A MANUAL

OF

HE LAND REVENUE SYSTEMS AND LAND TENURES

OF

BRITISH INDIA.

(PRIMARILY INTENDED AS A TEXT-BOOK FOR THE USE OF OFFICERS OF THE FOREST SERVICE.)

BY

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OF THE BENGAL CIVIL SERVICE.

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NOTE.

VERNACULAR terms (including the names of places) are represented, wherever possible, by simple *transliteration*, except in cases where the term has become practically Anglicised.

Transliteration gives the student an immediate clue to the actual vernacular term, and that is the really important thing. The pronunciation will usually be known to him. Where this is not the case, I may briefly indicate that all accented vowels, á, í, ú, are pronounced in the continental fashion (as *lago, vino, puro*, in Italian); "e" is always as 'ay' in *day*; "y" is always a consonant; "o" is always long as in "depôt" (never short as in "potter").

As for the unaccented vowels,—

'a' is always as 'a' in *organ*.
'i' ——————— 'i' in *pit*.
'u' ——————— 'u' in *pull*.

As a rule, typographical difficulties prevented my using diacritical points to distinguish the consonants; I have, however, indicated the ع by an apostrophe (as in 'arzi), and the ج is distinguished from the ك by use of the letter *q* alone.

This is of course only a rough account of the matter, but it will save an English reader from absolutely mispronouncing the words. The only terms that *ought* to have been transliterated, and are not uniformly so, are words from Madras and British Burma. The former I have transliterated, wherever I could, on the authority of *Wilson's Glossary*; for the latter no system of transliteration has yet been adopted. In two instances I have adopted a modified spelling, because the words occur repeatedly and the accentuation is typographically troublesome: I have written "raiyat" and "taluqdár," though *correctly* these words should be "ra'íyat" and "ta'alluqdár."

B. H. B.-P.

PREFACE.

THE only need for a preface is to give me an opportunity of expressing my acknowledgments to those officers who have helped me in this work.

By the permission of the Government of India, I visited the head-quarters of the several Local Governments to collect the books, reports, and other documents necessary to compile this Manual.

When the results of my enquiry had been put together, I printed a rough draft of what I proposed to say regarding each province, and circulated this to various officers for criticism and advice.

The friendly reception I everywhere met with, the kindness and the patience with which officers in every province listened to my questions and gave me access to the information I required, the valuable notes which many of them afterwards furnished me on reading my first rough print,—these demand my warmest acknowledgments. Without this aid, the really great labour involved in the preparation of this Manual could never have been accomplished.

Where the assistance received was so general and so valuable, it is difficult to make mention of one

more than another among the helpers. But I ought specially to offer my thanks to the Hon. A. Rivers Thompson, C.S.I., C.I.E., C.S.; to the Hon. H. L. Dampier, C.I.E., C.S.; and Mr. H. J. S. Cotton, C.S., in Bengal; to Mr. H. S. Reid, C.S., Mr. Vincent A. Smith, C.S., Mr. R. S. Whiteway, C.S., Major G. E. Erskine, and Mr. W. C. Benett, C.S., in the North-Western Provinces and Oudh; to Mr. G. J. Nicholls, C.S., and Mr. J. W. Chisholm, in the Central Provinces; to Major E. G. Wace (Settlement Commissioner) and Mr. J. Wilson, C.S., in the Panjáb[1]; to Mr. Leslie S. Saunders, C.S., in Ajmer; to Mr. G. D. Burgess, C.S., in British Burma; to Mr. W. B. Jones, C.S., the Commissioner of Berár; and to Mr. A. J. Dunlop, Assistant Commissioner of Akola; to Mr. H. A. Acworth, C.S., Acting Under Secretary to the Government, and Colonel the Hon. J. C. Anderson, C.S.I. (late Settlement Commissioner), in Bombay; and to Mr. C. J. Lyall, C.I.E., C.S., in Assam.

B. H. BADEN-POWELL.

LAHORE;
March 1, 1882.

[1] I would also desire to record my indebtedness to Mr. C. L. Tupper's book on the Customary Law of the Panjáb. Not only is this work replete with judiciously selected evidence regarding land tenures, but the different portions of the collection are prefaced by original essays regarding the history and development of the land tenures and the history of communities, which will give the book an honourable position not only among works of local interest, but of those which contribute to the general understanding of the early history of institutions.

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INTRODUCTION

EXPLAINING THE OBJECT OF THIS MANUAL.

It is necessary to render a brief account of this Manual;—how it came into existence, and what object it aims at fulfilling.

It had long been desired that Forest Officers should become better acquainted with the land and revenue systems of the country. But the conditions of a forester's life, especially as regards facilities for reference to books, require that any subject to be studied should be available in a handy, or at least in a manageable, volume.

Unfortunately such a Manual has not hitherto existed. There is no account of the land and revenue systems sufficiently succinct to be contained in one volume of a size which is not forbidding, or sufficiently precise to be a text-book for study. I have found nothing between the brief and general accounts contained in Campbell's *Modern India* or Chesney's *Indian Polity* on the one hand, and the detailed "Revenue Manuals," Volumes of Circulars, and Codes of Acts and Regulations of each province, on the other; able as the former are, they are not sufficient for the purpose; the latter are costly and more or less inaccessible.

It was therefore necessary to prepare a Manual which would answer the conditions required; would be in reasonable compass, and yet would go into sufficient detail to enable an officer to know how to act in a matter of revenue law, when in the course of his official duty it was necessary to do so. This latter requirement I have endeavoured specially to meet, by abundant references in the footnotes, to the Acts and other sources from which more detailed information can be obtained.

At the same time there was a strong inducement to undertake the task, in the fact that there are many others besides Forest Officers to whom such a work will probably prove acceptable.

Officers who have lately come to India to take part in its administration may desire to make a preliminary survey of the ground generally, before entering on a detailed study of their duties in the particular province to which they have been appointed. There are also many persons who now devote themselves to a study of the financial and economic welfare of India; these are especially in want of an easy means of studying the land and revenue systems. Indeed, the reasons why a study of this system is so necessary to all who would help forward the progress of India, are also to a great extent the reasons why Forest Officers should understand them.

The first of these reasons will only be fully appreciated when some progress has been made in the examination of the systems themselves. Here I must ask the student to take it on my statement, that the land revenue system is so bound up with the whole administration of Government, that a general idea of it, is, if not absolutely necessary, still highly desirable for an officer of almost any department, who wishes to take his place intelligently as a member of the composite body of officials jointly engaged in the administration of the country and the promotion of its prosperity.

With a Forest Officer it is especially so; the estates he has charge of supply the wants of the people, and are more or less connected (through the exercise of forest rights and privileges) with their daily life. To administer such estates efficiently, a perfectly cordial relation between the District Officers and those in charge of the forest estates must be maintained. Nothing is more detrimental to the best interest of the forest administration, than a feeling that the Forest Officer is a person who is for ever trying to press one class of rights, while the District Officer is occupied in restraining him by putting forward antagonistic rights of another class.

Forests exist for the public good, and for that good individuals must submit to a limited amount of interference with rights or privileges which, if unrestricted, would result in waste. To effect

his without undue oppression, requires the co-operation of both classes of officers; each must understand and appreciate the point of view of the other. Officers engaged in the revenue administration of a district would no doubt welcome the means of understanding more systematically, the importance of forests and their place in the economy of nature. This want, it is hoped, may, before long, be supplied[1]. But, on the other hand, to enable Forest Officers to understand the point of view of the District Officer, and to afford him the means of taking up a secure position in his work of administration, there cannot be a better preparation than a study of the land revenue systems of India.

The second reason is a more special one.

Forest estates are nearly always constituted out of waste land at the disposal of the State, which has been excluded by the land revenue settlement arrangements from the area of the village lands or estate dealt with. Hence boundary questions depend in many cases on revenue records and settlement maps; and the Forest Officer is brought into contact with "patwáris," "karnams," headmen, and others, whose functions can only be understood with reference to the land revenue law of their district. He has also to refer to "records of rights," village maps, "khasras," "field registers," and so forth, all of which are the result of revenue settlement operations.

It will thus, I think, be clear that a study of the subjects comprised in this Manual has a very practical importance to the Forest Officer, apart from that more general importance to which I first alluded.

How far the method in which the Manual has been prepared, will adapt it to fulfil the requirements of study, can only be seen when the work has been in the hands of Forest Officers and the

[1] What is wanted is a popular but accurate book of small size, on the model of the French book (which I can cordially recommend to the perusal of all classes; it can be ordered anywhere, and costs 2 francs), "Jules Clavé:—Études sur l'économie forestière" (Guillaumin et Cie.: Paris, 14 Rue Richelieu).

public generally for some little time. That my book must contain some errors, and still more omissions, I feel certain; but the reader will be disposed to regard such defects with indulgence, when he recollects the wide scope of the work, and the limited time at my disposal for its preparation. I hope also that the references in the footnotes will often supply the means of correcting or obviating to some extent the defects of the text.

B. H. BADEN-POWELL.

LAHORE.

BOOK I.

A GENERAL VIEW OF THE PROVINCES OF BRITISH INDIA; THEIR REVENUE ADMINISTRATION AND TENURES.

LAND REVENUE SYSTEMS

AND

LAND TENURES

OF

BRITISH INDIA.

CHAPTER I.

OF THE PROVINCES UNDER THE GOVERNMENT OF INDIA, AND HOW THEY WERE CREATED.

§ 1.—*Introductory.*

As this Manual is devoted to the consideration of the Land Tenures and Revenue Systems which distinguish the different provinces of India, it will be well to understand how these provinces came into separate existence for the purposes of administrative government. The limits of my work, however, preclude me from entering on anything like a historical sketch of the progress of those great and unforeseen events which led to so vast a territory being brought under British rule: for such information the standard Histories of India must be consulted. I must plunge at once *in medias res*, only pausing briefly to remind the reader that the history of the British rule in India is the history of a trading Company, which in the course of events, became a governing power, and which ultimately, being dethroned by the Supreme Legislature in 1858, left the huge fabric of its dominion to be administered by the Crown.

§ 2.—*The Presidencies.*

So long as the East India Company[1] was, as a body, chiefly concerned with trade, the charters granted to it by the Crown (from the first memorable grant of December 31st, A. D. 1600, onwards) related, as might be expected, chiefly to trading interests.

The first settlements,—at Surát (A. D. 1613), on the Coromandel Coast, at Fort St. George (A. D. 1640), and at Fort William in Bengal (A. D. 1698), were mere "factories" for trading purposes[2]. These factories then became "settlements," which were governed internally each by a "President and Board." In the course of time, out-stations or dependent factories grew up under the shelter of the parent, and then the original factory was spoken of as the "Presidency town," or centre of the territory where the President resided. In this way, what we now call "the three Presidencies[3]," Bengal, Madras, and Bombay, came into existence.

In 1773, the government of the Presidency of Fort William was entrusted to a Governor General and Council, who had a certain control over the other Presidencies. This was provided by the Act (13 Geo. III, Cap. 63) known as the "Regulating Act."

[1] The title "East India Company" originated with the Act of Parliament 3 and 4 Wm. IV, Cap. 85 (A. D. 1833). Section 111 says that the Company may be described as the "East India Company." At first the Company was called "the Governor and Company of Merchants trading to the East Indies." Then a rival Company was formed, called "the English Company trading to the East Indies." These two Companies were afterwards united, and, by the Act of Queen Anne (6 Anne, Cap. 17, Sec. 13), the style became "the United Company of Merchants of England trading to the East Indies." Last of all, the Act of William IV, first quoted, legalised the formal use of the designation ever since in use. It is, however, frequently used in the titles of Statutes prior to this, *e. g.*, 9 Anne, Cap. 7; 10 Geo. III, Cap. 47; 13 Geo. III, Cap. 63.

[2] And, indeed, they were not "possessions," but the traders were the tenants of the Mughal Emperor. The first actual possession was the Island of Bombay, ceded by Portugal, in 1661, to Charles II, as part of the marriage dowry of the Infanta. This island was granted to the Company in 1669.

[3] The use of this term has never, even in Acts of Parliament, been precise: sometimes it is meant to signify the *form* of Government, sometimes the *place* which was the seat of that Government; at other times it meant the *territories* under such Government.

It was not till twenty years after (33 Geo. III, Cap. 52) that the government of Bombay and Madras, respectively, was formally vested in a Governor with three Councillors[4].

These territorial divisions of India, called Presidencies, could not be authoritatively defined from the first; they gradually grew up under the effect of circumstances.

Territories that were conquered or ceded to the Company, were, naturally enough, in the first instance attached to the Presidency whose forces had subdued them, or whose Government had negociated their cession. Thus, for instance, Bengal, Bihár, and Orissa, went to Fort William; the territory acquired from the Nawáb of the Carnatic, to Fort St. George; and the territories taken in 1818 from the Peshwá Bájí Ráo, to Bombay; and so on.

No one could foresee what course events would take; and when it is recollected under what very different circumstances, at what different dates, and under what unexpected conditions, province after province was added to the government of the Company, it is not surprising that the Legislature should not, *ab initio*, have hit upon a convenient and uniform procedure, which would enable all acquisitions of territory to be added on to one or other of the existing centres of Government, in a systematic manner. The student will not therefore be surprised to find that the legislative provisions for the formation and government of the provinces of India are not contained in one law, but were developed gradually by successive Acts, each of which corrected the errors, or enlarged the provisions, of the former ones.

§ 3.—*Method of dealing with new territories.*

Until quite a late date (as will be seen hereafter) no Statute gave any power to provide for any new territory, otherwise than by attaching it to one or other of the three historical Presidencies. But as a matter of fact, large areas of country, when conquered or

[4] The term "*Governor* or President," however, begins to appear before that; *e.g.*, in section 39 of the Regulating Act itself; and in 26 Geo. III, Cap. 57.

ceded to the British by treaty, were not definitely attached to any Presidency; at any rate, it was doubtful whether they were intended to be so or not. This was especially the case with the Bengal Presidency; it became in fact, difficult to say with precision, what were the exact limits of that Presidency, or whether such and such a district was in it or not; and that afterwards gave rise to questions as to whether particular laws were in force or not.

The Act 39 and 40 Geo. III, Cap. 79 (A. D. 1800), was the first distinctly to empower [5] the Court of Directors in England, to determine what places should be subject to either Presidency, and set the example by declaring the districts forming the province of Benares (ceded in 1775) to be formally "annexed" to the Bengal Presidency.

After this, nothing of importance on the subject of territorial division appears till the year 1833, when the 3 and 4 Wm. IV, Cap. 85, was passed.

By this time the Presidencies of Madras and Bombay had nearly reached the limits which they afterwards retained, and these were territorially convenient; but the remaining Presidency of Bengal had attained most unwieldy dimensions. Not only had Cuttack (Katák) been added to Orissa (thus bringing up the frontier of Bengal to that of Madras), and the large provinces of Assam, Arracan, and Tenasserim been acquired as the result of the first Burmese War in 1824, but most of what we now call the North-West Provinces [6], had been also annexed to it. The Act of 1833

[5] There are Acts of 1773 and 1793 which make allusion to the subject, but the Act of 1800 is the first which directly deals with it.

