written lease or "patta" specifying his terms, and his rent could only be enhanced on conditions laid down in the Rent Act (XIX of 1868). The Oudh law recognises no arbitrary or legal right of occupancy by mere lapse of twelve years or any other period; the Act X of 1859 has never been in force.

It will thus be seen, as the result of these protective provisions for under-proprietors and tenants, that taluqdárs may possess almost any degree of right in their villages, *i.e.*, their declared proprietary position may vary from a mere honorific title to full ownership, according as the villages under them have or have not retained their original status.

In some villages the under-proprietors may be all entitled to a sub-settlement; in others, they may have preserved partial rights which make them only sub-proprietors without such sub-settlement; in others, they may have sunk to the position of tenants with a right of occupancy; in others, they may have lost all vestige of right and become mere tenants-at-will.

§ 10.—*The profits of the taluqdár.*

In the same way, the profits, or portion of the rental which the taluqdár takes, will vary. In a simple proprietary estate, the general theory is that about one-half the estimated rental goes to Government and the other half to the proprietor; so that in the absence of other coincident interests in the land, the proprietor's profit is at any rate equal to the Government jama'.

But in a taluqdárí estate, owing to the existence of varying degrees of coincident or inferior interest in the estate, the taluqdár proprietor cannot get this amount[9]. He can only have the half rental (together with such assets as Government does not claim to share), subject to such deductions as represent the rights of sub-proprietors and others. For instance, in an estate where all the village owners are entitled to a sub-settlement,—here, as no person with a sub-settlement can get less than 25 per cent. of the

[9] Circular 2 of 1861.

gross rental, there would only remain about 25 per cent. for the taluqdár. If the sub-proprietors (with sub-settlements) were entitled to considerably more than 25 per cent., the taluqdár might have merely a nominal profit, were it not for the rule that in no case can the amount payable by the under-proprietor be less than the amount of the Government revised demand with the addition of 10 per cent.: that is, the taluqdár's profit on the estate must be at least 10 per cent. on the Government demand[10] (because the rest—the Government demand which he receives for the under-proprietor—he has to pass on to the treasury).

When speaking above of the different extent of the estates which different taluqdárs had acquired, I alluded only to the circumstances which made their holding consist of a greater or less number of villages or extent of land. But now we further see that, even in two estates nearly equal in extent, the amount of the taluqdár's pecuniary interest may be very different. The more the taluqdár had obliterated the old proprietary rights in the village, the more owners he reduced to the status of tenants, the larger his profits were. But originally, in Oudh the taluqdár paid much less to the State than the Bengal zamíndár did. For in Oudh, when he got in his rents from the villages, he often only paid in one-third, and in some cases not one-fifth or one-tenth of the whole to the State treasury; whereas the amount of the Bengal zamíndár's payment to the State represented nine-tenths of the rental of his villages. The zamíndár, however, made *his* profit by increasing the cultivation of waste (often a very large area) not included in the assessed area, and by levying cesses[1], which of course did not appear in the accounts as part of his collections.

Now, of course, the taluqdárs being actually proprietors of the estates, and not State grantees or contractors for the revenue, the Government never (save as a favour in exceptional cases) takes less than the 50 per cent. of the "net assets" which it levies

[10] See Act XXVI of 1866, Schedule, Rule VII, clause 3.

[1] See Financial Commissioner, Panjáb's letter to Chief Commissioner, Oudh, 19th June 1865, alluding to Sleeman, Volume II, page 209.

in all North Indian Provinces on all proprietors. Hence in theory the taluqdárs get relatively less than they did formerly in the way of actual percentage of the revenue. On the other hand, owing to the increased value of the land, and the consequent great increase in the absolute amount of the revenue, their profits are often (absolutely) much larger.

Section III.—Panjáb Tenures.

§ 1.—*Points of resemblance to the N.-W. Provinces.*

The Panjáb is also a land of village communities. I therefore proceed with this section briefly describing the Panjáb tenures, on the understanding that the student will have read the previous section specifically devoted to the North-Western Provinces.

The general description of the different kinds of community there given, applies equally to the Panjáb. And even the remarks made on the origin of the communities are not altogether inapplicable. There are no doubt communities whose origin is comparatively recent, and which are derived from the dismemberment of an earlier State, and others (of still later origin) are found to be constituted by groups of descendants of a revenue-farmer of former days. There are also communities called "Bhaíáchára" which do not recollect to have had any original joint ownership at all. But there seems in the Panjáb to be a much more important source of origin for the villages, in large tracts of country, than any of these; in the Panjáb we are able clearly to trace the origin of the village communities to the settlement of *tribes* of a republican or democratic character, indicating a later Aryan type, and to the partition of the country, first among the tribal sections, and then among groups of families of those sections.

§ 2.—*Points of difference.*

As regards the North-Western Provinces and Oudh, the evidence, as far as we can go back, shows the country portioned out into small States on the usual model of the old Hindu State, a Rája

at the head of each, and the Ráj rights well defined: it shows that the villages were groups of cultivators who had not any connection other than that produced by the common management of a headman. Each cultivator regarded himself as the owner of his own holding. But we found that in time the sub-division of the Ráj, the grant of what we may call jágírs, and the recognition of right in favour of certain powerful owners, produced a complete proprietary right in certain local areas, and when this was jointly succeeded to by the heirs, a joint body of owners was found claiming absolute right over the whole; and thus arose the "zamíndárí" village, which being divided became "pattídárí."

The evidence did not take us back beyond the State and the Ráj. This was the form of society which was known to the authors of Manu's *Institutes* and is generally explained to be the normal institution of the earlier and less military Hindu-Aryan races. The tribal settlements of the Panjáb are attributed to races of the same stock indeed, but of later date, and more warlike and republican propensities. These tribes, when they settled as *peoples*, divided the country and gave rise to strong joint-village communities, such as we find in the Panjáb. When they only appeared in *smaller bands, as conquering armies*, they established the sort of feudal over-lordship over the aboriginal inhabitants which we shall find to exist in Rájputána and other parts of India, but were not numerous enough to found joint-villages.

Now, in the Panjáb, the evidence of the occupation of the land by tribes and clans, who divided it out according to tribal custom, is very strong. It appears also that villages divided into "tarafs," "varhis," or sections sub-divided into "pattís," are the result of such tribal division of the land[2].

[2] In the Panjáb the "tribe" is designated by the Arabic term "qaum" and the "clan" by "got," the clan being ordinarily larger than a mere village brotherhood. "A *got*," says Mr. Tupper, "may extend over six or seven villages, or even over two hundred or perhaps more, whilst a single village may be the germ of a new *got*, or may comprise in its circle proprietors of different *gots*." In the primitive Panjáb village (where a tribal settlement is traceable) the village would consist of men of the same *got*, or of men of the same *family* in the *got*.

This evidence is collected in Mr. Tupper's valuable book[3], in which extracts from a great number of Settlement Reports are given, preceded by valuable explanatory remarks.

§ 3.—*Tribal settlements.*

In the Panjáb, the tribal groups appear to have claimed joint possession of the lot which the tribal authority assigned to them, and had an exclusive right to the whole of the land within the lot, thus giving rise to joint bodies, which might be larger or smaller, but were truly joint—being all connected by blood. Very often the sub-division was marked by the tenure of particular families, the head of which gave a name to the "taraf," while the "pattís" were the shares of the descendants in the first degree to them. The joint ownership, of course, in time exhibited all the tendency to severalty which is the characteristic of village communities in India generally.

In some cases there seem to have been large tracts which were held on thousands of shares. Whenever circumstances, such as peculiar local arrangements for irrigation, did not fix the division of land once made, there was a custom (*vesh* or *waish*) of periodically redistributing the lots. But though there are indications that this might be done as between clan and clan, it seems that practically the custom extended to the land within the minor holdings or sub-divisions, and not to the major or clan allotments. In time even this ceased, and then the shares became divided once for all, and gradually individuals and families got to hold their own lands separately.

Allowing then for the communities which arose in later days, as in the North-Western Provinces, *the original settlement of tribes* is put forward as the true origin of the great body of the

As regards village divisions, the taraf and the pattí are commonly met with. Sometimes a village is divided only into a number of pattís without tarafs. In some cases the pattí is again sub-divided into "thúlas" before we come to the khátás or individual holdings.

[3] "Panjáb Customary Law," 3 Vols. (Government Press, Calcutta, 1881).

villages in the Panjáb proper. The tribal settlements were joint from the first, but gradually went through different stages of modification; ancestral shares were forgotten and altered, the estates ceased to be held on any scheme of shares; and now the official terms *zamíndárí, pattídárí,* and *bhaíáchára* are applied in settlement papers, to describe the different stages in which the villages are to be found.

Thus, Mr. Tupper writes[1]: "The revenue terms with which we are most familiar—*zamíndárí, pattídárí,* and *bhaíáchára*—themselves epitomise the history of landed property in this part of India. The land is first held in common, and then on ancestral or customary shares; later these are undistinguished or forgotten, or deliberately set aside, and possession becomes the measure of the right, or, in other words, severalty is fully established."

In speaking of the North-West Provinces villages I alluded to this view, which is eminently probable in the case of some villages. But, as I have already remarked, it cannot be concluded that all bhaíáchára villages were once joint, and that the present form is the result of decay or disintegration.

While, on the one hand, it is quite beyond dispute that some villages, now bhaíáchára, *were* once joint, and as proved by the fact that some traces of ancestral shares still survive in the distribution of certain profits of the estate, on the other hand, it is equally certain that the villages, called in Oudh and the North-West Provinces bhaíáchára (and many others of the same type all over Bengal and Central and Southern India), never, as far as the evidence goes back, were jointly held: from the first they consisted of aggregates of cultivators held together by the institutions of the Ráj and by the customs of the village, but on a principle essentially different from that of the united or joint village.

On the whole, therefore, I think we must come to the conclusion that while tribal settlements in the Panjáb seem to account for the origin of most joint villages, we may expect to find exceptions,

[1] "Punjab Customary Law," Vol. II, page 2.

especially in the districts bordering on the North-Western Provinces. In the Himalayan States, again, we have a different state of things,—namely, an organisation of Rájput chiefs, the result of a tribal conquest, not of tribal settlement.

On the whole, then, we shall find the Panjáb villages derived from the following sources :—

(1) Tribal settlements resulting in village communities.

(2) Later village communities formed out of the descendants of grantees, revenue-farmers, and others, who displaced the original village proprietors; or villages have a special origin in waste land grants (as in Firozpur, Sirsa, &c.)

(3) Villages in districts not occupied by tribes, as in the Panjáb proper, and being of the same origin and history as those of the Gangetic plain.

(4) Non-united villages under Rájput rulers in the Hill States (Kangra, Simla States, &c.)

Whatever may be the true origin of the differences thus indicated, the effect of circumstances, and especially of our Revenue systems, has now resulted in the general existence of joint-village communities over the Panjáb. In a province which has a Pathán frontier and a frontier of Biloch tribes, which includes also the Himalayan States, the Panjáb proper and a bit of Hindústán, it will naturally be expected to find many differences of tenure.

§ 4.—*Present condition of the villages.*

The joint villages now form the leading feature, and therefore I must first offer some remarks on them[5].

"The great mass of the landed property in the Panjáb is held by small proprietors, who cultivate their own land in whole or in part. The chief characteristic of the tenure generally is, that these proprietors are associated

[5] The account of the village communities which follows was written by Mr. D. C. Barkley, and appeared in the Panjáb Administration Report for 1872-73.

together in village communities, having, to a greater or less extent, joint interests; and, under our system of cash payments, limited so as to secure a certain profit to the proprietors, jointly responsible for the payment of the revenue assessed upon the village lands. It is almost an invariable incident of the tenure, that if any of the proprietors wishes to sell his rights, or is obliged to part with them in order to satisfy demands upon him, the other members of the same community have a preferential right to purchase them at the same price as could be obtained from outsiders.

"In some cases all the proprietors have an undivided interest in all the land belonging to the proprietary community,—in other words, all the land is in common, and what the proprietors themselves cultivate is held by them as tenants of the community. Their rights are regulated by their shares in the estate, both as regards the extent of the holdings they are entitled to cultivate and as regards the distribution of profits; and if the profits from land held by non-proprietary cultivators are not sufficient to pay the revenue and other charges, the balance would ordinarily be collected from the proprietors according to the same shares.

"It is, however, much more common for the proprietors to have their own separate holdings in the estate, and this separation may extend so far that there is no land susceptible of separate appropriation which is not the separate property of an individual or family. In an extreme case like this, the right of pre-emption and the joint responsibility for the revenue in case any of the individual proprietors should fail to meet the demand upon him are almost the only ties which bind the community together. The separation, however, generally does not go so far. Often all the cultivated land is held in separate ownership, while the pasture, ponds or tanks, &c., remain in common; in other cases, the land cultivated by tenants is the common property of the community, and it frequently happens that the village contains several well known sub-divisions, each with its own separate land, the whole of which may be held in common by the proprietors of the sub-division, or the whole may be held in severalty, or part in separate ownership and part in common.

"In those communities with partial or entire separation of proprietary title, the measure of the rights and liabilities of the proprietors varies very much. It sometimes depends solely upon original acquisition and the operation of the laws of inheritance; in other cases, definite shares in the land of a village or sub-division, different from those which would result from the law of inheritance, have been established by custom; in other cases, reference is made, not to shares in the land, but to shares in a well or other source of irrigation; and there are many cases in which no specified shares are acknowledged, but the area in the separate possession of each proprietor is the sole measure of his interest. It is sometimes the case, however, that while the separate holdings do not correspond with any recognised shares, such shares will be regarded in dividing the profits of common land, or in the partition of such land; and wells are generally held according to shares, even where the title to the land depends exclusively on undisturbed possession."

Speaking of the village communities generally, 8,295 are joint or zamíndárí estates, 3,652 are pattídárí, divided in ancestral or modified ancestral shares, 9,542 are bhaíáchára, or held in lots, having no relation to a system of shares, while the large number of 17,215 (something less than one-half of the whole) are held partly in severalty and partly in common; that is, in official language, they are either imperfect pattídárí or imperfect bhaíáchára. In them, as a rule, the holders of severalty manage and take the entire proceeds of the holdings; the revenue and other expenses are met by the proceeds of the land held in common; if these proceeds are insufficient, the deficit is made up, according to the nature of the estate, by shares corresponding to the shares in the severalty, or by a rate on the holdings.

§ 5.—*Measures for the preservation of the communities.*

Before I proceed to describe a number of districts where the tribal origin is very distinct, I must mention that in the Panjáb much greater stress is laid on the preservation of the village bodies than elsewhere. Perfect partition is a process by which not only are the holdings separated, but the joint responsibility is severed, so that the perfectly partitioned lands form new and separately responsible "maháls." This process is (unlike the North-West Provinces) not allowed as a rule.

It can be arranged at settlement, if the Settlement Officer thinks it necessary; but at other times only under exceptional circumstances. Moreover, a very strong right of pre-emption is recognised, and especially legalised by the Panjáb Laws Act IV of 1872[6] (as amended by Act XII of 1878).

[6] This, of course, tends to hold the body together, since, if a member of the body sells, the others have a right of refusal, before an outsider can get in.

