barákár (parsathi) was recognised at Settlement as hereditary, only when possession had been uninterrupted for a term previous to annexation in 1803. It is not alienable without the zamíndár's consent. The sarbarákár can also be ousted at any time from his official position, in case of mismanagement proved to the satisfaction of the Collector.

Another kind of secondary tenure, which seems to have arisen from sales of waste land to intending colonists, is called "kharídádárí."

The consequence of these customs was, that at Settlement the villages were for the most part separate estates, in which there were well-defined superior and subordinate proprietary interests,—the zamíndár first, and below him the muqaddam, the pradhán, and so forth; under them again were tenants in two classes known as "thání" or resident, and "pái" or non-resident. The former paid rent at high rates, but looked for their means of livelihood, not to the land which they cultivated for the landlord, but to plots which they held separately and free of rent. All the land will then be either "sír," the special holding[2] of the proprietor or sub-proprietor, and tenanted lands, held by thání or pái cultivators.

§ 17.—*Chutiyá Nágpur.*

In the districts of this division we shall find examples of nearly every kind of tenure; that arising out of the village organisation, that created to defray the expense of protection from hill robbers, and that arising from special measures to promote the cultivation of wild and waste country. In some instances where the whole district, or some large estate on it, is still owned by a Rája or chief, who is in the position of superior proprietor, we may find tenures created by the chief with the object of providing for the maintenance of his brothers or other relations. An example of this

[2] The tenant who held the "sír" land of the proprietor is called Chándnádár. Thání tenants (and also Chándnádárs) have their rents fixed for the term of settlement.—(Stack's Memorandum on Temporary Settlements, 1880, page 582.)

may be found in Rámgarh or Hazáribágh. The chiefs created also various tenures for the greater facility of realising their revenue; thus in the estates we find "taluqs" and "ihtimáms," ijárá and muqarrarí leases; tenures of this kind I have already noticed, as seeming invariably to follow the creation of great estates under our system.

The tenures which arise from the necessity of finding maintenance for members of the family are spoken of as "kharaposh." A grant of this nature also is the "hákimáli" or grant for the support of the hákim or chief's second brother.

In the hilly tracts the "service" grants are called "ghátwálí" and "digwárí." They were made to reward exertion and to support the police force necessary for keeping open the hill passes and protecting the lands at the foot of the hills against robbers.

The holdings derived from the grants to clear and cultivate the waste are known as "jangalbúri," "nayábádi," &c. In the Mánbhúm district I find mention of a tenure called "jalkár" or "jalsázan," which indicates a holding of as much land as can be irrigated by damming up the head of a ravine in the low hills, and so obtaining a tank of water.

In December 1880, a very interesting "Official Paper" appeared in the *Calcutta Gazette*, describing the tenures in part of the Lohárdagga District.

This describes the procedure for the settlement and record of the rights under the "Chutiyá Nágpur Tenures Act" (Bengal Act II of 1869). The value of such a legislative provision will be evident from the existence of these curious tenures.

I shall make no apology for entering into considerable detail about this tract of country, because though the incidents here recorded relate to certain Kol tribes called "Munda" and "Oráon," they have their counterpart in many other parts of India, and are peculiarly interesting and instructive. Here we are, in fact, introduced to the original state of village landholdings; and we can trace clearly the influence of one of two great causes of change in landed

interests, which I alluded to in the introductory sketch, namely, the advent of a Rája taking possession of the country and modifying all its customs of landholding.

Originally, it would seem, these Kol tribes formed villages of ancient Hindu type. The "village staff" consisted of a Munda or headman; and here, besides the secular headman, there was a spiritual head-man called "Pahan." There were also the usual staff of communal artisans and servants, the water-carrier, the priest's assistant, the barber, the potter, and the washerman. They were remunerated by dues in grain or small holdings in land. The headmen were the representatives of the original clearers of the land and founders of the village. The tenure of the original owners was called "khúnt katí" (tenure on strength of original clearing), and the land so occupied was called the "khúnt." The village lands then consisted of (*a*) lands held in the khúnt katí tenure by the families of the secular and spiritual headmen; (*b*) lands held by tenants who paid a portion of the produce to the headmen; and (*c*) lands known as "bhút keta," and by similar names, implying fields set apart for the service of spirits, divinities, &c., who were supposed to watch over the families and secure good crops to the village.

For mutual support and protection, these villages were grouped in circles called "parhá," and a chief called a "máuki" presided over the group. He was probably a successful village headman who acquired a certain influence and was elected as the general protector. He appears to have held lands for his support in several villages, but had no equal or regularly levied contribution from all. In process of time, however, a Nágvánsi (Rájput) Rája appeared, who reduced the country to subjection, and then the change began. In the first place the Rája took certain lands as his own special demesne; then he granted estates to his relatives and minor chiefs, Kúnwars and Thákurs; and as he found the original village owners liable to resist his acts, he called in the assistance of foreigners, to whom he granted "jágír" estates, requiring of them military service. Many similar grants were also made to Brahmans, though

their service was religious, not military; namely, to civilise the tribes or convert them to Hinduism.

These new grantees may, in some instances, have taken up unoccupied lands; but in many more they came as landlords over the heads of the original village-owners.

The same system afterwards received a further development owing to an accidental circumstance. It would seem that North Indian traders came down with horses, brocades, and other wares which were tempting to the semi-barbarous Rája, who accordingly was fleeced by the traders and got heavily into debt. As he could not pay in cash, he began to give out thíkas or leases, by which, in fact, the creditors were put in charge of certain tracts of land and allowed to realise the State revenues, and so repay themselves.

It is not difficult to imagine how very soon these chiefs, foreign grantees, and farmers, seized on the lands and gradually became landlords, reducing the village-owners to the position of being their tenants.

In the first instance, no doubt, the Rája had no design of interfering with the villages: having acquired certain lands for himself, he was content with levying a certain contribution all round. But when he introduced his grantees, they gradually worked that change which, in taking a general survey of tenures in India, we have already noticed to be inevitable.

We can thus trace back the history of the features of the land tenure as they exist at the present day.

First there is the Ráj-has,—the land in the royal demesne and held by the Rája's tenants. Next there is the Mánjhí-has (or the mánjhí-angs) land, consisting of the estates in which the Thákurs, Kunwárs, jágírdárs, thíkadárs, and others established themselves, getting hold of the best lands for themselves. But the chiefs and grantees could not absorb the entire right in these lands. The ancestral communities representing the original village founders (khúnt kat) were still strong enough to retain much of their original holdings[3],

[3] The headman's holding being still called "mundaí" or "mahtoaí" according to locality.

and the superstitions of the grantee bade him leave alone the "bhút-kheta" or religious holdings, if he did not respect any others. These two excepted and preserved ancient tenures remained as "bhúinhárí" lands[4].

In the mánjhí-has lands there are two grades of interest: there is the superior, and the actual cultivator, who may be merely a located tenant, or some person who had a closer connection with the land and a right of occupancy[5].

There may be bhúinhárí lands also in the mánjhí-has, or in the royal demesne. The bhúinhárs are now considered as subordinate proprietors to the chief or the superior, whoever he may be: they never sunk to the position of mere tenants[6]. These tenures are of course heritable. Non-religious lands are alienable with consent of the proprietary family. Religious (or bhút-kheta) lands are not alienable, they are held by the Pahán or village-priest for the time being, and the priest is also the trustee or guardian of the sacred groves or "sarnas."

It would naturally be supposed that all these bhúinhárs, being really proprietors, would hold rent-free as regards the later coming landlord; but the power which enabled the landlord to reduce them to a subordinate place also enabled him to exact a certain payment, though not a full rent, which had to be adjusted at the Settlement proceedings under the Act.

[4] The religious holdings or bhut kheta which form part of the bhúinhárí lands, are divided into dálikatárí, pánibhara, and bhút-kheta. The pánibhara (which is a holding for religious menial service) includes the "murghi-pakowa," plots held by persons as a reward for the duty of cooking fowls on the occasion of religious feasts and ceremonies.

[5] "Tenants-at-will" who cultivate on a "saíká," agreement by which the produce is shared, have no right of occupancy. Tenants of the other kind are rewarded with certain grants of land called "bhet-kheta," sometimes on the estate itself, sometimes in the Ráj-has lands.

[6] There may be occupancy tenants, as, for example, immigrants who first cleared the lands on which they settled, but who, not being Kols or members of the original khúnt proprietary families, never held land on the khúnt katí tenure, or became bhúiuhárs. They are called kórkárs; they hold for three years rent-free, and then at half rates.

These "rents" were not acquired without some difficulty. There have been constant discontents, and in 1832 and 1858 there were open outbreaks.

The bhúinhárs at first were required only to render service to the chiefs, such as giving three days' labour in digging, in cutting wood, in carrying so many loads of grass, bamboos, or the personal luggage of the chief. In time, small money or grain rents were exacted.

The theory is that a bhúinhár can never lose his right, and that if he goes away, owing to oppression, poverty, or other cause, his descendants may return and claim without limit of time.

The Tenures Act could not recognise this absolutely, as it would be obviously impracticable; it therefore fixed a period of twenty years for absentees to return and make good their claim.

Another curious question arises with reference to bhúinhár lands, which I must allude to because it throws light on the question of the waste lands and who owns them.

In many cases we have seen that the village-owners have occupied a definite area, waste and all, the waste being the joint property of the whole body. In such cases, it is only where there are large ranges of hills or great wastes not included in village areas, or where the villages claimed a large excess of waste for which they had no use, and probably no real claim, that such waste remained at the disposal of the State or paramount power. Now it seems that originally the Kol villages consisted partly of high land, which was waste and only partly or occasionally cultivated, and partly of low lands on which rice is grown, and which naturally were the first to be occupied. The bhúinhárs claim that under the original village constitution, a definite area was allotted to each village, both of upland waste ("tanr") and rice land.

But as the former was not so definitely occupied as the latter, when the village constitution was overborne by the Rája and the chiefs, it naturally became a question whether the bhúinhárí tenure should now be recognised over the uplands as well as over the rice-

fields. The question had to be determined by the settlement, according to the actual facts of occupation[7].

Any bhúinhár may, of course, also hold land in another character, as an ordinary tenant in the Mánjhi-has or Ráj-has lands.

In the Ráj-has lands there may now be a chief who has become zamíndár or superior landlord, or the Government may represent the superior estate; all the cultivators are in either case regarded as raiyats or tenants, and are called by various names, such as utakár, korkár, chatwa, &c.; some having occupancy rights.

The reader will readily understand how this system of gradual modification of the old tenures, and the growth of rights in a superior grade, has given rise to perpetual rivalries between the old and new classes of tenure-holders. The new-comers encroached, imposed cesses, and seized on ancient holdings, dispossessing the original owners, when they were weak; while in their turn the bhúinhárs tried to claim lands which they had long lost, and not unnaturally clung to traditional rights, which had really become obliterated past practical recognition by any law court or settlement authority. All this demanded a system of local enquiry and careful securing by record, of the rights to which each class seemed equitably entitled. A Special Commission was accordingly created by Bengal Act II of 1869[8]. It can hardly be expected that so difficult a task should be carried out perfectly, or that the old bhúinhárs would be content to accept the inevitable outcome of years of change and development. But there is no doubt that great good has been effected.

§ 18.—*Tenures in the Sontál Parganas*[9].

In order to describe the tenures, this district should be divided into three sections. First, there is the narrow strip bordering

[7] Should it not appear that the bhúinhárs practically had not occupied the waste, still they would be allowed certain rights of user, of pasture, and wood-cutting.

[8] The Act proposes to deal with the rights on the Mánjhi-has lands and the rights of bhúinhárs, not with tenants on Ráj-has lands.

[9] For this information I am indebted to Mr. W. Oldham, the Deputy Commissioner, who kindly prepared a memorandum for me.

on the old established districts of Múrshidábád, Bírbhúm, and Bhágalpúr: these lands are permanently settled under zamíndárs, and exhibit just the same features of tenures as the ordinary districts. The zamíndárs have here, as elsewhere, created the usual subordinate tenures for the realisation of their income, and we find the "patnidár" and the muqarraridár, and various forms of "thíkadár" or rent-farmer.

But two special features have been recognised; these various tenure-holders must always collect these rents through the village headman, and all the "raiyats" or cultivators have permanent holdings, unless they are sub-tenants or cultivating labourers under other raiyats.

Next in order comes the jungle tract, which is principally occupied by the Sontáls, who have emigrated and occupied nearly the whole of it, and spread into the valleys and lower portions of the third section—the hill tract or Dáman-i-Koh.

This *second* section is owned mostly by zamíndárs who retained the superior proprietary title, and employ the usual means of subleases, &c., in realising their rents.

Wherever the estates border on the hills, the landlords have created ghátwálí holdings to reward service in protecting the hill passes and keeping them against robbers. This tenure is found to exist in Chutiyá Nágpur, the Central Provinces, and Berár, wherever there are hill tracts. In part of Sontália, around Deogarh, however, the ghátwálí tenures have a somewhat peculiar origin. This tenure is so curious that I shall extract *in extenso* the account kindly sent me by Mr. Oldham:—

"It was the practice throughout the district, and in the portions transferred from Bírbhúm, Bhágalpur, or Múrshidábád, for the great zamíndárs to assign grants of land, generally at the edges of their estates, in selected passes (ghats) or other spots suited for forts to check the incursions of the forest tribes, as the remuneration of the person or family entrusted with the guardianship of the pass, and of the specified number of armed retainers whom he was bound to maintain.

"This was the general character of the ghátwáli tenure. The grants were rent-free. The grantee held while they performed the conditions of their grant. The establishments of retainers varied much in size, according to the purpose for which they were wanted, and the extent of the lands assigned varied in proportion. Some of the holders were wardens of extensive marches, and their successors at this

day occupy the position of considerable zamíndárs. Other grants were merely for the purpose of checking the ravages of wild beasts; one in particular was given for the destruction of elephants.

"In the Bhágalpur district the grants were considered "police lands," and when the need for the grantee's services passed away, they were resumed by Government and held for some time as Government estates. One proprietor, however, appealed against this mode of dealing with them, and the Privy Council decreed that he, and not the Government, had the right of resumption; and most of those resumed have been restored and absorbed in the zamíndárís of which they formed a part.

"In the part of the district which once belonged to Bírbhúm, no resumption or restoration has taken place. The grants, with an exception to be noticed, are of small extent, and are still held as rent-free lands, and a nominal service rendered for them. Many of them have changed hands by sale and by encroachment, though such alienations are not recognised or permitted when known by Government.

"An exception to the ghátwáli as thus generally described, is the sub-division of Deogarh, which consists entirely of ghátwálí tenures of a distinct kind. This country, which consisted of a forest tract, amid which rise precipitous, isolated hills, was held by a number of Bhúiyá chieftains of an aboriginal or semi-aboriginal race, and was conquered by the Muhammadan sovereign of Bírbhúm about A.D. 1600. The conquerors, however, were never able to bring the tract into complete subjection, and at last effected a compromise with the Bhúiyá chiefs, under which the latter were to hold half of their respective tenures rent-free, on condition of their maintaining retainers and performing the services of warden of the marches as above described. Engagements on both sides were never properly fulfilled, and in A.D. 1813 the Government finally intervened and concluded an arrangement with the ghátwáls by which their quota of rent was paid directly to itself, and they were still bound to render, what the Government of the day styled, their police duties.

"Their system of sub-tenures coincides with that existing in the precisely similar tenures in the Chutiyá Nágpur division, on which Deogarh abuts. They held watch and ward, and maintained militia and police, and farmed out each village to a person called *mustájir*, on whom fell fiscal responsibilities only. These farmerships became hereditary, and consequently at settlement the holders were unwilling to accept the lower status and more onerous duties, as well as the restrictions as to sale and transfer, fixed for the village headman. They made an application to the Government, which conceded in return the right of sale to mustájirs of certain specified villages."

Subordinate to the zamíndárs in this second or "jungle" section of the district, the villages have a regular hierarchy of hereditary officials. In each village is a headman or mánjhí (when the village is not Sontál the headman is called pradhán or mustájir according to the locality). Several villages form a "chakla" with a chakladár or pramánik over them. Over several chakladárs again is the des-mánjhi (these have now no functions, but are still

remembered). Lastly, over a whole pargana is the "parganait." In the Dáman-i-koh or hill tract where the Sontáls have occupied the lower hills and valleys, this official is regularly recognised by Government; he not only gets a commission of 2 per cent. on all rent punctually paid, but also an allowance from each village. Outside the Dáman-i-koh, he is only locally recognised and sometimes does not exist at all.

Many of these officials have rent-free or lightly-assessed lands, held in virtue of the office: the holding is spoken of as "mán" or jágír. Thus the headman's land is "mánjhimán." The village watch ("gorait") and some others also, hold "chákarán" lands as remuneration for their services. In the Sontál villages there are also the usual tenures for priests, and grants for religious purposes may be found under the name of "Sivahotra" (Siva's plot), &c.