[6] These large additions in the north-west (besides the Benares Kingdom above alluded to) consisted of the districts ceded in 1801 by the Nawáb of Oudh, and comprised the country now known as the districts of Allahabad, Fatihpur, Cawnpore, part of Azimgarh, Gorakhpur, Bareli, Murádábád, Bijnaur, Badáon, and Shahjahánpur. Soon after, a subordinate of the Nawáb's ceded Farukhábád; and not long after followed the districts ceded at the close of the Maráthá War (which began in 1803): these were Etáwa, Mainpúri, Aligarh, Bulandshahr, Meerut, Muzaffarnagar, Sahárunpur, Agra, Mathurá, and Delhi (the latter including all that is now under the Commissionerships of Delhi and Hissar); also Banda and parts of Bandelkhand.

therefore (section 38) proposed to divide this enormous Presidency into two parts, to be called "the Presidency of Fort William in Bengal," and the "Presidency of Agra[7]."

It was to be determined locally, what territories should be allotted to each.

§ 4.—*The first Lieutenant-Governorship (N.-W. Provinces).*

Though a "Governor of Agra" was actually appointed[8], the scheme was early abandoned, and instead of forming a new Presidency, the "North-West Provinces" were separated from the rest of Bengal and placed under a Lieutenant-Governor. This was ordered in 1836, and was legalised by the 5 and 6 Wm. IV, Cap. 52 (1835), which suspended the previous enactment ordering the creation of two presidencies, and rendered valid the appointment of the Lieutenant-Governor. Bengal was thus partly relieved and reduced to more reasonable dimensions.

§ 5.—*The Government of Bengal.*

But still there was another difficulty. There was no separate Governor or Lieutenant-Governor for Bengal. The Governor General of India was *ex-officio* Governor of Bengal; that is to say, he had to do the work of a local Governor in addition to his functions as Governor General with supreme control over all Governments. Accordingly, the Statute 16 and 17 Vic., Cap. 95 (1853), authorised the appointment of a separate Governor of Bengal, or (until such an officer should be appointed) a Lieutenant-Governor. This Act also looks back on the arrangements made for the North-West Provinces (just described), and again confirms them, going on to say that the Lieutenant-Governorship of Bengal was to consist of such part of the territories of the Presidency, as for the time

[7] This attempt to attach the historic reminiscences involved in the term "Presidency" to Agra, which had never known the system of "President and Board," is curious.

[8] See Notification (in the Political Department) of the 14th November 1834.

being, was not under the new Lieutenant-Governorship of the North-West Provinces.

A Lieutenant-Governor of Bengal was accordingly appointed under this Act[9].

§ 6.—*Unattached Provinces.*

So far then as the territory actually attached to the Bengal Presidency is concerned, the matter was settled; but at this time there were many districts which had never been placed under any presidency at all. Such were the "Saugor and Nerbudda" (Ságar and Narbada) territories (ceded after the Maráthá War of 1817-18), Coorg (Kodagu) 1834, Nágpur (1854), the Panjáb (1849), and Pegu (1852). How were these to be provided for[10]?

It is probable that at first the case was not thoroughly understood; at all events, the only additional provision made by the law of 1853, was a general power to create one other Presidency besides those existing, and if it was not desired to make a "*Presidency*" then to appoint a Lieutenant-Governor of the territories to be provided for.

But a glance at the list of provinces or districts just given as "unattached," and a thought as to their geographical position, will show that this provision was not sufficient; the "unattached" provinces were too far apart to make it possible to provide for them by uniting them under one new "Presidency." The power, however, to make one new Presidency or Lieutenant-Governorship was afterwards made use of for the purpose of constituting the Panjáb territories a separate Lieutenant-Governorship[1].

In the year 1854, the defect was supplied as regards the remaining British territories in India.

By the 17 and 18 Vic., Cap. 77, provision was made for the government of such territories or parts of territories as "it might

[9] See Resolution, Home Department, No. 415, dated 28th April 1854.

[10] Sind, annexed in 1843, had been attached to Bombay. Oudh was not annexed till afterwards (1856).

[1] In 1859.

not be advisable to include in any Presidency or Lieutenant-Governorship." Section 3 empowers the Governor General by proclamation (under Home sanction) to take such territories under his "immediate authority and management," or otherwise to provide for the administration of them. Under this Act the "Local Administrations" under Chief Commissioners, as they now exist, were constituted. As they are under the "direct orders" of the Governor General, the Government of India is itself the Local Government[2], and the Chief Commissioner constitutes a "Local Administration" as administering the orders of the Local Government.

It would of course be inconvenient if the Governor General had to exercise directly, in every one of these provinces, all the powers of a Local Government, and therefore, in 1867, an Indian Act (XXXII) was passed to enable him to relieve himself of such detailed work, by delegating certain of his powers as the "Local Government" to the Chief Commissioners then existing, which were those of Oudh, the Central Provinces, and British Burma. Since then, this process has been further simplified by inserting in Section 2, clause 10 of Act I of 1868 ("The General Clauses Act"), a definition of the term "Local Government." In all Acts passed after 1868, when anything is provided to be done by a Local Government, that *includes* the Chief Commissioner of any province; in fact, the delegation of the Governor General's power as a Local Government is in all such cases implied by, or contained in, the legal meaning of the term Local Government[3]. Of course the term has this wider meaning only when the context or some express provision, does not control or limit it.

[2] The provinces under Lieutenant-Governors are called "Local Governments," because such provinces, though subordinate to the Government of India, are not *immediately* under the orders of the Governor General.

[3] The "General Clauses Act" of 1868 defines the term "Local Government" to mean, "the person authorised by law to administer executive government in the part of British India in which the Act containing such expression shall operate, and shall include a Chief Commissioner." In Assam, where it was not convenient that this should take effect, Acts VIII and XII of 1874 were specially enacted, to regulate the powers of the Chief Commissioner.

The powers of the Governor General were further enlarged by the 46th section of the 24 and 25 Vic., Cap. 67 ("The Indian Councils' Act, 1861"), which gives him power to constitute new provinces and to appoint Lieutenant-Governors for them. The Act also makes provision for fixing the limits of every "Presidency division, province or territory in India" for the purposes of the Act; and for altering those limits.

In 1865 the 28th Vic., Cap. 17, provided the power to apportion or re-apportion the different territories among the existing Governorships and Lieutenant-Governorships.

There are also provisions of the Indian Legislature regarding minor divisions of territory, *i.e.*, creating new districts and altering the existing boundaries of districts, of which it is not here necessary to speak.

§ 7.—*Present constitution of Provinces.*

The existing division of the Indian territories not forming part of the older Presidencies, is then due to the Acts of 1853, 1854, and 1861.

The **Panjab**, which had before been a Chief Commissionership, was erected into a province under a Lieutenant-Governor[1], as already mentioned.

Oudh was annexed in 1856 and taken under direct management as a Chief Commissionership. In 1877 the then Chief Commissioner was appointed to be Lieutenant-Governor of the North-

[1] At first, by the proclamation of annexation and the despatch organising the new province (dated 31st March 1849), a Board of Administration composed of three members, was appointed. By the Government of India Notification No. 660, dated 4th February 1853, the Board was replaced by a Chief Commissioner, to be assisted by a Financial and a Judicial Commissioner. Last of all, by Notification No. 1, dated 1st January 1859, the Governor General "proclaimed that a separate Lieutenant-Governorship for the territories on the extreme northern frontier of Her Majesty's Indian Empire shall be established, and that the Panjáb, the tracts commonly called the trans-Sutlej States, the cis-Sutlej States, and the Delhi territory, shall be the jurisdiction of the Lieutenant-Governor." These limits are maintained to the present day. The Delhi districts were transferred to the Panjáb by Act XXXVIII of 1858, now repealed as spent.

West Provinces, and this practically, to some extent, amalgamated the two provinces, without, however, destroying any special administrative features of either[5].

By Resolution (Foreign Department) No. 9 of 2nd November 1861, the Chief Commissionership of the **Central Provinces** was constituted. This province was made up of the Ságar and Narbada territories and the Nágpur province; some other districts being afterwards added. The notification contains a long history of the administration of these provinces[6].

British Burma was constituted a Chief Commissionership on its present footing also in 1862[7]. As in the case of the Central Provinces, the Resolution gives a history of the previous administration; it recites that there had been three separate Commissioners of Arracan, Pegu, and Tenasserim, respectively; the first had

[5] Proceedings of Government of India, Home Department, No. 45, dated 17th January 1877. In order to facilitate the action of Government, an Act (XIV of 1878) was passed, which in many matters assimilated the powers of the Chief Commissioner of Oudh to those which the Lieutenant-Governor would exercise. This assimilation is *chiefly* effected by repealing some of the provisions in various Acts which require the Governor General's sanction to the Chief Commissioner's proceedings.

[6] Nágpur had been under a Commissioner as Agent for the Governor General. The Ságar and Narbada districts had at various times been transferred from one Government to another. They were originally under the Supreme Government; subsequently they were placed under the Lieutenant-Governor at Agra. Again, in 1842, the general control of them was vested in a Commissioner and Governor General's Agent, in direct communication with the Supreme Government, while the supervision of fiscal and judicial affairs remained with the Sudder Board and Sudder Court at Agra, respectively. After this, the general jurisdiction was again transferred to the Lieutenant-Governor of the North-Western Provinces, and so remained till the notification issued in 1861. Nimár had been managed chiefly as an 'assigned district' till its cession as a whole in 1860. Sambalpur was added to the Central Provinces in 1862, Nimár in 1864, and a small estate called Bijragogarh in 1865. The fact that some tracts in Nágpur were ceded in 1817 does not place Nágpur first in the list of acquisitions. The province as a whole had been managed since the defeat of Appa Sahib in 1817, on behalf of the minor Bhonsla Raja (Raghoji III). He succeeded to the estates in 1830, but died without heirs in 1853, and the province lapsed to the British Government. The Revenue Settlement was introduced in 1860. The history of this may be found in the "Law of the Central Provinces," by J. G. Nicholls, page 337, *et seq.*

[7] Resolution, Foreign Department (General), No. 212, dated 31st January 1862.

been under Bengal, the others directly under the Government of India; it was now desirable to unite them under one Chief Commissioner.

Berar (the Hyderabad Assigned Districts) is governed by British officers in virtue of the treaties of 1853 and 1860[8]. By the first treaty Berár and some other territories were assigned for the payment of interest on the debt due to the East India Company for the support of the Hyderabad Contingent force, and for some other purposes. The assignment was subject to an annual account of receipts and expenses. By the treaty of 1860 the debt was declared cancelled; certain of the territories assigned under the first treaty were restored, and Berár alone retained (within the general limits it now occupies, but including certain taluqas inside the boundaries which were before exempt from management). No account is now rendered to the Nizám, but the British Government pays to him any surplus it may have in hand after meeting the cost of administration, the cost of the troops of the Contingent, and certain allowances and pensions specified in the treaty.

The district of **Ajmer** and the **Merwara** parganas were constituted a Chief Commissionership[9], the Governor General's Agent for Rájputána being *ex-officio* Chief Commissioner.

The latest change has been to create **Assam** into a separate Chief Commissionership, it being taken under the direct orders of the Governor General under the provisions of the Act of 1854[10].

[8] Article 6 of the treaty of 1853 and article 6 of the treaty of 26th December 1860 (Aitchison's Treaties, Vol. 5, pp. 214-224). By the treaty of 1853 the districts are assigned "to the exclusive management of the British Resident for the time being at Hyderabad and to such officers acting under his orders, as may from time to time be appointed by the Government of Ipdia to the charge of those districts."

[9] By Notification No. 1007 (Foreign Department), dated 26th May 1871. This notification is also under the 17 and 18 Vic., Cap. 77, Section 3.

[10] See Notification No. 379, dated 7th February 1874 (*Gazette of India*, Part II, p. 53). Assam includes Kámrúp, Darrang, Naugong, Sibságar, Lakhimpur, the Garo Hills, the Khási and Jaintyá Hills, the Nága Hills, Cachar and Goálpára. Sylhet was afterwards added, but in the same year.

§ 8.—*Non-Regulation provinces.*

It may here be naturally asked, why, although some of these provinces were not so geographically situated as to be capable of annexation to particular Presidencies, the others were not so annexed. In the first place, this would have made the Presidencies in some cases of too great an extent and very incompact. But there is another reason which no doubt, at the time, had still greater weight. It should be borne in mind that by the Statute of 1800 the consequence of such annexation would be, to render the new territories in all cases subject to the Regulations of the Presidency to which they were attached. This it was felt would be inconvenient; the Regulations were too precise and technical, and did not give sufficient latitude for that gradually progressive and paternal method of administration which experience has shown to be necessary in dealing with provinces newly brought under the influence of Western ideas of government.

Indeed, some difficulty had already been felt with reference to certain districts of the older provinces, which could not conveniently have been disjoined from the presidency or province in which they were situated; special Acts had to be passed to exempt such districts from the ordinary law[1].

Accordingly, when whole provinces like the Panjáb, Pegu, Oudh, and the Central Provinces, were in the same condition, it was natural that, on annexation, they should not have been declared to be attached to any Presidency. Consequently, these territories did not come under the Regulations[2], and became (as they are still called)

[1] Some of these old Acts are mentioned in Schedule II to Act XIV of 1874. These are mostly repealed as no longer necessary under the new system of "Scheduled Districts," which will be explained hereafter.

[2] This is quite correct, although in the Local Laws Acts, *e.g.*, of Oudh and the Panjáb, there will be found a few of the Bengal Regulations quoted as "in force" in these provinces. This is done because such Regulations have practically been complied with, or because in the orders for settling the administration of the new provinces, it was directed that the "general spirit" of certain Regulations should be followed, and it is more convenient now to recognise them as in force.

"Non-Regulation Provinces"; and they now comprise the larger portion of the total number of districts in British India[3].

It will next be asked what at the present time is practically the difference between a Non-Regulation and a Regulation Province? The answer to this will be better understood when we have taken a brief survey of the legislative powers of the Government. Here I will only so far anticipate as to say, that as far as the nature of the laws in force, the distinction has practically disappeared in favour of one which really is important, which is that certain parts of several provinces (whether these provinces as a whole are "Regulation" or "Non-Regulation") are, or may be, by Act XIV of 1874, exempted from the operation of the ordinary laws, except in so far as those laws, or any of them, may be declared applicable; and that a power exists for making special Rules or Regulations for them.

The only vestige of the original distinction between Regulation and Non-Regulation provinces survives in the titles, duties, and salaries of officials, and also in the fact that in Regulation Provinces certain posts are, by law, reserved to be held by members of the Covenanted Civil Service[4]. The origin of this difference was, that under the Act of 33rd Geo. III (1793), it was provided that offices under Government should be filled by Covenanted Civil Servants of the Presidency to which the

[3] Colonel Chesney (Indian Polity, 2nd edition, page 193) gives a list showing that there are 111 Non-Regulation to 97 Regulation districts. Readers must beware of certain inaccuracies in this otherwise excellent book, as regards the legal position of the Non-Regulation Provinces. The author is mistaken in supposing that the Non-Regulation Provinces were excluded from the operation of *Legislative enactments* till 1861. They were exempt from the *Regulations*, but all *Acts* applying generally to British India, passed by the Legislative Council (which began in 1834) applied equally to these territories, provided the province formed part of British India when the Act was passed. Thus, any general Act passed after 1849 would apply to the Panjáb, and one passed after 1856 to Oudh.

[4] The question what appointments in India, generally, must be held by Covenanted Civil Servants, and what must be so held in the Judicial and Revenue Branches in *Regulation Provinces*, is now determined by the Act of Parliament, 24 and 25 Vic., Cap. 54.

vacant office belonged. Consequently, districts not attached to any Presidency were not bound by this rule, and the Governor General could provide for their administration as he pleased.

