Chittagong	Chittagong.....	28927	19,29,359	3	9,085	5*	3,85,290			* The whole of the Naulábád holdings are shown as aggregated into five *estates*, 45,000 plots = 1,187,600 acres.
	Noakháli	1546		43	31,311	185	1,18,171			
	Tipperah.....	1850		92	25,628	128	88,513			
	Bihár.									
Patna	Patna	9368	77,69,473	21	15,735	60	64,082			
	Gayá	5828		23	14,117	43	1,04,914			
	Sháhábád	6317		280	70,212	183	1,12,806			
	Muzaffarpur ...	17111		24	10,393	64	2,908			
	Darbhanga ...	10481		2	547	8	12,375			
	Sáran	4403		59	12,596	18	1,781	11	4,881	
	Champáran ...	1094		6	1,177	1	72			
Bhágalpur	Monghyr	6691	30,22,496	41	33,814	27	18,016	2	47,276	
	Bhágalpur	4383		3	662	75	9,146	1	22,094	
	Purneah.....	1618		9	751	44	2,858	1	1,852	
	Málda	553		15	15,859	26	16,926			
	Santál Pergunnahs	459		18	1,559	15	2,578	1*	1,69,495	* The *Dáman-i-koh*.
Orissa.....	Cuttack	23	1,46 4	3930	7,16,789	5	64,779			
	Pooree.....	3		453	3,03,192	8	2,67,626			
	Bálásúr	148		1333	3,52,367	20	22,742			
Chota Nagpore	Hazáribágh ...	68	1,63,365	...	.....	302	76,295			
	Lohárdagga ..	56		...	.....	6	64,138	3	12,724	
	Singhbhúm ...	1		2	18,189	...	.....	1	46,054	
	Mánbhúm	24		2	1,669	...	.....			
	Grand Total...	157968	3,22,90,777	7884	26 54,561	3307	23,08,688	32	8,59,079	

made to indicate by a third colour the larger *raiyatwárí* and Government estates; but it was not possible to show *all* such tracts, on account of their (often) small size and the way in which they are scattered about in the districts.

In the Board of Revenue's Annual Reports it is now the practice to insert district-maps which show the Government estates.

Taking the Report for 1888–89, Appendix II gives (A) the permanently-settled estates; (B) the temporarily-settled estates; and (C) the Government estates, separating the raiyatwárí tracts under (D).

The Government estates in (C) all appear as either settled for definite periods or occasionally 'farmed' or managed direct owing to recusancy of the proprietors[1]. The table on p. 470 is an abstract of this Appendix II, designed to give the student an idea of the distribution of estates in those general classes[2].

The numbers of permanently-settled estates vary by reason of *partitions*, which are most numerous in the Patna division districts: the temporarily-settled estates also vary chiefly by reason of alluvial accretions.

[1] These cases of recusancy, I believe, are where the lands are unproductive and the holders do not care to undertake the Settlement responsibility.

[2] Under those *general* classes the individual estates may be in great variety of origin as the result of the operation of different laws and circumstances. For example, in the Tipperah (Tipra) district the following details appear (*Statistical Account of Bengal*, vol. vi. pp. 400–440):—

	No. of Estate.
1. Permanently-settled Estates of 1793	1262
2. Resumed Revenue-free of 1793	98
3. Islands, &c., excess ('taufir') lands settled under Regulation II of 1819	103
4. Estates sold for arrears and then permanently settled (Section 6 of Regulation VIII of 1793)	167
5. Tenures temporarily settled (this includes Government Estates)	241

SECTION III.—THE ORISSA SETTLEMENTS.

The three districts of modern Orissa—including the Patáspur pargana—were acquired after the Maráthá war in 1803, so they did not come under the Permanent Settlement Regulations. That Settlement only affected, more or less, the Midnapore district which (excluding Patáspur) was the *old* Orissa of 1765. Midnapore is not *now* spoken of as 'Orissa' at all.

These districts were originally the seat of Hindu kingdoms—'Rájputs,' who at a remote period invaded, conquered and ruled over the Kolarian and Dravidian population. The conquest probably only extended to the level and culturable districts, for the Kolarian and other tribes in the hilly country were found following their own customs, but little if at all changed. The incursion of the 'Yávanas,' and other events, detailed in Hunter's *Orissa*, cannot now be traced in any effect they may have had on the land-system, and so I pass them over.

The Rájputs were in the end overthrown by the Muhammadan king of Bengal; and Orissa was finally swept into the dominions of the Mughal Emperor. But in the middle of the eighteenth century, the Maráthás succeeded to a short-lived domination. Neither of these later powers had therefore the time and the opportunity to modify very deeply the land-tenures; and we do not find any 'Zamíndárs,' in the sense of contractors for the revenue, like those in Bengal.

The Rájput kingdom was organized here as it was elsewhere; for the remains of this organization are still manifest.

The country consists, roughly speaking—(1) of a marshy tract on the coast, full of swamp forest like the Sundarbans; (2) a belt of rice-land and other cultivation; (3) a hilly tract beyond, going up into the hill ranges of the 'South-West Frontier.'

As might be expected, the chief Rájá had his 'khálsa' or

demesne lands in the best and level parts, and the hill tracts were the territories or estates of his feudal chieftains, who held them and took the revenue on condition of keeping the country quiet. With the estates of these chieftains the Mughals appear not to have interfered, but the rice-tract (2) was called the 'Mughalbandí,' and was regularly assessed to revenue.

The Maráthás in turn assessed the chiefs to a tribute or quit-rent. On the British annexation in 1803 the chiefs' estates were maintained. Some have been recognized as 'tributary chiefs'—the 'Tributary Mahál's' of Orissa. These are not subject to any regular Settlement and Revenue system; they are managed in the Political Department, and this work is not concerned with them.

There were nineteen of them formerly; but two were confiscated,—Angul in 1847 for the rebellion of its Rájá; and Bánki in 1840, the chief having been convicted of murder[1].

A certain number of the chiefships nearer the plains were, though not placed in the first rank, favoured so far that they were granted a Permanent Settlement, and this fact accounts for the permanently-settled estates shown in the table under the Orissa districts. These estates were called 'qila'' (i.e. forts—territories surrounding and protected by the chief's residence). The estates were treated as in the position of full-rated permanently-assessed Zamíndárí estates. At first, fifty such estates were proposed to be constituted. The rest of the province was left to the ordinary (temporary) Settlement.

On the 15th September, 1804, a proclamation regarding the Settlement was issued; and this was afterwards embodied in the Regulation XII of 1805. The plan was first to settle for one year, then to grant a three years' lease. Then a four years' lease was offered at an increase to be

[1] Angul and Bánki now form 'Government Estates'—Angul as part of the Púrí district, Bánki in Katák. The remaining seventeen states consist of 15,187 square miles, with a population of nearly a million and a half. They pay a tribute of £3,322 to the British Government. This tract was called 'Rájwára' or Garhját, as opposed to the revenue-paying plain called 'Mughalbandi.' The chiefs were locally known as 'Khandáits.'—Hunter.

obtained by adding two-thirds of the net increase of any one year of the three years' Settlement, to the total assessment amount of that lease. At the expiration of the four years it was announced that for such lands as then were in a sufficiently improved state of cultivation, a Permanent Settlement would be concluded on such terms as the Government considered fair and equitable.

The Regulation next refers to the 'Tributary Mahâls,' which it exempts from the Regulations. Of the second class of estates above mentioned, eleven were selected; the *sanads* granting a permanent assessment to nine of them, which had been issued by the Board of Commissioners (appointed to manage Orissa, or the Katák province as it was then called), were confirmed. Khúrdá[1] and Kaniká were directed to be treated in the same manner hereafter. These eleven estates however differed only from the rest of the district in having the assessment fixed for ever.

The history of the Settlements is briefly as follows:—

Certain changes as regards the revenue (of no importance now) were made by Regulations X of 1807 and VI of 1808; and when the last or four years' Settlement became due, a Special Commission was appointed to make it with due care: for it was supposed it would be made permanent if the Home Government approved. But the Home Government by this time had seen the evil of hastily concluding Permanent Settlements; they did *not* approve[2], and Regulation X of 1812 was passed to declare the fact, but (as was done in the Upper Provinces) still held out the hope of a permanent assessment *when* the state of the lands

[1] Khúrdá soon afterwards (1804) was confiscated owing to the rebellion of the Rájá. The titular Rájá was hereditary guardian of the Jagan-náth temple, and he was maintained as such, as a pensioner. But the holder of the title in 1878 was convicted of murder and deported. The estate of Khúrdá, which gave some trouble in 1804 by rebellion, and again in 1817–18, is now a large and well-ordered, and indeed a model, Government estate.

[2] See Kaye, p. 239. It will be observed that the *principles* adopted for Orissa were exactly the same as those in the Regulations of 1805 for the North-West Provinces. It is instructive to note the prevailing ideas on revenue matters, as exhibited by the Regulations of this date, and how they had begun to be doubted at home.

was such as to recommend it. Regulations of 1815 and 1816 made some further provisions which are now of no interest.

In 1818 disturbances occurred, due in great measure to the operation of the Sale Law[1], and a Special Commissioner was appointed (Regulation V of 1818). In the same year Regulation XIII extended the existing Settlements for three years, so as to afford due time to the revenue officers to collect the materials necessary for the formation of a new Settlement on proper principles.

Though the 'materials' were not ready, the outlines of the new Settlement system—imperfect, but in the right direction—had been determined on. Regulation VII of 1822 was passed for Katák (i.e. the Orissa districts), certain parganas (Patáspur, &c.) which are part of the Midnapore district, and for the districts of the North-Western Provinces.

The history of this Regulation, and of the recognition of its defects and their removal by Regulation IX of 1833, is stated more fully in the account of the North-Western Provinces (vol. ii.).

The Regulation (Sec. 2) once more extended the existing Katák Settlements for five years, and Act VI of 1837 declared that the Settlement should continue until a new one was made. The first regular Settlement, with a survey and record of rights, was made in 1838–45.

In 1856 a revision was undertaken. In 1867, Bengal Act X again extended the Settlement; this time for thirty years; so that there will be no further revision till 1897[2].

The Settlement was made with various kinds of estate-holders, either individuals or joint families,—málguzárs (as Act VI of 1837 calls them), who had grown up over the villages—as we shall see hereafter.

[1] Field, p. 681, note.

[2] There is an abstract of the history of the early Settlements in Mr. Stack's *Memorandum on Temporary Settlements*, 1880, p. 579. In the Selections from Bengal Records, No. III. 1851, is a minute on the Province by the Commissioner (A. J. Moffat Mills, 1847); and Macneile's *Memorandum on Revenue Administration in Bengal*, 1873, also contains ample information.

The estates were then assessed village by village; and there were in most cases subordinate tenures or interests of headmen and village-managers who collected the proprietors' rents; these were entitled to a certain allowance representing their own interest, so that the Settlement is spoken of as 'mauzawár.' As a matter of fact, all the village lands were cultivated by 'tháni' (i.e. resident) raiyats, or by 'pái' (i.e. non-resident) raiyats, and some were held as the village headman's 'sír' or free holding in virtue of his office (a relic of the former Dravidian organization).

The plan of settling a lump sum of revenue for the village—the 'aggregate to detail method,' and then distributing this sum over the holdings—was rejected. The Settlement Officer determined separately the rents of the holding of each raiyat, and, putting a value on the 'sír' land, added the whole together. The total revenue was 60 to 70 per cent. of the rental assets so ascertained. But the nominal landlord did not get even the 30 or 40 per cent. which remained; for there were the village-headmen or managers, who directly collected the village rental and had certain rights—almost like sub-proprietors—in virtue of which they received a percentage, 20 to 25 per cent. if a mukádam or pradhán (hereditary headman), 15 to 20 if a sarbarákár (manager).

§ 1. *The Khúrdá Estate.*

This estate, occupying a considerable portion of the inland side of the Púrí district, is one of the Government estates, managed as a 'raiyatwárí tract.'[1] For some years after the confiscation in 1804, separate survey-Settlements were made by 'mahál's' or groups of land, with local managers called sarbarákárs; but in the last quinquennial Settlement, care was taken to make the *sarbarákárs* give the raiyats leases at rates fixed for the whole term. In 1836, a regular—virtually raiyatwárí—Settlement was

[1] There is a printed volume of *Selections from the Correspondence relating to the Khúrdá Estate*, 1879.

made, at rates ascertained for classes of soil and applied by measurement. Sarbarákárs were, however, charged with the responsibility for the revenue of the whole area. In 1853, some three years before the expiry of the term of Settlement, a renewal was offered to the sarbarákárs at the old rates, *plus* the assessment recorded for the culturable waste fields, on the supposition that they had been, or would soon be, all taken under the plough. This proposal was declined; consequently actual measurement of the extended cultivation was made. And the Settlement so made expired in 1880. Preparations for the revision that then became due, began in 1875, and the estate was cadastrally surveyed. The produce of fields was ascertained by declaration of the raiyats themselves, and an acreage produce rate being thus established, villages were classified into homogeneous tracts, ranked into grades, and revenue rates applied accordingly. The Government share had been fixed at one-fifth[1] of the average gross produce. The sarbarákárs still collect the revenue, and are allowed a deduction to cover their risk and expenses. Joint bodies of sarbarákárs are avoided, and it is arranged so that each sharer in a family gets a separate village. Mr. Stack compares the sarbarákár, who is thus a paid collector, not a proprietor, to the 'mauzadár' described under the Assam system. The Settlement shows a considerable increase of revenue and works admirably. The raiyats' holdings are generally small. The average of 172 test villages gives no more than 1⅓ acre to each raiyat. The raiyat's rent is fixed for the term of Settlement; but there is no relinquishing and taking up lands, and consequently no annual 'jamabandi,' as under other raiyatwárí systems, is necessary.

[1] The proposal was one-fourth, but it was ultimately fixed as stated.

Section IV.—The Waste Land Rules.

§ 1. *Importance of the Subject.*

This subject seems one which demands a certain detail in treatment. The economist, and perhaps also the capitalist, may be interested to know how (for example) the 'tea-estates' of Darjiling and Assam had their origin; and perhaps to inquire how land for cultivation of imported staples can still be obtained. The whole system of dealing with *waste* lands depends on the principle developed in Chapter IV of Book I, that waste and unoccupied land is at the disposal of the State.

In Bengal, as already stated, the Permanent Settlement only extended to the estates actually possessed, or to alluvial accretions which (though separately assessable) were afterwards formed upon their boundaries. In tolerably settled parts this gave rise to no difficulties; but where there were large tracts of waste it was otherwise. In 1819, it seems, the subject first came under notice, but that notice did not extend to the question of *ownership*; the Regulation II of that year only declared the lands *assessable*. The authorities of the day were perhaps only too glad to see waste taken up, and seemed to think that if it had been occupied *de facto*, no matter how, they might accept the fact, treating the occupier as lawful owner; what was more essential was to provide for his duly paying land-revenue.