In the *third* section of the district—the hill portion called Dáman-i-koh—the level portions in the valleys have been occupied by Sontáls exhibiting the same village system as already described. It is curious to remark that these people apply the term "zamín," *land* (which they corrupt into "jamí") only to level (rice) land. In the hills and along the slopes and ridges, the old hill (Kolharian) tribes still hold their own: they live by "júm" or temporary and shifting cultivation.[10] In theory, in this section, all the land belongs to Government, and the people are "raiyats." I have before mentioned that this is due to the withdrawal of the tract from the Regulations and from the settlement, owing to continual disturbances between the Hindustani landowners in the plains and the people in the hills. To this day Government takes no revenue from the paháriyá; on the contrary, it allows certain pensions to the chiefs called "Sardárs" and to their deputies or "Náibs," and to the mánjhís or headmen of tribal sections.

Though the Government has never formally recognised any proprietary right besides its own in the Dáman-i-koh, it has never interfered with the people who treat the hills as their property.

[10] Locally called "Kurowa bari."

"Every hill," says Mr. Oldham, "is claimed as private property, and the hills are bought and sold."

The whole of Sontália is, as I have said, settled under Regulation III of 1872 and Act XXXVII of 1855[1]. The Regulation contains a special rule about the *waste and forest land*, providing that excess waste may be excluded under certain circumstances from the defined village area. The provisions of section 15 should be referred to for detail. As a matter of fact, the Government has attempted no interference with the upper hills, but exercises a certain amount of protection over the forest in the lower ranges, by rules made under the old Forest Act of 1865.

§ 19.—*The tenures in jungle districts:—Chittagong.*

The tenures that are found in the districts which were originally covered with dense tropical jungle, have, as might be expected, reference to the arduous task of *clearing*. For example, in Chittagong: here a number of settlers, each group under its own chief, took up such plots of land as it suited them to clear; and a group of such clearings was called a "taraf." The subjects or followers of other leaders also settled in the vicinity; and so it happened that the lands belonging to the various tarafs were very much mixed up: each holder only knew what taraf he belonged to, because he came under such a leader or captain who was his tarafdár. When the permanent settlement took effect, those "tarafdárs" were recognised as the *owners* of the lands in their tarafs. Many of the tarafs originated in the location of bodies of troops by the first Muhammadan conquerors who were granted land instead of pay, to support them. These people were then allowed to remain on the land; only they were assessed to revenue when the jágír was resumed and the service no longer required. And the other tarafs originating in non-military settlements, were required to aid in the general defence, and held their tarafs in jágír in consequence. Thus it happened that all the tarafs consisted

[1] And its Revenue Administration is supervised direct by Government in the Revenue Department, not by the Board of Revenue.

of holdings granted by area. These were permanently settled and are of course full proprietary tenures. But at a later date clearing leases called jangalburí and patitábádi were granted by the Collectors, and far more numerous plots of cultivation were also occupied by mere encroachment. All such lands (other than the permanently settled "tarafs") were spoken of as "Nau-ábád" (newly cultivated) and none of them were formally recognised as proprietary tenures. The question of their exact position long remained doubtful, and I have described on a preceding page (194) how it was ultimately settled.

§ 20.—*The Western Dwárs.*

In part of Jalpaigúrí (the Western Dwárs) we find the settlers called jotdárs, and lands occupied called "jot." The jotdár is not recognised as the absolute proprietor of his holding[2]. Temporary cultivating leases given out by the Government officers are spoken of as "hál."

The country is regarded as a Government estate, the jotdár being the permanent occupant with a heritable and transferable title.

Tenants on a fixed lease are called here "chukanidárs." A "raiyat" means a man who is allowed to cultivate for one year. "Prajá" is the ordinary cultivator paying a produce rent, while those who agree for a money rent are called "thíkadár."

§ 21.—*Waste-land leases.*

Among the tenures that are founded on the clearance of the waste or jungle land, I suppose I should include those derived from the various leases and grants made by the British Government under the different "Waste Land Rules." In these cases, however, terms of the grant must be looked to for the nature of the tenure. Such grants were made chiefly in the Sundarbans and in Darjiling.

[2] According to the Bhútán custom the jot cannot be alienated to the prejudice of one of the family who would succeed on the decease of the jotdár. Mortgages also are only temporary. It would seem also that it was not the custom to sell the jot for arrears of revenue under Bhútán rule. See Statistical Account of Bengal, Vol. X, page 284.

CHAPTER IV.

THE REVENUE OFFICIALS, BUSINESS, AND PROCEDURE.

SECTION I.—OFFICIALS.

§ 1.—*The Board of Revenue.*

AT the head of the Revenue Administration, and with control over all grades of officials below it, is the Board of Revenue, consisting of two Members with two Secretaries.

The Board of Revenue existed as far back as 1772, when it was composed of the President and Members of Council at the Presidency head-quarters. In 1781 it was remodelled as a "Committee of Revenue."

When the districts further north were annexed, it was intended that separate Boards of Revenue should be constituted for each group, and a Regulation was passed for the purpose. This law (Regulation III of 1822) contemplated one Board for the Lower Provinces, another to be called the Board for the Central Provinces with authority over part of Bandelkhand, Benares, and Cawnpore; while a third Board was to have authority over the Western Provinces.

In 1829 (by Regulation I) this plan was modified for the last time: "the Board of Revenue for the Lower Provinces[1]" alone remained, and the functions of the other Boards were made over to Commissioners, who now preside over the Revenue Administration of divisions (groups of two or three or more districts) and are subject to the control of the Board.

A Regulation of 1811 (still in force) enabled the Government to empower any Member of the Board to exercise all or any of the powers of the whole Board.

[1] This is the official title of the Board at the present day. The whole history of the Bengal officials may be found clearly summarised in the introduction to the Administration Report, 1872-73.

The North-Western Districts—Benares and those beyond—were afterwards made into a separate province, and then came under the Board of Revenue of that Lieutenant-Governorship.

§ 2.—*The Commissioners.*

The Commissioners appointed in 1829 were at first, beside their revenue powers, invested with judicial powers, both civil and criminal. Separate Civil and Sessions Judges were, however, afterwards appointed; and the Commissioners are now solely Revenue and Executive Superintendents.

Under the Commissioners of the divisions are the Collectors of districts, their assistants and deputies.

§ 3.—*The Bengal 'district':—'Sub-divisions.'*

The district in Bengal is the unit of administration just as it is in other provinces.

At present each district is split up into a number of sub-divisions, each of which is presided over by an Assistant Magistrate and Collector, or a Joint-Magistrate and Deputy Collector in subordination to the Magistrate and Collector of the district. Uncovenanted Officers, designated "Deputy Magistrates and Collectors," were appointed under Regulation IX of 1833; they were to help the Collector in Revenue matters, and they have criminal powers also: they are often in charge of sub-divisions. They occupy much the same position in the administration as the Extra Assistant Commissioners of the Non-Regulation Provinces.

This plan of creating sub-divisions is one of recent date, and it now distinguishes the Bengal district from the Panjáb or the Central Provinces (for example): there it is only when a district is very large, that an outlying or unusually populous section is made into a sub-division with an assistant in charge. The district in those provinces is ordinarily kept in hand without difficulty, because it is throughout divided into tahsíls, or comparatively small sub-divisions, each presided over by a Native Revenue and Executive

Officer called a tahsíldár, who has judicial powers, but so restricted as not to interfere with his more important revenue and executive functions. The tahsíldár is enabled to keep a thorough control over his tahsíl by means of the village organisation and his staff of pargana officials.

All this subordinate machinery from the táhsíl downwards, as we shall presently see, does not exist in Bengal. Consequently, in former days, the Collector at head-quarters was the only power over the whole district; hence the impossibility of his dealing with the cultivators in any detail, and the traditional necessity for the revenue collections being paid in by a comparatively few great estate-holders or zamíndárs. The gradual break-up of these very large estates, and the importance of securing the rights of the subordinate tenure-holders, however, have always rendered it desirable that there should be some more localised revenue control, and the tendency of later days has been to introduce local charges subordinate to the Collector. This was begun by dividing the districts into sub-divisions in charge of assistants.

§ 4.—*The Collector.*

The "Collector" has a history extending back to the year 1769, when our Government, though in possession of the right to administer the Civil and Revenue Government of Bengal itself, had not yet thought it advisable to attempt the direct administration of the districts by its own servants. The old native system was therefore left in operation, but officers called Supervisors were appointed to check its working. In 1772, when the Company at last undertook the direct civil and revenue management of the districts, these Supervisors were called "Collectors," but were withdrawn two years later in favour of "Provincial Councils."

In 1781 the individual supervision was found better than that of a body, and the Presidents of these Councils were alone retained as Collectors in fact, if not in name.

In 1786, Collectors were vested with powers both of Civil Judges and Magistrates; this was on the plan of the Board of

Directors in England, and was proposed by them as tending to simplicity and economy; but it was ill-suited to Lord Cornwallis' ideas, and in 1793 the Collectors were confined to their revenue functions.

Under Lord Bentinck in 1831, criminal powers were given to Collectors, but were again withdrawn in 1837, owing to the increase of the revenue work. The separation was, however, gradual, and went on from one district to another, till, in 1845, nearly all the Collectors had been relieved of Magisterial functions.

The restoration in its present form of the office of "Magistrate and Collector" dates from 1859[2].

The difficulty before felt of the possible overweighting of the Collector by an excess of criminal work is provided against partly by the appointment of Senior Assistants to the grade of Joint Magistrate[3], with criminal powers equal to the District Officer (though exercised in subordination to him), and partly by the modern system of sub-dividing the districts.

§ 5.—*His Assistants.*

Assistant Collectors were first appointed in 1821 under Regulation IV, and they could be invested with direct authority in Revenue matters in portions of districts. Assistants not so empowered, could only report on Revenue matters with a view to the Collector passing final orders[4].

I have already mentioned the Deputy Collectors of Regulation IX of 1833. Below them an order of Sub-Deputy Collectors has been recently created[5]. Beyond this there is no further subordinate Native agency.

[2] Despatch of the Secretary of State, 14th April 1859 (No. 15).

[3] Practically, the Collectors take most of the Revenue work and the Joint Magistrate most of the Criminal.

[4] Regulation IV of 1821, section 8. This is still in force.

[5] Deputy Collectors' appointments were at first confined to natives. The restriction was removed by Act XV of 1843. The Sub-Deputy Collector is a grade constituted by executive authority, but the Regulations enable such an officer to be vested with such powers of a Deputy Collector as may be necessary.

§ 5.—*Pargana and village officers.*

At the commencement of our rule, there were still patwáris, the relics of the old village system, and qánúngos, the relics of the Muhammadan system of Revenue[6], who supervised the Revenue collection. At first, the qánúngo was for the pargana what the patwárí was for the village. The patwárí registered all changes in landed right likely to affect the revenue; he kept the statistics of the village, and the accounts of revenue payments and balances, as well as of the payments which were actually made by raiyats and others to the "proprietors." The qánúngo did the same for his pargana.

This system is still in full force (though with many modern improvements) in other provinces where the "village" (or at most a group of a few villages or parts of villages) forms the "estate" which pays a separate revenue assessment. Without it, or something like it, a district where the revenue was to be collected from a number of such small estates, could not be managed.

But in Bengal the system got more and more out of harmony with the modern practice, because, with the growth of the zamíndár, the importance of the village and of the pargana for revenue control purposes disappeared[7]. The zamíndár gradually ceased to be a revenue collector and became in fact a contractor for a lump sum to be paid to the treasury, so the qánúngo's inspection was first

[6] The Qánúngo, as such, was a Muhammadan officer, but, no doubt, supervisors of groups of villages were common under Hindu Rulers. The Maráthás also had a similar system, *e.g.*, the Despandyá of Central India.

[7] In Chittagong, where there were only groups of jungle clearings and no attempt at villages in the regular Indian sense, no patwáris were ever heard of, because there had been no village organisation; but qánúngos remunerated by certain special dues, or grants of land, existed in full force up to the time of the permanent settlement. In Chittagong, however, the fact that the estates are now of small size and vast number, suggests an organisation of the kind. At the present day there is in effect, in each sub-division of the district, a number of native local officers like the Panjáb tahsíldárs; and a system of pargana account and registration, as well as a subordinate estate registration and account.

set at nought and then became really unnecessary [8]. In the same way the patwárí was intended to control the zamíndár's gumáshta or agent for making local collections; but as soon as the State ceased to look into the details of local collections, and concerned itself with the lump sums, the patwárí, where he was retained at all, became the mere servant of the zamíndár.

§ 6.—*The Qánúngo.*

The District Revenue Collector had simply to take the lump sum of revenue assessed on a few estates of large size: he abandoned, under the policy of 1793, all interference with the internal affairs of the great landholders. It was supposed, however, at first, that qánúngos would be useful, and in 1786 orders were issued that the "ancient constitutional check of the canoongoe's department in regard to the collections and on all officers therein employed, be now revived and placed by the Committee of Revenue in a state of full and effectual operation [9]."

It was not, however, to be expected that this revival would prove of any use. After the permanent settlement was concluded, the qánúngos at head-quarters were abolished in 1793 [10]. One more attempt was afterwards made by Regulation I of 1819 to restore them, with a view to the supervision of the patwárís, whose resuscitation had been more persistently attempted (as will be presently explained). But the whole arrangement proved a failure and was soon abolished finally, except in Bihár and in Orissa, where the settlement is under Regulation VII of 1822, and more like a North-West settlement.

§ 7.—*The Patwárí.*

The patwárís were longer retained. At an early date it seems to have been thought that patwárís might be useful in collecting

[8] Macneile's Memorandum, section 196.

[9] See Cotton's Memorandum on Revenue History of Chittagong, Appendix I, page 186. The idea seems to have been to make the qánúngos a check on the Collectors. "It was," says Mr. Cotton, "in harmony with the system that prevailed under Mr. Hastings' administration, of distrusting the local agency, whether European or otherwise, employed in the collections."

[10] Fifth Report, page 19; and Cotton's Chittagong, page 186.

facts regarding land tenures, rents paid by raiyats, and other such matters which would help the Collector in adjusting the revenue totals properly over divided estates, and the Courts in deciding land cases and rent suits. It was "solely" for this purpose that they were retained[1]. Patwáris were not, however, universally appointed, because it was felt, and in some quarters pointedly stated, that the object was chimerical. The patwárí would either be regarded as an enemy by the zamíndár, who would then conceal all the true facts from him, or he would become a tool of the landowner, and then in his ostensible position as a public officer would only have greater facilities for defrauding the revenue and aiding in the oppression of the raiyats. It was then determined that it was no use trying to make the patwáris public officers[2]: they were only to be the zamíndár's servants; but it was hoped by the resuscitation of the qánúngos in 1819 (just spoken of) they might be controlled to some extent, so that at least their accounts should be available for reference to the Courts and Revenue Officers. But this was in 1827 reported a failure, owing to the systematic and determined opposition of the zamíndárs to all arrangements having for their object the organisation of information regarding the land tenures of the country and the produce of the soil[3].

The struggle to make any use of the patwáris where they existed was then gradually given up[4].

§8.—*The present position of these officers.*

At the present day, qánúngos are retained in Orissa and Chittagong. In the former they are of use in various matters connected with the road cess assessments to the supervisors of the

[1] See Regulation VIII, 1793, section 62.

[2] And this of course sealed the fate of the institution. To be of any use, the patwárí, though hereditary claims and even the wishes of constituents may be taken into consideration in his appointment, must nevertheless be purely a public servant, appointed and liable to be dismissed by the Collector. But in truth he is part of the village system, and cannot be officially utilised in a zamíndárí at all.

[3] *Vide* the Board's Report quoted in Macneile's Memorandum, section 200.

[4] See Macneile, para. 204, page 137. Government of India to Bengal Government, No. 38 of 3rd January 1851.

accounts of batwára or partitions which are common. There is a qánúngo at head-quarters, and others in the district.

Patwáris have been abolished in Bengal proper, though still some question remains as to their being employed in temporarily settled estates. But the Chittagong district furnishes an exception. Here some kind of local establishment has always been necessary and the qánúngo also has always existed. In this district (exceptionally) there is an establishment of tahsíldárs and subordinates not unlike that which is found in Northern India.

In *Bihár*, where patwáris exist, under Regulation XII of 1817, they are retained, and are useful. But no attempt is made to get them to prepare regular village accounts[5]. They are also partly Government servants, partly subordinates to the zamindár.

[5] In a Report to the Local Government (No. 712A., 26th October 1880) the Board remark—

"The Board wrote in their Report in 1879-80 (§ 74)—"As regards Chittagong . . . a tahsil establishment has been proposed, which, if sanctioned, will greatly improve and strengthen the executive machinery of the district. . . . The principal difficulty of khás management in Chittagong lies in the very large numbers of almost infinitesimal properties under management, and in their scattered position.

"In Noakhally, the Government estates are mostly island 'chars' separated from the main land by large and tempestuous rivers, and their inaccessibility is the chief difficulty in the way of successfully collecting the revenue from them. Another difficulty arises from the fact that the chars were cultivated, in a great measure, by non-resident raiyats, who settle on the lands for a portion of the year, and disappear after reaping their harvest, so that it is no easy matter to realise their rent.