It was both natural and advisable in such cases, that Military and Political officers (who had been in many cases engaged with the affairs of a province before its annexation) should be appointed to the task of first organising and conducting its new administration. There was nothing, however, to prevent Civilians, whether Covenanted or Uncovenanted, being also appointed, as their services became available; consequently, the Commission became a mixed one.

In the Non-Regulation Districts also, the District Officer has both civil, criminal, and revenue powers, and he is called "Deputy Commissioner," whereas in Regulation Districts he has only criminal and revenue functions, and is called "Magistrate and Collector." The Civil Judge is there a separate officer. In Oudh, too, which is otherwise a Non-Regulation province, the Deputy Commissioner does not exercise Civil Powers.

§ 9.—*List of Districts in India.*

The following abstract may be useful in enabling the student to trace the history of any district in the provinces treated of in this Manual:—

BENGAL.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Governor of Bengal is also Governor-General of India (Regulating Act, 1773). Separate Governorship authorised and fixed, conformably of Bengal created, 1854 (Council added in 1862).	Bengal acquired generally in 1765 (with Bihar and Orissa).	Bardwán (A. D. 1760-63) Bankúra Birbhúm Húgli Howrah 24-Perguunahs Jessore (Jasár) Nadiya Múrshidábád Dinajpur Málda Rájsháhi Rangpur Bogra (Bágura) Pabna	Decennial Settlement, 1790-91 made permanent by proclamation A. D. 1793.	All come under the permanent settlement, Regulations I and VIII of 1793. These may be individual estates temporarily settled in the districts.

BENGAL—*concluded.*

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Governor of Bengal is also Governor-General of India (Regulating Act, 1773). Separate Governorship authorised and Lieutenant-Governorship of Bengal created, 1854 (Chutiyá added in 1862).	Bengal acquired generally in 1765 (with Bihar and Orissa).	Maimansingh		
		Faridpur		
		Bákirganj		
		Dacca (Dakha)		
		Purniya		
		Bhágalpur		
		Monghyr (Munger)		
		Tipperah (Tipra)		
		Noakhálí		
		Chittagong A. D. 1760	.....	The Hill Tracts are "scheduled" and were removed from the Regulations by Act XXII of 1860.
		Santál Parganas	.....	Part only permanently settled: the rest is a Government estate* under Act XXXVII of 1855 and Regulation III of 1872 and a special settlement.
	Old Orissa	Midnapore (Mednipur) A. D. 1760-63.	.....	The Orissa of 1765 nearly coincides with this district.
	Chutiyá Nágpur. After Kol rebellion 1831-32, the South-West Frontier Agency was created by Regulation XIII of 1833. This "agency" became the Chotta (or Chutiyá) Nágpur Division in 1854 (Act XX).	Hazáribágh		Parts of these were permanently settled, the other estates being variously settled (see Book II, chapter III, section 8). All are scheduled districts under Act XIV of 1874.
		Lohardagga		
		Singhbhúm		
		Manbhum		
	Bihár (A. D. 1765.)	Patna	.....	Permanent settlement as in Bengal proper.
		Gayá	.....	
		Shahábád	.....	
		Darbhanga	.....	Formerly one district—Tirhút.
		Muzaffarpur	.....	
		Sáran		
		Champáran		
	Modern Orissa (Katák Province) taken from Marathas, A. D. 1803.	Katák		Temporary settlement under Regulation VII of 1822 (first under XII of 1805). Settlement continued under Bengal Act X of 1807. As regards the "Tributary Mehals" the Khúrda estate, &c., see Book II, Chapter II, Section VII.
		Balásúr		
		Púrí		
		Tributary Mehals		
	Ceded in 1838, 1850, and 1865.	Darjeeling	.....	Scheduled district.
		Jalpaigúrí	.....	Partly out of the old Rangpur district and partly the Western Dwárs taken from Bhutan 1865. Temporary settlements, except old part of Jalpaigúrí, which is permanently settled.

* As early as 1780, the Dáman-i-koh was, by an Act of State, removed from the operation of the Regulations and declared a Government Estate.

ASSAM.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissionership in 1874.	Lapsed in 1830 to British Government.	Kachár	1859	Temporary settlement.
	Was acquired with Bengal in 1765.	Sylhet and part of Jaintiya (annexed 1835)	1872	Partly permanent settlement, partly temporary.
	Formed part of Rangpur and the hills on North-East frontier were first separated by Regulation in 1822.	Garo Hills	.....	This was under a special Regulation of 1876, which terminated in 1881, and will probably be in future dealt with like an ordinary district.
	Became a political agency after expedition of 1833. Jaintya Hills were annexed in 1835.	Khasi and Jaintya Hills	.....	No regular revenue system; a house tax collected.
	Under Political Agency.	Nága Hills	.....	No regular revenue system.
	In 1765 with Bengal.	Goalpára	.....	Originally part of Rangpur and permanently settled, all but the Eastern Dwárs annexed in 1865, which are settled under the Assam Rules.
	Annexed after 1st Burmese war, A. D. 1824.	Kamrúp Darrang Nowgong Sibsagar Lakhimpur	1877-78	Assam Settlement Rules of 1870.

NORTH-WESTERN PROVINCES.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
"Presidency of Agra," 1834, altered to Lieutenant-Governorship of the North-West provinces in 1836.	Benares province ceded A.D. 1775 by Asaf-ud-daula, Nawab of Oudh. Brought under Regulations in 1795.	Benares Ghazipur Mirzapur (part) Jaunpur Azimgarh (part)	.....	Permanent settlement of 1793.
	With the rest of the district.	Mirzapur, certain tappas, and the part of district lying south of Kaimúr Hill range.	.....	Scheduled district. Special law and settlement, see Note A to Book III.
	The "Ceded Districts," Treaty with Nawab of Oudh, 1801.	Rest of Azimgarh Gorakhpur Basti Allahábád Banda Fathpur Hamirpur	1866—77 1859—71 1867—78 not complete. 1870—77 1872—80	Settled originally under Regulation VII of 1822 and IX of 1833, now Act XIX of 1873. All but a small part, which was acquired later (1840).

NORTH-WESTERN PROVINCES—*continued.*

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue settlement.	Remarks.
Presidency of Agra, 1834, altered to Lieutenant-Governorship of the North-West Provinces in 1836.	The "Ceded Districts." Treaty with Nawáb of Oudh, 1801.	Cawnpore (Káhnpur)	1868—78	
		Etáwa	1808—74	
		Mainpúri	1866—74	
		Etáh	1863—73	
		Bareli (and Pilibft)	1865—72	
		Shahahánpur	1867—74	
		Badáon	1864—72	
		Bijnaur	1864—74	
		Muradabád	1872—80	
		Farukhábád	1863—75	
		The Tarái Parganas	.....	Scheduled district, under special law, Regulation IV of 1876.
	"The Conquered Districts," under Lord Lake, 1803.	Aligarh	1866—74	
		Mathura	1872—79	
		Bulandshahr	1863—65	
		Meerut (Mirath)	1865—70	
		Muzaffarnagar	1860—75	
		Saháranpur	1854—70	
		Agra	1872—80	
		Delhi districts	.....	Now in the Panjáb.
	From Nepál, 1815.	Dehra Dún	1860—67	Regulation districts since July 1871, except pargana of Jaunsar Bawar.
		Kumáon	1863—73	Scheduled district. Special law. Ordinary revenue law only partly in force.
		Garhwál	1856—64	
	Acquired by lapse, forfeiture, or treaty since 1840. Bundelkhand.	Jhánsí	1854—67	Scheduled districts under Act XIV of 1874.
		Lalitpur	1853—60	Administered on system resembling Panjáb (Deputy Commissioner, &c.). Ordinary revenue law is however in force, and settlements were made in the usual way.
		Jalaun	1853—74	

OUDH.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissioner.	Annexed in February 1856.	All the districts	Between 1830 and the present time.	Settled under local rules of 1861 which had the force of law under the Indian Councils Act (now Act XVII of 1876).

PANJAB.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Under Board of Administration, 1849–1853. Under Chief Commissioner, 1853–1859. Lieutenant-Governorship, 1st January 1859.	Annexed 31st March 1849, after 2nd Sikh war.	Peshawar	1869–75	All scheduled districts under Act XIV, 1874. But the ordinary revenue and settlement law is applicable, except to Hazára, which has special Revenue and Rent Regulations (under 33 Vic., Cap. 3).
		Kohát	1874–79	
		Hazára	1868–74	
		Bannu	1872–78	
		Dera Ismail Khán	1872–79	
		Dera Gházi Khán	1869–74	
		* Multán	1872–80	
		Muzaffargarh	1872–80	Settlement just completed.
		* Montgomery	1868–73	Formerly called Gugaira.
		* Jhang	1874–80	
		* Gujránwálla	1866–68	
		* Lahore	1865–69	
		Ferozepore (Firozpur)	1851–55	Is Cis-Sutlej, and was annexed in December 1845.
		* Amritsar	1863–66	
		* Gurdaspúr	1862–65	This was the first of the revised settlements.
		* Sialkot	1865–68	
		* Gujrát	1866–68	
		Shahpur	1854–66	
		Rawalpindi	1855–64	
		* Jhelum (Jihlam)	1874–80	
	Ceded to British by treaty in March 1846, after 1st Sikh war.	Kangra	1848–52	Record of rights revised 1865–69. Settlement expires in 1882.
		Jálandhar	1846–51	Revision begun.
		Hushyárpur	1846–52	But now being re-settled.
	Cis-Sutlej States December 1845†	Simla	...	Only the area of the Simla Municipality, about 20 square miles, and portions at Kotgarh and Kotkhai. After Gorkha war 1814–16 and subsequently.
		Ludiána	1847–54	Revision began 1878–79.
	Cis-Sutlej States December 1845†	Ambála	1847–53 Northern pargánas finished in 1855).	
		* Karnál	1872–80	Karnal is made up of Pánipat (Delhi territory) and Karnal and Kaithal, parts of the old Thanesar district, the rest of which, on its abolition, went to Ambala.
	By Lord Lake in 1803. Transferred to Panjab in February 1858.	* Gurgaon	1874–79	
		* Delhi (Dihli)	1871–80	
		* Rohtak	1873–80	
		Sirsa	Settlement expired in 1878–79	
		* Hisár	1860–64	

NOTE.—In the districts marked * the settlement was the *second* regular settlement. All districts (except Hazára) were originally settled on the North-Western Provinces system, on orders and instructions based on "Thomason's Directions," and the spirit of Regulation VII of 1822. Now under Act XXIII of 1871.

† Consisting (*a*) of the possessions of Mahárája Dalíp Singh, east of Sutlej; (*b*) territories lapsed by failure of heirs to chiefs who came under protection in 1808-9; or confiscated in 1847 for misconduct of chiefs in the 1st Sikh war.

CENTRAL PROVINCES.

Form of government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissionership, 1861-83.	"Saugor and Nerbudda" territories, ceded partly by the Peshwá (1817), partly by Nágpur Rája (1854).	Ságar	1854—67	The Ságar and Narbada territories were regularly settled for twenty years in 1834—37. The rest mostly under summary settlements and farms, &c., till general introduction of the North-Western Provinces system. The settlements generally were made between 1855 and 1869, under rules and instructions embodied in the Central Provinces Settlement Code, 1863, and now Act XVIII of 1881.
		Damoh	1860—65	
		Jabalpur (with Bijragogarh, confiscated in 1857, added to district in 1865.)	1855—67	
		Mandlá	1864—69	
	"Saugor and Nerbudda" territories, ceded partly by the Peshwá (1817), partly by Nágpur Rája (1854).	Seoní	1868—67	
		Baitul	1866—64	
		Narsinghpur	1856—67	
		Hushangábád	1865—66	
	Nágpur province, as a whole, ceded in 1853. Small portions before ceded in 1817-18.	Nágpur	1858—67	
		Wardhá	1857—66	
		Bhandárá	1858—67	
		Ráipur	1862—69	
		Bilaspur	1863—68	
		Chánda	1862—69	
		(Upper Godavery is now the Sironcha sub-division of Chándá (added in 1860).)	1863—67	
		Chhindwára	1862—67	
		Sambalpur	.....	Ceded by Nágpur Rája in 1818; cession confirmed in 1826; given over to one of the old Rájput Rájas under political supervision under the Bengal South-West Frontier Agency; lapsed in 1849; still remained under political charge; added to Central Provinces in 1862; first settled in 1854 for twelve years.
1860		Nimár	1866—69	Portions were ceded or assigned from time to time between 1818 and 1825. In 1844, the revenue was assigned by Sindia, and was at last ceded as a whole in 1860. Added to Central Provinces in 1864.

BOMBAY.

Governor and Council (33 Geo. III., Cap. 52, A. D. 1793).

[The Regulation districts were made subject to the general law by various local regulations, bearing date shortly after the acquisition of the district, all of which were repealed by Regulation I, 1827, which consolidated the law; this in its turn has become superseded.]

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
	Treaties in 1802 and 1803 . . By grant in 1803 .	Surat	1859—73	Formerly one district, separated in 1865.
		Baroch (Broach) . .	1863—77	
		Kaira	1867—68	Includes the Panch Mahâls acquired from Sindia in 1860, and which are a "scheduled district" not subject to the Regulations.
	From Bájí Rao Peshwá in 1818 .	Ahmadábád . . .	1851—62	
		Khaudesh . . .	1868—69	
		* Násik . . .	1871—80	District formed in 1869-70 (nine talukas from old Ahmadnagar and three from Khaudesh). Consists of two parts, the Dángs or ghát (hilly) tracts and the 'desh' or plain.
		Ahmadnagar . .	1850—53	Part of the old district also went to form the modern district of Sholapur.
		* Púná	1871—80	The Indápur taluk from 1867-68.
	From Bájí Ráo Peshwá in 1818.	Sholapur . . .	1872—75	Old Sholapur was restored to its Raja in 1818, but again lapsed by failure of heirs to Government in 1848. The present district is a modified area—part of old Sholapur and part of Ahmadnagar.
		Satára	1863-64	Satára will come under Revision of Settlement in 1884-85.
		* Kaládgi . . .	1874—78	
		Belgam . . .	1850—57	Revision began 1878-79.
		Dhárwár . . .	1874—80	
	The Konkan from the Peshwá 1818.	Thána (Tanna) . .	1854—67	
		Kolába . . .	1854—67	A sub-division (Alibágh) lapsed in 1839.
		* Ratnágiri . . .	1866—76	
		North Kanara . .	1863—80	Transferred from Madras in 1862.
	Sind . . . Annexed after war, 5th March 1843.	The districts of Sind .	.....	The frontier tracts not settled. The separate talukas variously settled between 1863-64 and 1874-75. Some not complete yet. All Sind forms a "scheduled district".

The Dakhan (Deccan).

In districts marked * the revised settlement for the entire district is not yet complete. The dates against these also represent the first introduction of the revised assessment into any taluka.

The dates of acquisition given are the general dates, but many small portions of the districts were separately acquired by cession, exchange with Holkar and Sindia, &c. Thus the treaty with Sindia on 12th December 1860 affected a number of small tracts in Púna and Ahmadnagar. A treaty with the Nizám, December 1822, had a similar effect. A great many lapses from failure of heirs have also added villages to the districts.