Regulation II of 1819 specially mentions the case of the Sundarbans [1],—the forest tract on the delta between the Húghlí and Megná rivers. The waste lands there occupied were in fact temporarily-cultivated lots known as 'patítábádí taluqs,' and were encroachments from the regular estates inland. Hence arose the practice of calling these irregularly-occupied lands 'taufír' or excess, i. e.

[1] As to the early attempts to issue clearing leases, see article 'Sundarbans' in *Imp. Gaz.*, vol. xiii. p. 110. They date back to 1782. In later times, grants began to be asked for in 1807, and up to 1872 nearly 1087 square miles had been brought under cultivation.

assuming that they were extensions of regular estates. On this ground perhaps such lands were treated as entitled to be permanently assessed[1]. At any rate, this was the practice till after the Temporary Regulation (1822) had become law. The Regulation did not, indeed, in terms, apply to anything but the 'Ceded and Conquered' Provinces; but obviously, if the land was not entitled to a permanent assessment, the Government could assess it for a term.

A particular instance of this occurs in the case of the districts of Sylhet and Cachár; but as these districts, once part of Bengal, were attached to Assam in 1874, the history of them—and it well illustrates this section—must be looked for in the chapters relating to Assam.

In 1828 (Regulation III) further and more definite provision was made regarding assessment, and it was then declared that the 'waste' was Government property.

§ 2. *The Sundarbans.*

In the Sundarbans, the first occupied lands (higher up on the delta) appear all to have been recognized as having proprietors[2]. But in time 'Waste Land Rules' were provided, and then there was an end to irregular occupation. A part of the area is now taken up as State forest; it is the great source of fuel-supply to Calcutta, besides yielding many valuable woods for building and for industrial purposes. Waste land rules for the Sundarbans had been issued as early as 1825, but they were ineffectual (Macneile, § 173), and the first useful code seems to have been that of 1853. Under these rules 1773 square miles were granted. The land was held subject to a revenue payment which was

[1] Mr. Macneile's Memorandum (§ 167) mentions that the squatters were so fully treated as owners, that in cases where they refused the 'taufír' assessment they were allowed málikána like excluded proprietors on regular estates.

[2] In one place indeed, the Regulation distinctly declares the Sundarbans to be State property, although parts of it had been occupied before 1819. This led to various orders and legal contests (see Macneile's Memorandum, §§ 166-70). The right of Government was affirmed; but in the end, hard cases were allowed, and the occupiers recognized as proprietors.

progressive. In 1889, 474,080 acres (of which the maximum revenue would be R.137,231) were still held under the terms of the rules of 1853. But the rules themselves were superseded by the *Sale* Rules of 1863.

These rules were made after Lord Canning's Minute of 1861[1] on the disposal of waste lands. As regards the Sundarbans, they did not prove successful. Only a few lots were sold; and seven out of twelve fell in for default in payment of the purchase-money. For a time recourse was had once more to the rules of 1853. In 1871 a committee reported on the whole subject, and in 1879 another set of rules was issued.

'The rules of 1879[2] differ from the rules of 1853 in providing a rent-free period of only ten years, and in laying down only one clearance condition, viz. that one-eighth of the entire grant should be rendered fit for cultivation at the end of the fifth year. This condition may be enforced either by forfeiture of the grant or by the issue of a fresh lease, omitting the remainder of the rent-free period, and requiring payment of rent at enhanced rates during the term of grant.

'The rules also provide for gradually increasing rates of assessment after the expiration of the rent-free period, and varying rates within different tracts according to the rent-paying capabilities of the land. It is further provided that there shall be constantly recurring renewals of the lease on re-settlement. The term of the original lease is fixed at forty years, and re-settlements are to be made after periods of thirty years; maximum rates being laid down for each re-settlement.

'The limits within which lands may be held for leasing are fixed in consultation with the Forest Department. An accurate definition of boundaries is provided for. The maximum area of grants is restricted to 5000 bíghás, the minimum being 200. Cultivation must not be scattered all over the area of the land, but proceed regularly through the blocks; and leases are to be sold at an upset price when there is only one applicant, and to the highest bidder when there are more than one.

'The leases confer an occupancy right hereditary and transferable. Survey fees are payable by the applicant, at the rate

[1] This minute is described further on.

[2] Quoted from the *Report*, 1883, page 22.

of four annas an acre, as also a deposit of R. 16 for notices to objectors. Refunds and adjustments of fees deposited are permitted. Rights of way and water and other easements are reserved. The right of using all streams in any way navigable, and the use of a tow-path not less than 25 feet wide on each side of such stream, are also reserved to the public; while Government reserves to itself the right to all minerals in the land, together with rights of way and other reasonable facilities for working, getting, and carrying away such minerals. No charge is made for timber on the land at the time it is leased, nor for any cut or burnt to effect clearances or used on the land; but a duty is levied on any exported for sale.

'Forms of preliminary grant called 'amalnámas—for plots of land below 200 bighás—are given to small settlers, guaranteeing them a formal lease for thirty years if the lands are brought under cultivation within two years. The thirty years' lease allows a rent-free term of two years, and then progressive rates of rent on the cultivated area, fixed with reference to the rates paid in the neighbourhood by raiyats to landholders for similar lands.

'If available, an area of unreclaimed land equal to the cultivated area is included in the lease, and in addition the lessee can bring under cultivation any quantity of land adjoining his holding which he may find *bonâ fide* unoccupied. The holding is liable to measurement every five years, and all cultivated land in excess of the area originally assessed can be assessed at the same rate. After thirty years, renewed leases can be given for thirty years' periods, and rates of assessment can be adjusted at each renewal with reference to rates then prevailing in the neighbourhood. The tenure is heritable and transferable, provided that notice of transfer is given to the Sundarbans Commissioner within one month, and no holding is to be divided without his permission. No charge is made for wood and timber on the grant, nor for any cut or burnt in making clearances, or used on the land; but a duty is levied on any exported for sale.

'These rules are reported not to have worked well, as when the time comes to grant leases, those who hold *'amalnámas* wish to be recognized as under-tenure holders, of the class (to be described hereafter) called hawaládárs; and they refuse to take leases as raiyats. It has been decided, therefore, to grant hawaládárí rights.'

§ 3. *Statistics of Occupation.*

It may be interesting to give a few statistics of the occupation of land in these delta forests.

The result of the recognition of squatters under the early law of 1819, was that in 1874 there were 98 holdings recognized as estates permanently-settled, and amounting to 255,849 bíghás in the '24-Pergunnahs' district, 93,695 in Khúlná, and 134,709 in Bákirganj. There were also a number of 'resumed' plots and other estates kept in the hands of Government[1].

As to the lands sold or leased under the Rules, as they now survive, the Board's Revenue Report of 1888-9 gives the following figures.

It will be seen that a certain number of persons are content to hold under the ordinary Temporary Settlement and not under the special rules.

Kind of Estate.	Number of leases.	Acres.	Revenue payable.
Under ordinary Settlements.	31	46,238	Rupees. 15,240 (will eventually rise to 16,782).
Capitalists' rules of 1879	21	28,590	—20,641.
Petty cultivators' rules..	129	3 375	2,216—10,049.

§ 4. *Waste Lands in other parts.*

The Waste Land Rules have found application (besides the Sundarbans) chiefly in Jalpáígúrí and Darjíling (hill estates for tea), and in Chittagong: a few leases have been granted in Lohárdagga.

[1] Among them the Túshkhálí Estate of 22,754 *acres* in the Bákirganj district, which became the property of Government in 1836. It was settled as a 'raiyatwárí tract' in 1875.

The following account of the Rules is once more quoted from the *Report on the Land System*, 1882–83:—

'Lord Canning's Minute of the 17th October, 1861, laid down three main principles on which grants of waste lands were to be made in future. These were, *first*, that "in any case of application for such lands they shall be granted in perpetuity as a heritable and transferable property, subject to no enhancement of land-revenue assessment"; *second*, that "all prospective land-revenue will be redeemable at the grantee's option by a payment in full when the grant is made, or, at the grantee's option, a sum may be paid as earnest at the rate of 10 per cent., leaving the unpaid portion of the price of the grant, which will then be under hypothecation until the price is paid in full"; and, *third*, that "there shall be no condition obliging the grantee to cultivate or clear any specific portion after grant within any specific time." The minimum price for the fee-simple was fixed at R. 2-8 per acre, so that by paying 10 per cent. of this, or four annas per acre, a title was obtained. Moreover, many large tracts were obtained by speculators in anticipation of measurement, for a merely nominal payment. A despatch from the Secretary of State subsequently required in addition to these provisions that grants should be surveyed before sale, and that all sales should be by auction to the highest bidders above a fixed upset price.

'In granting waste lands under the above rules, some abuses were unfortunately allowed to occur. There was a great rush upon tea-planting; speculators bought upon credit Government wastes wherever they could get them, and Government officers were so far carried away by the mania, that they relaxed the rules as to surveying wastes before they were sold, and in other particulars. It followed that large areas of waste were sold to jobbers, who transferred them at a profit, or threw them up if they could not transfer them; while in many cases cultivated lands not regularly settled were sold as "Government waste lands" over the heads of the occupiers. In other cases, lands beyond the British border, in others again valuable forest lands, were sold under the Waste Land Rules. Before Sir George Campbell came to Bengal, attention had been directed to this matter, and, in Chittagong especially, mistakes had been recognized. There had in more than one instance been risk of grave disturbance with frontier tribes on account

of ill-judged sales of waste land in the occupation of border people. To prevent complications, the Lieutenant-Governor published *ad interim* rules, which received sanction; and orders were passed that no more land should be sold revenue-free in perpetuity without the previous sanction of the Government of India, excepting such small plots, not exceeding ten acres in extent, as might be required for buildings or gardens.

'In 1874, revised rules for the sale of waste lands, superseding all previous rules for the sale and lease of waste lands within the Lower Provinces, were issued. The formation of the Chief Commissionership of Assam had, by that time, withdrawn the districts in which the chief transactions in waste lands used to occur, from the control of the Bengal Government; and, in the districts left to the Lower Provinces in which there are waste lands, these sale rules remained inoperative, the terms having failed to attract applicants; and eventually, in May 1879, the *sale* rules were withdrawn, and the only rules now in force in Bengal are those under which waste lands are *leased* for certain terms of years.

'Waste lands capable of being leased exist in the Sundarbans, the Western Dwárs of Jalpáigúrí, Darjíling, Chittagong, the Hill Tracts of Chittagong, in Palámau, in Lohárdaggá, and to a very small extent in Sháhábád. The tea lease-rules for the Dwárs of 1875 were at first extended to Palámau, but were found inapplicable, and applications for waste land there require to be dealt with on their own merits. For the other districts there are different sets of rules. It may be here observed that one feature in the Sundarbans and Chittagong is that the leases are sold by auction.

'There are two classes of lease-rules—

'(1) Those for large capitalists wishing to grow special crops, as tea, coffee, or cinchona.

'(2) Those for small capitalists for ordinary cultivation.'

§ 5. *Rules in Darjíling and Jalpáigúrí.*

'The main features of the rules of the first class, as applicable to Jalpáigúrí and Darjíling, published on 10th October, 1878, are the following:—

'Declared forest-reserves and land having valuable timber in compact blocks, lands in which other rights exist, lands

lying within sixty feet from the centre of any public road, and lands expressly exempted by Government, are not to be granted. Each lot must be compact, and not contain more than 800 acres. Inquiry and survey at the expense of the applicant must ordinarily precede the grant of a lease. A preliminary five years' lease is granted rent-free for the first year, and at progressive rents for the rest of the term. The rights conveyed are heritable and transferable, provided that the whole lot is transferred, that clearance conditions are observed, that the transfer is registered, and a registration fee paid. The right of Government to minerals and quarries, and to payment for valuable trees on the grant, and the right of the public to fisheries, and a right of way along the banks of navigable streams, are reserved, while provision is made for the construction and maintenance of proper boundary-marks, the presence of the lessee himself or of a resident manager on the grant, and for acquisition by Government of any land required for public purposes free of cost, except by proportionate reduction in the rent and by the payment of the value of any improvements in the land taken up. If, after inspection during the term of the preliminary lease, 15 per cent. of the total area shall have been brought under cultivation and actually bears tea-plants, the lessee is entitled to renewal for a term of years, and to similar renewals in perpetuity, provided that Government may fix the rent on certain specified conditions on each renewal; that the renewed lease be heritable and transferable in so far that only the whole may be transferred, and that only with the consent of Government; and that all the other conditions of the preliminary lease hold good. Failure to comply with any of the conditions renders the lessee liable to forfeit his lease; and failure to apply for a renewal before the expiration of his preliminary lease reduces him, if he is allowed to continue, to the status of a tenant-at-will till other arrangements are made. Grantees can club or amalgamate their grants by transfers, duly registered, on payment of the prescribed fee.

'The second class of rules for small capitalists, as applicable to the Dwárs, published on the 23rd June, 1879, correspond in the main with the rules for the grant of leases for tea-cultivation. The differences are briefly these: Ordinarily the lot must not be less than ten acres or contain more than 200

acres[1]. The survey fee is to be three annas an acre, and no further sum will be demanded nor any refund made, while in the case of tea-leases the fee is fixed at one rupee an acre and the applicant is entitled to a refund of any surplus, or, if the expenses exceed the deposit, has to make good the deficiency. Renewal of the preliminary lease is conditional on one half of the total area held being occupied by homesteads, or cultivated or left fallow, according to good husbandry, or otherwise fairly turned to account for agricultural purposes. The periods of renewals are to be conterminous with the period of Settlement of the district, current at the time of renewal. Sub-infeudation in the first degree only is allowable[2]. The sub-tenant is, however, to have from the lessee the same promise of renewal as the lessee himself has from Government, and the sub-tenant's rent is to be determined by the Deputy Commissioner. Rates of rent on renewal of lease have been fixed both in the case of tea-leases and of leases of arable lands. Where half the area of the grant of the arable land has not been brought under cultivation, the renewed lease shall ordinarily include an area of waste land equal to the extent of land brought under cultivation during the currency of the preliminary lease, but in such cases the Deputy Commissioner has the power, under certain restrictions, of refusing renewal altogether, or of allowing it on special conditions. Each description of land—tea, bastoo, rupit, &c.—is charged at the rate fixed in the pergunnah wherein it is situated. In the case of tea-leases in the hills of the Darjíling district, an all-round rate of one rupee an acre will be imposed on renewal of the lease, subsequent to the expiration of the preliminary lease.

'For small capitalists it has been decided that no rules are necessary for Darjíling.

'In consequence of re-adjustment of the boundary between Darjíling and Jalpáigúrí, the issue of orders which have indirectly affected the rules, and the grant of certain concessions on the part of Government,—such as extending the term for renewed leases, reducing the fee to be charged on transfers,

[1] Grants under these rules are heritable, but not transferable during the term of preliminary lease. It has been the local custom not to allow tea to be cultivated on land leased under these rules; but there seems to be no reason for such a restriction.

[2] The grantee may farm out his rights of management, &c., to one person, but that person may not create a farm of a farm.

and permitting partial transfers,—the tea-lease rules of 1878 are under revision; and it is at the same time proposed to revise the Dwár arable land-lease rules of 1875.'