"The several laws (referring to Regulation XII of 1817, &c.) which refer to patwáris imply a condition of agricultural tenancy which has now passed away for ever. They assume that a village is ordinarily in the hands of a single zemindar, collecting directly from the ryots: or (in cases in which the zemindar may have refused to engage) of a single farmer paying revenue directly to Government. Even when more zemindars than one are referred to as proprietors, they are to be understood as co-sharers in the same estate—not as owners of separate mehals.

"It is easy to see that under such circumstances the patwari might really occupy the position of the village accountant, and his papers might furnish valuable information to officers engaged in the decision of rent suits on the partition of estates. Under-tenures being few in number, and the proportion of cultivated land being comparatively small, the village register was probably a brief and simple document, and the local knowledge of the canoongo enabled to him to detect any inaccuracies or omissions.

In *Orissa*, there were very few patwáris; they existed only in 404 out of 3,304 estates. These are maintained to do what they can locally, but no general preparation of village accounts is required of them, and the former plan of requiring the proprietors to submit such accounts where there was no patwárí, has been abandoned.

Section II.—Registration of Landed Property.

§ 1.—*Object and practice of registration.*

With the exception of those estates which are settled under Regulation VII of 1822, the great body of the estates of Bengal proper came under the permanent settlement, and for the purposes of that settlement there was, as we have seen, neither a demarcation of boundaries nor a survey, nor was there any enquiry into or record of, the various classes of landed interests. A list of the different zamíndárí estates and the revenue assessed on each, was all that was kept.

But it was the intention of the legislature from the first that there should be at least a register kept up, showing the extent and particulars of each estate separately assessed with revenue payable to Government. The object was to enable the Collectors to apportion the revenue in cases of partition, and to enable the Civil Courts to know when an estate changed hands, or happened to be transferred from one district to another. The registers were first directed to deal with the land as grouped by estates only [6], but after-

"But the existing condition of things is altogether different. The zemindar of the present day, instead of being the owner of the entire village, is the proprietor of one out of a multitude of estates within the village boundary. The farmer of the present day, instead of holding under Government an estate for which the zemindar has declined to engage, is simply a ticcadar under the zemindar. The great mass of the ryots pay their rents to putnidars and other tenure-holders, and the zemindar has no direct concern with them. It is clearly shown that the patwarí, who is only the nominee of one or a few among a number of proprietors, has no means of preparing an accurate village account.

[6] And any estate might have lands belonging to it scattered over half the district or extending into other districts.

wards pargana registers dealing with the lands as they lay, and accounting for every plot in each pargana and its sub-divisions, were ordered. The law on this subject was never very well carried out, and the Regulation was both cumbrous and incomplete. It is, however, unnecessary in this place to dwell on the history of the past; it is enough to turn to the present law (Bengal Act VII of 1876)[7].

The object of the registration is simply to know who is the person answerable as in possession, for every plot of land in the district. The possibility of overcoming the difficulties of the old system is largely owing to the land survey, of which mention will presently be made. In the course of the survey, descriptive lists of the land surveyed were prepared (and the survey followed the local areas or villages, or was, in revenue language, *mauzawár*). Registers showing the estates as made up of lands in different villages, or of groups of villages locally compact (*i.e.*, mahálwár registers), are easily prepared from the first mentioned, by simply abstracting them.

§ 2.—*Form of registration.*

The registers at present required by law are:—

(A) A register showing the revenue-paying lands in the district. [This is divided into two parts, to show the lands which belong to estates the revenue of which is payable in the district, and lands within the district which form portions of estates whose assessment is payable in other districts.]

(B) A register of revenue-free lands. [This is divided into three parts showing (I) perpetual revenue-free grants; (II) lands held by Government or companies for public purposes free of revenue; and (III) unassessed waste land and other lands not included in part I or II.]

(C) Is a register of lands paying revenue and those held revenue-free arranged "mauzawár," *i.e.*, the register is a list of the

7 See also Chapter V of the 1st Volume of the Rules of the Revenue Department (edition of 1878).

villages in each local sub-division (adopted for the purpose by order of the Board) and accounting for all the lands in each village, showing to what estate each belong which are revenue-free, and so on.

(D) Is an "intermediate" register for all kinds of land, showing the changes in proprietary right, occurring by sale, succession, lapse, or other transfer, and changes caused by the alteration of district and other boundaries.

The registers are only re-written when the changes have been so frequent as to affect the original register very considerably and make it no longer of any use for reference. The Act makes it obligatory on persons interested to give information with a view to the preparation of the registers. It should be borne in mind that registration only describes the person in possession. It decides no question of right. Section 89 of the Act expressly states that any one may sue for possession or for a declaration of right, the Act notwithstanding.

§ 3.—*Dákhil-khárij.*

The proceedings for reporting and registering changes in proprietorship are spoken of as "dákhil-khárij," and closely resemble the same procedure in other provinces. The "dákhil-khárij" proceedings are solely concerned with the fact of, or right to, possession. If the applicant's possession of, succession to, or acquisition by transfer of the property is disputed, the Collector will summarily determine the right to possession, and will then see that the party is put in possession, and will make the entry in the register accordingly [8].

The details of procedure for obtaining mutation of names will be found in the Act.

In most districts the work is now complete or will shortly be so. In Chittagong the number of holdings is so large that, in 1879, it was said it would take three or four years to complete the registers. In the Katák districts there is a source of unusual

[8] Bengal Act VII of 1876, section 55, as amended by Act V of 1878.

labour in the number of petty revenue-free holdings, and the work is not yet complete.

The Revenue Report of 1879 contains the following particulars of the working of the Act (excluding Chittagong) :—

Total applications for registration up to 31st March 1880.	Disposed of during 1879-80.	Pending on 1st April 1880.	Total applications granted up to 31st March 1880.	No of cases noted in preceding columns actually entered in register.	Remaining to be entered.
720,007	137,755	89,417	517,779	489,297	27,243
					(1,239 applications relating to claims to ex-proprietary allowance were cancelled.)

§ 4.—*Registration of subordinate interests in land.*

It will be observed that these registers do not profess to deal with any subordinate rights or interests; there is nothing in Bengal which answers to the "Record of Rights" of the North-West Provinces [9]. It so happens, however, that the Road and Public Works Cess, Bengal Act IX of 1880 [10], has resulted in a record of subordinate rights also. The road cess is a tax levied on all classes of proprietors, including every grade of tenure-holders, down to a limit of cultivators paying Rs. 100 in the year as rent, and hence a register has to be made of these. But the returns obtained are not satisfactory below tenure-holders of the first degree [1]. There is no legal validity, as evidence of right, attached to these returns.

There is another method, however, of registering under-tenures. It has been always the law that when an estate is sold for arrears of revenue, all leases and under-tenures (with certain

[9] Except of course in temporary settlements under Regulation VII of 1822.

[10] Acts X of 1871 and II of 1877 have been repealed and superseded by the Act quoted in the text.

[1] Administration Report, 1878-79, page 373.

exceptions[2]) are liable to be voided, and the purchaser gets a clean and complete "Parliamentary" title. This is so under the Sale Law (Act XI of 1859) and its later addition, Bengal Act VII of 1868. To protect such under-tenures the Act provides[3] that they may be registered either in a "common" or a "special" register[4]. Registration in the former protects them from being voided on sale of the estate for arrears, by any party other than Government; and special registration protects them absolutely. The Act also provides that the rights of *sharers* may be protected (and this is important, because otherwise the default of one sharer might cause the whole estate to be sold). Separate accounts are opened with sharers on application. In 1879, 14,442 such separate accounts, with a total revenue of Rs. 39,43,667, were on the books. Separate accounts can also be opened for specific landholdings (section 11, Act XI of 1859); of these, 1,736 (Revenue 3,69,664) exist.

For the procedure necessary to the registering, the Act itself must be consulted.

§ 5.—*The Taujih Department.*

For purposes of revenue collection, besides the lists of estates just described, there must be kept up lists showing the revenue payable by each estate, or separately assessed portion of an estate. There is a general district revenue roll, divided into two parts; one showing the revenue fixed permanently or for a time, and payable by proprietors, farmers, or other engagees for the whole; the other showing the fluctuating revenue in estates in which the raiyats pay direct to Government. It is not necessary to go into further detail on this subject[5].

[2] Described in section 37 of Act XI of 1859.

[3] Act XI of 1859, sections 38 to 50.

[4] Up to the end of 1879, the common register contained 3,584 holdings with an area of 3,908,532 acres and a rental of Rs. 22,09,988;—the special register contained 292 holdings, of 611,191 acres and a rental of Rs. 3,27,474.

[5] The detail may be found in Chapter VI, Rules of the Revenue Department Vol. I (1878). The revenue roll is written up by the Taujih-navís: the establishment which keeps the rent roll and the accounts of each estate, with the amounts collections, and balances, is spoken of as the Taujih Department.

SECTION III.—SURVEY.

As might be expected, a very few years' experience of questions of assessment of lands wrongfully claimed, of resumption proceedings in the case of invalid grants, and indeed of revenue administration generally, showed the absolute necessity of a reliable survey.

A revenue survey was accordingly organised, and maps of districts and of the estates they contained were prepared. Only the village boundaries were surveyed, unless, indeed, a village contained lands belonging to several estates, in which case the boundary of each group of lands had to be shown. From the list of surveys given in the Administration Report of 1872-73, it would appear that the Orissa districts were the first completed, the survey beginning in 1838. The report states[6] that almost the whole of the provinces had been surveyed, so as to show estates and village boundaries, but that only in a few places had a field-to-field demarcation been made. There also existed no legal provision for the maintenance of boundary-marks, or for compelling their erection.

Previous to 1875, as far as permanently settled estates were concerned, the process of revenue survey was carried on without any authority given by law. Regulation VII of 1822 could not be quoted, since it applied to non-permanently settled estates, and could not warrant any action with reference to estates in which there could be no question of re-settlement. In 1847, indeed, a law had been passed regarding the survey of lands liable to river action[7], and the principles of this law are still maintained under the Survey Acts. The whole business of survey is now regulated by Bengal

[6] Summary, page 86.

[7] Act IX of 1847. In the case of the alluvial lands the survey is treated as a special matter: it is required only along the banks of the great rivers. At present the special branch which deals with this work—the "Diyara (Dearah) Survey" as it is called—is confined to the Dacca Division. It is worked by non-professional agency under the Deputy Collectors. The object is to "identify and relay on the ground the boundaries of villages which have been subject to fluvial action and of which the boundaries cannot in consequence be identified; also to ascertain and assess lands which have been added to the estates by accretion. (Board's Revenue Administration Report, 1879-80, § 92.)

Act V of 1875. It is not my intention to go into any detail as to the procedure, but a general outline may be stated so as to furnish a clue or guide to the study of the Act itself when necessary.

The Act allows a survey to be made extending not only to districts and to estates, but, if ordered, to defining fields and the limits of tenures.

After provisions relating to establishment, the Act requires a proclamation to be issued, and persons to attend and point out boundaries, clear lines, and so forth, so that the survey may begin.

When the demarcation is complete, the persons who pointed out the boundaries are required to inspect the papers and plans representing such boundaries, and to satisfy themselves as to whether the boundary-marks have been fixed according to their information. The plans and papers are to be signed by these parties, in token that the marks *are* shown in the maps or papers in the places where they declared they should be.

The Collector can always set up temporary marks, and may set up permanent marks; and, after notifying their number and cost and giving opportunity for objections to be heard, he may direct the cost to be apportioned among the land-owners or tenure-holders concerned. Provision is made for the permanent maintenance of these marks[8].

Passing over the detailed provisions for determining who shall bear the cost of the boundary-marks, and how it is to be apportioned, I proceed to the subject of boundary disputes[9]. Here the Collector is to decide on the basis of actual possession, and his order holds good till it is upset by competent authority. If possession cannot be ascertained, the Collector may attach the land till one party or the other obtains a legal decision; or the Collector may, by consent of the parties, refer the matter to arbitration. There are also excellent provisions for relaying any boundary which has once been decided, but which has become doubtful or disputed.

[8] Sections 19 and 20.

[9] See Part V, section 40 *et seq.*

Full provisions also will be found for protecting boundary-marks from injury and restoring them when damaged.

The Act, it will be observed, does not say anything about the records and registers which the Survey Department prepare. These particulars, and rules about the scale, and so forth, must be sought for in the Board's Revenue Rules.

Section IV.—Partitions.

This topic generally finds a place among the topics of revenue procedure. Owing to the fact that by the native laws, the sons or other heirs succeed together, it follows naturally that any one of a joint body of owners may reasonably require that his interest and share should be separated off and assigned to him. This process is called "batwára" or partition. But, then, such a separation may affect the Government revenue: since, if an estate assessed with, and liable as a whole for, one sum of revenue, is afterwards divided into, say, four properties, the Government interest would be considerably affected, unless the whole estate remained, as before, liable for the entire revenue.

This fact has led in Northern India to a distinction between "imperfect" and "perfect" partition. When the partition is imperfect, the different shareholders get their rights separated and declared, but the whole estate still remains liable to Government for the whole revenue. In "perfect" partition the responsibility to Government is also divided, and the shares henceforth become separate estates, entirely independent one of the other. It has always been therefore a moot question how far partition should be allowed. The question, indeed, has most interest in those provinces where the village system is in force. That system, as the student will have sufficiently gathered from the Introductory Sketch, is based on the joint responsibility of the community, so that a partition may affect the security of the Government revenue, also the bond of union which the village system secures.

In Bengal this latter effect is not felt; but still the breaking up of one compact estate liable to sale as a whole, for the revenue

assessed on it, into a number of petty estates, each separately liable for its fractional assessment, and possessing a very reduced market value in consequence of its small size, has been felt to be a real difficulty. On the other hand, there are interests which benefit by partition. The tenants on a joint estate are often seriously harassed by having to pay their total rent in a number of fractions to different shareholders, each insisting on collecting his own separate payment. A separation of the interests tends to alleviate this[10]. The question, therefore, of regulating partition long remained under discussion. It had been dealt with by Regulations in 1793, 1801, and 1803. In 1807 a limit had been put to the division, and no share assessed with less than Rs. 500 revenue was allowed to be separated. This Regulation, however, was thought to go too far, and was afterwards repealed[1]. The subject has been more recently set at rest by the passing of Bengal Act VIII of 1876.

This Act contemplates only one kind of partition, *i.e.*, the complete separation of the estates, not only as regards the private rights, but as regards the responsibility for the revenue. But no partition made after the date of the Act coming in force (4th October 1876) other than under its provisions, though it may bind the parties, can affect the responsibility for Government revenue. There is a limit, but only a very low one, to partition: if the separate share would bear a revenue not exceeding one rupee, the separation cannot be made, unless the proprietor consents to redeem the land revenue, under the rules for this purpose. Partition can be refused when the result of it would be to break up a compact estate into several estates consisting of scattered parcels of land, and which would, in the opinion of the Collector, endanger the land-revenue[2].

For the procedure of a partition case, how disputes are settled, how the final order is recorded, the Act must be referred to. The proceedings are held "on the revenue side" before the Collector.

[10] This difficulty of fractional payments will be found discussed in Macneile's Memorandum, Chapter XVII.

[1] By Regulation V of 1810.

[2] Bengal Act VIII of 1876, sections 11 to 13.

SECTION V.—RECOVERY OF GOVERNMENT REVENUE.

The simple remedy contemplated by the early Regulations was, that if the revenue was not punctually paid, the estate, or part of it, might be put up for sale. The effect of this law has been noticed in a previous chapter on the permanent settlement.

The present law on the subject is to be found in Act XI of 1859, as amended and amplified by Bengal Acts III of 1862 and VII of 1868, and still more recently by Bengal Act VII of 1880 for the recovery of "Public Demands."

An "arrear" accrues, if the "kist" or instalment of revenue due for any month remains unpaid on the first of the following month. In some cases notice for fifteen days before sale is required, and the later Act enables Government to empower Collectors to issue warning notices in all cases[3].

Sharers of joint estates can protect themselves from their shares being sold for arrears along with the rest of the estate, by applying for and obtaining an order for a "separate revenue account" of their share as I mentioned on a previous page. But if on a sale being notified (subject to the exception of the separate shares), it is found that the estate subject to such exception, will not fetch a price equal to the amount in arrear, then notice is given that, unless the recorded sharers make up the arrears and so save the estate, the whole estate will be sold. I pass over the rules for re-sale in case the auction-purchaser fails to pay the purchase-money in due time, and here only notice that there is an appeal to the Commissioner against a sale in certain cases[4]. The Commissioner may also suspend a sale in cases of hardship, and report to the Board, on whose recommendation the sale may be annulled (after it has taken place) by the local Government. The jurisdiction of the Civil Courts to annul a sale, on a regular suit being brought for the purpose, is also defined[5].

[3] Sale Act XI of 1859, section 5; and Bengal Act VII of 1868, section 6.
[4] See Act VII of 1868, section 2; Act XI of 1859, section 26.
[5] Act XI of 1859, section 33.