MADRAS.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Governor in Council (1793 A. D. by 33 Geo. III, Cap. 52).	The Northern Circars granted by Mughal Emperor 1765 and by Nizám in 1768; tribute at an end in 1823.	* Ganjam	1866—78§	Part of the district settled.
		* Vizagapatam		
		* Godavery	1858—65	These were formerly three districts — Rajamundry, Masulipatam, and Guntoor (up to 1859-60).
		* Kistna	1859—74	
	"The jaghire" ceded in 1750-63.	Madras		
		* Chingleput	1863—79	All districts with exception of those permanently settled under (M) Regulation XXV of 1802, and under Raiyatwari system of 1820.
	The Ceded Districts (by Nizam, 1800.	Bellary	1865—75	Part settled only.
		Cuddapa		
	Ceded in 1800 by Nizám.	Kurnool	1859—79	
	From the Nawab of the Carnatic, 1790—1801.	† Nellore	1861—75	
		† South Arcot	1865—62	Part settled only.
		*† North Arcot	.....	
		† Tanjore	.....	
		† Trichinopoly	1858—65	
		Madura	.....	
		† Tinnevelly	1862—78	
	1792	Salem	.....	These districts of 1792 and 1799 were acquired from Haidar Ali or Tipú Sultan.
	1799	Coimbatore	.....	
		Nilgiris	.....	
	1792	Kanara (South Kanara)	.....	Divided in 1859 into two districts and North Kanara transferred to Bombay, 1862.
		Malabar	.....	

Districts with * are those in which permanently settled zamindari estates are found: those † are districts in which a joint village settlement was tried (A. D. 1808).

§ These dates refer to the Revenue Survey and Settlement: other districts are still managed on the old arrangements of former days.

BRITISH BURMA.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissioner in 1862.	Arracan, 1st Burmese war, 1824.	All districts	.....	The "Hill tracts" are under a separate Regulation. (Including Martaban.)
	Tenasserim, 1st Burmese war, 1824.	All districts	.....	
	Pegu, 2nd Burmese war, 1852.	All districts	.....	All under Act II of 1876; settlements now in progress.

BERAR.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Resident of Hyderabad.	Treaties of 1853—1860 with the Nizám.	Consists of six districts:—Umrawati, Ellichpur, Akola, Buldana, Basim, Wán.	1861—76	Under Bombay settlement system; Settlement Rules of 1860—61.

COORG.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissioner of Coorg with "Superintendence" under him.	Annexed in May 1834.	The province consists of six taluks.	.....	Two taluks have been separated and added to South Kanara in Madras Presidency.

AJMER AND MERWARA.

Form of Government.	Date of acquisition and former territorial designation.	Name of present district.	Date of Revenue Settlement.	Remarks.
Chief Commissioner, 1871.	Ceded in 1818 after the Pindari War. Merwara reduced 1819-20—22.	Ajmer district and the parganas of Merwara united in 1842 under one officer.	1st settlement 1849-50 revised in 1874.	On the N.-W. Provinces system. There is a Commissioner and a Deputy Commissioner with an Assistant at Beáwar in Merwara.

CHAPTER II.

OF THE INDIAN LEGISLATURE, AND THE LAWS BY WHICH INDIA IS GOVERNED.

§ 1.—*Reason for describing them.*

As I have already alluded to "Acts" and "Regulations" of the Indian Legislature, and shall have occasion continually to refer to such Acts and Regulations in the sequel, it will be desirable to give a brief account of the legislative powers under which Acts have been, and are, enacted for the Indian Empire.

Just as in the last chapter, we learned that the organisation of the several provinces for administrative purposes, was only accomplished gradually and by a series of Acts of Parliament, so the Indian Legislature has gradually grown into its present form after several statutes for organising it have been made, amended, and repealed. The tentative and changeful nature of the arrangements provided, are due to the same causes in both instances.

At first it was only necessary to provide for the internal affairs of the Company's factories, to determine what laws the settlers were to be deemed to carry with them, and were to be bound by, in their new home, and what courts were to administer justice among them. Soon, however, the sphere widened; whole provinces were acquired and added on to the original settlements; and then came the necessity of controlling, not only the European settlers, but of providing for the government of the country at large.

Trading charters had then to be supplemented by Acts of Parliament, providing for the direction and control of the East India Company (now that it was a governing body), regulating the appointment of high functionaries and subordinate agents in India, determining the constitution of Courts of Justice, and giving powers of local legislation.

It would serve no useful purpose, even if I had space available, to describe the early history of the Government which, in former days, as at present, was, from the necessity of the case, carried on partly in England and partly in India.

§ 2.—*Home Government of the present day.*

The "Court of Directors" of the Company and the "Board of Control," which acted as a sort of check (on the part of the Crown) on that Court, have passed away. The Home Government is now provided for by the Act 21 and 22 Vic., Cap. 106 (A. D. 1858), known as the "Act for the better government of India." This Statute transferred the government of the Company's possessions to the Crown, and provides that all the rights of the Company are to be exercised by the Crown, and all revenues to be received for and in the name of the Queen, and to be applied for the purposes of the government of India alone, subject to the provisions of the Act.

One of Her Majesty's Principal Secretaries of State is to exercise all the control that the Court of Directors of the old Company did, whether alone or under the Board of Control.

A Council of fifteen members, to be styled the "Council of India,"[1] is also established. The Act fixes the salary of the members (payable out of the Indian revenue) and prohibits them from sitting or voting in Parliament. The Council is under the direction of the Secretary of State, and its duty under the Act, is to "conduct the business transacted in the United Kingdom in relation to the government of India and the correspondence with India."

It may be, and is, divided into Committees for different departments of business. If the Council differs from the Secretary of State, the opinion of the Secretary is final, except in some matters, for the decision of which the law declares a majority of votes necessary[2].

[1] See the Act, Sections 7 and 19.

[2] The most important of such cases is provided by section 41 of the Act itself. No grant or appropriation of Indian revenue or public property can be made without such majority.

§ 3.—*Legislative power in England.*

The Parliament has full power to legislate for India whenever it thinks fit. Not only has Parliament this general power, but the local Indian Legislature is expressly barred from dealing with certain subjects which it was thought wiser to reserve for the Imperial Parliament.

I may here mention that it is a settled rule of interpretation that Acts of Parliament applicable to "British India" give the law to the whole of those territories, not only as they happen to be at the time, but however they may be constituted thereafter. No matter how many provinces may be added to British India in future, Acts of Parliament now in force and applying to "British India" would equally apply to the new provinces added[3].

Such being the powers of the Secretary of State for India and his Council, and of the Imperial Parliament, we may now consider the powers and constitution of the Government of India.

§ 4.—*The Government of India.*

There is a Viceroy and Governor General with the supreme power of control and supervision over all the Governors and Lieutenant-Governors (who are the "Local Governments"). The Governors of Madras and Bombay retain some special powers (such as that of direct correspondence with the Home Government) not enjoyed by other Local Governments, and which in some respects affect their relation to the Government of India; but this it is not necessary to enter upon.

The Governor General may also himself become the Local Government of certain provinces by taking them under his direct management (under the Act 17 and 18 Vic., Cap. 77) in the

[3] See Sir H. (then Mr.) Maine's remarks in the Abstract of the Proceedings of the Legislative Council of 22nd March 1867 (*Calcutta Gazette*, 30th March 1867). Not so with Indian Acts:—if applicable to the "whole of the territories of the East India Company," that means the territories as they existed at the time. For example, an Act passed in 1848 would not (unless afterwards extended) apply to the Panjáb, because it was not till 1849 that the Panjáb formed part of the territories of the East India Company.

manner described in the last Chapter[4]. The Central Provinces, Oudh, Assam, and British Burma are examples of this. In such cases there is a Chief Commissioner who constitutes the "Local Administration."

The Governor General is now assisted by a Council of five Ordinary Members[5]. This is the Executive Council.

§ 5.—*The first form of Indian Legislature.*

The first Act which directly provided for the form of government in India, is the 13 Geo. III, Cap. 63 (passed in 1773), known as "The Regulating Act." It provided that the Government of Bengal should consist of a Governor General and Council (four Councillors), and this was to be the Supreme Government, subject, however, to control of the Home Authorities[6].

Legislative powers were given under this Statute, to the Governor General, for the "Settlement of Fort William," and other factories and places subordinate thereto.

Madras and Bombay had not yet any power of making Regulations. To the former of these Presidencies, powers were given by an Act of Parliament in 1800 (which extended powers similar to those which an Act of 1781, presently to be mentioned, had given to Bengal).

In 1807, Bombay was provided for, and the powers of Madras were at the same time improved and placed on the same footing.

The chief feature of the Regulating Act as it affected legislation, was, that all laws required to be registered in the Supreme Court of Judicature at Calcutta, in order to give them validity. This plan did not answer; and it was amended by an Act of 1781[7].

[4] See Chapter I, page 8.

[5] 24 and 25 Vic., Cap. 67 (Indian Councils Act), Section 3.

[6] *Vide* the Act, Sections 7, 8, and 9 and Tagore Lectures for 1872, page 44.

[7] The causes of the change were the antagonism which sprung up between the Supreme Court and the Council. All such matters must necessarily be here omitted. The student who desires to pursue the subject, may refer to the Tagore Lectures, 1872 (Lecture III), and the standard Histories.

§ 6.—*The Regulations.*

Under this amending Act of 1781, a large body of Regulations was passed[8]. The Marquis of Cornwallis revised and codified the Regulations in 1793, and on the 1st of May 1793, forty-eight Regulations, so revised, were passed, of which the forty-first declares the purpose of forming into a regular Code, all Regulations that might be enacted for the internal government of the British territories in Bengal.

That these Regulations did not exactly comply with the terms of the Act of 1773, while they exceeded the limits of the powers given by the Act of 1781, there can be no doubt. However, Parliament in 1797 (37 Geo. III, Cap. 142) recognised them as in fact valid, approved of the formation of a Code of such Regulations, and only added that they should be registered in the "Judicial Department," and that the reasons for each Regulation should be prefixed to it[9]. The Code thus issued in 1793 and added to down to 1833, forms what is called the Code of Bengal Regulations[10]." There are local Codes of Regulations also, for Madras and Bombay.

§ 7.—*No provision for provinces not annexed formally to the Bengal Presidency.*

It was noted in the last chapter that the force of the Regulations was in 1800 (39 and 40 Geo. III, Cap. 79), extended to the province of Benares and "all other factories, districts, and places which now are, or hereafter shall be, subordinate, and to all such provinces and districts *as may at any time hereafter be annexed to the Presidency* of Fort William in Bengal."

In the course of the preceding chapter, I have noticed the im-

[8] Tagore Law Lectures, 1872, page 80.

[9] This is the reason why long, and sometimes very instructive, preambles are to be found prefixed to some of the earlier Regulations, these preambles being, in fact, "explanatory memoranda" of the object and purpose of the law.

[10] Part of this is still in force. The various repealing Acts have done away with all obsolete Regulations; others, of course, have been specially repealed in the course of legislation.

portance of this provision, and also the fact that various new acquisitions of territory, though annexed in general terms to the British dominions, were *not specifically made subordinate* or annexed to, the Presidency of Bengal. Consequently, no Regulations applied to such provinces, nor was there any direct power of making laws for them till 1834, nor was all difficulty connected with the subject completely removed till 1861.

§ 8.—*The second Indian Legislature.*

The 28th August 1833—on which day the 3 and 4 Wm. IV, Cap. 85, was passed—brought to a close the era of the Regulations. By the 43rd section, the "Governor General in Council" was to make *Laws* and Regulations for all persons, for all Courts of justice, and for all places and things within British territory and regarding servants of the Company in allied Native States.

The Act provided also certain limits to the power of the Indian Legislature with regard to certain subjects of legislation.

In the former period, the legislative power had been to make "Rules, Regulations, and Ordinances"; the term "Regulation" was consequently adopted as most properly describing the enactments issued. Under the 3 and 4 William IV, Cap. 85, the power was given to make *laws* as well as Regulations; and it was thenceforward the custom to call the enactments of the Governor General in Council "Acts."

There is but little specific difference in the nature of a Regulation and an Act, except that the former were less concisely and technically drafted, and were usually preceded by the detailed expositions of the motives and purpose of the enactments previously alluded to. This, in "Acts," has been replaced by the brief "preamble."[1]

[1] There are also some differences in the manner of interpretation; but it is not here necessary to enter on such details. The introduction to "Field's Chronological Index" explains the subject clearly. The "Statement of Objects and Reasons," which is always published with the proposed law while it is yet in the stage of a "Bill," does away with the necessity for any lengthy preamble to the Act itself when passed. It is, however, itself probably a relic of the old exposition prefixed to the Regulations.

From 1793 to 1833, therefore, we have "Regulations," and from 1834 down to the present day we have "Acts."

These Acts are numbered consecutively through the year, and follow the calendar, not the official, year. This plan has ever since been adhered to, notwithstanding the modifications which have affected the constitution of the Legislature down to the present time.

By the Act of 1833, the Governments of Madras and Bombay were deprived of the power of legislation, and did not regain this power till 1861.

The Act gave the Governor General a Council of four members, of whom one was to be conversant with legal subjects. He was not a member of the Executive Council, and only sat when legislation was in question. Even then he was not necessarily present; nor need he concur when an Act was passed[2]. Under this Act, however, Commissioners were appointed *in India* to consider and propose drafts of laws[3].

§ 9.—*The Indian Legislature in its third stage.*

Our present system is nothing more than a development of the Legislature of the 3 and 4 Wm. IV, Cap. 85. The first important change was made by the Act of 1853 (16 & 17 Vic., Cap. 15). It will be interesting to follow, in a very general manner, the changes made[4].

[2] For an excellent comparison of the various Legislatures in more detail, see Tagore Law Lectures, 1872, page 105 *et seq.*

[3] It was under these provisions that Lord Macaulay came out, the result of the Commissioners' labours being the Indian Penal Code, now so famous. By the Act of 1853 a Law Commissioner in England was appointed to advise the Crown, on the recommendations of the Law Commissioners in India.

[4] Acts passed under the constitution of 1834 are technically styled "*Acts of the Governor General of India in Council*"; those under the system of 1853 are *Acts of the "Legislative Council of India"*; those made since the Indian Councils Act of 1861 are "*Acts of the Council of the Governor General of India assembled for the purpose of making Laws and Regulations.*" At the present day the drafts of proposed Acts are published in the *Gazette of India*, for the purpose of giving notice of the proposed law and of invoking criticism, and in that stage the draft is spoken of as a "Bill." When the Acts are passed by the Council and have received the assent of the Governor General, they are also published in the *Gazette*.

By this Act, some purely *legislative* members were added to the Council. These were appointed, one by each Governor of a Presidency or Lieutenant-Governor of a province. The Chief Justice of Bengal and one of the Judges, were also made members.

While, however, the Council was thus improved in two important features,—(*a*) local representation of provinces and (*b*) special adaptation for legislative functions,—it did not satisfy the ideas of many who could make their opinions heard. In those days the plan of a local legislature for each province was strongly advocated, and in 1859 Lord Canning sent home a despatch, in which not only this subject was dealt with, but the practice of the existing Council was criticised. Lord Canning advocated a separate legislature for Bombay, Madras, Bengal, the North-West Provinces, and the Panjáb. He also desired that natives of the country should be consulted, and that they should be able to give their opinions in their own language.