The order, as stated in Act XII of 1878, is that the right of pre-emption (1st) belongs to co-sharers in an undivided estate, in order of near relationship; (2nd) in villages held on ancestral shares, to co-sharers in the village, also in the order of relationship to the vendor; (3rd) if no relation claim, to the landowners of the patti; (4th) to any individual landholder in the patti; (5th) to any landholder in the village; (6th) to occupancy tenants on the property; and (lastly) to tenants with

We shall see also presently that not only was the joint responsibility of the villages theoretically preserved as much as possible, but it has been created artificially in Kangra, Dera Gházi Khán, and elsewhere, where the joint-village system did not originally exist.

§ 6.—*Nature of Tribal Settlements;—how far joint.*

It is easy to imagine a tribe coming into a district suitable to cultivation for the most part, and either finding it unoccupied or else driving out the inhabitants; they would at once proceed to allot the whole area, first into "iláqas" or major divisions for the tribe or clan, then into smaller allotments, the ultimate or third subdivision of which again was into unit-holdings for individuals or single families.

The "iláqa" is looked upon as the common property of the tribe, in the sense that any lot-holder has to give up and take another at the bidding of the tribal authority or the established custom. How far is was joint, beyond this subjection to a common authority and the necessary union for defence and for society, it is difficult to say.

I hear, for example, of a great area in one district held by a tribe in 36,000 shares; but does that mean that the whole proceeds of cultivation were thrown into a common stock, and after paying the common expenses the profits were divided? Probably not; but however this may be, and whatever may have been the true form of the management of these tribal allotments of land, the outcome of it has been (and it is this the students of this Manual are concerned with) that a number of really joint and ancestrally connected village-estates are the modern representatives or survivals of the system.

occupancy right in the village. In all cases it belongs to Government if it is land occupied by trees which are Government property. It will be observed that in some cases where relations and pattidárs refuse, any landholder has the right; this gives great opening to money-lenders and others to increase their lands. Once having got a plot, they eagerly exercise their right of pre-emption on all contiguous lands, and it is not difficult to secure it if the prior claimants are poor, or can be persuaded not to assert their claim.

§ 7.—*Principal tribes.*

The tribal settlements which I have been describing seem to have been governed by "jirgas" or councils of elders, not by Rájas, Chiefs, or Princes.

The tribes that most prominently appear in evidence are (1) the tribes on the frontier, and (2) the great Ját and Rájput tribes of the Panjáb proper. In the Rohtak district and in Jálandhar, for example, completely joint villages, thoroughly understanding a joint responsibility, are abundant, and they are chiefly "Hindu Játs." "Throughout the Delhi territory and the Panjáb proper up to the Indus," writes Mr. Tupper, "the Játs are spread in great numbers all over the country. At the last census they reached the total of 2,187,490, being chiefly Hindús and Sikhs towards the east, and Muhammadans westwards. They are agriculturists; their organisation by clans is notorious, and they are habitually grouped in village communities. Wherever Játs are to be found, their tribal influences and kinship are still at work[7]."

It should be remembered that it was where the Rájputs settled *as a people* they exhibited all the features of land allotment and village divisions which I have been describing. It was where they gained a footing, not as a tribe, but as a conquering army only, and as furnishing rulers to a conquered country, that they established the peculiar quasi-feudal organisation which we associate with their name. How far the Rájputs ever established kingdoms in this way in the Panjáb, it is now difficult to say. They did so, we know, in the hills, and they seem to have done so in other parts, at a date much subsequent to the tribal settlements.

In the Gujrát district we find the "Chibs"—a Rájput tribe originally holding the country in petty chiefships. Under Ranjít Singh, the chiefs lost their power, and only held such villages as were originally their sír or immediate holding, and in these the families formed *joint bodies of proprietors*.

[7] Tupper, Vol. II, page 36.

In the same way the Sikhs themselves would no doubt have founded small states or chiefships all over the country, as they did Cis-Sutlej, but for the strong and unifying power of Ranjít Singh which intervened to prevent the growth of such chiefships, keeping them down to the level jágírdár estates which might gradually disintegrate into a number of separate village proprietary bodies.

§ 8.—*Tribal tenures on the frontier.*

It must be readily admitted that the theory of a tribal origin to village communities is most clearly supported by the tenures observed on the Pathán frontier.

In **Hazara** we find the tribes who occupy the land are for the most part of recent origin: their advent does not date further back than the eighteenth century. The whole country was divided into "iláqas," which were, in fact, the "mark" or land allotted to the tribe. This they, as usual, called the "wirásat" or inheritance, though obtained by conquest. There was also anciently a "waish" or "vesh"—periodical redistribution of land—which we shall find more perfectly recollected in other districts.

In **Peshawar** the tribal land was called "daftar" and the share "bakhra." Where there was no irrigation, which naturally gave a fixity to the division, the share consisted in a proportion of each kind of land—good, medium, and bad. The land was divided into villages, and the villages into "kandis" (corresponding to the "taraf" of the Panjáb). There was a periodical "vesh" or redistribution of holdings [8].

[8] This re-allotment is a regular feature in the early customs of landholding in many countries, where inequality of soil renders it necessary, so as to give each a turn.

The whole of the greater lots or divisions are held by the sections in turn, and inside the larger divisions the land is divided into strips of each quality, so that it may be classified and each hold, some good, some bad, and some medium. In Williams' "Rights of Common" (p. 66) this practice is described as obtaining in the "vills" or tribal lots in Early England. A map is there given showing a "vill" divided into strips for the purpose of classification, and successive holding.

The custom will be noticed again in the Chhatísgarh Division of the Central Provinces, and was there practised not only among tribes on their allotments, but in

The Bannu district also clearly affords evidence of the villages resulting from a tribal conquest and division of the land. The tribes here are recent, the oldest of them not being older than 500 years; and they seem to have come down on and reduced to serfdom the original inhabitants who were pastoral Játs. The tribes seem to have divided the land by lot, according to ancestral shares. There are traces of a division into "tals," the area of the tribe, "darra," the holding of a group of families, and "lichh," the individual or one-family holding.

cases where a number of settlers under a headman had occupied a tract of land by agreement and compact. In these districts the headman got to be the proprietor, and his descendants formed the joint proprietary community; the other settlers were regarded as privileged sub-proprietors.

The tribal redistribution is well described in the following extract from the Panjáb Administration Report of 1872-73:—

"In some cases the separate holdings are not permanent in their character, a custom existing by which the lands separately held can be redistributed in order to redress inequalities which have grown up since the original division. Between the Indus and Jumna this custom is rare, and is probably almost entirely confined to river villages which are liable to suffer greatly from diluvion and have little common land available for proprietors whose separate holdings are swept away. Even in river villages it is often the rule that a proprietor whose lands are swept away can claim nothing but to be relieved of his share of the liabilities of the village for revenue and other charges.

"Trans-Indus, however, in tracts of country inhabited chiefly by Pathán population, periodical redistribution of holding is by no means uncommon, and the same is stated to have been formerly the case in some of the villages of the Pathán iláqa of Chach, Cis-Indus, in the Rawalpindi district. The remarkable feature in the redistribution Trans-Indus was that they were no mere adjustments of possession according to shares, but complete exchanges of property between one group of proprietors and another, followed by division among the proprietors of each group. Nor were they always confined to the proprietors of a single village. The tribe, and not the village, was in many cases the true proprietary unit, and the exchange was effected at the intervals of 3, 5, 7, 10, 15, or 30 years between the proprietors residing in one village and those of a neighbouring village. In some cases the land only was exchanged; in others the exchange extended to the houses as well as the land. Since the country came under British rule, every opportunity has been taken to get rid of these periodical exchanges on a large scale, by substituting final partitions or adjusting the revenue demand according to the value of the lands actually held by each village; but the custom is in many cases still acted upon amongst the proprietors of the same village, though probably no cases remain in which it would be enforced between the proprietors of distinct villages."

In **Dera Ismail Khan** there are several tribes—Bhittáni, Kundi, Gandapur, and Bábar.

These are all now said to form bhaíáchára communities, but it seems very clear that after the allotment of the country into plots or estates for groups of families, there was no further common management. Among the Bhittánis the "nallas," or plots used by groups, were aggregated into "mauzas" for revenue purposes.

Before land became valuable, the people of a "nalla" had no objection to outsiders coming in and cultivating a bit of the waste.

The people in a "nalla" appear to be a mere aggregate of holders, though now that land is worth having, they claim all the land in the "nalla."

Among the Gandapurs it is noticeable that part of the country is held in common by the whole tribe, there being 36,000 shares in the tract.

It is here also distinctly noticeable that a periodical division was or was not customary, solely according as circumstances made it necessary; where irrigation existed, it was not needed, and did not appear.

In **Dera Ghazi Khan** there is the same tribal division of lands, but the regular type of village community did not grow up.

Indeed, I cannot help observing, that while all these cases exhibit clearly a tribal division into minor or major shares, the further sub-divisions of these—the modern villages—are nearly always held as groups of individual holdings; although they are all *called* "bhaíáchára villages," and there was an original ancestral connection between the holders.

In Dera Gházi Khán we seem to have a clear case where, though tribes settled and the "tumándár" of the tribe allotted the land, each member held his land in complete independence. Here the conditions were similar to those of Ajmer; permanent occupation was not possible without building wells or embankments to store the water of hill streams; here there was little or no clearing of jungle to give an origin to a heritable right in the holding; but the construction of the well or the embankment was

the act that gave a customary title. In all such cases, there are of course joint holdings of plots of land, but not joint holdings of whole villages or considerable areas. The returns would, however, show that there are a very few such estates—49 out of 749; but these may easily arise; for some families that are powerful, fortunate, and wealthy, manage to extend their holdings to a considerable extent, and this group is large enough to become recognised and settled as a joint estate [9].

§ 9.—*Tribal settlements in the Central districts.*

The **Shahpur** district affords a further illustration of this. The country had originally been divided out, and "tarafs" or lots, locally called "varhi," were assigned, and the pedigree of the holders was known. At settlement possession did not correspond with such shares: the villages were then classed as "bhaiáchára."

In **Rawalpindi**, in spite of the disturbing influence of the Sikh rule, the original constitution of the villages has survived. The tribal division appears to have been uniform, and here, in many instances, the villages were divided into "tarafs," and the tarafs into "pattís;" each patti is named after an ancestor of the present occupant. In parts the different tarafs of the villages are held by different tribes.

In **Jhilam** "it is the custom for the Gakhars and other superior tribes to live in a large central village, with all the village servants, while the Ját cultivators build small hamlets (called 'dhok' or 'chak') of from one to twenty houses all round." In the process of time, and under the Sikh revenue system, they became separate estates.

In this district, the Settlement Report remarks:—

"The column for the total area shows some villages which are small counties. As they are *bonâ fide* single estates, held by one joint and undivided proprietary body, their size is really very great. Lawa contains over 90,000 acres and extends over 4 miles by 16. Thoha has nearly 50,000, and is 10 miles by 12. Kundwal, again, stretches for 9 miles and contains 35,000 acres. Another great village—Lilli—is now split up into four independent villages, but it was once all one and contained 22,000 acres. The people are all descended from a common ancestor. There are a number of villages, each with above 10,000 acres."

[9] Settlement Report, 1875, § 215, page 32, as regards the tract called the Pachád and in the Sind villages.

The Settlement Report of **Gujrat** contains a map showing powerful clans holding almost unbroken tracts of country. There is a great Gújar tract and a Ját tract, and a smaller tract of the Chibs. The Chibs were Rájputs who conquered the country, and appear to have possessed it as chiefs merely; but the petty kingdoms were suppressed by the Sikhs, as I have already noticed, and the descendants that now remain appear as holders of scattered villages only.

It was said, however, that in these Gujrat villages joint responsibility for the revenue was a novelty, but the system was easily introduced, because the cultivators in one community were of common descent. They had managed the village in common as far as fines and contributions were concerned. There were cases where the village had been founded by one man, and his descendants became joint proprietors; "but," says Mr. Tupper, "Pathán devastation and Sikh misrule reduced squatters and inheritors to the same level; ancestral shares were forgotten or disused. Responsibilities were imposed on the founder's kin and on immigrant outsiders indifferently." Under our settlement, an attempt was made to adjust the different classes of rights, by giving the settlers a status of inferior proprietor (málik-kabza or málik-maqbúza) with no share in the common lands. It is not always, however, that the village had this origin from a common ancestor; but the Settlement Report refers to the troublous times of Ahmad Sháh Dúráni, and supposes that at that time, distinct hamlets collected together for defence, and being all of the same clan and possibly in some cases related, they naturally held together.

In the **Gujranwala** district there was again an ignorance of joint-revenue responsibility; but Mr. Tupper points out that there is ample evidence of clans occupying contiguous areas of country.

In **Sialkot** the Settlement Report states that the country is almost "universally held by tribes." A considerable number is stated, but about fifteen only are prominent, and of the whole many are sub-divisions of larger tribes (the Játs here show some thirteen sub-divisions).

In **Lahore** there is found an interesting relic of an old tribal institution known as a "Chaurássi," or group of eighty-four villages. A few of the villages now only survive, held by Bhúlar Játs.

The **Gurdaspur** district, Mr. Tupper considers, shows evidence of tribal distribution, and an interesting extract from the Settlement Report is given which shows how many influences are at work to destroy the old system of *shares* where it really existed, and to substitute possession.

I must allude also, in this connection, to the Una pargana of Hoshyárpur which has been separately settled of late years. Here there is a congregation of Brahman villages in one iláqa, and these are often joint in tenure. The Rájput villages which form a fair proportion (239 out of 653) exhibit holdings by shares; the miscellaneous villages, probably consisting of groups of disconnnected settlers, are usually "bhaíáchára. In these probably there was no real community at all.

The **Jalandhar** district has been noted as one where the villages are really joint and thoroughly understand the principle of joint responsibility. Here the villages are most frequently Ját.

In **Ludiana** it is said that villages held on ancestral shares are the most common. In some cases the "pattís" only are divided; within the pattí there is joint holding.

In **Ambala**, again, the villages are mostly bhaíáchára, but this district was specially the scene of the incursions of various Sikh chiefs and clans before the whole had been welded into a power under Ranjít Singh, and therefore the original villages were probably much interfered with. This will be again alluded to further on.

The **Delhi** districts often exhibit very perfect communities, mostly of Játs, as in Rohtak.

§ 10.—*Joint villages having their origin in the growth of families, not in tribal settlements.*

In almost all the districts it will not be supposed that the tribal settlements have survived all the troubles of conquest and change

of dynasty which have passed over the districts, so as to show an unbroken series of tribal villages. It is now chiefly by the prevalence of certain castes and by the traditional customs of the people, that we are able to trace their early history. In the midst of them may be found villages of modern origin, which are held by groups of descendants from some revenue farmer, some Sikh grantee, or some powerful chief who had conquered an area of country (at a date subsequent to the formation of the tribal settlement), and whose rule has now left no mark but the proprietary right in certain villages owned by his descendants.

Whether the bhaíáchára villages in the districts nearer Hindústán may not be relics of the older Aryan-Hindu races, such as formed kingdoms in the North-Western Provinces and Oudh, I am not able to say. But it may well be that some districts have a history such as I have traced for those provinces where the villages are in the first instance "non-united," but zamíndárí rights grow up in the midst of them.

In the districts of the south-east Panjáb, however, there are villages which have an origin traceable to quite recent grants and settlements of waste land.

In Sirsa joint villages are very common, but, as might be expected, they are of recent origin. The country had been devastated by wars and originally was not favourably situated as regards rainfall, so that, when it was re-peopled on the restoration of settled government, it was so mostly by grantees whose families of course became joint-owners. But it is here noteworthy that when more than one man started a village, if they were related, their shares were not what they would have been on the purely ancestral scheme, but all the founders took equal shares. In this district also these joint estates show the usual and natural tendency to break up and to go by possession, not by shares [10].

