals paying revenue to Government, the Muafidar being only the owner of the Government right to a certain share of the produce. Cultivators who are not proprietors are commonly called Assámís

[In the Cis-Satlaj Districts, where the terms Biswahdár and Biswahdári* are more in use than in the Punjab Proper, they are used as synonymous with Tálukdár and Tálukdárí, being applied to the superior proprietary right. The inferior owners, in immediate proprietary possession of the land, are distinguished as Zamíndárs and their interest in the land as the Zamíndárí rights.]

93. (78). Whoever may be in theory the proprietor of land in India, the absence of all actual restriction on the supreme power in the determination of the amount of its demand left

^{*} Settlement Reports of the Thanesar, Ambálah, Ludiánah, and Firozpur Districta.

all property in the land virtually dependent on its will. An estate assessed above its productive power is worthless, and must cease to produce any thing unless the demand be relaxed. So long as the worth of the land is left from year to year dependent on the pleasure of the Government, its value must be uncertain and cannot be great. But when the Government limits its demand to a reasonable amount, and fixes that amount for a term of years, a marketable property is thereby created, and it becomes of much importance that the person be named, in whose favor this property is recognized or created.

- 94. (79) In ordinary cases there is no difficulty. The common voice of the country assigns the proprietary right to a person or a number of persons, who have for years paid the Government demand, provided for the cultivation of the land, enjoyed all its products and transferred it to others at pleasure. The payment of the Government revenue is, in ordinary cases, so immediately the result of proprietary right, that the latter is often held to be included in the mention of the former, and the nature and extent of the right is expressed in terms descriptive of the amount of revenue paid. To call a man a Málguzár, or to say that he pays 4 annas of the revenue, ordinarily means that he is a proprietor, or that he is possessed of one-fourth of the Mahál
- 95. (80). But the proprietary right may have been overhome, and it may be difficult to determine with whom it rests. Payment of the Government revenue is not itself a sufficient test, for the payment may have been made as farmer, or as hereditary collector, and not as proprietor. The right of providing for the cultivation of the land and of arranging for the breaking up of waste land, the location of cultivators, the digging of wells and planting of trees, the enjoyment of the spontaneous products of the soil, i. e, the eaver or manorial rights, all these and many other such circumstances are adduced in proof of proprietary right, and are all possessed of weight. They should be carefully examined, and if they are not sufficiently certain to afford the basis for a decision: reference should be had to private arbitration, or to f arbitrators appointed under the provisions of Section 23 of the Puniab Land Revenue Act, 1871.] But it may be remarked that in village communities, where the proprietors themselves hold fields and cultivate, the absence of the possession of land does not necessarily involve dispossession of interest in the estate. A man may have mortgaged or sold all his fields and

yet be in possession of share in the estate. Admission to a voice in the periodical audit of the village accounts (bujhárat) will generally in such cases be found the test of proprietary interest, in virtue of which a sharer, though holding no land and paying no part of the land revenue, may be entitled to a share in the waste land, and in the rayer

[See also the observations on tee same subject in paras 7 to 19 of Mr. Thomason's Remarks on the System of Land Revenue Administration prevalent in the North Western. Provinces, prefixed to this book]

- 96. (81). Where no proprietary right exists or has ever been exercised, it rests with the Government to decide whether they will retain it in their own hands, confer it on any class of persons already connected with the land, or grant it or sell it to strangers. [The same care should be taken in recording proprietary right reserved by Government in any estate, as in recording the rights of other owners or of occupiers of land. Metalliferous mines, coal-mines, and gold washings are declared the property of Government by Section 29 of the Punjab Land Revenue Act 1871, but all other rights will be deemed the property of the owners of the estate, if, in a settlement made after the passing of that Act, it is not otherwise expressly provided. If the estate be the property of Government, it will of course be recorded as owner.]
- 97. (82). The following remarks are designed to assist the Settlement Officer in comprehending the nature of the tenures commonly existing in the country.

They may be classified under the following heads :-

I — Zamíndárí, $\begin{cases} 1 \text{ Landlord }; \\ 2 \text{ Communal }; \end{cases}$

II .-- Pattídárí ;

III .- Bhyachárah ,

IV.-Mixed Pattidárí and Bhyachárah.]

98. (83). [Zamíndárí tenures of the landlord type, or] estates possessed in absolute proprietary right by a single owner, (Zamíndárí Khalls;) require no particular notice. The common instances of such tenures are those in which the right has been acquired by purchase, [or by settlement of cultivators in waste or abandoned land, possession of which has been obtained

by grant or otherwise | In such estates, the person settled with is the sole possessor of the heritable and transferable right in the land, and may either be himself the cultivator of the whole, or may collect the rent from cultivators, with or without rights of occupancy in the lands held by them

- 99. (84). [It is more common for several persons to possess heritable and transferable properties in the same Mahál or estate] Such properties may be of the same kind or of different kinds. In the former case the profits of the land are divided amongst several sharers or co parceners according to a fixed law or custom, and these are commonly called Co-parcenary Tenures. In the latter the profits are divided between different proprietors or classes of proprietors, the one superior and the other inferior, and these are commonly called Talukdárí Tenures.
- 100 (85) The co-parcenary tenures are the most common and embrace all cases where the estates are held by those singularly constituted village communities, which have been so often described, and have been not unaptly said to form "little republics" within themselves. * It is impossible minutely to detail every variety of the tenure, but it will be useful, by fixing on a few of the more prominent features, to assist the Settlement Officer in his attempts to understand the constitution of those which may come under his notice. It may also be remarked that the names given to the several classes of tenures must be in a great measure arbitrary.
- 101. (86). The most obvious distinction is that which rests on the degree of separation between the several properties constituting the Mahál. In this respect co-parcenary tenures are Zamíndárí, pure Pattídarí or Bhyachárah, and mixed or imperfect Pattídarí or Bhyacharah.
- 102. (87). Zamindari tenures of the communal type (Zamindari Muchtarakah) are those in which the whole land is held and managed in common. The rents paid by the cultivators, whether those cultivators be the proprietors themselves or not, are thrown into a common stock, with all

^{*} See paras. 33 to 36 of a Minute by Sir Charles Metcalfe, page 218 of Selections from Revenue Becords, North Western Provinces, A. D. 1822-1833, Allahabad, 1872.

t in Regulation XIX of 1814, Section 30, these tenures were described as "juint estates held in common tenancy, where all the sharers have a common right and interest in the whole of the estate, without any separate title to distinct lands, forming part of the estate."

other profits from the estate, and, after deduction of expenses, the balance is divided amongst the proprietors according to a fixed law.

- 103. (88). Pure Pattidárí * tenures are those in which all the lands are divided and held in severalty by the different proprietors according to certain known shares, each person managing his own lands and paying his fixed share of the Government revenue, while all are jointly responsible in the event of any one sharer being unable to fulfil his engagements
- 104. [Pure Bhyachárah tenures † bear a close affinity to the pure Pattídárí, differing in this respect—that the shares according to which the distribution of revenue was formerly made have become quite extinct, and each man's holding has become the sole measure of his right. Each proprietor has a certain defined extent of land, both cultivated and uncultivated, which he manages, and for which he pays revenue according to the village custom, while all are jointly responsible for default on the part of any individual.]
- 105. (89) Mixed or imperfect Pattidárí and Bhyachárah tenures are those in which part of the land is held in common and part in severalty. In the former, defined shares are recognized, and the profits of the land held in common are usually first appropriated to the payment of the Government revenue and the expenses of the village, any surplus being divided, or deficiency made up, by rateable distribution (báchh) over the several holdings. This mode of payment is known as dhar-bachh or bígah-dam [In the latter, all trace of definite shares has been lost. Each proprietor cultivates his own land, either in person or by a servant or

^{*}This term 12 often used in a wider sense, so as to include the tenurce known as Bhyacharsh. Thus the definition of a Pattiduri estate given in Section 2 of Act I of 1841, which has been adopted for the jumposes of the Civil Procedure Code by Section 14 of Act XXIII of 1861, is "an extate which consists of two or more separate portions or pattis, or of which there may be proprietors possessed of separate properties and holding direct of the Government, but not parties in their own name to the contract with the Government for payment of the public revenue."

[†]Selections from the Public Correspondence of the Punjab Administration, Volume I, No. 11, p. 178. The word means "custom of the brotherhood," and the term has, in consequence, sometimes been applied also to Pattidárí tentres held according to customary shares; but in the Punjab, at least, it has been found convenient to restrict it to tenures in which possession has become the sole measure of right.

tenant, and pays revenue for it according to the village custom.]

106. (90). These distinctions are not in their nature permanent. A Mahál may pass by the agreement of the sharers from one class to another, the joint responsibility remaining inviolate. It is very rarely that a Pattidari Mahál becomes Zamindári, but it is a most common occurrence for a Zamindári or an imperfect Pattidari to become a Pattidari Mahál. In such cases a partition of the common land takes place, but no division of the Mahál. In a Zamindári Mahál the partition would be according to the shares which before regulated the division of the profits; but in imperfect Pattidári Maháls a new distribution of the profits arising out of the estate frequently takes place, according to a different rule from that which regulated it before.

107. (91) It is important to ascertain the rule according to which the profits in a co-parcenary estate are distributed, i e, the rule which fixes the extent of interest possessed by each sharer in the estate. When his right arises from transfer by sale, gift, or otherwise, the rule for the distribution of profits depends on the terms of the transfer, but when the right does not arise from special contract, the rule is either founded on legal or on customary shares, or each man's occupancy has become the measure of his interest. It is founded on legal shares, when it results from the operation of the law of inheritance, each proprietor claiming and possessing a certain share according to his right derived from a common ancestor, under the code of law applicable to his religion, or his country, or his caste. It is founded on customary shares when, f owing to transfers or to some proprietors taking up shares which had lansed by the family to which they belonged becoming extinct, or which had been abandoned by the owners, while others were unwilling to incur the responsibility for such shares, or to other causes, the actual shares have become so different from the legal shares, that the latter have ceased to be referred to, and customary shares have taken their place. Or all resort to shares may have died out, and each man's holding in the village may have become the sole measure of his right. The tenure then becomes what is called Bhyacharah state of things appears to have often taken its rise from the position of the cultivating communities under the native Government. Cultivators were then scarce, and each proprietor was bound to exert himself to the utmost, to provide his family with the means of support, and to add to the resources of the

community. Each person cultivated therefore as much as he could, and contributed to the charges on the village in proportion to the extent of his cultivation.

- 108. (92). In Zamindári estates the profits are generally divided according to law. In some few cases the legal ancestral rights of the parties may have been lost, and the distribution of profits may be according to custom, but the cases are rare, and require no particular remark.
- 109. (93). The rule according to which the profits are distributed is very important [as a means of distinguishing between pure Pattidárí and pure Bhyachárah tenures. In the former the distribution of profits is according to legal shares, i e. to ancestral right, or according to recognized customary shares, and each proprietor holds a portion of the land, corresponding, with the fraction of the revenue for which he is liable as holder of a defined share in the estate. 1 It may or may not be an accident of the tenure that the estate should be subject to re-partition, whenever the profits of any separate portion become less than the fractional share which it represents. [In the latter, i.e. Bhyachárah, each proprietor holds a separate portion of land, and pays upon it the due proportion of revenue; but the land has not been assigned to him by any fixed rule, and is itself the measure of his interest in the estate. I In the former case, the holding adapts itself to the share of the Government Revenue demandable from the proprietor; in the latter, the share of the Government Revenue adapts itself to the real or assumed value of the holding.
- 110. [Mixed or imperfect Pattidári and Bhyachárah tenures are similarly distinguished. In both there is land held in common, in addition to the lands held in severalty; but in the former the profits derived from the common land are applied in such a way that each proprietor gets the benefit of the proportion which corresponds with the legal or customary share which is the measure of his rights and liabilities, while in the latter there is no such recognition of any definite shares in the property.]
- 111. (95). Pattidárí tenures in which the shares depend on custom, and not on ancestral right, and Bhyachárah tenures often present curious and difficult features.] Where customary shares or possession form the sole measure of property, and all trace of ancestral right is lost, the case is comparatively simple.