As already noticed, a sale for arrears hands the estate over to the purchaser with a clear title: the purchaser may void and annul all leases and subordinate tenures, except those specified in section 37 of the Act XI and those which are protected by registration [6]. "Tenures" or interests like fisheries and other interests arising out of lands not being "estates" (land or shares in land paying revenue) may be sold like estates for arrears of revenue [7].

It should be remembered that in all Government estates, *i.e.*, where the Government is theoretically the proprietor and the cultivators are its tenants, as well as in all cases where money due under any Acts is legally recoverable "as arrears of land revenue," the procedure is under Act VII of 1880. The Collector records a certificate of arrears [8], which certificate has the effect of a decree of Civil Court and may be executed accordingly. A private landlord can only pursue his tenants either under the rent law or the special law applicable to the under-tenures called "patnís."

SECTION VI.—RENT LAW.

It is not possible in the space available to me, nor would it be necessary for the purpose of this Manual, to do more than indicate the outlines of the laws of rent and its recovery. Under the early Regulations no sufficient provision was made for the landlord recovering his rent, and consequently he was frequently unable to pay his revenue, and his estate was sold up. This evil was soon remedied; but the law rather impaired the status of the raiyat. These powers of rent recovery are still remembered as the "qánún haftam" and "qánún panjam" (alluding to Regulations VII of 1799 and V of 1812). Under the former the tenant's person could be seized in default, and under the latter his property could be distrained. Under either case, "the proceedings commenced with what has been described as a strong presumption equivalent

[6] See Act XI, section 38, &c.
[7] Act VII of 1868, section 11.
[8] See Bengal Act VII of 1880, section 5.

to a knock-down blow against the raiyat." The solution of the difficulty did not immediately appear, and it was not till 1859 that the rent law was codified. It is clear that in a country like Bengal, where the proprietary position of the zamíndár is more or less artificial, and where the "tenants" are in a large number, if not in the majority, of cases, the original landowners[9], and would, had the village community survived as in the North-Western Provinces, have themselves become the landlords;—it is obvious under such conditions that a rent law cannot merely occupy itself with a procedure for obtaining a decree for arrears, selling the defaulter's property, and distraining his crops.

It is necessary to determine what classes of tenants the landlord can eject at his pleasure, or at least on the termination of his lease or other agreement, and what tenants are entitled by their antecedents and real position, to be recorded as having "occupancy rights." Then, again, as an occupancy right would be useless if the rents were liable to enhancement solely at the will of the landlord, it becomes necessary to determine what rents are unenhanceable, and on what principles those fairly liable to increase may, from time to time, be raised.

Act X of 1859, the first general rent law (which was not invented in Bengal, but originated in the North-Western Provinces), deals with both branches of the subject. It was the first to announce the general "arithmetical" principle of tenant-right; namely, that every tenant who himself or by his ancestor had held continuous possession (for the then general period of limitation) twelve years, should be declared an occupancy tenant. This principle of an arbitrary but equitable prescription which would serve as a title, may have been no more than just, where the people seeking their rights were the weaker party, down-trodden and ignorant, unable to understand the value of documentary evidence, and to know how to prove ancient andancestral possession.

[9] At any rate, they were resident cultivators, and, according to alleged custom, not liable to ejection.

The Act, besides fixing the rights of occupancy, endeavoured to lay down principles under which the rents of all such occupancy tenants could alone be enhanced. But these, it was soon found, were by no means easy of comprehension, still less so of application.

The case in 1865, known as the Great Rent Case, in which all the fifteen Judges of the High Court gave interesting and learned judgments on the subject, and examined the history of Bengal tenancy generally, though it resulted in a rule accepted by the majority, can hardly be regarded as having afforded a practicable or satisfactory solution of the enhancement question.

The Act X of 1859 was distinguished as regards its method of recovering rents by establishing special suits in *Revenue* Courts and prescribing a special procedure to be followed in such cases. As this procedure is supposed to be easier for the more backward and less "Regulation" districts, the Act is still retained in some places, *e.g.*, in the Orissa districts, in the Darjiling and Jalpaigúri districts[10]. In the other districts[1] it has been superseded by Bengal Act VIII of 1869, which, however, in great part re-enacts Act X, but hands over rent suits entirely to the Civil Courts; and this forms the distinguishing feature of it. The right of occupancy is declared, as before, on the twelve-years' rule. Nor has any alteration been made in the rule of enhancement. There are provisions for immediate and summary execution of decrees for ejectment. Under-tenures may be sold also for arrears of rent[2].

The Act declares the produce of land to be held as hypothecated for the rent; and distraint and sale may be resorted to instead of a suit[3]. But distraint cannot be made for arrears that have been due for more than a year. The crop is liable to distraint even when it has been reaped, if it is still on the ground or on the thresh-

[10] Not in Sontalia, which is under a special Regulation; nor in the districts of Chutiya Nagpúr, which have a special Landlord and Tenant Act of their own (I of 1879).

[1] See Notification in *Calcutta Gazette*, 2nd March 1870.

[2] Act VIII of 1869, section 59; Act X of 1859, section 105; and Bengal Act VIII of 1865, section 4, &c. Patni tenures are still sold under Regulation VIII of 1819 as explained by Act VI of 1853.

[3] Act X of 1859, section 112; Act VIII of 1869, sections 6 to 8.

ing-floor or like place, but not after it has once been stored. Then it becomes ordinary movable property, and can only be taken in execution of a decree just like any other property.

Both Acts agree in keeping up the law which, indeed, has been always a principle recognised in Bengal for the protection of the tenant, *viz.*, that every tenant has a legal right to demand a "pattá" or a written document specifying the extent of his tenure, the terms of rent, and so forth: and every one who gives a pattá can claim a counterpart or kábúliyat[4].

At the time I am writing, a Commission to enquire into the whole subject of rent law has presented its report, and a draft Code revising the rules of enhancement and other matters of the first importance to the tenantry, has been submitted.

It is too early at present to say anything of the draft proposed, since it is uncertain how far it will go in recognising further securities for the "tenant." Public opinion in these matters oscillates slowly; at one time the feeling is in favour of the tenant side, at another it tends back to the landlord's interest. The fate of the proposed legislation will, in the nature of things, be much dependent on the state of public opinion.

Section VII.—Other branches of Revenue duty.

There are other branches of a revenue officer's duty which occupy a considerable space in the Revenue Manuals. The procedure of the Collector as a Court of Wards, managing estates of minors, and the procedure for managing lands attached by order of Court, are instances. It is not within the scope of this Manual to deal with these branches; they are all fully provided for by the Board's Revenue Rules.

Nor can I go into the questions of agricultural embankments[5], the rules for "Taqávi," or advances made for land improvements[6].

[4] Act X of 1859, sections 2 to 9; Act VIII of 1869, sections 2 to 10.
[5] Bengal Act VI of 1873.
[6] Act XXVI of 1871.

The road cess assessment and collection under Bengal Act IX of 1880 forms, in Bengal, another special branch of a revenue officer's duty. In other provinces, as a rule, a cess for the same purposes is assessed along with the land revenue, and is collected at the same time and by the same process. In Bengal, the arrangements of the permanent settlement did not include this, and therefore an Act was required, which makes not only estates, but every kind of tenure and cultivating holding, liable to pay a small contribution to the maintenance of a fund for roads and communications.

The acquisition of lands for public purposes under Act X of 1870 is practically a branch of revenue duty, as it is the Collector who makes the first award of compensation, and as when the land is expropriated the revenue on it has to be remitted, and the "taujih" department is consequently concerned.

Full instructions regarding the form of submitting a proposal to expropriate lands, and other details of procedure, are to be found in the Board's Rules; a reference to these and to the Act X of 1870, will make the whole matter clear. Further detail here is not required[7].

[7] The Waste Land Rules have also a great importance in Bengal, as there are still lands available in the Assam districts, in Cachar, about Darjiling, and in the Sundarbans. An interesting account of the various rules for the disposal of waste lands, their successes, and their defects, will be found in Macneile's Memorandum, pages 106 to 128.

BOOK III.

THE REVENUE SYSTEM AND LAND TENURES OF UPPER INDIA.

THE REVENUE SYSTEM AND LAND TENURES OF UPPER INDIA.

INTRODUCTION.

THE Revenue systems of the North-West Provinces, the Panjáb, Oudh, and the Central Provinces bear such a strong family resemblance to one another, having all originated in the same law and its authorised commentaries, that it has been judged best to treat of them together.

The original basis of the whole system is to be found in Regulation VII of 1822, as afterwards modified by Regulation IX of 1833. I will briefly repeat the history of these Regulations, although I have already given it in the fourth chapter of Book I.

The Regulations for the Permanent Settlement applied only to the districts of Bengal proper, but were extended in 1795 to those of the Benares Province. But in the course of time the British Empire expanded: new provinces and districts were acquired by cession or conquest, and required a Revenue Settlement. Among the earliest of these was the Cuttack (Katák) province, acquired in 1803. The Permanent Settlement rules were clearly inapplicable, and a special settlement, or rather series of short settlements, legalised in 1805, were made. In the following years the "ceded" and "conquered" districts, that make up a considerable portion of the North-Western Provinces, were rapidly acquired, and also demanded settlement. All this time experience in Revenue Administration was being gained, and the defects of the Permanent Settlement and the impossibility of its general application, were recognised. Moreover, in 1820, the Minutes of Sir T. Munro, on the raiyatwárí system, had begun to excite interest.

When, therefore, the Katák Settlement of 1805 expired and the other provinces required regular settlement for the first time, a new settlement law was needed; and the subject was approached with views considerably different from those which had prevailed in 1793. The new settlements were, in fact, provided for on an improved basis, and Regulation VII of 1822 embodied the new method. The system so inaugurated met with general approval, and in 1825 Regulation VII was extended to all other districts in the Presidency of Bengal to which the Permanent Settlement had not applied[1]. In 1833 (by Regulation IX) the law was improved in some important particulars; and these Regulations then became the basis of the Revenue system of all Upper India, and afterwards that of the Central Provinces. Around the Regulations themselves were soon collected a valuable body of practical Commentaries, such as the "Saháranpur Instructions," the "Rules for the Saugor and Nerbudda Territories, 1853," and other Settlement Orders, which find their best known representative in the "Directions for Revenue Officers" by Mr. Thomason[2].

When the Panjáb and (later still) Oudh were annexed, and when the Central Provinces were united into a separate Local Administration, it was determined to settle them on the same principles. Regulation VII of 1822 was not indeed actually put in force[3] in all these provinces, but the Settlement and Revenue Officers were directed to follow its spirit, and Settlement Circulars were issued for their instruction, on the basis of Mr. Thomason's work and the other official papers already alluded to.

The original settlements made under these Regulations have expired, and the Regulations themselves have been repealed or

[1] And the Regulation is declared by the Laws Act of 1874 to apply to all the Lower Provinces (Bengal) except the Scheduled Districts. Here it is still in force.

[2] This work appeared in 1849. It consists of three parts, (1) Introductory remarks, (2) Directions to Settlement Officers, (3) Directions to Collectors. The work was specially re-edited for the Panjáb by Mr. D. G. Barkley in 1875.

[3] In the Panjáb at least this was doubted; for the Panjáb had never been formally declared part of the Bengal Presidency, and it was to *that* that the Regulation extended.

superseded by the modern "Land Revenue Acts." I have therefore adopted the plan of describing the settlement as it would be under the modern law. The earlier Regular Settlements were made with less elaboration, but still on the same general plan, as regards defining boundaries, survey, making a record of rights, and so forth. The survey has since been developed and perfected; the forms of records have been much improved, and the method of calculating the rate of revenue assessment has, especially in the North-West Provinces, undergone a marked change. But still the modern settlements recognise and preserve the salient features of the original system; and the modern law, though differing in details, still breathes its spirit.

As the system is so much alike in all the provinces, I have, as already remarked, determined to give one general description of it, taking up each branch of settlement work in order as it naturally follows. Where, however, the law or practice in any branch is really different in the several provinces, I have at once cast the rules and practice of each into the form of a separate paragraph relating to the one province only. The land tenures are described in a separate section for each province.

At the end of the chapter, appear two brief appendices which will give an account of the revenue system and land tenures in those parts of each province which are "Scheduled Districts," and not under exactly the same revenue law as the rest.

It is only for the **Panjab** and **North-West Provinces** that these notes are required. In **Oudh** there are no scheduled districts. In the **Central Provinces** the districts of this class are certain remote and wild districts or estates held by Chiefs. In these Chiefships no enquiry has been made into rights in land. The Chief is called on to pay into the Government treasury a certain annual sum or tribute, and he is left to manage his estate and take revenue or rent from the people, according to ancient rule and custom. The ordinary revenue laws do not apply to them, nor is there any revenue system in force. Consequently, they do not require any notice in this Manual.

In the Panjab the appendix notices only the Hazára district, as being governed by a special Regulation. There are some other "Scheduled Districts," but as regards settlement and revenue law, they exhibit no different features from the ordinary districts, and require no special description.

For the North-West Provinces a few words of explanation as to the districts requiring a separate notice in the appendix may be added.

The Scheduled Districts, which exhibit some exceptional features in their land and revenue systems, include several mountain districts in which large forest tracts have been reserved to Government: they therefore claim a special notice in this Manual.

All the districts called "Scheduled," under Act XIV of 1874, are not exempt from the ordinary revenue law: the three districts of the Jhánsi Division (Jhánsi, Lalitpur, and Jaláún), though scheduled, are, in revenue matters, governed by the same law as the Regulation districts[4].

Kumáon.
Garhwál.
The Tarái district.
The Jaunsar Báwar pargana of Debra Dún.
Certain tappas of Mirzapur and the tract south of the Kaimúr hill range.

The districts noted in the margin, however, have more or less exceptional rules of revenue management, and peculiarities of land tenure, and so are noticed in the appendix.

[4] As regards the three districts of the Jhánsi division, the present system of district administration virtually dates from 1862, when orders were issued by the Government, North-Western Provinces, assimilating the system to that of the Panjáb and Oudh, *i.e.*, uniting the Civil, Criminal, and Revenue jurisdiction in the Deputy and Assistant Commissioners and Tahsíldárs. These rules were legalised by an Act of 1864, which has been since repealed under the Act XIV of 1874. Now, the districts of the Jhánsi Division have become "scheduled districts" by Notification No. 687A. of 9th November 1877.

The Civil, Criminal, Police, and other organic laws do not differ from what they are in other districts. The Civil Procedure Code also has been extended, with the exception of certain sections.

The settlement was made under the usual North-West system, and the Rent and Revenue Acts are in force. By a reference to section 1 of the Revenue and Rent Acts, it will be seen that the Acts apply to the whole of the North-Western Provinces except certain districts mentioned in schedules appended to them. These schedules exempt all scheduled districts (Act XIV of 1874) *except* Jhánsi, Lalitpur, and Jaláún.

I should take the opportunity of remarking that the districts of the "Benares Province[5]," which were permanently settled in 1795, require no special notice. All that has been said of the Permanent Settlement in the preceding Book (II) applies to them. They have now been surveyed and records made for them, and except in the one fact that the assessment is permanent, they do not differ from any other "Regulation" district in the North-West Provinces. The Land Revenue and Rent Acts apply to them as well as to the districts not permanently settled.

The subjects of this Third Book will be divided as follows :—

CHAPTER I.—*The Procedure of Settlement.*

CHAPTER II.—*The Land Tenures.*

Section 1.—North-West Provinces.
„ 2.—Oudh.
„ 3.—Panjáb.
„ 4.—The Central Provinces.

CHAPTER III.—*The Revenue Business, Officials, Courts, and Procedure.*

APPENDIX.—*Note A.*—On the Scheduled Districts of the North-West Provinces.

Note B.—On the Hazára District in the Panjáb.

[5] Benares, part of Mirzapur, part of Azimgarh, Ghazípur, and Jaunpur acquired by treaty in 1775 from the Nawáb of Oudh. They were at first left in the hands of the Rája, who paid a fixed revenue or tribute to Government. Some further changes occurred in 1781, and the districts were finally brought under the Regulations and permanently settled in 1795. I mention this because, in different books and reports, I have found all the three dates which I have included, respectively given as the date of annexation. There is no doubt that the treaty of 1775 gives the real date of the province actually becoming British territory.

CHAPTER I.—THE PROCEDURE OF SETTLEMENT[6].

The term "Settlement[7]" will already convey a definite meaning to those who have read the introductory sketch in Book I. Under the system which we are to study, it is the operation by which Government, through a properly appointed staff of officials, ascertains the amount of "Revenue" it is to take from the land, and determines the persons who are to be allowed to engage for the payment of the revenue, and who consequently are vested with the proprietary title in the land itself. As the determination of this proprietary title gives rise to further questions regarding various classes of persons interested in, or connected with, the land, it is an essential feature of the Upper Indian Settlement, that an enquiry into these rights should be held, and a subsequent authoritative record of them made. All customs and local practices affecting the payment of revenue, and the management of the "estate," are also recorded.

Hence a settlement involves proceedings which are partly *judicial* and partly *fiscal*.