It is curious to observe that in part of Dera Ismail Khán, called the Makkalwad, villages arose out of joint associations

[10] See Mr. J. Wilson's letter quoted by Mr. Tupper (Vol. II, page 42).

to cultivate; two or three leading men would get a grant and invite a number of persons to join them. The cultivation was carried on by means of irrigation from streams, for which purpose the fields have to be banked round. But here, though the term "'ala málik" is applied, the original holders claimed no superior proprietary right or rent charge from the others. The headmanship and its privileges went in their families, but otherwise the other settlers got a share in the land on precisely the same footing, and the land being now often divided into shares the estate is called "pattídárí." In some cases the shares fixed (on the basis of the number of "joras" or pairs of oxen brought to the settlement) have become altered by circumstances, and the village is called bhaíáchára. In some cases the smaller villages are held by the descendants of one man, and then there is a joint holding.

I must also mention the Firozpur district as another case in which villages arose without any tribal settlement, and as the result of grantees bringing waste under cultivation.

In this district (which is a great grain-producing one) it was found at settlement (1855) that many villages of Játs could be traced to an origin not more than sixty or seventy years previous, and that the institution was due to a certain number of men getting a grant from the "Kárdár" (Sikh revenue official) to found a new village in the waste. Having reached their location, and decided on a site for the village, the land was at once divided by lots into major shares or "tarafs," then into "pattís," the pattís into "laris," and then, according to the number of ploughs, bought by the individual members of the company[1]. The pressure of Sikh taxation and other accidents caused these shares in many cases to be lost, and actual holdings to supersede and be maintained. It appears to have been chiefly where land was valuable and there were distinct groups among the settlers that

[1] Here it will be observed that we have an initial division which probably partly followed ancestral connection; the settlers would naturally form groups, which may have been connected by relationship; such relations would naturally congregate in a patti and might or might not hold it jointly.

the formal partition took place. In other cases, the settler simply took and cultivated the plot which came to hand and kept what he could.

These villages have come under the official classification of pattídárí and bhaíáchára like any others.

Before leaving this district, I cannot help stating the distinct instance it affords, *in other parts*, of tribes settling and giving rise to joint communities. Parts of the district are held by Dogras (near the river) and the Naipáls, occupying the iláqa of Makhu and part of Fatíhgarh. The Dogras seem to have curtailed the area of the Naipáls. Both are tribes of Rájput descent. It would seem that neither tribe divided the land into shares, but held it, the report says, "in common." I cannot ascertain whether in this case they actually held and cultivated the land themselves after having driven out the previous occupants[2], or whether they merely subdued them, leaving them in occupation of the land and treating them as tenants; in that case the tribesmen would naturally settle as proprietors over the different village groups and jointly take the payments exacted from the tenants, and divide it without any necessity for allotting land shares. If this was the case, it closely resembled the effect that the incursions of Sikh misls or fighting companies (for they were not true clans) had on the villages in Ambála, though there the Sikhs did not become joint proprietors of the land, but joint over-lords, receiving a payment from the original village body or group, as I shall describe further on.

In the **Gurgaon** district there were very few villages which could be traced to a remote past; the majority were recent villages, granted to individuals whose families and descendants formed the joint communities of the "zamíndárí" type[3], and with them came inferior castes, and perhaps some men of the founder's caste, and these received either a share in the village, or became

[2] Settlement Report quoted in Tupper's Vol. III, page 40.
[3] See Mr. Wilson's letter in Tupper's Vol. II, page 42.

privileged tenants, as the case might be. There is now a very great tendency in the villages to become separate.

In some cases the villages were formed by voluntary associations of men of different caste.

§ 11.—*Creation of joint responsibility to Government.*

It may, perhaps, surprise the student who has seen in how many different ways what are now regarded as joint villages grew up, that it was possible to make the people accept the principle of joint responsibility for the Government revenue, where there was no original bond of common ownership between them. It may be replied, in the first place, that the grant of a common lot of waste surrounding the group of holdings as in Kangra may have had a powerful influence in reconciling them to it: but probably more than this, the assessment is, as a rule, easily paid, and the joint responsibility is rarely enforced; hence it becomes a very shadowy thing and does not appear formidable, even if it is thoroughly understood when first introduced[1].

[1] The Administration Report of 1872-73 makes the following remarks on this subject (page 13):—

"In the Simla Hills and in the more mountainous portions of the Kangra district, the present village communities consist of numerous small hamlets, each with its own group of fields and separate lands, and which had no bond of union until they were united for administrative purposes at the time of the Land Revenue Settlement. In the Multán Division, again, while regular village communities were frequently found in the fertile lands fringing the rivers, all traces of these disappeared where the cultivation was dependent on scattered wells beyond the influence of the river. Here the well was the true unit of property; but where the proprietors of several wells lived together for mutual protection, or their wells were sufficiently near to be conveniently included within one village boundary, the opportunity was taken to group them into village communities. The same course has been followed in some parts of the Deráját Division, where small separate properties readily admitting of union were found. These arrangements were made possible by the circumstance that the village community system admits of any amount of separation, *i.e.*, as (among themselves) of the property of the individual proprietors, and by care being taken that in the internal distribution of the revenue demand it should be duly adjusted with reference to the resources of the separate holdings. They also, in general, involved the making over in joint ownership to the proprietors of the separate holdings of waste land situate within the new boundary in which no private property had previously existed."

§ 12.—*Villages under Rájput Rulers in the Hills.*

I have already remarked that there are districts which did not originally show any village communities. The **Kangra** district is one: at the time of annexation (1846) it was a Rájput State. The Rája was the head of the society, and he was content with his grain-share, his cesses, and his taxes, and with the right to the waste. The circumstances of hill cultivation do not favour the aggregation of dwellings into large village sites, so that in Kangra we have small scattered hamlets, as the ground permits the formation of terraced or level fields on the hill-side.

Kangra was one of a group of States. I have already remarked on the frequency with which the old Hindu States, which were for the most part small, grouped themselves in feudal subordination to a great Rája, and this is really, on a larger scale, the Rájput tenure we find in Ajmer, where the head of the "federation," if I may so call it, has his khálsa or royal demesne, and the chief's estates are the counterpart of the smaller Rájs subordinate to the Adhiráj. The Kangra group included Chamba, Síba, Detárpur, Guler, Suket[5], Mandi, and Kulu, which still exist. The Jamú Raj (under the Mahárája of Jamú and independent) formed another considerable group. Mr. Barnes remarks that in Kangra he "discerns the primitive form of property in Hindústán." The characteristics of this are, I have no occasion perhaps to repeat, (1) that the society recognises a chief to whom it pays a share in the grain, who takes toll and tax, who has a right to deal with the waste, subject to the practical rights of user of the landholders; (2) that the landholding right arises in the original *clearer* of the land for cultivation and his descendants, the right in *that* being all that is claimed, and it is called wárisí (as in Kangra) or wirásat, or mirás, &c. The theory is, that an ousted proprietor can return after ever so long, and though our Courts necessarily bring a law of limitation to bear on such claims, still the people recognise the right uncontentiously in many cases[6].

[5] Strange to say, this state has now a *Brahman* ruler.

[6] See Barnes' Settlement Report, § 32.

And in Kangra the right was never sold out-and-out (just as we observe in Malabar and Kanára).

The holder of each plot of land regards his holding as his own inheritance, but has neither joint responsibility for revenue with his neighbour, nor claims anything but a right of getting grazing and firewood from the waste. It was only at our settlement that, following the North-West system, the waste was distributed[7] among the villagers as their property, subject to the Government right to the trees. The villagers were then told they were jointly responsible, and thus a "bhaíáchára" community was artificially created.

It is true that in Núrpur tahsil of this district[8] and in the tract called Sháhpur Kandi (later transferred to the Gurdáspur district) there were villages of a larger kind, and claiming a right over an entire area[9]; these were due to foundation by a powerful individual and the joint succession which extended the proprietary right into a joint ownership over the whole area: this in time split up into *pattídárí*, and may pass into the *bhaíáchára* form of holding.

It is curious to remark that where the tribes were pastoral, not agricultural as Gújars and "Gaddis," they took plots of land, not for agriculture, but for grazing, and subject to a toll to the Rája, which was no doubt the equivalent of the agriculturist's grain-share. They regarded the grazing grounds as their "wárisi" also[10].

§ 13.—*The Simla Hill States.*

In the Simla States and Chamba, still held by their own Rájput Rájas, the customs of landholding are just the same. Members of

[7] The hill-sides were allotted, says Mr. Barnes (with delightful naïveté), by the contiguous villages with the greatest unanimity.—Barnes' Report, § 296. See Lyall's Report, § 27.

[8] See Barnes, § 133. In these villages the *superior class* who formed the proprietary body paid the Rája's grain share, but took the taxes and tolls *within their area* from the inferiors; in some cases (as the Indaura taluqa) this developed naturally into a regular landlord-village, jointly owned by the predominant family.

[9] See Roe's Settlement Report of Sháhpur Kandi, 1873, para. 60, page 19.

[10] Barnes, § 129.

the ruling family are provided for by grants of the revenue of a village or two, and the "birt," which we found so clearly characteristic of the old form of Ráj, was everywhere known: but in these States chiefly, if not solely, in the form of grants for religious or charitable objects. "Jiwan birts," or grants of land to members of the Rája's family, are not known [1]. In these States, transfer of a wirásat holding still requires the sanction of the Rája, though this is perhaps more connected with the custom of levying a tax or fee (nazarána) on succession, than connected with a superior right in the soil residing in the Rája.

There were also none of the "zamíndárí birts" known in Oudh, nor was there any division of the Rája's rights in the lands, on the occasion of a demise.

Thus there is no opportunity for a powerful man or his family to acquire the Ráj rights in his estate, and so originate joint proprietary villages. The Ráj in these countries has always descended entirely by primogeniture, and it is theoretically indivisible. If it did split up to a certain extent, it was only into a series of smaller Ráj's, each also indivisible.

But the succession to all property, *not being the Ráj rights*, is joint, though there are traces of primogeniture, in the fact that (as in Kangra) the eldest son gets some addition to his share (jetánsi), even though it be only a cow or some article of property. Naturally, Rájput settlers, not of the royal race, might found communities, and would do so in States like Kangra, if it were not that they are fewer in number, are not rich enough to acquire large landholdings, and the families are apt to disperse and seek other means of livelihood than agriculture. The local difficulty, too, of obtaining land for cultivation compels families to separate and settle apart wherever they can find lands to clear and occupy, even if they desire to remain in their native State and live by farming.

[1] I am indebted to Major Nisbet, Superintendent of Hill States, for information regarding the Simla Hills Ráj.

The student will not fail to note from the examples afforded by the Himalayan States, as well as by Ajmer, how different an order of things results when merely a Rájput Chief with his army conquers a country and obtains the chiefship of it, to what happens when as in so many districts the Rájputs settled *as a people*.

§ 14.—*Some special tenures in the Panjáb.*

In **Multan** there are some curious tenures to be noted. Along the rivers, Ját cultivators formed communities, some apparently joint[2]. Away from the rivers, cultivation could only be undertaken by providing permanent means of irrigating the waste. The waste land was unowned, and was consequently claimed by the ruling power in later times, and we see some curious tenures arising from the occupation of land connected with the construction of canals or sinking wells.

"Away from the rivers," writes Mr. Roe, "the villages are generally merely a collection of wells which have been sunk in the neighbourhood of a canal, or in the more favourable spots in the high lands. In these there never has been any community of interest: in very many cases there is not even a common village site; each settler has obtained his grant direct from the State, has sunk his well and erected his homestead on it. Under our settlements the waste land between those wells has been recorded as a matter of course—'shámilát-deh' (common property of the village), but originally the well-owners had no claim to it whatever.

"But whilst this is the origin of many or most of the villages, there were other tracts where a particular tribe or family was undoubtedly recognised as holding a zamíndárí or proprietary right over all the lands, cultivated or uncultivated, which we call a mauza or village."

But under the rule of the Sikhs, the State did not much respect the rights of the proprietary body, and when there was culturable waste in the village, it gave direct grants to settlers just as it would in lands over which no zamíndárí claims existed. Such a new settler, however, could have been much annoyed by the proprietors, and he secured his position by paying a sort of rent—a half-seer in the maund of produce—known as haq-zamíndárí; he also paid an installation fee ("jhúri" or "siropa").

[2] Tupper, Vol. II, page 25; and Roe's Settlement Report, § 66.

"Sometimes," continues Mr. Roe, "the agreement was that the zamíndár should be proprietor of half the well sunk, the sinker being proprietor of the other half, and having a permanent right of occupancy as tenant of the zamíndár's half. This custom is known as 'ádhlápi,' and it prevails chiefly in the south-west corner of the district."

Mr. Roe also mentions a custom in the south-east, where the well-sinker digs the well entirely on behalf of the zamíndárs, and becomes entitled to nothing but a portion of the gross produce, as long as the well remains in use. This is the "kasúr-sil-chah, and the recipient is called "kasúr-khwár[3]."

The person who sinks the well is called "chakdár[4]," and this class form the "adná-máliks," or inferior owners, under the zamíndárí family or "'alá máliks." It is noteworthy that in cases where the sharers in the zamíndárí right were numerous and occupied the whole land, so that no outside settlers came in, they also paid a half-seer, just like the haq-zamíndárí, only that it was called half "haq-muqaddami" and went to the headman. It was only when the body of outsiders who paid were sufficiently numerous to afford a fair income to the headman, that he would cease to collect any *haq* from members of his own tribe. In time the rent collected from the outsiders ceased to go to one headman and was divided among the whole family.

§ 15.—*Jágír and Mu'áfi Tenures.*

We have now reviewed the Panjáb village tenures and a few other customs which arise in connection with them. There still

[3] "Or kasúr-khor"—the "eater" of the "fractions"—a share in the grain-heap. The term is also applied in cases where the chakdár gives his land to tenants, leaving them to pay the revenue, and giving him only a balance or "kasúr."

[4] This term is applied either to settlers introduced by the State or by the zamíndárs themselves: it is derived from "chak"—the woodwork of the Persian wheel, by which the water is raised. There may be cases where the chakdárs were so called when no zamíndárí right other than that of the State existed. It was formerly supposed (and so stated in the first Settlement Report, and followed by Mr. Barkley in his account of the tenures) that the zamíndár could buy out the chakdár by repaying the cost of the well; and this idea was perhaps encouraged by the fact that the chakdár would employ tenants to cultivate his well lands, and this tenancy might be taken up by one of the old zamíndárs. It is now known that this view is mistaken; the chakdár is full proprietor, though subject to payment of a quit-rent.

remain to be described certain tenures which are derived from the grant of the State, other than a mere lease or sale of a plot of unoccupied waste.

In the grants here alluded to, there were already villages in possession of at least a part of the area, and the grantee obtained the right of collecting the revenue, and appropriating the whole or part of it for himself; while at the same time he could increase his profits by improving the estate and by locating tenants on untilled holdings.

In some cases the grantee was proprietor of the land to begin with, and then the grant amounted merely to a remission of the State revenue on the land.

The chief forms of such grants known in the Panjáb are the jágír and the "mu'áfi."

