still less to find some middleman *over* the community who should be made proprietor.

In the Central Provinces, as may be supposed, the raiyatwári system was not without its advocates. But the Ságar and Narbada Settlement Rules of 1853 were already in use, and under these (after various tentative systems of farming, which usually precede a more methodical arrangement) some districts had been settled. The result was, that when the Nágpur Province districts came to be settled (and afterwards the Nimár district), there was naturally a tendency in the minds of authorities, already strongly in favour of the North-West system, to extend it, and to apply the Ságar and Narbada rules which were ready to hand.

And these instructions (supplemented by further orders) were accordingly reprinted and issued by authority in 1863, as the Settlement Code for the Central Provinces generally. This Code has guided the formation of the existing settlements, and it has only recently been superseded by a general revenue law, Act XVIII of 1881.

The adoption of the North-West system led to some curious results; for the difficulty was the same as that felt in Bombay. Wherever the villages were originally joint (as in the districts bordering on Bandelkhand) the difficulty did not, indeed, arise. But in the other districts, where the villages were not of that kind, what was to be done? To create (or revive authoritatively, whichever it be) a joint responsibility, and so form villages on the North-West model, proved as impracticable as Mr. Elphinstone found it in Bombay[10]. At the same time it was not possible, consistently with the system, to settle directly with each holder of

[10] Some hope was evidently entertained of overcoming this difficulty and getting a settlement on the pure North-West Provinces model. The instructions for the settlement of Nimár in 1847 directly propose the creation of the joint responsibility; but the proposal could not be carried out. In the orders relating to the Ságar and Narbada territories of 1853, the joint responsibility is also alluded to side by side with directions for recognising a proprietary right in the málguzárs. But by the time orders were issued for settling the Nágpur province in 1860, the matter seems to have been regarded as hopeless, and nothing is said of joint responsibility.

land[1]. Nor was it possible to declare all the land to be Government property, and the landholders to be tenants or lessees of the State. Such a plan had practically been tried in some districts and failed.

§ 36.—*The solution proposed by Government.*

The Government orders passed on the reports which describe the failure of these attempts[2], all pointed to one remedy. A secure proprietary title must be created, and a settlement made with the recognised proprietor. If there was a community of village owners who could be made jointly responsible, well and good; if not, the leading men with the strongest claims to a hereditary position must be selected, and the proprietary right *conferred* on them, taking care to secure by record, the subordinate rights of others who might be perhaps nearly in as good a position as the persons selected, and therefore entitled to every consideration.

§ 37.—*History of the Central Provinces proprietors.*

Now I have already indicated that the groups of land which formed the villages were held together by one bond, and that is, that they acknowledged the management of a hereditary patel or headman. The Maráthás were prudent financiers, and wherever their rule was firmly established, they always acted on the principle of not interfering with existing institutions; they found that they got much more revenue by dealing with small areas,—in fact with each landholder—through the patel. Consequently, they either assessed each holding, or fixed a total sum for the village, and let the patel distribute this on each holding by a yearly "lágán" or revenue distribution-roll. The patel did not, however, pretend to be owner of the village; all he owned was his office and the perquisites and dignities which attached to it; and, in some cases, the "watan" or lands acquired in virtue of office.

[1] A raiyatwárí settlement was advocated in some quarters (as stated above), but it was not to be expected that the authorities of the North-West Provinces would approve.

[2] Which may be read in Nicholls' Law of the Central Provinces.

But there were districts in which the Maráthá power was not firmly established, and there a more lax method of revenue-collecting was adopted; the same thing also happened when the power of these conquerors was in decline: contractors or revenue farmers were appointed, often to the ousting of the hereditary patel, who perhaps proved unequal to the task of punctual realisation, or perhaps refused point blank, on account of the oppressiveness of the amount demanded of him. From causes which cannot here be detailed, this institution of revenue farmers had been introduced into most of the districts; and when our Settlement Officers came to carry out the orders they had received, in most instances they found the revenue farmer—the "málguzár"—in a position of prominence, which made him appear to be proprietor of the whole village.

Accordingly, the málguzárs, or in some cases the hereditary patels (when they had themselves been allowed to engage, or had succeeded in otherwise maintaining their standing), were declared proprietors of the entire village, over the heads of the individual landholders; and the settlement was made with them. The requirements of system were thus complied with; but, as usual, this creation of a middleman proprietor caused difference of opinion and difficulty as to the subordinate rights which had to be provided for. The detail of this must, however, be reserved for a subsequent chapter.

This creation of a new kind of right under the influence of a particular system, now that we look back on it as a thing done and past, may excite some surprise. But in point of fact, the málguzár had developed and grown into his new position just on the same principles as the Bengal "zamíndár" had; only while in Bengal the "zamíndár" was over a large tract of country, in the Maráthá provinces the revenue contract was given out for one, or perhaps a few villages. In either case, however, the revenue-farmer gradually grew into that position which our officials (obliged by the system to find some one to settle with other than the individual land occupant) easily translated into proprietor. He had originally certain lands of his own; if he were "patel," he may have held some

land in virtue of his office by a peculiarly strong custom: then he would have other fields which he had possessed himself of by sale or mortgage, or even by violence: his power of managing the waste lands in the village, enabled him to locate his own people as cultivators, and thus, in the course of years, he acquired an apparently proprietary character[3].

§ 38.—*Character of the settlement.*

Here then we have the last development of the Regulation VII system into the settlement which—as in the conspicuous majority of cases it constituted the official málguzár proprietor, and engaged with him—is commonly spoken of as the MÁLGUZÁRÍ SETTLEMENT of the Central Provinces. It must be understood that this name is given by the rule of the majority; there are districts in which the settlement is often with a jointly responsible community, on the pure North-West Provinces model; but this is chiefly in districts near Bandelkhand; further off, the patel or málguzár proprietor is the most common.

§ 39.—*Systems of other provinces.*

The other provinces with which this Manual is concerned are represented by Ajmer, British Burma, Assam, Coorg. Ajmer is interesting as showing a complete survival of that form of land organisation which followed when conquering bands of military Ayan tribes (Rájputs) established a government, but were not settled as *a people*. In this district village communities were

[3] I shall not be understood as implying that in all, or even in a majority of cases, the process was carried to this complete issue; otherwise, no objection could be taken to the principle of the settlement. There can be no doubt that in the Central Provinces, patels were often made *proprietors* who really owned nothing but their hereditary office and its perquisites; and many málguzárs who had not been half a dozen times inside the village in their lives, suddenly found themselves called the owners of the whole. I only desire to point out the undoubted general tendency of things to develop in a certain direction; the least intelligent reader will recognise that, whether in the case of a Bengal zamíndár, an Oudh taluqdár, or a Central Provinces málguzár, the process did not always become complete or arrive in any given number of cases at the same stage of development.

quite unknown. The district was afterwards settled on the North-West system, and an account of it is therefore included in Book III relating to that system.

The remaining provinces are under, what I may be allowed to call, the "natural system," *i.e.*, we have not created or recognised "proprietary right" in one class or the other; we simply realise, according to old Native custom, a certain rate per acre, a tax on households, or a fee upon each man who clears a patch of land for cultivation, while in villages which have regular and permanent cultivation, a survey has been introduced and a regular settlement, on which, however, each cultivator is severally responsible for the revenue of his own holding. These provinces are represented by Assam and British Burma.

A few also of the more backward districts in the provinces which, as a whole, come under one or other of the general systems here sketched, are excluded from the ordinary laws under the title of Scheduled Districts—a term which has been explained in a previous chapter. These tracts often exhibit local peculiarities, and sometimes have local Regulations prescribing their revenue management. When necessary, I shall refer more particularly to these in separate appendices to the chapters on the general system of the province to which they belong.

§ 40.—*Conspectus of the systems.*

I conclude this introductory and general sketch, first with a diagram which will recall the chief features of the development of our revenue systems, and next with two tables which will give some idea of the general effect and results of land-revenue settlements. The first table gives the nature of the settlement and the date of its expiry, the assessment which resulted from it, and the cost incurred in making it. The permanent settlement of Bengal is not included in this, as details of this can more conveniently be given in the chapter specially devoted to Bengal. The second table shows the general average rate at which land is assessed.

The Bengal system of 1790-93 (seeks to declare some person to be landlord or proprietor and secure his position between the cultivator and the State).

Permanent settlement with zamíndárs as proprietors, 1793.

At first applied to Madras, but afterwards prohibited; still survives as regards some of the districts. Attempts in some districts to make joint-village settlements.

Improved system of Bengal Regulation VII of 1822 and Regulation IX of 1833, non-permanent settlement (usually for 30 years).

Madras raiyatwárí system (1820); occupants regarded as proprietors, elaborate system of annual remissions, &c. Great local variations in system and nomenclature.

Settlement with *proprietary joint communities*, through a representative; North-Western Provinces and Panjab.

Settlement with *taluqdárs* over the communities; Oudh.

Settlement with *málguzárs* over the individual occupants of villages; Central Provinces.

Bombay raiyatwárí system of field assessment; no theory of ownership; occupant has right to transfer and to hold on condition of punctual payment. Settlement for 30 years only: system uniform and defined by a Revenue Code.

I.—*General statement showing the results of settlement (from data in Mr. Stack's Memorandum of 1880).*

Provinces.	State of existing settlements.	Permanent settlement will expire between	Actual current assessment.	Total cost of settlement operations (exclusive of revenue survey).	Cost as percentage on one year's revenue.	Percentage of return on settlement outlay.	Remarks.
			Rs.	Rs.			
North-Western Provinces.	1st revision of old settlements now nearly complete.	1882—1910	3,79,67,719	1,36,75,194	36 per cent.	34·5	Modern settlements are more costly because much more accurate and complete both as regards assessments and the data for them, the surveys, the records of rights, and all other details. Poor districts always cost more than rich ones, for a settlement which produces 9 lakhs of revenue in a poor district, may, though consisting of the same operations done by a similar staff, produce 16 in a rich district.
Oudh . . .	1st regular settlement (just complete).	1893—1906	1,44,21,814	62,54,508	43·4 „ „	62·3	
Punjáb . .	Last made 1st regular settlements (some of the earlier ones are already coming under revision).	1894—1908	1,79,40,918	76,76,128	Old settlements still current . 28·6 Settlements 1862—1875 . 36·6 1872—1880 . 60·0	Made at a loss. 25·3 17·4	
Central Provinces	1st regular settlement, 1858—1869.	1880—1897	59,75,907	36,65,917	61·4	19·7	
Bombay, excluding Sind.	Last of the original settlements will expire 1900. Many revision settlements already done.	...	1,99,54,760	1,22,41,992	Early 1st settlements . 61·6 Recent do. . 71·4 Revised do. . 41·9	25·0 14·0 65·0	
Madras (survey settlement in 8 districts).	Between 1855 and 1879.	1892—1909	1,57,14,700	82,11,415	52·1 per cent.	10·0	
Berar . . .	Settlement made 1881—1876.	1892—1906	66,20,753	21,90,946	33·1 „ „	69·0	

II.—*Statement showing general average rates of land revenue*[4].

Province.	Per acre of revenue-paying culturable area.	Per acre of revenue-paying land, cultivated.	Per head adult male cultivators.	Per head total population.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
Bengal and Assam . .	.....	.....	3 5 6	0 9 10
North-Western Provinces .	1 7 6	1 14 6	8 1 7	1 8 10
Ajmer	.....	.....	.....	1 4 2
Oudh	1 4 7	1 12 3	.....	1 4 0
Panjáb	0 10 11	1 2 9	.....	1 3 2
Central Provinces . .	0 3 8	0 7 2	8 7 10	0 12 6
Berar	.....	... .	11 5 2	2 6 5
Coorg	1 10 3	2 12 10	20 2 10	1 10 11
British Burma . .	1 1 8	2 2 1	11 13 0	1 10 2
Bombay . .	0 14 3	1 2 1	17 11 8	1 14 11
Madras . . .	1 8 6	1 13 2	{ 6 13 6[5] / 8 12 6 }	1 8 11

[4] This is taken from the Standing Information for Madras (edition of 1879).

[5] Above 12 and above 20 years of age respectively.

Mr. Stack (in his Memorandum on Temporary Settlements, 1880, p. 35) gives also the following table of the incidence of land-revenue on cultivated land per acre :—

	Heaviest assessed districts.			Lightest assessed districts.		
	I.	II.	III.	I.	II.	III.
	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.	Rs. A. P.
N.-W. Provinces .	2 8 0	2 7 4	2 6 9	1 3 9	1 1 10	0 10 3
Oudh . .	2 5 9	2 5 6	2 5 5	1 7 0	1 3 4	1 1 7
Panjáb . .	1 15 6	1 13 6	1 11 9	0 7 8	0 5 10	0 3 3
Central Provinces .	0 11 6	0 11 2	0 9 10	0 4 0	0 3 11	0 2 9
Madras . .	3 12 11	3 9 3	2 11 9	1 2 5	0 13 10	0 11 4
Bombay .	4 3 3	3 6 4	3 6 0	0 8 1	0 7 5	0 7 1

Mr. Stack also gives the average incidence of land-revenue per acre (somewhat different from the above). Thus he gives the rate for North-Western Provinces as R. 1-11-10, Panjáb and Bombay each R. 0-15-4, Central Provinces R. 0-6-9, and Madras R. 1-11-7.

BOOK II.

THE LAND-REVENUE SYSTEM OF BENGAL.

CHAPTER I.

THE PERMANENT SETTLEMENT.

§ 1.—*Introductory.*

The limits of this work make it necessary for me to plunge somewhat abruptly into the revenue history of Bengal. I have no space to introduce the subject appropriately, or describe the steps by which the East India Company advanced from its first position as a trading Company to that of ruler of the whole country[1].

I can here only briefly state that, first of all, the fort and city of Calcutta were purchased as "taluqs" from the Emperor, and then granted revenue-free; that then the Company was made "zamíndár" of the whole district around Calcutta, namely, the "24-Pergunnahs," and ultimately obtained a grant of the revenues of this tract also; so that, in fact, the Company became the freehold owner of the district. Then the "chaklás" of Bardwán, Midnapore (Mednipur), and Chittagong were granted revenue-free. Lastly, in 1765 (12th August), the grant of the Diwání, *i.e.*, the right of revenue management and the civil administration of Bengal, Bihár, and Orissa, was made over to the Company, on condition of payment to the Emperor, of a fixed sum of 26 lakhs annually, and providing for the expense of the "Nizámat," that is, the military and criminal part of the administration[2].

[1] A succinct sketch will be found in the Tagore Lectures for 1875, Lecture VII. See also Bengal Administration Report, 1872-73, Historical Summary.

[2] The Diwání is often spoken of as giving the "virtual sovereignty" in the country to the Company. Theoretically, it was not so, because the administration of criminal justice, the appointment of new zamíndárs, and the military control remained to the Mughal Emperor, or his Deputy; but the revenue was the most important thing, especially when coupled with the fact that it was the Company that held the real military power (see this explained in the Tagore Law Lectures for 1872, pp. 26-27).

This put the Company into virtual possession of the three provinces,—the Orissa of 1765 including only the present Mednipur district, with part of Húglí, not the whole of the country now called by the same name.

§ 2.—*Commencement of British Rule.*

For some time no interference with the native officials was contemplated. In 1769, "Supervisors" were appointed in the hope of improving the administration. They were directed to acquire information as to the revenue history of the province, going back for the purpose to a given era when good order and government were universal; they were to enquire into the real limits of estates held by zamíndárs, the quantity of land they ought to have revenue-free, and the real "rents" or payments which the actual cultivators of the soil ought to make in each estate. Various other improvements were to be made, and especially, illegal revenue-free holdings were to be properly assessed and made to pay. The cultivators were to be protected from the exactions of the zamíndárs, and leases or "pottahs" (paṭṭá) specifying exactly what each man had to pay, were to be granted.

The intention thus to supervise the native revenue administration was no doubt excellent, but it failed entirely; and on the 28th August 1771 the Court of Directors at home announced their intention "to stand forth as díwán, and by the agency of the Company's servants to take upon themselves the entire care and management of the revenues."

That was the beginning of our direct revenue control. But even then, the idea of a settlement and a recognition of the proprietary right in land, had not occurred to the Company's government.

§ 3.—*Sketch of the early Revenue system.*

At first, in 1772, farms of the revenue were given out for five years. The farms were given by "parganas" (small local divisions of a district); unless a pargana gave more than one lakh of

rupees revenue, in which case it was divided. "Collectors" were then appointed, instead of Supervisors, to receive the revenue[3].