§ 6. *The Chittagong Districts.*

'A set of rules for the grant of leases for tea cultivation in the Chittagong Hill Tracts, based on the tea-lease rules for Jalpáigúrí and Darjíling, was published by Government on the 30th June, 1879. No charge is made for trees on tea grants, though the right to levy tolls on forest produce exported either by land or water is reserved.

'There are no rules for leases to large capitalists in this district. Government are averse to granting waste lands in Chittagong proper for any other purpose than ordinary native cultivation. Here and there may be large tracts of waste land better fitted for the cultivation of tea than for anything else, and a special grant may be made of such blocks, if necessary, on special terms.

'For small capitalists, the waste lands are broken up into compact blocks of fifty acres each, and the lease of each lot sold by public competition. There is no restriction as to the kind of crops that may be grown.

'The whole of the waste lands are not thrown open at once for sale, but the leases of the surplus waste-land blocks in one village at a time are put up to auction on a given day on the established terms.

'The leases are heritable and transferable. The rates are fixed with reference to the quality of the land. A measurement and assessment after ten years, and another after fifteen years, is provided for; and in the case of lands exposed to salt-water inundation, and requiring the protection of embankments, a larger area than fifty acres, up to a maximum of 200 for a single applicant, or fifty acres each to several applicants jointly, may be granted. The other provisions generally follow the rules for the grant of tea-leases in Jalpáigúrí and Darjíling.'

Section V.—The Revenue-System of Chittagong[1].

Chittagong is one of the eastern districts of Bengal between the sea-coast and the hills which separate Bengal from Burma. The soil is rich, but in 1793 a large portion was, as might be expected, still covered with luxuriant and tangled jungle, the clearance being chiefly in the level plains suited for rice-lands. There had been no natural opportunity, save in exceptional cases, for the growth of large Zamíndárí estates. The different settlers formed groups or companies, and each cleared one plot here and one there. The leader of the company was required to be the collector of the revenue from as many of the settlers as chose to pay through him, and therefore came to be looked on as the superior owner of the whole of the scattered group of holdings which paid through him. The group was called a 'taraf,' and the person who was at the head (or his descendant) was called 'tarafdár.' It also happened that settlers were called on by the Muhammadan conqueror for help and feudal service, and

[1] Properly Cháṭṭágraoń or Cháṭṭagrám.

The text refers to the regular district and not to the hilly portion known as the Chittagong Hill Tracts. In these the only revenue is a tribute paid by the chiefs. Formerly it was taken in kind (cotton), according to the population; this was afterwards converted into a money payment. This revenue was consequently shown in the old accounts as derived from the 'kapás mahál,' and became fixed by custom.

By Act XXII of 1860 the Hill district (as defined in a schedule to the Act) was removed from the operation of the General Regulations and put under a Deputy Commissioner. Simple rules regarding judicial procedure have been drawn up under the Act, and no revenue Settlement has been made. But there is a capitation tax payable by householders to the chiefs, and the latter pay the 'tribute' or quit-rent (or whatever it is proper to call it) above alluded to.

The cultivation is still chiefly of the temporary kind called 'júm,' so natural to all semi-barbarous people in tropical hill countries, and an attempt has been lately made to record in a simple way (so as to gradually get them fixed) the rights and interests of the different clans or tribes and their chiefs and headmen. The record is called the 'júm book.'

There are a certain number of estates in which lands are permanently cultivated, and these may be under a Settlement under the ordinary law. A portion of the district called the 'khás mahál' is reserved from the jurisdiction of the chiefs, for the purpose of making land grants to settlers. There are also State forests in this tract.

were then recognized as jágír-grantees of their land, holding it by *stated area*. So also 'tarafs' were founded by the military force sent to defend the province, and these tarafs were also held in jágír in lieu of pay. The consequence was, as early as 1764, *all the occupied lands* (which alone came under Settlement) having been granted by area, had been actually measured[1]. The Permanent Settlement then *extended only to the measured lands as they stood in* 1764.

All land cultivated subsequent to that, is locally spoken of as 'noabad' (nauábád=newly cultivated). And the ways in which this nauábád came to be cultivated were various. Under Regulation III of 1828, such cultivators would have no title whatever; but this was not at first looked to: assessment was the main object.

In the first place the 'tarafdárs' began to encroach on the waste all round, and extend all their cultivation without authority. This led to repeated re-measurements on the part of the authorities, and to a great deal of oppression and bribery, owing to the action of informers and others who threatened to expose the encroachments, if not paid to keep silence. A great number of other persons, mere squatters, also cultivated lands.

§ 1. *The Noabad Taluqs.*

All the 'nauábád' lands could claim nothing but a temporary Settlement. It happened, however, that one of the old estate-holders laid claim by virtue of a *sanad*, which afterwards proved to be forged, to have had *all the waste in the district* granted to him in 1797. An immense correspondence, ending in a lawsuit, followed, and lasted for nearly forty years[2]. The result was that Government

[1] See Chapter III (on Tenures) for some further remarks on the 'taraf.' See also Cotton's *Memorandum on Revenue Administration of Chittagong* (1880), pp. 7, 8, 10.

[2] When the fraud was discovered, Government dispossessed him of the whole, without discriminating those lands to which he had a just title, from those fraudulently obtained. The Sudder Court decreed in his favour for the *original* estate, but gave Government the rest. (Macneile's *Memorandum*, Chapter IV.)

recovered its right, but had to allow the Zamíndár so much land as really belonged to his original estate. This could not be found out without a survey, and the opportunity was taken to survey the whole district, with a view to the proper separation of the old permanently-settled lands of 1764 from the nauábád lands. The process took seven years to complete (from 1841–1848), and the Settlement was made by Sir H. Ricketts. All the 'nauábád' lands were surveyed, whether held by squatters or taken as encroachments by the original tarafdárs; but each plot separately occupied was, as a rule, formed into a separate 'taluq,' though some few were aggregated: 32,258 little estates were thus formed, called in revenue language, the 'noabad taluqs.' A small number (861) of these, that paid R.50 revenue and upwards, were placed directly under the Collector, and the host of smaller ones were grouped into 196 blocks, each of which was at first given out to a 'circle farmer' who was to be responsible for collecting the revenue. The system was afterwards abandoned in favour of khás management by the aid of local revenue officers, on the analogy of a *raiyatwárí* management.

Nor was this the only trouble in Chittagong. The invalid revenue-free grants, to which I have already alluded as liable to resumption and assessment, were peculiarly numerous and intricate; even after relinquishing all cases in which the holding did not exceed 10 bíghás, there were still 36,683 petty estates of this class separately to be settled. Many of these had to be permanently settled under the law alluded to previously (see page 427).

There were also a large number of small grants or leases made by the revenue authorities under the designation of clearing or 'jangalbúrí' leases[1].

Thus the Chittagong district consists of a mosaic of petty estates; here a plot of old permanently-settled land, next a jangalbúrí plot, then a recovered and assessed encroachment, next a resumed lákhiráj holding, and so forth.

[1] There were 1290 of them, of which 1002, settled originally for twenty-five years, gave only R.2,475 revenue between them.

The table already given will show how the estates are now grouped under the head of 'permanently settled,' 'temporarily settled,' and Government estates [1].

The work of revenue collection in the petty estates will now be facilitated, inasmuch as recent orders have resulted in the issue of a proclamation [2] notifying that, for the term of one year, petty estates permanently settled and paying less than one rupee *per annum* may be redeemed on a payment of ten times the annual *jama'*.

The question of how to deal with the nauábád lands or taluqs, was for a long time in suspense. At one time a Permanent Settlement was offered, but on such terms that but few accepted it. It was then determined, generally, that the nauábád taluqdár was a tenure-holder on an estate belonging to Government. The Settlement of 1848 was made for fifty years in the case of *taluqs* which had their cultivation fairly fully developed, and for twenty-five years in jangalbúrí-taluqs, where much land was still waste. In 1875–76, the re-settlement of these latter began, and the measurements are now complete. A question then arose as to whether some of these *taluqs* (and some resumed revenue-free *taluqs*) were legally liable to re-settlement at all. An order also had been obtained that 4913 tarafs of the Government estate were not liable to re-settlement. In respect of all these, it has ultimately been determined that they *are* liable: but it was agreed not to re-settle the 4913 estates till the fifty years' leases fell in in 1892 [3].

[1] In the *Revenue Report* (1888–9) the map of Chittagong shows how the Government and private estates are intermingled, and the 'Settlement' map appended to this volume endeavours to show (though only roughly) the same condition. The real number of the Government estates is about 45,000, but for management purposes they are grouped into five circles, each circle being called an estate, and bearing a name as the Town khás Mahál, the Ranjan Mahál, &c., &c. (*Report*, 1883, p. 29.)

[2] *Revenue Report*, 1887–88, Section 55.

[3] *Revenue Report for* 1885 86, Section 114.

Section VI.—The Chutiyá Nágpur Districts.

We shall have more to say about these districts under the head of *Tenures*, because it is in them that we have certain relics of one of the original village-systems,—that of the Kols and kindred tribes, Hôs, Mundás, and also of the southern or Dravidian Uráoṅs.

Here, however, we are concerned with the Revenue Settlements.

A portion of each of the present districts that was formerly attached to the old Collectorates of that date, came under the Permanent Settlement.

§ 1. *Mánbhúm.*

Nearly all *Mánbhúm* is permanently settled by treating as 'Zamíndár' (with a fixed revenue) the chiefs over *parhás* or groups of villages, which the old native tribal organization originated. There are but two temporarily-settled estates in the district.

§ 2. *Singhbhúm.*

The northern portion consists of the permanently-settled pargana of Dhálbhúm formerly attached to Midnapore, and of two chiefs' estates (Sarái-kaláṅ and Kharsáwáṅ) under political control, and one estate permanently settled and two temporarily settled in the subdivision of Dhálbhúm.

The rest of the district consists of the tract called Kôlhán[1] (1905 square miles) occupying the whole south-west portion of the district, and forming a 'raiyatwárí tract' and the confiscated estate of Parahát[2].

In both these districts and in Mánbhúm, lands are never sold for arrears of revenue; and *all* sales and mortgages of land require the sanction of the Commissioner.

[1] Kôlhán is sometimes called Ho-desam—the settlement of Hos.

[2] There is a history of the Parahát (or Porahat) estate in *Government of India* (Rev. and Agr.) *Proceedings for February*, 1889.

§ 3. *Hazáríbágh.*

Here there are four principal subdivisions according to the different Settlement arrangements :—

(*a*) *Rámgarh* was originally a single estate; but it has since been split up into four separate estates, one being the Government estate occupied by cantonments, &c., around Hazáríbágh, called (the 'Government enclosure' or) 'Sirkári-háta'; the second being the Zamíndárí of Kodarmá, confiscated in 1841, and now a Government estate, the third the remaining part of the Zamíndárí of Rámgarh; the fourth the Kenduá estate,—a Government 'taufír' estate made up of resumed surplus lands and farmed for twenty years.

(*b*) The Kundá pargana and estate.

(*c*) The Kharakdihá estates, one of which is permanently settled, one is revenue-free, and others are Government estates.

(*d*) The Kendí pargana, which is permanently settled.

The whole district is composed of 68 permanently-settled and 186 Government estates.

§ 4. *Lohárdagga.*

The Palámau subdivision, occupying the north-western portion of the district, is a Government estate or 'khás mahál' shown partly as 'Government estate' and partly as 'raiyatwárí tract.' It contains some good State forests. The rest of the district is settled with the Mahárájá of Chutiyá Nágpur as a sort of permanently-settled estate, but it is looked upon rather as a tribute-paying chiefship, and has never been held liable to sale for arrears of revenue.

§ 5. *General Remarks.*

In the Chutiyá Nágpur districts there are some curious subordinate tenures, provision for the record and declar-

ation of which has been made in the Bengal Act II of 1869. These tenures will be dealt with in the chapter devoted to the subject of tenures.

But as regards Settlement arrangements, it must here be mentioned that the Act contemplated the appointment of one or more special Commissioners, who were to have exclusive jurisdiction to try and determine all disputes regarding tenures in the estates, and to make a record (which was final and authoritative), regarding the right to the different lands and the privileges attaching to each. The fact that a chief had been recognized as Zamíndár, or that the Government was the superior owner, did not prevent this.

The tenures were based on the peculiar arrangement (already alluded to) that besides, or rather anterior to, the plan of allotting a *share* in the produce to the chief or overlord, the ancient system was to set apart certain lands for the king or the chief. Thus in every village these lands were called (majhhas) and in later times became the Settlement-holding proprietor's lands, whoever he might be—a descendant of the chief, a purchaser, or a person with a merely prescriptive title. Certain other lands were, on the same principle, allotted to the original founders of the village who held the office of headmen, &c., others to the priest for himself and for the worship of various deities; others were taken by the mahto, or collector, who was (at a later period) put in by the chief to look after his interests; others, again (called beṭ-khetá) were assigned, in lieu of wages, to the labourers who cultivated the once royal or *majhhas* lands.

Such a system, in later days, gave rise to great facilities for wrong-doing. The more powerful would annex lands and drive out the feebler. The object of the special record was to restore the rightful holders (who had had possession within a reasonable limit fixed by the Act), and to secure, by record, these rights with the privileges attaching thereto, in the *majhhas* lands and in lands in which rights of the original founders (bhúíñhár) existed.

Section VII.—Santál Pergunnahs [1].

A glance at the map shows this district to consist of a central hilly portion which begins in the north and extends downwards; this is the Government estate, or 'Dáman-i-Koh': below this, on either side, and at the south, is plain country which was permanently settled.

Regulation III of 1872 applies to the whole district, and gives certain rules for the fixing of the cultivators' rents; so that in fact the Permanent Settlement only affects the right in the soil and the fixity of the Government assessment on the landlords.

The Santál Parganas were first removed from the operation of the ordinary law by Act XXXVII of 1855 [2], which provided for a special superintendence. And this Act has been continued and amplified by the Regulation III of 1872 which declares the laws in force. It is important to remember that Act XXXVII declares that no Act of the Legislature, either past *or future*, shall apply to the Santál Parganas unless they are expressly named in the Act. This is why the Forest Act of 1878 does not apply, nor has it yet been extended under the Regulation of 1872. The old Forest Act of 1865 was specially extended, and consequently still remains in force, but will probably be repealed.

Part of the plain or old-settled tract, is regularly cultivated, but part of it is hilly and still much covered with jungle. This portion is largely peopled and cultivated by Santál immigrants. These brought their village institutions with them and settled, each village paying rent to the existing Zamíndár landlord. Practically, all the village tenures are permanent and alienable—subject only to the superior landlord's rent. As a rule, the landlord gets his rent, not direct from the raiyats, but through a village

[1] The limits of this district are described in a schedule annexed to Act X of 1857.

[2] The schedule to this Act has been replaced by the revised schedule in Act X of 1857.

headman; so that in fact the Zamíndár is really more like a pensioner drawing a rent from the land, but not, as a rule (for there are some lands under his direct management), interfering in the cultivation or management of the villages.