10.—*The Indian Legislature as it is at present (under the Indian Councils' Act).*

In 1861 was passed the 24 and 25 Vic., Cap. 67, the "Indian Councils' Act," which (as amended in some particulars by later

The Superintendent of Government Printing (at his office, No. 8, Hastings Street, Calcutta) publishes authorised copies of all Acts, which can be bought by the public at a small price, varying according to the length of the Act. The Legislative Department is also issuing a collected series of the Acts, grouped in volumes of "General Acts," and in "Codes," *i. e.*, the Acts referring specially or solely to each province. In these editions, which are of great value, tables are published showing how all the Acts and Regulations are disposed of—by repeal, &c. Only unrepealed enactments are printed, with the alterations introduced by later Acts (if passed in time for the printing). The provincial volumes, or "Codes," of Bengal, Madras, and Bombay, give all the Regulations and Acts of the Local Legislatures, as well as the Acts of the Supreme Legislature; and all the provincial volumes contain the "Regulations" issued for certain districts under the Act 33 Vic., Cap. 3. They do not, however, give the "rules made pursuant to various Acts," which are now so conspicuous a feature in recent Acts. These must be looked for in local Gazettes or reprints. Such "rules" are, however, of great convenience, enabling a multitude of details to be locally provided for which could not be entered in the Act itself without swelling its bulk enormously, since the "rules" are as various as are the conditions of the provinces. The Forest Officer will remember how important a place "rules" have in the Forest Acts of 1878 and 1881.

Statutes) is the law under which our present legislature subsists[5].

The nucleus of the Council is the Executive Council of the Governor General. This now consists of five Ordinary Members (with the Commander-in-Chief as an Extraordinary Member if so appointed by the Secretary of State). The Governor of Madras or Bombay becomes also another Extraordinary Member when the Council sits in his Presidency.

Of the five Ordinary Members, three are officials, Civil or Military (of ten years' standing at least), and of the remaining two, one must be a Barrister (or Scotch Advocate) of not less than five years' standing. The Barrister Member is generally spoken of as the "Legal Member" and the other as the "Financial Member." When the Council sits for legislative purposes, it has to be supplemented by a number of "Additional" Members[6], for the purpose of making laws and regulations only. These Additional Members have no power of voting except at legislative meetings. In number they must be not less than six nor more than twelve; one-half the number so nominated must (by Section 10) be non-official persons.

Provision is made for the Council meeting in the absence of the Governor General; and for the Governor General, when visiting any part of India, exercising his power without his Council.

But this power does not extend to legislation. The Governor General can never legislate apart from his Council; but the Council may sit notwithstanding the absence of the Governor-General. In such cases a "President in Council" is appointed according to the Act.

[5] All the recent Acts of Parliament, *viz.*, from 1855, can be found in the Collection of Statutes issued by Mr. Whitley Stokes in continuation of the "Law relating to India and the East India Company"; the former can easily be obtained, the latter is now out of print and scarce. But an edition of the Statutes is being printed in the Legislative Department.

[6] When the Council sits in any province, the Lieutenant-Governor (and by the 38 Vic., Cap. 3, Section 3, a Chief Commissioner also) becomes *ex-officio* a Member *for legislative purposes* only. The *ex-officio* Members may be in excess of the maximum of twelve Additional Members.

The Governor General (alone) has, however, a special[7] power to issue ordinances for the peace and good government of the country in cases of emergency.

Power is reserved to the Crown (through the Secretary of State in Council) to disallow any law or regulation passed in India; and the powers of the Council are restricted by section 22 in respect of certain subjects of legislation.

§ 11.—*Powers of Local Legislatures.*

The Act gives legislative powers to the Madras and Bombay Governments; consequently, the Local Codes which show a blank after 1833, begin to have Local Acts from 1862 onwards. For the other provinces the matter is differently stated. The provisions of the Act *are* to be extended to the Lieutenant-Governorship of Bengal, and *may* be extended to the North-West Provinces[8] and the Panjáb as soon as the Governor General deems it expedient.

[7] See section 23. This remains in force for a limited period only, and is subject to a "veto" from the Home Government (Secretary of State).

[8] Under these provisions the Bengal Council was constituted by proclamation on the 17th January 1862. No local legislature for the North-West Provinces or Panjáb has yet been constituted.

The following passage from the Tagore Lectures for 1872 may be here quoted as well describing the functions of the Councils when sitting as *legislative bodies* (pages 122-23):—

"The character of these Legislative Councils is simply this, that they are Committees for the purpose of making laws, Committees by means of which the Executive Government obtains advice and assistance in their legislation, and the public derive the benefit of full publicity being ensured at every stage of the law-making process. Although the Government enacts the laws through its Council, private legislation being unknown, yet the public has a right to make itself heard, and the Executive is bound to defend its legislation.

"And when the laws are once made, the Executive is as much bound by them as the public, and the duty of enforcing them belongs to the Courts of Justice. Such laws are in reality the orders of Government, but they are made in a manner which ensures publicity and discussion, are enforced by the Courts and not by the Executive, cannot be changed but by the same deliberate and public process as that by which they were made, and can be enforced against the Executive or in favour of individuals whenever occasion requires. The Councils are not deliberative bodies with respect to any subject but that of the immediate legislation before them. They cannot enquire

The local Governor is bound to transmit an authenticated copy of any law or regulation to which he has assented to the Governor General[9]. No such local law has any validity till the Governor General has assented thereto, and such assent shall have been signified by him to and published by the Governor. If the assent is withheld, the Governor General must signify his reasons in writing for so doing.

into grievances, call for information, or examine the conduct of the Executive. The acts of administration cannot be impugned, nor can they be properly defended in such assemblies, except with reference to the particular measure under discussion."

[9] And if the Bill contains penal clauses, it is ordered (as a matter of administrative regulation) by a despatch of the Secretary of State of 1st December 1862, that it should be submitted to the Governor General *before* it is locally passed into an Act.

Diagram or Table giving a "Conspectus of the Legislatures."

Legislature of 1834 (3 & 4 William IV, Cap. 85).	Legislature of 1853 (16 & 17 Vic., Cap. 95).	Legislature of 1861 (24 & 25 Vic., Cap. 67).
Governor General and Council of three, with a fourth member (a lawyer) for Legislative duty only.	Governor General and Council of four (all four being on the Executive Council); *also* The Chief Justice of Bengal, One Judge, *and* One "Legislative Member" appointed by each Governor and Lieutenant-Governor.	(A) Governor General and Council of five "Ordinary" Members. (Three of them officials and two non-officia usually one "Legal Member" and one "Financial Member"); *and as* "Extraordinary" Members— (1) Commander-in-Chief (if appointed), (2) Governor of Madras or Bombay, *ex-officio* when Council sits in his territories; *to which is added* (B) For legislative purposes only (no vote on other matters), "Additional Members," (not more than twelve nor less than six, one-half to be non-official), *and* (1) Lieutenant-Governor, (2) Chief Commissioner, *ex-officio* (and without reference to maximum of 12) when the Council sits for making Laws in their territories.
		Supreme Council. / Council of Governor General assembled for purpose of making Laws and Regulations.
No Local Legislative Councils at Madras, Bombay, or Fort William.		Legislative Council, Bengal. — Act *directs* Governor General to appoint. (Done January 17th, 1862.) Legislative Council, Bombay. — Constituted by the Act itself. Legislative Council, Madras. — Constituted by the Act itself. Legislative Councils for other Provinces. — Act *allows* Governor General to appoint. (Not yet done.)
		Their "Acts" require the assent of the Governor General.

§ 12.—*Law of "Non-Regulation" Provinces.*

One section (25) of the Indian Councils Act I have reserved for notice till the conclusion of this chapter.

I have already spoken of "Non-Regulation Provinces," and so far explained how they came into existence. We have seen that, unless expressly made subordinate to the presidency, a province did not come within the operation of the Regulations. Consequently, up to 1833, no provision existed by which anything in the nature of a legislative power existed for such places.

The Act 3 & 4 Wm. IV, Cap. 85, afforded only a partial remedy. It gave it, it is true, power to legislate for all British territory, so that provinces which were already British territory at the time were provided for; but nothing was said about the application of such Acts, if general in their character, to provinces not at the time British provinces, but added afterwards[10]. It soon became doubtful how far such Acts were practically in force. But the chief difficulty was, that in the newer provinces a number of matters had been provided for by local rules, circular orders, and official instructions, which emanated from the executive, but not from any legislative, authority. Business could not have been carried on without such rules, yet there was no legal basis for them, only the sanction of practice.

The Indian Councils Act of 1861 removed the difficulty, and by section 25 provides that "no rule, law, or regulation which, prior to the passing of this Act, shall have been made by"

the Governor General,
the Governor General in Council,
the Governor,
the Governor in Council,
the Lieutenant-Governor,

for and in respect of any such non-regulation province (*i.e.*, territory known from time to time as a non-regulation province) shall

[10] *Vide* note, p. 26; the remarks there quoted were made in the Council with reference to the Act XI of 1835, which, though applicable to all British territory, was not legally in force, *e.g.*, in the Panjáb, because in 1835 the Panjáb was not British territory.

be deemed invalid, "only by reason of the same not having been made in conformity" with the provisions of Acts regarding the powers and constitution of Councils and other authorities.[1]

§ 13.—*Local Laws Acts.*

In order to remove any possible doubt on the subject, the Indian Legislature has since expressly enacted "Local Laws Acts," which state what Rules and Acts and Regulations are to be deemed to be in force in the chief non-regulation provinces. In the Panjáb we have Act IV of 1872 (amended by XII of 1878); for Oudh, Act XVIII of 1876; for the Central Provinces, Act XX of 1875.

In 1874, also, an Act was passed (No. XV of 1874) which is called the "Laws Local Extent Act," and this, in a series of schedules, gives a list of previous Acts and Regulations which extend to the whole of India, or to the particular province (as the case may be), and the applicability of which was, or might be, previously doubtful.

§ 14.—*Scheduled Districts.*

As regards the extent and nature of the law in force, the old distinction of "Regulation" and "Non-Regulation" has virtually lost its meaning. Many of the old Regulations have been repealed or superseded, and some of those that remain have been expressly declared to apply to the Non-Regulation Provinces. Not only so, but all the more important branches of legislation—Civil and Criminal Procedure, Land Revenue, Stamps, Excise, Irrigation, the Law of Contract, the Criminal Law—have been provided for either by general Acts which apply to all the provinces at large, or by special Acts containing local details, but resembling each other in

[1] When rules and orders were made by "Boards of Administration" or "Chief Commissioners" they would not have validity under the Indian Councils Act, unless they had been confirmed by the Governor General, in which case they virtually became rules made by the Governor General. In this way the Panjáb Forest Rules of 1855 had validity, owing to their confirmation by the Governor General in Council. This validity has since been affirmed by the insertion of the rules in the schedule of the Panjáb Laws Act.

principle. But there is still a practical distinction of another kind to be mentioned, which is of importance and likely long to be maintained.

There are portions of the older Regulation Provinces, and also portions of the newer Non-Regulation Provinces themselves, which are "Extra Regulation" in a perfectly valid and current sense. These are now spoken of as the "scheduled districts," under the Act (XIV of 1874) passed to place them on an intelligible basis as regards the laws in force in them[2].

[2] The list may be summarised as follows:—

Scheduled Districts, Bengal.

I.—The Jalpaigúri and Darjiling Divisions.
II.—The Hill Tracts of Chittagong.
III.—The Santál Parganas.
IV.—The Chutiá Nágpur Division.
V.—The Mahál of Angúl (in Orissa). [Bánki has recently been excluded and now forms part of the ordinary Púri district.]

North-Western Provinces.

I.—The Jhánsi Division, comprising the districts of Jhánsi, Jaláun, and Lalitpur.
II.—The Province of Kumáon and Garhwál.
III.—The Tarái Parganas, comprising Bázpur, Káshípur, Jáspur, Rudarpur, Gadarpur, Kilpúri, Nának Matthá, and Bilherí.
IV.—In the Mirzapur District—
(1) The tappas of Agori Khás and South Kon in the pargana of Agori.
(2) The tappa of British Singrauli in the pargana of Singrauli.
(3) The tappas of Phulwá, Dudhi, and Barhá in the pargana of Bichiapur.
(4) The portion lying to the south of the Kaimúr range.
V.—The Family Domains of the Maharája of Benares.
VI.—The tract of country known as Jaunsár-Báwar in the Dehra Dún district.

Panjáb.

The districts of Hazára, Pesháwar, Kohát, Bannú, Dera Ismáil Khán, Dera Gházi Khán, Lahaul, and Spiti.

Central Provinces.

Certain zamíndáris of Chhattisgarh and Chánda, and the Chhindwárá jágírdári estates.

The Chief Commissionership of Ajmer and Merwára.

The Chief Commissioner of Assam.

British Burma.

The Hill Tracts of Arracan.

The districts are called "Scheduled" because they are noted in the "Schedules" of Act XIV of 1874.

None of the Acts of a general character passed before 1874, the local application of which is settled by Act XV of this same year, apply directly to the *Scheduled* districts; it is left to the Local Government to define by notification in each case,—

(*a*) what laws are *not* in force (so as to remove doubts in case it might be supposed that some law was in force);

(*b*) what laws *are* in force;

(*c*) and to extend Acts or parts of Acts to the district in question.

Of course all Acts *passed since* 1874 themselves define to what territories they extend, so that there can be no further doubt on the matter.

§ 15.—*Regulations under 33 Vic., Cap. 3.*

In order to provide a still more elastic and adaptable method of making rules which have legal validity, for provinces, in an elementary stage of progress, the Act 33 Vic., Cap. 3 (1870), provides that certain territories may at any time be declared by the Secretary of State to be territories for which it is desirable that special Regulations (other than the Acts of the Legislature) should be made. The districts so declared (if not already under Act XIV) ... "Scheduled" whenever such declaration is made, so that ... scheduled districts in addi- ... Act ... ns regarding Hazára in the ... regarding Assam, Ajmer,

... d Godávari districts (besides the

... á Collectorate), Aden, and certain

and the Hill Tracts of Arracan, &c., are all under this law. They are at once known from the old "Regulations" (of 1793—1833) by their bearing date since 1870.

§ 16.—*Résumé.*

In order to aid the student in remembering the *principal stages* in the growth of the Legislature, I present the following skeleton or abstract:—

(1) Originally each presidency had its own President and Council: no formal legislature being needed for settlers who bring their own law with them to the "factory" in which they settle.

(2) Territories acquired and formal government begins; Courts have to deal with natives of the country; Legislative power necessary; given by the "Regulating Act" of 1773, subject to supervision of Supreme Court. This does not work, and is amended in 1781, but incompletely.

A.D. 1773. 1781. 1797.

(3) A number of "Regulations" made; codified in 1793; recognised as valid by Act of Parliament, 1797. This, with subsequent additions up to 1833, forms the Code of "Bengal Regulations."

Applies to Bengal. Similar powers given to Madras in 1800, and both Madras and Bombay were still further empowered in 1807.

(4) Legislature of 1834 (3 & 4 William IV, Cap. 85) for British India.

A.D. 1833.

The "Acts" begin 1834 and onwards.

(5) Improved in 1853 by adding local members from provinces and some judicial authorities.

A.D. 1853

Legislative powers *taken away* from Madras and Bombay, and do not yet exist in other provinces.

(6) Finally improved by Indian Councils Act, 1861.

A.D. 1861.