The existing zamíndárs were not intended to be displaced by this arrangement; but they often refused to contract, so that other farmers were appointed, and in some cases much injustice was done.

Stringent orders were given to prevent the farmers robbing the raiyats, and to make them adhere to the "hast-o-búd[4]," or list showing the rents which it was customary for the raiyats to pay, and to prevent illegal cesses being collected.

When the five years' leases were about to expire, *i.e.*, in 1776, a new plan was proposed. This time special officers were to be deputed to examine into the real value of the lands, and to conduct enquiries which would secure to the raiyats, the perpetual and undisturbed possession of their lands, and guard them against arbitrary exactions; for the previous efforts to attain this end had failed, especially the plan of requiring the zamíndár or the farmer to give a "pattá" to the raiyat; no such leases were ever granted[5].

When the farms actually expired in 1777, and the report of the Commission had been received, a sort of settlement for one year was ordered. This was made with the existing zamíndárs for the sums which were on record as payable, or such other sums as the Revenue Councils thought proper. Zamíndárís held in shares, or with several distinct rights in them, were farmed to one person. A similar settlement was made in 1778, 1779, and 1780. In 1781, in lieu of the provincial Revenue Councils, a Central Committee of Revenue was formed at Calcutta; but though some changes were introduced with a view to increasing the revenue, the settlement was still made annually.

[3] In the chapter on Revenue business and officials, the history of the Collectors, Commissioners, &c., will be more fully gone into.

[4] Literally (Persian) "is and was;" in fact the actual and customary rent-roll without arbitrary additions to it.

[5] The authority for all this is to be found in "Harington's Analysis." See also Tagore Lectures for 1875.

In 1782 a further attempt was made to regulate the holding of lands revenue-free, to resume and charge with revenue those that were held without authority : the office for registration and enquiry was called the "ba'zi-zamín-daftar."

The yearly settlements (latterly with zamíndárs always, unless expressly disqualified) continued till 1789. The fact was, that while this series of settlements began by almost ignoring the zamíndárs and farming the lands, or holding estates with the aid of a Government "sazáwal," or manager, the plan worked so badly that it had to be given up : the zamíndárs were found to be indispensable, and so came to be more and more relied upon. Nor did the centralisation of the revenue control at Calcutta do any good, because there was no efficient local control as well. The Committee, far removed from the actual scene of operations, knew nothing of the real state of affairs, and the díwáns, or local Government officers, combined with the zamíndárs and others to deceive them.

§ 4.—*A.D. 1786.—Arrival of Lord Cornwallis.*

In 1786 something like the present constitution of European District Collectors was introduced, and the díwáns, or native provincial revenue agents, were abolished. The Committee of Revenue was also made into the Board of Revenue. An attempt was also made to revive the ancient qánúngos, to supervise the zamíndárs. In this year Lord Cornwallis arrived (September 12th) as Governor General. A Statute (24 Geo. III., cap. 25) had already (in 1784) directed a settlement of the revenues on an improved basis, consequent on the failures which had been experienced during the currency of these yearly settlements, the history of which I have briefly sketched. Lord Cornwallis was instructed to carry this direction into effect.

The law indicated, as a means for effecting a settlement, an enquiry into the real "jurisdictions, rights and privileges" of zamíndárs, taluqdárs, and jágírdárs under the Mughal and Hindu Governments, and what they were bound to pay ; it also directed the redress of the grievances of those who had been unjustly dis-

placed in the course of the earlier tentative and imperfect revenue arrangements. The Court of Directors suggested that the settlement should be with the landholders, but at the same time maintaining the rights of all descriptions of persons. As for the revenue, it was desired that there might be a permanent assessment, based on a review of the settlements and actual collections of former years. It was thought that the various enquiries which had been ordered ever since 1765, would have resulted in a sufficient knowledge of the paying capacity of the estates, and therefore a settlement for ten years was ordered on the basis above indicated. The Court then thought that a fixed period of ten years would be better than promising a "dubious perpetuity;" but they directed that, on completion of the arrangements, the whole matter should be fully and minutely reported on, so that they might have an opportunity of settling the whole question, without necessity for further reference or future change.

While these arrangements were in progress, the settlements continued to be annual. Renewed attempts were made to abolish all extra cesses, and to register revenue-free lands.

Elaborate enquiries were conducted as to the real revenues of the different zamíndárís and of the lands of which they consisted, so as to check the total assessments[6].

§ 5.—*Issue of rules for a decennial settlement.*

Meanwhile, the rules for the decennial settlement were being elaborated. They were issued on the completion of Mr. Shore's (afterwards Lord Teignmouth) celebrated Minutes of June and September 1789[7]. The rules for settling Bengal, Bihár, and Orissa (as then constituted) were separately issued between 1789 and 1790.

[6] See Cotton's Memorandum on the Revenue History of Chittagong (Calcutta, 1880), p. 50.

[7] They are printed in the appendix to the Fifth Report of the Select Committee of the House of Commons (1812). There was an edition of this reprinted at Madras in 1866.

When Lord Cornwallis commenced the codification of the Regulations in 1793, these rules (amended and completed) formed one of the forty-three Regulations passed on the same day, and have since been borne on the Statute-book as Regulation VIII of 1793.

This is the law under which the "decennial settlement" of Bengal was made.

§ 6.—*Result reported to the home authorities: the Permanent Settlement.*

When the enquiries had been completed, report was made, as ordered, to the Court of Directors at home. There was much opposition, it appears, in the Council, to making the settlement permanent; but the Court of Directors, in a despatch of September 1792, consented to the proposal, and Lord Cornwallis accordingly declared, by proclamation of 22nd March 1793, the decennial settlement to be "permanent." This proclamation was also included in the Statute-book of 1793, as Regulation I of that year.

The main features of that settlement have already been sketched in the introductory general sketch. They were—

(1) That the zamíndárs were settled with; and as they could not fulfil their obligations to the State, nor take an interest in their estates without some definite legal *status*, they were declared proprietors.

That proprietary right, however, was strictly limited; it was subject, on the one hand, to the payment of revenue to Government, and to liability to have the estates sold *at once* on failure to pay; and it was subject, on the other hand, to the just rights of the old and original cultivators of the soil, "the raiyats," dependant taluqdárs, and others[8].

[8] Some further considerations as to the actual rights of the zamíndár will be offered in the chapter on the land tenures of this province. See also a mass of information in the volumes of an anonymous work published in 1879 (Brown & Co., Calcutta), and called "The Zamíndárí Settlement of Bengal." The author's object is to show, not only that the permanent settlement with zamíndárs has been a great failure;—that, beyond paying the revenue, the zamíndárs have done nothing of what was hoped from them in the way of benefiting tenants or improving their estates;—but, chiefly, to

(2) The assessment was on the basis of the former payments, but in a consolidated form, extra cesses being absorbed; and the total assessment in one lump sum was declared unenhanceable and fixed for ever.

§ 7.—*Features of the Permanent Settlement.*

It will be obvious to the reader that no practical object would be gained by our enquiring what was the process of this settlement, which, whatever its merits or demerits, is now a matter of history.

I shall only notice, therefore, some salient features in it which have continued to affect the course of revenue administration in Bengal.

In the first place, unlike all the other settlements, which we shall have to study, the "permanent settlement" did not commence either with ascertaining the boundaries of the estates to be settled, or with a survey. This was perhaps the result of circumstances, and partly also the result of the views entertained as to the nature of the Government revenue and of the proprietary interest which the settlement was to bestow on the landholders.

Nearly all the occupied parts[9] of the districts were divided out into zamíndáris. In a few instances in Bengal, and more commonly in Bihár, the estate was that of a jágírdár, and some estates were

argue that the permanent settlement was intended not only to settle what the zamíndárs should pay to Government, but what the "raiyats," or original occupiers—natural owners, if you please—of the soil, should pay to the zamíndár; and that this part of the work has been never carried out to this day; consequently that, as a rule, the raiyats are wretchedly off.

It is not the purpose of this book to take a side in any controversy; but it must be admitted that a great deal of strong evidence has been produced in favour of this view. See also the various judgments of the Judges of the High Court in the great Rent Case, Bengal Law Reports (Supplementary Volume of Full Bench Cases, p. 202 *et seq.*)

[9] I say "occupied parts," for at that time a majority of the districts, especially those near the hilly tracts, had large areas still waste, but nevertheless forming part of the zamíndárí, or at least claimed as such. Lord Cornwallis stated that one-third of the Company's possessions was waste at the time when the settlement work began. The object of the settlement of 1793 was to recognise *all the land*, waste or culturable, in each zamíndárí, as the property of the zamíndár; but no doubt at that time there was very little certainty as to what was really included in the estate.

held by grantees called taluqdárs[10]. But, whatever the title, the actual allotments of land forming the settled estates were those mentioned in the old native revenue records. There were no maps or plans or statements of area, but the boundaries of the estate were vaguely described in words, and a list of the villages included was given; but the limits of these were very imperfectly known, especially where a large portion was waste. Each zamíndár held a document, or "sanad," under which the Emperor or his Deputy had created the "estate;" and that specified the revenue that was to be paid.

All previous experience had shown that, without organising the districts into small sub-divisions for revenue-administration purposes, it was impossible to dispense with the agency of the zamíndár[1]. Even when each considerable district had one European Collector, aided by a staff of qánúngos, it would have been quite impossible for him to deal with thousands of detailed holdings; how much more would this apply before that date, when, as from 1772-79, there had been only councils or committees for controlling revenue matters—at one time six of them for all the districts included in Bengal, Bihár, and Orissa!

Every effort to hold the estates "khás," that is, to deal direct with the landholders without the intervention of the zamíndár, had proved such a failure, that there was always a return to the old

[10] These titles will be better understood after reading the chapter on Bengal tenures, which may be referred to at this point by the student.

[1] This is very instructive. In Akbar's time, the whole country was divided out into parganas, each with its vigilant revenue ámil, and the parganas even had recognised sub-divisions under petty revenue officers. As long as this was kept working by a powerful Government, the revenue was not intercepted, the people were not oppressed. The moment the Government became too weak to control this machinery, the sub-divisions disappeared, and then the revenue *could* only be collected by the agency of great farmers, who undertook to pay a fixed sum for a certain portion of territory, saving the Government the trouble of going into any detail. This was the system our early administrators found already long established. In the position they were placed, it was utterly impossible for them to have restored the "Akbarian" method, as we have now restored it in Northern India. The tahsíldárs and all the host of local officials trained and able to carry out such a system, are the product of a century of British rule. In 1786 no such persons could have been found.

system. No wonder, therefore, that the zamíndár was finally accepted as the person to be settled with: and this, not as a matter of chance, but as one of deliberate policy, and on administrative grounds. When to this, the reader will add his reminiscence of what has been already stated of the way in which the zamíndár himself increased in power and in his virtual connection with the land, it will appear still less wonderful that he should have been declared and recognised as the proprietor, subject to whatever just rights the people on the land below him possessed or were entitled to[2].

§ 8.—*Method of dealing with the zamíndárs.*

The direct consequence of admitting the zamíndár to the position of an English landlord, was a desire to leave him in the enjoyment, as far as possible, of the independence dear to an English landholder. What need was there, the rulers of those days thought, to harass the proprietor we have established and now wish to encourage, by surveying or measuring his lands and making an inquisition into his affairs? Fix his revenue as it has all along been paid, or correct the recorded amount if it is wrong; sweep away illegal taxes, resume what land is unfairly held without paying revenue, and then leave the proprietor in peace. If some neighbour disputes his boundary,—if there is room to believe that he is encroaching, let them go to law and decide the fact.

Besides this feeling, there was another which at first made a survey unacceptable. Strange as it may appear to European ideas, measurement was looked on with great dread, both by zamíndár and raiyat. Whenever the raiyat had to pay a very heavy rent, or the zamíndár to satisfy a high revenue demand, both were glad to have a little (or often a good deal) more land than they were in theory supposed to pay on.

[2] If I may for once express an opinion, I would say that the failure of the permanent settlement (and a grievous failure it has been) is not due to the settlements with zamíndárs, but to the failure to carry out the intentions with regard to securing the rights and fixing the "rents" of the cultivators (whose rights were also really 'proprietary') under them.

It was always found an effective process under the Mughal rule to threaten a raiyat with the measurement of his lands; for his "rent" was fixed at so much for so many bíghás. If this rent was oppressive, as it often was, his only chance of meeting that obligation was, that he really held some few bíghás in excess of what he paid for, and this would be found out on measurement. But that was not the only danger; the landholder well knew that even if he had no excess whatever, still the adverse measurer would inevitably make out that the land held was in excess. By raising the "jaríb," or measuring rod, in the middle, and by many other such devices, he would make the bíghá small, and so produce a result showing the unfortunate raiyat to be holding more than he was paying for; and enhancement immediately followed. In the same way the zamíndár liked a considerable, or at any rate an undefined, margin of estate to extend cultivation when he was so disposed. Of course, the want of survey and boundary demarcation led, as we shall afterwards see, to great difficulty, and various enactments have been since passed to provide a proper register of estates and a survey to ascertain their true limits; but it is not difficult to understand why this was not at first thought of.

Some curious restrictions were at first placed on the selection of persons to be zamíndár-proprietors. It was at one time attempted to exclude from settlement, not only minors and females incompetent to manage their estates, but also persons "of "notorious profligacy" or "disqualified by contumacy." These grounds of exclusion, being of course impracticable to prove satisfactorily, and being sure to give rise to great scandals, owing to the necessity of an enquiry in Court, were ultimately given up. As regards estates of minors and others unable to take care of their own rights, they were placed under the Court of Wards, and managed on behalf of the incompetent owners.

When there were several shareholders in an estate, there was at first a rule to make them elect a manager. This failed, and after a time the law was altered, and they were left to manage as they pleased, but were held jointly and severally responsible for the

revenue. The law, however, permitted a partition and a complete severance of responsibility, if the sharers wished it.

When there were cases of doubtful or disputed boundary, possession was looked to; and if possession could not be ascertained, the estate was held by the Government officers ("khás" as it was called) till the dispute was legally settled.

If the zamíndár declined settlement (which was rare, for those who at first declined when the settlement was to be for ten years, soon accepted when the proclamation of perpetuity was issued), the lands were farmed or held khás, and the ex-proprietor got a "málikána," or allowance of 10 per cent. on the jama' or Government assessment.

§ 9.—*Dependent and Independent Taluqdárs.*

The persons with whom the estates were settled were mostly zamíndárs, but I have mentioned that there were other grantees of the State called taluqdárs. These were sometimes separate grants, outside and "independent" of the zamindár's estate, in which case they paid revenue direct to the treasury. Sometimes they were found inside the estate as it were, and were then "dependent" on the zamíndár, and paid through him. Rules were laid down for determining when the taluqdár was to be settled with separately, and when he was considered as subordinate to the zamíndár—a proprietor in fact in the second grade. In consequence of these rules, a number of estates were separated off, and had the right of paying revenue direct to the Collector. It was, however, intended that this should be done once for all. A few years later it was found that people still kept on asking to have 'taluqs' separated from the zamíndárí, and it became necessary[3] to give a year's grace for such applications, after which no more separations would be allowed.

§ 10.—*Method of assessment;—Akbar's settlement.*

In order to determine the assessment of each estate, no enquiry was made (as under the later Settlement laws) either what the produce was, or what the "rents" were as paid by

[3] Regulation X of 1801, section 14.

the raiyats. Reference was simply made to the old records of the lump assessments under the native rulers; and these were roughly adjusted in cases where such adjustment was needed, and the zamíndár or other owner was directed to pay this sum.

It will be here interesting to enquire what the sums on the old record were, and how they came to be so fixed[4] and recorded. In order to understand this, I must go back to the past history, and present a very brief sketch of what had occurred in the palmy days of the Mughal empire.

During Akbar's reign there was a settlement something like our modern settlements, but not at all like the permanent settlement of Bengal. Akbar, with characteristic shrewdness, employed a Hindu Rája, Todar Mal[5], of great ability, to make it, and associated a Mussulmán with him. The settlement went straight to the actual cultivators of the soil. These, as we have seen, were bound to pay a certain share of the produce to the ruler. The lands were measured, the crop estimated, and an actual division of the produce made.