It is only necessary in each case carefully to ascertain and record the custom with all its incidents, whatever they may be It must be explained how the land is held, how the revenue is paid, under what circumstances the proportion between the holdings and the payments is capable of re-adjustment, and whether this should be done by re-distribution of the land or of the revenue, how the sayer is to be enjoyed, and waste land broken up. One uniform and consistent rule will generally be found to govern all these matters

[The mode of distributing the Government demand varies very much in different communities. * The best known are (1) a rate on wells (húhgárí); (2) a rate on ploughs (halsárí), (3) an average rate on area; (4) rates on inigated and unmigated areas; (5) distribution according to shares; (6) rates on the several descriptions of soils.]

112. (96) But it frequently happens that, though reference to ancestral rights in the distribution of the ordinary profits and in payment of the Government revenue may from some cause or other have long been discontinued, they are still known and reverenced, and the possibility of recurrence to them is contemplated Those who have less than their ancestral rights are anxious to assert them, whilst those who have more than their rights hope to evade a re-distribution of profits, the justice of which they cannot deny. It may happen that in the distribution of the profits all reference to ancestral right has not been discontinued. The payment of the Government revenue may be according to custom, while the division of the sayer and the claims to waste land may be according to ancestral right. It has been found that, whenever ancestral rights are known, there is a tendency on the part of the people to recur to them, and disputes are likely to arise where such distribution does not immediately take place, or where the conditions and circumstances under which it shall take place are not determined. Our own law of limitation of suits provides that, where all reference to ancestral rights has been discontinued for 12 years or more, recurrence to them under ordinary circumstances cannot be claimed. But this rule is often neglected by the people, and they will agree to partition of the estate according to ancestral right, as the best means of preventing discord in the community. Frequently it will be

^{* (&#}x27;ust's l'aniáb Revenue Manual, page 57. Other modes are a rate on bullocks (dumsári), and a rate on houses (gharsári.)—Selections, Punjab Administration. Volume I, No. 11, page 178.

found that recurrence to ancestral right, as the ground of distribution of profits, is only objected to because of some disputed account, either a debt, or a mortgage, or some such transaction, and that, when this has been adjusted, all further difficulty ceases. There are few cases in which explanation and persuasion, and reference to influential men in the vicinity, will not avail to remove the difficulties and lead to the discovery and prescription of a complete and consistent rule for future guidance.

113. (97). Many Maháls will exhibit within their own limits specimens of several of the tenures mentioned above. The Tarafs and Pattís, i. e., the larger and smaller sub-divisions, may be entirely severed from each other, whilst the lands of each Taraf or Pattí are held in common by the persons possessing shares therein. One Taraf may be perfect or imperfect Pattídarí or Bhyachárah, whilst another is Zamíndárí.

[To secure an accurate record of the nature of the tenure, whether of the whole estate or of its sub-divisions, care should be taken to ascertain and record in a preliminary statement for each estate, the facts in regard to the holding of land, the distribution of profits, the mode of paying the revenue and other charges, and other circumstances which may serve to characterize the tenure. When the incidents of the tenure have been carefully recorded, the class under which it falls will be apparent. This will prevent villages being forced into a particular class of tenure, in order to save trouble to the subordinate officials of the Settlement department.]

- 114. (98). We come now to the consideration of tenures, where the separate heritable and transferable properties are of a different * and not of the same kind, one being superior and the other inferior. These are called Talukdárí tenures.
- 115. (99). The ordinary form of such cases is when a powerful man by patent or grant from the supreme power, or by favor of a local officer, or by voluntary act of the people themselves, has become an intermediate person between the Government and the village proprietors, collecting from the latter what they would otherwise have paid to the Government, and paying it in himself in one sum, after making such deduction, to cover his risk and profits, as may be specified in the patent

^{*} See clause 3, Section 30, Act XXXIII of 1871.

or sanctioned by custom. The superior in this case is called the Talukdár: the inferior proprietors are called village Zamíndárs, or Biswahdárs.*

- 116. (100). In such a case, if the settlement be made unreservedly with the Talukdár, or in other words, if the demand of the Government on the Talukdár be limited, and no limitation be placed on the amount of his demand upon the inferior proprietors, a grievous injustice is committed. This was the injustice extensively committed in Bengal, Behar, and Orissa at the time of the permanent settlement, and to avoid which elsewhere, the Government has enjoined caution and consented to make great sacrifices.
- 117. (101). There are cases in which a single village constituting a Mahál in itself, presents all the features of a Talukdárí tenure, an inferior proprietor or community of proprietors occupying, cultivating, and managing the land, and paying a certain sum to a superior, who again pays a less sum to the Government.
- 118. (102) But ordinarily a Talukah consists of many villages, all of which may or may not have been acquired at the same time or in the same way. It will be generally found that village after village has been annexed to the Talukah at different times according as the wealth, or the influence, or the power of the Talukdár extended itself. From this as well as from other causes it will follow, that each village or cluster of villages will constitute a case in itself, to be judged on its own merits, and care must be taken against forming a general deduction from the partial examination of a few cases.
- 119. (104). The first point to be ascertained, in each village which may come under consideration, is whether or not there are in it two separate heritable and transferable rights of different kinds.
- 120. (105). In most large Talukahs it will be found that there are some villages in which there is no inferior right. These may be either the original ancestral property of the Talukdár himself, or they may be villages in which he has purchased the inferior proprietary right, or in which he has succeeded in

^{*} For the sense in which this word is used in the Cis-Satlaj Districts under the Punjab Government, see para, 92

completely overbearing it, so as to have obliterated it for a course of years. All these are simple Zamíndárí tenures, and to be settled as such with the Tálukdár.

- 121. (106). In other cases the existence of the inferior property will be clear and unquestionable. The village community may be found in its integrity, divided into its usual component parts of Tarafs and Pattís, cultivating, paying, and adjusting profits according to some known rule, and having, by special contract, in the form of a lease, either annual or for a term of years, procured, as it were, a settlement for themselves from the Talukdár. In such cases the property must be at once acknowledged, all the features of the tenure be ascertained and recorded, and ample provision made for its future protection [It will be necessary to report such cases to the Financial Commissioner, with reference to the terms of Section 30 of the Punjáb Land Revenue Act, 1871, for his instructions in regard to the class of proprietors to whom the Settlement should in the first instance be offered.*]
- 122. (107). Between these two classes of extreme cases will be generally found a number of obscure ones, needing much searching investigation and dispassionate consideration.

[But such enquiry will rarely be necessary on a re-settlement, as such cases will usually have been disposed of at the time of the previous Regular Settlement.]

123. (109). It may so happen that the members of an inferior village community, possessing all the rights of proprietors, are found to all appearance simple cultivators, divested of all proprietary right, and it may be difficult to determine whether or not under these circumstances their rights should be recognized. It will be necessary to refer to the history of the village, to trace the origin of those claiming the right, to ascertain whether proprietary rights were formerly exercised by the resident cultivators before they came under the Talukdar, and by whom amongst them, and how those rights were exercised, and when and from what cause they ceased. Traces of the right may probably be evident in gardens they had formed, wells they had dug, or public works they had constructed; they may still enjoy the sayer, and perhaps divide it according to the village rule. All these points must be enquired into

^{*} The Financial Commissioner has been directed to refer this question to Government,—see his Book Circular No. IX of 1873,

and the best decision given that the case admits of. If it is decided on the above enquiry that there is only one property, the tenure of the superior party becomes Zamindári; if there be two separate properties, then the tenure is Tálukdári, and must be treated as such.

- 124. (110). It being decided that there are in one village, or in any number of villages, two separate properties of different kinds, it is open to the Government to form the Settlement either with the superior or the inferior party. If the former, the inferior proprietors must be protected by a sub-settlement; if the latter, the right of the superior must be compensated by a money allowance in lieu of his share of the profits, [the rate or amount of which should be determined in the order of the Financial Commissioner directing that the Settlement should be made with the inferior proprietors.]
- 125. (111). If the Settlement is made with the superior proprietor, he must be allowed a sum equal to his share of the profits of the estate, and such as will cover the cost and risk of collection, and the sub-settlement will be formed with the inferior proprietor at an amount so much in excess of the Government demand. The inferior owners are thenceforward bound to pay their revenue to their superior according to fixed instalments.*
- 126. (113). If the Settlement is made with the inferior proprietors, they become in all respects Málguzárs, and are treated the same as any other proprietors. The Tálukdárí allowance is paid direct from the Government Treasury to the Tálukdárí either in cash or in the shape of a deduction from the assessment of any other villages he may hold.
- 127. (114). In estimating the comparative expediency of these two arrangements, it may be remarked that to settle with the superior is the most advantageous to the Government, because the collections are easier and more certain from one large and wealthy than from many small and comparatively needy landowners; whilst the inferior proprietors are placed in a position where they are protected in the exercise of their rights so long as they faithfully discharge themselves of their

^{*}The Settlement of the Istamrári tenure of the Mandals of Karnál by Mr. C. Gubbins, under the orders of the Lieutenant Governor North-Western Provinces in 1815, 18 an example of this kind of Settlement,—Selections from the Records of Government North-Western Provinces, Agra, 1849 (Old Scrieg), Vol. II, No. XXXI.]

responsibilities. When the Settlement is made direct with the inferior proprietors, their position is rendered more secure, because the Government is a more indulgent and lenient superior than the Tálukdár, and because they are less exposed to any machinations he may devise against them. At the same time the Government is more exposed to the risk of losing its revenue, the Tálukdár is generally much dissatisfied, and the inferior proprietors are often unable to stand alone when deprived of the support of the Tálukdár, on which they have long been accustomed to rely.

128. (115). In the N. W. Provinces it has been the general rule to make the Settlement with the inferior proprietors, and this is the best arrangement when the superior and inferiors are unconnected by blood or clanship, and have been long opposed to each other, and the latter are clamorous for severance of interests. But when the two classes are of the same family or tribe, and mutually willing to maintain their connection, the former arrangement is very much the best.