Legislative Councils (Acts subject to assent of Governor General) for Bombay and Madras. One *to be* provided for Bengal (this done in 1862); *may* be provided for other provinces (not yet acted on).

(7) Special power given to Secretary of State to declare certain territories amenable to the 33 Vic., Cap. 3. Thereon the head of the Local Government or Administration may propose to the Governor General in Council a Regulation, which, on being approved by him, becomes law.

A.D. 1870.

CHAPTER III.

A GENERAL VIEW OF THE LAND TENURES OF INDIA.

SECTION 1.—INTRODUCTORY.

§ 1.—*The possibility of a general explanation of land-tenures.*

THE heading must not be allowed to suggest that this section contains a general theory of the origin of the various land-tenures of India. Even if the means of attempting a historical generalisation were at hand, it would be quite beyond the scope of this Manual to make such an attempt.

But, in fact, the materials for generalisation are as yet hardly complete. It is only of late years that attention has been turned to the study of Indian institutions by the comparative method; and though we have many valuable reports describing special localities, but few of them give any clue to the place which the customs and tenures they describe, should take in the general history of institutions.

I can therefore only hope, in this section, to give a brief account of the more prominent forms of customary landholding, and endeavour to illustrate the forces and influences which have modified the tenures, and left them, as they now are, the product of circumstances—the outcome of physical, moral, and political conditions. This much is necessary by way of introduction; for the chapters which follow will not be intelligible to the student till he has apprehended certain general facts about Indian landholdings. These facts, and the vernacular terms in which they are enshrined, meet us at every turn; and without understanding them, the first steps in studying the land-revenue systems, cannot be taken.

The land, and the interests which different classes have in it, are the arena in which various revenue systems operate; and it is only following the natural order of things, first to consider the land and how it is held, and then to describe the systems on which the Government regulates and secures, at once its own revenue-interest in the land, and the rights of all classes of landed proprietors and cultivators.

At first sight, the land-tenures of India may seem to present a vast series of local varieties which have nothing in common. No doubt, when we consider the different local circumstances of the different provinces, we must be prepared to expect much real diversity, at any rate in details. And this diversity is made more prominent by the almost endless variety of local nomenclature.

Nevertheless, amid all this diversity,—notwithstanding the Babel of tongues and dialects, we are able to trace certain features, which again and again appear in the most dissimilar portions of the empire. We are able, in fact, to take note of certain customs of landholding which marked the establishment of the different Aryan-Hindu tribes wherever they went. These customs were modified, but not obliterated by later Muhammadan and other conquests; and they themselves, as well as the results of the Muhammadan system, are so easily traced and so generally surviving, that we may take them as the starting point for a practical study. And I have little doubt, that when Indian land-tenures have been fully investigated *comparatively*, these general facts will also furnish the basis of a theoretical study, which will result in their being traced to their explanation on a common principle of historical development.

§ 2.—*The division of land into "villages."*

The first feature which strikes us is, that, with the exception of a very few localities, every district in India shows the cultivated, or rather the occupied, land, as grouped into local areas

called "**villages**[1]." The varieties latent beneath the general name may be many; but on the map, the local sub-division—the first general unit above the individual field or holding—is the village. Each village has a local name, known limits, and an inhabited site in the midst, with or without outlying hamlets.

The places where there are no villages, are to be found in hilly country, where the hill sides are clothed with tropical vegetation. In these, the cultivation will often consist of limited permanent clearings or gardens, and each garden will have a cluster of two or three houses on it. The rest of the cultivation is of a temporary character. The settlements in the hills of Kanara are of this kind. A similar state of things is to be found in the Himalayan districts, where there is neither tropical vegetation nor (as a rule) any rich soil; but the nature of the ground is such that a large continuous expanse of land fit for cultivation cannot be found; hence the village can rarely be more than a hamlet—a cluster of a few houses in one place.

§ 3.—*Size of villages.*

The size of villages varies in different parts of India. In the Panjáb the average size is nearly 900 acres; in the Central Provinces 1,300; in the North-Western Provinces and Oudh (the land being more densely populated, highly cultivated, and consequently much sub-divided) it is only 600 acres, on the average[2].

§ 4.—*Two types of village.*

Indian villages may be grouped into two broad classes, which, before I describe their differences, I may at once characterise, for convenience of reference, as the **joint** or **united**, and the **non-united** village.

[1] The "village" is the "mauza" of our Revenue literature. Elphinstone and other authors often call it a "township." It need hardly be explained that throughout this book (and in all others dealing with Indian land revenue systems), the term "village" is used in the Indian sense, which in no respect resembles that which attaches to the term in England.

[2] Stack's Memorandum on Temporary Settlements (Government of India), 1880, page 8.

The essential feature of the joint village is, that all the land inside its limits, whether waste or cultivated, belongs (either as the result of its natural constitution, or of our revenue system) to the entire body of village "proprietors."

The details of these matters will come before us at a later stage. Here I must confine my narrative to general features.

In the joint-village, the management of affairs is by a "panchâyat" or committee representing the heads or elders of each section: if there happen to be no sections, the 'panch' may be a single individual.

The village also is assessed by Government in one lump sum, for which the whole body is jointly responsible.

Consequently if one man fails, or dies without heirs, the co-proprietors pay up for him and take his lands, which they hold in common or divide among the sharers, according as the village is in one or other stage of joint or several management.

Outsiders cannot purchase land without consent of the body, and there is a right of pre-emption to the other sharers, if one wishes to sell.

In the **non-united** village, on the other hand, no one has any claim to anything but his own holding: the village of course makes use of the waste for grazing or wood-cutting, but the State can grant it away to any one it pleases.

The village again is managed by a single headman (called "patel" in Central India, "mandal" in Bengal, "muqaddam" in Northern India, and by various names, according to varieties of dialects, in the South). This headman is partly, at any rate, appointed by the State, though the office, like everything Hindu, becomes hereditary by custom.

The headman realised the Government revenue from each holding, and this was done by dividing the grain produce before it left the threshing-floor. In later times, when the governing power demanded a lump sum as revenue from the village, the headman apportioned the burden among the landholders. Each had then to pay the allotted share, whether light or heavy, but

there was no joint responsibility of the village as a body. If one man failed or absconded, the others had nothing to do with it: the headman arranged for the cultivation of the vacant holding.

There was no objection to outsiders coming in on the same terms as the rest, and there was no pre-emption right.

These are the salient points of contrast between the two types, but there are also some further details to be given which had best be separately described for each type of village.

§ 5.—*Origin of two types of village.*

It will naturally be asked, how it came to pass that these two types of village existed.

Most authors admit that it is partly due to the colonisation of India by different kinds of Aryan tribes.

The original inhabitants of India were in all probability pastoral races, but it is impossible now to form a theory of what their customs in regard to landholding may have been. We have now only relics of those races, in the Gonds, Bhils, Paháriás, and other such tribes, who are still to be found in the hill ranges and in the remote and less civilised corners of the country. Their institutions can now only be learned from a special study of the tribes, and they have so long ceased to have any bearing on the general land-tenures of India, that, in a general sketch of this kind, an allusion to them would be unnecessary.

But to these tribes the Hindu races succeeded, before the dawn of history. The first immigrants are represented by the Hindu of Bengal, and some of the southern races, who, however, are probably mixed races, formed by the fusing of the Hindu tribes with the aborigines[3]. They originally occupied Northern India and moved southwards at a later date.

But this race was in its turn disturbed by other tribes of Aryan origin and Hindu religion, but who were more martial in character, and whose institutions were of a different character.

[3] See Standing Information regarding the Madras Presidency (edition of 1879), page 77. Campbell, Modern India, page 7.

It was the first race that gave rise to the 'non-united village' type of landholding; it was the second group of tribes that brought those habits of apportioning the land among tribal groups, which, aided by the principle of joint-succession and inheritance, resulted in the joint-village. These same tribes, too, brought those feudal customs of ruling which we shall have occasion to notice, as having a great effect on landholding customs in India.

Wherever, then, we have the non-united village still surviving as such, and not as a decayed form of the other (for such a decayed form is possible, as we shall presently see), we have communities in which the older Hindu race and its institutions were not completely displaced. Where we find, as in the Panjáb and its vicinity, that the joint-village is the predominant type, we conclude that the later Aryan races, more or less completely, drove out the older races and established themselves[1]. Joint villages, however, are not alone due to tribal settlements; they may arise in other ways, and often in the midst of the non-united ones. Moreover, villages originally non-united may become joint by the effect of our own Revenue Settlements.

§ 6.—*Non-united villages and the Hindu Ráj.*

The earliest form of landholding as we can still trace it in Bengal, in the old Oudh kingdoms, and in the districts of Central, Southern, and Western India, is the non-united village, the charac-

[1] It is not a mere theory, this double immigration of Aryan races. "Indeed," says Mr. (Sir G.) Campbell (Modern India, page 8), "we are not without a historical glimpse of the facts. We have very good and accurate accounts of Northern India as it was in Alexander's time; and we find that, in addition to the Hindu kingdoms * * * * he found settled or encamped in the Panjáb, great tribes of a purely republican constitution, far more warlike than any others which he encountered. The best account of them is to be found in Heeren, in the volume on the Persians, page 316. Heeren represents their constitution as aristocratic or under the government of their optimates * * *. Alexander treated with 300 deputies of a tribe, but it by no means follows that these optimates were other than elected deputies. On the contrary, it is evident that they were the 'Panches' or delegates of the people with whom we treat in the same country at the present day."

teristics of which I have stated. But the progress of the history of landholding is so dependent on the Hindu theory of State government, that I must give a description of the Hindu kingdom. These kingdoms contained within themselves the means whereby the non-united form of village might be replaced by the joint form. And in fact, it may be here stated at once, that while we assign generally, the non-united village as typical of the older Hindu system, and the united or joint-village as belonging to the system of the later military races,—Rájput, Ját, &c.,—it is also true, that joint-villages may, and do arise *out of*, the older Hindu Ráj and its institutions; and joint-villages have arisen in quite recent times, and may now arise, neither out of the old Hindu Ráj, nor yet out of later tribal customs, but simply by the principle of joint-succession, common to Hindu and Muhammadan alike; so that, given one man, rich enough to get an estate for himself to begin with, his heirs, in a few generations, will form several joint-villages out of their branches.

Under the first Hindu races, then, the country was portioned out into a series of small kingdoms. These, generally, were in feudal subordination to some greater Rája[5] and the minor rulers received the "tilak" or mark of investiture from the over-lord.

The Rája was always of the Chhatri (Kshatriya) class; this arrangement seems to have been as much a natural institution as was the Brahmanic priesthood itself. It is very remarkable, however, that the ruling family may be altered and one conqueror succeed another, without the form of the State undergoing any change[6].

The form of society described in the 'Laws of Manu' was the form we are now describing;—the Rája, and under him the villages, each with its headman, and some intermediate officials, supervisors of a hundred or a thousand villages.

[5] Whence the title Mahárájá Adhiráj. The Chinese pilgrims who travelled in India in the 5th century, saw the State barge of the great Kanauj Rája being towed along by eighteen feudatory princes.

[6] See some valuable remarks in Benett's Gonda Settlement Report, 1878, paras. 65-66. Gonda was an ancient kingdom, and was repeatedly subject to changes of dynasty, even *Pathán* rulers appearing in the series; but still the Ráj remained unaltered till the wave of Muhammadan conquest passed over it.

No joint-village, claiming a right over an entire area allotted by any tribal custom, was known to the author of Manu's Institutes. The Rája with his general right to a share in the grain, with a power of collecting taxes, with a right to the waste; and individual landholders, each deriving his right from the fact that he had cleared the land, and reclaimed it from jungle,—that was the only form known at that early date.

In Oudh, the memory of the early Hindu kingdoms is still distinctly preserved to us The kingdom of Gonda has been described by Mr. W. C. Benett in the Settlement Report of Gonda district published in 1878.

Here we find the non-united villages, each landholder claiming only what he had cleared or brought under the plough, and the hereditary headman collecting the Rája's grain-share for him. Besides this share, the Rája took taxes of all kinds—on roads, on ferries, on wood-cutters who came from other states; besides many 'benevolences.'

The Rája had a right of disposal of the waste, in all cases where, by grant or otherwise, a right in a defined area was not alienated. I may fairly take Gonda as a representative. Here the villages were of the non-united type; all the villagers wanted and all they claimed was the free use of wood and grass. This they enjoyed; but when they were satisfied, the rest of the produce went to the Rája. It is also remarkable, that in the case of *timber*, the right of the villages was limited. A man might take a beam for his house, but if he left the country, he was bound to leave the timber in the house, which escheated to the Rája. In Gonda, too, we have also an indication of the very common right to "reserved" trees of a specially valuable kind. The Rája treated the Mohwa (or Máhua) tree (*Bassia latifolia*) as his, and in many cases retained his right even when the land on which it grew was in private occupation. Here we see a custom to which no doubt is due the State right to teak in Burma, to sandalwood, teak, blackwood, and other trees in other parts of India.

The right to the user of the waste was confined to the Rája's

own subjects. If a stranger came to cut wood in the Rája's forests, he was subject to a tax (tangárahi = axe-money).

These privileges of the Rája, suggestive as they are of considerable powers of disturbance, did not directly affect the village landholders, who continued to hold each man his own field, giving a customary share of the crop to the village artisans, and the priest, and dividing the rest between himself and the Rája.

It was just the same in the neighbouring kingdom of Utraulá[7]. In this we find exactly the same customs: the villages are all aggregates of cultivators under a headman who received certain allowances for the management. The Rája took his grain-share; and the rest of his revenues were derived from the numerous and ingenious taxes already alluded to; there was the same tax exacted for "kaprahi," or clothes for a new-born heir; the "mundan," or further levy, when the child's head was shaved for the first time; the "kutáhi," to repair the fort; and the "ghoráhi" or "háthiáhi," to pay for a horse or an elephant. The wood cut from the jungles was taxed, and road fees, bridge tolls, and trade taxes were exacted. The escheat (gáyári) of property which had no heir, was also recognised.

What is also remarkable about the Utraulá Ráj is that change in the dynasty did not, till the Muhammadan power at Lucknow interfered, alter the customs much. Thus, in the middle of the sixteenth century, we find Utraulá, then held by a Rájput Rája, attacked by an Aghán, who appears to have been following the Emperor Humáyún, but who displeased that monarch, was dismissed, and had turned freebooter in consequence. The change of dynasty seems to have had no effect whatever on the local customs of the Ráj. The Rája, indeed, accepted a sanad of the "zamíndárí" of his "pargana," showing how in places less remote, and where the rule of the Mughal pressed more closely, the Rája of a petty State sinks into the mere proprietor of his estate with

[7] Utraulá is now a pargana of Gonda district. So that originally Gonda and Utraulá were two small neighbouring states or kingdoms. See Oudh Gazetteer, Vol. VII, p. 373, &c.

limited rights, his kingdom becoming a revenue sub-division under the Imperial system. All that the Emperor did in this case was, however, to exact a certain revenue or tribute payment.

When the State was dismembered later on in its history, the separate portions had all the attributes of the original state, each paying its share of the tribute to the Central Government.

How it was that joint-villages arose in the midst, or rather on the ruins of the earliest form of Hindu society, I will explain presently; meanwhile, having so far accounted for the *non-united* village, let me briefly review the history of the second or later group of tribes which, as I have said before, followed after a long interval, and, in many cases, displaced the earlier system of landholding.