[4] As regards the actual process by which our earliest Collectors made the assessments for settlement, the following description occurs in an article in the *Calcutta Review* by Mr. Thornton, reprinted in 1850:—

"The Collector sat in his office in the sudder (head-quarter) station, attended by his right-hand man, the kánúngo, by whom he was almost entirely guided. As each estate came up in succession, the brief record of former settlements was read, and the dehsunny (dah-san, ten years) book, or fiscal register for ten years immediately preceding the cession or conquest, was inspected. The kánúngo was then asked who was the zamíndár of the village. . . . . Then followed the determination of the amount of revenue. On this point also reliance was chiefly placed in the *daul*, or estimate, of the kánúngo, checked by the accounts of past collections and by any other offers of mere farming speculators which might happen to be put forward."

In such a process the assessment was not so likely to be fixed at an excessive rate, as the rights of individuals to share in the profits left by its moderation were to be overlooked. Mr. Thornton remarks that sometimes a man was put down as proprietor, because his name was on the kánúngo's books, although he had really lost all connection with the estate.

[5] The name of this Rája has been variously tortured into Toor Mull, Toral Mal, and Toran Mal. The palatal *d* in the Hindi Todar is easily pronounced as *r*, so the name got to be Torar Mal, and then misprinted Toran Mull.

Akbar's reform consisted, first, in establishing a standard area measure, or bígha, and a standard measuring rod to test it with. Next, in classifying the soil into several grades or classes, and then enquiring what a bígha of each class could be taken to produce as an average. This served as a test. An enquiry was made as to what, in fact, the lands of each class in a given area had yielded during the last ten years (from the 14th to the 24th year of the reign); one-tenth of the total was taken as the average production. The State's share was then to be a certain fraction of this average figure; and that fraction was to be maintained unaltered for the period of Todar Mal's settlement, which was ten years[6]. Todar Mal's object was then to convert this fixed fraction of a known amount of produce per bígha, into a money equivalent, and so he took the "*ruba'*," or one-fourth of the estimated produce, and valued it in money: this was the cash assessment. But Todar Mal was too wise to enforce such a novelty all at once with crushing uniformity. It was left optional to pay the cash *ruba'*, or to continue the payment in kind; only the cultivator must adhere to one or the other. When he paid in kind, the fraction of the produce belonging to the State was a different weight for each kind of crop on each class of soil. The cash assessment was, therefore, much simpler. In this way a cash assessment for the land became known, and thenceforth the revenue seems to have been always paid in money. This cash rate is spoken of as the original or actual assessment,—the "asl túmár jama'[7]."

§ 11.—*The Siwái or Abwáb.*

It is not to be supposed that this was never afterwards raised; but it was so by adding certain *cesses* called "síwái" (*lit.*, "extra,"—"besides") or "abwáb" (plural of "báb," the *heads*

[6] This is described in Lecture III of the Tagore Lectures for 1875, page 68, &c., and in Elphinstone's History, page 541, &c.

[7] Túmár is a record or register, so that the phrase means "the original or simple jama'," or standard assessment on record. As to payment in money being general, see Mr. Shore's Minute of 1789 and authorities quoted in Cunningham's "India and its Rulers," page 172.

or subjects of taxation)[8]. These were calculated on the same principle as the jama', at so much per bighá, or so many seers in the maund. Akbar endeavoured to abolish these[9], but without success. The ruler's local deputy levied them on the zamíndár, who was authorised to levy them on the cultivators. Besides that, the zamíndár levied more petty cesses on his own account, and so did all the zamíndár's officials—his náib, his gumáshta, &c. When these cesses got numerous and complicated, there would be[10] a sort of compromise; the rate would be re-adjusted so as to consolidate the old rate and the cesses in one, and this would become the recognised rate, till new cesses being imposed, a new compromise was effected. In this way, therefore, the revenue actually paid might gradually rise, and the rates exacted from the cultivators rise also, with more than corresponding frequency. The revenue actually realised was then composed of the asl jama' and these extra charges, and was collectively called the "mál."

§ 12.—*The Sayer.*

Besides this land revenue, there were other imposts not connected with the land, and called "Sáir," or, according to the Bengali writing, "Sayer." These were taxes on pilgrims, excise and customs duties, taxes levied on shopkeepers in bazars (ganj) and markets (hát), tolls, &c. They amounted usually to about one-tenth of the land revenue; they also included charges on the use of the products of the jungle (*ban-kar*), on fishing (*jal-kar*), and on orchards and fruit trees (*phal-kar*).

[8] They were called after the name of the ruler inventing them, or after the nature of the tax. Thus we find the "khás navísí," a tax to support the Government writers of "sanads," &c.; "nazarána muqarrárí," a rate to enable the Deputy or Governor to send his customary annual presents to the Emperor; the "faujdárí," to maintain police; "zar-i-mathaut," comprising several items; "chauth-Maráthá," a tax to meet the loss caused by the cession of part of Orissa to the Maráthás, &c., &c.

[9] Ayín Akbari, Vol. I, 355.

[10] See Mr. Justice (Sir G.) Campbell's judgment in the great Rent Case, B. L. Reports, Suppy. Vol., page 256.

It is easy to understand then that the total revenue which each zamíndár had to account for to the State consisted of two kinds,—the "mál" (above described) and the "sáir."

The sum under each head payable in total for the different "mahâls" or estates included in each zamíndárí, was placed on record and noted also on the sanad of appointment.

§ 13.—*The British assessment.*

The British assessment was made on a comparison and revision of these records as already stated.

But from the very first, an improvement, or at least a simplification of the assessment, was attempted.

In the first place, we have seen that even as far back as the reign of Akbar, attempts had been made to abolish all "abwáb" or "síwáí" collections over and above the actual land assessment.

The British Government persisted in the same attempt: therefore, on settling with the zamíndárs, it consolidated the land revenue into one net sum, and abolished all the cesses, even those which, under the Native Government, were authorised. Unfortunately, though the Government itself forebore any addition on the account "abwáb," and proposed to punish severely the offence of such exaction, still the zamíndár used privately to collect cesses on his own account from the people; and it is certain that even at the present day such cesses are paid by the raiyats, partly under the inexorable bond of custom, and partly from a sense of helplessness. For, though the authorities would at once decide against the exaction, still the zamíndár could always either conceal the fact or colour it in some way, or else make things so unpleasant for the raiyat that he would rather pay and hold his tongue[1].

[1] The private cesses, as distinct from the authorised cesses of old days, are legion. A few names will sufficiently indicate their nature; thus, we find the "mángan," a benevolence to assist the zamíndár in debt; "nájáí," a contribution to cover the loss when the other cultivators absconded or defaulted; "parvani" or "parbani," a charge to enable the zamíndár to celebrate "parvas," or religious festival days. There were also levies for embankments (púlbandi), for travelling expenses of the

The "sáir" items were of course on a more legal and equitable footing. Government, however, abolished them, or rather severed them entirely from the land revenue. Whenever the zamíndárs had

zamíndár, &c., &c. As regards the modern levy of cesses, I cannot do better than quote from the Administration Report of 1872-73 (body of the report, page 23). Those who care to go into more detail will also find, following the extract I make, a list of cesses, showing the variety and ingenuity which their levy displayed.

"The modern zamíndár taxes his raiyats for every extravagance or necessity that circumstances may suggest, as his predecessors taxed them in the past. He will tax them for the support of his agents of various kinds and degrees, for the payment of his income tax and his postal cess, for the purchase of an elephant for his own use, for the cost of the stationery of his establishment, for the cost of printing the forms of his rent receipts, for the payment of his lawyers. The milkman gives his milk, the oilman his oil, the weaver his clothes, the confectioner his sweetmeats, the fisherman his fish. The zamíndár levies benevolences from his raiyats for a festival, for a religious ceremony, for a birth, for a marriage; he exacts fees from them on all changes of their holdings, on the exchange of leases and agreements, and on all transfers and sales; he imposes a fine on them when he settles their petty disputes, and when the police or when the Magistrate visits his estates; he levies black-mail on them when social scandals transpire, or when an offence or an affray is committed. He establishes his private pound near his cutcherry, and realises a fine for every head of cattle that is caught trespassing on the raiyat's crops. The abwáb, as these illegal cesses are called, pervade the whole zamíndárí system. In every zamíndárí there is a náib; under the náib there are gumáshtas; under the gumáshta there are piyádas or peons. The náib exacts a 'hisábána' or perquisite for adjusting accounts annually. The náibs and gumáshtas take their share in the regular abwáb; they have also their own little abwáb. The náib occasionally indulges in a nominous raid in the 'mofussil' (the plain country away from the town or head-quarters). One rupee is exacted from every raiyat who has a rental, as he comes to proffer his respects. Collecting peons, when they are sent to summon raiyats to the landholder's cutcherry, exact from them daily four or five annas as summons fees."

On the other hand, it should not be forgotten that all this need only continue as long as the people themselves choose: but in fact it is the engrained custom and is submitted to as long as it is kept within customary limits. Every petty native official is born to think that "wasíla" pickings and perquisites, are as much a part of his natural rights as air to breathe or water to drink. Nor will the public object as long as he does his duty fairly. When he tries to take too much and does "zulm" (petty tyranny), the people will turn on him, and a conviction for extortion is more or less attainable, according as the culprit still has friends or is generally in the black books.

There is also a bright side to the question: an amicable understanding with a raiyat for some cesses will often obviate a good deal of litigation about rent enhancement. This was the case in Orissa. In Macneile's Memorandum on the Revenue Administration, an interesting notice of the subject will be found. The people complained of certain cesses, and the zamíndár immediately responded by bringing suits under the Rent Act for enhancement, and by *measuring their lands* (see page 170, *ante*).

a real equitable claim, and consequently suffered a real loss by taking away from them the tolls on roads and ferries, or the taxes on bazars and markets established on their lands, they were compensated.

The rest of such taxes (which a civilised Government would maintain), namely, tolls, customs, and excise, the Government itself levied under appropriate regulations, entirely separate (as at the present day) from the land revenue. I have alluded to the fact that under the name of sáir were also included certain reasonable charges (and not in the nature of an impost), such as payment for fisheries, jungle produce, fruit (jal-kar, ban-kar, and phal-kar); these were excepted from abolition; but Government handed over the profits to the zamíndárs, allowing them to collect these dues as part of their own rights and profits.

Thus the settlement was made with the zamíndárs for one lump sum of revenue, which was supposed to represent the *whole* of wha they received directly in rent from the raiyats, less about one-tenth allowed to them for their trouble and responsibility[2].

[2] See Regulation VIII of 1793, section 77; and Whinfield's Manual, page 11. In Native times it was the same. The zamíndárs were to pay in the whole of their collections, less only a percentage allowed them for the trouble (called mushahará) together with some allowances called "mazkúrát," which really were deductions for charitable and religious purposes—to keep lamps at the tombs of saints, to preserve the "kadam rasúl" or foot-prints of the Prophet, to give khairát or alms to the poor, to pay the village or minor revenue officials, to support the peons or messengers to keep up the office, &c., &c.

If anything is wanting to show how utterly unlike a "landlord" the "zamíndár" *originally* was, this will supply the want. He got *nothing in the nature of rent from the land*. The actual "raiyat" took the balance of its yield after paying the Government share (the balance to him being often small enough), and the zamíndár had to account to Government for the whole of his receipts, getting back only such allowance as the State made him to keep up his office, &c., and to remunerate him for his trouble. Whatever he made for himself was derived from revenue-free land, that held as "nánkár," or from the levy of cesses. In time, it is true, he *came to get* something very like rent. When the later Native rulers contracted with the zamíndár for a fixed sum, this was soon to be regarded as something apart from the total rents paid in by the raiyats. In the same way our system almost inevitably tended to regard the zamíndár's jama' in the same light, and gradually provided laws for the recovery of the raiyats' payments as "rent" and for their enhancement under certain circumstances.

This tenth, together with the sáir income and what they could make by extending cultivation and improving existing farms, was the profit which constituted the value of the proprietary title.

§ 14.—*The Settlement Rules.*

The settlement rules of 1789–93 laid down for Bengal, Bihár, and for Orissa (as it then was) separate principles of assessment. In Bengal and Orissa, the actual revenue of the preceding year, or some year nearly preceding (which was to be compared with the accounts, and tested by the information which the Collector had acquired), was to furnish the standard of assessment. In Bihár, the standard was to be the average produce of land in any ordinary year, which would give a fair and equitable assessment. If any land had paid a fixed revenue for twelve years past, that was to be accepted as the settlement rate.

With the single exception, then, of Bihár, where in many cases former accounts were not forthcoming, and where consequently an estimate of the produce of an ordinary year had of necessity to be made, there was nothing required as the basis of assessment, but a reference to old accounts, with such consolidation and checking of separate items and abolition of objectionable ones, as the declared principles of Government rendered necessary[3].

§ 15.—*Lákhiráj lands.*

Connected with the subject of the settlement must be mentioned the action taken with respect to "lákhiráj," or revenue-free lands. At all times grants of this kind had been made, chiefly either for charitable and religious purposes, or as rewards, or to enable the

[3] In the Introduction I mentioned that many of the Collectors and those on the Board who knew actual revenue work, felt how very unsatisfactory such an assessment was; and while all were willing enough to have it tried for ten years on the original order, they were aghast at the idea of making such an assessment permanent. Lord Cornwallis, however, minuted against Mr. Shore (the ablest of the advocates for a ten years' trial before further action) and insisted on declaring the "land-tax"—as he considered it no doubt—permanent. (Regulation I, 1793, section 2.)

grantee to keep up a military force to aid the sovereign. The nature of such grants I shall further detail when I come to describe the land tenures of Bengal. The number and extent of them came to be very greatly increased in later days, when bad government brought at once extravagant expenditure and a diminished revenue. Then it was that the ruler, being unable to pay cash salaries, began to remunerate his zamíndárs and other officials by grants of land called "nánkár," or land to get one's bread by, and "chákarán," or land for support and payment of servants (chákar). Revenue-free grants also were made, not as they ought to be, always by the supreme ruler, or at least by his great provincial Súbadár or Deputy, but by all sorts of unauthorised subordinates.

And this state of disorder tended more and more to diminish the revenue, since a zamíndár would soon show, under one pretence or another, that a portion of his land was exempt from payment. Some he would declare was his own land—"nij-jot;" some was his nánkár, or allowance for service; more was "khámár," or waste which he had cultivated; some was granted revenue-free to some one whom he had no control over; some was free for support of police posts or "thánas;" some was charged with pensions which he had to pay. All these matters our Collectors had to enquire into and put straight. The zamíndár was relieved of the responsibility of paying pensions and supporting the police posts[4], but the lands said to be free for such purposes were assessed and the assessment added to his jama'.

The zamíndár was next allowed his own nánkár, nij-jot and khámár lands revenue-free, when he could prove a reasonable title to them, going back to before 1765 (the year of the commencement of the Company's rule by grant of the Emperor), and could show continuous possession.

[4] Thánadári lands were resumed and assessed (see Regulation XXII of 1793, section 3); "chákarán lands," for the support of *village* watch, were left in the estates and no extra assessment charged (Regulation VIII of 1793, section 41)

§ 16.—*Resumption of invalid grants.*

As regards the general question of assignments of the revenue, or grants excusing the payment of revenue by certain persons in possession of the land, these were to be examined into and resumed or held valid, according to certain rules which were first contained in Regulations XIX and XXXVII of 1793. But these rules failed completely, and in 1819 a new Regulation was passed to provide for the more effective investigation of the subject. This, however, succeeded no better, and lastly, in 1828, a Regulation for the appointment of Special Commissioners was passed. Even this plan seems not to have been very successful[5], and the Commissioners were at length abolished in 1846, since which time the special enquiry has been practically given up. Of course any grant appearing at a later time could always be called in question if it appeared invalid under the law.

When these grants were found to have been made by the royal power they were called "bádsháhi;" when made by subordinate officials, they were called "hukámi." As might be expected, many of the latter were made without any proper authority, but still the British Government desired to deal very liberally with persons who had really been long in the enjoyment of such grants. Speaking generally, *all* grants (by whatever authority) made previous to 12th August 1765 (date of the Díwání), if accompanied by *boná fide* possession, were recognised as valid, and all of later date, if made without proper authority, were (with some few reservations) declared invalid[6].

But it was determined that when the grant did not exceed 100 bíghás, its resumption and assessment were to benefit the proprietor

[5] There are of course a large number of intermediate Regulations modifying the original orders, and introducing new provisions; but I do not think it necessary that the student should be troubled with them.