The jágír was originally a grant of the revenues of a certain village or number of villages, to be taken by the grantee in support of a fixed military contingent. The jágírdár need not be owner of the lands, but he usually was of some, and had opportunities (as we observe in such grants all over India) for acquiring others. Speaking generally, this circumstance did not affect the jágírdár's position to the same extent as in other provinces; and in the Panjáb, as a rule, the jágírdár is not by any means looked on as the proprietor of all the lands in his estate by virtue of his grant. He has his own lands[5], or perhaps whole villages of his own, but that is all; nor is he owner of the waste, unless he can show a title to it like any other land.

In the Cis-Sutlej States the jágírdár, so called, was often not a grantee of any Government at all, but was simply a marauding chief of a Sikh "misl," a fighting body, not properly a clan at all, but having a sort of feudal organisation, and a scheme of sharing and succeeding

[5] When jágírs are hereditary, and not for life only (which they often are), Government has the right to fix the rule of descent (Act IV of 1872, section 8); a Civil Court cannot entertain a claim for right to a jágír unless the Government specially authorises some question to be so determined (Pension Act XXIII of 1871). But this, it will be understood, refers to the assignment of the revenue—matter of favour in which the State as grantee is the sole judge: it does not refer to ordinary proprietary claims in the land itself.

by inheritance to property acquired. These chiefs took possession, and claimed the whole area, of large tracts of country; they called the cultivated land "sír[6]" and the waste "bír."

But as the so-called jágírdár had no actual occupation of all the land (except where he chose, or was able, to take actual possession), he left the old village body in possession, claiming for himself, as over-lord, all the rental except a chaháram or fourth share in the produce, which remained to the villages.

Under our settlement arrangements the jágírdár now receives the revenue, the original landholding communities or individuals being settled with and retaining full proprietary rights. He in fact is a mere assignee of the revenue, taking what otherwise would go to the State.

Among these "jágírdárs" there is a regular custom of sharing the income of the estate. First, there was a share for the chief, and minor shares for the "pattídárs" or "horsemen." These shares are inherited according to a special rule; no widow succeeds nor a descendant in female line, and a collateral can succeed only if the common ancestor was in possession at a fixed date (1808-9),—the date when the British Government took the petty chiefs under its protection. The greater chiefs, now called jágírdárs, were originally in fact the sovereigns of petty states which they conquered and held on the Rájput system. Sovereign powers were withdrawn in 1847, and the estates became jágírdárí, and were held on condition of loyalty and rendering of service when required, to the British Government. In most cases of these jágír grants—the support of military force being now no longer necessary—Government has imposed a "commutation tax," *i.e.*, a certain cash rate per acre, which is levied in lieu of service.

§ 16.—*Mu'áfi grants.*

By a "mu'áfi" is properly meant a remission (by royal grant) of the obligation of paying revenue on a fixed plot of land, and

[6] Melvill's Ambála Settlement Report, § 61. The jágírdár's own land is also called "lána" in the Cis-Sutlej districts.

this was made often in favour of some religious person or institution, or for some good service. According to the original meaning, the term implies that the holder of a plot of land is "excused" from paying the Government revenue; and usually it would be the person's own land that is "excused" from revenue payment, or a grant of land at disposal of the State has been made "revenue-free." But in the older days, when proprietary right was less thought of, the State no doubt granted in mu'áfi a village or plot of land which was already in the occupation of some one else. Here the mu'áfidár contented himself with leaving the original occupants in possession, but he took "batái"—a share in the produce—from them. The mu'áfi also had no condition of service attached to it. The terms "jágír" and "mu'áfi" have now come to be used very much as synonyms. This is owing to the fact that service is not now required as the condition of the grant. A "mu'áfi" is, moreover, usually a small grant; the jágír grant was commonly held by persons of some family and consideration. At the present day, however, one hears the pettiest revenue-free holdings called "jágír."

In any case when a jágír or a mu'áfi, which was for life only, lapses, then if the grantee was the mere recipient of Government revenue, he or his heir has no further claim; but this in practice is rarely the case, for the grantee may be actual owner of some of the land, and may have improved the waste, and may have also reduced the proprietors of the villages to being his tenants on some favourable terms. In this case the position to be assigned to the successors of the grantee may be difficult to decide. And when such grants lapse, special proposals are submitted to the Financial Commissioner showing with whom the estate is to be settled and at what rates.

In settling a resumed revenue assignment, the practice depends on whether we are dealing with an *entire estate*, or with revenue-free *plots* inside an estate which pays revenue. In the former case, as the estate was settled like any other, on lapse of the assignment all that happens is that the revenue is in future paid to Government. When a *plot* lapses, the assessment has to be considered and also who is to be settled with, the ex-mu'áfidár or the estate owner.

In a few places, on the border of Hindústán, State grants called istimrári-muqarrári are found[7]. They might or might not be proprietary grants. If not, they only gave a right to receive the Government revenue, of which only the fixed sum specified in the grant had to be remitted to the treasury.

§ 17.—*Taluqdárí or superior rights over proprietary villages.*

Besides these cases of revenue assignment, other circumstances may create a double tenure or interest in the land. The unsettled and precarious tenure of former Governments, and the disturbances and oppression which marked their era, constantly tended to set up one class of proprietors and throw down another. A revenue farmer might acquire a certain right, or villages may have put themselves under the management of some wealthy or powerful person for the sake of his protection. Had the course of things gone on unaltered, these persons would have in time become proprietors, obliterating the original rights; but as it is, the growth of the superior has been arrested before it had reached the stage of completely absorbing the original rights in the village below him. At the present day, therefore, there are rights on both sides which demand recognition at settlement. The class of cases in which this occurs in the Panjáb are neither numerous nor important; for want of a better term the superior right is called taluqdárí, and the right of the original holder is still called biswadárí, a term which properly implies simple proprietorship in the soil[8].

As in the North-West Provinces, the rule at settlement is, wherever possible, to acknowledge the actual proprietors and allow the superior a fixed cash allowance or málikána. The law, however,

[7] In Karnál for example. See Barkley's edition of Directions, § 133, page 51.

[8] The "biswadár" is the actual soil-holder, the "taluqdár" (or the "zamíndár") is the superior right-holder. In the Cis-Sutlej States, in the case of the Sikh jágírdárs described in the text, the practice is said to be reversed: the conquerors call themselves "biswadár" and the soil-owners "zamíndár" (using the term in its *literal* sense). This is only because the conquering chiefs chose to assume the complete right in the land, and so called *their* "right" the biswadárí, deposing the real biswadárs to being mere "landholders."

gives power to the Financial Commissioner, as the chief controlling authority, to determine which party shall be settled with [9].

The cases in which questions of double tenure arise are often those in which a mu'áfi or a jágír tenure exists, and when the revenue-free right lapses, a settlement has to be made; it may be that the *quondam* grantee or his family have actual proprietary rights in the estate, besides the fact of the revenue assignment; or it may be that his right was quasi-proprietary, and it is for consideration whether he shall be admitted to engage, or the body under him.

§ 18.—*Inferior proprietors.*

The superior and inferior interests which arise from the existence of the revenue grants or some person with the "taluqdári" interest, described in the last two paragraphs, are concurrent over the entire estate. But there may be many vestiges of former proprietary rights which do not extend beyond particular plots of land now in possession of the holders. In the Panjáb, just as elsewhere, these have been provided for according to the state and degree of survival, by recognition as inferior proprietors, or as tenants with privileges of rent-rate and fixed occupancy; and, naturally enough, it is not always easy to draw the line between the two.

One of the commonest ways in which the "adná-málik" right, as it is often called in the Panjáb, arises, is in the case of persons who originally settled along with the proprietors, but who were not of the same caste or clan, and were not admitted to the full proprietary position as members of the community [10].

Descendants of the female relatives of the original founders also got into a village on similar terms.

There may be also "proprietors of their holdings" who are outsiders, but have got land by grant of Government (of abandoned or

[9] See Barkley's edition of Directions, § 128, and Revenue Act, section 34.

[10] This kind of inferior right constantly arose in cases where one or more leaders started under a grant to found a village, and required help in so doing. In some cases, indeed, as in the Dera Ismail Khán district already noticed, the whole of the settlers became equally proprietors, but in other districts the owners were adná-máliks, as in the case of the settlers in Multán.

ownerless lands), or by purchase. In some cases tenants purchase the proprietary right in their holdings.

In some parts of the Rawalpindi division, certain classes of occupants of land have been declared sub-proprietors of the land in their own possession, and settled with at fixed rates on a sort of sub-settlement. In some cases the village community can require the sub-proprietor to join the community, taking his share in the liabilities, and becoming entitled to a corresponding share in the profits[1]. In the Hazára district, the inferior proprietor, or "málik-kabza" as he is called, is found just as in the Rawalpindi division. Major Wace[2] has devoted some interesting remarks to this institution. The málik-kabza of these parts pays no rent, beyond the revenue demand and cesses due on his holding: he is not a member of the coparcenary body of village proprietors, and can claim no interest in the village common, except the user of grazing, wood, and grass, to the extent of his personal wants.

I must pass over the objections which were made to the allowing of such a tenure. In truth, it is one which accords with fact, and that is its complete vindication. Major Wace points out that it is quite consistent with native history. Such rights, so limited, were granted to faqírs and other religious persons. An old Sikh mu'áfidár often occupied the same position, since when one of the original wárisán or proprietors recovered his village on the establishment of British rule, after years of dispossession, it was only reasonable to allow some privileges to those who, during all that long term of years, had had the management of the village. It would be contrary to past prescription to require such persons to pay any rent on their holdings; at the same time it would not be consistent with facts to admit the málik-kabza to all the privileges of the actual proprietary body, who had many other rights and privileges as such, besides the receipt of rent.

[1] Jhelum 1st Settlement Report, § 267 (2).

[2] Settlement Report, 1868-74, Chap. V, 18 (p. 121). In Hazára the whole district contains 1,925 such sub-proprietors, cultivating 12,769 acres, about 3 per cent. of the total; the average holding is 6½ acres.

In the Hissár settlement the sub-proprietors are the same as those who in Rohtak were classed as occupancy tenants; and the same may, without doubt, be found in other places. It is of course, as I remarked, not easy to draw the line between persons who are inferior proprietors and those who are occupancy tenants. As a rule, they differ practically, in the fact that the sub-proprietor's tenure is not only heritable but also transferable.

§ 19.—*Tenants.*

As already remarked, it is not easy to draw the line in cases where these subordinate rights appear, between those who should be called proprietors, even in an inferior grade, and those who are more properly called tenants, though entitled to some special privileges. And in point of fact there are cases where very similar rights may be found treated in one category or the other, according to the opinion of the Settlement Officer on the spot.

There are people who have paid no rents beyond the Government revenue, and are called sub-proprietors in one place and privileged tenants in another. And the Panjáb Tenancy Law (which does not apply to any one recorded as under-proprietor) expressly states as a ground for claiming a privileged tenancy, the very facts which I have above alluded to as constituting in some cases a sub-proprietary right.

Now, this leads me to speak of the Tenancy Law. Its history is different from that of the North-West Provinces law. Act X of 1859, with its artificial rule of a tenant-right after twelve years' possession, was never formally introduced, but still the rule has had a considerable influence on the fortune of tenants, and has caused the tenant-right battle to be waged with peculiar vehemence.

I have mentioned that the settlements were, at annexation, directed to be made on the North-West system; and the North-West "Directions" and the tabular forms prescribed for settlements were introduced. The forms, when they referred to tenants, often contained columns separately for "tenants-at-will" and for "occupancy-tenants." It was then very natural that subordinate revenue

officials, and "amíns" trained in the North-West Provinces, should, in filling up the columns headed "maurúsi" (with occupancy rights), insert the names not only of those tenants who naturally had a claim, but also those whom they found to have been in possession for twelve years or more.

In the course of the controversy to which I have alluded, this fact was brought to notice, and in some districts an enquiry was ordered, and it was found that many tenants had been recorded solely under the rule which was not in force in the Panjáb; hence a revision of the tenant lists was in some instances ordered. When this revision was complete, it was held that the entries that remained unchallenged might fairly be considered to represent a just statement of actual right.

So when the Tenancy Act was passed (Act XXVIII of 1868), although its principle evidently is to recognise only rights which are on the merits entitled to consideration, still the Legislature included, as also entitled to such recognition, those rights which had been recorded at a regular or revised settlement. But while admitting these rights on the ground of their having been recorded, the law is careful to prevent the stereotyping of errors, and the landlord is still allowed to prove against the recorded right, by establishing certain circumstances which the Act describes.

The occupancy tenants are in two classes—those under section 5 and those under section 6. The former include—

(*a*) tenants who pay no rent beyond the amount of revenue and village cesses, *and* whose ancestors paid none;

(*b*) people who, once being proprietors, lost their right (otherwise than by forfeiture), and notwithstanding continued to hold as tenants;

(*c*) representatives of those who took part in the original founding;

(*d*) a tenant who is, or has been, jágírdár of the village, or part of it, in which the land is situate, and has continuously occupied the land for twenty years.

Those under section 6 are the tenants recorded with occupancy rights at settlement.

Any one is also entitled to claim a right of occupancy on any other grounds if he can establish this in a suit.

There is a difference as regards ejectment. A tenant under section 5, and one under section 6, if of thirty years' standing (personally or through his ancestors), can only be ejected for non-satisfaction of a decree for rent. Ordinary "section-6 tenants" can be ejected on tender of compensation for right, besides compensation for improvements as provided by the Act.

Beyond these recognitions of right, no artificial tenant-right is contemplated. The Act contains only the necessary provisions as to ejectment, conditions of enhancement, compensation for tenants' improvements, and so forth, and such general provisions relating to tenants of all classes generally as are necessary. Sub-letting and alienation of holding are allowed to occupancy tenants, but to others only with consent of the landlord.

The right of tenants to plant trees or sink wells, without the consent of the owners, is a matter on which local custom will be found definite enough; the Act takes no notice of the subject and does not declare whether the tenant has or has not such a right. This matter will be determined by proof of local custom. The Act only deals with the legal effect of improvements when made.

The tenant "at will" has theoretically no right beyond his year of tenancy, but under the Act he is entitled to notice to quit, except under certain circumstances; so it is really a tenancy from year to year, not exactly at will.

The Act does not apply to Hazára, which has a Tenancy Regulation of its own, but the rights recognised by the Regulation are in principle identical with the above, and will therefore need no special notice.

As regards the local customs and names relating to tenancy, they are numerous. The terms frequently relate to the fact that the tenant was the first to clear the land (bútamár tenants, &c.), or they indicate their residence or non-residence in the village, or epitomise the nature of the contract, the share in the produce which the tenant receives, and so forth.

Section IV.—Land Tenures in the Central Provinces.

§ 1.—*Peculiar features of the Central Provinces tenures.*

In the common form of village-tenure of these Provinces, we are introduced to a feature which is not found in any other part of Upper India. The proprietary right as it now exists—the málguzári tenure—is a creation of our own system. In the North-West Provinces and the Panjáb, the idea of the middleman proprietor has found expression only in an ideal form. The village-body as a whole is the proprietor in theory, but the actual sharers are for all practical purposes in the enjoyment of proprietary rights in their holding. In Oudh a distinct proprietary right has been recognised in the taluqdár, but under him the village communities may retain their own constitution, to an extent which leaves it well-nigh perfect, and makes the taluqdár a landlord whose power is very restricted, at any rate as regards all villages that have a sub-settlement. In all these cases, the tenures, however much they may owe to our legal shaping and development, are still natural in their origin, and are based on customary features of landed interest which have arisen, become modified, and ultimately fixed, by the historical circumstances of the country, the effects of conquest, of military occupation, and of the changes and chances of Native rule.