§ 1. *The Dáman-i-Koh.*

As early as 1780 A.D. the tract known as the Dáman-i-Koh was withdrawn, by an act of State, from the general Settlement, and was made a separate 'Government estate[1].' This, however, practically meant that the Government took the tribes under its own immediate management and did not recognize any Zamíndár, or intermediate landlord, as having any hold over this wild region.

The Santáls are not the original inhabitants of this tract, but two or three Kolarian tribes, now indiscriminately known as 'Paháriás.' The Paháriás cultivate chiefly by 'júm,' or shifting cultivation, already described. At first there was no Settlement; or rather the usual order of Settlement was reversed; the people did not pay anything to Government, but the Government paid them an annual grant to support their headmen and tribal officers. These officers seem to be the relics of the old days when the hills were nominally within the adjacent Zamíndárí estates. There were local divisions of the separated tract, described by the imported term 'pargana.' Over such a division there was a 'sardár,' with his 'náib' or deputy; while the headman over a village was the 'mánjhí.' The pargana division has long fallen into disuse; but the sardárs and others survive, drawing their pensions. This is a relic of the old Kolarian plan of village government with nothing above it but the chief of a group of villages. The old terms were lost, and the present equivalent Persian names of office were adopted.

The Santáls then seem to have immigrated in consider-

[1] I am indebted for this information to the kindness of Mr. W. Oldham, the Deputy-Commissioner, and to a *Memorandum on the Santál Settlement* by Mr. C. W. Bolton, C.S.

able numbers, and cultivated all the valleys and lower slopes, so that the wandering Paháriás, with no settled cultivation, became confined to the hillsides; since that time, the Paháría headmen have begun to claim specific properties in the hill-tops and slopes, which, however, Government does not theoretically recognize, it having all along claimed the region as a 'Government estate.' No interference with these people is, however, contemplated; and they have, of course, wofully abused and destroyed the forest. It has been long a question whether part of the forest could not be put under regular conservancy; and quite recently it has been determined to enforce simple rules in a portion of the area.

§ 2. *The Settlement.*

The Settlement arrangements of the cultivated villages of the Santál Parganas are governed by the Regulation III of 1872, the mánjhí or headman of each village collecting and paying in the rents to Government or to the owner, as the case may be, and being allowed 8 per cent. as his 'commission.' The Regulation contemplates the record of all classes of interests in land and fixing of all rents (those in Permanently-Settled estates not excepted), whether payable to a proprietor or to Government; these rents are to remain unchanged for at least seven years.

Section VIII.—Jalpáigúrí and Darjíling.

§ 1. *Jalpáigúrí.*

That part of the district which is south-west of the Tísta river is all permanently settled, having been formerly part of the old Rangpur Collectorate. The remaining part of the district, north of the Kuch-Bihár (tributary) state, and extending to the borders of the Goálpára district of Assam, comprises the Bhután (or Western) Dwárs[1].

[1] In a notification, No. 308, dated 3rd March, 1881 (*Gazette of India* March 5th, 1881), the laws in force in Jalpáigúrí and Darjíling (besides

The district as a whole is called a 'non-regulation' district, but the whole body of ordinary law is in force in the 'regulation portion,' to which the Permanent Settlement extended.

The Dwárs lie along the foot of the hills, and were taken from the Bhútiás in 1865. In 1870 the country was settled for ten years, and again in 1880 for ten years more. The whole constitutes a Government estate managed as a 'raiyatwárí tract.' The Settlement is made with the soil occupants called 'jotdárs,' whose tenures are recognized as fixed tenancies, with a rent unalterable for the term of Settlement. The 'jot' is saleable for arrears of revenue [1].

In some of the 'girds' or parganas (of which the Dwárs contain nine in all) the Settlement was made with farmers without proprietary rights, who were allowed 17½ per cent. on the revenue, as their remuneration and profit. When the Settlement is with the jotdár, the revenue collection is made by 'tahsíldárs,' who are remunerated by an allowance of 10 per cent. on the revenue.

§ 2. *Darjíling.*

This district also may be described as divided into several different tracts:—

(*a*)[2] (1) In the north-west corner a large estate (115 square miles) has been granted on a perpetual rent to the Chebu Láma.

(2) The old Darjíling territory ceded by Sikkim in 1835—a long strip of 138 square miles, extending down to the Tarái near Pankhábárí.

(3) Two strips on each side of this, acquired in 1850, bring the district up to the Nepál frontier on one side and to the Tísta river on the other.

Act XIV of 1874) have been declared. All the 'Regulation' laws apply to the Jalpáigúrí district up to the Tista river. The Western Dwárs are separately provided for.

[1] Some further details will be found in the chapter on Tenures.

[2] By the Notification of March 3rd, 1881, the laws in force in Darjíling are specified. For this purpose the district is divided into three portions—(*a*) the hills west of the Tísta; (*b*) the Darjíling Tarái; (*c*) the Damsong subdivision (east of the Tísta).

(*b*) The Tarái below Pankhábárí, also annexed in 1850.

(*c*) The Damsong subdivision, or hill portion of the Bhútia territory about Dalingkot, taken in 1865 (east of the Tísta, west of the Jaldáha, and north of the Western Dwárs in the Jalpáígúrí district just alluded to).

Nearly all the territory in (*a* 2 and 3) seems to have been dealt with under various 'waste-land rules' and now to consist of—

(1) Estates sold or granted or commuted into 'fee-simple' or revenue-free holdings.

(2) Estates 'leased,' i. e. granted to persons who pay revenue according to their lease.

(3) Government estates appropriated to forests, to station-sites, military purposes, &c., and waste not yet disposed of.

In the tract (*b*) there were some lands at first settled for short terms (three years) with Bengalis, the Settlement-holders being called chaudharis of 'jots' or groups of cultivation. The chaudharis were, however, abolished in 1864, and the Settlement was made with the jotdárs, or cultivators of the *jot*.

In the upper Tarái are also Settlements for short terms, made with Mech and Dhimal caste-men, who pay a certain rate on each 'dáo' or hoe used for cultivating. Some jungle-clearing leases for five years were also given. In 1867 there was a survey and Settlement under the modern procedure for thirty years.

In the Damsong subdivision (*c*) at first only a capitation-tax was collected; the tract will probably ultimately be surveyed and brought under temporary Settlement [1].

[1] The map in the *Revenue Report* colours the whole district as 'Government estates' except the Chebu Lámá's (P. S.) estate in the north: this is hardly satisfactory.

CHAPTER III.

THE LAND-TENURES.

SECTION I.—GENERAL REMARKS.

THE task of writing, in moderate compass, an account of the LAND-TENURES OF BENGAL is a difficult one, for two reasons. In the first place, it is not easy to hit upon a grouping or classification which is suitable; and yet some classification, based on an intelligible principle, is indispensable. Otherwise the tenures will only be presented to the reader in a haphazard catalogue. Most of our books adopt this latter method, with the result that, while the memory is bewildered over a string of names that often are not worth remembering, those real distinctions and actual varieties of land-tenure which are based on custom and on feelings and ideas about landholding, and are therefore worth remembering, are undistinguished and forgotten. The second difficulty arises from the enormous mass of records and authorities. But little attempt has hitherto been made to digest it. The *Fifth Report to the Committee of the House of Commons* of 1812 is a great mine of information, but neither classified nor arranged. In Harington's *Analysis*, again, is a formidable collection of papers. Mr. Phillips, with his usual industry, has given, in the *Tagore Lectures* (1875), a mass of information scattered through various lectures, but in a rather bewildering fashion. Dr. Field has collected all the best authorities in his *Landholding in Various Countries*. In an anonymous work called *The Zamíndárí Settlement of Bengal*[1] another vast

[1] 2 vols. Calcutta: Brown & Co., 1879.

mass of authorities, of very various value, is piled up. And these are only the more accessible of the references; I have not mentioned Special Reports, Notes, and Monographs, whose name is legion.

In this chapter I have therefore to make the attempt to present the student with a classified account of tenures, and in doing so, not merely to re-quote the authorities *en masse*, but to rigidly exclude all that does not appear to be of real importance and weight. This should enable a reader to dispense with a reference to bulky and inaccessible volumes, except in case he wishes to make some special study and go into 'original sources[1].'

In dealing with Bengal tenures, I propose to relegate to separate sections the tenures observed in the Santál Parganas, Chutiyá Nágpur, Orissa, and Chittagong. There are special historical features about these localities which fit them for separate notice; but they are full of interest, and indeed it is in these places that we find survivals which are of the highest importance in connection with the early history of land-customs.

Taking, then, the districts of Bengal proper and Bihár, we shall find that the original village organization has too far decayed to enable us to start from it as a basis of land-tenure investigation; what traces of it survive in headmen's privileges and grants of land for village service, will now and again come to notice as we explore the peculiarities of the landlord's right, and the origin and nature of the tenures under him.

In a word, in Bengal the Zamíndár has become the central figure, and our study must start with him and with the 'independent' landholder, jagírdár, and other 'actual proprietor,' whom the Regulations placed on the same footing.

The 'actual proprietors,' to state the matter in other words, may be great Zamíndárs, or they may be lesser

[1] The labour of this task has been much lightened by the excellent *Memorandum on Land-Tenures* which Mr. J. S. Cotton, C.S., has prepared.

estate-holders, all equally now raised to the status and legal privileges of the Regulation proprietor.

In close connection with proprietary tenures paying revenue, are the lákhiráj holdings allowed as valid. They *may* be mere assignments of revenue, but often include the ownership of the land as well. Some of these have become landlord-estates; other smaller ones have remained *under* the proprietor, and therefore fall into the class of subordinate 'tenures,' just above the grade of 'raiyat.'

As we pass out of the class of fully proprietary tenures, we enter on a border-land, which in Bengal is a most curious one,—I refer to the region of tenures which we cannot classify as *proprietary*, and are yet not exactly *tenancies*.

The latest attempt of the legislature to deal with the subject has not resulted in a complete definition; but it has given us the term 'tenure' for this class of rights; and we can describe their peculiarities and privileges, if we cannot frame a definition.

Some of these tenures practically represent relics of older rights which gave way beneath the growth of the *Zamíndárí* right, but still showed some traces—as we can see the remains of the original tree under its overgrowth of the many-rooted *Ficus* in an Indian forest. And even where the holder of such right possesses a document in the nature of a grant from the Zamíndár, or some other authority, it by no means follows that the right really originates in contract, or in an act of pure donation by the superior. Other such tenures (as already indicated) are due to the desire of the landlord to disembarrass himself of the direct management of the whole or part of his estate; he creates tenures in favour of persons who will pay him a fixed sum, and make what they can out of the land. Other such tenures are again due to the desire to encourage the bringing of the waste under cultivation, for which purpose a fixed tenure and favourable terms are needed—backed, no doubt, by the strong and long-established feeling of right in favour of him 'who first cleared the land.' There are

other tenures also originating in grants free of rent for the rendering of certain services.

Further detail would be here unintelligible; but what has been said will show that we have an ample supply of material for a separate section on '*Tenures*' (in the technical sense). When we come down to the lowest grade—'raiyat-holdings,' or cultivating tenancies—it is obvious that we have also much to consider. The whole battle of the tenant-question in Bengal is before us, and the history of the many attempts to define and secure different grades of tenant-right. These are the divisions of our chapters on Land-Tenures.

Section II.—The Zamíndár Landlord.

§ 1. *General Remarks.*

I have said enough in the earlier chapters to make the student familiar with the name Zamíndár. How the later and declining Mughal ruler adopted the plan of collecting his revenue through agents who, having contracted to find a certain sum for the Treasury, were left to manage the land as they pleased—that has all been described. The question what is the true nature of the Zamíndár's office or title has been discussed in various books. But in point of fact it is quite impossible to bring all the facts which were true about the Zamíndárs at one time and at another,—to bring all these facts to a focus and then to make them fit in with tolerable exactitude, to any definition of right or title to be found in an English law-book or dictionary. Looked at with reference to the circumstances of a certain period of Bengal history, and with reference to the terms of deeds of appointment, it is easy to say that the Zamíndár was only a revenue official—a tax-gatherer if you please. Looked at with reference to the practical position actually held, I do not think that any one who dispassionately considers what influence and hold over the land (and the raiyats) the Zamíndár really had in 1789, will hesitate to

conclude that it was right to call him 'landlord,' *provided* the subordinate rights were adequately secured.

There are allusions to Zamíndárs even in Akbar's time, in the *Ayín-i-Akbari*; but certainly not to a 'Zamíndár' as holding an office or function created for the realization of the revenues of a certain tract, and charged with police and other duties. Indeed, the term was then used as synonymous with 'bhúmi' (evidently the Hindu term for the natural proprietor or lord of the soil). This alone should at once indicate what Ab-ul-Fazl meant. In one place certain zamíndárs are mentioned as having functions like jagírdárs, but *any* landholder might have been employed or granted allowances to keep a force of foot or horsemen to maintain order locally. I have already alluded to the fact that in most provinces where the Mughal power extended its conquest, there were found, as in Oudh, local Rájás or chiefs holding considerable areas of country as rulers[1], having both their own private lands and certain rights and dues, as ruler, over the whole country. Such chiefs could not resist the Mughal arms to the extent of maintaining their independence, but yet might give great trouble in outlying districts; it was, therefore, often a matter of policy to leave them in possession, on condition that they would pay over to the Imperial Treasury a certain proportion of the revenue collected from the villages. If a chief accepted—as he would be obliged to do—that position, unless he were expressly recognized as holding revenue-free, or as assignee of the revenue for special service, he would be called 'landholder'—Zamíndár. In

[1] 'Native leaders, sometimes leading men of Hindu clans who have risen to power as guerilla plunderers, levying black-mail, and eventually coming to terms with the Government, have established themselves, under the titles of Zamíndár, polygár, &c., in the control of tracts of country for which they pay a revenue or tribute, uncertain under a weak power, but which becomes a regular land revenue when a strong power is established. This is a very common origin of many of the most considerable modern families, both in the north and in the south. To our ideas, there is a wide gulf between a robber and a landlord, but not so in a native's view. It is wonderful how much in times such as those of the last century, the robber, the Rájá, and the Zamíndár run into one another.'—(Campbell's *Land-Tenures in India: Cobden Club Papers*, 1876, p. 142.)

the same way, when the authorities wished to show some local landholder of lesser *status*, some kind of favour, they gave him a grant of a local tract over which he was to collect the revenues; and this smaller grant they called 'taluqdárí.' According to the size of the estate and the influence of the holder, the grantee was allowed to be in direct relation with the State, or was placed in a privileged position, but made to pay through a greater 'Zamíndár.' An instance of this is afforded by the case of many village headmen in Bhágulpur and the petty landholders of Chittagong, all of whom were vaguely called 'taluqdárs.'

Let us confine ourselves here to the *Zamíndár*.