[6] Markby: Lectures on Indian Law, page 3. There were rules which allowed only a partial resumption, *i.e.*, did not entirely take away the privilege, nor yet entirely excuse payment, but allowed a light assessment on grants made after 1765, but before the Company assumed the actual management in 1772. I do not propose to go into so much detail.

or the zamíndár of the estate within whose limits the land lay, and not increase the Government revenue. Only when it exceeded 100 bíghás, was there to be an increase to the jama', in which case the revenue was to be settled in perpetuity[7]. The land might or might not belong to the zamíndár within whose estate it lay. The larger grants were probably held by grantees other than the zamíndár, and then they became separate or independent taluqs with their own revenue assessment.

Revenue due on invalid grants of less than 100 bíghás was (as just observed) for the benefit of the zamíndár to whose estate they belonged, and such lands became "dependent" taluqs. As the zamíndár was thus directly interested in "resuming" or charging "rent" on the smaller plots, at first the law left the matter entirely in his hands, and he might resume without reference to any Court or Revenue authority. Not only so, but the *grantee* had to prove his non-liability to pay, in case he disputed the resumption. At first the zamíndárs, restrained some by popular feeling against resumptions, did not use the power, but after a time, and especially in certain districts, they began to do so; it was then necessary to alter the law; and now every such resumption must be by decree of Civil Court.

§ 17.—*Original design of Land Registration.*

It will next be asked, what attempt was made to prepare registers of estates and records of other rights under the Permanent Settlement?

This subject does not seem to have attracted much attention at the time. As there was no survey or demarcation of estates, the only thing that could be done was to prepare a descriptive register showing names of the estates and the villages, and the local subdivisions of land included in it. But the first rules for such a registration, were both imperfect and impracticable. They were

[7] Regulation XIX of 1793, sections 6-8; and Regulation XXXVII of 1793, sections 6-8.

never carried out, and there is no occasion therefore to go into detail on the subject[8]. It was only intended to show the estates of separate revenue-paying proprietors and the detail of the villages or groups of villages forming whole parganas in them. Often the estates had outlying portions, some even in other districts—these portions are spoken of as "qismatiya" villages[9].

§ 18.—*Registration of Under-tenures.*

No registration of under-tenures, or record of the nature and extent of the rights in them, was made.

The full consideration of these "under-tenures" belongs to another chapter; but a few lines introduced here, may make what follows more intelligible. If no zamíndárs had ever existed or grown into power, the original holders of land in the villages would, in the nature of things, have been the "proprietors." But the zamíndár coming in as a superior, all of them sunk to an inferior position, but not all in equal grade: for those who were the original hereditary possessors of land sometimes were strong enough to secure their position by getting a grant of their land in taluq, or by a permanent lease with or without fixity of rent:—others who did not gain these advantages would still be entitled by

[8] I do not mean by the failure of the early records, to imply that the authors of the permanent settlement purposely avoided a record. On the contrary,—"The original intention," says Sir G. Campbell, "of the framers of the permanent settlement was to record all rights. The kánungos and patwárís were to register all holdings, all transfers, all rent-rolls, and all receipts and payments, and every five years there was to be filed in the public offices a complete register of all land tenures. But the task was a difficult one: there was delay in carrying it out. English ideas of the rights of a landlord and of the advantage of non-interference began more and more to prevail in Bengal. The Executive more and more abnegated the functions of recording rights and protecting the inferior holders, and left everything to the judicial tribunals. The patwárís fell into disuse, or became the mere servants of the zamíndárs: the kánúngos were abolished. No record of the rights of the raiyats and inferior holders was ever made; and even the quinquennial register of superior rights which was maintained for a time fell into disuse."—(Sir G. Campbell's Land Systems of India. Cobden Club Papers, p. 148.)

[9] "Qismat," a part or portion separated off.

the voice of custom (which even the zamíndár could not wholly ignore) to be hereditary tenants, and to pay only customary rent.

The Settlement Regulation, however, though by no means ignoring such rights or wishing to destroy them, thought it enough to determine, in the case of the estates called "taluqs," whether they were to be separated as distinct proprietary estates, or left as under-tenures subordinate to the zamíndár. If the latter, the law secured the terms of the tenure to the holder. In the same way long leases, either perpetual (istimrárí) or at a fixed rental (muqarrarí), were protected from alteration. All other lands were to be "let" (under prescribed restrictions—which were soon removed—as to form of lease and length of its duration) in whatever manner the zamíndár might think proper; only the zamíndár was required (1) to make the terms definite; (2) to revise the existing accounts which caused the raiyat to pay both his "asl" and extras or abwáb, and consolidate the rent into one lump sum; and (3) to charge no new cesses[10].

Ancient or hereditary raiyats were protected in paying only at the established or customary rates; and even when the estate was sold for arrears of revenue (which cancelled all under-tenures and existing contracts), the resident or hereditary raiyats were still protected, and could not be ejected unless they refused to take from the purchaser a pattá at the established rates. The want of proper authoritative registers of such tenures and their holders long continued; and it is only of late years that the registration has been put on a better footing. A notice of the present practice, however, belongs to a later stage of our study.

[10] At first an attempt was made to compel the grant of pattás in a particular form, but this was given up. The raiyats did not understand the pattás as any protection, but rather regarded them as instruments of exaction, since few could read and write, and so they were afraid of being made to sign for more than they thought that they, by custom, ought to pay. Afterwards, when the people became more advanced, the value of the written "pottah" as a protection became more appreciated. By the modern law (see Bengal Act VIII of 1869, section 2) every raiyat is entitled to a lease, showing exactly his land and its boundaries, the rent he is to pay, and all particulars, so that there can be no mistake nor exaction of any payment above the agreed rent, unless the raiyat through ignorance or fear chooses to make it.

§ 19.—*Results of the Permanent Settlement.*

The results of the permanent settlement were far other than was expected.

There can be no doubt that at first the revenue levied from the zamíndárs and others made proprietors was heavy; but as the effects of British peace and security made themselves felt, and as the value of land and its produce rose, and waste lands were brought under the plough, the assessments became proportionately lighter and lighter[1]. And it must be borne in mind that every estate at the time of its original assessment contained considerable, often very large, areas of culturable waste; and as this was entirely unassessed, all extensions of cultivation were the clear profit of the zamíndár[2].

Before, however, these changes began to tell, the assessments, though not excessive, were heavy enough to necessitate diligence and prudence; and the zamíndárs were not able at once to keep pace with the inflexible demand. In return for the benefits it conferred, the Government required punctual payment and no remissions. The zamíndárs were, moreover, unprovided by law with the means of enforcing from the "raiyats" the payments that were due by them, with the same rigid punctuality. The consequence was a very widespread default. At that time the law stood only to enforce a *sale* of the estate (or part of it), directly the zamíndár was in arrears, and it followed that large numbers of estates were put up to sale.

[1] The revenue assessed in 1790-93 was about 3 millions of pounds, and the zamíndárs were estimated to get as their rent a sum equal to about a tenth of the assessment. They no doubt got more; but even if we say a fifth, instead of a tenth, the rental would be under a million, whereas at the present day the net rental taken by the permanent settlement holders is over 13 millions, and the revenue they pay is 3½ millions, the original assessment being increased (but only slightly) by the effect of assessment of resumed lands, unassessed waste, and so forth, in the course of nearly a century.

[2] Government no doubt afterwards resumed and assessed separately, some large areas of waste, but it was waste improperly or fraudulently annexed to the estate. Many, if not most, estates had a great deal of waste which was confessedly included in their boundaries.

"In 1796-97," says the late Mr. J. Macneile[3], "lands bearing a total revenue of Sicca[4] Rupees 14,18,756, were sold for arrears, and in 1797-98 the jama' of lands so sold amounted to Sicca Rupees 22,74,076. By the end of the century, the greater portions of the estates of the Nadiyá, Rájsháhi, Bishnpur and Dinájpur Rájas had been alienated. The Bardwán estate was seriously crippled, and the Birbhúm zamíndárí completely ruined. A host of smaller zamíndáris shared the same fate. In fact, it is scarcely too much to say that within the ten years that immediately followed the permanent settlement, a complete revolution took place in the constitution and ownership of the estates which formed the subject of that settlement."

In 1799 the Legislature invested the zamíndárs with a better power of recovering "rents" from their raiyats; and thenceforward the Government revenues were collected with greater ease.

One effect of the "Sale Law" was to reduce very greatly the size of the zamíndáris, for often they were sold piecemeal. The making into separate estates of taluqs, the owners of which established a claim to be dealt with separately from the zamíndárs, and the effect of partitions, has also tended to the same result: but this, as already remarked, was put a stop to in 1801[5].

In Bengal proper more than 89 per cent. of the estates are now under 500 acres; about 10 per cent. are between 500 and 20,000 acres, and less than 1 per cent. are of 20,000 acres and upwards. In Chittagong, however, the estates were always small, and in Bihár there never were any very large zamíndáris.

[3] Memorandum on the Revenue Administration of the Lower Provinces of Bengal (Calcutta, 1873), page 9.

[4] The "sikka" was the first rupee struck (in 1773) by the Company at Murshidábád, but still bearing the name of the Mughal Emperor Sháh 'Álam. It contained nearly 11 grains (Troy) more pure silver than the "Company's rupee" introduced in 1835.

[5] See Regulation I of 1801 and Regulation VI of 1807.

§ 20.—*Districts affected by the Permanent Settlement.*

The permanent settlement extended over the following districts in Bengal, as the districts are now constituted :—

Bengal	Bardwán.	Nadiyá.	Pabná.
	Bankúra.	Múrshídábád.	Maimansingh.
	Birbhúm.	Dináj pur.	Farídpur.
	Húglí.	Málda.	Bákirganj.
	Howrah.	Rájsháhi.	Chittagong.
	24-Pergunnahs.	Rangpur.	Noakháli.
	Jasúr (Jessore).	Bágurá (Bogra).	Tipperah (Tipra).
			Dákha (Dacca).
Bihár	Patna.	Muzaffarpur.	Purniya (Purneah).
	Gáyá.	Darbhanga. (These two form the old Tirhút District.)	Bhágalpur.
	Sháhábád.	Sáran.	Munger (Monghyr).
		Champáran.	

Sontália.—Part of the Sontál Parganas adjoining the Regulation Districts.

Orissa . Medníp ur (Midnapore) except one or two parganas which were settled along with Katák (Cuttack).

Some estates in the Mánbhúm, Singbhúm, Lohárdagga, and Hazáribágh districts (now in the Chutiyá Nágpur Division) came under permanent settlement, because they were then in collectorates which formed part of the Bengal or Bihár of that date.

Part of the Jalpáígúrí district also was permanently settled, under the same circumstances.

A portion of Sylhet was permanently settled, but the settlement did not extend to Jaintiya, nor did it touch anything but the lands under cultivation at the time. This district will be alluded to under the head of Assam, in which Province it is now included. Part of Goálpára (also in Assam) was included in the permanent settlement[6].

[6] The results of the settlement, and the condition of the tenants under it, both in Bihár and Bengal, as questions of social economy, are well stated in Mr. Cunningham's "British India and its Rulers" (page 166 *et seq.*) Such questions, interesting as they are, are evidently outside the scope of a Revenue Manual.

CHAPTER II.

THE TEMPORARY SETTLEMENTS.

SECTION I.—THE ESTATES LIABLE TO TEMPORARY SETTLEMENT.

§ 1.—*Districts not permanently settled.*

THE list of districts with which I closed the last chapter shows that some parts of the Bengal Lieutenant-Governorship, as at present constituted, did not come under permanent settlement. The exceptions are (1) districts which are not in a condition to be brought under any formulated revenue system; they are possessed by Native Chiefs under political superintendence; they pay a sort of fixed revenue or tribute to Government, and manage the details of the "rents" or revenues of their own subjects without direct intervention of any British revenue law. Such are the mountainous portions of the Tipperah and Chittagong districts, called Hill Tipperah (belonging to the Mahárája of Tipperah), and the Hill Tracts of Chittagong. Such also are some of the Chiefships under old South-West Frontier Agency in the Chota (or Chutiyá) Nágpur Division, and the Orissa Tributary Mahals. With these this Manual is not concerned.

The districts with which we are concerned may be grouped as follows:—

(2) There are certain estates, situated in the midst of districts permanently settled as a whole, which come under temporary settlement.

(3) There are the districts of the Katák province (Katák, Bálásúr and Púrí) temporarily settled. In both (2) and (3) the settlement law is Regulation VII of 1822.

(4) There are certain districts, such as Darjiling, the Western Duárs (in the Jalpáigurí district), a portion of the Sontal

tál Parganas, and certain districts in the Chutiyá Nágpur Division, in which the settlement arrangements are of a special character.

I shall therefore proceed first to explain how it is that estates under temporary settlement are found in the midst of permanently settled districts; I shall next (after some remarks on the Orissa temporary settlements) describe the procedure of a temporary settlement; and lastly I shall devote a section to the notice of the fourth class, the specially settled districts.

§ 2.—*Lands not included in the permanently settled estates.*

A large class of estates temporarily settled is represented by the lands which were found not to belong really to, or to be included in, the permanently settled estates, but to have been at the time of settlement unpossessed itself. I have mentioned that there was no survey or demarcation; hence the exact limits of a zamíndárí could not in all cases be accurately known. In fully-settled parts of the country, where the limits of one estate touched the limits of the neighbouring ones, there was perhaps no room for doubt. But in many it was not so; large tracts of culturable but not occupied waste adjoined, and the question arose, how much of this waste is really part of the estate? All that the Collector had to guide him was a written description of the lands, often in the vaguest terms. The estate extended on the north "in the direction" of such and such a town or road, miles off perhaps. It was bordered on the south by the "field where the red cow grazed," or some other detail no more promising. It was always intended that every acre, really forming part of the estate in 1793, should come under the *ægis* of the settlement; such waste might be brought under the plough for the sole benefit of the proprietor, no increased assessment being demanded. This was one of the means by which the estate, it was hoped, would become profitable. But it was never intended that the estate-holders should encroach beyond their real limits, and annex, to their own benefit, large areas of land, which properly belonged to the State. The second Regula-

tion of 1819, therefore, declared that such excess was liable to assessment. It instanced, as land liable to such assessment, islands and alluvial accretions formed since the permanent settlement; lands cultivated in the Sundarbans (the tract of alluvial land intersected with creeks between the mouth of the Húglí on the west and the Megna river on the east[1]); and certain waste plots given out under lease, within the actual limits of permanently settled taluqs, but expressly excluded by terms of the pattá or lease from the operation of the settlement. But this Regulation did not say anything about the *ownership* of the land, only about its being *assessed*. Some would naturally belong to Government, *e.g.*, alluvial lands and islands not forming part of estates; but otherwise it was not the intention of the Regulation to eject or disturb the possession of the occupiers when that was a settled thing, but simply to secure the Government revenue. Indeed, Mr. Macneile says[2] that when the occupants of such lands refused the terms of settlement they were allowed "málikána," which shows they were considered owners. Such lands are called "taufír," or "excess" over and above what was originally included in the settlement. At first it does not seem that any great care was taken about such cases. If there was any show of possession, the proprietorship was allowed, and the land was assessed. Under the Regulation of 1793 the assessment was permanent[3] whenever Government transferred

[1] And forming the southern or delta portion of the districts of the 24-Pergunnahs, Jessore and Bákirganj.

[2] Memorandum, section 167. Regulation III of 1828, however (though passed primarily to legalise the appointment of Commissioners to settle cases of invalid tenure), alludes to the case of unoccupied lands, and removes any possible doubt about their being State property. Indeed, in one place the Regulation goes beyond this, since it declares the Sundarbans to be State property, *although* parts of it had been occupied before 1819. The Regulation was not apparently acted on before a considerable area of the lands alluded to in the Regulation of 1819 had been allowed the benefit of a *permanent* settlement. Such lands are chiefly on the high ground on the northern limits of the Sundarbans, and represent encroachments from the regularly settled estates beyond.

[3] Regulation I of 1793, section 6. And so when a zamíndár's land was 'resumed' as being claimed under a grant which proved invalid, the land was settled permanently.

or absolutely gave up the proprietorship. But in cases where there was no show of proprietorship, the land remained in the hands of Government, and might be leased on special terms, or reserved for subsequent use or disposal as the case might be.