The progress of a settlement indicates a series of subjects, to be described in the order in which they naturally occur in actual

[6] The chief authorities referred to are the following, and their full title has not been repeated in each reference:—

North-West Provinces.—Circular Orders of the Sudder Board of Revenue (= S. B. Cir.); the Revenue Act XIX of 1873; Colvin's Settlement Manual, 1868; Thomason's Directions to Revenue Officers, and Colvin's Memorandum on the Revision of Settlements, North-West Provinces; Rent Act XII of 1881.

Oudh.—Major Erskine's Digest of Settlement Circulars, 1871 (= Digest), and the Government Circulars of later date; the Revenue Act XVII of 1876; Rent Act XIX of 1868.

Panjáb.—Panjáb edition of Thomason's Directions, 1875; Land Revenue Act XXXIII of 1871; Rules made under the Act (= Rules); Tupper's Panjáb Customary Law, III vols., Calcutta, 1881 (Government Press).

Central Provinces.—Settlement Code of 1868; Nicholls' Digest of Circulars; Land Revenue Act XVIII of 1881.

The numerous Settlement Reports in each province are referred to throughout; also Mr. Stack's Memorandum on Current Temporary Revenue Settlements, prepared for the Government of India, and printed in the Home, Agriculture, and Revenue Department Press, 1880.

[7] "Settlement" is sometimes used in a more restricted sense to mean simply the engagement or contract to pay a certain sum of revenue, as when we say "so and so has accepted a settlement for so much."

practice. These subjects I have made the headings of the sections of this chapter: they are as follows—

Section 1.—The procedure by which a settlement is set in operation.
„ 2.—Demarcation of village boundaries.
„ 3.—The survey.
„ 4.—The inspection of village lands and assessment of the revenue.
„ 5.—The close of the settlement.
„ 6.—The permanent records prepared at settlement.

Section 1.—Of the Procedure preliminary to Settlement.

§ 1.—*How a settlement is set in operation.*

A settlement, or such part of the proceedings of a settlement as may be necessary, is in all cases set in operation by a notification in the official Gazette, which specifies the district or other local area.

North-West Provinces.—In these provinces, where all districts had already been settled, some of them more than once, before the existing Revenue law, Act XIX of 1873, came into force, nothing more is prescribed[8] than that the notification should place the area generally "under settlement," or declare that a "record of rights" only is to be prepared. It might be the case, that the record of rights in a permanently-settled district required preparation or reconstruction; it is therefore convenient that the Government should be empowered to prepare such a record, though there is no question of altering the assessment.

Oudh.—Under the Revenue Act (XVII of 1876), the provisions are practically the same[9], namely, that where the whole series of operations comprised in a settlement is not required, power is given to prepare a "Settlement Record" even though a complete settlement involving a new assessment is not contemplated. Under the Oudh Act this "Settlement Record" is at the discretion of

[8] Act XIX of 1873, section 36.
[9] Act XVII of 1876, section 14.

Government as to what papers (registers, statements, &c.) it is to consist of, and what facts it is to record. Both Acts direct the appointment of Settlement Officers and Assistant Settlement Officers who will exercise the powers conferred by, or conferable under, the Acts.

Panjab.—As this province had been but a short time under British rule, and, when the Revenue Act (XXXIII of 1871) was passed, a number of districts had still to be settled in regular form for the first time, the subject is dealt with more at large. It is explained[10] that a district may be "under settlement" either for the purpose of assessing the revenue, or for enquiring into and recording the rights of persons interested in the land, or both.

Section 10 explains further that when there has been a provisional adjustment of the revenue only (as there usually was when we first took charge of a district), that is called a "Summary Settlement;" when, however, there was afterwards a complete settlement, consisting *both* of an assessment of revenue and a record of rights, that is called a "First Regular Settlement."

A "re-settlement" is (as naturally follows) when either or both of those portions of a regular settlement are revised or gone over again, on the expiry of the previous term.

The "settlement notification" defining the local area (as in the other provinces) declares further which of the above described settlements is ordered, or what portion of the operations of a settlement is to be carried out, and what officers are to do the work. It is usually accompanied by a notification investing the Settlement Officers with Civil Court powers, as will be afterwards explained.

Central Provinces.—The law provides for a notification indicating the local area to be settled, and simply adds that the Chief Commissioner is to specify what operations are to be carried out[1]. The Settlement Officers are then appointed as the Act directs.

[10] Act XXXIII of 1871, sections 7-13.

[1] Act XVIII of 1881, section 28. A "revenue *survey*" can be ordered by notification at any time, independently of a settlement (section 27).

§ 2.—*Settlement Officers.*

In all provinces the officer in charge is called the Settlement Officer, and there may be Assistant Settlement Officers. There are also subordinate officers who may be locally known by different titles, but they carry out a great deal of the detailed work, subject to revision by the Settlement Officer. The Acts always provide for the investiture, by the Local Government, of any person employed in this way with such powers as may be necessary. In the Panjáb we have "Superintendents" (who are often Extra Assistant Commissioners) and Deputy Superintendents of Settlement. The same title is, or was, in use in the Central Provinces[2].

The Commissioners, and finally the Board of Revenue, control Settlement Officers in the North-West Provinces. In Oudh the Chief Commissioner is the controlling authority. In the Panjab there is a Settlement Commissioner, who controls all or certain settlements as may be appointed, with final reference to the Financial Commissioner. In the Central Provinces there is also provision for a Settlement Commissioner[3].

It will be borne in mind, as regards the group of provinces generally, that in a number of districts, the regular settlement is now a thing done and past, and the *whole* work will not (if the records are properly kept up from year to year) have to be gone over again; the boundaries are all ascertained, and the surveys made, so that much of what we describe in this chapter will be descriptive rather of what *has been* the procedure, than of what *has to be*, in any future settlement, gone through. Nevertheless, there may be re-settlements and revisions of records, or altogether new settlements, in which the procedure will still have to be followed in some or all of its branches.

[2] In the Central Provinces Act (XVIII of 1881, section 29) all the officers appointed to the work are called Settlement Officers; if more than one is appointed, there is to be one to whom the rest are subordinate, and he is called the Chief Settlement Officer.

[3] Act XVIII of 1881, section 32. In the Panjáb the appointment is not provided by any special enactment.

Section II.—Determination of Boundaries.

§ 3.—*Boundaries of districts and tahsils not a settlement matter.*

The boundaries of districts and revenue or fiscal sub-divisions are, of course, public matters and do not affect any private right; they are determined by Government under the powers vested in it by law[4].

§ 4.—*Village and field boundaries.*

Not so the boundaries of mauzas or villages, or the boundaries between one man's field and another. As the object is both to assess revenue on definite areas, and to secure all classes of rights which also subsist on lands also of definite area, it is evident that a survey and registration of lands is a necessary preliminary (supposing such not already to exist) for a settlement. But before any survey can be made, all boundary disputes must be settled, or, at least, it must definitely be known that such and such a line is in dispute, so that it may afterwards be put in correctly when determined by proper authority. The village boundaries are first settled before the revenue survey begins, and then other boundaries may be settled if necessary, when the field-to-field survey comes on. But such disputes are generally of a different kind to village boundary cases, and usually depend on some claim to right which is settled by a land case in Court.

[4] Act XXI of 1836 (for Bengal, North-West Provinces, and Panjáb) gives power to create new zilas or districts; Act XIX of 1873, section 14, provides for sub-divisions in the North-West Provinces; Act VI of 1867 provides also for altering boundaries of districts in the Panjáb, but no mention is made of the sub-division of districts. This matter is settled under Financial Commissioner's B. Circular XXV of 1864 (Barkley's "Directions," § 43, p. 16). Act XVIII of 1876 (Oudh), section 45, provides fully for the whole subject,—districts, sub-divisions, &c. Central Provinces Act XVIII of 1861, section 14, also provides fully for abolishing districts and tahsils or creating new ones, and altering the limit of those now existing.

For purposes of Civil and Criminal jurisdiction, the Procedure Codes contain provisions which apply to all districts to which the Codes apply.

The Revenue Acts contemplate this[5]. The Settlement Officer is empowered by all the Acts to call upon proprietors to restore or erect boundary marks. A boundary dispute is distinguishable from a dispute about a right to land: two persons may, for example, be in possession, generally, of contiguous lands, but may be in doubt as to the precise line of demarcation between their respective possessions. If one party shows that, rightly or wrongly, his possession extends to a certain point, that is the boundary line according to possession. A question of right, that the boundary ought to go in some other direction, is a question for a civil suit, unless the law enables it to be decided by arbitration.

§ 5.—*Question of possession.*

In the "Directions" it is said that possession can never be unknown, but, remarks Mr. Auckland Colvin[6], it is sometimes difficult to discover:—

"A field is often entered during successive years in the *jamabandi* of both disputing villages; the crop grown, the amount thereof, the name of the owner and cultivator, are elaborately recorded. Inquiry on the spot and from neighbouring zamíndárs by no means always clears the matter. These are often either indirectly interested or ignorant. It is well in such cases carefully to examine the *roznamcha* and *bkykhatta* (bahi kháta) of the patwáris concerned and to ascertain in which patwári's papers entries regarding the field in question are most frequent. These papers are less open to suspicion than the *jamabandi*, as reference to them is less looked for."

In waste or uncultivated land, disputes are more likely to arise. Here reference must be had to former maps prepared by authority. These may not always be forthcoming, or there may be reason to doubt their accuracy; then there must be a recourse to arbitration or to a civil suit.

§ 6.—*Settlement of disputes.*

By the Oudh and North-West Provinces Acts, the Settlement Officer may settle boundary disputes, but is bound to decide on the

[5] North-West Provinces Act XIX of 1873, section 40; Oudh Act XVII of 1876, section 23; Panjáb Act XXXIII of 1871, section 22; Central Provinces Act, section 45.

[6] Settlement Manual, 1868, p. 4, s. 6.

basis of possession, or refer the matter to arbitration[7] for decision on the merits. In the Panjáb Act it is not expressly said what is to be done in case the boundary is disputed, but section 23 authorises the Settlement Officer (if empowered by the Local Government) to refer *any* matter in dispute to arbitrators with or without consent. Nor does the Panjáb Act say that a disputed boundary (when not submitted to arbitration) is to be settled on the basis of possession as it does in the other Acts; but there is no doubt that it has been the practice to do so; a person distinctly out of possession must go to the Civil Court and establish his right. The Central Provinces Act does not specifically allude to boundary disputes; but sections 68, 69, 72, all give power, in regard to different classes of land, to ascertain the persons in possession.

In cases in which possession or boundary questions can be decided by arbitration, the Act empowers the Local Government in the Panjáb to prescribe the powers and procedure of arbitrators. In the North-Western Provinces and Oudh, these matters are noted in the Revenue Act itself. The Central Provinces Act does not specifically allude to arbitration; but section 19 gives power to make rules and to extend the provisions of the Civil Procedure Code, under which arbitration can be applied and regulated.

I have only here spoken of the powers in determining boundaries, which Settlement Officers have as such. But under the Central Provinces, Oudh, and Panjáb laws, Settlement Officers may be invested with judicial powers as Civil Courts, to hear land cases. Their powers in this respect will be more conveniently noticed at a later stage.

Assuming such powers to have been given, it practically comes to this: that the demarcation is first of all to be done by the people themselves; they put up the necessary marks; if they do not, the Settlement Officers have power to do this and charge the cost on the parties concerned. In some cases this cannot be done, owing to a

[7] In the North-West Provinces consent of parties is not necessary to a reference, if the reference is ordered by the Settlement Officer (section 220). It *is* in Oudh (section 191). Where possession cannot be made out, and where arbitration is not resorted to, the only remedy is a regular civil suit.

dispute. In the North-Western Provinces and Oudh the Settlement Officer can only summarily decide on the basis of possession (unless arbitration is resorted to), leaving the parties to decide the question of right in the Civil Court. In the other provinces, the dispute being known, the Settlement Officers may decide the whole case, acting under their Civil Court powers.

These remarks only apply to the adjustment of boundaries during a settlement. In case of a disputed boundary occurring afterwards, it would be decided under the ordinary law.

§ 7.—*Thákbast.*

It was the uniform practice, in demarcating village boundaries at settlement, to identify important points, such as the junction of the boundaries of three or more villages, by masonry pillars ("trehaddi" or in the Persian form "sih-haddi") different in form from other pillars or marks[8]. Wherever there had been a dispute, a continuous trench was dug, or more than usually conspicuous and permanent marks were set up. Charcoal and other substances were often buried under the pillars, so that, even if the superstructure is destroyed, the site of the pillars may be easily determinable. In most other cases earthen or mud pillars are sufficient and are generally used.

In cases where there had been no previous regular settlement, or where new maps had to be prepared, a "thákbast naksha," or boundary map, was prepared for each village[9]; and with it there was also drawn up a formal record[10] showing the manner in which the boundary lines were ascertained, and the proceedings in connection with the decision.

The procedure for the repairs and maintenance of boundary marks at all times, *i.e.*, after the settlement is over, will be found in the chapter on "Revenue business."

[8] See Directions (Panjáb edition), page 5, §§ 13–15; (North-West Provinces), S. B. Cir. Dep., ‡ p. 1.

[9] (Panjáb) Rules, head C., Section III, p. 52.

[10] *Id.*

§ 8.—*Demarcation in Oudh.*

In Oudh the demarcation of boundaries was so important that the Settlement Circulars treat "demarcation" as a distinct branch of work. There was also a special staff employed at the settlements for it. The work was done by amíns and munsarims, supervised by a "sadr munsarim," who remained with the demarcation officer[1]. As the Revenue Survey only dealt with exterior boundaries of villages, only these were shown in the maps, but supplemental maps of interior divisions were made for the use of the Settlement Officer and for the native staff who made the khasra or "field-to-field" survey.

One difficulty in Oudh (especially in the eastern districts) resulted from the way in which the lands belonging to one estate (held by a separate and jointly responsible body) were interlaced with the lands belonging to other groups. The cause of this has been stated in the introductory chapter on Tenures. When a number of villages belonged to certain "zamíndárí" joint families and came under division, the plan was for each branch to get, not an entire village, but a certain slice of each village in the joint estate. When, therefore, a separate settlement had to be made for the several estates divided off, the lands which had to be assessed together as one mahál, lay some in one village, some in another. When the location of lands in an estate is thus scattered, it is said to be "khetbat." When the division is into compact blocks, it is said to be "pattibat[2]." When the lands are khetbat, you may find an estate (*a*) with some of its lands in each of several villages; (*b*) consisting of one or more villages as a whole, but some lands of another estate included in the villages; (*c*) consisting of one or more entire villages, but with some outlying lands in other villages.

Such internal divisions are very important, because the revenue is not, under the system we are studying, assessed on each field separately, or on a group of fields, merely because they lie close

[1] Erskine's Digest, section II, §§ 20-22.

[2] The same thing occasionally occurs in the North-Western Provinces, and is spoken of as the qita'bat and khetbat distribution respectively.

together; but on a mahál or estate owned on the same title, by the same individual or body. The internal divisions of villages were accordingly mapped for the use of the Settlement Officer, and demarcated by pillars of a particular form to distinguish them from the village boundary pillars[3]. When a tract was ready, the thák-bast maps were made over to the survey, and the "misls" (files of proceedings) relating to the boundaries made up.

The boundaries of waste lands attached to, or separated from, villages were indicated by a continuous ridge[4] ("mend").

§ 9.—*Waste land included in boundaries.*

This is a convenient place to notice a subject of considerable practical importance. I allude to the question how far waste and jungle land, *included* in the local area of a village, was held at settlement to *belong to the* estate.

In all the provinces there have been large tracts of waste, hilly country covered with forest, "bár lands" (as they are called) in the centre of the Panjáb "doábs[5]," and similar unoccupied lands, which have not come under the operation of the settlement at all, but remain to be disposed of by Government. Putting aside, however, these extensive wastes, there are many districts in which the whole area came under settlement, although the actually cultivated lands were limited and separated from one another by intervening tracts (of greater or less extent) of forest, jungle, barren land, grass land, or other description of "waste." In many cases this waste was known by the local name of one or other of the "mauzas" or villages adjoining it. And the question arises—what has been the rule? Was all such waste included in the boundaries

[3] Digest, section II, § 44.

[4] Digest, section II, § 10.

[5] The country between any two of the Panjáb rivers is called do-áb—*i.e.*, "between two rivers," *e.g.*, the Bári-Doáb is the country between the Beás and Rávi, the Rechnáb Doáb between the Rávi and Chenáb, and so forth. The lands in the middle portion of the more extensive doábs being of higher level and far removed from the effect of river percolation, are usually covered with jungle, useful for yielding firewood, and affording grazing to large herds of cattle, and such central tracts are distinguished as the "bár."

of the village whose name it bore? And, if so included, did it become the property of the village, *i.e.*, had the village proprietors the same right to it as they had to the cultivated or possessed area?

The answer to this question must be given differently for the different provinces, and I shall therefore treat of each in a separate paragraph.

§ 10.—*Waste land in the North-West Provinces.*

In these provinces, some of the districts in which there are large forest areas (Kumáon, Jaunsar-Báwar) are under a separate procedure, and will be described in the appendix.