But in the Central Provinces we come back to an almost wholly artificial tenure, which has grown out of our revenue system on the same principles that the zamíndári tenure grew in Bengal. The circumstances of the villages were such, that a strong *body* entitled to be called proprietor not appearing, there was the usual latitude for the growth of the power of the persons who managed the State revenue collections, and the ultimate recognition of those persons as proprietors.

That is an epitome of the history of the villages in all the districts, except some in the Ságar and Narbada districts; my object in this section is to explain in more detail, how this new proprietorship over the villages originated, and how it developed.

I have already explained how, as the territories that form the "Central Provinces" came up for regular settlement (on the termination or the failure of the tentative leases and settlements that had marked their earlier days), the Government orders all pointed to the "recognition of a secure right of property" as the principle which would, if applied, set everything straight. That meant that every group of lands was to have a proprietor or body of proprietors to be settled with on the North-West system.

When, as in some of the Ságar and Narbada districts, there were existing joint proprietary communities as in the North-Western Provinces, the plan was carried out without difficulty. But in most districts the villages were of the non-united type, and knew of no common property or joint responsibility. Consequently, in the case of such villages, the orders first seem to have aimed at creating the joint liability, and so *constructing village communities* on the required model. Nor did this seem anything very difficult. The villages were, or might easily be, divided into local areas with definite boundaries (for under either form the villages are localised groups of cultivators); there was the hereditary "patel" or village headman, and other officials of the village, or there was a lump assessment[3] on the whole village, engaged for by the Maráthá revenue-farmer, and by him (or by the headman) distributed among the occupants. Might not such a village be easily made into a joint proprietary body? Might not the cultivators be persuaded to agree to being declared owners of the land on condition that they would engage as a body for the assessment and be jointly responsible for it —their "patel" taking exactly the representative position of the North-West lambardár? But it was found that this could not be done. It was tried in Nimár, for instance, and failed. Under the North-Western system there was but one other course. If the landholders were not a proprietary community with the security of joint liability to Government, there must be found some other

[3] This will be explained presently. The Maráthá assessments were sometimes in the lump, sometimes on each holding.

proprietor over them; who was the proprietor to be? I will answer the question first, and explain the reasons afterwards. The patels or village-headmen, and also the revenue-farmers of the Maráthá system, succeeded in so many instances, as give a general character to the settlement[4], in acquiring or being recognised as proprietors of the village.

In fact, their position and opportunities enabled them to grow into something really very like proprietors. In most cases they had a close connection with the estate. It is only I believe in a few villages that the recognised owner has little or no real management of the property. It is chiefly in the vicinity of large towns that the málguzár owner does not live in his village or in one of his villages, but is an absentee, drawing his rent, and perhaps not having been twice inside the village in his life. In such cases he has a "kámdár" or agent on the spot to represent him; and it is with reference to such cases also, that the appointment of a muqaddam or executive headman, contemplated by the Revenue Act of 1881, will be convenient.

Thus a proprietary right was created by "consolidating the position of the revenue-farmers, whom we found managing the villages and paying the Government revenue[5]."

§ 2.—*Early history of the villages.—Revenue-farmers.*

The primeval system of the ancient Gond kingdom was, in all probability, that typical form of the Hindu Ráj which has been described in the introductory chapter on Tenures.

As a rule, circumstances had not led to the development of village communities, except in the districts nearer to the North-West Provinces.

The villages remained of the non-united type. They consisted of local groups of cultivators, each with a hereditary right over his

[4] It is usually called the "málguzári settlement" of the Central Provinces, because our system admitted the man who engaged for the revenue—the málguzár—to be proprietor.

[5] Grant's Gazetteer, Introduction, page clxii.

own holding only, and each paying his own share of the grain as revenue to the Rája. Each village had, as we shall see, its staff of village servants and a recognised headman, whose office was generally, but not always, allowed to become hereditary. The headman's title is "patel[6]."

This system the Maráthá Government did not, as a general rule, interfere with. In countries where its power was firmly established, it fixed a separate revenue for each landholder and collected it by means of the headman. This system was followed in the neighbouring countries of Berar, Khandesh, Satára, and Poona: it was essentially "raiyatwár." But in the Maráthá districts of the Central Provinces a somewhat different system was developed: this is often called a "mauzawár" or village system, but it is by no means to be confused with the village system of the North-Western Provinces settlement, with which it has really nothing in common. The Maráthás under this system levied a *lump sum on the whole village*, and the headman (patel) made out a yearly "lagwán," a sort of "jamabandi" (as it would be elsewhere called), showing how each man in the village was to pay a share according to his holding and according to custom.

Wherever the patel was not strong enough to secure the payments with requisite punctuality, or wherever from any other cause they thought it would pay better, the Maráthás either reduced the patel to a nominal position, or at any rate gave over the village to a revenue-farmer, who engaged to pay in the whole sum assessed. A málguzár might in this way be put over several villages, just as a "patel" may be head now, of more than one village.

[6] The office of "patel," or in the Maráthi form pátil (often incorrectly written potel or potail), is of great antiquity. Copper grants have been dug up in Ujain addressed to the cultivators and "patalika" of a village (Nimár Settlement Report, page 149; see also page 112, &c.) It is still regarded as an office of considerable dignity: great princes like Holkar and Sindia retain the title of "patel;" and in some districts of the Central Provinces where there are Rájput Chiefs or great zamíndárs, they often hold the office of patel of their own domanial villages (see also the Section on Berar Tenures, Book IV).

This system is said to mark the decadence of the Maráthá power, or to have been adopted when that power was in an uncertain position, owing to its rivalry with other powers.

The Maráthás were keen financiers, and always recognised the fact they made more by dealing (as far as possible) with the individual raiyat direct: then there was no one to intercept a portion of the revenue payment, as would be the case directly a middleman was employed. But such a plan required the Government to be strong and in a position minutely to overlook and control its own officers as well as the headmen of villages. Hence the "farming system" marks a stage of less complete control. But even then, I believe I am right in saying, the Maráthá never allowed its farmer to get hold of enormous estates, as the Mughal Deputies of Bengal did when their power was declining. The point of resemblance is, that the farmer, when once able to establish himself firmly, took the place of the ousted hereditary patel, and became the virtual head and proprietor of the village, gradually growing into his proprietary position, on the same principle (though on a smaller scale) than the great zamíndár of Bengal did. He bought in lands, took mortgages for loans advanced to pay the revenue, and located tenants on waste lands; and in justice to those who recognised (or created, if it be so) his proprietary character at the settlement, it must be remembered that in many cases (I do not say in all), by the time the regular settlement began, the revenue-farmer really had, in virtue of his opportunities, got to look like a true owner[7].

§ 3.—*The Patel.*

It was not in all cases that a revenue-farmer was employed, or if employed that he succeeded in thoroughly displacing the patel

[7] It should be remembered that by the time our settlement began, there was only one person or family in virtual proprietary position, whatever was the origin of that person. The conflict which in Maráthá days had existed between the patel and the revenue-farmer put over him had long ceased. Either the patel or the farmer, whichever it was, had become firmly settled as master of the village, and when our settlement began was in such a position that he could not be overlooked.

and reigning in his stead. But in those cases in which the old patel had survived, or had managed to dispense with the farmer's assistance altogether, he had *originally* not a bit more of a generally proprietary character over the village than the revenue-farmer had. The patel had not, in many of the districts (those of the Bhonslá Rájas), any special holding in the village. The office was even hereditary only on sufferance[8]. He was merely the representative of the cultivators and the agent of the Government in apportioning and collecting the revenue of his village.

In Nimár, however, as in the Bombay districts to the west, the patel held a "watan" or certain lands originally acquired by him in virtue of his office. The actual official duty could of course be only performed by one person; and the State would always interfere in case the immediate heir was not fit to perform the actual official duties, and would appoint some member of the family, or even some coadjutor, to do the work. But still the "watan" itself remained in the family. It included the titles[9], the official dignity and precedence (or máupán), as well as certain dues and fees on marriages and other solemnities, and the ownership of the "garhi" or central enclosure of the village site. But its central object was the "zirá'at," or lands held in virtue of office, as a sort of remuneration or means of support (or both together), and lightly assessed[10]. Not only the patel, but all the village officials were holders of a "watan" on the same principles. The pándhya or patwári and the "mojamdár" (majmu'idár, a sort of patwári of a section of a village) had each a watan, and so had the "desh-pándya" and "desh-mukh," who were superior headmen (over the pándyas and patels respectively) in a whole pargana. Various other grades of village servants, and even hereditary artisans (alauti),

[8] His hereditary character was recognised chiefly in those parts of the Nágpur territory which had been ceded by the Nizám.

[9] Nimár Settlement Report, § 187.

[10] Chhindwára Settlement Report, § 178. The zirá'at often consisted of the best fields in the village, as the headman had great opportunities of getting what he liked into his own hands.

had also their petty watan[1]. The "patelgi" or patelship is in this district hereditary. The Government at the present day acts just as the former Government did in respect of the performance of the actual official work. It selects the heir who is most fitted; but though only one can hold the actual office, the whole family succeed together—as many as are entitled by the Hindu law of inheritance—to the watan. In this, consequently, there may be several sharers; in fact as many branches as the original stock has thrown out[2]. Often, when the shares were numerous, the younger branches got a plot of land rent-free in commutation of their share. There have been many cases where the watan has been partitioned into many shares, and this is excessively disadvantageous. In the absence, however, of any custom of primogeniture, or of one heir succeeding, it is unavoidable[3].

To make the "patel" *proprietor of the village* was therefore just as much an act of artificial creation as it was in the case of the málguzár or revenue-farmer. And this is still more the case in those districts in which the patel was not a watandár. At the same time the fact that the zirá'at lands (when those existed) constituted a nucleus of property, and that the patel had the power of settling the waste, would go security with the village banker for a villager's advance, and then would take the land in mortgage, afforded opportunities which produced just the same result in gradually building up quasi-proprietary position in the whole village as in the case of the revenue-farmer.

[1] See these described in the Nimár Settlement Report, pages 138-40.

[2] In the Berar Gazetteer Mr. Lyall notices how in Western Central India the "watan" is more prized than anything else. Speaking of the Sindkher Chief (in the south-west corner of Berar), he tells us that the family had held large jágír estates in the 16th century. In Upper India he would on this basis have developed to a great "zamíndár" or "taluqdár," but in the Dakhan he was content to be the "deshmukh" of a dozen parganas, the "patel" of fifty villages, and in his own town of Sindkher the pluralist holder of all the grants attached to menial services—washing, shaving, sweeping, &c. The family had let go its jágírs, yet had seized every sort of "watan" on which it could lay hands (page 101).

[3] See also Nimár Settlement Report, page 112, and Hushangábád Report, page 55, para. 23.

This side of the question should not be forgotten. Thus in reviewing the Nimár Settlement Report, the Chief Commissioner observes—

"Though not proprietors in the English sense of the word, they undoubtedly had an interest in the village far beyond that of mere collecting agents. If we admit the principle that a degree of independent interest in the soil is the best guarantee both for the prosperity of the land and for the facility of collection, the patel had obviously the first claim to selection as the representative of the village community[4]."

§ 4.—*Effect of settlement.*

I hope it will now be clear to the student what was the original position of the revenue-farmer and the patel, who at the settlement were recognised as proprietors of the village, under the influence of the North-Western Revenue System; and at the same time that he will see how far the selection was an arbitrary one imposed by the system, and how far there were circumstances which naturally promoted, if they did not actually necessitate it. Whether the person selected to be proprietor was originally a farmer, or the patel, was determined for each village under settlement, entirely on the facts and on the merits of the case, according to whether a patel had survived at all, or whether, if he had, he or the farmer was practically the owner. For, as I remarked in a previous note, by the time our settlement began, one or the other had long got the upper hand, and was settled in the village in such a position of superiority that there was little or no question about it. Originally, the Maráthás cared, before anything else, for their revenue; and if the patel did not satisfy them as far as revenue

[4] A striking instance of the way in which a patel's connection with the land grew is to be found in the Chánda Settlement Report. In the troublous times which followed 1804, when the Maráthá power was waning, and every district almost was a scene of struggle for the supremacy, the patels everywhere came forward and boldly protected the villages, erecting the mud or stone forts still so commonly seen in the midst of Central Provinces villages. In such times the people leaned almost wholly on the patel and submitted to him in everything concerning the affairs of the village. See also an account of the growth of the patel's power under Sir R. Jenkins' system in the Nágpur Province, and the remarks on it by the Commissioner in his review of the Chánda Settlement Report, page 10.

matters were concerned, a separate revenue lessee was put in without the least hesitation. Mr. Elliott remarks that not only had the patel no recognised claim to take the revenue lease himself, or if he had it, to get it renewed, but that the custom of so renewing it to the same person was not even sufficiently common to create a quasi-right. If there was no competition, the revenue official of the pargana had no motive for ousting the holder, whether patel or farmer, but if any one bid higher, there was nothing to restrain him from accepting the offer[5].

So it happens that sometimes a patel had retained his position, and sometimes a revenue-farmer had usurped it, and either was recognised under our system as proprietor, according to the circumstances of the case.

§ 5.—*Illustrations from Settlement Reports.*

I have noticed the following instances in the Settlement Reports which may illustrate the subject:—

In Baitul[6] the patels had mostly been displaced and málguzárs or lessees had taken their place and were recognised, except in a few cases, as proprietors.

In some districts, as Wardha[7] and Jabalpur[8], the málguzár, or "revenue engagee," is spoken of, and it seems that here it is meant that sometimes he was an outsider lessee, and sometimes the local patel holding the lease.

In Chánda again[9], and, indeed, in most of the districts which had been managed under Sir R. Jenkins' system (under which no outside lessees were admitted), the patels had retained their place and were recognised as the proprietors.

In Nimár, which is *par excellence* the country of the watandár patels, the system preceding the present settlement had been one

[5] Hoshangábád Settlement Report, page 150, para. 15.
[6] Settlement Report, §§ 98, 99.
[7] *Id.*, § 144.
[8] *Id.*, § 92.
[9] Settlement Report, §§ 32 and 277.

practically, though not in name, "raiyatwárí," dealing direct with the individual land occupant; so that here also there had been no place for usurping lessees. The orders of Government first contemplated making the cultivators or "júnadárs[10]" into proprietary communities, provided they would take the joint responsibility. But the "júnadárs" would have none of it, and so the old patels were made proprietors over them. In South Nimár also, the chaudhari, a sort of "assistant patel," was also recognised as proprietor[1].

In many districts it would seem that where there had been room for a possible choice between a village patel and a revenue-farmer, as one only could be selected, it was customary to grant the other a "málikána" or cash allowance or compensation; or perhaps he would be allowed a bit of land rent-free, still called his "haq" or "watan," as if in recognition of a past hereditary title.

§ 6.—*The Gáontiyás of Sambalpur.*

I cannot close this account of the growth of the málguzár tenures without alluding to the curious case of the gáontiyás of Sambalpur[2]. This district is close to the tributary states of Orissa, and the institution of a village headman or gáontiyá is the same, apparently, as in that province.

The villages here present the usual features of the old non-united village, but with the headman, or gáontiyá, grown into a

[10] I cannot trace the meaning of this word nor be sure of its true spelling; sometimes it is written junar-dár.

[1] Nimár Settlement Report, page 266.