A few years later (1828) the subject was more fully entered into, and then the right of Government to all unowned lands was distinctly asserted; and as in the course of the years between 1819 and 1828 the temporary settled Regulations had been passed, the settlement of all unowned or unauthorisedly occupied land was temporary, as long as Government retained the proprietary right in it.

§ 3.—*Other lands liable to settlement.*

Then, again, there may be lands forfeited for crime, or escheated owing to failure of heirs. In these cases the estates become the property of Government, and require to be settled.

So also when estates (whether permanently settled or not) are sold for arrears of revenue, and no one bidding, Government buys them in; all previous arrangements become cancelled, and such estates when re-settled, come under temporary settlement with farmers or others as tenants of Government, the proprietary right accruing to Government. If Government parted with the right, it would be bound to give a permanent settlement, as section 6 of Regulation I of 1793, above alluded to, is still in force[4].

So also with alluvial lands that are liable to assessment as accretions to estates. These may be private property liable to assessment, or (under the operation of the Alluvion law) be Government property[5] if they form against estates which belong to Government.

[4] This was recognised when the Government of India put a stop to Sir G. Campbell's sales of proprietary right on a temporary settlement (which was illegal) See Board's Rules, Vol. I., Chap. III, section II, art. 7.

[5] I shall not in this Manual attempt to go into detail on the subject. The Settlement Manual of 1879 (section XII) gives much information which may be referred to. The assessment of alluvion is dependent on a survey (which is not made oftener than once in ten years—see Act IX of 1847) of lands liable to river action. There are special rules for these dearah surveys as they are called (diyara = island). Land that re-forms on the site of land which was once permanently settled is not liable to

This sufficiently explains, if it does not exhaust, the kinds of estates that may come up for settlement even within the districts affected by the permanent settlement. It may be added that, though the labour involved in these temporary settlements is considerable, the area under them yields only about 8 per cent. of the total land revenue[6].

Of these lands I have before observed that some of them may be *private* property subject to Government assessment, and some are Government property. But all the lands are equally brought under settlement operations[7].

§ 4.—*Districts illustrating the foregoing remarks:—Chittagong.*

Before I pass on to describe the rules of the TEMPORARY SETTLEMENT, I may take occasion briefly to describe two districts which illustrate forcibly the effects of the Regulations of 1819 and 1828 regarding the right to assess (and under the latter to claim also) the lands not included in the estates permanently settled.

Chittagong[8] is one of the eastern districts of Bengal between the sea-coast and the hills which separate Bengal from Burma. The soil is rich, but in 1793 a large portion was, as might be expected, still covered with luxuriant and tangled jungle, the clearances being chiefly in the level plains suited for rice-lands. There had

re-settlement. But new land added is a new estate in fact; it may be either settled as such apart from the old estate, or may, with the consent of the Collector, be incorporated with the parent estate. Act XXXI of 1858 regulates settlements of alluvial accretions to estates.

[6] Macneile's Memorandum, section 23.

[7] An example from actual fact will illustrate these remarks and show how the lands of a district may, for revenue purposes, come under various categories. In the Tipperah district the estates are classified as follows (Statistical Account, Bengal, Vol. VI, pages 400-40):—

	No. of estates.
(1) Permanently settled estates (of 1793)	1,262
(2) Resumed lákhiráj (do.)	98
(3) Islands, &c., settled under Regulation II of 1819	103
(4) Estates sold out and permanently settled (Regulation VIII of 1793, section 6)	167
(5) Taluqs and ijáras temporarily settled	241

[8] Properly Cháṭṭágráon.

been no natural opportunity, save in exceptional cases, for the growth of large zamíndárí estates. The different settlers formed groups or companies, and each cleared one plot here and one there. The leader of the company was therefore looked on as the superior owner of the whole of the plots. The group, which was by no means always contiguous, was called a "taraf;" and the person who was at the head (or his descendant) was called "tarafdár." Such settlers were called on by the Muhammadan conqueror for help and feudal service, and were recognised as jágír grantees of the land by *stated area*. So also tarafs were founded by the military force sent to defend the province, and these tarafs were also held in jágír in lieu of pay. The consequence was, as early as 1764, *all the occupied lands* (which alone came under settlement) having been granted by area, had been actually measured[9]. The permanent settlement then *extended only to the measured lands as they stood in 1764*.

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

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

§ 5.—*The Noabad Taluqs.*

All the "naubábd" lands could claim nothing but a temporary settlement. It happened, however, that one of the old estate-holders laid claim by virtue of a sanad, which afterwards proved to be

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

forged, to have had all the waste in the district granted to him in 1797. An immense correspondence, ending in a lawsuit, followed, and lasted for nearly forty years[10]. The result was that Government recovered its right, but had to allow the zamíndár so much land as really belonged to his original estate. This could not be found out without a survey, and the opportunity was taken to survey the whole district, with a view to the proper separation of the old permanently settled lands of 1764 from the nauábád lands. The process took seven years to complete (from 1841-48), and the settlement was made by Sir H. Ricketts. All the "nauábád" lands were surveyed, whether held by squatters or taken by encroachment by the original tarafdárs; but each plot separately occupied was, as a rule, formed into a separate taluq, though some few were aggregated: 32,258 little estates were thus formed. A small number (861) of these, that paid Rs. 50 revenue and upwards, were placed directly under the Collector, and the host of smaller ones were grouped into 196 blocks, each of which was at first given out to a "circle farmer" to be responsible for collecting the revenue. The system was afterwards abandoned in favour of khás management by aid of local Revenue Officers.

Nor was this the only trouble in Chittagong. The invalid revenue-free grants, to which I have already alluded as liable to resumption and assessment, were peculiarly numerous and intricate; even after relinquishing all cases in which the holding did not exceed 10 bíghás, there were still 36,683 petty estates separately settled. Many of these had to be permanently settled under the law alluded to previously (see page 192). There were also a large number of small grants or leases made by the revenue authorities and called clearing or "jangalbúrí" leases[1].

Thus, the Chittagong district consists of a mosaic of petty estates; here a plot of old permanently settled land, next a jangal-

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

[1] There were 1,290 of them, of which 1,002, settled originally for 25 years, gave only Rs. 2,475 revenue between them!

búrí plot, then a recovered and assessed encroachment, next a squatter's noabad taluq, next a resumed lákhiráj holding; and in all or some of them, the proprietary right may be very different.

And, then, the question arose, what sort of title was to be conceded to the people who held these nauábád taluqs and had been settled with? Various plans were proposed; at one time a permanent settlement was offered, but under such conditions that only a very few taluqdárs accepted it. Afterwards this was completely abandoned. The exact position of a nauábád taluqdár long remained doubtful. But it has now been settled by an order of Government, to be that of a tenure-holder in an estate the property of Government. The holder is entitled to retain possession on the terms of his present lease (of 25 or 50 years), and on the conditions of the existing settlement. On the expiry of the current settlement, he will be entitled to continue, if he accepts the terms of the re-settlement. If he does not, he forfeits all right to the tenure.

The temporary settlement of 1848 was made for 50 years in the case of those táluqs which had their cultivation pretty fully developed, but for 25 only in the jangalbúrí taluqs where much land was still waste. These latter are accordingly now under settlement[2].

The case of Chittagong is so curious that I feel sure the reader will hardly regret the time spent in studying it.

§ 6.—*Case of the Sundarbans.*

I must briefly allude also to the Sundarbans, because the Forest Officer has an interest in these tracts; and they again illustrate the case of lands which are not covered by the permanent settlement.

The estates, that were originally either encroachments by the zamíndárs of the neighbouring settled districts, or were brought under cultivation by permission in early days, as "patítábádí" taluqs, are found on the higher parts of the delta, *i.e.*, along

[2] The work began in 1875-76; by 1879, 458,540 acres had been surveyed, leaving 189,168 acres still to be done 435 taluqs or estates had been assessed at rates averaging 2-6-10 per acre (Stack's Memorandum).

its northern limit; these were held to come under Regulation II of 1819, and were permanently settled with the zamíndárs of the adjoining districts. All other squatters, however, would, under the Regulation III of 1828, have no title whatever, even though settled with for revenue.

That this is so in principle there can be no doubt; indeed, it has been so decided by the High Court and by the old Sadr Díwání Adálat; but, practically, the orders that were passed respecting the settlements of the several blocks of cultivated land must be looked to in each case, since these may contain admissions or recognitions of title, modifying the principle, and which it would be inequitable to ignore. Lastly, there have been from time to time rules for disposal of the waste; and though none have been very successful, still a considerable number of private estates have grown up under them.

There still remain large areas covered with peculiar and characteristic tree growth, from which forest estates have been selected for preservation.

§ 7.—*Waste Land Rules.*

It should be here stated that when plots of land still waste are, under the modern "Waste Land Rules," given out to lessees, they are not settled under the Settlement rules, but are specially provided for by the terms of the grant.

§ 8.—*Statistics of temporary and permanently settled estates.*

The following figures will give a good idea of how the lands of Bengal are distributed, as regards their forming estates permanently settled, or temporarily settled.

They are taken from the Board's Revenue Report of 1879-80. The four classes will be easily intelligible to the reader. The 3rd class indicates estates where the proprietary right is vested in Government, though the position of the "tenant" under Government, is, to all practical intents, almost as good as that of a proprietor of his holding. In the few estates called

"Raiyatwárí" the individual holders are recognised as separately assessed "occupants" or owners of their holding just as people are in Bombay or Madras. These estates are very few and are scattered. Thus 6 are in the Darjeeling and Jalpaigúri districts, 5 in Sáran, 5 in the districts of the Bhágalpur division, and 5 in Lohárdagga and Singbhúm.

Year.	Class I.	Class II.	Class III.	Class IV.
	Number of permanently settled estates.	Temporarily settled estates.	Government estates.	Raiyatwárí.
1878-79 . .	138,031	7,606	2,573	23
1879-80 . .	139,049	7,643	2,618	22

Section II.—The Settlement of Orissa.

I have mentioned that this system of settlement has been applied to the whole of the districts in Orissa, called Bálásúr, Katák (Cuttack) and Púrí.

In 1803 Lord Wellesley conquered these districts from the Maráthás, and the country consists of two main portions—(1) that along the coast formerly known as the "Mughalbandi," comprising the districts of Bálásúr, Katák (certain parganas in the Mednipúr district were also settled along with it) and Púrí; (2) the hilly tract further inland forming the "Tributary mahál;" this was formerly called the "Rájwára" and was held by chiefs called "Khandaits." The territory of each chief is called his "qila'[3]." The Maráthas settled with them for a fixed quit-rent or tribute called "tanki."

On first coming into our possession there was a distinction made between the Khandaits on the east, *i.e.*, nearer the coast districts, and those further inland and in the hills; the latter were, and still are, left as semi-independent chiefships, paying a fixed tribute; but

[3] *Lit.* "a fort," a name significant of the nature of the territory. The chief in fact held as much as he could protect and shelter from the walls of his fort; that at least is the idea involved in the term.

fifty of the qila's nearer the level country were at first assessed at full rates and treated as ordinary zamíndárí estates.

The first settlement was made in 1804, and was legalised by Regulation XII of 1805. Under this the rights of the "qila'dárs" were defined, with this result, that *all* but eleven were left in a state of semi-independence, under a Superintendent, were exempted from the Regulation law, and were liable to pay only a fixed tribute, while the eleven qila's were incorporated with the districts, but allowed a fixed revenue not liable to increase. Two other estates of this kind were afterwards allowed a permanent settlement. One of these estates, Khúrdá, became a Government estate in 1804, having been forfeited for rebellion. It was formerly settled[4], under the procedure I have just described, with the raiyats; the revenue is collected by sarbarákárs, who receive a commission of about 20 per cent. in cash or land on the revenue of a mauza or village. The existing settlement is only an improved form of the old one. The system is virtually raiyatwárí. Holdings are separately assessed[5] (Government rent being calculated at the value of one-fourth the average gross produce). Sarbarákárs are also employed.

Thus we have in Orissa—

Called "Peskash" Maháls.	(1) Semi-independent tributary mahálS	Not under Regulation law, and pay tribute only.
	(2) Twelve (formerly thirteen) mahálS of the same kind.	Under Regulation law, but permanently settled.
	(3) Ordinary village estates (temporarily settled).	Regulation law; settled now under Regulation VII of 1822.
	Khúrdá estate, formerly under No. 2...	Government estate settled with the raiyats.

[4] The first settlement was in October 1836. This lasted till 1856, when it was revised. This settlement expired in September 1880.

[5] There are two small tracts, Angul and Bánki, which were included in the list of Scheduled Districts and exceptionally managed. But recently the mahál of Bánki has been taken off the list and now forms part of the Púrí district.

Coming now to the ordinary village settlements, those made under Regulation XII were not very successful; it was designed that short settlements should go on for 11 years, after which, on certain conditions being fulfilled, a permanent settlement would be granted. These terms were held not to have been fulfilled, and six more short settlements followed. In 1817 a special enquiry was ordered. Meanwhile certain other provinces in the North-West had been acquired, and the Regulation VII of 1822 was passed both for the settlement of these and of the Orissa provinces. It was not, however, till 1838 that a regular settlement was made under Regulation VII.

The work was rendered difficult by the immense number of revenue-free holdings that had to be enquired into. But the settlement when completed worked well, and when its term was about to expire (in 1867), it was thought desirable to continue it for 30 years more; Bengal Act X of 1867 was passed to give effect to this purpose.

The Regulation VII of 1822 still governs all ordinary non-permanent settlements in Bengal, and has formed the basis of the Land Revenue Acts in Northern India and the Central Provinces. The history of this Regulation, as remedying the defects of the permanent settlement, has been sufficiently indicated in the introductory sketch, Chapter IV of Book I. The principles and practice now prescribed were so superior to anything that had been previously devised, that Regulation IX of 1825 soon followed, extending the same procedure to the other districts not yet provided with any special settlement law.

Section III.—Procedure of temporary settlement.

§ 1.—*Regulation VII of 1822; its salient features.*

The settlements that are now made for terms of years only, may then be grouped in two classes:—

(*a*) Settlements of particular estates and lands in districts otherwise permanently settled.

(*b*) Settlements in districts which never came under permanent settlement (*e.g.*, the districts of Katák, Púrí, and Bálásúr).

These settlements are under the Regulation VII of 1822 and amending laws of later date. This Regulation was originally passed for the settlement of the Katák Province, but was in 1825 (by Regulation IX) made of general application. Bengal Act VIII of 1879 has also defined the powers of Settlement Officers as regards settling the rents of occupancy-raiyats.

The distinguishing features of this Regulation are that it requires an enquiry at settlement into all classes of rights, and gives "public faith" to the record of rights so prepared, till such record is proved to be wrong, in a regular suit. It also bases the assessment on an enquiry into the real value of the land and its produce, and does not leave it to be a mere question of what was entered in the old native accounts, or what practically had been collected in former years. At first, for the purposes of this assessment, an enquiry into the produce of the land was directed, the revenue being calculated at a certain fixed fraction of the net produce valued in money; but this was found to be troublesome and to lead to no good results. Regulation IX of 1833, accordingly, altered the original system in this respect, and also introduced other improvements in the official machinery of settlement[6].

The rules require small settlements, *i.e.*, of lands not exceeding 2,000 acres, to be made by the district revenue officials. For larger settlements a special staff is allowed[7].

§ 2.—*Ascertainment of the lands and survey.*

Regulation VII does not expressly direct a survey and demarcation of the land under settlement, though it gives power to measure the land. But it is almost evident, that no record of rights,

[6] The change effected by Regulation IX of 1833 as to the method of assessment will be found more fully described in the chapter on North-Western settlements.

[7] Bengal Settlement Manual, 1879, section 5.

such as the Regulation contemplates, could be made without a survey; accordingly all settlements have been preceded by a survey, whether in Bengal or in the North-West Provinces.

The first step is, in cases where the estate to be settled is a small group of lands surrounded by others, to identify the precise place; and in any case to get the persons interested to point out the boundaries, for which purpose legal powers of summoning the landholders and others, and examining them, are given to the Collector by law. Boundary disputes are decided on the ground of possession, or are referred to arbitration, just as described more fully in the chapter on North Indian settlements[8].

There are also definite rules for measurement by standard chains or by poles if necessary. The standard Bengal bíghá is 14,400 square feet[9].

Where a large settlement is in hand and a more regular survey is required, then proceedings should be taken under the Bengal Survey Act (V of 1875).