In the ordinary "Regulation Districts[6]" (subject to the ordinary Revenue law), the cases where large areas of waste land would remain, and be excluded from settlement operations, were few; and it may be said generally (any local exceptions are always well known and can be easily ascertained) that the waste was included in the boundaries of the village or of the estate. What follows from this? The Act[7] decides that such waste belongs (at least in a manner) to the owner of the "mahál" or estate within which it has been included. It is therefore not available as Government waste (*e. g.*) for forest purposes. If, however, it is in excess of the requirements of the owners, "with reference to pastoral or agricultural purposes," the Settlement Officer may lay a separate

[6] The Dehra-Dún must be considered a regulation district at any rate, now that Act XIV of 1874 is law and makes no mention of Dehra Dún. At the first settlement, however, all the waste was excluded (see Commissioner's letter No. 654, Dehra Dún Settlement Report, 1871). It was then determined to declare all the waste to belong to Government. But this was doubtfully legal. Ultimately, it was decided to give back all the waste that fairly adjoined and might be held to belong to the villages, and only retain for Government the large waste tracts, sál forests and hill jungles which clearly had not been occupied by any village or private landholder.

[7] See Act XIX of 1873, sections 57-60. This is a very curious provision; it has come down from old times, and shows how little our earlier administrators cared for the theory of a thing as long as a practicable rule was arrived at. It seems as if the "surplus" waste *was* the estate-holder's property, and yet it was *not*. It is so far Government's that Government judges whether the owner requires it or not; and if it thinks not, assesses it as a separate estate and offers it to some one to hold; it is so far the estate-holder's, that it must be offered to him in the first instance, and if he does not take it, he gets "málikána,"—a sort of compensation for his lost right.

assessment on it and offer it to the owner of the mahál. If he will not have it, the tract so separately assessed becomes a separate mahál, and at disposal of Government. But the owner of the mahál is entitled to receive an allowance of not less than 5 or more than 10 per cent. "on the net revenue realised by Government from such waste land."

Waste land which has not been "judicially declared" to be part of the estate, nor included in the boundaries of an estate at any previous settlement, is treated differently[8]. It is marked off, and a proclamation is issued for claims. If no claim is made, or being made, is disallowed, the waste is decided to be the property of Government; but *still* an opportunity is given to the owner of the adjoining estate to show that "he has enjoyed *the use* of such lands for pastoral or agricultural purposes. If this is established, the Settlement Officer *may* assign to such estate so much of the waste as he considers "requisite for such purposes," and he *shall* mark off the rest for Government[9].

§ 11.—*Waste land in the Panjáb.*

The case here is somewhat different. In many districts the area for settlement practically consisted of a great waste with villages scattered over it. This condition was, at all events, sufficiently common to cause a rule to be promulgated (by circular order) on the subject of how far the waste was to be considered as belonging to the different villages. The rule was, that each village was to have a certain area of waste included in its boundaries and given over to it absolutely. Where the waste was extensive, it was a rule to allow each village twice, and in some cases thrice, the cultivated area. The rest then formed the "rakh" of the Panjáb,

[8] Act XIX of 1873, section 60.

[9] It will be observed that this indirectly, but clearly, condemns the erroneous doctrine that a person can acquire a *complete property* in the soil itself by merely exercising some *rights of user* over its produce. The section asserts the right of Government in the soil, and buys off the rights of user, by giving up a portion of the land and leaving the rest free for Government; this is *something* like the French method of "cantonnement" in buying out rights of user.

which is Government waste available for forest or any other public purpose, or for sale or grant.

This procedure was not, however, uniformly carried out; there were many districts in which the older settlements left the matter very much in doubt[10]. The Revenue Act consequently draws a dis-

[10] *e.g.*, the Muzaffargarh District, where at first all the waste was included as belonging to one village or the other; this was (somewhat arbitarily) taken back again about 1860, and now finally has been re-settled on a more satisfactory basis with the consent of all parties.

In Ráwalpindi also the waste was not separated from the villages in the hill tahsils of Murree and Kahúta, and the work of separation is only now going on; there were indeed certain tracts of jungle known by local names and which were acknowledged to be generally Government waste, subject to certain rights of user; but it was entirely uncertain what land was part of the village and what was not.

In the Kangra District, but not in Kulu Sub-division, at settlement, all the waste was given over to the villages, but the Government retained a right to the trees, and consequently to the user of the land as long as any trees were on it, and rules were also made for the protection and reproduction of trees.

The following extract (paragraphs 24, 25, and 26) from the remarks of the Financial Commissioner, Panjáb, on Mr. Lyall's Kangra Report (1865-72) are of importance as showing how the waste rights grew up, and how they came to be as at present recognised:—

"When we look to Mr. Barnes' Settlement Report for an account of the mode in which the waste was treated at the Regular Settlement, we find considerable indistinctness:—

"1. Mr. Barnes says that 'extensive wastes and forests are generally considered the undivided property of Government. From this it would appear as if he reckoned small wastes to belong to the landholders.

"2. He treated the holders of land within the circuits as coparcenary bodies, and imposed upon them a joint responsibility to which they were strangers, and to balance this, gave the community the right to collect certain items of miscellaneous rent, the produce of the waste.

"3. In the village administration papers of the Regular Settlement the waste is usually termed 'common land of the village' (shámilát deh); sometimes this definition is omitted, and then the ownership of the waste is left to be inferred from the interests recorded in it.

"4. The question of demarcating large tracts of forest for Government was discussed during the operations of Mr. Barnes' Settlement, but abandoned apparently from the idea that a forest establishment would be expensive, and that the expense might be obviated by employing the zamindárs in the work of conservancy, and ultimately every particle of waste, from the tops of mountains to the river-beds, was included in the boundaries of the circuits.

"To what extent Mr. Barnes intended to convey proprietary right in the wastes to the landholders is even now uncertain. The wastes were demarcated in village

tinction between[1] settlements made before the Act (*i.e.*, before 1st January 1872) and after it.

In those early settlements there may be distinct mention of the matter in the settlement papers; if so, that is of course to be followed: otherwise waste and forest land is presumed to belong to Government, whether included in the boundary of an estate or not. Any claimant may, however, remove the presumption, by offering evidence on certain points which are described in section 28, and need not be further alluded to here.

In settlements made *after* January 1st 1872, unless the records make a distinct provision on the subject, waste included in the boundaries is "deemed" (*i.e.*, conclusively held, as between

boundaries and entered in the administration papers as 'shámilát deh,' but at the same time the right of Government to all trees growing on common land is secured, and the grazing fees payable by the gaddís were claimed for Government. Again, the expression that the extensive wastes and forests are generally considered the undivided property of Government, seemed to show that Mr. Barnes did not intend entirely to abandon these wastes. Further, in two subsequent letters written in 1860, Mr. Barnes distinctly combated the notion of his having surrendered the proprietary right of Government, asserting that the administration papers were compiled by the people themselves, and that custom was against their claim to the proprietary right. Mr. Lyall uses a somewhat similar argument when he says that the entry of 'shámilát deh' against the wastes was made as a matter of course by the amíns, who, trained in the North-West Provinces Settlements, had recourse to the procedure there learnt, by which every plot of land, not being private property, came under the heading of 'common.'

"The question, however, came up for discussion in 1852-53, in connection with the demand for land for forming tea plantations. Mr. Lyall shows that on several occasions the local officers tried to re-assert the paramount claim of Government to the waste, but the Chief Commissioner refused to acknowledge the principle, and ruled that the waste lands must be held to be the property of the villages, and that no lands could be appropriated without the consent of the zamíndárs. This decision was finally affirmed by Government in 1863, and Major Lake, then Commissioner of the Division, recommended that the boundaries of hamlets within mauzas should be defined in the rest of Kangra proper, as they had been at first Settlement in a great part of Tahsil Nadaun. The position thus taken up, which must be held to represent the views of Government when Mr. Lyall began his settlement, was that the Government has reserved in the waste lands only the right to certain forest timber and to certain grazing fees, and had surrendered to the zamíndárs the right in the soil, together with the miscellaneous dues, composed of fees levied from Gújar herdsmen, quarriers, iron-smelters, netters of falcons, owners of water-mills, &c."

[1] Act XXIII of 1871, section 28, &c.

Government and the parties) to belong to the village[2]. It is never difficult in the Panjáb to ascertain the legal position of the waste,—in any district where there is any (in Ambála, Lúdiána, and some others, there is none to speak of),—for whenever there is any peculiarity, as in Ráwalpindi, Kangra, or the Salt Range, full notice of the subject is sure to be found in the Settlement Reports.

In all cases where there is no question about the waste belonging to the village, *but* where that waste is more than they actually want, the Act contains provisions for separately assessing it, very like those of the North-West law.

§ 12.—*Waste land in Oudh.*

"Waste lands[3] have been declared, generally, to be the property of the State; but it has been ruled that small tracts of waste that supply fuel and pasturage to the neighbouring villages, or are

[2] All waste in the Panjáb that has been dealt with at settlement, and has been cut off from villages, and in which rights have not specially been recorded, is exclusively Government property and available for forest purposes or otherwise; but there has been a strong tendency of late to recognise the *convenience* of the neighbouring villages irrespective of their actual *right*. The result of our settled and peaceful Government has been, that the land originally made over to the villages as waste has become valuable, and it has, in many instances, been all brought under cultivation without thought as to provision for grazing. In consequence of this the people have no waste left, whereon to graze or cut firewood: and they naturally clamour to get it in the neighbouring Government waste. Whenever, then, it is desired to enclose this for planting or other purposes, there is a loud outcry; and this may result some day in serious difficulty. A difficulty of this sort was experienced in the "Rakhs" of the Salt Range (Jhelam District.) Here the waste was all marked off separately from the villages, as it would have been anywhere else, only it was understood that the tracts so marked off were rather taken under care for the general benefit and to prevent the different tribes disputing about them, than to become the property of Government or liable to any strict control. A forest settlement has accordingly revised these arrangements and allotted a certain portion only to strict reservation. Meanwhile, there is in the Panjáb Laws Act (IV of 1872, section 48) an excellent provision which enables Government to make rules regulating the use of pasturage and other products of Government waste generally, and prohibiting any user that is not in accordance with such rules. This provision is exceedingly valuable, pending the introduction of a complete forest reservation or other final disposal of the lands.

[3] Quoted from the Digest, section II, § 63.

in the course of being cultivated by neighbouring villages, are to be included" in the village boundaries.

The object here, as elsewhere, was to give, in addition to the culturable land, room for extension of tillage, and to provide for pasture land: and the rule was, when possible, to allow the village an extent of waste equal to the area already cultivated. If, after making this arrangement, the surplus would not exceed 500 acres, it was not demarcated, but redistributed and included in the villages. The waste in excess of this would usually be free of all rights and available for any Government purpose.

Whenever a State forest is demarcated, a belt of waste land has to be left between the village boundary and the forest, so that the village may have no excuse for cattle-trespass within the actual forest limits. As this arrangement of waste was provided at the first settlements and acted on then, there was no occasion for any provision of law in the Revenue Act, as we have seen there was in the Panjáb.

In cases where Government wastes adjoin private estates, the Government paid half the cost of the ordinary boundary-marks and one-third of triple junction pillars [1].

§ 13.—*Waste in the Central Provinces.*

There are in these provinces, to a greater extent than elsewhere, large areas of jungle country in the hill ranges and in several of the plain districts. Such areas were from the first excluded from the scope of the settlement, and remained at the disposal of Government, and have now to a great extent been constituted permanent Forest Estates, called in India "Reserved Forests." But, just as in the other provinces, there were also waste areas which intervened between the occupied lands of villages under settlement.

The Government right to deal with these was all along asserted; and it was never considered that, because the waste happened to be called by the same name as the mauza, it is therefore the

[1] Quoted from the Digest, section II, § 70.

property of that mauza. But a rule was devised (as in the Panjáb) to give a reasonable share of waste to the village and to retain the rest. The Central Provinces rule was[5] that an area equal to 100 per cent. as a minimum, or of 200 per cent. as a maximum, on the area of cultivated land, was to be given up and included in the estate.

In some districts the *survey* had been made so as to show the whole of the waste as in some mauza or other (*e.g.*, the Nágpur district). Where this had been done, the excess waste under the new rule, was to be marked off, and either new boundary maps prepared for the settlement records or the old ones altered[6]. The waste might be locally known by the name of a mauza, but it was a separate Government block. These blocks were free of all rights[7].

There would, however, be cases where a jungle tract came under settlement, because small holdings or scattered villages were found in it. Here you could not speak of waste being attached to villages; it was a case of small hamlets found inside the waste. In such cases to have applied the rule would have been to increase the village only to a very small plot. And there were cases also where the cultivation shifted, a plot being cultivated one year and abandoned the next in favour of a new plot.

The decision in the matter is important, and I may, therefore, quote *verbatim* the digest of the Circular LXXII of 1862[8]:—"But these are . . . . the instances where we should be especially careful to adhere to the principles adopted, of 'not relinquishing large areas of forests and waste to individuals incapable and unwilling to reclaim them.' Accordingly, when a Settlement Officer meets with a village, represented, say, by a few Gond huts, and a

[5] See Nicholls' Digest of Circular Orders, Volume II, Section XX, page 595, where the whole subject is clearly treated.

[6] Where this would have been very inconvenient the waste separated off was allowed to be shown as a "chak" or part of a mauza, belonging to Government.

[7] I do not of course speak of concessions which may have been allowed, or to such special rights as were granted in the Bálághát district to certain settlers, who, in fact, contract to pay their revenue on the understanding that they are to get free jungle produce for their own use, and free grazing from the waste (which is now "Reserved Forest" under the Forest Law).

[8] Digest, volume II, page 596, &c.

few acres of cultivation, in the depths of a forest extending over several square miles, more or less of hill and dale, he must not relinquish the proprietary right on the whole forest, because, from the circumstances above instanced, and others similar to them, he cannot exactly decide on the rule by which the right should be confined to closer limits. It must be remembered that, although Government is willing to recognise proprietary right on the basis of possession, yet possessed land is defined as a rule to be cultivation, *plus*, on the maximum scale, 200 per cent. of uncultivated land; and that there is no authority for granting proprietary rights on other grounds.

"There appear to be two ways of settling such cases:—

"Firstly, offer to recognise the proprietary right in the cultivation, *plus* an appropriate amount of uncultivated land; if the cultivation be scattered, act similarly, arranging the scattered portions as chaks or outlying plots of the main portion, and exclude the remainder. Secondly, if this is objected to, because the cultivation shifts its locality, or on other grounds, there seems to be no alternative but to reserve the superior proprietary right. Frame the assessment as if the excess of waste were excluded; guarantee possession to the landholders as inferior proprietors or tenants, but reserve the power to include the grant of the superiority of the land in their possession, in the grant of any portion of the excessive waste adjacent, which may, at any future time, be made to a third party; providing, however, at the same time, that they, the existing landholders, or their heirs, shall have the offer, which they now refuse, again made to them before any such grant be concluded."

I notice that this was done in the Upper Godávari district[9].

Something has been done to prevent injury to the country by the wasteful treatment of forest lands included as waste in the village estates. By the terms of the "wájib-ul-'arz," rules for protection

[9] Settlement Report, section 201. I presume that the inferior proprietary right would be given in the lands found actually in possession at the time. Hitherto the cultivation had shifted on the "bewar" (often called dahyá) principle from place to place.

are agreed upon. Certain valuable trees are not to be cut without a reference to the Tahsildár. Where poles of sál, shísham (*D. latifolia*), and teak are cut, one such of good growth is to be left on each 100 square yards. Mohwa trees (*Bassia latifolia*) are to be respected. Subject to these rules, clearing for *bonâ fide* cultivation is not to be checked[10]. These rules being by agreement, there was originally no specific penalty for their breach, but "vigilant care on the part of the District Officer and Tahsildárs should suffice to ensure a general adherence to them." It would now seem that, under the new Revenue Act, a penalty can be enforced, for such rules are expressly alluded to in section 141(*f*). And the Act provides in section 162, that a penalty for breach of rules, made (with the sanction of the Governor General in Council) to carry out the provisions of the Act, may be exacted.

The allotment of the waste having been already accomplished under the rules laid down, all that was required in the Revenue Act[1] was to provide that if, in the course of any Settlement, there appear tracts of land which have no owner (*i.e.*, which do not appear to be lawfully owned or to have been definitely and properly included in a mahál or estate under the arrangements which I have described), a notification should be issued inviting claims. If it is found that some persons had enjoyed certain rights, but never had exclusive proprietary possession, then a portion of land may be given to the claimant (or some other form of compensation), so as to get rid of his rights over the rest. This is very nearly the same as the North-West Provinces law.

In the large zamíndáris, which are a sort of semi-independent chiefships, the rules about excess waste have not been applied, and it is not intended to check the extension of cultivation in any way, even though some valuable trees may be on the ground. This clearing must not, however, be made a *pretext* for *selling valuable forests*.

[10] See Nicholls' Digest, Vol. I, page 185.

[1] Act XVIII of 1881, sections 40–42.