[In the Punjab, in addition to the ordinary cases of superior and inferior proprietors, there have been many cases in which former owners, who had been too completely ousted to be able to assert their title against the persons in actual proprietary possession, but had occasionally received small payments in consideration of their ancient rights, have been assigned a small Talukdari allowance to be paid by the actual possessors in commutation of their claims upon the land]

129. [In the southern districts of the Punjab a distinct class of proprietors is found, known as chakdárs, sullandárs or kasúrkhwárs.* These are the owners of wells (or sometimes of canal cuts) constructed at their expense in land belonging to others. The chakdár is in general bound to deliver up the well when the proprietor of the land repays his outlay upon it, but this does not often happen. Until he is bought out in this way by the proprietor, he enjoys a heritable and transferable interest both in the well and in the cultivation of certain lands which are irrigated from it, and in most cases it rests with him to arrange for the cultivation, and he is primarily responsible for the Government revenue, the original proprietor being entitled merely to a fixed allowance (malikánah or lichh), for instance, half a sér in each man of

^{*} Mr. Morris's Settlement Report of the Multan District, Appendix religing to the Multan Tabail.

the produce. In other cases the chakdár, after sinking the wells has made it over to the original proprietor, who arranges for the cultivation and pays the Government revenue; while the chakdár receives from him one or two sérs in the man of the produce, which is known as hakk kasúr. * There are also cases in which neither the chakdár nor the original proprietor is in direct possession, a subordinate holder (mahsúlkhwár) arranging for the cultivation, and being entitled to any profits arranging for the cultivation, and being entitled to any profits and the hakk kasúr. In these cases the chakdár defrays the proprietor's allowance, and bears the expenses of repairing wells, constructing indigo vats, settling cultivators, &c 1

- 130. (116). The remarks in the preceding paragraphs (120, 123) are applicable to the Settlement of resumed revenuefree (Lákhiráj or Muáfi) holdings, whenever they have been created by grant of other than the proprietors themselves. In such cases all that could have been originally conferred was the right of the Government in the land, and the presumption is that there are proprietors with whom the settlement should be made, when the Government, by the resumption of the grant, re-asserts its right. But it may be otherwise. The grant may have been of waste land which the grantee brought into cultivation, or he may have purchased out or entirely dispossessed the former proprietors. Such cases must be investigated on the same principles as the Tálukdárí cases, the only difference being that here the question is, which of two conflicting claims is to be admitted, and there' whether one of the two or both are to be admitted. +
- 131. [It was formerly the practice to exclude from assessment villages, the revenue of which was assigned to Jágírdárs or Muáfidárs, unless either the proprietors or the assignees applied for a settlement; but on the annexation of the Punjab the Governor General in Council directed; that "the Government revenue should be assessed upon each village or tract which constitutes a separate tenure, so that the Jágírdár or other holder should not be allowed to rack-rent his tenants
- * Kasur is also the name given to the profits of the chakdór when he is in immediate possession.
- † See rules made by the Local Government under Section 41 of the Punjab Land Revenue Act for the settlement of resumed assignments of Land Revenue The rules applicable to the investigation of claims to such assignments, &c., are collected in Appendix No. III.
- † Despatch of the Government of India, constituting the Board of Administration for the Affairs of the Punjab, No. 418 dated 81st March 1849, pars. 43

or derive more from the land than would be taken by the Government, whose place he occupies." In the Summary Settlements at first made, this order was not acted upon, unless in cases in which disputes had arisen; but on the commencement of the Regular Settlement of the Bári and Rechna Doábs, the Board of Administration directed * that on the introduction of revised settlement operations, all jágír lands should be assessed simultaneously with those of Government. Similar instructions had previously been given to the Commissioner of the Cis-Satlaj States by letter. † The principle upon which these orders rest is that, by granting away the land revenue of a particular tract, or confirming a title to such revenue which had existed before the commencement of British rule, Government confers nothing more than its own right to the land revenue, and it is bound to protect the rights of others, who are themselves proprietors, against encroachment.]

- 132. [Similarly, on the confirmation of revenue-free tenures in plots of land in villages paying revenue to Government, the land is not excluded from assessment, but the proportion of the revenue chargable upon it is deducted from the amount payable to Government, while the revenue-free tenure continues to exist. The assignee in some cases receives the revenue assessed upon the land from the proprietors, but in many cases he is himself in possession of the land as proprietor or cultivator, or arranges for its cultivation by tenants who pay rent to him. The proprietors may be in receipt of an allowance from him in acknowledgement of their title (malikanah), or may receive nothing, especially if the assignment is for a purpose which commends itself to them]
- 133. [Another tenure may be here noticed, which is to some extent analogous to that of an assignee of land revenue. This is what is called an Istamrárí or Mukarrarí tenure. The Istamrárdár or Mukarrarídár; holds certain lands at a fixed assessment under a grant made or confirmed by Government. His tenure may either be permanent (as in the case of the Mandals of Karnal) or for life only. He may either have proprietary rights in the land, or be entitled merely to the Government revenue. In either case it is necessary to deter-

^{*} Circular No. 13 dated 26th February 1852, addressed to all Commissioners, except those of the Cis and Trans-Satlaj States.

^{*} No. \$27 dated 18th February 1852 to Commissioner Cis-Satiaj States.

I The term Mukarrardar is also applied to a tenant paying a fixed quitted to the proprietor of the land.

mine the assessment which would be taken in the absence of a grant Even when the tenure is permanent, and there are no other persons possessing proprietary rights which have to be protected, the full assessment must be known in order to calculate the amount of the local rates and cesses.]

- 134. (118) There is one other kind of inferior property which requires notice, and that is where one or more persons hold from the proprietors of a village some portion of the village on condition of paying annually a fixed sum for it. This may have arisen from the act of the proprietors themselves, or may be an arrangement on the part of Government for maintaining the rights of the occupant of a small resumed rent-free tenure. In all such cases the amount of the payment by the inferior should be fixed at the time of Settlement, and he will then occupy the same position as an inferior proprietor of a Mauza in a Talukah. There is some danger that sub-proprietors of this class may be confounded with non-proprietary occupants of the soil and the peculiarities of their possession be lost sight of. They differ from most of these in the possession of a tenure which is transferable as well as heritable, and in being bound to pay the sum assessed on their tenure, whether they cultivate the whole of it or not.
- 135 [In the districts of the Rawalpindi Division certain classes of occupants of land have been declared sub-preprietors of the land in their own possession, and settled with at fixed rates subordinate to the Settlement of the village. In some cases the village community can require the sub-proprietor to join the community, taking his share in the liabilities, and becoming entitled to a corresponding share in the profits. †]

Jhelam Settlement Report, para. 267.

†Of this class Mr. Cust observes (Punjab Revenue Manual, page 33), 'Many question the policy of this new status as the first blow to the integrity of the village system the reply is that we are design with facts. Can we deny the existence of this class in districts far separated from each other? To main-

triefs far separated from each other? To maigtenant is a mere abuse of terms. Such an argument would not be hazarded in the case of house-property. To record this class as tenants, and silow them to exert dominion as landowners, would merely falsify the record. The argument of the opponents of this status, that proprietorship must be proved before a man can be called a landowner, is met by the fact that no better right to the land occupied is proved in favor of: any other pasty, and the old maxim—" Melor est conditio possidentis." As a sub-proprietor, he is owner of an intelligible property. It is not apparent why the occupier of a imited area (less than a whole village) may not, by lapse of time and the

- 136. (119). The above are the chief kinds of proprietary rights which it will be the duty of the Settlement Officer to investigate. But his record must include mention of all existing interests, and it is therefore necessary to advert to the rights of non-proprietary occupants of the land.
- 137. (120). Non-proprietary cultivators are the most important class, whose position requires to be determined. But before entering upon the subject it is necessary to make a few remarks on the subject of cultivators in general.
- 138. (121). Much confusion has arisen from the neglect to distinguish between proprietary and non-proprietary cultivators. Throughout Northern India there is a large body of persons possessing a heritable and transferable property in the soil, who are also cultivators, and their profits as proprietors and as cultivators are sometimes so mixed together that it is difficult to distinguish between them and the non-proprietary cultivators. [In the Punjab in particular the great majority of the proprietors cultivate their own lands, and in most localities more land is cultivated by proprietors than by tenants.]

decay of dominion of the original landowners, expand into a proprietor, as well as a community of persons similarly situated and occupying a whole village, who can by lapse of time expand into a community of proprietors; but of this phase we have hundreds of instances. The feature of their status is that they are actual owners of their own cultivated fields, with power of transfer by sale, gift or mortgage, but they have no claim to manorial rights or to the common land, or to pre-emption, and only in very exceptional cases to the post of village headman. Among them we find—

I.—Descendants on the female side from the original locators of the village, who received a small plot of land as a marriage portion.

II.—Descendants of these who assisted in the location of the village, but, not being of the same caste or tribe as the locators, were not admitted to the village community.

III.—Cultivators who have not only asserted by prescription a right of occupancy, but, by lapse of time, or by permission, have freed themselves absolutely and for ever from paying rent.

IV.—Owners of plots of land the revenue of which was assigned to their own use by the Native Governments, but which has been resumed by the British Government, leaving them the indulgences of a lease at reduced and fixed rates.

- V.—Purchasers of plots of land for houses, gardens, manufactories, &c.
 - VI .- Purchasers of waste land within village boundaries.
- VII.—Cultivators who were once tepants, but who, by private purchase or auction sale, have converted their occupancy into ownership.
- VIII.—Parties who have purchased heritable and transferable rights in the village without becoming members of the proprietary community.
- IX.—Parties who have been placed in possession of ownerless lands by,

- 139. (122). In many parts of Bengal, Behar and Orissa, at the time of the permanent settlement, no attempt was made to distinguish proprietary from non-proprietary cultivators, but all were left indiscriminately to the mercy of superiors, who contracted for the Government Revenue, and who, whatever was their origin, were distinct from the v llage proprietors. A similar error was nearly committed in the Talukdari estates in the North-Western Provinces.
- 140. (123). A remedy for this manifest injustice has been often sought by an attempt to provide protection equally for all classes of cultivators, and the advocates for such measures have argued upon facts which in truth indicated the existence of much higher rights than those of mere cultivators
- 141. (124). The importance of the question is much diminished when the proprietary have been carefully separated from the non-proprietary cultivators, and the former confirmed in all the privileges to which they are justly entitled.
- 142. (125). Still it is incumbent upon the Settlement Officer to ascertain and record with precision the position of non-proprietary cultivators, in order that no doubt may remain as to the party entitled to benefit by future improvement of the land. So long as this is doubtful, exertion will be discouraged.
- 143. (126). Non-proprietary cultivators are generally either the descendants of former dispossessed proprietors, or they have been located on the estate by the present proprietors or their predecessors. Their best security, no doubt, consists in the demand for their labour. A Zamíndár commonly reckons his wealth by the number of his Asámís, and the fear of losing their services is often sufficient provision against harshness or severity towards them. [A non-proprietary cultivator may also be an under-tenant, holding from a tenant having a right of occupancy, not debarred by agreement from letting the land in his occupation. *]
- 144. (127). There can, however, be no doubt that many non-proprietary cultivators are considered to have rights of occupancy, and thus two classes are commonly recognized: those who are entitled to hold at fixed rates, which can only be enhanced † by agreement between landlord and tenant or

Act XXVIII of 1868, Section 32; see also Section 32 as to the position of such under-tenant in regard to the head landlord.

⁺ Act XXVIII of 1868, Sections 10 to 13.

by decree of Court under the terms of Sections 11 to 13 of the Punjab Tenancy Act, 1868, and those who are mere tenants-at-will.

- 145. [Tenants having a right of occupancy again fall into two classes according to the grounds on which they are held to possess such right.* The first class consists of those who are deemed to have a right of occupancy under Section 5 of the Punjab Tenancy Act, 1868; i. e., it includes "every tenant who—
 - (1) has heretofore paid no rent and rendered no service, in respect of the land occupied by him, to the proprietor thereof for the time being, beyond the amount of land-revenue and village cesses for the time being chargeable thereon, and whose father and grand-father, uncle and grand-uncle, occupying the same land, have paid no rent and rendered no service in respect thereof to such proprietor beyond the amount aforesaid;
 - (2) or who has involuntarily parted or shall involuntarily part with proprietary rights in any land otherwise than by forfeiture to Government, and who has continuously occupied or shall continuously occupy such land or any part thereof from the time of such parting;
 - (3) or who is, at the date of passing of this Act, the representative of a person who settled as a cultivator in the village in which the land occupied by such tenant is situate along with the founders of the village;
 - (4) or who is or has been Jágirdár of the village or any part of the village in which the land occupied by him as tenant is situate, and who has continuously occupied such land for not less than twenty years."

A tenant of this class is not liable to be ejected from the lands in which he possesses a right of occupancy unless he

In a first regular settlement the classification of tenants should be effected by the Superintendent. When the record of rights is revised at a subsequent settlement, the former record will determine the status of all persons mentioned therein who are still in possession. The classification of new tenants will be determined by the Deputy Superintendent, who will refer all disputed or doubtful cases to the Superintendent for orders.

has failed to satisfy for fifteen days or more, a decree passed against him for arrears of rent in respect of such land. He may alienate the land in his occupancy or any part thereof, subject to the right of his landlord to have the first offer at the market value of the land.