In ordinary surveys, the amín or native surveyor prepares a chitta (khasra), or list of lands, to serve as an index to the map; abstracts showing the holdings of each raiyat grouped together are afterwards made out (this is the khatián or khatiyáni); also a general abstract or tírij (called sadhárán khatián) showing in a convenient form all the particulars of the land arranged together. There are rules for the survey, the method of checking it, the pay of the amíns and other particulars, which are given in detail in the Settlement Manual of 1879.

At the same time the amín prepares an "ekwál jamabandí" or roll showing the rents payable by the raiyats, which is of use in

[8] When dealing with an estate liable to be settled, which is surrounded by other estates not so liable, it may become a question which is the exact boundary of the estate to be settled, and whether such and such land is included in it or not. There are special rules laid down in the Board's Circulars for dealing with these cases. See Settlement Manual, 1879, sections IX, X.

[9] And the bíghá is divided into 20 cottas (kattha), the biswa of other parts; the cotta into 20 gandas (the biswánsi of other parts); the ganda into 4 kauris. The kauri is 9 square feet.

the assessment. He also furnishes a report, called a "ruídád," of the land, showing what is culturable and what excluded, what is rent-free, and so forth—in fact a general description of the estate.

§ 3.—*Form of assessment in Bengal.*

The assessment, as described in the Bengal Manual, strikes a reader accustomed to the settlements of Upper India, as somewhat strange. In such a settlement, there is always a proprietary body or an individual to be settled with; and the assessment consists in ascertaining what are the proprietors' "assets" (whether the true rental of his estate, or value of its net produce, as the case may be), and calculating 50 per cent. on the *average* (*i.e.*, not on the assets of any one year, which may be very good or very bad). This fraction is the Government revenue. Here the assessment stops. If the Settlement Officer goes further and settles the dues of under-proprietors, either by record or sub-settlement, or if he puts down the rents which occupancy or other privileged tenants are to pay to the proprietor, that is more properly part of the work of securing rights than of assessment.

In Bengal, however, a large proportion of the estates which come up for settlement for a term, are the property of Government to begin with.

Strictly speaking, therefore, Government being proprietor, the *revenue* is merged in the *rent* which it takes directly from the people on the land who were either sub-proprietors or tenants under it. And the "assessment" spoken of in the Manual, is the determination of the *rent* each of these classes has to pay to Government as its landlord. And even where the case of a temporarily settled estate, which *has* a proprietor other than Government, is described [10], the Settlement Manual does not speak of the Government taking any fraction or percentage of the "proprietor's" rental or assets; it still speaks, as before, of ascertaining the raiyat's rents and the under-proprietor's rents, and regards the proprietor's balance or

[10] Settlement Manual, 1879, section IX, § 4.

profit as a certain *deduction* from the total rental to be allowed to the proprietor.

This is, however, only a 'way of putting it:'—the Settlement Officer really proceeds much as he does in the North-Western Provinces. He first of all ascertains the proper rent, which every raiyat should pay on each acre of his holding that is not expressly rent-free[1]. It is not enough to take as conclusive the rents which have been paid, or the rents which neighbouring raiyats assert they are paying; the Settlement Officer must ascertain and estimate a *true* rental, which will hold good on the average, and not for any particular year, after eliminating[2] all disturbing causes, concealed or under-stated rents, and so forth.

There may be cases in which cash rents are not usual, so that the produce will have to be calculated and valued for the purposes of assessment. There may be cases even where a cash revenue cannot be collected; the Government may have to collect rents payable by the *raiyat* in grain. However this may be, all particulars must be put down, so as to leave no room for dispute[3].

The rules according to which rents are liable to be raised, and what rents are paid when there is a tenure-holder (not being a zamíndár) over the raiyat, are all to be found in the Settlement Officer's Powers Act (Bengal), VIII of 1879.

When the true rents on different classes of soil are ascertained, the acreage rates are deduced, and these rates, together with the classification of soil adopted, have to be reported for sanction[4].

[1] See the Settlement Officer's Powers Act (VIII of 1879, Bengal).

[2] Some raiyats of course have fixed rents, which are known and cannot be altered. Some raiyats also employ labourers under them called "karfa" raiyats; the terms on which these work are matter of contract; the Settlement Officer has nothing to do with it.

[3] Settlement Manual, section V, § 14.

[4] The process of ascertaining the rents and reporting them, is fully described in the chapter which describes the North-Western Provinces, where this system has received a full development. I do not therefore here go into particulars. In Bengal settlements are sanctioned by the Collector, the Commissioner, or the Board respectively, according to their magnitude. (Manual, section V, 10.)

The assessment is afterwards determined by applying the rates to the total acreage of the estate.

In the Chutiyá Nágpur districts, and exceptionally in other parts, the Government does not take a cash rent from each separate raiyat, but agrees with some fitting person or under-tenure-holder, or a well-to-do raiyat among the others, to be responsible for the whole revenue, and then allows him a deduction for his risk and trouble.

§ 4.—*Under-proprietors.*

In the same way as the rent of each raiyat has to be fixed, so also the "rents" (for so they are still called) of under-proprietors on the estate, have to be determined.

It has always to be considered whether in fact the existing under-tenures hold good. For example, if the Government have acquired the estate by buying it at a sale for arrears of revenue, then by the Sale Law the under-tenures may be voidable; and it has to be considered whether it is wise and equitable to exercise the power. On the other hand, if Government have acquired the estate as an escheat, then it is bound by all the tenures that the deceased proprietor was bound by.

Care has also to be taken to discriminate tenures that are called sub-proprietary, but ought really to be considered mere tenancies at favourable rents.

What the under-proprietor has to pay, is determined very easily. For he is, in fact, an intermediary between the proprietor and the cultivator, who has the right of intercepting for himself a portion of the gross rental. The total of the rents payable by all the raiyats of the sub-proprietor, are accordingly calculated, and the sub-proprietor who receives them has to account for the total to Government or the proprietor—less a certain sum which represents his own share which varies according to the nature of his tenure.

This deduction is always to be *at least* 10 per cent. on the gross rental. But in every case the circumstances of the under-tenure

have to be considered. A deduction of 20 or even 25 per cent. may be necessary. For example, the under-proprietor may have another under-proprietor below him, again, before we come to the tenants. Here he may have to allow 10 per cent. to this second recipient; hence it would be but fair that he should be allowed 25 per cent. by the Settlement Officer, since in that case 10 per cent. would go to the second under-proprietor, 15 per cent. to the first, and the remainder to the superior proprietor.

§ 5.—*With whom the Settlement is made.*

In estates not belonging to Government, whether resumed taufír, to which a title has been established, or a resumed lákhiráj grant, or any other form of estate in which a proprietor is recognised, the Settlement Officer concludes the engagement with the actual proprietor [5].

In Government estates the rule is to manage the estate direct, the cultivators paying rents to the Government manager or farmer. Exceptionally, a settlement may be made with certain influential under-tenure-holders, village headmen, or leading men among the raiyats, or, rarely, a proprietor has been found by allowing some one to purchase the right.

Very small estates, the jama' of which is less than one rupee annually, are not settled for; they are sold revenue-free.

When the estate is Government property and settled with one or other of the persons above enumerated, the settlement is made so that he should retain 20 per cent. out of the assessed rents for his risk and trouble in collecting. This percentage is allowed both in settlements with a farmer, or in the rarer cases of settlements with under-tenants or head raiyats.

Proprietors who do not consent to the settlement, and who are therefore set aside, their estates being settled with some one else,

[5] Settlement Manual, section X, and Board's Rules, Vol. I, Chap. III.

or farmed, or held "khás," are allowed a sum of 10 per cent. on the revenue under the title of málikána[6].

§ 6.—*Term of Settlement.*

No settlement is now made in perpetuity, unless, of course, there is some statutory right in the matter, as in the case of resumed revenue-free lands in permanently settled estates[7]. It is not laid down generally, that 30 years or any other term of settlement is to be fixed, but all temporary settlements of estates the cultivation in which is fully developed (so that the term may conveniently be a long one) are directed to be so termed that they may fall in in successive years in the different divisions, and so enable survey and settlement establishments to be transferred from one to the other.

Thus, Orissa settlements will expire in 1897, Chittagong in 1898, Bardwán in 1900, and so on. This does not apply to estates not fully developed, nor to new alluvial lands; here, from the nature of the land, the terms must be shorter and dependent on circumstances[8].

[6] *i. e.*, a payment in consideration of their proprietary character. Málikána allowance often appears also as paid by private persons; for instance, a zamíndár will pay a "málikána" to some former dispossessed proprietor. In Bihár málikána was very commonly paid to village owners whose whole rents (all but 10 per cent.) the Revenue officer or ámil carried off. This will be alluded to further on. It came to an end when the permanent settlement was introduced, and was made with the actual proprietors. However, in Bihár, a large portion of the land was held by jágírdárs or other revenue-free grantees of the former Government, and the same custom was observed; the grantee paid málikána to the original soil proprietors. When the settlement proceedings found a number of these grants invalid or liable to be resumed and assessed, the grantee was nevertheless admitted to settlement as the proprietor; the málikána he paid was added to the assessment, and paid to the present day to the original owners through the Government officers. (Macneile's Memorandum, page 98; and Settlement Manual, Appendix B.) A note on this subject by Mr. Shore will be found at pages 144-48 of the Tagore Lectures for 1875.

[7] See Settlement Manual, section XI, and order there quoted.

[8] *Id.*, section IX, § 4.

Section VI.—The Record of Rights.

The distinguishing feature of the Regulation VII is, as I have said, that it requires all rights to be enquired into, not only those of the owner (who is often represented by Government itself), but the rights of taluqdárs, hawáládárs, patnídárs, and other "sub-proprietors" (or "under-tenants," as Bengal Act VIII of 1879 calls them), and the rights of the raiyats.

In Government estates "pattás" are always granted to the raiyats, specifying the terms on which they hold; in other estates, the raiyat has his won legal right to demand a written lease, from the superior land-owner[9]; the Settlement Officer does not issue such pattás, though he can protect the raiyat by recording the terms of the holding and giving a copy of such record[10].

In the course of the enquiry into rights, the question of the right to revenue-free holdings has to be gone into. I do not think it necessary to give details on this subject[1].

Provision in some cases for the village watch (chaukidár) and messenger (buláhir) by grants of land or money[2].

The rights and tenures ascertained in the course of this enquiry appear of course in the khatián and tírij already alluded to. I do not find any mention of a general description of village customs, rights as to pre-emption, limits on alienation, principles of succession, &c., which are embodied in the North Indian settlements in a document called the wájib-ul-'arz, or record of "facts necessary to be represented." This is due to the more or less complete extinction of the village system.

Section VII.—Settlement Proceedings and Report.

The settlement proceedings are closed by a Settlement Report

[9] Bengal Rent Act (VIII of 1869), section 2; and so in the old Act X of 1859.
[10] Regulation VII of 1822, section I, clause 9.
[1] Settlement Manual, section VII.
[2] *Id.*, section VIII, § 2.

describing the estate, the tenures on it, the facts relating to assessment, and so forth. It is accompanied by—

(1) An abstract of the ámín's information; the extent in bíghás and acres; extent unassessed; extent of waste; former revenue and rent-rolls, &c., giving also the details as they appear from old qánúngo's records, from former measurement and from the present measurement.

(2) Particulars of rent-free lands.

(3) Occupation of lands, showing different classes of soil, rate per bíghá and per acre of each sort, the total area and the rent, with a note of additional payments under "bankar," "jalkar," "phalkar," &c.

(4) Analysis of revenue assessed; the assets assumed as basis of settlement, deductions and the net result; also the patwárí's pay and the málikána, if any, which together give the total payable by the settlement-holder.

(5) Particulars of "service-lands" held by patwáris, headmen, ghatwáls, &c.

(6) Statement of occupancy rights, showing also area of land cultivated by proprietors, by occupancy tenants, and by other tenants.

Settlements are, under the orders of Government, confirmed by the Collector, the Commissioner, the Board, or the Board with Government sanction, respectively, according to their magnitude and duration[3].

Section VIII.—Certain Districts in which the Settlement is of a special character.

This section is chiefly intended for the benefit of a forest officer who may require to know what is the position of the district with reference to settlement in case it is in contemplation to bring any portion of the forest or jungle land in it under departmental management.

[3] The rules are given *in extenso* in the Settlement Manual, section XVI, page 38.

The districts in the Chutiyá Nágpur Division are Hazáribágh, Lohárdagga, Singbhúm and Mánbhúm. A portion of all these came under the permanent settlement, because at that time the estates so settled, formed part of the Collectorates or Provinces then recognised.

§ 1.—*Mánbhúm.*

The district is for the most part permanently settled. The lands were originally divided out into villages, each under its own headman, and then a circle of villages was united into what was called a parhá, with a "mánki," or superior headman, over the whole. The parhás elected again a chief over him, and this chief was settled with and became the "zamíndár" or proprietor of his chiefship under the permanent settlement. All the waste was, according to the usual practice, recognised as included in the estates so settled. There is one large Government estate in the district, and another estate held under a long lease called an "ijára."

The rent law (Act X of 1859) is in force, but has led to some difficulty.

Lands are never sold for arrears of revenue, and all sales or mortgages of land require the sanction of the Commissioner.

§ 2.—*Singbhúm.*

Is divided into three portions. One group contains three estates or chiefships, managed as estates under political control only. The second portion (Dhálbhúm) is a permanently settled estate. The third portion (Kolhán) is a Government estate temporarily settled with the raiyats at rents fixed for the term of settlement. These raiyats are grouped in villages in the manner described above; each village has a headman or "múnda," and each group or circle of villages a superior headman or "mánki." The remarks made about the sale of lands in Mánbhúm apply to this district also.

§ 3.—*Hazáribágh.*

Here there are four principal sub-divisions according to the different settlement arrangements :—

(*a*) *Rámgarh* was originally a single estate; but it has since been split up into four separate estates, one being the land occupied by cantonments, &c., around Hazáríbágh, the second being the zamíndárí of Kodarma, the third that of Rámgarh, the fourth the Kendu estate, a "taufír" or estate made up of resumed surplus lands and settled for 20 years. The Kodarma zamíndárí was confiscated in 1841, and is now under temporary settlement.

(*b*) The Khunda estate.

(*c*) The Kháratíga estates, one of which is permanently settled, others temporarily, and one is revenue-free.

(*d*) The Kendi estate, which is permanently settled.

§ 4.—*Lohárdagga.*

The Palámau sub-division is a Government estate or "khás mahál" temporarily settled. It contains some State forests reserved. The rest of the district is settled with the Mahárája of Chutiyá Nágpur as a sort of permanently settled estate, but it is looked upon rather as a tribute-paying chiefship, and has never been held liable to sale for arrears of revenue.

In Chutiyá Nágpur districts there are some curious subordinate tenures, provision for the record and declaration of which has been made in the Bengal Act II of 1869. These will be described under the chapter devoted to the subject of tenures.

§ 5.—*Santál Parganas*[1].—*The Plains portion.*

This is, like the others, a scheduled district.

For revenue purposes, it may be grouped into two portions —the plain and the Dáman-i-Koh or hill tract. The former is all settled under the old permanent settlement, but Regulation III of

[1] The limits to which this section applies are the limits described in the schedule to Act X of 1857.

1872 (under 33 Vic., Cap. 3) guides the present procedure, and provides certain rules regarding the raiyats' tenures, so that only the right in the soil and the fixity of the revenue assessed remain from the Regulations of 1793.

The Sontál Parganas were first removed from the operation of the ordinary law by Act XXXVII of 1855[5], which provided for a special superintendence. And this Act has been continued and amplified by the Regulation III of 1872 which declares the laws in force. It is important to remember that Act XXXVII declares that no Act of the Legislature, either past *or future*, shall apply to the Sontál Parganas unless they are expressly named in the Act. This is why the Forest Act of 1878 does not apply, nor has it yet been extended under the Regulation of 1872. The old Forest Act of 1865 was specially extended, and consequently still remains in force.

Part of the plain or old settled tract is regularly cultivated, but part of it is hilly, and still much covered with jungle. This portion is largely peopled and cultivated by Sontál immigrants. These brought their village institutions with them, and settled, each village paying rent to the zamíndár landlord. Practically, all the village tenures are permanent and alienable—subject only to the superior landlord's rent. As a rule, the landlord gets his rent, not direct from the raiyats, but through a village headman; so that in fact the zamíndár is really more like a pensioner drawing a rent from the land, but not, as a rule (for there are some lands under his direct management), interfering in the cultivation or management of the villages.