[2] The Sambalpur Settlement Report is not published. There is an allusion to the district, quoting a report of Lieutenant Birch in 1857, in the replies from the Central Provinces Government to the questions of the Famine Commission. My information is derived chiefly from official correspondence in the office of the Revenue Department of the Government of India. This correspondence is interesting as showing how Western terms and the arrangements made by different powers for collecting revenue, affect our views of proprietary character. Because the Maráthás or other powers made short settlements for five years or so with the gáontiyás, and because in our language we called these settlements "leases," and the gáontiyá consequently became the "lessee," the correspondence is filled with discussions as to whether the gáontiyá is anything like a proprietary of the village, or is only "five years' lessee."

position which shows how easily the non-united village type can be overlaid by other forms.

The present settlement arrangements have virtually arrested such a complete transformation, and has secured to every landholder what is practically a raiyatwárí tenure, while the gáontiyá has only a sort of superior proprietorship which I will describe presently.

Under existing circumstances, the local area of the village is grouped into "bhogra" lands which are the "sír" or home farm of the gáontiyá, and "raiyati" lands which are held by the village cultivators.

But it will be best to describe what was the earlier custom in these villages. In many of them the gáontiyá is the founder of the village (of course the *present* gáontiyá is probably only a descendant or representative of the man who first cleared the village for cultivation [3]; but it will simplify matters if I speak of the ancestor himself). He obtained a grant from the Rája and set about clearing a site for residence and land for fields. Sambalpur is noted for its tanks and its mango groves. These are usually due to the gáontiyás. When the headman or founder began the work he established a great tank and planted a grove. As his natural reward, he took the land nearest the tank as his own (this was the foundation of his sír or bhogra holding, as it is locally called).

All the people who came with him to the work,—for it is obvious a single hand cannot found a village,—out of deference to natural superiority, or out of necessity for some sort of tacit understanding as to subordination of the led to the leader, regarded him as in a superior position [4].

[3] I do not mean that in *all cases* the present gáontiyá founded the village, either himself or in the person of his ancestor. A man may have come to the headship subsequently by the Rajá's appointment or otherwise, and thenceforward maintained himself in the position.

[4] And this no doubt gave rise to the custom that if the raiyat is wealthy enough to make a tank in his land, he gets the gáontiyá to turn the first sod, which is a token that the tank does not give him such a claim, that if he relinquishes the holding he can reclaim it afterwards, or prevent the gáontiyá dealing with the relinquished land.

But each "raiyat" or cultivator, none the less, regarded himself as permanently entitled to the land he cleared, subject to the payment of the Rája's share. Should he leave the village, he lost his land.

A new-comer taking up land with the gáontiyá's permission got just the same position as any older settler.

It is remarkable that in these villages the custom of redistributing land was in force, and still remains so. It is not merely that certain holdings, or plots, are made to change hands periodically; but in order to secure an equality, the whole of the land is classified, and each cultivator gets a little soil of each kind from the best to the worst, and these little lots, making up a holding, are periodically redistributed[5]. Supposing a raiyat is entitled to a twelfth of the land, he gets his twelfth, not in one plot, but in twelve pieces consisting each of one-twelfth of each particular class of soil into which custom has divided the area.

Under the British settlement the gáontiyá is declared proprietor, but his proprietorship is limited. In the first place he is absolute owner of his own bhogra land, and is responsible for the revenue on the entire village.

In order to remunerate him for this responsibility, he is allowed to have so much of his bhogra land revenue-free as equals a fourth of the entire assessment; for the rest he pays revenue.

But his bhogra is his absolute property, and any tenants he employs to cultivate it are merely tenants-at-will.

He is also allowed to locate new cultivators on the waste (which is allotted as elsewhere to the village area) or on lands which may be relinquished; he is allowed to charge rent on these, which rent

[5] The same practice continues in other districts of the Chhatisgarh Division (see Raipur Settlement Report, sections 170-72).

As long as the landholders are recognised (as in Sambalpur) as practically proprietors of their holdings, the practice, though highly inconvenient, gives rise to no legal question. But in the other districts where it survives, the málgúzári tenure is in full force and the "raiyats" are now tenants or perhaps malik-maqbuzus. Here, then, a question arises—could those tenants who shifted their holdings acquire an occupancy right under Act X? The matter will be provided for in the new Tenancy Law, but at present there is no legal solution for the question.

must not exceed the revenue-rate paid by other raiyats. In other words, these new-comers are assessed to revenue like the rest, only the revenue payment goes to the gáontiyá proprietor as his rent, not to the treasury.

The raiyats are not, at present, allowed to alienate their holdings. The state of the country is not such as to require this power, and if alienation were allowed, the gáontiyás would immediately take the land, buying it really for nothing, but nominally in payment of some old and forgotten debts[6].

In the Biláspur district, which is in this neighbourhood, the gáontiyás were apparently made málguzárí proprietors of their village, leaving the raiyats to secure their "occupancy rights" under the Tenant Law[7].

§ 7.—*Tenures from grant of the Sovereign Power.*

Such are the ordinary proprietary tenures in villages as determined by our settlements. Next I have to speak of the special proprietary titles arising from royal (service and other) grants.

In some parts of the country, especially in the hill tracts, are chiefs of Gond or Rájput origin, who are recognised as owners of their estates; and these are now spoken of as *zamíndárí estates*, almost in the Bengal sense. These are in fact either minor and subordinate chiefs' estates, surviving from the old days, or are estates derived, as I have previously described, from the division of some greater Ráj; or they are estates acquired by some grantee or local magnate who has risen to a position superior to that of the ordinary landholder.

There are also here, as elsewhere, a few "jágír" estates granted originally on condition of military service. Other grants called taluqdárí (or locally tahatdárí) are sometimes found.

[6] The gáontiyás themselves were very anxious that the villagers should not have the right of transfer, partly, no doubt, from the fear of losing dignity,—since the new-comer might not be as subservient to them as the former one; partly also from the long-descended desire to keep cultivators lest the land should go out of cultivation and thus the revenue for which they are responsible be endangered.

[7] See Bilaspur Settlement Report, section 317.

There are also State grants called "mukta" or ubárí, which gave the estates at a fixed quit-rent or assessment.

Lastly, there are revenue-free grantees, also recognised as proprietors, called "mu'áfidárs" or "mukásádárs[8]," or sometimes "inámdárs."

It did not follow that all these were originally, or in their nature, grants of the proprietary title; but the grantees readily acquired the superior right. Some of these grants were made where there was waste to be cleared, or old cultivation to be resuscitated, so that their proprietary character is not far to seek.

I will now proceed to offer some remarks illustrative of these tenures as they appear in different districts.

§ 8.—*Zamíndárís.*

The zamíndárí is a large and often semi-independent tenure formed in certain districts[9]; it is always held by one proprietor[10]. The owner has the right to all waste and forest in his grant, but is required (or may be required) to observe Government rules in respect of its management[1]. In Chánda the zamíndárí is indivisible and untransferable save to the nearest male heir, and is tenable during loyalty and good conduct. It descends by primogeniture, and members of the family get only a maintenance. The lord also gets the Abkárí (excise duty) and Pándri (or house tax) in his estates[2].

In some estates the zamíndár or chief appoints a patwárí and a representative patel for each village.

In the Biláspúr district these zamíndárís may also be found, and the Settlement Report[3] notices the dislike of the families to division or separation of shares.

[8] This is a term used in the Nágpur province; districts of Nágpur, Chánda, &c.

[9] As Raipur, Bálághát, Chánda, &c.

[10] In the Ahiri zamíndárí (Chánda district) there are two "sub-zamíndárs" created by the present owner. In Chánda the quit-rent is called takoli (Chánda Settlement Report, section 359).

[1] See Settlement Report, section 324, where the rules are given in detail.

[2] Raipur Settlement Report, section 246.

[3] Settlement Report, section 311.

§ 9.—*Jágirs.*

The jágír tenure, which is practically only another name for zamíndárí, exists chiefly in Chhindwára [4]. I find no mention of it (except incidentally and apparently as synonymous with taluqdár) in the other reports.

The jágír was originally a grant of the revenue of a village or group of villages, either on condition of furnishing a military force or of service by keeping open the passes on the hill routes. But now such a title does not differ from the zamíndárí. Originally also it was a life grant only, but became hereditary in many cases, because of a feeling that it was beneath the dignity of the Government to resume it. The succession to the jágír, as to the zamíndárí, goes to the eldest son, who is called "gaddi-ká-málik." Younger brothers get a maintenance allowance, or probably a rent-free grant of land in lieu thereof.

§ 10.—*Taluqdárís.*

Of lesser rank, but somewhat similar, was the taluqdár. The dignity varied with the size of the estate. The whole estate was assessed with a fixed quit-rent [5]. Sometimes the taluqdár collected the whole revenue and paid it into the treasury, getting back a fixed allowance.

Many taluqs were granted like jágírs for service, but on a favourable quit-rent assessment. If the taluqdár was allowed to collect the revenue himself, paying his fixed quota into the treasury, he naturally got a more prominent position, and proprietor-like hold over the villages, than where the Government settled with the villages, and merely paid him his allowance [6]. In most cases, however, the taluqdár granted leases, disposed of the waste, and acted as landlord [7]. Wherever the taluqdárs have maintained

[4] Chhindwara Settlement Report, Chapter XI, section 499, &c.

[5] Jabalpur Settlement Report, section 98.

[6] See Narsinghpur Settlement Report, Chapter IX, section 158, &c.

[7] See the account of the Hushangábád taluqa estates, page 156, sections 22-35. In Upper Godávari (Sironcha sub-division of Chánda) a sort of taluqdár called "sirdesh-mukh" is found; the sub-proprietors under him are called "dorwa" (Settlement Report).

the superior position, they have been recognised at our settlements; but there has been some variety in treatment, and chiefly in respect to the recognition of sub-proprietary rights and the admission of the landholders to settlement or to sub-settlement. The following conditions now appear:—

(1) Small taluqa estates, when the holder is settled with as the proprietor, and, except perhaps that his assessment leaves a somewhat larger margin of profit than to an ordinary málguzár, there is little else but the complimentary title[8] to distinguish his tenure.

(2) Larger estates where the taluqdár is recognised as the superior proprietor, but where there are persons on[9] the estate whose claims to recognition resulted in their being recorded as sub-proprietors admitted to a sub-settlement.

(3) Cases where the position of the taluqdár had originally been of the inferior grade, or by lapse of time and circumstances had become so weakened, that the landholders were settled with direct, as proprietors. In such cases, the settlement-holders pay the whole revenue into the treasury, a fixed stipend or "málikána" being paid from the treasury to the nominal taluqdár.

The Maráthás had a form of taluqdári tenure called tahatdári, and this is found chiefly in the Chhatísgarh districts. The term especially applies to a grant where there was perhaps a small settlement in the midst of a large uncleared tract: the grantee had to locate cultivators, make advances, and exert himself to bring as much of the grant under cultivation as possible; he paid a quit-assessment only; his grant was for a term of years only, and it might be renewed[10], but was by no means always so[1]. In some cases

[8] See Mandla Settlement Report, § 201.

[9] See these classes described in the section on subordinate tenures further on.

[10] See Bilaspur Settlement Report, § 313. There a contrast is drawn between the tahutdár and taluqdár; the chief difference was that one had a grant of lands uncleared or nearly so, and the latter of villages already cultivated. Of course when the grantee had spent money on the estate, his claim was stronger; but in principle the Settlement Officers dealt with both classes in the same way.

[1] Ráipur Settlement Report, § 242.

therefore, the grantee's position as proprietor would be very strong. This is, however, not always the case. In four "tahat" parganas of Ráipur it appeared that sub-leases had been granted, and that the expense of improvement had fallen on the sub-lessees. Then the tahatdár was treated just as before described; he was allowed the superior right over some villages, but none at all over others; but received a cash málikána [2].

§ 11.—*Ubárí grants.*

Of the other titles derived from grants by the ruling power, the most prominent is the "ubárí" of the Ságar and Narbada districts, closely analogous to that called in the Nágpur province "mukta." It is comparatively rare. It was a grant of an estate for life, to be held at a quit-rent—usually one-half the ordinary revenue. An immense deal of correspondence has taken place about these tenures, and it was proposed to make no enquiries about the rights of sub-proprietors in them; but this was not in the end maintained [3].

It was found in this tenure (as in any others where there was a superior owner) that the "ubárídár" might have lived away from the estate and merely drawn the cash-rent as a sort of pension from it; or he might have some connection with it, directly granting leases to middlemen and making his own conditions; or he might have closely managed the whole estate, improved it, and spent money on it. It was finally decided that all rights might be examined, and subordinate rights recorded where it was equitable to do so.

The larger "ubárí" estates were, in the matter of rights to the adjoining waste, treated like zamíndáris and were allowed "manorial perquisites" (whatever that may include) in forests and wastes belonging to the estate [4]. Excess waste was not cut off from the

[2] See the enquiry described in Settlement Report, §§ 241-45.

[3] The Settlement Code contains numerous papers on the subject. See especially Circular B., facing the 2nd Appendix, § 22.

[4] See page 3 of the abstract to the Settlement Code, clause 4.

zamíndárí, taluqdárí, or larger ubárí estates as it was in ordinary villages. But the smaller ubárí tenures were treated in this respect as ordinary villages or málguzárí estates.

§ 12.—*Other grants.*

Besides these, there are the revenue-free grants which sometimes cover a whole village, and sometimes are merely small "ináms," or grants of plots of revenue-free land made on charitable, religious, or petty service considerations. These are the "mu'áfídárs'," or as they are called in some parts "mukásadárs'," holdings.

There was a good deal of correspondence about them. They always involved the proprietary right[5]. They were all to be investigated, and their validity determined, before the settlements closed. A number of them of course were found to be invalid or had lapsed, and it had to be determined what should be maintained, and for what period; whether in perpetuity, for life, or for the term of settlement. It is not necessary here to go into detail on this subject, as all such cases have now been settled[6].

A curious tenure of the Maráthás is noticeable in the Chánda Report, and called "takam." It was a grant made to a person who would dig or embank a tank, and was of as much land (waste) as the tank would water; the rate paid for the grant was small, and called "mundsara," but (in theory) it was enhanceable.

A fine or fee was usually paid for the grant, and so with mukta grants[7].

§ 13.—*Inferior proprietary rights: sub-proprietors.*

The reader will readily understand how in the Central Provinces the determination of the variously originating proprietary claims necessarily gave rise to numerous cases of double tenure—an upper and an under proprietary right.

[5] See Chánda Settlement Report, § 276.

[6] When lands were granted in Chánda on a "mukása" tenure, if it was a whole village, it was called mukása, if a part it was called "vátti," which is the Sanskrit form of "birt," a term we are already familiar with. (Settlement Report, § 360.)

[7] Settlement Report, § 363. Perhaps the word should be "takam."

In all zamíndárí and taluqdárí estates this is matter of course; but in the villages in which the málguzárí tenure was recognised or conferred, there were also many questions as to the position of the village landholder under the málguzár. In some cases there might be room for doubt as to who should be recognised as the superior. In the Central Provinces therefore, perhaps, more than anywhere else, the settlement system necessitated an extensive enquiry into, and record of, secondary rights[8]. This was attended to with the usual difficulty of classifying or defining such rights.

I have already given an indication in my general review of Indian settlements, that there are two different forms in which a double rank of ownership right appears.

In one of these the superior proprietor receives rent for the whole estate, but under him the entire village is regarded as "inferior proprietor." Thus in a zamíndárí or jágír estate there may be whole villages under the chief, with their original headman or patel, and their cultivators, who perhaps had been there from the day the ground was cleared.