146. [The second class consists of tenants who are deemed to have a right of occupancy under Section 6 of the Act, or who succeed in establishing such right under Section 8.

It includes, therefore, "every tenant whose name appears in the records of a regular or revised settlement heretofore sanctioned by the Local Government as having a right of occupancy in land which he or the person from whom he has immediately inherited has continuously occupied from the entry of his name or the name of such person (as the case may be) in such Settlement," unless the landlord succeeds in proving in a regular suit

- "(1) that within the thirty years immediately before the institution of such suit other tenants of the same class in the same or adjacent villages have ordinarily been ejected from their holdings at the will of the landlord; or
 - (2) that the tenant has voluntarily admitted before any officer employed in making or revising a Regular Settlement of land revenue, or before any officer authorized to attest the entries in the record of such Settlement, that he is a tenant not having a right of occupancy, and that such admission has been recorded at the time by the officer so employed or authorized;"

and every tenant who establishes his right of occupancy on grounds other than those specified in Sections 5 and 6.*

A tenant of this class, when he or the person from whom he has inherited has continuously occupied the land for 30 years or upwards, is not liable to be ejected on any other ground than that for which a tenant of the first class may be ejected. If the occupancy has been of shorter duration, a

Act XXVIII of 1868, Section 8.

decree may be made for his ejectment if "the landlord tenders to him in addition to any compensation to whigh he may be entitled" for growing crops or improvements,* but subject to the deduction of arrears of rent, if any, "such compensation as the court thinks fit, not less than 15, and not more than 30 times the amount of the net annual profits receivable by the tenant in respect of such land," calculated on the average of the three years next before the date of the tender. No tenant having a right of occupancy under Section 6 or Section 8 can alienate the land in his occupation, or any part thereof, without the consent of his landlord †1

- 147. (129.) Tenants-at-will have no right extending beyond the year of their cultivation. When at the commencement of the agricultural year they agree to cultivate certain fields on certain terms, they are entitled to the occupation of these fields on the specified terms during the year, but at its close their right terminates [Notice of ejectment is, however, required to be given by the landlord if he wishes to eject the tenant at the end of the year, unless when he has obtained a decree for arrears of rent or for ejectment, and notice of relimination is similarly required from a tenant who desires to terminate his tenancy Strictly speaking, therefore, the tenancy is from year to year, and not a mere tenancy at will. If the tenant holds under a lease or agreement, different incidents may of course be annexed to the tenure by the terms of the contract,
- 148. (130). [Until the passing of the Punjab Tenancy Act, 1868, it was] impossible to lay down any fixed rule defining what classes of cultivators are to be considered entitled to [rights of occupancy]. They were known in different parts of the country by different names, all of which implied attachment to the soil or prescriptive right. It has sometimes been supposed that all tonants resident in the village were possessed of rights of occupancy, and that those resident in another village (pahikasht) had no such rights. But there were frequent exceptions to this rule. Many cultivators residing in the village were mere tenants-at-will, whilst those residing in neighbouring villages had in some cases marked and recognized rights.
- 149. When the Settlement of an estate or part of an estate is appelled for arrears due upon it, and the land is let the settlement of an estate or part of a

+ Act XXVIII of 1868, Section 34.

^{*} Mee Sections 27 and 27 to 41 of Act XXVIII of 1868.

placed in a peculiar position while the farm or direct management continues.* If the land is let by the farmer or agent, the first offer of the lease must be made to the owner, but if he accepts the offer, he is, in the absence of express agreement to the contrary, placed in the position of a tenant-at-will, subject of course to the same right to have the first offer before the land can be re-let. The farmer too may occupy the land himself instead of letting it, and whilst he chooses to do so, the owner cannot claim a lease.]

- 150. [It may be necessary at settlement to adjust the rates payable by cultivators with rights of occupancy to the proprietors. The Settlement Officer can only interfere judicially if a suit for enhancement or abatement is brought under the provisions of the Punjab Tenancy Act, 1868, and he exercises civil powers under Section 21 of the Punjab Courts Act (XIX of 1865). But by his influence he should be able in many cases to induce the privileged cultivators to agree to pay rates bearing a fair proportion to the revenue demand which he may consider appropriate.]
- 151. (139). Besides the rights of cultivators to their lands, there are several other rights of village servants to fees or dues, some of which are of the nature of rent-charges, and all of these should be recorded whenever [both the proprietors and] the persons who are paid by these means desire their recognition and preservation. [Such arrangements are necessarily subject to modification if either party objects to their being continued for the future.]
- 152. (140). There is one important class of rights coming under the head of sayer, and sometimes called sawai collections, which have already been noticed in para. 69.
- 153. (141). They consist of the fees or dues collected by proprietors from residents in the village, whether those residents be cultivators, or traders, or men connected with the religion of the country.
- 154. (142). Thus a cess is often levied from houses under the name of Ghardwarf, or from looms under the name Khargahf, and the proprietors often share largely in the offerings at favourite shrines and places of worship. The Government have renounced all these as sources of revenue to

^{*} Act XXXIII of 1871, Section 52.

the State, but where they have long existed, and are admitted by both parties, and the record of them is desired, it should not be denied. In case of disputes, reference must be had to the origin of the claim and the prescription on which it rests, and the question must be decided like any other question of disputed right.

155. New cesses cannot be established by the proprietors either with or without the consent of the Settlement Officer, as to do so would be equivalent to the imposition of a tax, which is one of the prerogatives of the ruling power. Old cesses, however, rest upon a different footing. If paid by cultivators, they may be really part of the rent of the land, and where this is the case, they should be specified in the settlement record in stating the terms on which the land is held. Where they do not form part of the rent of the fields held by cultivators. or where they are paid by non-agriculturists, they may be considered as customary payments for the advantages enjoyed by them as residents in the village, which, if the custom did not exist, would be charged for in a different way, as, for instance, in the shape of ground-rent for houses and enclosures within the village site. In this case also it is important that they should be specified in the settlement record. Under Section 14 of the Punjab Land Revenue Act, 1871, this record should include a statement of the customs of the village, by which the relations of the persons settled with to other persons are regulated, and Section 16 establishes a presumption in favor of the truth of entries in the record of rights made or authenticated at a regular settlement or re-settlement in the manner prescribed by the Local Government. While the omission to place such custom on record at settlement would not be absolutely conclusive against its existence, it would prevent the presumption in its favor established by Section 16 from arising, and the burden of proof would rest upon the person alleging its existence. In many cases also the failure to record it might be held to raise a presumption against its existence, which would have to be rebutted by satisfactorily showing how the omission occurred.

156. (144). Rights of irrigation are of great importance and ought to be accurately ascertained and recorded. These rights may be to irrigate from certain wells or reservoirs by certain channels, or on certain days. Whatever they are, the cultivation is often dependent on them, and their interruption causes violent animosities in the village.

- 157. [These rights may also exist between several adjoining villages or between a large number of villages, and where this is the case, the prosperity of entire villages or of a large tract of country may be dependent upon their being carefully investigated and recorded Certain villages may, for instance, have acquired a prescriptive right to irrigation from the overflow of a marsh or pond situated in an adjoining village, which would be violated if the water were diverted to another channel; or there may be a stream from which a considerable number of villagos obtain irrigation, either by natural overflow or by raising the water by artificial means, such as an embankment or well apparatus, and if an embankment were allowed to be erected where a prescriptive right to stop the water did not exist, or to be raised higher than was previously the case, or if a channel were allowed to be deepened, so as to carry off a larger body of the water, some of these villages would be deprived of the irrigation to which they are entitled.
- 15%, (145) The above being the rights which are to be set forth in the record, the principles on which the record is to be formed are next to be considered.
- (146) In the case of a first regular settlement, the process of forming the record is essentially judicial; it is judging between man and man, but all authoritative decision should be avoided as much as possible. The great advantage of the procedure is, that the Settlement Officer comes amongst the people as their friend and peace-maker rather than as their judge. He does not ordinarily interpose between two parties when their passions are inflamed by the unimosity of a fierce dispute, or the anxiety of a protracted lawsuit, but his first object has been to fix a moderate assessment, and to lav restrictions on a right possessed by the Government, which they all acknowledge and consider sacred, and for moderation in the exercise of which they are grateful. successfully accomplished this, and thereby conferred on them a new and valuable property, he calls upon them, whilst their minds are calm and their best feelings brought into action, to come to an agreement on all points likely to produce disputes amongst them; he then reduces the terms of the agreement to record, and this record, when confirmed by Government, acquires an authoritative character, giving rise to a presumption of the truth of the facts stated in it. The task is delicate one, and he must be very careful lest in the attempt to prevent disputes he excite them, and lest whilst endeavouring to allay animosities, he only inflame them.

- 160. (147). The Settlement Officer will find his ends best answered by doing every thing as much as possible through the people, and deciding nothing himself that he can avoid, and also by being most careful that every minute feature of a tenure and every possible bearing of a right is fully seconded.
- 161. (148). By making the people do everything, he will find the work easier, as well as better done, than if he attempted to do it himself. He requires the assistance of a few subordinate officers, who should be men of intelligence, and of local experience and influence, [and who may either possess judicial powers or not according to circumstances] Subdivisional Officers, such as Tahsildárs, Kánúngos, and Patwárís, are often the best persons he can employ. To such persons it should be fully explained that a complete record of every thing regarding the village is wanted, and then they should be desired to sit down with the villagers and make the record. If any difficulty or difference arises, it should be at once brought to the Settlement Officer, who should endeavour to accommodate the matter if possible.
- (149). Completeness of record can only be ensured by great vigilance on his part. The villagers are themselves reluctant to lay open to public scrutiny the internal economy of their village. They are distrustful and slow to appreciate the motives which lead to the enquiry The strong, the crafty and the dishonest wish to avoid a proceeding which will tie their hands and close every door against future encroachment and intrigue. Again, the process is a laborious one, which the persons employed in the formation of the record are apt to slur over. Each peculiarity of the tenure probably has to be elicited by repeated questions, and the expressions to be very carefully adjusted, so as exactly to meet the case. The natives of this country, not excepting those in official employ, as well as all persons who work for show and effect rather than from principle, are peculiarly prone to inaccuracy and slovenliness, Here then all depends upon the Settlement Officer. By well selecting his agents and thoroughly tutoring them, and by making gradations of scrutineers, he may lessen his work or increase its polish, but all must ultimately centre in himself. He must understand the subject himself thoroughly; he must accustome his mind to classify and methodize his work; he must learn to detact the weak or incomplete points of a statement; he must call into practice all these powers with unremitting watchfulness

and diligence; above all, he must be actuated by a simple desire to promote the best interests of the people; and, by the uniform and conciliating exhibition of this feeling, he must win their confidence and attachment. In proportion as he possesses these qualifications, he will be entitled to the character of being a good Settlement Officer.

- 163. (150). Some parts of the process materially affecting the exercise of the proprietary right are not altogether judicial, but depend also on the discretion of the Settlement Officer, acting under such orders as he may receive from the Government.
- 164. (151). It is never obligatory on a proprietor to engage. It is in his option to decline to engage with or without reason assigned, in which event, if he be the sole proprietor, he will receive his malikanah, and the best arrangement that circumstances admit will be made for the estate [If there are other proprietors willing to engage, the settlement will be made with them, on condition of paying the allowance fixed for the proprietors who refuse to engage.]
- 165. (153). In co-parcenary Mahals [the engagement is entered into by the representatives of the community on behalf of the community.* In the choice of such representatives,] the interest of the several parties being closely united, it is necessary to have "due advertence to the wishes of all the co-parceners and to the past custom of the village;" [and they are appointed by the Officer in charge of the Settlement under rules laid down by the local Government +]
- 166. (154). When there are many co-parceners, it is usual to arrange that they should pay their revenue through the representatives so appointed to the Government. All the co-parceners are Málguzárs, but the persons admitted to the engagement are the Sadr Málguzárs, and are commonly called Village Headmen or Lambardárs. It is most important rightly to determine the relations between the Pattidárs and the Lambardár and his co-proprietors.
- 167. (156). It is usual to constitute the Lambardar the representative of the whole community, or of a certain portion of it, as of one Taraf or Pattí. He becomes thereby bound to

^{*} Section 30, Act XXXIII of 1871.