I do not think that the student need trouble himself with anything more than can be gathered from a few really authoritative sources. There are the minutes of Mr. Shore and Lord Cornwallis, both based on very valuable native authorities of the time[1], and these give what I may call the landlord view. On the other side, the chief authority urging the 'official' nature of the Zamíndár's position was Mr. James Grant, who wrote a history of the 'Northern Sirkárs'[2] of Madras (where there were also Zamíndárs), and who afterwards became 'Chief Sarishtadár' under the Bengal Government, and published an *Enquiry into the nature of Zemindary tenures in the landed property of Bengal*, 1790[3]. The opinion of Mr. Harington himself (his service extended from 1780 to 1823) is entitled to the greatest weight, as he was in the service all through the period when the inquiries were going on. I shall therefore quote it, as found in the *Analysis*, in some detail.

[1] A number of these, on which Mr. Shore based his minute of 1788, are given in Harington, vol. iii., and in the Reprint of Harington's chapter on the Rights of Landholders.

[2] *Political Survey of the Northern Circars*, dated 20th December, 1784; also an *Analysis of the Finances of Bengal* (April, 1786); Appendices to the *Fifth Report*.

[3] This was answered by Mr. C. W. B. Rouse, Secretary to the Board of Control, in a Dissertation concerning the Landed Property in Bengal. Mr. Grant was a good deal followed in Patton's *Principles of Asiatic Monarchies*, 1801.

§ 2. *Origin of Zamíndárs.*

Mr. Shore said that the origin of 'Zamíndárs' was uncertain [1]. There probably never was a time when a Mughal governor or emperor deliberately conceived the plan of creating an official collector of rents, or invented as a title, the word 'Zamíndár,' and making a decree or regulation defining the rights and duties. But, as already stated, persons who had a real estate of some kind or degree over villages and districts, were always, from the earliest times of Muhammadan rule, spoken of generically as 'zamíndárs'; and if they received a warrant or *sanad* from the ruling power, for any purpose, it would probably speak of them as being (official) Zamíndárs. If, as I have already stated, they were people of minor importance, they would be called 'taluqdár,'—holder of a portion of land—a 'dependency,' as the word implies, not a great and independent estate. Persons recognized as 'Zamíndárs' and some of the superior 'taluqdárs' were no doubt allowed to collect themselves, and to pay in direct, the revenue for their territories. The rest of the country was managed solely by State officers who collected through the heads of villages from the cultivators. The Mughal system, it should be always borne in mind (with the exception of the country held on service grants, or by such local magnates as it was politic to recognize), was essentially *raiyatwárí*; it went straight to the cultivator through the headman of each village. The original system then did not countenance farming the revenues; so that chiefs and others (recognized landholders) would not then have been known by any particular name or official status. Probably, the degree of actual power which the landholder had in managing his estate, varied with the wealth, respectability, and influence of each chief or grantee, and especially with his nearness to, or remoteness from, the centre of control. But it would seem that when the Emperor Farukhsíyar ascended the

[1] Minute of 2nd April, 1788.

throne in 1713 A. D., the decline of the Empire had already begun, and decline was always marked by relaxation of control, not only over the outlying provinces, but over the whole administrative machinery, and by the substitution of plans of *farming* the revenues of convenient tracts. Then it was that, besides the Rájás, chiefs, and ancient grantees, who had a real hold over the country, and were already spoken of as the Zamíndárs, other classes of persons were employed as farmers, and the same name and the same designation came to be applied to them also. As a matter of fact, we find ex-officials possessed of wealth and energy —'ámils, karoris, &c.,—also bankers and Court favourites, receiving the name of Zamíndár.

And such persons would, besides taking the name, also ape the dignities and importance of the older land-holders.

This class of Zamíndár would commence with neither the *prestige* nor with the *customary* incidents of tenure which generations had established in the case of the others. The old Rájá, for instance, was already well established in his right to take a share of the produce, besides having a more or less definite claim to all waste land, and certainly the unquestioned right of bringing it under cultivation, for which purpose he made grants or located his own 'tenants.' He had also tolls and dues of all kinds from traders and artisans, fees from woodcutters in the forest, and transit duties. His estate was, of course, hereditary, and probably, if it was that of a Rájá or greater chief, the custom of primogeniture was established. Opportunities for getting the best lands absolutely into his own hands were not wanting. As the public authority declined, his opportunities increased; no wonder that in time he grew to be a landlord, and that, in 1789, he was recognized as such. The later class of revenue-farmers was originally in no such favourable position: they had certainly no right to succeed by inheritance, nor could they make a grant of any land except their own. They held a *sanad*, which professed to convey no property in anything, but merely to fix duties

and require obedience and faithful service, and moreover they had to subscribe a recognizance for due observance, and a stipulation for the amount of revenue to be paid in, which was supposed to be the total rental, less a fixed allowance for the expense and risk of collection, usually one-tenth of the whole, with or without an allowance in money or land specially granted as 'nánkár' or subsistence.

It is quite certain that before the system of *farming* came into vogue, and Zamíndárs of this class were appointed, the village cultivators, where there were no chiefs over them, had a customary tenure, which was certainly, however decayed or weakened, a proprietary right, in their holdings. Therefore the Zamíndárs, when put over them, could not be proprietors in the sense of absolute owner, entitled to the *usus, abusus, fructus et vindicatio* of European law. Nevertheless, the 'Zamíndár' had some land to begin with; he soon bought up, took in mortgage, and otherwise made himself master of, other lands: he cultivated the waste with his own tenants, and it became his. And it is very likely that in these matters the lower order of men were more pushing and energetic than the old nobility; so that in the end, what with the growth of the modern estates, and the decay of the older ones,—for noble families die out, quarrel, break up, become bankrupt and lose their lands,—*all Zamíndárís came to be looked upon as one and the same*, and their ancient differences of origin ignored. In 1788 Mr. Shore said that most of the (then existing) considerable Zamíndárs might be traced to an origin within the last century and a half[1].

[1] The following passage is from Ghulám Husain, the historian (author of the *Sayyar-muta,dkhirin*, 'deeds of the moderns'). He was the son of a Názim or Governor of the Bihár province. He was one of those to whom questions were addressed regarding the history and status of Zamíndárs before the Permanent Settlement. 'Since the decline of the constitution in the reign of Farukhsíyar and the introduction of the farming system at the recommendation of Ratn Chand, when corruption pervaded every department of the State, the unprincipled *Zamíndárs*, by ingratiating themselves with the rulers for the time being, distressed the inferior zamíndárs (i. e. persons who had been recognized over smaller estates) by every possible mode, until they were reduced to the necessity of selling their *zamíndárís* to their oppressors, who thenceforward became . . . . the acknowledged proprietors of them.

§ 3. *Incidents of the Zamíndárí as it was understood after* 1713 *A.D.*

(A) *Hereditary Succession.*

The title, if it was that of a Rájá or other chief, who became Zamíndár, was *naturally* hereditary. Only the ruling power took care to keep the heirs in mind of their subordinate position, by exacting a fine or fee at each succession, as well as by renewing the *sanad* or grant. When Mr. James Grant says the office was not hereditary till after Nádir Sháh's time in 1739 A.D.[1], he is speaking of those revenue-farmers who had no natural connection with the soil, but got the official position.

One thing that helped the general recognition of the *hereditary* right, was the fact that many Zamíndárís were created for restoring cultivation or on condition of clearing the waste (jangalbúrí), and *these* were always recognized (from the first) as passing from father to son, because a single lifetime would hardly suffice to develop the estate; or, at all events, it would be most natural to continue it to the son, who would have local experience at the time when the estate was probably just beginning to be a settled and steadily-paying one[2].

(B) *The form of appointing Zamíndárs.*

To begin with, when the State affairs were still managed

Other Zamíndárs, having desolated their lands by mismanagement and dissipation, were obliged by the ruling power to dispose of them to more prudent and opulent Zamíndárs for the liquidation of their balances. The title of the purchasers of such lands was considered good and valid. Towards the close of the reign of Muhammad Sháh (Farukhsíyar's successor in 1719)... certain Zamíndárs by attaching themselves to these (certain State) officers acquired great influence, and either by force or under different pretences, unjustly possessed themselves of the estates of inferior (smaller) landholders, till at length becoming rich and powerful .... they declared themselves proprietors of the lands thus unfairly acquired.'

[1] *Fifth Report*, vol. ii. 156.

[2] The author of *Land Tenures by a Civilian* probably puts it correctly when he says (p. 72) that 'the *office of Zamíndár* could not be claimed as hereditary, though by long custom, and perhaps out of policy, the children of deceased contractors were very generally admitted as successors to their parents; they were not in all cases appointed, and sometimes were ousted.'

with some care and attention to detail, the Zamíndár who proposed to farm a considerable area, had to go through a somewhat formidable office-procedure. No doubt all this detail was not exacted from the 'Zamíndárs' of the old Hindu aristocracy, who simply accepted a *sanad* with a fixed sum entered in it. It was otherwise with the farmers, though even they, in time, ceased to receive the *sanad*, except in special cases, and then chiefly in case they sought it as a protection against rival claimants [1]. The original procedure was for the new Zamíndár to petition the provincial governor informing him that the office was vacant—let us suppose by death,—and adding that the petitioner desired favour as the heir or successor. The Governor would reply, in the case of a person of some consideration, by letters of condolence, &c. This prepared the way for the submission of the *'arzi*, or formal petition, offering to be responsible for the usual revenue total, together with any balance that might be outstanding. On receipt of this, the Government officer prepared a *fard sawál*—an abstract of the petition with necessary information as to figures, &c.,—and asked for the orders of his superior. On the orders being received, the proper officer made out an exact schedule of the villages or component parts of the estate, and of the assessment expected from each, the deductions allowed, and the balance payable to the treasury. This was the *fard-i-haqíqat* (or 'statement of the true facts')[2]. The expectant Zamíndár had then to give a sort of recognizance or 'muchalka,' a document [3] which acknowledged his responsibility for the revenue stated in abstract, and for the performance of the duty:—as Mr. Phillips puts it,—

'to observe a commendable character towards the body of the inhabitants at large, to endeavour to punish and expel the refractory, and to extirpate robbers; to conciliate and encourage the raiyats, and to promote the increase of cultiva-

[1] Harington, vol. iii. 337.

[2] It is an elaborate document in four columns, each filled up by the proper officer.

[3] Also called 'qabúliyat' or acceptance.

tion; . . . . to take care that travellers might pass in safety, and that no robbery or murder should be committed; and if any one should be robbed, he agreed to be responsible for producing the culprits with the property, or to make good the loss[1]; to repress drunkenness and all kinds of irregularity; to pay punctually the assessment, less the items of allowed deductions (mazkúrát); to transmit to the Government office the official papers required.'

Lastly, the Government office issued the 'sanad' (called also 'parwána') addressed to the Government officials in the limits of the Zamíndárí, and to the village accountants (patwárís), village headmen, who were called (in the Persian revenue language, but not, of course, by the people) 'muqaddam.' It recited the Zamíndár's duties, prohibited his levying *abwáb* or cesses without authority, and commanded the local officers and others to receive him as Zamíndár, and to take all pargana papers and accounts signed by him, as authentic[2].

It is quite obvious from the terms of such documents, that the holders of them, *as such*, were neither constituted soil-proprietors, nor treated therein, as in any such position. But then the executor of such a series of documents might have rights independently of them, and, what is of more importance, might in time easily *grow* into a new position. As a matter of fact, when we reflect on the emoluments and opportunities of the Zamíndár, his power of getting land by sale and mortgage, his 'right' of ousting obnoxious men, and by taking possession when an unfortunate owner absconded—perhaps to avoid exactions which had become intolerable, perhaps in his inability to pay his 'rent'—it is not difficult to perceive how the Zamíndár grew into his ultimate position. When this virtual ownership had gone on for several generations, and had become

[1] This is a very ancient custom in parts of India. In the Rájputána States it was common till quite of late years.

[2] Specimen sanads are given in Harington (Appendix 9 to Shore's Minute of April, 1788), and Phillips gives a translation of the sanad (of Muhammad Shah's reign) in A.D. 1735-6 granted to the Zamíndár of Rájsháhí.

consolidated, the fact of a formerly different *status* very naturally became little more than a shadowy memory. Our early legislators of 1793 could then hardly avoid calling the Zamíndár's right a proprietary one, and treating it accordingly; though, as I have already shown, they limited, or intended to limit, the right thus conferred, with a view to securing at least so much of the original right of the now subordinate village landowners as could still be established.

(C) *Power of Transfer.*

In one respect, however, the recognition accorded to the Zamíndár's right in 1793 was a material advance beyond what practice had hitherto sanctioned. Powerful as the Zamíndár became in managing the land, in grasping and in ousting, he had no power of alienating his estate; he could not raise money on it by mortgage, nor sell the whole or any part of it. This clearly appears from a proclamation issued on 1st August, 1786; the illegal practice 'of alienating revenue lands' is complained of; the 'gentlemen appointed to superintend' the various districts, are invited zealously to prevent the 'commission of this offence'; and the Zamíndár, chaudhari, taluqdár, or other landholder who disobeys is threatened with 'dispossession from his lands[1].'

But such a limitation was soon thought to be inconsistent with the 'proprietary right' which it was the policy of Government to secure and develop; and it was abandoned accordingly. Several of the Regulations allude to the power of alienation, as now for the first time conceded. (See, for example, Section 9 of Regulation I of 1793, quoted at p. 410.)

The right was unrestricted, provided only that transfers should not be inconsistent with the Hindu or Muhammadan law (whichever applied), or to any Regulation; that they should be registered before the Collector, so that the revenue liability might be known; and that the transferee would

[1] This proclamation will be found reprinted in Appendix F, p. 179, of Mr. Cotton's *Revenue History of Chittagong*.

be answerable for the revenue, or for a portion of the revenue, in case of sale of a part of the estate to which the revenue share was allotted on principles stated in the Regulation.

(D) *Emoluments of the Zamíndár.*

Originally the Zamíndár was bound to account for all he collected from the raiyats; these payments were not *his rents* but the revenue assessed by the State, and increased from time to time. He was to pay in all to the treasury, less a certain percentage and some cash allowances, which were carefully specified. But this strictness died out in time; for the very laxity of rule which induced the Governors to save themselves trouble by handing over the entire management to Zamíndárs, operated also to prevent any scrutiny into details. More and more, therefore, the Zamíndár got to be a mere contractor for a fixed sum, and able to make his own terms with the *raiyats*.

In the original accounts we find that the Zamíndár was allowed—

(1) His percentage called 'dastúr-zamíndárí';

(2) An allowance called nánkár (lit. bread of service): this was at first in cash (as a deduction); but afterwards *lands* called 'nánkár' were held revenue-free;

(3) The mazkúrát (or 'specific items'), being the charges of collection, such as headman's fees (muqaddamí), wages for servants and messengers (páíkán), expenses of office (daftar-band and sarinjámí), and a number of others;

(4) Fees (nímtakí—half a 'taká' (or *paisá* in the rupee) to the kánúngo;

(5) Charitable allowances, being remissions for 'aimá' and 'inám' holdings (plots left free to religious persons, teachers, village servants, &c.); qadam-rasúl, fees paid for preservation of 'footprints of the Prophet,' also (*khairát*) alms; and daily allowance to religious mendicants and others (rozína).