The same thing might occur in the málguzárí tenure, the now recognised proprietor having indeed a superior position, but not such as to have obliterated the village rights, which now appear as sub

[8] See specially clauses 12-17 of the Ságar Rules (Government No. 173A., dated 30th November 1853). The Settlement Officers were "to recognise fixed rights or claims and interests in whatever form they may have already grown up, and to avoid any interference with them by any speculative acts or views of the officers of Government." This was probably said with special reference to the maintenance of the proprietary communities where they survived, which would give a kind of tenure not uniform with cases where a sole proprietor was found. The officers were to take rights as they found them, and not be too desirous of moulding them all on one model. These orders can scarcely now be read without a smile, when we reflect that notwithstanding the largest allowance for cases where (as above explained) the patel or málguzár had in fact acquired what we could not help calling a proprietary position, still there were many places (*e.g.*, Nimár) where the recognition of such a position was an act of almost pure creation. And the creation was, *pace* the orders, solely the result of "speculative views,"—of a system which laid down that in no case would Government deal direct with the individual occupants of land. Had a purely natural plan been followed, of recognising rights *as they were*, there must have been many cases where the settlement would have been raiyatwárí; and it is little wonder that many advocated such a system for the province generally.

or inferior proprietary rights in the village. In these cases there is, as already noted, always a sub-settlement made with the inferior proprietor.

§ 14.—*The Málik-maqbúza.*

But in other cases there may be no general inferior proprietary interest over the estate, but an individual here and there may have preserved sufficient vestiges of his ancient rights to make him entitled to consideration, and this is given in practice by calling him "proprietor of his holding" or "málik-maqbúza." Such an individual is not an "inferior proprietor," in the sense in which that term is used in the Revenue Act of 1881, and his right to a sub-settlement is not absolute, but is optional with the Settlement Officer, according as he sees some advantage in granting it.

Such persons are commonly represented in villages by the old hereditary occupant, the "júnadár," or kadím-kásht kár, or whatever else he may locally have been called; or by an ousted or former málguzár, patel, &c., or by a descendant of such person who is still in possession of some lands.

§ 15.—*Difficulty of distinguishing inferior proprietary from tenant-right.*

So far this seems simple and intelligible; but then there comes the usual difficulty of drawing a line between tenures or interests in the land which are in such a condition of actual survival that they can be assigned an "inferior proprietary" position, giving a quasi-proprietary right in individual plots of land, and those interests which have now faded out, or appear so vaguely and with so much uncertainty, that it is difficult to say what they *now are*, though it is easy to speculate as to what they *once were*.

Usually the plan was to give practical recognition to them by declaring an occupancy tenant-right; but it is not to be wondered at that the line of distinction between the class which obtained an inferior proprietary right and that which only acquired a tenant or occupancy-right, should not be very uniformly drawn.

As these questions were actually determined at settlement, and the rights of such people have been recorded one way or the other, it is now of no practical importance to go into the detailed orders which guided, or were intended to guide, the enquiry; it is enough the principle adopted should be understood.

Where such rights were very strong, they would, indeed, be recorded as actually proprietary, though in the second grade; for the Government had in its settlement instructions of 1853 clearly ordered that such cases of strong *natural* right should be provided for by making the person entitled thereto a proprietor of his holding or "málik-maqbúza." The gist of the orders was, that where the old revenue-farmer or patel had been recognised as *owner*, and it was felt that this was (or might be) rather an artificial creation of ownership[9], then all such landholders as had real claims to consideration should be recorded as proprietors of their holdings, though in the second grade; their rights were to be transferable, and they should be entitled to share in the waste, and, indeed, to have the rights of a proprietor, subject to the payment of a certain rent to the superior.

These orders seem to have been very generally understood and acted upon, as regards *some* classes of occupants; but there were others to whom the same orders might have been applied, but who somehow or other were put down as tenants, although they were clearly entitled to protection by reason of their having got their lands by inheritance, or had cultivated them before the person newly recognised as owner gained his connection with the village. Meanwhile Act X had been extended to the provinces[10]. Some of the persons in question were treated as "málik-maqbúza" under the original orders, while others were only recorded as "occupancy tenants" under the Act.

[9] See No. II in the Settlement Code, section 17; the exact phrase (which implies what I have above stated) is: "where the proprietary right and the title to engage with Government are conferred on a party who, having . . . . a fixed claim or usage of management and collection in a village, has yet held connection rather from a *hereditary tenure of service than from any exclusive right of ownership*," &c.

[10] It is still in force and will remain so until the Tenancy Law passes. The Tenancy Law will, however, practically secure all rights declared at settlement.

§ 16.—*Principles on which rights were declared.*

It must be remembered that the Rent and Tenancy Act (X of 1859) was extended to the Central Provinces. This Act, as we already know, does not make any reference to the facts or circumstances of a tenancy as affording the ground for protecting the tenant by giving an occupancy-right: it simply says that every tenant who has held for twelve years cannot be ejected, except on certain conditions proved in Court, and that he can only have his rent enhanced in a similar way. Any tenant, therefore, put on the register as a "legal occupancy-right tenant" would have nothing recorded of him, beyond the fact of twelve years' occupancy, any special history or feature of his holding being, legally speaking, surplusage. Should, then, the Act be repealed or modified (as was then expected), such tenants would lose their protection against ejection and enhancement.

But many such tenants would in reality be able to rest their claims on much stronger grounds than a mere twelve years' possession, and such cases consequently deserved recognition in a way which would not be dependent on the chances of Act X being maintained or repealed. Accordingly, in 1863, the Settlement Commissioner by circular called attention to this difficulty, and wished to draw attention to the real difference between a person entitled to be called "proprietor of his holding" and one who would be merely an occupancy tenant, dependent solely on the Act.

The following classes of claimants had, I gather from the Reports, been pretty uniformly recognised as "málik-maqbúza," as intended by the original orders:—

Village headmen and others who had founded villages, cleared waste, &c., but had now sunk into an inferior position.

Thekadars or lessees of villages created by the superior, whose connection with the estate was so close and permanent as to demand recognition [1].

[1] The position of lessees might vary from that of a mere contractor who had undertaken to realise the proprietor's rents to that of one who had advanced money, improved the estate, and closely managed its affairs. See Settlement Code, No. LXXIX.

Cadets of families who had been assigned separate lands for maintenance[2].

Cadets and members of málguzár's family divided off and holding land rent-free or at quit-rent in lieu of a general share[3].

Former málguzárs, &c., who had been ousted, but had retained the lands of their old "watan" or some "haq" in recognition of their former character.

Holders of resumed revenue-free grants.

But, then, besides these, it was the intention of the settlement orders to acknowledge also as málik-maqbúza, cultivators of long standing who were to be protected, "on the ground of their continued occupancy;" these were, in fact, cultivators who had held the power of transferring their holdings, who had spent more than ordinary capital on the land, and who had perhaps held long before the present owner came into connection with the village. But this class had not always been attended to, it would seem, and some of such old cultivators had simply been put down as "occupancy tenants." The circular of 1863, above alluded to, was designed to rectify this. The Government of India was referred to, and the result was that the order well known as "Circular G (1865)"[4] was issued; this solved the difficulty by ruling that tenants in six classes should be protected specially by being called "unconditional[5]," *i.e.*, not liable to be ejected, *even if Act X were repealed* or modified. The protection was to be effected by entering clauses in every "wájib-ul-'arz" (or paper notifying the customs of the village and its administration) agreeing on the part of the proprietors to the absolute right of such tenants. The clauses declared the rents fixed for term of settlement, the tenure heritable and transferable (subject to paying a "relief" of one year's rent to the superior or owner).

[2] See Narsinghpur Settlement Report. In some estates there was a strong repugnance to recording the lands as divided, or the members of the family as separate sub-proprietors; this from motives of maintaining the family dignity. See Hoshangábád Settlement Report, page 163, section 39.

[3] Hoshangábád Settlement Report, page 168, section 52.

[4] Printed in Settlement Code (Supplement), and also in Nicholls' Digest, Vol. II, page 430.

[5] Also spoken of as "Circular G tenants," and "*mutlaq*" or absolute, also "*mustaqill maurúsi*" or unconditionally, fixed hereditary tenants.

The six classes may be summarised as follows :—

(1) Occupants whose tenancy was hereditary *ex origine*,
(2) Who had expended an unusual amount of capital on their lands.
(3) Who were relations of the present or former proprietors, and whose tenure may be considered as to some extent a *substitute* for a share in the proprietary right of the family.
(4) Tenants of new villages who had held ever since foundation or reclamation from jungle.
(5) Tenants who were holding before the present owner acquired his position.
(6) Tenants whose holdings had descended by inheritance, provided they had held for twenty years at least.

Practically, therefore, these persons were in as good a position as that of the "málik-maqbúza" originally intended for them.

All others who had claims based merely on possession for a term of years were to be occupancy tenants under Act X.

The results were very various in the different districts.

Mr. Elliott states that in Hoshangábád, while he recognised many of the classes which I have referred to as allowed on all hands to be sub-proprietors, no rights of the "Circular G" class were either claimed or allowed [6].

In Wárdha nearly 15,000 [7] persons were admitted as proprietors of holdings, on the ground of their being representatives (calling themselves "muqaddam") of old "proprietary" families [8].

§ 17.—*Controversy about the tenant-right.*

The circular of 1863, however, placed one restriction on the recognition of the rights which it called attention to. It proposed that the persons who were entitled to consideration on grounds independent of mere length of possession, should themselves take the burden of proving the circumstances that warranted their claim.

[6] Hoshangábád Settlement Report, page 169, § 53.

[7] There is a misprint in the Report of 149,202, probably for 14,902.

[8] Settlement Report, § 203. For the way in which sub-proprietary claims were dealt with in other districts, see Settlement Reports of Nágpur, §§ 19-21; Chánda, § 369; Bhandára, § 203.

To this restriction Mr. Campbell, then Chief Commissioner (in 1868), took exception. He urged that the original orders of settlement of 1853, directing the careful record of all subordinate rights, laid no such burden of proof on the claimant. The right to the general ownership or superior title in the village was "conferred" on certain persons, and therefore it was not right to put the original occupants to any proof; rather they were to be recognised as matter of course, and if the newly created superior did not like it, *he* was to show that there was *no* ground for so recognising them. Mr. Campbell contended that as the Central Provinces lay midway between the North-Western Provinces and Bombay, so the settlement was meant to be midway between the absolute proprietary settlement of the North and the raiyatwárí settlement of Bombay. This, it must be confessed, is rather a neat and taking phrase than one which accurately expresses the facts. The North-West Government had no idea of modifying their system, but they knew that in many cases the making of a patel or málguzár into a proprietor would be an artificial proceeding, and so they felt it necessary to be sure that existing natural rights were not overridden in the process; but that involved no modification of the system, and was certainly a well-recognised part of the Regulation VII procedure.

Mr. Campbell's main position was that the *málguzár* was intended to prove his strong title, not the ryot to prove *his*; but surely, though this is true, it does not follow that it was right to accept all raiyats as sub-proprietors where the málguzár's title was weak or artificial, and ignore it where it was otherwise. The málguzár's title may have been very strong: still if the *raiyat* claimed that he had been antecedent to him, that he had spent capital in excess of what a mere tenant would be likely to do, though it would be only fair to recognise the tenant's claim, it would be equally fair to require *him* to prove it.

At the time, however, notwithstanding the existence of the Circular G, and that the circular of 1863 had been in force for several years, the latter was cancelled. Then there was a long cor-

respondence; the Settlement Commissioner justified his circular in an able note, the opinions of other experienced officers were called for, and the final orders of the Government of India, though they did not restore the circular of 1863, thought that the case was sufficiently met by recording rights (other than those already admitted as "málik-maqbúza") under Circular G. So that practically the result has been to provide for all subordinate rights:—

(1) By declaring the person to be a "málik-maqbúza" (usually rendered "proprietor of his holding" (*i.e.*, not a mere privileged tenant). His right is heritable and transferable.

(2) By declaring an "unconditional tenancy right" protected by clauses in the wajib-ul-'arz, under Circular G, which gives almost the same rights as the first, only that it does not carry a share in the profits of waste, and makes the right of transfer subject to a relief or cash payment (see page 88).

(3) By recording an ordinary tenant-right of occupancy under Act X of 1859.

§ 18.—*The new Tenancy Bill.*

The new Tenant Law for the Central Provinces, which still remains in the form of a Bill in Council, will provide for the tenant-rights which have thus arisen.

It recognises the "absolutely occupancy tenants" of the settlement, and it maintains generally the twelve years' rule, so that the ordinary occupancy tenants of the settlement will not be affected, though Act X will be itself repealed.

The twelve years' rule is to be subject to the usual exceptions. Occupancy rights cannot grow up in land which is held on a lease providing that the tenant shall quit the land on the expiry of a given term, or agreeing that occupancy rights shall not be claimed. The right does not grow up on a proprietor's sír land.

It is also provided that tenant-rights may grow up on land which is exchanged; that is, a practical holding of a given area, although village custom prescribes that holding may be now here, now there, as to its actual locality, shall give the occupancy right.

To suit the peculiar circumstances of the tenants in Chánda and Nimár, who really appear to be the old land cultivators, long over-

ridden by incoming families who have grown to be the proprietors, *all* tenants will have occupancy rights, except those cultivating sír land of the proprietors, and holding lands which were recorded as waste at settlement, and are held under special settlement terms. For here it is obvious the tenants were evidently located by the proprietors to till the waste, and they have not the same equitable and ancient claim which they have on the old cultivation. There are also special rules about the rent of such lands.

In Sambalpur the right of the tenants, already alluded to, is protected by the fact that there is no power of ejectment, except one consequent on an order of Court passed when a decree for arrears of rent has remained unsatisfied for fifteen days. The rent is also to be that fixed at settlement; and agreements to pay more are void, except under an order consequent on some expenditure of the landlord which has improved the productive power of the land.

In Sambalpur (as also in Chánda and Nimár) the occupancy right is fully heritable like any other property. In other districts, it only descends in the direct line, not to collaterals, unless they were co-sharers in the cultivation.

The occupancy tenant-right is made transferable without the landlord's consent, but only to a person who by inheritance has become a co-sharer in the holding.

In Chánda and Nimár, and in the case of all "absolute" occupancy tenants, the right is transferable to any one who could succeed as an heir on the death of the tenant.

I mentioned these features first, to show how the rights determined at the settlements will be recognised and provided for by the new law.

But the whole law contains several novelties; and both in arrangement and detail it represents a great advance on the older rent laws of the other provinces. I have mentioned no sections by number, because in the process of final revision, even if no serious alteration is made, the numbers of sections are sure to be changed, and to give those of the Bill would only introduce confusion. It will be a profitable exercise to the student, when the Act

passes, to compare this account with the provisions that ultimately become law, and to note the points of difference.

§ 19.—*Arrangement of the Bill.*

It may be convenient here to give a summary of the contents of the Bill.

After a series of necessary definitions, occupying the first chapter, the Bill treats (in Chapter II) of the relations between landlord and tenant generally. It lays down certain general rules as to the presumption which arises in regard to the amount of a tenant's rent in any rent suit, and fixes the beginning of the next agricultural year (1st June) as the date from which all changes shall commence, unless otherwise ordered in special cases.