§ 6.—*The Dáman-i-Koh.*

As early as 1780 A.D. the tract known as the Dáman-i-Koh was withdrawn as an act of State from the general settlement, and was made a separate "Government estate[6]." This, however, prac-

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

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

tically meant that the Government took the tribes under its own immediate management and did not recognise any zamíndár or intermediate landlord as having any hold over this wild region.

The Sontáls are not the original inhabitants of this tract, but two or three Kolhárian tribes, now indiscriminately known as "Paháriás." The Paháriás cultivate chiefly by "júm," or shifting cultivation effected by clearing a patch on the hill-forest, cultivating it for a crop or two, and then abandoning the spot for another. At first there was no settlement, or rather the usual order of settlement was reversed; the people did not pay anything to Government, but, on the contrary, the Government paid them an annual grant to support their headmen and tribal officers. These officers seem to be the relics of the old days when the hills were nominally within the zamíndárí estates of the regular settlement. There were divisions described by the imported term "pargana." Over such a division there was a "sardár," with his "naib" or deputy; the headman over a village was the "mánjhí." The pargana division has long fallen into disuse, but the sardárs and others survive, drawing their pensions.

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

§ 7.—*The Settlement.*

The settlement arrangements of the cultivated villages of the Sontál Parganas are governed by the Regulation III of 1872, the

mánjhí or headman of each village collecting and paying in the rents to Government or to the owner, as the case may be, and being allowed 8 per cent. as his "commission." At the time I am writing, the amendment of this Regulation is under consideration consequent on a doubt which has arisen regarding its interpretation. The Regulation contemplated the record of all classes of interests in land and fixing of all rents (permanently settled estates not excepted), whether payable to a proprietor or to Government; these rents were to remain unchanged for at least seven years. It is doubted whether, on the expiry of such a settlement, the Government may make another, fixing the rents again for a new period, or whether, on the expiry of the existing term, the rents may be raised by the proprietor without reference to any such procedure.

The question will be set at rest either by an authoritative interpretation of the Regulation as it stands, or by the issue of an amending law.

§ 8.—*Jalpaigúrí.*

That part of the district which is south-west of the Tísta river is all permanently settled, having been formerly part of the Rangpúr Collectorate. The remaining part of the district, north of the Kuch Bahár (tributary) State, and extending to the borders of the Goálpára district of Assam, comprises the Bhútán (Western) Dwárs[7].

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

The Dwárs lie along the foot of the hills, and were taken from the Bhútias in 1865. In 1870 the country was settled for ten years. The Government is considered the proprietor of the soil, and the settlement is made with the soil occupants called jotdárs, whose tenures

[7] In a Notification No. 308, dated 3rd March 1881 (*Gazette of India*, March 5th 1881), the laws in force in Jalpaigúrí and Darjiling (besides Act XIV of 1874) have been declared. All the "Regulation" laws apply to the Jalpaigúrí district up to the Tísta river. The Western Dwárs are separately provided for.

are recognised as fixed tenancies, with a rent unalterable for the term of settlement. The "jot" is saleable for arrears of revenue[8].

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

§ 9.—*Darjiling.*

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

(*a*)[9] (1) In the north-west corner a large estate (115 square miles) has been granted on a perpetual rent to Chebu Láma.

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

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

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

(*c*) The Damsong sub-division, or hill portion of the Bhútia territory about Dalingkot taken in 1865 (east of the Tista, west of the Jaldáha, and north of the Western Dwárs in the Jalpáigúrí district, just alluded to).

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

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

[8] Some further details will be found in the Chapter on Tenures.

[9] By the Notification of March 3rd 1881, the laws in force in Darjiling are specified. For this purpose the district is divided into three portions—(*a*) the hills west of the Tista; (*b*) the Darjiling Tarái; (*c*) the Damsong sub-division (east of the Tista).

(2) Estates "leased," *i.e.*, granted to persons who are proprietors, but have to pay revenue according to their lease.

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

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

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

In the Damsong sub-division (*c*) at first only a capitation tax was collected; the tract will probably ultimately be surveyed and brought under temporary settlement.

§ 10.—*Hill Tracts of Chittagong.*

This tract is not really under any settlement at all, though it is British territory (the hills beyond this again being independent). As there are forests in it, it may be well to allude to it.

Under the old Forest Law of 1865, some 3,760 square miles (out of the district which contains 6,882 square miles) were declared on 2nd February 1871 to be "Government forest;" a portion of this only was ultimately declared "reserved," and will remain so under the present law.

Originally the district was not separate from the Regulation district of Chittagong, but the local chiefs in the jungle-clad hills were left almost uninterfered with, the time of the Collector being fully taken up with the more intricate management of the estates in the plains.

The chiefs paid a tribute in the form of so many maunds of cotton in kind, calculated on the population, which was afterwards

converted into a money payment. This revenue was consequently shown in the old accounts as derived from the "kapás mahál."

By Act XXII of 1860[10] the district (as defined in a schedule to the Act) was removed from the operation of the General Regulations and put under a Deputy Commissioner. Simple rules regarding judicial procedure have been drawn up under the Act, and no revenue settlement has been made. But there is a capitation tax payable by householders to the chiefs, and the latter pay a "tribute" or quit-rent (or whatever it is proper to call it) which has become fixed by custom.

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

There are a certain number of estates in which lands are permanently cultivated, and these may be under a settlement under the ordinary law. A portion of the district[1] called the "khás mahál" is reserved from the jurisdiction of the chiefs, for the purpose of making land grants to settlers.

[10] This Act will be repealed when the Scheduled Districts Act (XIV of 1874) is applied to Hill Chittagong.

[1] Statistical Account of Bengal, Vol. VI.

CHAPTER III.

THE LAND TENURES.

§ 1.—*Classification of Tenures.*

LAND tenures in Bengal may be broadly classified for the purposes of our study into—(1) those which are found in the districts where the occupation and cultivation of the whole country is of ancient date, and where the villages have been long under some form of regular revenue management; and (2) those in the hilly or jungle-covered and less civilised districts, where the circumstances of life are different.

The superior tenures of the first class will be most commonly found to have originated either in some official rank or position of the tenure-holder, or in some grant by the State: the tenures subordinate to the higher ones will be chiefly derived from a lease or grant made by the upper tenure-holder, or, in some cases, by the State. Here and there will be a term indicating some ancient customary holding, but the majority of the tenures now indicate by their nomenclature, that the village system has fallen into decay. Where the original hereditary possessor of the land has survived under the State grantee or official who is now recognised as the "proprietor," it is either as the "hereditary cultivator" of modern tenant law, or as the "istimrárdár" or "muqarraridár," "dependent táluqdár" (or some such other term), derived from the Mughal system.

In the other class of tenures, the names still indicate in most cases—not, however, without an intermixture of terms relating to more modern leases, farms and grants—the original tenures of the soil. Here we shall find the grouping of lands into "jots," or "tarafs," or "villages," the tenures being of those who have cleared

the waste, whether as proprietary founders or as helpmates to them; we shall find certain tenures also held, in virtue of office (but hereditary in the family), by the village headman, the priest, the genealogist, and so forth. In border estates, we are pretty sure to find tenures which originated in grants made by the Chief for service in keeping hill passes and roads open, and for protecting the plains from the incursions of hill-robbers.

Looking again to the geographical distribution of these tenures, we shall find the first class, chiefly in Bengal and Bihár, in the Regulation and long-settled districts in which the Mughal system was fully developed. The second class will appear in the greatest variety in Sontália and in Chutiyá Nágpur, in the Dwárs, and in Chittagong.

§ 2.—*Tenures of long-settled districts.—The zamíndárí.*

In the first class of tenures, the landed proprietor called "zamíndár," occupies the prominent position. With this title the reader will by this time be familiar, and but little further description will be necessary. There has been a tendency, natural enough, to apply this term to any superior or "actual" proprietor of land, whether he derived his right from the revenue agency of the Mughal Government (which is properly designated by the term) or not.

It is stated that, in Hindu times, the responsibility for the revenue of a tract of country, coupled with other duties, such as the maintenance of order and the suppression of crime, was vested in officials called "chaudhari." The Mughal Government[1] adopted the system, calling the chaudhari "karorí," *i.e.*, a person collecting the revenue of a tract (called a "chakla") yielding a "*crore*" of "dams," or 2½ lakhs of rupees. Afterwards the karorí became the zamíndár. But not only the karorís, but the Hindu Rájas, whom the Muhammadan conquerors found in possession of their ancestral domains, were constantly made zamíndárs of their own territories on agreeing to pay a certain revenue. Hill Chiefs

[1] Tagore Lectures, 1875, pages 61-68.

also became zamíndárs of their 'estates;' very often they were mere robber-chiefs, as in the Northern Circars of Madras[2]. Revenue officials of all grades, and even wealthy men not in any official position, but who farmed the revenues, or acquired local influence, also got made, or recognised as, zamíndárs.

The fact that in many cases the zamíndár had local possessions and a real hereditary connection with the land, had, of course, its influence in bringing about the recognition or grant of a *proprietary status* to the zamíndár when the Regulation law was introduced.

I have no need to repeat, that no one has ever supposed the zamíndár, as such, to have originally been anything like an English landlord. The zamíndárí was theoretically an office or place under Government. The office, indeed, became in practice hereditary (as offices under native rule always tend to become); but the heir had always, or at first always, to seek his appointment exactly as if he were a new-comer, and pay a handsome "peshkash," or fee. The documents instituting a zamíndár were formal and indispensable; it was only in later times, when a great variety of persons had become zamíndárs—among whom were chiefs and others who from the first were more than mere officials,—and when the custom of the post being hereditary was quite established, that the patents or grants fell into disuse. And then, too, the strict responsibility was relaxed. At first the zamíndár had to account to Government for all the revenue that was assessed on the raiyats and collected by him: his own share was a fixed allowance, at first in money, afterwards in rent-free land. But, in time, the practice

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

arose of allowing the zamíndár to contract or bargain to pay in a certain sum, and then he began to treat the raiyats as *his tenants*, and took from them what he could get so as to make his own profit on the bargain. This led to his position under the Regulations, and to the gradual establishment of the notion that he could raise the rent of his raiyats.

§ 3.—*Form of his appointment.*

The original or regular process of appointment of an official zamíndár is curious and interesting, and may here be briefly described. On the decease of a zamíndár, his intending successor reported the fact; then he got a reply of condolence, which opened the way for further action. Next he presented an "'arzí" stating he was ready to undertake the duty of zamíndár and would offer such and such a fee. On this petition the local officials endorsed a "fard sawál," asking the superior authority for orders as to what was to be done. If the reply was favourable, the officials then supplied a further "fard haqíqat," or statement of the particulars of the estate, the number of villages, or other groups of land in the estate,—compact with it, or detached and scattered in other places,—the revenue payable (both mál and sáir), and so forth; then the intending zamíndár furnished a "muchalka," or bond for good conduct and fidelity; and lastly, received from the Government the "parwána" or "sanad" granting the post.

§ 4.—*Position of the zamíndár as ascertained in 1787.*

When, preparatory to the decennial settlement, the original enquiry was being made regarding the real status of the zamíndárs, Mr. Grant, "the Chief Sarishtadár[3]," or head of the Revenue Record Office, reported (March 1787) that the "local privileges" of the zamíndár were—

(1) he was the perpetual farmer of the Government revenues, allowed to appropriate the difference between the sum

[3] These papers have been reprinted by the Board of Revenue in a collection called "Papers relating to the Permanent Settlement."

fixed in the sanad and what he would lawfully take from the raiyats;

(2) he was the channel of all disbursements in the district, connected with the revenue administration, charities, &c.;

(3) he could improve the waste land within the limits of the zamíndárí, to his own personal advantage;

(4) he could grant leases of untenanted villages or farms (these, of course, he could make more or less favourable, at his pleasure); and

(5) he could distribute the burden of the abwáb, or additional cesses imposed by authority; (those which he levied on his own account were, of course, by a stretch of authority).

Some other matters of less importance were also noted; and one of the zamíndár's privileges was said to be, adoption or nomination of a successor with the approval of the Government. Originally, as I have said, the zamíndár was made to account for all the revenue he received, and only deduct for himself a fixed allowance, and a further deduction for office expenses, charity, &c. And even at the later date, when Mr. Grant says he had everything that he could get over and above the fixed sum he was bound to render to Government, it must be remembered that the assessment of the land was perfectly well known by custom, and that increase depended, therefore, either on arbitrary measures, such as levy of cesses, or on extending cultivation to land that had hitherto been waste.

§ 5.—*Further growth.*

After a time it became the custom to assign to the zamíndár certain lands called nánkár, free of revenue, for his own subsistence, instead of, or in addition to, his cash allowance. Of these lands he soon became direct owner. Then he had his "sír" or "nij-jot" land—his own ancestral holding (as an individual); also, lastly, the waste land cultivated by aid of his own lessees or contract labourers, became his, under the title of "khámár" land. When to this is added the fact that he could acquire lands by sale, mortgage, by

ousting obnoxious men, and by taking possession when an unfortunate owner absconded—perhaps to avoid exactions which had become intolerable, perhaps in his inability to pay his "rent"—it is not difficult to perceive how the zamíndár grew into his ultimate position. When this virtual ownership had gone on for several generations, and had become consolidated, the fact of a formerly different *status* very naturally became little more than a shadowy memory. Our early legislators of 1793 could then hardly avoid calling the zamíndár's right a proprietary one, and treating it accordingly; though, as I have already shown, they limited, or intended to limit, the right thus conferred, so as to secure at least so much as the original right of the now suppressed village landowners, as could still be established[4].

§ 6.—*Power of transfer of landed property.*

In one respect, however, the recognition accorded to the zamíndár's right in 1793 was a material advance beyond what practice had hitherto sanctioned. Powerful as the zamíndár became in managing the land, in grasping and in ousting, he had no power of alienating his estate; he could not raise money on it by mortgage, nor sell the whole or any part of it. This clearly appears from a proclamation issued on 1st August 1786; the illegal practice "of alienating revenue lands" is complained of; the "gentlemen appointed to superintend" the various districts are invited zealously to prevent the "commission of this offence;" and the zamíndár, chaudhari, taluqdár, or other landholder who disobeys, is threatened with "dispossession from his lands[5]."

[4] In some cases where there were no zamíndárs, properly so called, the settlement created them. Thus, in the districts of Orissa (Katák, Bálásúr, and Púrí) the villages had been held *direct* by the Maráthás (according to the usual system of this Power, as we shall see when we come to the tenures of Central India) or by the Chiefs. The estates of the Chiefs were recognised to the extent legalised by the Regulation XII of 1805, but for the other villages, headmen and others in prominent positions were often selected and made the zamíndárs. (See Statistical Account of Bengal, Vol. XIX, page 106.)

[5] This proclamation will be found reprinted in Appendix F, page 179, of Mr. Cotton's "Revenue History of Chittagong."

Such a limitation was inconsistent (as I have explained in the General Introductory sketch) with that proprietary interest which it was thought necessary to secure to the landholder in order to enable him punctually to discharge his revenue obligations; hence among the earliest Regulations will be found a provision which declares the zamíndár's proprietary estate, to be heritable and freely transferable.

The zamíndárí estates in Bengal were usually large, though, as I have explained, many of them got broken up soon after the settlement of 1793, owing to the rigid enforcement of the revenue payments. In the districts which formed the Bihár province (with a Hindústání population) the zamíndárís, however, were nearly all small. Only a few Hindu Rájas had retained zamíndárís on a scale resembling those of Bengal[6].

§ 7.—*Jágír grants.*

Besides the zamíndárs, another class of proprietary tenures arose from royal grant. The jágír was an assignment of the revenues of a tract of country to a court favourite, a general, or a chief, either to maintain a fixed military force in aid of the royal power, or because the tract was lawless, and could neither be governed nor the revenue collected, without a military force. Jágírs were rare in Bengal[7], but more common in Bihár.

§ 8.—*Taluq grants.*

Another royal grant was the "taluqdárí." No mention of service was entered, and a fixed quit-rent or tribute had usually to be paid. The taluq was a royal grant of villages outside and inde-

[6] Indeed, the zamíndárís there were much more analogous to, if they were not identical with, the original proprietary holdings, as distinguished from estates which were merely constituted on the principle of their being convenient revenue-tracts. There is a note of Mr. Shore's (Lord Teignmouth) on this subject, which will be found at pp. 144-48 of the Tagore Lectures of 1875.