(E) *The Zamíndár's Private Lands.*

In many cases the Zamíndár had private lands called 'nij-jot' (the Hindí equivalent of the Persian 'khud-kásht,' and the same as the 'sír' of other parts)—i. e. lands of his family which he cultivated with his own labour or personal tenants. From these the State might or might not take revenue.

A large portion of the estates, in many districts, was waste, and the duty of the Zamíndár was to extend cultivation, not (originally) for his own profit, but with a view to revenue from additional fields profiting the Treasury. But when the Zamíndár's revenue came to be a lump sum fixed by bargain, it further resulted that all new cultivation was solely a benefit to him as contractor. Not only so, but as all the waste lands would be unoccupied and there would be no resident or ancient 'raiyats,' to claim any special terms, it followed that the land was cultivated by real contract-tenants, and of course was acknowledged to be the property of the Zamíndár under the name of 'khámár[1].'

A third kind of land which the Zamíndár came to hold was under the head of 'nánkár,' already mentioned. When this allowance was made up by granting certain lands free of revenue, the Zamíndár, very naturally, absorbed them as his own property[2].

This custom of 'nánkár' spread wide, and in the Northern

[1] 'Khámár' is an Uriya or Bengalí word meaning 'threshing-floor,' and indicates lands the produce of which is divided on the threshing-floor between the cultivator or the soil-owner. Naturally in new lands, where at first cultivation is precarious, liable to fail or to be destroyed by deer, pigs, and wild beasts from the neighbouring jungles, the terms of the tenancy are not a cash rent but a 'bháoli,' or division of produce. This saves the tenant from loss, as, if the crop fails, or is only a partial one, no demand, or only a limited one, can be made on him. The first mention of khámár lands that we have is in the *Instructions to Supervisors* (1769). The Revenue Committee remark that such lands have no natural tenants, and that the Zamíndár cultivates by contract, making advances to cultivators, and receiving back his advance with interest and a share in the produce (one-half to two-thirds). —(Colebrooke's *Supplement to the Digest*, pp. 182. 183.) At that date the Committee thought this was an encroachment, and desired that the waste when cultivated should be 'raiyatí' land—i. e. liable to pay to the State through the Zamíndár.

[2] Harington, iii. 320.

Sirkárs of Madras was found enjoyed under the local name of 'sávaram[1].'

§ 4. *Other Items.*

As the Zamíndár owned the waste in his estate, so he owned 'manorial rights,' such as fisheries, and produce from fruits or from grazing, and sale of jungle products. These were the 'sayer' items, already spoken of in another connection. The Zamíndár appears to have levied a small fee called 'parjot' (or in Persian 'muhtarfa'), on non-agricultural residents in the villages, exactly as the Panjáb village landlords do to this day. It may be likened to a kind of ground-rent for the house-site.

§ 5. *Málikána.*

This term so often occurs in Bengal (and indeed in all revenue literature) that I may take this opportunity to explain it.

The revenue responsibility being on the land, Government is entitled to exclude the proprietor who refuses what the authorities deem a reasonable assessment; but in such cases it grants a 'málikána,' or ex-proprietary allowance, to support the recusant during the period of his exclusion. This is not less than five nor more than ten per cent. on the revenue.

See Sec. 44, Reg. VIII of 1793; and Reg. VII of 1822, Sec. 5, cl. 2.

But the term málikána has also a wider application: it refers to any portion of the produce, or payment made in acknowledgment of a proprietary[2], or more commonly an ex-proprietary, right or title. It is well illustrated in Bihár; there the villages appear in many cases to have come under the landlord claims of men who were leaders

[1] A Telugu word obtained from the Persian 'Cháyar,' a certain measure of land.—(*Wilson.*)

[2] Thus the term is sometimes used to mean the portion of the total assets which, on a Settlement, Government leaves to the proprietor as his share or profit. It is also commonly used to signify the allowances paid to a person as having *some* claim, but not enough to entitle him to a Settlement. In this sense we often find it used in the North-Western Provinces and Oudh.

of troops and minor chiefs, or cadets of noble families, who so often, as we have already seen, established themselves as landlords over single villages and small estates. Small owners of this class cannot make terms with later conquerors, as large estate-holders can; and it came to pass that, under the Muhammadan rule, such petty landholders were displaced either by Muhammadan jagírdárs, who got grants over their heads, so to speak, or by other minor grantees (lákhirájdárs); further, under our own earlier revenue system[1], the country was farmed to outsiders, and in the end the new-comers had got so firmly fixed that the Permanent Settlement was made with them. But such is the force of custom, that the new grantees, and farmers, were always obliged to recognize the older ousted proprietors by making them a 'málikána' allowance. When our Government resumed a number of the lákhiráj estates and assessed them to revenue and settled with the present holders, the estate was often charged with paying the 'málikána' to the ousted proprietor.

§ 6. *Small Zamíndárís in Bihár.*

The mention of the small land-holdings of Bihár remind us that we must not suppose *all* Zamíndárs to have had *great* estates. The fact is that in Bihár, had it not been for the Bengal system, it would have been found that there were *village*-estates of *the landlord class* in a tolerable state of preservation. We have here actual tradition (see Chap. IV. page 123) how the Aryans advanced into Bihár; and there can be no doubt that the petty landlords of the Bábhan (the military or Kshatriya caste) alluded to by the older writers, were just the descendants of the chiefs and rulers who either originally, or by the breaking up of larger territorial rulerships, acquired the position of landlords over single villages or over small estates of two or three villages. In the course of time some of these small estate holders were superseded by 'jágír' grantees or farmers of revenue, as above stated, but many of them survived, and

[1] Mr. Shore's Minute of September, 1789, § 2.

the family chief or leading man among them, became the Zamíndár. (The system only admitted of *one* man bearing the title, unless several expressly agreed that they were co-sharers.) Some of these families, though they had dropped out of rank, and were not Zamíndárs in possession, were still so far recognized as to receive the málikána allowance as just now explained. Some of them, as we shall see presently, in the Sháhábád district, fell into the lower position of 'tenure-holders' (called guzáshta jot). But the case of Bihár is interesting as showing how, what in the North-West Provinces would have produced village landlord-communities, developed there into *small Zamíndárí* estates. The Monghyr district affords another instance of the existence of small estates caused by the subdivision of an original family grant or acquisition. I have alluded to it more particularly under the head of *taluqs* in the sequel, because the subdivision of the estate seems to have resulted in the formation of a number of taluqs, some of which paid their revenue direct to Government, and others through one of the larger estate-holders.

The rules by which 'taluqs' were separated from the Zamíndárís have been alluded to before: in Monghyr the result was that a number of small separate estates were recognized as petty Zamíndárís.

In Sylhet and Chittagong, the nature of the holdings of land was such, that, as we shall see, the 'Zamíndárs' in those districts were quite small landholders[1]. In Benares also, the 'Zamíndárs' actually settled with, were *village* bodies; for the Rájá, who would have been the great Zamíndár under other circumstances, had resigned his claims.

[1] Sylhet is treated of in another part of the book, because it is in Assam. Chittagong is separately described further on.

§ 7. *Authorities on the nature of the Zamíndár's Right.*

Mr. Harington's[1] definition (or rather description) of a Bengal Zamíndár is as follows:—

'A landholder of a peculiar description, not definable by any single term in our language—a receiver of the territorial revenue of the State from the *raiyats* and other under-tenants of land—allowed to succeed to his *Zamíndári* by inheritance, yet in general required to take out a renewal of his title from the sovereign or his representative on payment of a fine on investiture to the Emperor, and a *nazárana* or present to his provincial delegate—the Názím; permitted to transfer his *Zamíndári* by sale or gift[2], yet commonly expected to obtain previous special permission; privileged to be generally the annual contractor for the public revenue recoverable from his *Zamíndári*, yet set aside with a limited provision, in land or money, whenever it was the pleasure of Government to collect the rents by separate agency, or to assign them temporarily or permanently by the grant of a 'jágír,' or an 'altamghá'; authorized in Bengal (since the early part of the eighteenth century) to apportion to the *parganas*, villages, and lesser divisions of land within the *Zamíndári*, the *abwáb* or cesses imposed by the Súbadár (provincial governor) usually in some proportion to the standard assessment of the *Zamíndári* established by Todar Mal and others, yet subject to the discretionary interference of public authority, either to equalize the amount assessed on particular divisions, or to abolish what appeared oppressive to the *raiyat*; entitled to any contingent emoluments proceeding from his contract during the period of his agreement, yet bound by the terms of his tenure to deliver in a faithful account of his receipts[3]; responsible by the same terms for keeping the peace within his jurisdiction, but apparently allowed to apprehend only, and deliver over to a Musalmán magistrate for trial and punishment.'

[1] Dr. Field notices that Mr. Harington gave this opinion to Lord Cornwallis in 1789, and that he had seen no occasion to alter it twenty-eight years afterwards.

[2] This is more doubtful—see Phillips, p. 270. No doubt they assumed this power, but under the British rule this was at first disallowed, as stated at p. 513.

[3] This, of course, was not done in later times; or an account was rendered, framed just as was convenient for the interests of the Zamíndár.

§ 8. *Mr. Shore's Views.*

Mr. Shore speaks of Zamíndárs as proprietors of the soil, —to the property of which they succeed by right of inheritance; but he explains that a property in the soil must not be understood to convey the same rights in India as in England. We can only, under a despotic government, look to the general practice as acknowledging a sort of right[1].

In another place[2] he says expressly:—

'The relation of a Zamíndár to Government, and of a raiyat to the Zamíndár is neither that of a proprietor nor a vassal, but a compound of both. The former performs acts of authority in connection with proprietary right; the latter has rights without real property. . . . . Much time will, I fear, elapse before we can establish a system perfectly consistent in all its parts, and before we can reduce the compound relation of a Zamíndár to Government, and of a raiyat to a Zamíndár, to the simple principles of landlord and tenant.'

§ 9. *Lord Cornwallis's Views.*

Lord Cornwallis expressed himself satisfied with Mr. Shore's proofs that the Zamíndár, though not an absolute soil-owner, was yet entitled to be considered as a landlord and recognized with a secure title, and he added something that is important, as showing that the recognition of the Zamíndár was not founded on a mere abstract decision on historical evidence, but on a State policy of justice and the (supposed) welfare of the province. He says:—

'Although, however, I am not only of opinion that the Zamíndárs have the best right, but from being persuaded that nothing could be so ruinous to the public interest as that the land should be retained as the property of Government, I am also convinced that, failing the claims of right of the Zamíndárs, it would be necessary for the public good to grant a right of property in the soil to them or to persons of other descriptions. I think it unnecessary to enter into any discussion of the

[1] See Section 383 of the Minute of the 18th June, 1789 (*Fifth Report*).

[2] Minute of December, 1789.

grounds on which their right appears to be founded. *It is the most effectual mode for promoting the general improvement that I look upon as the important object* for our present consideration[1].'

§ 10. *Decision of the Court of Directors.*

With all these minutes and views before them, the Court of Directors came to a conclusion; and their final orders will naturally be regarded as of first-rate importance[2].

After stating that they had previously stated their views, but always felt that the materials were insufficient for a decisive opinion, the Court of Directors go on to say:—

'On the fullest consideration, we are inclined to think that, whatever doubts may exist with respect to their original character, whether as proprietors of land or collectors of revenue, or with respect to the changes which may in process of time have taken place in their situation, there can, at least, be little difference of opinion as to the actual condition of the Zamíndárs under the Mughal government. Custom generally gives them a certain species of hereditary occupancy, but the sovereign nowhere appears to have bound himself by any law or covenant not to deprive them of it; and the rents to be paid by them remained always to be fixed by his arbitrary will and pleasure, which were constantly exercised upon this object. If considered, therefore, as right of property, it was very imperfect, very precarious, having not at all, or but in a very small degree, those qualities that confer independence and value upon the landed property of Europe. Though such be our ultimate views of this question, our originating a system of fixed equitable taxation will sufficiently show that our intention has not been to act upon the high tone of Asiatic despotism. We are, on the contrary, for establishing real, permanent, valuable landed rights in our provinces, and for conferring such rights upon the Zamíndárs; but it is just that the nature of the concession should be known, and that our subjects should see they receive from the enlightened principles of a British Government what they never enjoyed under their own[3].'

[1] *Fifth Report*, vol. i. 591, quoted in Phillips, p. 276.

[2] General letter, dated 19th September, 1792, quoted by Dr. Field.

[3] Those who wish for further details will do well to consult the

§ 11. *Reasons for the difference of opinion as to the Real Status of the Zamíndár.*

It will thus be easy to see how, by singling out and fixing the attention on certain undoubted features of the farming system, we can argue (and that conclusively) that the 'Zamíndár' was originally only a revenue-farmer and an official. On the other hand, by doing the same in respect of other features, especially in the history of those Zamíndárs who were local chiefs and had been rulers under a previous organization, but who were employed in a sort of official capacity by the Mughal conquerors, we can, with equal justice, argue that the Zamíndár was nearer a *landlord* (in our sense) than anything else. Had the Settlement been made by Mr. Holt Mackenzie in 1822, instead of under Mr. Shore in 1789, it is probable that the *variety* of status would have found recognition. Some Zamíndárs of the old stock would certainly have been allowed as proprietors, and the villages protected by a sub-settlement; others would have been merely allowed a cash málikána. But, perhaps, in so saying, I am not allowing sufficiently for the fusing and equalizing influence of time; and that really all had come to be very much alike. However that may be, certainly no one in 1790 dreamt of making any difference. To find a general rule for all, was what was contemplated; and this leads me to repeat that what our administrators of 1790 had to do, was not to determine a historical and accurate theory of the Zamíndár's position, but to take facts as they found them after a century and a half of growth and development, and to confer on the Zamíndárs such a position as was best, not with reference to what they *once were*, but with what they had then practically become, when the prescription of years, I might say of generations, had covered original acts of illegality or usurpation.

opinions of the Judges declared in 1865 in the case known as the Great Rent Case (*Beng. Law Reports*, supplementary vol. 204). A good abstract will be found in Phillips, p. 312 seq.

It is very easy to write that the authors of the Permanent Settlement, with a few strokes of the pen, converted Muhammadan tax-gatherers into landed proprietors, and phrases of that sort; but they are far too summary to be accurate or just.

Moreover, from the authoritative declarations which I have above cited, it must certainly appear that no one intended to make the Zamíndár an absolute owner of anything, but to give him a certain *estate in land* (which is juristically a different thing), and that limited by a due observance of the rights of subordinate holders and cultivators. If, in effect, he got more than was intended, that was because the steps taken to secure the inferior rights were ineffective; it was not because the authorities were wrong in the view they took of the Zamíndár's position.