[†] Under Section 6, Punjab Land Revenue Act XXXIII of 1871.

collect from the co-parceners whom he represents, their quota of revenue, and to pay it into the Government Treasury. The primary demand from the whole portion of the community which he represents is made upon him, and he is responsible for it in his own person and property. He is also competent to recover by suit from his co-parceners their quota of the revenue. In case of default or insolvency of the Lambardár it is in the option of the Revenue Authorities to proceed separately against each Pattidár, or to hold the whole community to their joint responsibility, and to bring to sale the entire Mahál.

[The Lambardár may also apply to the Tahsíldár * to proceed directly against any of the co-parceners from whom any of the revenue may be due.]

- 168. [The principles to be regarded in the appointment of Lambardárs, their remuneration, their duties, and the circumstances under which they vacate, or may be removed from their offices, are regulated by the rules made by the Local Government under Section 6 of the Land Revenue Act, 1871.]
- 169. [In many of the more recent Punjab settlements Government has sanctioned the appointment of one of the village Headmen to be Chief Headman of the village. The appointment of the Chief Headman, where this office is sanctioned, his remuneration and duties, and the circumstances under which he vacates, or may be removed from his office, are provided for in the same rules.]
- 170. [In many cases also, influential proprietors are appointed, with the permission of Government, as heads (Zaildárs) of circles of villages known as Zails. These men are required to assist in the administration of their circles by their advice and influence, and by supervision of the Patwaris and Lambardárs. Their appointment, duties, and remuneration have been provided for by rules † issued by the Local Government.)
- 171. (159). It remains to point out the way in which the record of rights is to be formed. Uniformity is here most
- * See Rules for Recovery of Arrears of Land Revenue under Chapter V Act XXXIII of 1871, No. 8.
- † Resolution of Punjab Government, No. 273, dated 29th February 1872,—See Appendix No. IV.

necessary. The information must be thrown into one form so that with little practice every one may be able to find directly what he is in search of. A man may be possessed of much valuable information, and may have taken the pains to place this information on record, but unless his record be formed on some generally acknowledged plan, comparatively few will be able to avail themselves of it. This is more strongly the case when many agents acting under one superior are at work over the face of an extensive country, collecting and digesting similar information for the use and satisfaction of that superior. They must so arrange their information that their common superior may readily understand it and judge of it. But uniformity is especially of importance in a proceeding like that now under consideration. The record of rights is not to answer a temporary end, or to exhibit, as in the case of assessment, to the satisfaction of superiors, that a certain operation has been judiciously performed. The record is to be permanent; it is to be as it were the charter of rights to which all persons having an interest in the land, or seeking to acquire such interest, are to appeal. It is to be the common book of reference to all officers of Government in their transactions with the people, to the Collector, to the Magistrate, and above all, to the Judge. It is hence of the utmost importance that it be drawn out on some regular plan. The Settlement Officer will not, therefore, consider this an unimportant part of his duty. It is to a certain extent mechanical, and therefore, when once mastered, is capable of easy application to all cases which may arise. It is very true that an incomplete or inaccurate record is worthless, however regularly it may be compiled; but it is also true that the most accurate and perfect record, if irregularly and carelessly compiled, loses almost all its value.

- 172. [The documents to be comprised in records of rights hereafter to be prepared are enumerated in Section 14 of the Punjab Land Revenue Act, 1871, and their form, language, and contents, and the manner in which they should be prepared, signed, and attested, are regulated by rules made by the Local Government under Section 15. Under the latter Section the Local Government may also direct that the record of rights should contain other documents.]
- 173. [The papers contained in the record of rights are drawn up in the Urdu language. The proceedings at the time of deciding and marking off the boundaries, with the boundary

map, are kept as a separate file for each village, the other documents embraced in the record of rights are bound up so as to form a volume, which is known as the Settlement Misl of the village.]

- 174. [The papers composing the record of rights may be classified as follows:—]
- 175. [I.—Maps and Measurement Papers *—These include, besides the boundary map and the papers connected with it which, as already stated, form a separate file, the village field map (Shajrah), the field register (Khasrah), † and any supplementary maps and statements which may be necessary to explain the distribution of irrigation.]
- 176. [II.—Statements of persons interested in the land, showing the lands in which they are interested and the nature and extent of their respective interests ‡.—These include the register of holdings (Khewat-khatauni), showing the fields comprised in each holding, the occupant and owner, and the terms on which the land is held, and the statement of proprietary tenure, showing the origin and extent of the proprietary rights in the land. Appendices are added to these statements when necessary to complete the record of assignments of land revenue, or of rights in wells where wells are in use for irrigation. The holdings are, where possible, arranged in the same order in each of these statements; and if the village is subdivided into Tarafs or Pattís, the primary arrangement is according to these subdivisions.]
- 177 [III.—The tender of engagement (Darkhwast § málguzári) with the order of the officer in charge of the settlement accepting it, conditionally on the approval of Government, and any subsequent proceedings which the orders of Government may render necessary.]
- 178. [IV.—The administration paper or statement of the terms of settlement, and of the customs of the village || (Wajib-ul-arz).—This is intended to contain a full and clear account of the customs and arrangements not established by

^{*} Act XXXIII of 1871, Section 14, clause 1.

[†] Auto para, 29 and rules under Section 15 of the Punjab Land Revenue Act, 1871.

Act XXXIII of 1871, Section 14, clauses 2 and 4.

S Ib., clause 3. I Ib., clause 5.

law or by express agreement, which regulate the relations of the members of of the village community to each other, or to other persons, and of the terms on which they have accepted the settlement of the village from Government. Where the community is large and has well-defined usages, such a record becomes specially important as an explanation of the organization of the village, upon a knowledge of which successful revenue administration must often depend. A list of the topics upon which it should contain complete information will be found in No. 33 of the rules relating to the documents to be contained in the record of rights made by the Local Government under Section 15 of the Punjab Land Revenue Act.]

- 179 [V.—The final proceeding, (Rúbakárí Akhír), stating the authority under which the various proceedings of the settlement have taken place, and giving a brief abstract of the proceedings, with a statement of the judicial cases decided during the settlement.]
- 180. [Besides the papers which compose the record of rights of each village, certain other documents are prepared, in English, while the settlement is in progress or at the close of the operations. These are the following:—]
- 181. (172). I.— The Statement of Villages about to come under assessment (para, 7).—This statement, and any rough map which may have been prepared on the plan noticed in para. 55, should always be carefully preserved and placed on record, however rough they may be. Reference to such documents may afterwards explain the real ground of an apparently questionable proceeding, or lead to the exposure of a suspected error.
- 182. II.—The Village Statements (para 83).— [These should be prepared separately for each estate brought under settlement, and should be bound together into volumes for each tahsil or other fiscal subdivision, and should be arranged in topographical order according to assessment circles. The revenue survey map of the village (para. 26), when available, should be placed with each village statement. An alphabetical index to the villages and estates, with an index map, should be given at the beginning of the volume.]
- 193. [III.—The General Statement of the Parganah or Tahsil, giving in a tabular form the most important particulars regarding each estate—see para. 84.]

- 184. [IV The Annual Demand Statement of the Parganah or Tahsil—see para. 84]
- 185. [V.—The General Abstract of Area, Resources, Revenue, Demand and Rates of the several assessment circles in the Parganah or Tahsil—see para 84.]
- 186. [V1.—The Classified Statement of Holdings of Tenants—see para. 84.]
- 187. [VII.—The General Abstract of the Crops and Productive Capacity of the several assessment circles—see para. 84.
- 188. [VIII.—.1 Statement of the Tenures on which the Estates are held (Appendix No V) In this statement the estates are classified under the following heads—(see paras 97 to 114):—

Zamíndárí $\begin{cases} 1. \text{ Landlord.} \\ 2. \text{ Communal.} \end{cases}$

Pattidari.

Bhyáchárah.

Mixed or imperfect Pattídarí or Bhyáchárah.

If different forms of tenure prevail in different subdivisions of the estates, the tenure shown in the statement is that which regulates the rights and liabilities of the proprietors of each subdivision in the whole estate, and not that which regulates rights and liabilities amongst the proprietors of the same subdivision.]

- 189. [Of these statements, Nos. V to VII are submitted to the Financial Commissioner, with the report of the Officer in charge of the Settlement upon the proposed assessment of the tract under settlement. Instructions as to the topics to be treated of in this report, and the time of submitting it, will be found in the rules made with the sanction of the Government of India, under Clause 5 of Section 66. Statement No. III is the form in which the report on the assessment of each estate prescribed by Section 31 of the Punjab Land Revenue Act, is made to the Financial Commissioner.]
- 190. [When the operations of the settlement in the district or other local area under settlement have been brought to a close, a final report * on the settlement of the

See Rules sanctioned by the Government of India under Clause 5 of Section 66 of Act XXXIII of 1871.

entire tract is submitted to Government through the Commissioner and Financial Commissioner, who add their own remarks on the character of the work done, and their recommendations in regard to the confirmation of the settlement. This report contains a description of the district or tract under settlement, an account of the prevailing tenures, and an explanation of the mode in which the assessment has been fixed. The previous history of the district, its people, its productions, its trade, and other subjects of interest, are also noticed. It is accompanied by the Village Statements, the Annual Demand Statement, the Statement of Tenures, and by such of the statements previously submitted with the Assessment Reports, revised if necessary, as may serve to illustrate it.

SECTION VI. - Miscellaneous.

- 191. [Police.—It was formerly part of the duty of the Settlement Officer to record the arrangements made for the police of the villages with which settlements were made, and he exercised such control over these arrangements as was considered necessary. Settlement Officers in the Punjab were relieved of this duty in 1855; and while the payment of the village watchmen in cash and the mode of collecting their pay has to be provided for in the administration paper, it is now left to the Magisterial authorities to determine the amount of their pay and to regulate their number and location.]
- 192. [Though the Settlement Officer is no longer required to consider the sufficiency of the arrangements for village police, it is important that he should not lose sight of the fact that the proprietors of the land are held responsible for the maintenance of the public peace within the limits of their estates, for the prompt report of crime, and for rendering every aid in their power for the arrest of criminals and the recovery of stolen property. These obligations were recognized by the customs of the country while under Native rule, and were maintained when it came under the British Government. The responsibility of landowners for the police of their villages is now regulated by the Penal and Criminal Procedure Codes, the Police Act, and the Punjab Laws Act, 1872.]
- 193. (186). The Sottlement Officer should be careful that nothing in his arrangements should tend to weaken this responsibility, but that on the contrary, everything should be so disposed as to give free scope and effect to the power which

the proprietors possess of giving valuable assistance to the police.