For the Chánda Chiefs the Government terms and rules of the tenure, provide a certain protection for the forest[2], the chief feature of which is that more than a certain number of trees cannot be cut and sold without the Deputy Commissioner's sanction. The case of smaller estates is not so clear,—in the Circular LXXII, already quoted, it is said that claims to "manorial rights" (presumably meaning rights in the waste) are to be carefully considered and reported on. I conclude that in most cases the waste lands have been included, and are not under Government control.

In "mu'áfi" and "ubárí" estates (estates of grantees either revenue-free or at reduced rates) also, the waste was included, on the same principles as regulated its being included or excluded from revenue-paying villages[3].

Section III.—The Survey.

§ 1.—*Legal authority for it.*

It is only necessary to speak of this very briefly. When once thoroughly done, it is not, under ordinary circumstances, required to be repeated, at all events for a very considerable time.

The Oudh and North-West Provinces Acts take it for granted that a survey is part of the proceedings, and merely give powers to the Survey Officers. In the Panjáb, the notification of settlement declares what survey work has to be done[4], and the Act then gives general powers. The Central Provinces Revenue Act allows of a revenue survey being carried out in any district, irrespective of a settlement being ordered at the time.

§ 2.—*The professional survey of village boundaries.*

The early system followed alike in the North-West Provinces, Panjáb, and Central Provinces, was to have the survey and maps

[2] See these in detail in Chánda Settlement Report, section 324, page 180.

[3] See Abstract No. 3 in the Settlement Code.

[4] North-West Provinces Act XIX of 1873, section 41; Oudh Act XVII of 1876, section 25; Panjáb Act XXXIII of 1871, section 25; Central Provinces Act XVIII of 1881, section 27.

partly made by professional agency in the Revenue Survey Department, and partly by the agency of native patwáris or of amíns.

The Revenue Survey Department furnished a map which only extended to the *outer boundaries of villages* and the main blocks of cultivation and waste. These it defined with accuracy, as soon as the boundaries had been ascertained and disputes settled in the course of the thákbast or demarcation proceedings. The Revenue Survey usually mapped on the scale of 20 chains to the inch, or 4 inches to the mile.

The Professional Survey Department also compiled a map showing all the main geographical features of the district and the village boundaries taken from the large-scale village boundary maps.

The map of the district, or part of the district, was afterwards reproduced on a reduced scale by hand-drawing, or now by the aid of photozincography. These are the "Revenue Survey maps" (usually on the scale of 2 miles to the inch) which are familiar to my readers[5].

The Revenue Survey thus proved useful to the Settlement Officer in the following ways:—(1) it gave him an accurate record of the total area of each village; (2) a correct boundary configuration map showing waste and cultivated land; and (3) maps of the tract of country showing the relative position of the villages.

§ 3.—*The Khasra Survey.*

But none of the maps could be taken up by the Settlement Officer and worked on so as to fill in the field details. The Settlement Officer's survey was therefore a really separate one; only he could check his own village-map outlines by the professional map, and also check his areas by it.

The Settlement Survey was (under the earlier system) a non-professional survey of the interior portions of each village area, especially showing every field with a separate number. This map is called the "Shajra," and is on a large scale, usually 8 or 16 inches to the mile. It is accompanied by a detailed

[5] They show the village boundaries and the cultivation and waste areas. In some places they are 1 inch = 1 mile instead of the scale stated in the text.

index or register of every field[6] numbered in a series, according to the number in the Shajra, and called the "Khasra[7]." Hence the Settlement Survey is often spoken of as the "Khasra Survey."

[6] "A field is a parcel of land lying in one spot in the occupation of one cultivator or of several persons cultivating jointly, held under one title, and generally known by some name in the village. The plot of ground surrounded by a ridge of earth (mend) is not necessarily a field. Some of these ridges are more permanent than others, and serve to divide the land into fields, bearing separate names. The boundaries of fields are well known to the people and are sometimes distinguished by particular marks, such as the growth of certain grasses, stones, &c. In rich and irrigated land the separation into fields is generally permanent, but in light unirrigated lands it is liable to constant alterations. The field register (*khasra*) should show when the limits of fields are fixed, and where variable. The patwári should be careful not to show two fields as one, nor to divide one field into two." (Directions.)

[7] The Panjáb Rules (head C. III, 16–19) deal thus with the subject, giving the student a good idea of the general practice:—

"When the boundary map has been verified and passed, or when a boundary map or field map, prepared at a previous settlement, has been accepted as correct, a field map (*shajra*) shall be prepared for each village, showing the boundaries of every field according to scale, and the length of every boundary line common to two fields. If any field or plot separately owned is too small to be distinguished in the body of the map, it shall be shown upon an enlarged scale on the margin, with a sufficient reference to its position in the map. The fields shall be numbered consecutively, and the number of each shall be entered.

"The field map shall ordinarily be drawn on the scale of 16 inches to the mile (330 feet to the inch), or as near thereto as may be convenient with reference to the local measure. Where special circumstances render necessary the use of a different scale, the officer in charge of the settlement shall prescribe the scale to be used. The scale of the map in the measure which has been employed in the survey, the direction of the north point of the compass, and an explanation of any symbols employed in the map, shall be shown on the map.

"The field map shall show in addition to the matters prescribed in Rule 16—

(1) Such physical features as it may be possible to delineate.

(2) The village boundary pillars, the triple junction points, and distances between each such pillar and point.

(3) The limits of the principal village sites and burial grounds.

(4) The unculturable waste.

(5) The culturable waste.

(6) The cultivated land including fallow.

(7) Wells and tanks used for irrigation

(8) Irrigation channels.

(9) The boundaries of any well-marked sub-divisions.

(10) Village roads.

(11) Bench-marks of any Government or Railway Survey,

This survey was carried out by native surveyors (amíns) as in Oudh[8] and the North-Western Provinces and Central Provinces, or (as in the Panjáb) by village patwáris, who had been taught surveying.

In the latter province this method is still practised, and the patwáris are subjected to a regular course of training which, so far, has given very satisfactory results.

§ 4.—*North-Western Provinces Cadastral Survey.*

In the North-Western Provinces a new method, spoken of as the Cadastral Survey, has been recently introduced and experimentally adopted in five districts. Here the survey is accomplished by trained surveyors under officers of the Survey Department, and thus the Revenue and the unprofessional survey of holdings is combined into one. The work (on a scale of 16 inches) is more costly but more accurate, and the maps are certainly of great excellence[9].

Whatever form of survey is in use, the student will remember that it results in two main permanent records :—

(1) The **Shajra** or **village field map**, each plot being numbered.

(2) The *Khasra* or **village field register**, showing the names of proprietor and tenant, the area, rent, and soil class

[8] Digest, section III, § 1.

[9] The maps are multiplied by photozincography. The Cadastral Survey has cost, per 1,000 acres, sums varying from Rs. 289 in Mathurá, to Rs. 279 in Murádábád and Rs. 200 in Hamírpur. The Settlement Survey cost from Rs. 64 to Rs. 114 in an exceptional district (this includes a proportion of the Settlement Officer's pay).

The following gives again an idea of comparative cost :—

		Sq. miles.	Cost. Rs.	
Settlement Survey.	Cawnpore	2,446	1,78,980	These figures are taken from Mr. Stack's Memorandum.
	Fatihpur	1,580	89,173	
	Aligarh	1,957	80,240	
	Murádábád	2,527	4,54,304	
Cadastral Survey.	Agra	2,190	3,50,552	
	Mathurá	1,369	2 53,358	
	Banda	1,895	2,17,311 (not yet complete)	
	Hamírpur	2,296	2,93,174	

according to the classification of soils, as made at the time of survey; particulars of irrigation are also recorded at the same time.

§ 5.—*The Survey is "Mauzawár."*

The survey is, in Revenue language, said to be made "mauzawár," not "mahálwár," *i.e.*, it deals with villages (mauzas), *i.e.*, with local groups of lands known by one name, not with revenue groups, or lands bearing together one sum of assessed revenue and called "mahals."

For the Central Provinces, this statement will require some modification. There the practice was, as the Act now provides, that any land which it was desirable to treat separately for revenue purposes should, without reference to its being a mauza or part of a mauza, be made into a mahál or revenue unit[10]. Consequently it was necessary for the survey to take notice of this separation and to show not merely the historical mauzas of the district, but also such further divisions as had been created for convenience.

Sometimes, for convenience sake, several small mauzas, owned by the same persons, or held on the same title, have been clubbed together: or a large and practically composite mauza may, by the effect of partition, have been separated into its locally-named divisions as separate[1] mahals.

§ 6.—*The Mauza and the Mahál.*

The student will do well, once for all, to understand the difference between a mauza and a mahál. The mauza is the locally known and traditional division of land, as described in Chapter III of Book I. Of course, in many instances, the mauza is held on one tenure, and is in every respect a unit not only of locality to be

[10] Central Provinces Act, section 43.

[1] So in Directions, § 7 (Directions to Settlement Officers). But the former case is rare. It occurs only in districts bordering on Bengal. The partition of estates often leads to the formation of more than one mahál in the same village. This practice is said to be yearly increasing. Whatever the size of the mahál, however, it is assessed to revenue as a whole.

adopted in the survey, but also of title to be assessed with one lump sum of revenue; in that case the mauza and the mahál are identical. On the other hand, there may be in one village two or more separate interests, so that the Settlement Officer deals with them as separate mahals: here the local division and the "estate" division do not coincide. In Oudh I have already indicated that, owing to a peculiar custom of dividing family property, some estates have come to consist of a series of patches, one perhaps in each of four or five or more villages or mauzas. Here, again, as the assessment follows the estate, not the mere local group, the mahál is something widely different from a mauza or village.

In the Central Provinces also, as above noticed, there were reasons for detaching groups of land and having them surveyed and treated as if they were separate villages. Yet they could not be called mauzas, because they were artificially created, so they are called mahals.

§ 7.—*Survey of alluvial lands—North-Western Provinces and Oudh.*

In many districts there are estates or portions of estates liable to be affected by the action of rivers. I do not here speak of the rights resulting from the law of alluvion, but merely of the revenue practice in separately grouping and surveying such changeable areas for the purposes of assessment.

It is a rule[2] that in any estate in which one portion is liable to fluvial action, *i.e.*, where there are extensive areas of sand which may be rendered fertile at some future time by deposit of river silt, or where part of the estate is either actually severed by the river from the main estate, or where the lands along the bank may be washed away, or may be added to by deposits; in all such cases, this portion of the estate is separately marked off by boundary pillars, and settled as a separate "alluvial mahál" for five years only (if the Settlement Officer has not specially fixed the time). This

[2] See section 257 (*a*), Act XIX of 1873; Settlement Manual, 2nd edition, 1868, page 14; also S. B. Cir. Dep. I, pp. 18 & 38.

settlement does not absolutely exclude alteration in case of an unusual increment or decrement caused by exceptional action of the river. In such cases the estates are measured, and the revenue assessment adjusted, even though the five years have not elapsed. The assessment is not interfered with in any case unless the assets (on which the revenue is calculated) are affected to the extent of 10 per cent. increase or decrease, since the last revision.

The system in Oudh is exactly like that of the North-West Provinces. The principle to be followed is always stated in the *kabuliyat* or written assent to engage for the revenue[3].

§ 8.—*System in the Panjáb.*

This "separate chak" system[4] is adopted only in some districts for special reasons. But whether this system is adopted or not, the increase or decrease of assessment is arranged for in one or two ways,—whichever is specified in the settlement records. On one plan each field is separately considered, and calculating by the assessment-rate applicable, the amount of the jama' is increased or diminished, accordingly as the field has been increased or diminished, improved or spoilt, by sand, during the year. On the other plan, no notice is taken of increase or decrease in area, or of the assets calculated on the culturable area, so long as the change falls short of a minimum—usually 10 per cent.—on the whole culturable area of the estate as fixed at the time of settlement. The alluvial lands are inspected every cold season after the river subsides, and, if necessary, measured. Action is taken according to the system in force.

§ 9.—*System in the Central Provinces.*

The conditions about alluvion are entered in the wajib-ul-'arz, so that it is a matter of direct agreement. The Act also gives power to assess lands gained by alluvion at any time, even when

[3] Digest, section IV, § 30; and Circular 24 of 1878.

[4] That is, making the lands liable to be affected into a separately assessed "chak" or "alluvial mahál," as the North-West Provinces Circular calls it.

a settlement is not in progress. The principle adopted is the same as that of the North-West Provinces. If the increment exceeds 10 per cent. on the area of the mahál, an increase in revenue may be demanded. Loss is, however, not to be taken notice of unless it reduces the total assets, so that there really is not a fair margin of profit to the owner after paying the Government assessment. Sandy tracts are excluded from assessment, but become liable if afterwards fertilised by deposit of soil, even during the currency of the settlement[5].

Section IV.—Assessment, inspection of villages, and revenue.

§ 1.—*The subject stated.*

For a Settlement Officer this, of course, is one of the most important subjects. It is *the* great work of settlement. Instructions and advice for the determination of the amount to be assessed, are therefore found to occupy a large space in Revenue Manuals and Circular Orders[6]. All Settlement Reports also deal largely with the subject, entering into a detailed description of the process by which the assessment was actually arrived at.

It is a little difficult to select the points to be enlarged upon in a Manual, the object of which is not to instruct an officer how to set about assessing an estate, but only to explain the general principle on which the "jamá," or annual sum to be paid as Government revenue, is calculated and applied. The principle now everywhere recognised is, that the *land revenue*—as distinct from certain *cesses* also levied—is to be a certain percentage (of which hereafter) of the "average assets" of each estate. In the North-West Provinces (as in parts of Bengal), where nearly all the land is held by tenants paying money-rents, the assets ought to be justly estimated, if they are taken to be the total of the rents which

[5] See Settlement Code, No. VI; and the Land Revenue Act, section 132, clause 9.

[6] See especially Colvin's Settlement Manual, 2nd edition, 1868, page 29; S. B. Cir. Dep. I, pp. 3-7, &c.; the "Directions;" Memorandum on the Revision of Settlement, North-West Provinces, by A. Colvin, 1872; and the Panjáb Rules; the Central Provinces Settlement Code, 1863; Erskine's Digest, section IV.

the proprietor is able to obtain from his tenants, applying the same rent-rates, in the case of those lands which do not happen to be in the hands of tenants. To these rents, certain other items of income, such as fruit, fisheries, jungle products, have to be added; and where there is a great extent of valuable waste allowed (as above explained) to be part of the estate, as it is obvious that some day this will or ought to be cultivated, an addition may be also calculated on this account. Then we have a total of "assets," some fair proportion of which may be taken as the Land Revenue.

In provinces, however, where rent is not usually paid in money, where the proprietors largely cultivate their own holdings, and where tenants pay rent in the shape of a share of the grain produce, other methods have to be adopted. In the Panjáb, at the present day, produce-estimates are much relied on. These are prepared from different classes of soil, and by valuing the outturn according to tables of average prices-current, the assets can be calculated, a share of which will give the Government revenue, just as in the case of the assets calculated from rental values.

§ 2.—*Earlier method of assessment.*

But the procedure of assessment, as it is now understood, was not at first appreciated. In the early days of our settlements, *i.e.*, in 1822, the matter was not put in this light. Sixty years ago *money* rates of rent were much less common than they are now, and the proprietor's rents (as the State or Rája's share had formerly been) were often paid in *kind*,—a certain proportion of the yield of each field.

In the old days, when the State took its share in grain, there was no question about profits of the villager and the cost of living, and so forth. There was the grain on the threshing-floor, and it was divided, such as it was, between the Rája, the cultivator, and the village servants, all of whom got their dues out of it.

Then followed the Mughal and other later Native Governments who naturally, in the course of progress from primitive to more modern society, converted their grain share into a money revenue.

And when once money was paid, the original grain share became forgotten, and both rulers and their subordinates found it very easy to raise money rates to whatever figure could practically be got out of the people.

Our Government could not of course continue such a plan. A moderate assessment it was their desire as well as their duty to make; and how was it to be made? Naturally they considered that it was a share only in the *profits* of land that they were to take.

Now the profits of land consist in the balance left after deducting the wages of labour and profits on capital (which constitute the "cost of production") from the value of the produce. Consequently the framers of the Regulation VII of 1822 intended, or were understood to intend, that the revenue should be arrived at by taking a proportion of the sum which remained after deducting the "cost of production," from the *estimated* produce valued in money. Consequently, at first, every one set to work to try and find out, by enquiry, and also by experiment, what amount of grain the *land really did yield*, and what the costs of cultivation were; and that in the face of the difficulties which accident, variety of season, difference of situation (coupled with the interest the landholders had in concealing the true facts) threw in their way.

In this endeavour to find out the produce and its value after deducting cost of production, and then calculating the Government percentage, the possibility of finding out, at least in some provinces, what the land *really did* (as a fact) *let for*, was overlooked.

§ 3.—*Progress in method.—Regulation IX of 1833.*

After a great deal of failure, and after many volumes of correspondence and reports on the subject had accumulated, the error was acknowledged. Regulation IX of 1833 repealed so much of the former Regulation "as prescribes, or has been understood to prescribe, that the amount of jama' to be demanded from any mahál (estate) shall be calculated on an ascertainment of the quantity and value of actual produce, or on a comparison between the cost of production and the value of produce."