§ 12. *Modern legal view of the Zamíndár's Title.*

The actual right of the landlord, as it now exists, is an estate in the soil certainly less than a 'fee-simple' of English law, but freely heritable and alienable and available for mortgage, sale, gift, or bequest. It is, however, limited by the rights of tenure-holders and *raiyats* (i. e. tenants), when they possess such under the Tenancy Law, or other special law applicable to the case. And, of course, it is limited (like all other rights in revenue-paying lands) by the Government right to its revenue and the right of sale in case of default to make good, at due date, the full amount of that revenue[1]. The original intention most probably was to limit the landlord's demands on the raiyats much more than the later laws limited them. But there is no clear decision traceable as to whether all 'raiyats' (or any but a small class) were intended to

[1] Mr. Justice Macpherson put it well when he said in the Rent Case (p. 214), 'As regards the legislation from 1793 to Act X of 1859, it, in my opinion, shows clearly that the Zamíndár never was, and was never intended to be, the absolute proprietor of the soil . . . . for certain classes of *raiyats* have at all times had rights quite inconsistent with [his] absolute ownership.'

remain on for ever at fixed rents, or whether their rents could be raised from time to time. Sometimes we meet with expressions that imply the former or something like it; at other times with expressions that imply that rents (or some rents) may be altered and tenants evicted. And the legal powers actually put into the hands of the proprietors were such as to enable them in practice both to enhance and to evict; it soon came to be looked on as a matter of course, that in most cases, they had the full powers of an English landlord. Then came the revulsion of feeling which led to the legislation of 1859, and ultimately to that of 1885; but meanwhile the prescriptive position which had been growing steadily during seventy years, was so strong, that opinions were much divided, and the difficulty of legislating completely on the subject became enormous.

Section III.—Other Proprietary Tenures.

I have mentioned that revenue-managing grants were not always of the rank or extent implied by the title Zamíndár. Such minor landholders were allowed (by *sanad* or otherwise) an undefined position of the same kind but of lesser importance, and were called taluqdárs—holders of taluqs, i.e. 'dependencies.' Degrees of importance were marked by the fact that some were allowed to pay *direct* to the Treasury, while others were made to pay *through* a Zamíndár.

§ 1. *Taluqdárs.—Holders of 'Taluq Estates.'*

Who were the persons so recognized? Some no doubt were persons who by ancient possession, or grant of the Rájás, or by purchase, had become landholders in some sense, and being recognized by the Muhammadan governors, got vaguely entitled 'taluqdárs.' Mr. Grant mentions that such taluqdárs existed by royal grant in Bengal near

Murshidábád and Húghlí, and that they were rich or favoured persons who, desiring to be free from the interference of revenue-agents and Zamíndárs, obtained grants for which they often paid a consideration or fee.

A number of such taluqdárs may have existed before the date of the Zamíndárí, others arose as fragments of a larger estate of which the holders managed to get themselves recognized as separate landholders[1]. In that case they were 'independent,'—that is, outside the Zamíndárí estate of any one,—and were called 'huzúri' or 'khárija': (huzúri, i. e. paying to the huzúr or headquarter treasury; 'khárij' means outside)[2]. But many of the smaller taluqs were either holdings which were not strong enough to prevent their being absorbed into Zamíndárís, or else had been tenures granted on favourable terms to conciliate influential persons,—or merely to save trouble, by the Zamíndár himself or some State official. These were called 'mazkúri,' or 'dependent' taluqs. They paid their fixed revenue through the Zamíndár, and were not liable to many of the interferences which mere tenants were subjected to. It was a question of the facts and merits of each case at Settlement, what taluqs were of one class or the other. If independent, they were allowed to hold a separate Settlement and were full proprietors; if dependent, they became 'tenures' under the landlord, however privileged in regard to fixity of holding or rent. I have already alluded to the rules in Regulation VIII of 1793 (page 411-13) for settling the question whether the taluq was a proprietorship or an under-tenure. Independent holdings were not always large

[1] E.g in the 24-Pergunnahs I find it noticed that the estates had been much broken up and portions separated or sold, or gifted. When the decennial Settlement came on, all estates that paid R. 5,000 revenue and more were called 'Zamíndárís,' and those paying less were called 'taluqs.' (*Statistical Account of Bengal*, vol. i. p. 262.)

[2] A good instance of the way in which estates might become 'independent' is afforded by the case of the 'nawára' estate in Jasúr (*Statistical Account*, vol. ii. p. 262). This consisted of some 1176 holdings of land (scattered over the district) treated as a sort of jágir in the Mughal days, their revenue being set apart for the maintenance of a river fleet. They were not of course included in any Zamíndárí; the holders fell into arrears and were sold up, and the purchasers became 'independent taluqdárs,' or petty proprietors holding the Settlement.

ones. Mr. Harington quotes a case in Bhágalpur where the headmen of villages—'muqaddams,' as they were called—had succeeded in working themselves into the position of proprietorship, and the Courts decided in their favour, separating them from the Zamíndárís. They were called 'málik-muqaddam' (proprietary-headman) and treated as 'actual proprietors' entitled to Settlement under Sections 4 and 5 of Regulation VIII of 1793. Here the muqaddams put forward 'bills of sale' to account for their rights, while the other side was a Zamíndár who had risen to this rank from being the 'chaudharí' of the parganas[1].

It was not always necessary that an estate which happened to be called 'taluq' in the Revenue-language of the day, should be held under a distinct grant. In the *Fifth Report*[2] a curious account of the Monghyr district is given, which well illustrates how taluqs might come into existence. Tradition asserted that on the Emperor Humáyun appearing at Monghyr (at the time of the Mughal conquest) two Rájputs, Hirá Rám and Rám Rái, obtained the appointment of chaudharí; and they ultimately became Zamíndárs. But the possession was regarded as a family right, and was divided up, exactly on the principles that any single ancestral village would be. 'Havelí Munger,' as the district was then called, was divided into eleven 'tarf' or divisions, for five sons of Hirá Rám, and six of Rám Rái. Of the latter, two had passed out of the family. Each of the 'tarfs' was further divided among the descendants of each branch, and the holdings formed so many *taluq* estates. Some of them gradually passed into the hands of other families. A

[1] It is probable that these 'muqaddams' were really minor chiefs or scions of families who had once either ruled or had obtained 'birta' or grants from the Rájá, and then, dividing up the estate, had come to hold each one or two or more villages of which they long regarded themselves as the landlords. The judgment of the Court quotes Ferishta's history, which alludes to these 'muqaddams' as well as the 'chaudharis' or State officers, as having ridden on horseback clad in armour or clothed in rich dresses, till the tyranny of Sultan 'Alá-ud-dín (fourteenth century) reduced them to being mere raiyats.'

[2] Vol. i. pp. 211–14. The account is full of misprints, but is very curious; it is followed by an account of the assessment and the various allowances to be made.

number of these taluqs, proprietary, were formed into separate estates as small 'Zamíndárís.'

Under the head of taluq estates I may also mention the 'invalid jágírs' found in this same Bhágulpur district (see Regulation I of 1804). They were grants—now permanently-settled estates—made out of waste land to pensioned or invalided soldiers of the Company's army. It is interesting to note that at the time the 'Zamíndárs' protested. Whether or not these lands (in the Kálgáoń or Colgong pargana) were really included in the known limits of any Zamíndárí I cannot ascertain; but, on the supposition that the Zamíndár was a mere revenue collector, his protest against the grant of certain lands and their revenue (and of course the revenue would be deducted from any demand made against the Zamíndár) would be preposterous.

In Chittagong, as in Sylhet also, the nature of the country was unfavourable to the formation of large estates which absorbed all the essentials of proprietorship; and there we find that the heads of parties of settlers were regarded as 'actual proprietors' though the estates were 'taluqs.' But I shall best describe the land system of Chittagong in a separate section.

The above are the estates—all known as *taluqs*—such as were allowed to be *proprietary*, and therefore mentioned here. Taluqs that were 'dependent,' and only formed '*tenures*,' will be dealt with further on: and it will be found (in their case) the *taluq* is only one of quite a number of local names.

This will serve as a caution, and prevent confusion in the mind of the reader.

Section IV.—Lákhiráj or Revenue-free Holdings.

We have already noticed, from the Settlement-point of view, how the Collectors had to deal with tenures claimed by persons who were, or professed to be, grantees of land free of revenue; and we found that many of such grants were irregular or were wholly invalid. We have now to

examine them from the land-tenure point of view. In early times the grants could only be made by the Emperor, or by recommendation of a few of the most important local authorities; in after-days all sorts of authorities used to make them. In speaking of the Settlement, we have already seen how the Regulations dealt with these cases; and that rules were laid down for testing the validity of the royal (bádsháhí) and subordinate authorities (non-bádsháhí or hukámí) grants. Whether valid and left revenue-free, or invalid and therefore assessed to revenue, *the holders were regarded as the proprietors of the land, if that were the intention of the grant*, as determined, in the case of dispute, by the Civil Court. Whether it was so, depended on the circumstances. For example, the grant may have remitted the revenue on a man's own holding, or on land (unoccupied) granted to the holder; in that case, the grant was originally called 'milk' (ownership grant), or later 'mu'áfí,' and constituted a clear form of property, because the Government had then *no* concern with the land, either with the soil or the revenue on it. But in many cases, as with jágírs, it often happened that the grant was merely of the revenues realisable from lands already held by other persons; but even in such cases, in the course of time, the grantee might have so developed his position as to become virtually landlord. A great portion of the estate may have been waste, and by his exertions brought under the plough; he may have bought lands, or ousted the original holders for default, and so forth.

As a matter of fact, I believe I am right in saying, that in Bengal the 'freehold' estates were, *or had come to be*, all or mostly, proprietary, whatever they might once have been. The grantee would become landlord by the same influences as caused the growth of the Zamíndár.

§ 1. *Jágírdárs.*

The institution of the jágír (jái-gír=place-holder) was essentially a Muhammadan one, but was not dissimilar to

the position occupied by Hindu chiefs in frontier territory. In effect, when a tract of country was distant from head-quarters and troublesome to manage, the State would appoint a jágírdár, who would collect and appropriate the revenues, and in return keep the country in order and maintain a body of troops for local or other service. From the *Ayín-i-Akbari* we learn that it was a regular part of the Mughal system to make life-grants of this kind to nobles and courtiers for the maintenance of their state, with a more or less nominal claim to service in return.

In Bengal, however, jágírs were rare. Mr. Grant, in 1797, said he only knew of three or four. But the old proprietary Hindu chieftains were stronger in Bihár, and many jágírs were there granted, besides other revenue-free gifts.

The jágír was originally only a *life-grant*[1]. Hereditary nobles did not exist under the Mughal Empire; the Emperor made and unmade dignities at will. When he wished to confer a dignity, he appointed the person as *mansabdár* of a certain rank, which was estimated according to the number of horsemen he commanded; the jágír was an appanage to the grant of a *mansab*, and the revenue was appropriated both for the support of the grantee and the maintenance of his troops, which might be from ten to ten thousand. At first the official forms of appointment were minute and carefully followed out. Mr. Shore gives a very detailed account of how the jágírs were granted[2]. This will be found *in extenso* in Harington (chapter on Rights of Landholders). I have said that at first jágírs were granted only by the Emperor or on recommendation of the governors of the most important of the distant provinces, as Kábul, Bengal, and the Dakhan. In the times of the decline, however, all sorts of local governors granted them[3]. Clearly, under such grants, the jágírdár was not in any

[1] Harington, vol. iii. 361, 413. Baillie's *Land-Tax*, xxiv, xxv.

[2] Minute on *Rights and Privileges of Jágírdárs* (April 2nd, 1788, the same date as the minute so often referred to). In the best days of the Mughal rule, the whole of the districts were classified, in the State accounts, as (1) available for grant (páibákí), or (2) charged with the king's revenues (khálsa muqarrarí).

[3] Jágírs were often granted in mere notes addressed to the local officials called 'tankhwá.'

sense proprietor of the land. Indeed, he was not allowed to collect more from it than the actual amount assigned according to his grade and the terms of the *sanad*; and had to account for all the surplus or 'taufír.' In course of time, however, the precautions and rules fell into abeyance, and the jágírdár was allowed to do much as he pleased; and then too it happened that the grant was not resumed on the death of the holder, as it ought to have been, and soon became hereditary. In short, the grantee in time came to be looked on as proprietor, unless there was any holder on the land strong enough to maintain his own position. The Regulations accordingly declared that the terms of the grant should be looked to, and that a jágír was not to be assumed to be a life-grant if the intention appeared that it should be hereditary[1].

§ 2. *Other Grants.—Altamghá; aimá; Madad-ma'ásh.*

Besides the jágír grants, which were eventually connected with *military or State service of some kind*, there were several other grants which involved the remission of the revenue, and in time came to constitute actual estates in land. One such revenue-free grant, or rather an assignment of the revenue of cultivated land, was called altamghá—grant by the royal seal or stamp (tamghá). The term was applied to *any* grant which was permanent and not revocable (except in case of misconduct[2]), and therefore hereditary. The grant of the 'Díwání' to the East India Company was called an 'altamghá';[3] where granted (as in Bihár) on estates already in the hands of a landholder, the grantee ousted the existing landlord, but felt obliged to pay him 'málikána.' This illustrates what I just now remarked about the growth of grantees.

Another was the 'madad-ma'ásh'—which was a 'milk' grant (i.e. included the soil ownership). As its name implies (help to livelihood), it was a subsistence grant, perhaps

[1] See, for example, Section 2, Regulation XIX, 1793.

[2] Colebrooke's *Supplement*, p. 238.

[3] Phillips, p. 199.

on condition of some service, but ordinarily to pious and religious persons; and it was hereditary. Mr. Phillips, on the authorities quoted in his note[1], says the grant was in practice revocable at the will of the sovereign.

It was always a proper thing to make grants to Sayyids and holy or learned men of family; and the class of grant made for this purpose was, in the official language of the Empire, called 'suyúr-ghal.' These grants were assignments of revenue only, not conditional on service, and were originally for life[2]. They were made by order or 'tankhwá,' and very naturally became hereditary, as the son was likely to follow the condition and vocation of his father. To the same class belonged another kind of grant known as 'aimá.' But it seems that there were 'aimá' grants which included the land also, and then there were 'milk,' not 'suyúr-ghal' grants. We hear also of 'aimá' grants given with a view to encourage the cultivation of the waste, and these were proprietary grants. They were sometimes merely holdings at a low or privileged rate of revenue payment, and were then called 'málguzárí aimá[3].'

§ 3. *Minor Service Tenures.*

I may include in this section some mention of a numerous class of tenures which here (as in other provinces) were either wholly free from revenue charge, or else assessed at a quit-rent. I allude to the 'chákarán' lands, by which village servants, the watchmen, the Zamíndár's guards, and others, were remunerated. A number of these were petty grants, and became subordinate *tenures* under the landlord, but it will be well to notice them here. They are all conditional on performing service. The nánkár or 'bread-lands' of the Zamíndárs were originally of this kind. Mr. Phillips says that there were 150,000 petty officers of all kinds—kánúngos, headmen, patwárís, guards and watchmen, &c., remunerated in this way[4]. In some cases the lands, though

[1] P. 197.
[2] Baillie, *Land-Tax*, xlviii.
[3] Harington, ii. 65.
[4] See Phillips, p. 208.

hereditary, were not allowed to be divided; so that the person who actually did the duty, enjoyed the holding.