[7] Mr. Grant (in 1787) says he only knew of three or four, and they were life-grants at least in form.

pendent of, any zamíndárí. In this case, our Government recognised the independent taluqdár as "proprietor" of his own estate, just as it did the jágírdár or the zamíndár.

But there was also a class of taluq called "dependent" to which it was not so easy to assign a correct position. In the first place, some of them owed their origin to royal grants, and it was a question of fact whether it was intended to create a separate estate, or a mere favourable sub-tenure under the zamíndár. In some cases it was found that the taluq dated prior to the zamíndárí, and then the settlement naturally recognised it as independent[8]. Also the zamíndárs themselves often granted "dependent taluq" holdings inside their estates—probably to some of the more powerful of the original landowners, or to some prominent man who undertook the management, at a fixed rental, of a troublesome, or waste, or impoverished, portion of the estate. The term "taluqdár" is essentially indefinite, and was probably meant to be so; and the "sanad" or grant was different in form from that of the jágírdár or zamíndár. When we come to speak of Oudh tenures, we shall see what important results this very indefiniteness had in the growth of the great "taluqdárí" estates of that province.

Mr. Grant says that, originally, independent "taluqdárs" only existed by royal grant in Bengal, near Múrshídábád and Húglí, and that they were rich and favoured persons, who, desiring to be free from the interference of revenue agents and zamíndárs, obtained grants of territory on promising to pay a fixed sum, subject to no future increase. A fee was often paid as consideration for the grant. The taluq was always considered transferable[9].

[8] Regulation VIII of 1793 (Bengal Code, Vol. I, p. 20, note) laid down several principles for ascertaining whether the taluq was to be "mazqúrí" (dependent) or independent.

[9] In the 24-Pergunnahs, I find it noticed that the zamíndárí estates had been much broken up, and the portions separated and sold for debt or arrears, or gifted away. When the settlement came on, all estates that paid Rs. 5,000 revenue were called "zamíndárís," and all paying less were called "taluqs."—(*Statistical Account of Bengal*, Vol. I, page 262.)

§ 8.—*Question of soil ownership in the case of Royal grants.*

In all these tenures, so far considered, it will be obvious that originally the grantee was not, or need not be, the owner of the soil. In any estate he might possess certain ancestral lands; but as regards the whole, he was merely granted the privilege of realising the Government share of the produce, or the Government money demand, from the already existing villages and groups of landholders, and retaining part of it for his own benefit. On the other hand, a grant might contain a good deal of waste land which would become the property of the grantee; or it might include lands already his own, and then the grant amounted only to a remission of the whole or a portion of the revenue demand. Exactly the same causes which enabled the zamíndár to become owner of the land, also operated to give a colour of proprietary right, over the whole estate, to the tenure of the jágírdár or taluqdár. The ancestral holding was the nucleus; the power of arranging for the clearing of the waste soon increased this; and then came the effects of sale or mortgage by a tenant who could not pay, the ouster by violence, or the absconding of an insolvent, and the consequent location of a new cultivator; thus the "proprietary right" grew from field to field and village to village, till, in the course of time, it was held to embrace the whole. I do not wish to convey the impression that every jágírdár or assignee of Government revenue, was granted the proprietary right in the soil, but only to show how easily such a grantee could improve his position till he became the virtual proprietor. And the fact that such grants might only affect the revenue, and not the land, is clear from Regulation XXXVII of 1793, section 4, which says that these grants do not (*i. e.*, do not necessarily) touch the "zamíndárí" or proprietary right in the estate: a man, for example, might be legally *proprietor* of a plot, though his sanad to hold it revenue-free as a jágír might be invalid.

§ 9.—*Petty grants.*

Besides these grants, which constituted the basis of the great

estate tenures, the Mughal Government made numerous smaller grants, which usually were given for charity, for religious uses, or in reward for some service: these were variously called "inám," "aimá," "madadma'ásh," or simply "altamghá" (literally, grant by the royal *seal* or *stamp*). They were all really proprietary grants, and usually of small extent. They were heritable and transferable[10].

§ 10.—*Subordinate tenures:—those (1) due to original position.*

Subordinate to these actual proprietary interests in land, are to be found a variety of secondary tenures to which it is not easy to assign a precise place, or to say whether they are more properly classed as subordinate proprietary rights, or tenant rights of a privileged character. There can scarcely be a doubt that the vast majority of the resident "cultivators" of Bengal who now appear as "raiyats" under the zamíndárs, would have become land-owners, or privileged tenants, at least, had the village system survived. Hence the strong desire that has been felt to secure their position, and the anxiety of some (to whose opinion I have already alluded) that the benefit of the settlement should extend to fixing the raiyat's payment to the "landlord," as well as the "landlord's" to the State.

It is hardly any wonder, then, that the more powerful or enterprising of the original owners of the soil—some perhaps being the old headmen of the villages—should have succeeded in making terms with the zamíndár, or even with the Local Governors and other authorities, and getting grants or agreements which secured to them a fixed position intermediate between that of superior proprietor and of mere cultivating tenant.

Very commonly these intermediate tenures became "mazqúrí" (or dependent) taluqs—holdings which were heritable and transferable, and for which a fixed and not enhanceable rent was to be paid to the superior.

"Muqarrarí" and "istimrárí" tenures are of the same kind;

[10] See Regulation XXXVII of 1793, section 15, 1st clause. All these resemble what are called "mu'áfí" in Upper India.

their names have reference to the *perpetual* (istimrárí) duration of the tenure, and to the *fixity* (muqarrarí) of the rent to be paid.[1] A "gánthí" is also a heritable and perpetual tenancy of this kind, the rent being fixed.

§ 11.—*Those (2) due to engagements for clearing waste or improving estates partly waste.*

A number of under-tenures also arise in connection with contracts made by a landlord to clear and cultivate some waste portion of the estate[2]. Here it would be necessary, according to the more remote position of the waste and the difficulty of reclaiming it, to hold out strong inducements to some persons to take jangalbúrí (clearing) leases and ijárá (corruptly "izárá"), long leases on light terms. The hawálá of Eastern Bengal is a tenure of a similar kind. The student will here remember how strong is the feeling of rights among the natives of India, derived from the fact that the occupant is the man who actually cleared the land;—even though such a pioneer should be confessedly only grantee of a superior proprietor.

§ 12.—*Those (3) due to arrangements for collecting rents.*

But a large class of under-tenures has been created by the landlord, on the principle which induced the Government in the first instance to appoint the zamíndár himself.

[1] The tenure might be istimrárí alone, *i.e.*, perpetual as in time, but liable to re-assessment of rent, or (and more commonly) it was both istimrárí and muqarrarí. "A muqarrarí-istimrárí is a subordinate transferable and hereditary tenure of the first degree intermediate between the zamíndár and the cultivator. The holder occupies the same position towards the zamíndár or other superior as the zamíndár does to the State. These tenures are liable to sale in execution of a decree for arrears of rent, and purchasers acquire them free from all incumbrances created by the outgoing holder (with certain exceptions in favour of cultivating tenants). They have their origin in the needs of the landlord who wishes to raise money, or in a desire to make provision for relatives or old servants, or for the settlement of a dispute with a large under-tenant. * * * * The larger kinds of muqarrarí-istimrárí existing from before the permanent settlement are called taluqs."—(*Statistical Account*, Vol. XIV, pages 139-40.)

[2] All these under-tenures have many varieties. In Tipperah I find mention of about sixty kinds of taluqs, called "mushakhsi, takhsísí, ágat, muqafát, chauhaddí, bandobasti, and so forth; so also with hawálás; they are mirás (hereditary) qáimi, karárí (conditional), &c., &c.

It was especially after the permanent settlement, that the most numerous class of sub-tenures of this kind, called "patni[3]," sprang up. Just as the Government had given up all claim to vary its demand with the capability of the land, and took a fixed revenue, leaving the surplus profits to the land-owner, so, many zamíndárs became content in their turn to abandon direct connection with their lands, and to create sub-tenures in favour of persons who undertook to make them fixed rental payments. The zamíndár usually took a fee or lump sum down, on granting the patni, thus discounting the increase which future years might otherwise have brought him in. These "patnis" were created in such numbers, that as early as 1819 a special Regulation on the subject was passed. The preamble to the Regulation VIII of that year, informs us that these sub-tenures originated on the estate of the Rája of Bardwán. The Regulation declared their validity, and enabled the landlord to recover his rent from the patnídár almost with same powers as Government possessed in recovering against the zamíndár himself. This Regulation is still in force[4], and the patni tenures are now extremely common in all the permanently settled districts.

"The process of sub-infeudation," says Mr. Macneile, "has not terminated with patnídárs or ijárádárs: dar-patnis and dar-ijárás (*i.e.*, a 'patni' of a 'patni'), and even further subordinate tenures, have been created in great numbers. These tenures and under-tenures often comprise defined tracts of land; but the more common practice has been to sub-let certain aliquot shares of the whole superior tenure, the consequence of which is that the tenants in any particular village of an estate now very usually pay their rents to two, or many more than two, different masters, so many annas in the rupee to each[5].

[3] Or "patni taluq," more properly "pattani." The holder is called patnídár. See Macneile's Memorandum, page 15.

[4] In connection with Bengal Act VIII of 1865.

[5] Macneile's Memorandum, § 12. This has led to a great difficulty, on which subject a further chapter will be found in the Memorandum (Fractional payments of rent—Chapter XVII). In the Ambála division of the Panjab, we see something of the

In most cases, then, the sub-tenures of the present day (which do not represent a virtual recognition of some older right) resolve themselves into a right to collect, or rather to receive, rent. The land-owner, not wishing for trouble, grants a permanent *patni*, or if he is doubtful of his lessee, takes security and gives what is called a zar-i-peshgi lease[6]. The sub-tenure-holder then collects the rents. When he ceases to care about doing so, he, in his turn, bargains with another to make good something less than the amount he has been able to realise. Each deduction, in fact, represents the price of the grantor's immunity from the risk and trouble of collecting the rents, and consequently the profit to be enjoyed (enhanced by such extras as he can get) by the sub-tenure-holder.

In the above description, the reader will have noticed the total absence of anything indicating a survival of an indigenous or customary system of holding land. The great tenure-holders are zamíndárs, taluqdárs, or jágírdárs—all terms derived from the Muhammadan revenue or administrative organisation; the sub-tenures are nearly all expressed in terms often derived from the Arabic and Persian, and indicate rather the artificial nature of the tenancy,—its perpetuity, the fixity of its obligatory payments, its object, or its extent,—than anything else. And these tenures prevail over the whole of Bengal proper, wherever the permanent settlement extended. Here the village organisation, never of the more powerful joint-type which has survived so many vicissitudes in Northern India, gave way before the Revenue system of the Mughal conquerors, and landed rights soon came to be expressed in terms

same kind:—old Sikh jágírs now held by a multitude of sharers. Here the proprietors of the soil would be harassed if they had to pay a separate fraction to each sharer. The settlement, therefore, compelled the sharers to appoint a representative (called "Sirkarda") who receives the jágírdár's portion in the lump and distributes it.

[6] Zar-i-peshgi,—literally "money in advance." The lease is either a grant of the right of collecting the rents of a certain area, with an advance paid down as security (*Statistical Account*, Vols. XI-XII), or a lease to repay by the collection of rent, debts already incurred by the proprietor, or a loan which he takes on granting the lease. Such leases are also called "súd-bharna" or "sadhua patawa."

of the new system. There is scarcely, therefore, any opportunity, save perhaps in the eastern districts covered with jungle, for the survival of ancient or peculiar methods of land-holding, and the preservation of old localised and characteristic terms.

§ 18.—*Small proprietorships in Bihár.*

But in the Bihár districts the village system had not completely disappeared; and here we find, besides the tenures above described, some which indicate a certain survival of an earlier economy. The chief survival, that of the village officers, will be noticed under the head of "Revenue Officials." I have already made some remarks on the small size of the estates in Bihár. The fact is that in some of these districts, for the first time, we find the original owner in possession, and his position confirmed. "The petty landlords of the districts, who generally belonged to the Bábhan or military Brahman caste, were probably the descendants of those who, before the Muhammadan conquest, held these lands by military tenure from the Hindu kings[7]."

The ámils or Government revenue collectors did not, as a rule, succeed in ousting them and becoming zamíndárs in their place; but the "málik," as the owner is called, retained the management and paid over *all* his rents to the ámil (just in fact as the zamíndárs at first did), except 10 per cent. which he was allowed. In most cases, at permanent settlement, the old "málik" was recognised as the zamíndár-proprietor and settled with. In some cases, however, as might be expected, the Musálmán officials and grantees had succeeded in ousting or reducing the máliks and becoming proprietors in their place; but it is curious that the old proprietary character was so strong that the new-comer almost invariably paid an "ex-proprietary allowance," or málikána, to the older family: and at settlement, in cases where it was not possible to restore them, the málikána allowance was, by the terms of settlement, still continued.

The sub-tenures in these districts do not materially differ from those I have already described, and we find the same system of

[7] *Statistical Account*, Vol. XI, pages 95 and 125.

ijárás, istimrárí-muqarrarís, and so forth, with sub-leases called "katkina" and "thíka."

It is remarkable, however, that in many cases, where the estates are small, there are few or no intermediate tenures[8]. The proprietors are able to manage the estates themselves, and cannot afford the luxury of foregoing a part of their rental to secure the remainder without trouble.

In some places "shikmi" tenures are found, which in fact consist of small alienations of parts of revenue-free holdings: when these holdings lapse and become liable to assessment, the shikmi remains as a kind of tenant under the zamíndár with whom the land is settled[9].

In several of the districts "ghátwáli" tenures are found, such as will be described further on. There are also numerous free tenures for the support of religious objects, Hindu or Muhammadan; such are called brahmottar, shivottar, pirottar, hazrat, dargáh, &c. These are all tenures with something of a proprietary character.

§ 14.—*Tenants.*

The subject of *tenants* in Bengal generally can best be dealt with when I come to speak briefly of the Rent Law. Here I will only say that they are divided into two main classes—tenants with occupancy rights and tenants-at-will.

In most Bihár districts the tenants are called "jotdárs." Rents by division of produce are still very common[10]. Thus in Gáyá I find the "naqdi" tenants are those who pay money, and they are called "shikmi" if permanent, and "chikath" if on a temporary contract. The "bháoli" is the tenancy by division of produce; classified into "dánabandi" when the division is pursuant to an estimate or appraisement of the standing crop, and "agor-batái" if by division of the grain when threshed out.

[8] As in Tirhut.—*Statistical Account*, Vol. XIII, page 110.

[9] As in Munger.—*Statistical Account*, Vol. XV, page 117. "Shikmi" is from the Persian *shikam*, the belly;—one tenure inside the other.

[10] And the condition of the tenantry wretched, as a consequence.

§ 15.—*Tenures of the second class depending on natural features, &c.*

Such being a brief description of the tenures and under-tenures which had their origin in the old Revenue system, I may now pass on to consider the second group of tenures, which depend on customs of village organisation or on the natural features of the country. Such tenures will be found most frequently in districts where the village organisation is not altogether forgotten.

The Orissa districts, and those of the Chutiyá Nágpur division, will afford examples. A partial survival in Bihár has just been noticed.

In the Western Dwárs and in the Chittagong district, covered with luxuriant vegetation, we shall see more peculiarities of tenure, dependent on the clearing of land and the association of persons for this purpose. The same kind of tenures will also more conspicuously appear in the districts now forming the separate province of Assam. These tenures can best be described by localities.

§ 16.—*Orissa.*

The Orissa districts on the coast side of the hills exhibited in the parts further inland, something of the same features as the Tributary Mahals which occupy the hilly country. These tracts, it will be remembered[1], were possessed by chiefs whose estate was called a "qila'." The tributary chiefships are not within the limits of the revenue-settled districts, but several chiefs having a similar position within the districts became zamíndárs. In other parts there were no chiefs, but a proprietary position was conveyed by a settlement made with the most prominent men.

Among the tenures subordinate to these zamíndárí tenures, are the holdings which are the right of the headman called "muqaddam" (or pradhán in the south). Other village officials, who seem to have been accountants, are also recognised; and in right of these offices, are the tenures of the sarbarákár (or parsathi in the south). These tenures are practically proprietary. But that of the sar-

[1] See page 196, *ante*.