- 194. (187). It is therefore an additional ground for care in fixing the assessment with due regard to the capabilities and circumstances of a village, that is should be such as to afford no excuse or inducement to protect criminals for the sake of the price they are willing to pay for protection. Where illicit gains of this sort have formed an asset of the estate, this should have come to the knowledge of the Settlement Officer, and he should, while fixing his assessment with moderation, warn the proprietors of the criminality and danger of continuing such conduct.
- 195. (188). When, as is sometimes the case, the proprietors are themselves habitual criminals, their reclamation and their future pursuit of an honest livelihood may greatly depend upon the Settlement Officer. Villages belonging to such persons will generally be found poorly cultivated, nor ought an assessment proportioned to the capability of the soil to be at once fixed upon them. If the land of each person be moderately assessed and his interest in it clearly defined, he will not be slow to discover that his profit lies rather in the improvement of his property than in acglecting it for the hazardous pursuit of plunder. It will, no doubt, require continued viligance on the part of the Magistrate, and perhaps some severe examples, before the lesson can be fully learned. But the labours of the Magistrate will be lightened, and the force of the examples increased by judicious arrangements on the part of the Settlement Officer. If the assessment be too heavy or rights undefined, the progress made in the moral reclamation of the people cannot but be slow.
- 196 [Procedure*.—The power of Settlement Officers to procure the attendance of persons from whom any information is required for the purposes of the settlement is provided for by Section 24 of the Punjab Land Revenue Act, 1871, and by the following Section they are enabled to enter upon land for the purpose of gaining information as to the quality of the soil or the produce, or of making plans and surveys. They are also enabled by Section 23 to issue commissions to take evidence, or for local investigations, and, if empowered by the Local Govern-

^{*} It will be understood that these remarks do not refer to procedure in cases in which the Settlement Officer exercises civil jurisdiction under Act XIX of 1865, the Punjab Courts' Act,

ment, to refer any matter in dispute to arbitration, whether with or without the consent of the parties. This power has been conferred by the Local Government in June 1872 upon the Settlement Officers then employed in the Punjab, and will hereafter he given in the notification of settlement where this is thought desirable. At the same time rules were made for the conduct of such arbitrations.]

- 197. [The disposal of appeals from orders or decisions passed in making a settlement is provided for by Section 65 of the Punjab Land Rovenue Act and the rules made by the Local Government under that section]
- 198. [Applications to Collectors or other officers making a settlement of land revenue, or to the Commissioner or the Board of Revenue (i.e., in the Punjab, the Financial Commissioner), presented previous to the final confirmation of the settlement, and relating to matters connected with the assessment of land, or the ascertainment of rights thereto or interests therein, are exempt* from liability to Court fees. Most petitions to Settlement Officers will fall within this exemption. For any which do not, the fies prescribed by the Court Fees' Act must be levied— Copies of village settlement records furnished by Settlement officers, landlords and cultivators have been exempted from stamp duty by the subjoined Notification dated 3rd July 1874.]
- "No 1193—In exercise of the power's conferred by the Court Fees' Act. 1870, Section 35, the Governor General in Council is pleased to remit the fees chargeable under the said Act on
- "A. Copies of village settlement records furnished to land-holders and cultivators during the currency, or at the termination of Settlement operations.
- "B Lists of fields extracted from village settlement records for the purpose of being filed with petitions of plaint in Settlement Courts.
 - "2 Nothing in this Notification applies to
 - (a) -Copies of Judicial proceedings.
- (b),—Copies of village Settlement records (other than lists of fields extracted as aforesaid) which may be filed in, any Court or office "]
- 199 [Occasional Scattlements.—Circumstances sometimes arise which render it necessary to make or modify the settlement of particular lands, while the settlement of the remainder of the tract in which they are situated, or of the estate to which they belong, effected under the orders of the Local

^{*} The Court Fees' Act, VII of 1870 Section 19, Clause 9,

Government, remains in force. By Section 41 of the Punjab Land Revenue Act, 1871, the Local Government has been empowered to make general rules for such settlements or modifications of settlements, instead of issuing a special notification in each case. Rules have been made under this section for the settlement of lapsed or resumed exenue-free plots, the settlement of lands affected by alluvion, diluvion or other river action, the settlement of excess waste lands separated under Section 27 of the Act, and the settlement of lands taken up for public purposes, but no longer required for such purposes, and of other isolated portions of land Such settlements are made for a term not exceeding the unexpired portion of the term of settlement of the tract in which the land is situated, and the confirmation of the assessment by the Financial Commissioner is final]

APPENDICES

APPENDIX No. 1 .- Vide para 7

- In a Resolution No. 219 dated 13th February 1872, the Honorable the Lieutenant Governor of the Punjab directed the general adoption of Sir William Jones' system of transliterating Indian words, as modified by Mr. W. W. Hunter, with the scarction of the Government of India, for the purposes of the Imperial Gazetteer of India. The modifications consisted in the omission of "the diacritical marks for the consonants, difficult to get printed or even accurately transcribed," the retention of the diacritical marks for the vowels only when necessary to ensure the correct pronunciation of the word, and the use of the ordinary "spelling of names which had become familiar to the public in an unscientific form."
- 2. The order of Government is contained in para. 5 of the Resolution, which is as follows: --
- "5. The Hon'ble the Lieutenant Governor desires that the modified Jonesian system of spelling be enjoined in all departments and offices in the Punjab, both for the spelling of the names of persons and places and also for the transliteration of all oriental words which may be used in official correspondence. All official notices sent by the Heads of Departments for publication in the Government Gazette should have all Indian words transliterated on this system, which will be no trouble to acquire, and can be thoroughly mastered by an intelligent person in half an hour."
- 3. In para, 7 the following rules are given for the transliteration of the vowels:—
 - I long á (as in bhát, rice), corresponds to the first a in father, almond, and is represented by á.
 - short a, as in America.
 - * ishort i, as in fit, fin represented by i.
 - in long i, as in ravine, machine: represented by i.
 - short u, as in bull, put, push : represented by u.
 - 3 ∫ long u, as in rule: represented by ú.
 - e (as in ek, one) corresponds to the English a in mate, or the French é in méchant, and is represented by e.
 - o (as in kot, a fort), corresponds to the English o in note, lore, and is represented by o.

- English vowel sound in ride, fine, or the German ai, in kaiser, and is represented by ai.
- sound in cloud, or the German au in haus, and is represented by au.
- 4. A list of the districts and principal towns in the Punjab was also given in Persian characters, with the English equivalents according to the system prescribed for observance, but this is too long to be conveniently inserted here. In her of it Mr. Hunter's list of the corresponding consonants in the Persian, Dovanágri, and Roman characters is subjoined, examples being added from the names of places in the Punjab;—

CONSONANTS.

je	noux 1	40. 1.]	31.1	LLIEN	1311 X	72.630				•
	Вомам.	b as in Bannú.	bh " Bhiwáni.	ch " Chúnián.	chh " Ichhrah.	" Derah Ghazi Khán.	" Dharmkot.	" Fírozpúr.	" Gurgáon.	" Pindigheb, Kálábágh.
		b as	, qq	cp ,	cph	ಇ	dh	44	8.0	g
	Devanagri.	ļo	ä	ष्	l o '	द् ०१ ड	ध ा ह	Wanting	Ħ	Þ
	Persian.).	æ	છ	\$	5 01 3	es or es	٠,	ን	5 or 5

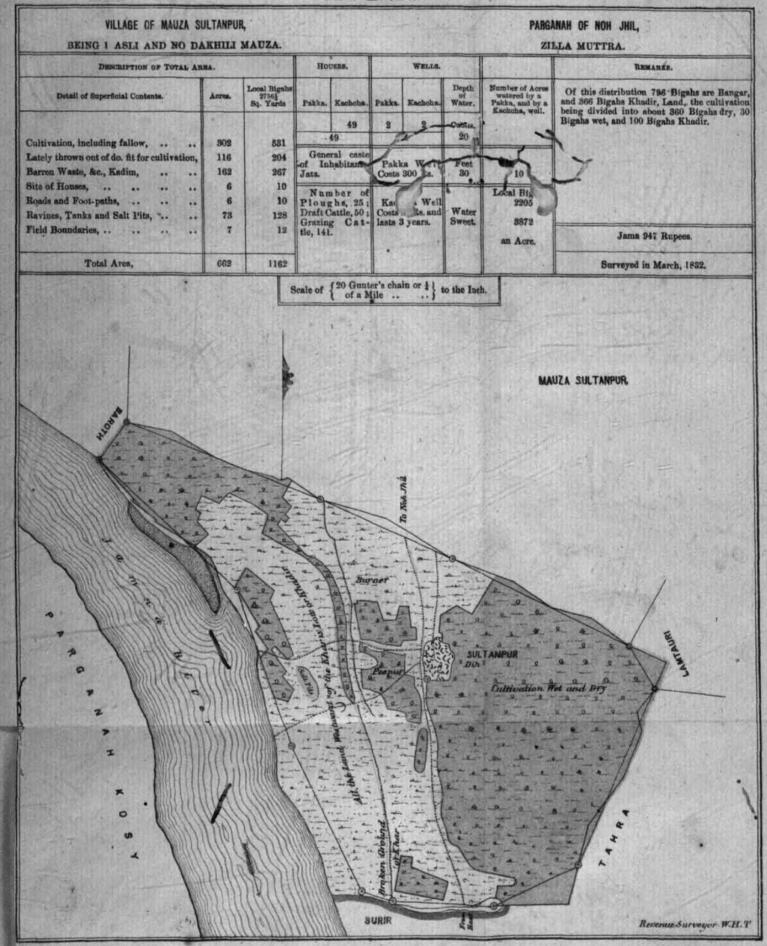
CONSONANTS-continued.

Воман.	j as in Jálandhar.	jh " Jhang	" Karnál, Koreshi.	kh " Khusháb.		" Ládwah.	Multán.	Naushahrah.	Pánípat.	
E CE	is in	:	"		ksh^*	"	:	2		
		jh	74	P.P.	ks	_	Ħ	q	ď	
DEVANAGRI	क	*	₩	ख	B	te €	Ħ	न, च, ड; स or anuswara	Þ	
Persian.	 	4	ق roک	2 so s		'n	•	ં ૭).	

* Generally softened into kh in the Punjab Vernaculars, as in Khatri from the Sanskrit Kghatriya,

CONSONANTS-concluded.

Вомам.	zh	Omitted, the accompany- ing vowel As in I'sákhel. only being expressed.	gy.	h ,, Hissár, Hánsí.
DEVANAGRI.	Wanting	ditto	Iя	v (visarga,)
Persian.	•	w		s 10 2





Appendix III .- Assignments of Land Revenue, vide para 130.

The amount of Land Revenue alienated in favor of assignees in Importance of the subject.

The Punjab being very large, the rules relating to such assignments are of great importance, and it will therefore be convenient to give a resumé of them here.

2. The subject of registers and report of lapses and successions is dealt with by Book Circular No. XXI of 1872 (Directions to Collectify, Appendix XVI), and the subjects of dis-

posal of claims to succession or participation, and of grant of pensions on lapse or resumption, are treated of in the Pension Rules (Ib. Appendix XXVIII). The arrangements for the collection of the revenue payable to assignees are governed by the rules made by Government under the Punjab Land Revenue Act, 1871. Rules under the same Act provide for charging expenses incurred in settlement to assignees, for mutations in the registers, for the effect of alluvion and diluvion upon the assignment, and for the settlement of lapsed or resumed revenue-free plots. It is therefore unnecessary to notice these subjects here.

Arrangement.

3. The subjects noticed are treated of in the following order:—

Procedure in the investigation of claims, paras. 5 to 22.

Authority required for disposal of claims, paras. 23 to 30.

Rules for disposal of claims, paras. 31 to 50.

Tenure of jágírs in the Cis-Satlaj, paras. 51 to 60.

Disposal of claims to inams, paras. 61 to 63.

Succession and lapse, paras. 64 to 88.

Succession in Hazárah, para. 89.

Succession to small revenue-free grants for service to village communities, paras. 90, 91.

Sanads or deeds of grant, paras. 92 to 98.

Forfeiture and liability for debt, paras. 99 to 102.

Settlement and miscellaneous, paras. 103 to 113.

Settlement of lands held in jágír, paras. 103 to 106.

Interpretation of orders releasing a portion of a jágír of specified value, paras. 107, 108.

Reduction of excess lands held, para. 109.