Ghátwál lands were holdings of this kind—an institution which originated probably in the earliest times and was adopted by all classes of rulers. They were in fact a kind of jágír created in frontier territories, so that the holders might be 'wardens of the marches.' In such territories there often were hill-passes (hence the name *ghát-wál*), and incursions were to be feared from wild tribes inhabiting the hill country beyond, or from robbers who would make the inaccessible jungles their haunt. The State granted lands to be held free on condition of guarding the passes. In Bengal these holdings appear to have originated in Bírbhúm. They occur also in Bánkura, Mánbhúm, &c.[1], and we shall make a more detailed study of them hereafter.

Section V.—Proprietary Tenures of Modern Origin.

§ 1. *Waste Land Estates.*

I have already given the chief results of the 'Waste Land Rules,' and therefore here, in an enumeration of tenures, I have only need to recall the fact that out-and-out grants, whether with the revenue redeemed or not, may constitute a class of *modern proprietary* tenures. Many rights under Waste Land Rules, especially those designed for petty cultivators, as opposed to capitalists, are not proprietary but cultivating or *lessees'* rights under Government.

§ 2. *Proprietary Tenures with reference to the Settlement.*

Connecting the various forms of proprietary rights in land with the different Settlement laws, I may briefly

[1] And Regulation XXIX of 1814 relates to the Birbhúm 'Ghátwál Maháls,' declaring the estates transferable and heritable, and fixing the rent in perpetuity.

observe that *any proprietary* estate may be, according to circumstances—

(1) Permanently settled;

(2) Temporarily settled, as in Orissa; or in Bengal, wherever the original estate permanently-settled did not include the land in question, as in the case of excess waste.

(3) Not settled, by reason of the proprietor's refusal to accept the terms of Settlement: here the property is not lost, but the management is, for a term.

SECTION VI.—'TENURES.'

§ 1. *How they arose.*

I have already explained that the long-continued rule of the Muhammadan power tended gradually to overlay and ultimately to obliterate the original tenures, with the result that, in process of time, the chief proprietary tenures came to be those of the Zamíndár, the larger taluqdárs, jágírdárs, and grantees, who, under the terms of the Permanent Settlement Law, retained sufficient importance to be called and treated as, separate 'actual proprietors.' It follows almost necessarily, that there were a number of smaller tenures,—those of headmen who had obtained favourable tenures of lands, of ancient holders of land, of grantees who failed to resist the absorbing influence of the greater landholders, but who managed to retain a certain degree of recognition as 'dependent taluqdárs,' or otherwise,—all of whom became *tenure*-holders or subordinate holders *under* the recognized landlord. I have also quoted authoritative opinion to show (what might be expected) that when once those subordinate holders descend to the position of tenure-holders, it is impossible to draw any hard-and-fast line between them and the persons who have no pretension at all to proprietary right, and are therefore simply 'tenants.'

But every case stands on its own history and merits, and

therefore there are special provisions of law by which persons having certain facts found in their favour, are 'tenure-holders,' not tenants.

§ 2. *Classification of 'Tenures.'*

A very large class of land interests in Bengal is represented by the 'tenures' of this secondary order. For the purposes of treatment I can best classify them as (A) taluqs and other tenures of a heritable and transferable character, with or without absolute fixity of rent; these being of small area, or otherwise by their nature, were not recognized as separate, but remained 'dependent' or subordinate to some larger proprietor. It is impossible to separate these accurately, as to origin. Some of them may have been distinctly created by the Zamíndár since Settlement; others existed from before that date. If so, they are often *relics of former proprietary right*. Even when traceable to a grant of some preceding Zamíndár, they yet may be really due to an ancient proprietorship, which the strong fetters of custom had induced the Zamíndár to recognize (not *eo nomine* but) by granting a 'taluq.'

(B) In a second group I place tenures which arise from the desire of the Zamíndár *to improve his estate* by extending his income—the large margin between the taxed revenue and the possible rental,—and at the same time to divest himself of the trouble and responsibility of direct management. But such farming-tenures are not only due to the desire to save trouble, they are often advantageous when the landlord has no taste or capacity for estate management, and the employment of an energetic lessee will develop the capabilities of the estate.

When the farming-lessee manages well, he secures extended cultivation, founds new villages, and otherwise increases the rental (very harshly, it is feared, in some cases); and that being so, the margin between his contract sum with the Zamíndár and the collections becomes so large, that he can afford, as time goes on, to retire and to be con-

tent with a portion; he therefore, in his turn, gives up the trouble of management, and subleases to another contractor. More frequently, however, when there is much waste, the lessee is unable to bring the whole under cultivation, and so he sub-farms a portion with a view to more rapid extension of cultivation. In any case it often happens that the sub-lessee shares his liability with another, and yet another 'sub-sub-lessee.' This is what is meant by the 'sub-infeudation' spoken of in revenue reports.

(C) A third and important class of tenures has arisen—especially in Eastern Bengal and in the districts containing 'Sundarban' tracts—out of grants and contracts (sometimes antecedent to the year 1793), for *clearing and reclaiming the waste.* In the native mind, first clearing of the waste gives one of the strongest titles to permanent right in the cultivation, and it is not surprising that this sentiment should have given rise to many tenures, with (as usual) tenures under them created by 'sub-infeudation.'

(D) Lastly, as we find 'lákhiráj' (*revenue-free*) rights giving rise to estates of the first or proprietary order, so in the same way less important *rent-free* holdings, though remaining included within proprietary estates, have become 'tenures' of essentially the same origin. Village service grants, and especially grants in aid of temple-worship and for the support of holy men, represent this familiar class.

§ 3. *Absence of the Sub-proprietor or 'Proprietor of the holding' found in other Provinces.*

It will be noticed that in Bengal we have nothing of the '(sub- or) under-proprietor,' the man who is complete owner as far as his personal holding is concerned, but has no interest in the general profits of the estate. There is nothing like the 'málik-maqbúza' of Upper or Central India, in theory; though where a tenure-holder has a fixed rent, his position is, *quâ* his holding, about as good as a separate proprietorship; especially when, by registration or

otherwise, his tenure is protected from being annulled on the sale of the superior estate for revenue arrears.

§ 4. *Difficulty of separating 'Tenures.'*

The terms adopted are 'tenure-holder' (or sometimes in books) under-tenure-holder.' It will be interesting to the student here to turn to the Acts and compare the definition of 'tenure' in the Recovery of Arrears Act (B. VII of 1868), and in Section 5, clause 1, of the Tenancy Act, 1885. But here I must add a word of apology. In dividing rights into *tenures* and *raiyat's tenancies*, it is hardly possible to escape the criticism that some rights which I have treated as tenures, ought to be regarded rather as occupancy-tenancies. I believe that absolute accuracy in drawing a line between the two is unattainable. The framers of the Act have not pretended that their definition is exhaustive. The Commission said that it was impossible 'to discover any principle of distinction between raiyats and tenure-holders or under-tenure-holders, which will hold good universally or even in a large majority of cases[1].' Actual cultivation is not a test, for a tenure-holder (like a small proprietor) may cultivate the fields himself, while a 'tenant' may have sublet the whole holding. The same would apply to the act of 'receiving rents'—the tenure-holder may be receiving rent from a sub-lessee in actual occupation. So some tenant rights are *heritable*, as much as in a *tenure*. Some tenant rights are also transferable, and saleable in execution of a decree for arrears. It is equally impossible to refer to the amount of rent payable, for some tenures are extremely petty, and some *raiyat* holdings pay considerable sums. The Act, however, has given some assistance by enacting that local custom and the purpose for which the right was originally acquired, have to be looked to, and that where the holding exceeds 100 bighás (Bengal standard), the legal presumption is that it is a *tenure* till the contrary is shown.

Act VIII of 1885, sec. 5, cl. 4, 5.

[1] The whole passage may be read at page 23 of *R. and F. Tenancy Act.*

In these pages I shall follow the Act in treating all persons under the proprietor as equally 'tenants' *in class*. But, to avoid confusion, we describe separately the 'tenure-holders' and the raiyats [1]. The distinction is of some importance, because tenure-holders are only liable to *enhancement of their rent* under very limited circumstances, which will be noticed hereafter. The tenure may be also permanent by law or by contract (as the case may be), and if permanent it is transferable and can be bequeathed like any other immoveable property, subject to certain provisions of the law.

§ 5. *Remarks on the variety of local names for Tenures of the same kind.*

One other difficulty remains to be noted, and that is the tendency to give different names to tenures and forms of lease, although there is really nothing *essentially different*. In so far as the variety is due to locality and change of dialect, it is of course not to be wondered at. What is called 'jot' in Rangpur may be called 'gánthí' in Jessore, and so forth. But it will often be observed that in an elementary stage of civilization, languages are as rich in terms distinguishing things that need no such discrimination, as they are poor in terms for things and for conceptions that really do differ. In English, for example, we are contented with one word 'bracelet' for all ornaments of that class; or one word 'earring' for any ornament for the ear. Not so in the vernacular dialects; there are dozens of words for each kind and shape of bracelet or earring;—the pattern of ornamentation, or the number of stones set, often sufficing to alter the name of the article. And so it

[1] In a case reported in *Calcutta Law Reports*, IX. 449, the Court said: 'The only test of a raiyat's interest is to see in what condition the land was when the tenancy was created. If raiyats were already in possession of the land, and the interest created was a right, not to the actual physical possession of the land, but to collect the rents from the raiyats, the interest is not *raiyati* (in other words it is a 'tenure'). It is unfortunate that the use of the words 'tenure,' 'a tenure,' &c., is not uniform or precise in judgments and references. There is no remedy: all we can do here is to adopt the language of the Act and adhere to it.

is with tenures: a slight difference in the conditions of holding, in the rate or method of rent-payment, or in the fact that the area is measured or not, will give rise to a new name, as if the tenure itself were different. This gives at first sight an air of mystery and complexity to Bengal 'tenures' which they do not really possess[1].

(A) *TENURES DERIVED FROM ANCIENT RIGHTS.*

§ 6. *Dependent Taluqs.*

As all the estates separated at the Permanent Settlement from Zamíndáris and *originally* called taluqs (huzúri or khárija[2]) are now landlord estates, the term 'taluq' *at the present day* is a restricted term, very vague, but always implying a subordinate *tenure*. In popular language, such a 'taluqdár' is said to be 'shikmí' (shikm, the belly—one within the other).

The tenure may be under a private proprietor, or, as in the taluqs of Eastern Bengal, may be under Government itself as proprietor.

Those dependant taluqs which have been in existence from the time of the Permanent Settlement, are not liable to be cancelled if the estate to which they are subordinate is sold for the recovery of arrears of revenue. They are heritable and transferable. The rent at which they are held cannot be enhanced except upon proof[3] (1) of a special right by custom to enhance, or (2) of a right appearing from the conditions of the grant, or (3) that the taluqdár, by accepting abatements, has (impliedly) subjected himself to increase;—if the lands are capable of affording it. If the rent has never been changed since the Permanent Settlement, it cannot now be enhanced; and in order to relieve

[1] For example, in Tipperah I find about sixty names for tenures or under-tenures in proprietary estates; one of these kinds—the taluq—is distinguished as 'mushakhsi' (lump-rent for the whole), 'takhsisi' (particularizing rents), 'chauhaddi,' 'muqarrari,' 'qáimi,' &c.—all these words signifying, not any real difference of kind, but some incidental condition or feature attaching to the terms of the tenure.

[2] See pp. 411–13.

[3] See *Tenancy Act*, 1885, chapter iii.

the tenure-holder to some extent from the difficulty of giving proof extending over a period of so many years, the law provides that if it be proved that the rent has not been changed for *twenty years*, it shall be presumed, until the contrary be shown, that the tenure has been held at the same rent since the Permanent Settlement.

§ 7. *Guzáshta holdings.*

Among taluqs which represent a vestige of old proprietary right, I mentioned as a characteristic example, those known as 'guzáshta jot' in the Sháhábád district. It is not necessary now to allude to the difference of opinion that once existed, for there can hardly be a reasonable doubt that the term 'guzáshta,' which (in Persian) indicates something 'lost' or 'passed away,' refers to a proprietary right once held. Most of Bihár, as already stated, was held by small proprietors, who were descendants of military retainers and minor chiefs under the old Hindu kings; in many cases one of the family (or perhaps more than one jointly) succeeded in getting recognized at the Permanent Settlement; or else were found to have lost all their rights, except the málikána payment [1]. In Sháhábád, landlords of this class were found too strong to be put aside with a mere málikána allowance, and yet (from causes which we cannot now ascertain) were not considered entitled to an independent Settlement. They were placed *under* the great Zamíndár of Dúmráon, but so as to become tenure-holders at fixed rates; and this is now their true position: they are not mere occupancy raiyats [2]. It is quite clear that their position has nothing to do with any artificial rule under Act X of 1859, or any other law creating *occupancy* rights.

[1] In this fact the reader will recognize another proof of the strength of those old claims by virtue of conquest, which the descendants of the chiefs call 'birthright.' Though overridden, the incoming landlord is obliged to give *some* recognition to the ancient title, and he pays *málikána* accordingly.

[2] Cotton's *Memorandum on Tenures*, and Board's *Letter to Government of Bengal*, No. 1024 A, dated 22nd December, 1883.

§ 8. *Fixed-rent Tenures.*

Under this class I may consider the 'istimrárí,' the 'muqarrarí,' and 'maurúsí' tenures existing from before the Permanent Settlement. These Persian names have been noticed before: they give no clue to origin, and only describe certain incidental features; but it may be reasonably supposed that they originated in some closer and hereditary connection with the land, either independent of any contract with the Zamíndár, or such as to have won recognition in the shape of a special lease or tenure from the local authorities.

Properly speaking, 'istimrárí' refers to the stable or perpetual nature of the tenure, which is not voidable when the estate is sold for arrears. 'Muqarrarí' refers to the *rent* being 'fixed'; and a tenure might be either *istimrárí* or *muqarrarí*, or, more commonly, both. 'Maurúsí' merely means that the tenure is hereditary, and implies nothing about the fixity of rent. 'Mirás[1]' leases (mirás is only another grammatical form from the same root as *maurúsí*) are also found in Dacca and Eastern Bengal.

When such tenures are of modern creation, they are sometimes found to have been created in favour of relatives of the landlord's family, or to settle old claims by way of compromise[2].

In Rangpur and the adjacent Kúch Bihár territory, a tenure of this class called 'upanchaki' is found; it is a perpetual holding for religious services at a small rent.

The 'upanchaki' tenure of Rangpur is said to be the creation of the Zamíndár, and is the collective name for lands granted for the worship of deities, the keeping of lamps at shrines, &c., &c., under the well-known names of debottar, pírpál, chirágh, shibottár (see p. 542). They pay

[1] We shall again notice the term 'mirás' in Sylhet, and in other parts of Bengal.

[2] Mr. Cotton mentions that Rájá Silanand Singh, of Bhágalpur, granted a number of muqarrarí-istimrárí tenures to ghátwáls (p. 532) under him, in order to settle a dispute; and he revoked the condition of service, which of course attached to the *ghátwál* tenure as such.