§ 7.—*The later 'military' tribes.—Settlement as a people.*

This second immigration finds its modern representatives in the great tribe of Rájputs and of the Játs, who are probably of similar origin, and in fact claim for themselves that they *are* Rájputs who had, to some extent, lost caste[8].

It is remarkable that these tribes have given rise to two distinct forms of dominion over land, both of which are very clearly traceable in different parts of India.

In some places they settled *as a people*, occupying broad tracts of country (as we shall notice in the chapter on Panjáb Tenures). In other places they appeared merely as conquerors, a small band of armed invaders who took possession of the Government, and exacted tribute, but were not numerous enough to displace the original inhabitants and to colonise the country.

They produced a totally different effect on the land-tenures under each of these two conditions. Where they settled as a people, the tribe took up a whole area like the "mark" of the Germanic

[8] Campbell, Modern India, p. 9.

tribes of Europe[9] and divided it out into minor allotments for sections of the tribes, and then again into the ultimate lots for individuals or families. And as these people would be all connected together, and near relatives would be grouped together on the same lands, the institution of a "village," the whole claimed absolutely by a joint body of ancestrally connected tribesmen, readily arises. These tribal settlements may be found all over the Panjáb, to the complete exclusion of the older races who were either reduced or took refuge in the Himalaya. They went also south (though at a later period), and traces of joint-villages may be found in Berár and in the western districts, especially in Guzarát. They may be found again surviving as the Vellalars and others who own joint-villages in the Tamil country, where what is called the "mirási" tenure is found[10].

8.—*Tribal conquests.—No settlement as a people.*

But when the Rájputs (or tribes like them) started merely in smaller bands for plunder or conquest, they established quite a different order of things. In such cases their chief leader took the kingdom as Rája, with a portion of the country allotted to him as his royal demesne; the minor chiefs had their smaller estates, and the

[9] We can see this process most clearly exemplified in the frontier districts of the Panjáb; here tribes came in at a much later date than even those we are describing. Hazára will afford especially a clear instance of the iláqa or tribal territory sub-divided out among the clans and sub-sections. The institution of the Teuton "mark" and the Anglo-Saxon "vill" or township is traceable to a similar origin. If the student will take up Mr. Joshua Williams' "Lectures on Rights of Common" (London, H. Sweet, 1880) and read Lectures 4, 5, and 6, he will find that the description there given, might almost have been taken from a North Indian Settlement Report.

[10] The Tamil country is south of Nellore, along the eastern portion of Madras. See Standing Information, Madras, p. 82-3.

But I am in no way disposed to admit that "mirási" really implies the right of a sharer in a joint-village. Words of similar import and origin are constantly used to describe a 'heritable' but separate interest in land. In the Dakhan there are mirási holdings not necessarily connected with *joint*-villages; and the words wárisi and wirasat are used in the Himalaya to indicate ownership rights in land where joint-village communities are unknown.

individual followers settled down among the population of the country, but formed no kind of joint-village community. If they held land, they held it on the terms of being owners of as much as they got or took, and no more[1]. They paid no revenue to the State at first, but military service and even pecuniary aid (on special occasions) were always required.

We can see this state of things in Ajmer at the present day. The Hindu States in the Himalaya also are all on this model; the ruler is a Rájput, and there may or may not be subordinate Thákur's, Ráo's or other feudatory estates under him. He takes from all the villages (who are the original population) his grain-share; and the Rájputs are not found in numbers, nor do they form joint-villages. Exactly the same thing happened in the West Coast of Madras, consequent on the invasion of the Nairs of Malabar.

This brief outline will, I hope, serve to make it intelligible how it is, that we have Rájput *joint-villages* in the Panjáb, for example, and a Rájput *State organisation*, totally without joint-villages, in Ajmer and the Himalayan states.

§ 9.—*Other origins to joint-villages.—Descendants of farmers of revenue and grantees.*

I have now a somewhat more intricate task to perform. Having shown how the non-united village arose, and how the joint-village, in some places, may be traced to settlements of later and more martial tribes, I have yet to explain how the joint-villages, as we see them now, may arise in other ways also.

[1] In Ajmer this appears very clearly; there the scanty and uncertain rainfall renders permanent cultivation impossible, without a well or more commonly a tank or "band" of some kind. Anybody willing to construct a work of this kind had only to take the permission of the Rája on the royal or khálsa land, or of the chief in his estate, and then he erected his band or sunk his well, and became practically the proprietor of it and of the land watered by it. All unoccupied land remained at the disposal of the chief or the Rája, as the case might be. The different landowners who were settled together, of course formed groups, and got local names as villages, but they never formed a community, or laid claim to the waste as their common property.

One—and this operates in quite modern times—is simply that of a powerful individual who, no further back than the Mughal (or, in the Panjáb, the Sikh) times, got possession of certain villages as Revenue-farmer. He established himself there, and the present village joint-proprietary body are simply *the descendants of the original farmer or grantee.* Villages may arise just in the same way, from a grant of waste: the present owners are descendants of a grantee of a few generations back, as in Sirsa, in the Panjáb.

But there is a more curious origin for joint-villages than these. Such estates may spring out of the old Hindu kingdom, (1) by the effect of *grant* of the Rája; and (2) by the *division and dismemberment* of the Ráj itself.

§ 10.—*Birt or grant by the Rája:—the "zamíndárí birt."*

The earliest form of grant made by the old Hindu Rája is the "birt," which might mean an actual grant of waste land, the grant of a right to settle and occupy land, or a grant of the king's share or revenue of villages already occupied. As might be expected, a large number of these grants were "jangaltaráshí," made on favourable terms (rent-free for a period, probably) to encourage the improvement of the waste; others, which the Brahmans took care to represent as irresumable, were for religious purposes: and some were jivan-birts granted to favoured individuals and younger members of the Rája's family to afford them maintenance. The term "birt" constantly occurs in Oudh Revenue history, and occasionally elsewhere; it certainly represents a general and widespread institution of the Hindu system of Government. The "birt" was a permanent and heritable grant, but a grain-share, though a reduced one, was still payable to the Rája. A fee was also taken for the issue of the birt.

But such grants would not have modified the customs of land-holding had it not been that they were afterwards applied differently.

If we refer again to the case of Gonda, we shall notice a feature, which also occurred in the history of other districts, if not

universally. Certain powerful families, in possession of one or more villages, raised their position either with the consent of the Rája or by their own unaided influence, to the extent that they became possessed of the superior right throughout their estates.

Very probably a grant of the nature of a jágír or assignment of the revenue for military service, began the process, although a jágír grant did not give up any of the Rája's rights except to the revenue or grain-share. The estates which thus grew into independence, constituted what Mr. Benett calls "village zamíndárís."

In after-times, when the Rája was out of possession, he *granted such "zamindárí" rights by "birt;"* but Mr. Benett thinks he could not have borne the humiliation of doing this, while he was in power.

The superior position consisted in this, that in the zamíndárí, the grant may or may not have excused the payment of revenue, but it gave up the Rája's *right to the waste*, and to taking taxes and tolls. The "zamíndár[2]" took them; and thus, in fact, he established an estate of greater or less size, in which he was in a position exactly equivalent to that which the Rája had, and he was owner of the land besides[3].

Such estates had a power of development and stability which was wanting to the Ráj itself. In the first place, the Rája had no really close connection with, or hold over, any lands but those which formed his personal and family holding. For the rest, he had the general right to a share in the produce and the other rights spoken of. As long as the royal family maintained the full power of the Ráj, these rights all centred in one person, descending to

[2] See a detailed note on this term in the next chapter; here I do not wish to break the thread of my narrative by explanation. I therefore only say briefly that the word has nothing to do with the "Bengal zamíndár;" it only implies that superior kind of interest in the land or estate whereby the owners claim the exclusive lordship of the entire land in their estate, and are exempted from royal claims to the waste and to various local imposts which others pay.

[3] And it is remarkable that here the grant distinctly disposed of the Rája's waste land and other rights; the formula is "sa-jal, sa-kát, sa-path," *i.e.*, including the right over water (ferry and fishery rights), over the forest and waste, and over the roads (for tolls, &c.)—Gonda Report, para. 86, p. 50.

to the eldest son only. But if the Rája died childless or was defeated by foreign or domestic enemies, and driven out, his estate dissolved at once. It was otherwise with the zamíndárí families; these not being indivisible, but succeeding jointly[4], were able to hold on to their estates, bring the waste under cultivation, and divide it out among the various family branches, all of whom were impelled by common interest to assert their claim and present a united front to any enemy. The families would then expand, cultivate more waste, purchase additional lands, and so become powerful enough to maintain their position under successive rulers, long after the Ráj from which they sprang had, as such, disappeared.

In the old Utraulá kingdom in Oudh, the growth of these zamíndárí estates is very curiously illustrated. When the State was reduced to subjection by the Muhammadan power, the Rája was made to pay tribute, and was left with certain villages as his own, while the Lucknow Government took the Rája's share or revenue from all the rest; but though the Rája lost the revenue for the villages, he still retained a certain lordship over them, and then it was that he began *to raise money by selling or granting* (for a consideration) *the complete zamíndárí right in one or more villages*; this gave not only the internal management and headship, but also the right to all the waste and other "manorial" rights in this area. The title thus created was (as before) known as the "birt zamíndárí" and became prevalent.

In Gonda, it will be remembered, the grant of this complete right inside a given area or estate was very rare, and where it existed was of later date, after the Rája had lost his original position. But in Utraulá such villages arose numerously in the way I stated. In this State also there were many villages assigned in jágír to the Muhammadan soldiers who had helped the Afghán

[4] The only trace of primogeniture being the "jethánsi"—the eldest son getting a larger share. The same thing is observable in Kangra among the Rájputs (the jethunda) and the Sikh jágírdárí families in the Cis-Sutlej States of the Panjáb. In Ajmer it would seem (and this may be true everywhere) that a sole succession by primogeniture is a later development than the custom of a larger share to the eldest.

invader to conquer and possess himself of the Ráj. These "jágírdárs" paid no revenue, and only a small yearly tribute besides the obligation to render military aid. Naturally enough, the families of such grantees soon became joint owners of the villages, the original landholders being their 'tenants.'

I must here briefly notice a very curious feature in some of these "zamíndárí villages." When the property was divided, as joint property usually is in the course of time, the family did not take—one branch, village A, and the other village B, and so on; but a plot was taken out of each village for each section. Consequently, in later times, the village ceased to be a singly-held group, capable of being treated for revenue purposes as one estate or mahál: the village became a mosaic of little pieces, each of which belonged to a different estate. This was the origin of the distinction between the "khetbat" and "pattibat" distribution of lands in Faizábád and other districts, which we shall meet with again in the chapter on the Oudh Settlement system.

§ 11.—*Joint-villages arising from dismemberment of the Ráj.*

I have said that the old Ráj was indivisible and descended by primogeniture, and so it was in Strict theory. But all the States did not retain the principle of indivisibility. In some kingdoms the succession was strictly to the eldest son, who took the entire kingdom and all that pertained to it. Younger sons may have been allowed life-interests in the revenue of certain lands, but these always in time became re-absorbed in the State. In such a kingdom, if the Rája died heirless or was absorbed by the Muhammadan power, the distinctive features of the Ráj simply disappeared, and the villages remained as a pargana or other group in the Mughal kingdom, and the old Rája became the "taluqdár." But in some kingdoms, on the death of the Rája, the estates were at once divided among the family, and if the division was carried far enough, the result would be the creation of a number of small jointly-owned and independent estates—in fact a *number of joint-villages*. There is reason to believe that in parts of Oudh and the

North-Western Provinces, where there are groups of joint-villages, belonging to the higher castes and not occupying a sufficiently large area of country to suggest a tribal settlement, the villages are due *to the dismemberment of ancient kingdoms.*

In the old Gonda kingdom of Oudh, for example, as it is in Kangra, the Simla Hill States, Ajmer, &c., to this day, the Ráj is always indivisible; the eldest son succeeds alone, younger sons receive a maintenance or a life-grant of the Rája's grain-share in certain villages, and these lapse and return to the Ráj. Here, then, there may be the occasional appearance of a zamíndárí or joint-village by the growth of a powerful local family or a grant; but the whole country does not change: the villages remain for the most part as they were, and the Rája dies out, or succumbs before the modern power and accepts his place as a taluqdár, or jágírdar, the new Government taking from the villages part of the revenue-share he would otherwise have had. In Rai Bareli[5], on the other hand, on the Rája Tilok Chand's death, the family sub-divided the domain, and it was all split up into a number of petty estates, which would in the end have been further divided and the individual families become the joint-proprietors of so many villages. In the course of time, however, some of the branches agreed to sub-divide no further: and so the district remains, showing, I think, some 60 fairly large estates, and 537 estates consisting of single villages. Time and the Muhammadan conquests have of course produced a certain admixture, but the general position of the Tilok Chandi Báis cannot for a moment fail to be discerned.

I have given all these details chiefly from the districts of Oudh, because Mr. Benett's reports describe them with remarkable force and perspicuity, and there can be no doubt after comparing the information (though of a less complete character) we possess from other sources, that the description is generally true of the older form of Hindu Ráj wherever it occurs. Locally, the history will vary

[5] In this district of 1,735 villages, 1,719 were held by Tilok Chandi Báis, some of them in groups forming taluqas, others in single villages owned by families. The origin of all this from Rája Tilok Chand is traced by Mr. Benett (Clans of Rai Bareli); see also Gazetteer of Oudh, Vol. III, *sub voce* (Rai Bareli).

in detail. A remarkable instance of the history of the influence of the Hindu Ráj on landed interests in Chutiya Nágpur, and of the *bouleversement* of rights which followed, will be found in some detail in the chapter on Bengal Tenures.

§ 12.—*Résumé.*

Having thus endeavoured to give an explanation of the origin of the two kinds of village in some detail, I may summarise the subject in the following diagram or table :—

The **non-united** village.	Characteristic of the earliest Hindu tribes, and of the kingdoms formed by them.
The **united** village ...	(i) is established by settlements of later and more martial Hindu tribes (who also, under other circumstances, establish a peculiar form of feudal rule *over* other tribes) ;
	(ii) results from grants made by the Hindu Rája of the older type ;
	(iii) from the dismemberment of the Ráj ; and
	(iv) from the joint succession to estates founded by grantees, revenue-farmers, &c.

Lastly, the British Revenue Settlement has affected the original constitution of the villages. Throughout the North-West Provinces and the Panjáb, the villages have become joint, whatever their early history may have been, because the system makes them so. Throughout Madras and Bombay, all or nearly all have remained or become *non-united* because the system does not require any joint responsibility.

§ 13.—*Leading features of joint-villages.*

Where the tenure is really joint, it is so, very generally, on the basis of the shares which result from the Hindu and Muhammadan

law or custom of inheritance, all the sharers being descended from a common ancestor. In some cases the measure of interest now appears to be based on a division of the soil into a certain number of ploughs. A "plough" is not a definite area of land, but represents a certain share in the whole village[6]. Perhaps in an early stage, the whole body of the settlers threw the whole proceeds of cultivation into a common stock and divided the profit or loss according to these shares. But the allotments represented by villages, soon came to be separately held, though within itself the village represents a joint ownership.

In those cases, where the village community is derived from an original tribal settlement, it is by no means clear how far the estate was joint. It was a well-established custom that one member could be required to exchange his holding periodically with another. The object of this was to reduce inequalities in the value or profitableness of the holdings or allotments, by periodical redistribution. When this stage was reached it is clear there was no joint-stock management of profit and expenses extending over the entire group or settlement, for otherwise redistribution would have been unnecessary. The lots within themselves were no doubt jointly held by the family or families who held them, and the different holders of allotments could of course unite to furnish defence against a common enemy.