The modern practice, however, was not immediately developed. Even after 1833, a method of assessment known as the "aggregate to detail" method, was largely followed. This I shall again allude to afterwards; here it will be enough to say that it depends on assuming a lump sum to start with, and then seeing how it divides over the individual estates, and then correcting it till what seems a fair result is reached. Gradually, however, the modern practice of ascertaining the average assets was substituted, the rental being taken as the basis in the North-West Provinces and Oudh (where it is possible to do so); and calculation by aid of produce-estimates as well as other methods being still used in those places where money rents were not common or could not be applied easily in calculating. That is a brief summary of the history of assessments. To explain it more fully, I must separately describe (1) the system of the North-West Provinces, where money rents are general, and (2) the system followed where either the landowner cultivates most of his land himself, or where the crop is still divided between landlord and tenant in kind.

§ 4.—*System of the North-Western Provinces.*

To understand the principle of assessment *where money rents are general*, we must go back a little and consider what the effect of our settlement was. I have before stated, and in a previous chapter explained in detail, that the earliest form of Government revenue was the Rája taking a certain share out of the village grain heap on the threshing-floor. The share of the State was no doubt fixed by custom; and under rule of a wise king, who had his officials well in hand, the customary share was not exceeded; extras were levied in the shape of taxes, fees, and contributions. In a former chapter it has also been described how, in the reign of Akbar, the State share was converted into a money assessment[7]. Akbar did not enforce the

[7] See some admirable remarks on the process by which a change from grain to a cash revenue was effected, in Mr. W. C. Benett's Gonda Settlement Report, 1878, § 97 *et seq.*; also see page 172, *ante*, where I have described Akbar's Settlement in Bengal under Rája Todar Mal.

change all at once; he left it optional, at first, for the raiyat to pay in cash or in grain. As population increased, estates became multiplied by extension of cultivation and by the division of family property; at the same time coined money became more plentiful. In short, as it became more difficult to manage the revenue collection in kind, it became easier to levy a cash revenue; the means of paying in money became more attainable. Before a grain share was given up altogether, an intermediate plan for saving trouble was adopted, namely, that of estimating that the standing crop ought to give so many "maunds," and then requiring the village to make good the State share on the basis of the estimate. This was of course unpopular, so that money rates came to be preferred[8].

[8] In the records of the Ambála Commissioner's office I found a report on a lapsed estate of Sirdárni Dayá Kúnwar, dated 23rd May 1824. It contains the following curious passage (which I transcribe exactly,—capitals and all):—

"The Native system of making the collections may be termed three-fold:—the kun (kan) [also called "kankút" and "típ"], batace (batáí) and tushkhees (tashkhís), all of which had at different periods been adopted by the officers of the late Sirdarnee. The kun or appraisement [of crop before cutting], if skilful makers can be found, is the most simple and expeditious method, but requiring great Fidelity, Experience, and Judgment in the "kunneea" or appraiser, who should be chosen from among the oldest Zumeendars, and over whom the Tuhseeldar should keep a vigilant and circumspect Eye. In the case of a cultivator being dissatisfied with the appraisement of his field by the kunneea, an instant recourse should be had to the Practice of beating out a Beega or a Biswa of the grain on the disputed Field, and thereby ascertain the exact quantity to the satisfaction of both parties. It is obvious that a constant appeal to this principle ought to be avoided as tedious and vexatious, and it is seldom that the cultivator calls for its application, still less does the kunneea like to put his judgment to the Test.

"The butace or division of grain on the spot seemed to present many objections. Three Heaps are made: one for the Sarkar (the Government), one for the Ryot, and the third for the Khurch, or village expenses; so that the Government receives only about one-third of the produce, which has led to the phrase "batace lootace" or Division is plunder. The grain has to remain in the field for a length of time, exposed to the Elements, ere it can be trodden out and winnowed, added to the expense of persons to watch the khulwara (khalwára) or stacks, from the spoliation of the Zumeendars, who are tempted to remove portions of grain during the night season. Could these and similar Difficulties be surmounted, no mode offers such a show of justice to the Government and its subjects as dividing the Gifts of nature on the spot.

"The tushkhees, or farm of an estate to the highest bidder, distresses the cultivator, however pleasing the lucrative receipts may appear for the first few years of the lease . . . . ."

Akbar's settlement was based on a valuation of the produce. But it is only in districts to which this settlement extended, or was virtually enforced, that money rates were substituted for grain rates on such a principle. It was more common to take no thought of the value of land, and assess a fixed annual charge per plough. This, it may be remarked in passing, is in itself enough to give the first impulse to competition in land, because men would find out that one farm was more profitable than another, though it had the same plough rate.

These rates being fixed, they became well known; and crystallising, like everything Indian, into being "the custom," they survived all changes for a long time. Nor is this contrary to what has been said of the uncertain exactions under Native rule. While the Government was strong, the rates fixed were respected, and extra charges were limited in number and levied by proper authority. But in the later days of decline and weakness which preceded the fall of the Native rule, the Revenue farmers raised rates uncontrolled, and grasped at what they could get, giving only a certain portion to the treasury. Even, then, there are abundant indications that under this increased pressure the *original customary State revenue rate was still known*, the extra demand was levied in the form of "fees" and "cesses[9]," rather than by any admitted alteration of the revenue rate itself. Such is the tenacious force of custom. No doubt, however, the rates that were then taken, having regard to the value of produce and the extent of land under cultivation, are quite as much as *could* be paid, and often represented the entire profits, leaving the cultivators only enough to live on.

When the British Government was introduced, all this came to an end. Government recognised or conferred (as we have seen) a proprietary right in the land, and handed over to the proprietors so recognised, the produce or the money rates paid by the actual cultivators which would have been formerly directly taken by the

[9] See also the account of the levy of "Cesses" in the chapter on the Bengal Permanent Settlement.

king's agents. Our Government merely stipulated that the proprietor should pay to the treasury a fixed sum, which was a moderate share of what it is estimated he could fairly collect. We disallowed the extra rates, and excessive cesses as such; but the old customary revenue rates, with such local alterations as time and circumstances had brought about, became the *rents which the proprietors got*, and these rents, as long as they remain unaltered, would form, on the principle already alluded to, the main portion of the assets on which the Government share was to be calculated.

Having, however, recognised proprietary rights, we did not desire to withhold what were, from a European point of view, the natural and legal consequences of that proprietary right. Except where we stepped in with legal enactments to protect certain specified classes of "tenants," we left the proprietors free to get more rent out of the land, if it could be got by fair means, dependent on competition and the increased value of land and its produce; and that very soon came to be the case. Waste land was available for the increase of cultivation: good government brought security and peace; roads, railways, and canals were made, and the value of land rose greatly; while population increased with it. Produce of all kinds also had a far higher value. The managers of land no longer had to seek for tenants and to coax and keep them; people began to come and ask for fields to cultivate, and were willing to bid against each other for them. The rents could then no longer remain at the old customary rates.

Now the modern theory of Government revenue is, that it is a fixed and moderate share of the proprietor's assets, whatever those assets are; consequently to make a proper assessment the "assets" must be known. How, then, are the assets to be ascertained?—or, in other words, since we have no longer rates fixed by ancient custom to deal with, but something like real rent rates dependent on competition, how are we to get at the actual or full rents which are to be the basis of our calculation? That is the question to be answered, under the modern method of assessment, in the North-Western Provinces.

But this method was not all at once adopted; indeed, as I remarked, the result which I have pictured, the universality of cash rents—representing not a mere customary but a real rental—was not brought about at once: consequently in the first settlements the *rental* did not occupy anything like an exclusive place.

In the early settlements the method which I have alluded to as the "aggregate to detail" process was adopted. By this a lump sum was assumed in the first instance for an entire pargana. This was taken on the basis of a comparison of former Native settlements and so forth.. The lump sum was then divided over the villages, and then the village jama's were again compared in various ways, and corrected by addition or deduction consequent on various circumstances which were observed on the spot, and at last a total for each village was arrived at.

§ 5.—*System of assessment prescribed by the "Directions."*

In the Directions[10] this practice is directly recommended, not indeed as a method to start with, but as a method for testing the figures when they have been independently calculated.

The Directions declared that the assessment was not to be a mere arithmetical process, but to be based on sound judgment and calculation. The Revenue demand was not to be more than two-thirds of the net produce in case of lands cultivated by proprietors, or of the gross rental on lands held by tenants. Villages were to be grouped together according to their general similarity of position and circumstances, as affected by the same influences. There might be a group of canal villages, or a group on low moist land, or on high-and-dry land with very deep wells. One set might be favourably situated as regards a railway which exported their produce, another might be close to a large town, and so forth.

The Settlement Officer had to start with a correct list of the village lands, cultivated, culturable waste, and unculturable; this also was classified into irrigated and unirrigated. Then he could ascertain the rates imposed at former settlements, and

[10] Directions (Settlement Officers), para. 48 *et seq.*

whether that amount was easily collected or not; if the village had been sold or had been farmed, and what was got for it; at what price does land now sell or mortgage for; next he had tables showing the gross rental of the village, as compared with that of the other villages in the same tract of country and with generally similar circumstances. If the rental of any village was considered suspicious, or, owing to grain rates, was difficult to ascertain, it was said that the Settlement Officer's inspection, aided by the knowledge he had acquired of the description or class of the cultivating community, would enable him to make a very fair estimate of what the rental ought to be. Lastly, the opinions of the pargana officers (qánúngo, &c.), and the estimate of respectable neighbouring landholders not themselves interested in the matter, were to be considered.

It will be observed that this gives a general guide as to the *amount* of the revenue, but does not decide on any particular *process* of calculating it. It does not say definitely that the result of these steps is to be the extraction of a fair revenue-rate *per acre*, either general or for different soils according to circumstances; nor does it prescribe that this acreage rate has to be multiplied over the area, so as to give the village jama'. Yet in most places this was the method adopted, while in some the more general plan of taking a lump assessment, without making acreage rates at all, was still adhered to.

In the case of the lump sum estimate, there were various data of former settlements to go by, and the history of the village under Native rule.

In the case of acreage rates being calculated, these rates could be checked in a variety of ways. The Settlement Officer could compare the rental of the land calculated at his "soil rates" with what the rental came to when calculated by rates on each plough (which is a method of payment often adopted by the people), or by rates on each well[1], or with rates obtained by valuing different propor-

[1] That is, on the locally recognised area or block which one well waters; this will vary from village to village, according to the depth of the well, the character of the soil, &c.

tions of the produce in kind. He could also probably find a village near at hand of a similar class, the assessment of which was known to be fair. He could see what rates per acre this assessment gave as compared with his own. Then, also, there were data of former settlements, schedules of revenue taken in the days when the land was held by a local chief, and so forth: he could calculate the jama' which his own rates would give and compare it with these actual jama's, and thus see whether it was too high or too low. The former jama' may have been collected with difficulty; returns of coercive processes may show that it was only got in with pressure, while sales of land brought in low prices, entirely owing to the severity of the assessment. If, then, his present rates when multiplied over the acreage gave a total jama' as high as that former severe one, they were clearly excessive, unless it appeared that, since the days of that assessment, the land had so risen in value, and its opportunities in the way of market or communication had become so much improved, that what was heavy then could be light now; in which case his rates might be justifiable.

The revenue rates for the cultivated area being known, then it might be that some additional assets were to be allowed for. There might be a large amount of valuable waste, which, though not then under the plough, might easily be cultivated, and the assessment would be raised for this, not of course to such a figure as would be attained by making the whole to pay at cultivated rates, but by adding a general fair rate for waste. There might be also valuable jungle produce; an addition would also be made for this.

And there were also often local circumstances which could not conveniently be allowed to affect the average rates, but might be allowed for by a general deduction on the jama'[2].

[2] It is not necessary to go into this subject. I may, however, mention an instance. It is well known how *castes* differ in agricultural capacity; some are by birth bad cultivators and lazy, and others are naturally good farmers and diligent. This tells on the land very much: the one will get crops which will meet with ease a revenue assessment that would crush a village of another caste on precisely the same soil. It was not thought possible, at least in the North-Western Provinces, to fix a

I have devoted some detail to this subject, because not only was this the method adopted in earlier settlements, but the different means of checking the jama' and so forth are still largely used. It is only, indeed, in the North-West Provinces that the system of rent-rates, to be next described, has been perfected and superseded the earlier methods of assessment.

§ 6.—*The modern system of the North-Western Provinces.*

The modern system in the North-Western Provinces was first perfected in the Farukhábád settlement under Mr. C. A. Elliott. It is essentially a process by which a true rent-rate for every acre of assessable ground is ascertained, which rate is applied to the estate with unvarying accuracy. The total may be modified in the lump, by the occurrence of particular conditions which it is not convenient to allow to affect the rates; but the *rent-rates* are the really important basis of the whole calculation.

In making out these, the first help available is the jamabandi[3], a village return of rents stated to be actually paid. But this is obviously not a sufficient basis for a valuation. For example, there are some lands held by the proprietor himself, and the rent-roll does not show any rent for these; there are charitable rent-free plots and other sources of deduction. We must therefore *add* the rents that would otherwise be payable on these, and then we get (so far) what is called the "corrected rental." But even this is not enough. How do we know that these rents are *really* paid and not understated? Perhaps, if the rents are entirely paid in cash and great pains are taken in checking and discussing the entries,

generally different set of rates for each different caste; the matter can generally be best provided for either by the moderate reduction of the sanctioned rates in the particular village, or by some such general allowance on the total jama' as alluded to in the text.

[3] *Jamabandi* properly means, not a *rent-roll*, but a roll showing the distribution of the *revenue* burden among the cultivators: when this sum became the proprietor's "rent" (thus illustrating the remarks previously made), the term "*jamabandi*" came to mean a proprietor's rent-roll.

the total may be an approximation to the truth[4]. But the landlords are directly interested in stating the rents as low as possible, and will often assure the Settlement Officer that the tenants can pay no more. This is all very well, but somehow or other it appears from the information of an honest landlord in a neighbouring estate under exactly the same conditions, that a much higher rent *is* actually paid without difficulty on his land. Is this only an accident, or how is it?

The Settlement Officer must, therefore, resort to some other guides besides the asserted totals even of a "corrected" rent statement. In other words, he must make out an *estimated* or calculated rent-rate, which will be true as a fair basis of assessment; and in order to be this the rate must be not one that is true for any one year, but the average of prevailing rent-rates.

The methods of calculating this average rent-rate were, as might be expected, different in different districts, before what I may call the finally approved method was adopted. But in all cases the first necessity is to form assessment circles—tracts of country as nearly as possible homogeneous—so that the same rate or rates can be applied throughout them. For this purpose the villages are grouped into *circles* having generally the same features. Thus we may have a circle of villages on moist alluvial land along a river, or along a canal; a group on hilly ground where the climate is different; a group along the edge of the dry or desert high land where wells cannot be employed; and so forth. If a whole pargana (or small fiscal sub-division) of a district is practically identical in character, then circles are not required, and the pargana can be dealt with as a whole.

[4] This seems to be especially so in the old and well-populated districts of the North-West Provinces. Thus Mr. Auckland Colvin writes (Memo., page 7)—"the rates paid by the occupiers were perfectly well known throughout the country, and might be supposed to represent more accurately than any calculation by an outsider the letting value of land." This is, I understand, considered by some competent judges to be too general a statement even for the North-West Provinces. It does not of course apply to provinces or districts where cash rents are not the custom, or where the land has not been under settled government for a sufficient time for rents to have received their full natural development.

§ 7.—*System of land-zones in each village.*

I do not think it necessary to describe the rougher methods of rent-rate calculation[6], I shall therefore come at once to the improved or modern method, perfected in the Farukhábád Settlement. This was the foundation of the rules drawn up by the Board of Revenue in 1875.

The system is based on the fact that the villages exhibit certain zones of cultivation, the rental value of which is different, irrespective of difference of natural advantages of soil.

The *homestead lands* are found to be the best lands in the immediate vicinity of the village site; here they receive much more care than lands further off, are more easily manured and better watered. They are also likely to be the best lands, because, naturally, when the village was founded, the best and most fertile soil would be brought first under cultivation, and the village residences would be established in convenient vicinity to such lands. The value, then, of all homestead land, is in many cases quite independent of, and rises superior to, any differences in the soil, if indeed such exist.

Next in value is the *middle zone*, and least of all is that consisting of *outlying lands* at a distance from the village site, which are less carefully cultivated, and to which manure is not so easily carried.

These zones are called "hár," and it is the practice to recognise the homestead, middle, and outer, hár. The villages have recognised rates for land in each hár; as I said before, the homestead has a uniform and comparatively high rental value, irrespective of soil, and is sure to be irrigated; but the middle and outer zones will have their rental value different within the zone, according to the soil and according to means of irrigation. So that soil classes

[6] In some of these, the village rentals, corrected as far as possible, were taken, so as to give a general all-round rate per acre, without respect to soils: the plan was, I believe, adopted in Saháranpur. In other places soils were disregarded, but different general rates for irrigated and unirrigated land were relied on. In others there would be again some classified according to their quality, as clay, sand, &c.