Consolidation, para. 110.

Suspensions, remissions, and revision of assessment, para. 111.

Liability to rates, cesses, &c., paras. 112, 113. Grant of assignments in certain cases, paras. 114 to 123.

Investigations in the portions of the Tohli and Hissar Divisions, which were formerly under the How far these rules are

applicable in the Dehli territory.

Government of the Nortl-Western Provinces, made prior to their annexation to the Punjab, took place under the Regula-

tions XXXI and XXXVI of 1803, and tenures released in perpetuity under those Regulations descend by the ordinary law of inherit-Where any limitation was imposed by ance, and are transferable. 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 Punjab rules are applicable, to the fullest extent, to grants made after 1857.

Procedure to be followed in the investigation of claims to assignments of Land Revenue.

All assignments in the Punth depend on the grant of the British Government

* Despatch constituting the Board of Administration, No 418 dated 31st March 1849, para 40.

† Ib. para. 39

On the annexation of the Punjah proper, the principle was lud down by the Government of India that the British Government had "acquired absolute right of conquerors, and would be justified in declaring every acre of land limble to Government assessment. '* The Board of Administration for the affairs of the Punjab, were therefore instructed 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 revenue-free," and certain rules were prescribed for ‡ 1b para. 46 to 56 their guidance; in determining whether such grants should be maintained in whole or in part, or should be At the same time it was directed that when the holder § 16. para. 42 of such grant was "confirmed in his tenure by the Government," he should be required to "yield up every document in his possession which entitles him to the exemption from revenue," and that a deed of grant should be given him under the Board's seal and the Secretary's signature, in which it would be stated that the grant was "a free gift of the British Government."

Grants being thus declared to emanate from the British Government, which upheld assignments Executive authority commade by previous rulers as an act of grace. petent to make rules for the investigation of claims and not as of right, it followed that rules for the investigation of claims to such assignments could be made by The following rules of procedure were the executive authority. accordingly prescribed|| by the Board of Ad-|| Circular No. 5 of 1850. ministration in 1850, and are still in force, so far as applicable to the circumstances under which any such investigations may now have to be made.

- 7. The investigating officer should select a talkkah, the cases of Paras. 13 and 14.—Procedure in enquiring into claims.

 Solution of each village, should be summoned free of expense, advantage being taken, when possible, of their presence being required for other purposes. Their evidence with reference to all revenue-free lands in the village should then be briefly but carefully taken down by a deposition writer instructed to examine them on the following points.—
 - (1). The name or names of the holders ,
 - (2). Their age, occupation, and caste,
 - (3). Their means of subsistence, if any, distinct from the tenure under investigation,
 - (4). The name of the grantor,
 - (5). The date of the grant ,
 - (6). The fact of possession or otherwise; and
 - (7). The shares of each co-sharer.
- 8. 2nd.—A separate record, however brief, should be formed of Para. 15.—Records of enquiry. each tenure, but all the cases of one village might be kept together.
- 9. 3rd.—The holders of the revenue-free tenures might, when Para 16—Notice to park known beforehand, be summoned along ties interested. with the patwari and headmen. If this had not been done, then, after the examination of the patwari and headmen, they should be summoned to appear by a prescribed date, in order to prosecute their claims and file their deeds of grant. If they fail to appear on the first summons, a second summons should issue, and finally a proclamation, all of which should be filed with the case. If they failed to attend within the term of the proclamation, the case should be disposed of on the ex-parte evidence recorded.
- Para 17.—Contents record and final order.

 clear, not giving a summary of the evidence, but detailing the grounds of the decision.
- 11. 5th.—When the cases of a talúkah have been completed, a general proclamation should issue, calling for the attendance, within a term of three months, of all claimants to revenuclaimants and already summoned.

- 12. 6th.—As each case is completed, it should be entered in a Paras 18 and 20.—Register for reporting cases investigated.

 vernacular register, which should be submitted to the confirming authority, and a copy of the order of the investigating officer should be furnished, if required, to the holder of the revenue-free tenure on the proper stamps.
- 13. 7th.—When lands are ordered to be resumed, the resumption from what time to have effect.

 13. 7th.—When lands are ordered to be resumed, the resumption should take effect only from the time of the revised settlement, unless special reason, such as manifest flaud, existed for giving it effect from an earlier date. In no case should it have effect before the commencement of the ensuing year
- 14. In Financial Commissioner's Circular No. 10 of 1853 further instructions as to the mode of reporting cases, the orders in which required confirmation, were given. These were to the following effect:—
- Para 5.—Two vernacular registers of cases investigated are to be submitted separately when it is not proposed to release the land beyond the lives of the holders or the term of Settlement—(a) for revenue-free lands not exceeding ten acres, and (b) for revenue-free lands above ten and not more than fifty acres.
- 16. All the cases of each class in a parganah or talúkah, or Para 7.—Submission of iegisters and records of cases should be included in one register, which should be submitted to the Commissioner by the Settlement or District Officer within one month after completion of the investigation in such local sub-division, and should be accompanied by the original records of the investigation, distinguished by the same serial numbers as are borne by each case in the register.
- Para 6.—Procedure of Comm ssioner.

 posed of by the Commissioner, and the missioner unless called for by him.
- 18. The orders of the Financial Commissioner or of the Local Para. 9.—Registers how disposed of,

 Financial Commissioner's office.

 Government are recorded on each case, after which the records of the cases are returned, the registers being retained in the

Para 10.-English register to be submitted in certain Cases.

Cases in which it is proposed to release revenue-free lands exceeding 50 acres for any term, or to release land of any amount to the second generation or in perpetuity, or beyond

the term of settlement, or to release a whole village or a definite fraction of a village for any term, and eases where grants of "inam" in money are proposed, must be reported in an English register, including the cases of a talúkah, parganah, or other local sub-division for the orders of Government. They should be grouped according to the nature of the case,—cases of more than 50 acres, for instance, being arranged in one group, "inams" The vernacular records of investigations in another, and so on. should accompany this register, as in the cases for which vernacular registers are submitted.

20. The register, whether in Vernacular or in English, should Form of registers. be in the following form :-

		,		
District	8	бринова	Orders of opposite of kinen of kinen one contraction of the contractio	
	139		Opinion of Commissioner	
	18		Opinion of investigating	
parganah of	17	Description of grant	din saturety remarks a little sparses	
	16		Abstruct of deeds of grant and the sacesson for an and the saceston	
	15		Statute of gian &	
	14		Agine of original granter relationship of the successive c in grits	
	13		Date of original grant	
	2		Todinary landyrao ic omed	
Register of Revenue-free Tenures for the	11	Detail of Jagir de	tlens I na banl do IntoT	
	13		Cash allowance	
	6		Estimated value	
	ø		Name of village and of	
	-		Patganah oi talukah	
	9	Description of present holders	Residence, villago, tansil	
	10		Caste	
	4		Father s nume	
40	00	d1.138	γRe	
nste	61	4	Name	
Reg	-		Number	

NOTES —The existence of a Sanal is not to preclade the record of such evidence as is procurable, Column 16.

In column 1 is shown whether the persons of vigors is not such as of the date of the latter should be given In detailing the shares the relationship of the parties should be nown.

In column 18 naking should be contricted that is necessary to enable the supernor authorities at once to come to an opinion on the meri s of the cave and the grounds of the symmetric that is necessary to enable the supernor and the meri s of the cave and the grounds of the recommendation made. In the same valuation that it is an order that it is consistent to a state, with the material of an order to them. Final relationship of the receiptor is directed to save above 10 acres.

In the bonding of column 20 the words Local Government should be substituted for Emancial Commissioner, when the register is of cases above 10 acres.

21. In January 1854 the Financial Commissioner, with the

Investigation of revenuefree plots in jágír estates, Financial Commissioner's Circular No 1 of 1854.

Financial Commissioner's should be investigated, and specific orders Circular No 1 of 1854.

should be investigated, and specific orders passed on them, just as if the claims related to land situated in villages paying revenue to Government. When such tenures were resumed for invalidity or lapsed, the jágítdár was to derive the benefit, unless they originated from grants made by Mahárápahs Raujít Singh, Kharak Singh or Sher Singh, or had been investigated in the jágír office of the Board of Administration, and maintained under special orders of Government. Attention was again called to this order in Financial Commissioner's Book Circular LHI of 1860.

 It does not appear that this rule was applicable to revenuefree plots in the Cis-Satlaj jágírs.

This order is mapplicable to the Cis-Satlaj jagia, Ambiah Se tlement Rep rts, Northern Parganahs, by Molvill para. 322; Sonthern Parganahs, by Wzayaid, para. 266.

The power of the jagirdars to resume revenue-free holdings, the continuance of which had not been guaranteed by a Butish officer, was recognized by the Board of Administration in October 1851; and again, in their letter No 447 dated 13th February

concurrence of the Chief Commissioner, directed that all claims to hold land reve-

nue-free within the limits of jágír villages

1852, to the Commissioner, directing that all jágír estates should be brought under assessment, they directed that Government officers should not interfere with the free action of the jágírdárs in regard to the release or resumption of revenue-free lands in their villages, save where the order of a British Officer may exist in favor of any party.

Authority requisite for the disposal of claims to assignments of land revenue.

What sanction necessary for disposal of cases. Financial Commissioner's Circular No. 10 of 1853. Letter No. 1119 dated 24th March 1853, from Secretary to Government of India, to Chief Commissioner. 23. In March 1853 the Governor General in Council laid down the following rules for future guidance in the disposal of revenue-free tenures in the Panjab;—

- Henceforth no cases where lands are resumed need be reported to Government, whether donations in money are given or not, or whatever be the amount of the resumption.
- II. Grants of land to village servants may be made by the Settlement Officers under the authority of the Financial and Chief Commissioners.
- III. The Financial Commissioner shall have authority finally to dispose of all grants of land under ten acres, which he may be of opinion should be released during the lives of the occupants, or the term of settlement.

- IV. The Chief Commissioner shall have a similar authority with a limit of fifty acres for the lives of the occupants, or the term of settlement.
- V. All other cases where it is proposed to release lands above fifty acres in extent to the occupants for their lives, or to release land of any amount to the second generation, or in perpetuity, or beyond the term of settlement, or where it is proposed to release land forming a whole village, or the fractional part of a village, for any period of time, must be reported to Government.
- The last two of these rules were modified on the erection Extension of power of Local Government. Letters No 2601 dated 11th May 1859, and No.1628 dated 1st June 1860, from Secretary

to Government of India, to Secretary to Government of the Punjab.

of the Punjab into a Lieutenant Governoiship, when it was decided by the Government of India that the powers reserved by the rules of 1853 in regard to the disposal of revenue-free tenures should be exercised in full by the Lieutenant Governor.

of jágír or service tenures in their own

Before the rules of 1853 were issued, the Board of Ad-Powers of Commissioners ministration, while stating that they had before 1853. made arrangements for the invertigation

Circular No. 5 of 1850, paras, 9 and 10.

office, and would have them duly reported to Government, had ordered that, after they should have disposed of all such tenures on record, any which might have escaped notice should be reported on by the District or Settlement Officers. In regard to other revenue-free tenures, they directed* that no resumption should be carried out without the

* Paras, 20 and 21.

Commissioner's sanction, and that his orders, whether for resumption or release, except where the release was to be in perpetuity, should be final unless appealed against. When release in perpetuity was proposed, the case was to be reported for their orders.

Powers of Settlement Officers before 1853.

The Settlement Officers of the Lahore and Cis-Satlaj Divisions were afterwards authorized by the Board to dispose finally of cases under 10 ghumáos.