Whether the joint-village originated in a tribal settlement, or is merely a joint body of owners descended from a single revenue-farmer, or a separate member of some princely house of old days, the *present* constitution is the same.

Whatever may have been the method or principle of coparcenership, the purely joint tenure rarely survives for any length of time: families obtain separate record and possession of their share,

[6] Thus, a village might be divided into 32 ploughs, of which 8 were held by one family, 4 by another, 10 by another, and 10 by yet another. But in these cases I should be always doubtful whether we have a really joint-village. A mere group of associated settlers, each bringing a certain power of cultivating land, would most naturally show this form of landholding.

or the process is carried still further, to the separation of individual holdings. Theoretical ancestral shares also get forgotten, and their place is taken by *de facto* holdings, the natural result of the greater wealth of one cultivator, the inequality in the value of land and its produce, and other such causes. In short, even those villages about whose joint character and original ancestral bond of union there can be no question, constantly tend to show the operation of that process which is known by jurists to be a necessary one in the history of property—the transition from *joint* to *several*.

Consequently in one village we may find that the land is still jointly held, in another that it is partly in common and partly in severalty; in another, circumstances have led each coparcener to get his share divided out to him, and then the joint tenure is a thing of the past, and is only maintained by some more or less slender threads. Still, however, the village body is the exclusive proprietor of *all* the land inside its limits, and until split up into actually separate estates on the revenue-roll, it remains jointly responsible for its revenue, and it maintains a certain unity in other ways, as we shall see hereafter.

Notwithstanding the inherent liability of such communities to change, to lose their ancestral shares, and hold land in lots modified by custom or by necessity, still a common ancestral origin is an important feature in the village history, and a genealogical tree showing all the ramifications of the family, is often among the most important of the records of a village settlement.

I have already mentioned that in the joint-village, the entire area within the village boundary, whether waste or cultivated, belonged to its owners. The community consequently, at first, jealously excluded outsiders. If the proprietary body needed more help than its own members could supply in clearing the primeval jungle, they called in outsiders to help in the "búta-shigáfí" or clearing; but such helpmates, however privileged their position as regards permanent occupancy and exemption from rent, did not become members of the community: they had no voice in the management, nor any claim to a share in the common.

Occasionally, however, circumstances made it desirable or necessary, actually to take an outsider into the community itself, but then, as usual in the early stages of development, some device was made use of, to salve the public feeling and mask the admission.

§ 14.—*Joint responsibility.*

The whole body is responsible jointly for the revenue, and this burden is distributed and recorded at settlement according to the village constitution: the details of this will appear in Book III. In the same way, expenses are incurred for various common purposes, such as entertaining guests and visitors, repairing the village walls, or the temple or mosque; such expenses are shared by the whole body, which levies a local rate for the purpose. The council of elders, the panch, with the aid of its accountant, prepares accounts of this expenditure, and the whole body audit it. This process is called the "bújhárat" or annual audit of accounts.

§ 15.—*Village officials.*

The village also has a staff of officials, and also of artisans, besides farm labourers.

The headmen—lambardárs as they are called in the countries where the joint-villages are commonest—are the heads of the sections of the village and form the "panch." They are elected by the village under a certain control of the Government officers, who must see that proper men are appointed, since the payment of the Government revenue depends on them.

The patwárí is the village accountant, who keeps the accounts as between the Government and the people, and as between the people themselves, revenue payer and lambardár, landowner and tenant: he also records such statistics as the Government require, and takes note of all changes in proprietary right, succession, sales, mortgages, and so forth.

The watchman ("chaukidár," "goraít," "dauráha," "sirkár," and many other names, according to locality) is guardian of the

boundaries, and is also the village messenger. In some cases, there is a messenger besides the watchman. He keeps watch at night, ascertains who comes into and goes out of the village, is expected to trace stolen property, and give an account of the bad characters in the village.

§ 16.—*Village artisans.*

The *artisans* vary according to locality, but there are always some who are universally found. The carpenter, the potter, the leather-worker or cobbler, and the blacksmith, are indispensable always; as there is always house-building to be done, well-gear to be made up, shoes for the villagers, leather-work for cattle-harness, iron-work for the plough, and other agricultural tools in general. The potter also makes the water-jars and household vessels, so that he is indispensable also; and in the Panjáb districts where the Persian wheel is used for raising water, the potter has to make the "tind" or earthen jar, a series of which, fixed on the rope-ladder that passes over the wheel and down into the well, is required to complete the water-raising apparatus.

There will, usually, be a village water-carrier, also a washerman, and a "nai" or barber, who shaves and also carries messages connected with marriages, betrothals, &c., an astrologer, possibly also a minstrel. In South India, dancing-girls, who lend their services at weddings and festivals, are also counted in the village staff. So may be the dharwái, or person who weighs out grain, and the village money-changer. All these have their recognised position in the village, and their perquisites and remuneration in grain and otherwise.[7]

[7] The following is a list of village servants as recorded for the Gujránwála district of the Panjáb. This will serve as a fair general sample of how these people are paid. Their occupation, as well as the right to serve the village, is often hereditary.

1. The blacksmith (lohár). His dues are 1 bhari or wheat-sheaf in each harvest, one pai in money on each plough, 2 seers of molasses (gúr), and also one jar of sugarcane juice daily, while the press (belna) is working; and he is allowed to have one day's picking at the cotton-field at the end of the season.

Besides the village artisans, there may be tradesmen settled in the village, as the seller of brass pots, the cloth mercer and the grocer; but these do not form any part of the recognised village staff.

There are also certain menials, sweepers, grain-cleaners,—persons of low caste who take away dead cattle and have a right to their hides, and so forth.

A number of these work on the fields, and are divided into two classes, those who work for the whole season, and those who work only at harvest or on some special occasion, as when the sugarcane crop is cut and sugar is made.

The lower grades of village artisans often help on these occasions and get paid accordingly. The remuneration usually consists of a small part of the grain, and perhaps a blanket, a pair of shoes and some tobacco.

§ 17.—*Land how held.*

In the Panjáb we shall find that a large proportion of the village proprietors cultivate their own land. In other parts, how-

2. The carpenter (tarkhán). He makes the well wood-work, handles for tools, beds (chárpai), stools, &c. His dues are much the same as the lohár's.

3. The kumhár or potter.

4. The "rera" or grass-rope maker; the ropes are necessary to form the bands over the well-wheel which carry the water-pots. He gets one "bhari" and four topas of grain per well.

5. The "chúra" or sweeper. He cleans the corn, cleans the cattle-sheds, and makes the manure into cakes for fuel: a place for drying these cakes is often a recognised common allotment outside the village site.

6. The "mochi" or cobbler and chamár, who also has certain rights connected with the skins of the cattle that die.

7. The "hajjám" or "nai." He is the barber, but also carries messages and proposals connected with marriages and betrothals, and serves also at funerals.

8. The "dhobi" or washerman.

9. The "jhewar" (this is a local term), equivalent to "bhisti" or water-carrier.

Besides there may be the village astrologer and musician (mirási) and various religious office-holders—the purohit, or brahman, a fakír who keeps the takyá or village place of assembly; the "maulvi" for the mosque service, a "bhái" at a temple called dharmsála, a "sádh" at a thákurdwára, a pujári at shivála (temple of Sira), and a mahant of a "devidwára."

ever, the land is very commonly let out to *tenants*. These we shall find to be of various classes, which will be noticed when we come to study the tenures of each province.

§ 18.—*Classes resident in the village.*

Thus if we place together the different classes of persons who are concerned in the constitution of a joint-village, or at least form part of it, we shall have the following table of residents :—

1. The co-sharers in the proprietary body—the heads of the families being the "panch" or committee of management and perform—all or some of them—the functions of "headmen."
2. Tenants who hold lands under the proprietary body, either permanent and hereditary tenants (perhaps dating from the very foundation of the village, and enjoying a certain privileged position) or tenants-at-will.
3. The village officials (accountant, watchman, &c.)
4. The village artisans.
5. The resident tradesmen (who probably pay good rent for their houses, and some small taxes or dues besides).
6. Menials and farm labourers.

§ 19.—*The term "sir-land."*

Here I will take occasion to explain a term which will constantly be made use of in speaking of village lands—the term "sír" or special holding. When a village is managed jointly, that is when all the land is cultivated by tenants or otherwise, and the whole proceeds are thrown into a common stock, then no one has any special holding. But the plan does not usually last long. What is much more common is that each sharer in the body has a certain plot of land, which he cultivates himself with his own stock or by his own tenants; but however that may be, he gets the whole proceeds of it for himself. The rest of the land will then be held in common. Occasionally the proceeds of this common portion are

sufficient to pay the jama' or revenue assessment of the village and the expenses also; in that case they are so devoted; and then each holder has the whole produce of his "sír" land to himself. If the proceeds of the common lands do not suffice, then a rate is levied on each sharer to make up the deficiency[8].

"Sír" land is always much valued, and under our modern rent laws if an owner is dispossessed of his land, he stills has a right to remain on his "sír" as permanent tenant of it; nor can a right of occupancy grow up on "sír" land against the owner, in favour of a tenant who is employed to cultivate

§ 20.—*Decayed condition of joint-villages in some districts.*

When the village community is in full survival, all these features may be distinctly noticed. But there are many districts in which the village community is found in a state of decay. The original proprietary body have not been able to maintain their exclusive privileges; their lands may have passed out of their hands by sale owing to poverty and the necessity of raising money to meet the State revenue. In that case, the village tenants, and the outsiders, whom there was nothing to prevent from coming in, have grown to be equal in position, and no longer admit the right of the old proprietary body to the waste and to what would have been the common. In some cases the old body still furnishes the village headmen, its members all call themselves by names indicating that they were once the superiors, and possibly still receive some small rents and perquisites—the relics of their former rights.

[8] The term "sír" is also used in other cases. For example, the zamíndár or revenue agent in Bengal originally had his "sír" or special lands, as distinguished from the rest of the lands in the estate, over which he had only a kind of general over-lordship. The "sír" might be excluded from the area on which revenue was assessed. So, when the Rájas in Oudh were reduced by the Muhammadan conquerors, the Nawáb took the revenue from the villages that the Rája once had, but by way of compensation, or to reward the Rája who became taluqdár and accountable to the treasury for the revenue of the taluq, a certain number of villages were left to the Rája revenue-free for his subsistence, and such lands were called his "sír" or "nánkár."

In South India such a state of things is now commonly found; and of course a raiyatwári system, whereby Government deals with each holding separately, and cares nothing for any theoretical unity of the whole village, tends to facilitate disintegration. In many such villages now Government treats the waste as at its disposal, and only so far recognises the old proprietary claims to it as to allow a preferential title to bring it under cultivation[9].

§ 21.—*These communities have been a main factor in shaping the revenue system of Upper India.*

Village communities of the joint class were so universal, and had so completely survived all changes of time and government in the North-Western Provinces, and still more so in the Panjáb, that they served as the *point de départ* for a special revenue system. Such communities are also found in the Oudh districts and in the districts of the Central Provinces bordering on the North-West. But traces of them are also to be met with in Berár, in South India, and in some parts of Northern Bombay. Why it was that these communities in some parts managed to survive all the incidents of Muhammadan rule, of Maráthá plundering, or of Sikh conquest, and in others faded out and only left a memory in a few local terms or half-forgotten customs, is one of the most curious subjects for historical enquiry. But it is certain that the extreme state of decay into which the institution has fallen in some parts of India has given rise to much questioning as to whether the present villages were ever of the joint class, or were not rather the non-united type.

§ 22.—*The waste included in village areas.*

Before leaving the joint-village, I must, however, add some further details regarding the waste included in its area. In a

[9] In other places (as in the Chingleput district), the joint claim to the waste was found so strong, that Government wishing to maintain its own revenue system, whereby there is no village common land, thought it right to compensate the village proprietors for their waste rights; and then the waste became entirely at the disposal of Government.

Manual primarily designed for Forest Officers, this question has a great interest, because it is on the question whether or not the waste, scrub, and forest of a given district is or is not really included in the bounds of a village, not only as a matter of geographical location, but as being the *common property* of the village proprietary bodies, that the power of Government to constitute forest estates, whether for fuel and grass, or for timber, often depends[10].

This question of the waste or uncultivated part of the village land also shows us a point of difference between the English "vill" of old times and the Indian village. If the reader will refer to the 4th lecture of Mr. Williams' series alluded to in a previous footnote, he will find that not only the arable land is divided on known principles, but the right to use the waste, especially in respect to the pasture and the yield of hay for storing, is a matter which comes into great prominence.

In India, in the majority of cases, the village grazing is a somewhat secondary matter; plough-cattle are the chief, if not the only stock that is kept. Cattle are not kept for slaughter for food; and hence the grazing, though necessary, is of limited importance[1]. Moreover, outside the waste which the village regarded as appropriated as the common property of its own members, there was much more unoccupied waste, on which cattle could wander at will, and wood for the requirements of the household, and for making agricultural implements, be cut without let or hindrance. The uncultivated common inside the village boundary, was then retained

[10] The long-continued difficulty in the Madras Presidency, regarding the constitution of public forests in many of the districts, took its origin, or, more properly speaking, derived its support, from doubt and uncertainty as to what was the real status of the waste. In districts where the revenue system deals with an assessment levied on the individual plots of cultivation, the boundary of the village and what it really includes (important as it is for many purposes) has not the significance which it has in countries where the joint-village exists, and where everything included inside the boundary is recognised as absolutely the property of the village body. Hence policy has vacillated, and opinion been divided, whether the waste was the property of the State or not.

[1] But in the sequel notice will be taken of a curious custom of "grass reserves" in the Himalaya.

not so much for pasture, as for land which in future could be brought under the plough and so increase the wealth of the community. So long as this desired object could not be attained, it lay untilled and not managed in any special way; and in fact it was not practically distinguishable from the waste outside the boundaries. When our settlement operations began, it was always necessary to determine what waste was really part of the village estate and what was unoccupied and ownerless, *i.e.*, lying at the disposal of the State.

In the North-West Provinces, where the population was denser and the villages were located closer together, the whole of the waste was found, as a rule, to be justly claimed by the villages; and the boundaries of the estate of one community ran contiguously to those of the next.

In the Panjáb, and also in the Central Provinces, it was not so; the locations were further apart, and it was out of the question to suppose that the whole of the often vast expanse of scrub jungle, forest, and waste that intervened, was really part of one village on one side, and of the other on the other side, till the boundary lines of the two estates met at a given point. But it was difficult, as a rule (for of course there were in some cases, facts which afforded evidence on the question), to say what were the limits of the village common; and accordingly an artificial but equitable rule was invented by which a certain area of waste proportionate to the cultivated area was allotted and demarcated as belonging to the village, while the rest was distinctly marked off as State waste. It was to this procedure that the often extensive "Rakhs," as they are called in the Panjáb, are due. These have now proved of great public benefit as affording lands on which plantations can be made, or in which, by conserving the natural growth, important supplies of grass and fodder can be obtained; while, in the early days of railway construction, enormous supplies of wood-fuel were drawn from them.

The consequence of the recognition of *villages* as proprietary units is, that throughout Upper India, the status of the waste, where any yet remains, is in most cases beyond dispute.