In circulating the rules made in 1853 the Financial Com-

Orders of 1853 without retrospective effect. Financial Commissioner's Circular No. 10 of 1853.

missioner pointed out that they were intended to have prospective effect only, and that it was therefore unnecessary to report cases in which orders had been passed by Commissioners or Settlement Officers under the above authority. But Commissioners were directed to report to him all cases in which orders had not already been passed, unless they determined to resume. They were also required, in cases where When revenue-free tenures have been granted or confirmed

they proposed to resume an entire village, or a specific fractional share of a village, as one-half, one third or one-fourth, to submit a report in English, with the record of the enquiry.

Power to resume not withdrawn, from Settlement Officers, who had been authorized to dispose of cases .- Para 6,

The Settlement Officers, whom 28. the Board had authorized to dispose cases under 10 ghumáos, retained the power to direct resumption in such cases without report to the Commissioner.

29. These powers why noticed here.

These extinct powers are here noticed to facilitate reference when a question arises as to whether a revenue-free tenure has been released or resumed by competent authority.

by competent authority, and the persons in Duties of Settlement and possession are entitled to hold under the District Officers. Act XXXIII of 1871, terms of the grant, officers revising the Section 14, Clause 4. record of rights have merely to record the If the person in poslands so held and the persons in possession. session is not entitled under the grant, the case must be brought to the notice of the District Officer for orders to resume. If any cases come to light during the measurements, or the preparation of the settlement record, in which persons are in possession of a revenuefree tenure which has not been reported upon and confirmed by competent authority, the Settlement Offi-Circular No. 5 of 1850. cer should investigate and report upon the When a settlement is not in progress, this duty devolves upon Circular No. 50 of 1856, the District Officer, who should obtain

entering upon the investigation. Rules for the disposal of claims to Revenue-free Tenures.

Claims of men, who had borne arms against the British Government in the 2nd Bikh war, excluded.

Rule 13.

Despatch constituting the Board of Administration. No 418 dated 31st March 1849, para 46.

Subject to this Cautions against too strict interpretation of the terms of the grant, paras. 41 and

31. In giving instructions for the disposal of claims to revenue-free tenures on the annexation of the Punjab, the Governor General directed that no such "tenures should be continued in favor of any man who had taken up arms against the British Government, whether by choice or compulsion."

the sanction of the Commissioner before

rule, and to certain cautions against too strict an interpretation of the terms of the original grant, whether in favor of the grantee, where it purported to alienate the Government revenues in perpetuity, but such alienation would not have been maintained by the Sikh

Government, or against him, where it imposed terms, the literal fulfilment of which had not been exacted, the following rules were laid down :-

1st.—That all grants as a provision for, or for the Grants as a provision for former rulers or proprietors, para. 48.

maintenance of, former rulers deposed, or former proprietors dispossessed, should be maintained on their present terms, subject to future diminution after the death of incumbents.

34. Endowments, paras. 49 and 56.

2nd,-That all endowments bond fide made for the maintenance of religious establishments, or buildings for public accommodation, should be maintained as long as the establish-

ments or buildings are kept up.

Provided that, when such grants were of great value, they should be restricted to such smaller amount as it might be thought politically expedient to grant.

Grants of villages, or portions of villages, free of service, para. 59.

3rd.—That all persons holding villages or portions of villages free of revenue or money payment, and for which no service was to be rendered, by grants made by Mahárájahs Ranift Singh, Kharak Singh or Sher Singh,

should be maintained in such holdings free of revenue during their lives.

Each such case would be open to the consideration and orders of Government on the death of the holder, when it would be decided according to its merits, and long occupancy would receive consideration.

36. 4th.—That all persons holding villages or portions of villages subject to payment of navaránah, Grants subject to nazarápeshkush, or the like, should hold for their nah, para 51. lives, subject to the payment of one-fourth of the revenue; and on the death of the holder the land should be resumed and assessed at full revenue.

5th.—That all persons holding land for which service of any kind was to be rendered to the Sikh Service tenures, para 52. rulers, including Bedis and Sodhis, who were expected to perform religious services for the benefit of the donors, should hold for life, subject to the payment of one-fourth of the revenue, and that the case of each such tenuro should be reported for the consideration of Government on the death of the holder.

- 6th.—That grants made by persons not having authority to alienate the Government revenue should Unauthorized grants, be resumed. para 53.
- 7th.-That where no deed of grant was forthcoming, a 39, holding of three generations should Holding for three generaconstitute a valid tenure, and entitle the tions respected, para. 04. holder to have the case adjudicated by the foregoing rules.
- 8th.—That chiefs or others holding lands free of revenue not obtained by grunt from Maharajah Conquest tenures, para 55. Ranjit Singh or other ruler, but won by their own swords, should be treated with consideration, and their cases should be specially reported to Government, with the recommendation of the Board in each case.
- Any particular cases not provided for in the foregoing Cases not provided for, rules were directed to be reported sepaand cases of hardship, paras. rately to Government for special orders, 55 and 56. and it was promised that, should hardship to individuals arise from a strict observance of the rules, whether on account of indigence, infirmity, age, or sex, the Governor General would be happy, on the case being represented, to relax the severity of the rules, or to confer a pension on the person on whom they pressed hardly.

The same rules applied in the Trans-Satlaj States. Letter No. 78 dated 23rd February 1817, from Secictary to Government of India, Foreign Department, to Commissioner Trans-Satlaj States.

Supplementary rules made ov Board of Administration. Circular No. 5 of 1830.

1st.—That the

Grants made by Mahárájaha Ranjit Singh, I.barak Singh, and Sher Singh.

Nos. 1 to 7 of these rules, except the proviso to the 2nd rule, had already been prescribed for observance in the Jalandhar Doab and Kángra in 1547, and it was probably the experience acquired there which suggested the addition of the 8th rule.

In circulating these instructions the Board of Administration added the following supplementary rules .-

rule maintaining, for the lives of the holders, grants made by Mahárájahs Ranjit Singh, Kharak Singh, and Sher Singh, should be understood to extend to genuine grants made by these chiefs before their accession, or by others before their time.

2nd.—That when the possession has been long and uninterrupted, grants should be maintained Long possession. for the lives of the present occupants, though no deed of grant existed, or such deed was manifestly invalid, as where it was from a kárdár or názim,

- 46. 3rd.—That uninterrupted possession for 20, 25 or 30 years, whether by a single individual or for two or more generations, should entitle to a life interest.
 - 47. 4th.—That where the holders of recent grants were old, infirm, or, for any other reason, objects of charity, the grants should be maintained for life.
- 48. 5th.—That grants made by jágírdárs to their dependants should be at once resumed when the jágír had been confiscated for rebellion, unless in the case of grants of long standing and small extent, in regard to which a special report might be made in favor of parties entitled to indulgence for life.
- 49. 6th.—That "inams" held by village headmen under deed of grant should be maintained. If no deed of grant existed, and the "inam" had been enjoyed for many years, and was not excessive in amount, it should be upheld, either for the life of the occupant or until the revised settlement.
- 50. 7th.—That grants of garden lands should be upheld in Garden lands.

 Garden lands.

 When grants of such lands were resumed, the settlement should be made with the ex-assignee at village, and not at garden rates,* unloss the grants were new and the garden had been in existence previously, in which case it might be assessed to the best advantage.

Tenure of Jagirs in the Cis-Satlaj States.

The preceding rules of limited application in the Cis-Satlaj States, 51. The preceding rules for the disposal of claims to revenue-free tenures are applicable to those portions only of

*In 1847 the Governor General had laid down the rule that garden lands in the Trans-Satlaj States, which were not claimed as Government property, and were in the possession of proprietors, should simply be liable to their proportion of the village assessment; and that where no proprietors existed, such lands should either be leased separately to the best advantage, subject to certain conditions to prevent the destruction or injury of the property, or be included in the village assessment, when their produce would be the common property of the proprietors.

In some cases fruit-gardens were treated in a more favorable manner than Settlement Report of the northern parganahs of Ambalah for instance, garden land was excluded from by Mr. Melvill, pars 39.

Ambalah for instance, garden land was excluded from assessment if only fruit-trees were grown and

the land was not otherwise cultivated.

Ambálah. Ludiánah. Simla Firozpár. Part of Karnál, formerly included in Thanesar. Part of Sirea.

the districts * of the Cis Satlaj States which had been subject to Lahore. The tenure of the jágírs in those districts, such portions excepted, depends upon considerations of a different character from those which were applied in the Lahore territories

In 1808-9 the states in the plains of the Cis-Satlaj, which 52.

British protection how established. Duties of the chiefs.

had not been reduced into subjection to Ranjit Singh before the end of September 1808, were taken under the protection of the British Government, and the duties

of their chiefs to the protecting power were defined in the declaration of protection. The most important of these were the obligations imposed upon each chief, when it might be considered necessary, for purposes connected with the general welfare, that a British force should march through his territory, to assist it within his own possessions, furnishing it, to the utmost of his power, with supplies of grain and other necessaries which might be demanded, and, further, in case an enemy should approach from any quarter for the purpose of conquering the protected territory, to join the British army with his forces, and to exert himself to expel the enemy, acting under discipline and obedience.

When the protection of the British Government was thus

Country by whom held when brought under British protection.

guaranteed, the country was found to be held partly by Sikh chieftains and confederacies of Sikhs from the Punjah, tho representatives of the men who had

established themselves there after the Dehli Governor had fallen in battle more than 40 years before, and partly by members of families. Sikh, Hindú, or Musalmán, which were possessed of considerable local influence before the overthrow of the Dehli rule, and which, when rendered independent by that event, had succeeded in maintaining or extending their possessions. As the British Agents in the Cis-Satlaj States became more familiar with the internal relations of the protected states, they discovered the existence of a number of minor chiefs and confederacies, who, while acknowledging that they were to a certain extent subordinate to the principal chiefs, exercised undisputed control in their own villages, the revenue of which they enjoyed and left to their children without interference. It had at an early period been found necessary to protect the chiefs against each other, as well as against Ranjít Singh, and it was held that these minor states, so long as they rendered their customary services, were entitled to the same protection against the encroachments of their superior lords.

- Authority exercised by the protecting power, it was olliged to interfere to adjust the disputes of the protected states, and to settle the questions of succession which were constantly anxing. At a very early period, too, it called upon the protected states for contingents to assist in its wars beyond the protected territory, and these were furnished without hesitation. Nominally the protector only of the frontier states lying between its own territories and those of Lahore, it had in reality become their sovereign, and, in return for guaranteeing their rights, it claimed their obedience.
- In many cases the protected chiefs died without offspring, or leaving only daughters. In some cases Growth of a rale of sucdaughters were allowed to succeed, in cession and lapse. others widows, in others near male relatives; while in some remote male relatives were summoned from a distance and recognized as the successors of the deceased. degrees it became an established rule that daughters and relatives in the female line had no claim to succeed, and the right of widows admitted in some cases was denied in others. It was held that where no heirs related in the male line to the deceased could be found, or where the relationship was very remote the line had come to an end, and the government and revenues of the state, with its claims to service from subordinate states, fell to the sovereign power. In some cases the succession of any heir descended in the male line from the founder of the state was recognized; while in others the succession of a cousin or a nephew was held to be barred if his father's share of the state had been separated off. Ultimately it became the general rule to allow the succession of any one who could trace his descent in the male line from the possessor of 1808-9 and to exclude more distant relatives; but so many cases existed in which a different rule had been followed, that it was impossible to be certain that this rule would be observed in any particular case.
- 56. Besides the cases of lapses there were instances in which a chief was guilty of heinous cline, and was held to have forleited his right to exercise authority under the protection of the Butish Government, and there were others in which, in order to the suppression of crime, it was found necessary to assume the government of confederacies which had previously acknowledged no superior.
- 57. Before the outbreak of the first Sikh war, the Cis-Satlaj

 Country how held in 1845. territories thus comprised, in addition to the
 protected states and the territory under
 the authority of the Lahore government, certain tracts of country
 directly under the British Government, the land revenue of which was