The Chief Commissioner is to fix dates for payment of rent by instalments, where no contract has been made. Provision is made for a tenant to deposit in Court the rent he thinks he ought to pay: penalties are provided for exactions by the landlord, and for refusal to grant receipts for rent. It is also provided that if Government remits or suspends payment of revenue owing to drought or famine, &c., the landlord may also be required, in bringing a suit for rent due, to abate a portion of the rent, on the tenant's proving that the land is that on which the damage or loss, which led to the revenue remission or suspension, occurred. It is provided that no rent whatever, whether contracted for or not, is to be less than the Government revenue.

The next division of the chapter treats of the procedure for rent payment by estimation or division of crop; and the next of the landlord's lien on the crops for his rent. Distraint is not allowed, but a prior claim for one year's rent is given over all other claims and all other attachments of the crops. And to give the full benefit of this, a period called the "landlord's fortnight" is fixed, and runs for fourteen days from the date of any rent-instalment falling due. So that if any person attaches the crop, say, for a debt, during this period, he cannot proceed to sale till it has elapsed, and the

landlord has an opportunity of exercising his prior right to satisfaction from the crops[9].

The next division deals with the surrender and abandonment of holdings by tenants; and the next with ejectment generally. Provision is made for the tenant's interest in crops unreaped, and land prepared by his labour for sowing, at date of ejectment. Then follows a further division on improvements and compensation for them. All agreements by the tenant not to make improvements, or to be ejected if he makes them, and all entries in the former records of rights having the same effect against the provisions of the Act, are declared void.

The next division of this chapter deals with cases where several persons are joint landlords. The chief provision is to prevent the tenant being harassed by having to pay fractions of rent to two or more persons.

The last division deals with miscellaneous matters, such as the power of requiring written leases showing the terms of holding, the measurement of holdings, and the awarding of leases when the Government assessment is changed.

These general rules being disposed of, the third chapter deals with the special features of holdings by tenants-at-will, which it calls "ordinary" tenancies. The chief of these relate to notice of ejectment and to certain remedies against ejectment which are available, and to rent, which may be fixed by the Revenue Court in certain cases only; otherwise this is not a matter for interference. Chapter IV describes tenants for a fixed term, and Chapter V deals with tenants with a right of occupancy. Most of the provisions of this chapter have already been noticed.

The last chapter (VI) is occupied with jurisdiction and procedure. As usual, a number of subjects are made over to Revenue Courts, and the Civil Court's jurisdiction is excluded.

[9] If the produce is liable to speedy decay it may be sold at once, but the proceeds are deposited for the same purpose.

CHAPTER III.

LAND REVENUE BUSINESS AND OFFICIALS.

SECTION I.—THE REVENUE OFFICIALS AND THEIR DUTIES.

§ 1.—*Subjects of Revenue Administration.*

IT will be readily understood that, apart from all other branches of duty,—registration of deeds, stamps, excise, &c.,—the land-revenue affords the District Officers a large, if not the largest, part of their official occupation. In enumerating the branches of work that are included under the general head of "Revenue-business," I might begin with the charge of the district treasury, for the treasury is the place of deposit for all revenue payments. The village collections are, as a rule, in the first instance, paid into the tahsil treasury, the latter transferring its receipts to that of the district. But treasury work is so specially connected with the rules of public account-keeping, that it forms a practically separate branch, and will not be further alluded to in this Manual.

The remaining branches of duty may, however, be summarised as follows. First, the Revenue-officers have to supervise the collection of the revenue, and watch the effects of the assessment, using their power to compel payment when it is necessary, but discriminating carefully where real misfortune necessitates a suspension or even remission of demand. Next, they have to supervise the working of the local revenue machinery, especially the patwáris or village accountants and the headmen; and in connection with these offices, claims are constantly coming up for hearing regarding appointment, dismissal, or on the occasion of a succession. Then there is the maintenance of the record of rights. Proprietors die and are succeeded by their heirs, or they sell and

mortgage their holdings; these changes have to be registered, so as to keep the record of rights up to date. Applications have to be heard for the partition of joint estates. Lands affected by alluvion or diluvion have to be settled. In some districts where revenue-free holdings abound, much work has to be done when such estates lapse, in determining at what sum they should be assessed and with whom they should be settled. In some cases boundary marks may be obliterated and disputes arise, or orders are required for the restoration of the marks. When land is taken up for public purposes under the Land Acquisition Act, the Collector has the duty of managing the business, which, besides the award of compensation, may involve the reduction of the revenue-roll[1]. These are some of the chief heads of duty, apart from the more formally judicial work which as "Revenue Courts," hearing rent suits, and other applications connected with tenants, the officers may have to perform, and which vary in different provinces according to the laws in force.

It will therefore be necessary, in order to render our study of the system complete, to consider, not in detail, but in outline, what the grades of the Revenue-officers are, what their duties are, and how the business of their offices is done.

§ 2.—*May be contentious matters.*

It follows naturally from the nature of the business to be done (as above indicated) that many questions cannot be disposed of without hearing both sides. One party may apply to have some record made, some succession recognised, and so forth, and some one may have an objection or a counter-claim on his side; a reference to documents and a hearing of witnesses may be necessary, so that

[1] The Act itself has nothing to do either with the system under which land-revenue administration is carried on, or with land tenures; consequently I have placed my description of the Act, by preference, in the *Manual of Jurisprudence for Forest Officers*. The only points of contact with revenue administration are (1) that when land is expropriated, of course the land-revenue charge ceases to be paid by the former proprietors, and the revenue-roll is reduced accordingly; (2) that the Collector, from his greater knowledge of land and its value, is appointed in the first instance to make an award or offer of compensation to the owners.

the proceeding becomes one analogous at any rate to a "suit," and it is therefore necessary to provide for an appeal to rectify errors in such proceedings, and a procedure under which these officers shall be able to compel the attendance of witnesses and the production of the documents they require to inspect. These proceedings are, many of them, only quasi-judicial, but many are also regularly contested law-suits. Such, for example, is a rent case.

I am not here alluding to the cases in which land suits are referred, or may be referred, during settlement to the Settlement Officers under the law of the Panjáb, the Central Provinces, &c. In these cases the Settlement Officers are empowered as *Civil Courts*.

But to dispose of the questions arising in the course of land-revenue administration the officers sit as "*Revenue* Courts;" and in order to avoid confusion, as well as to secure the advantage of such matters being disposed of by persons specially cognisant of them, the Civil Courts have no jurisdiction where the Revenue-officer acts under the powers legally entrusted to him.

The subjects which in ordinary land-revenue business are excluded from the notice of the Civil Courts, must be learned by a reference to the several Revenue Acts themselves[2]. Those which are so excluded in questions of tenancy or rent can be seen by a similar reference to the Tenancy or Rent Acts[3]. The different provincial arrangements regarding Revenue Courts are as follows:—

In the **North-Western Provinces**, Chapters VII, VIII, and IX of the Revenue Act refer to the powers of Revenue Courts to appeals from their orders, and to procedure. The Rent Act also constitutes Revenue Courts to hear rent and tenancy cases[4].

[2] North-Western Provinces Act XIX of 1873, section 241. Oudh Act XVII of 1876, section 219. Panjáb Act XXXIII of 1871, section 65. Central Provinces Act XVIII of 1881, section 152.

[3] North-Western Provinces Act XII of 1881, sections 93-95. Oudh Act XIX of 1868, section 83. Panjáb Act XXVIII of 1868, section 42. Central Provinces Act (not yet passed).

[4] Act XII of 1881, sections 93-95; and Civil Courts here also have no jurisdiction.

In the **Panjab** the Revenue Act leaves the procedure of Courts and appeals to be regulated by rules made under section 66. When the Settlement Officer is given jurisdiction to hear land cases, it is, as I said, as a Civil Court[5]. Under the Tenancy Act, all rent suits and claims to tenant-right are heard in the Civil Courts[6].

In **Oudh** the Act contains provisions about procedure and appeals[7]. The Rent Act constitutes "Revenue Courts[8]" hearing rent and tenancy cases, as in the North-Western Provinces.

The **Central Provinces** Act does not speak of "Revenue Courts" by that name, but it specifies the powers of the different Revenue-officers, and regulates appeals[9].

The Tenant Bill will provide (as in the Panjáb) that Civil Courts are to hear suits arising between landlord and tenant; but certain miscellaneous matters connected with rents, division of produce, measurement of holdings, &c., are to be disposed of only by revenue officers. For the hearing of suits in which the Civil Court's jurisdiction is maintained, the Judge of first instance must be a Revenue-officer.

I will now proceed to describe (separately for each province) the grades of Revenue-officers.

§ 3.—*Grades of Officers.*

North-Western Provinces.—The general supervision and final appellate power in revenue cases is vested in a Board of Revenue consisting of one Senior and one Junior Member, with a Secretary and Junior Secretary. The Members divide the territorial jurisdiction and the subjects which come under their notice, according to rules of practice sanctioned by the Local Government[10].

[5] Act XVII of 1877, section 49.
[6] Act XXVIII of 1868, section 42.
[7] Act XVII of 1876, Chap. X, and rules under section 220.
[8] Act XIX of 1868, section 84, &c.
[9] Act XVIII of 1881, sections 16-26, and rules under section 19.
[10] Act XIX of 1873, section 4, &c.

Each division (or group of three or more districts) has a *Commissioner*, and each district a *Collector* with *Assistants* of the 1st and 2nd class. The ultimate revenue sub-divisions of a district are called *tahsíls*, a modern institution which has replaced the *pargana* of Mughal times. In these provinces, however, the pargana limits are perfectly well known and are constantly made use of: a tahsíl may contain several parganas [1].

An Assistant Collector of the 1st class may be put in charge of a sub-division, or more than one sub-division, and there he exercises a variety of powers [2] in subordination to the Collector.

Under section 17 of Regulation IX of 1833, officers called Deputy Collectors were appointed, and are so still [3]. They are practically 1st class Assistant Collectors, and receive powers under the Revenue Act in that grade. Being uncovenanted officers, this title distinguishes them.

Second class Assistants can only investigate and report on cases on which orders are passed by officers of higher rank: but they may be employed on other revenue business, such as maintaining the records, which do not involve decisions on contentious matters.

The officer directly in charge of a tahsil, subordinate to the Collector and to the Assistant (if there is one in charge), is the Tahsildár.

The above grades of officers are alone vested with any powers as Revenue Courts [4], but there is an important subordinate agency to be alluded to.

Under the tahsildár are qánúngos, whose chief duty is the supervision and reduction of the statistics furnished by the

[1] A further sub-division called a "tappa" is often mentioned in Reports. Sometimes the term denotes a group of villages in which one is the principal giving its name to the tappa, the others being hamlets or outliers.

[2] Defined in section 235 of Act XIX of 1873.

[3] Sections 2-15 and 19 of the Regulation are repealed, the rest is in force. (See Legislative Department edition, North-West Provinces Code, pages 101-2.)

[4] *i. e.*, power to pass orders or investigate cases under the Revenue Act or to hear rent suits. Settlement and Assistant Settlement Officers have certain powers under the Act during the progress of a settlement.

patwáris, on whose inspection of the villages, and initial record of transfers of interests, of payments of rents and revenue, and other matters, almost the whole working of the district revenue administration depends.

§ 4.—*Grades of Officers.*

Oudh.—Here the chief controlling authority in revenue matters is the Chief Commissioner[5]. Under him are the Commissioners of Divisions (a division being a group of three districts): each district has a Deputy Commissioner (Oudh being a Non-Regulation Province)[6]; and there are Assistant Commissioners of the 1st and 2nd class.

An Assistant of the 1st class may be put in charge of one or more sub-divisions of a district, and exercises powers defined in the Act[7] under the control of the Deputy Commissioner. When in such charge, he may also be invested with all or any of the powers of a Deputy Commissioner, but in subordination to the Deputy Commissioner. Assistants of the 2nd class only investigate and report on cases[8].

Tahsildárs are also appointed under the Act; their duties may be defined and powers conferred by the Chief Commissioner[9].

These powers, it will be seen, are in all essential particulars identical with those exercised in the North-West Provinces.

[5] Act XVII of 1876, section 3. At one time there was a Financial Commissioner, as in the Panjáb.

[6] I may remind the reader who does not remember the preliminary chapters sufficiently, that this difference of title, coupled with the fact that the office combines civil, criminal, and revenue powers, and that it may be held by a Military or an Uncovenanted officer, now constitutes the only practical distinction between the Non-Regulation and Regulation Provinces, at least as regards all Upper India and the Central Provinces. In Oudh even this distinction has passed away, since the Deputy and Assistant Commissioners do not exercise civil powers, for which work there are Judges, Subordinate Judges, and Munsifs.

[7] Act XVII of 1876, sections 178-79.

[8] *Id.*, section 180.

[9] *Id.*, sections 13 and 220.

The subordinate revenue agency consists of qánúngos and patwáris, just as in the North-West Provinces.

§ 5.—*Grades of Officers.*

The Panjab.—The Financial Commissioner is the chief controlling authority, and there are Commissioners of Divisions, Deputy Commissioners of Districts, aided by Assistant Commissioners and Extra Assistant Commissioners. Tahsíls or local subordinate revenue charges are held by tahsíldárs, as in the North-Western Provinces and Oudh. Nothing is, however, said in the Act about placing an Assistant in charge of a sub-division (as in the other provinces), but the Local Government has power to confer on any Assistant or Extra Assistant all or any of the powers of a Deputy Commissioner, and has power to make rules[10] to regulate proceedings and prescribe who is to do anything for which the Act makes provision. Under the rules, Assistants (usually the junior ones who have not yet passed their examination) have only "ordinary" powers,—that is, they may prepare and report on cases, but can issue no orders. Assistants with "special" powers (who have passed by the lower standard) can also pass orders as to applying the milder forms of coercion to recover arrears of revenue, and in some cases of partition. Officers with full powers have more extended powers, for which the Rules made under the Act must be referred to.

In some districts in the Panjáb,—*e.g.*, Amritsar, Ambála, and Lahore,—there are divisions of districts in which an Assistant has

[10] Act XXXIII of 1871, section 2. The Act, it will be observed, only mentions in section 2 the Financial Commissioner, the Commissioner, the Deputy Commissioner, and the Tahsildárs, because the Assistants afterwards mentioned have no powers and *locus standi* as revenue officers *till* they are invested with the powers. The rules contemplate all Assistants having (according to their experience and having passed examination, &c.) "ordinary," "special," or "full" powers, and a full-power officer may be further invested with all the powers of a Deputy Commissioner.

This institution does not appear in the other provinces. The Chapter on Tenures has explained how it came to pass that in the Central Provinces there may be a double proprietary interest in an estate throughout. The superior is then represented by the lambardár, the inferior by the sub-lambardár.

criminal and civil jurisdiction. In these sub-divisions he possesses, as an Assistant with full powers, the power of disposing of many revenue cases; and he consequently does dispose of a great deal of the revenue business; and he may be invested with the full revenue powers of a Deputy Commissioner under the Act; he is therefore practically as much in charge of the division as an officer in the other provinces.

It is often the practice in the Panjáb to let an Assistant have charge of the current business of a tahsíl. According as he has special or full powers he will be able to dispose of cases or only to report and prepare them for the Deputy Commissioner's orders. But such an officer is not in charge in the sense of the North-West Provinces Act.

The Tahsíldár is[1] the executive revenue authority in a tahsíl or sub-division. I may here add that the pargana division is still known in the Panjáb and often referred to in revenue records and official reports and maps; but the tahsíl is the actual administrative unit of a sub-division. The system of qánúngos and patwáris is of course in full operation; rules prescribing the duties of these officers are to be found in the rules made under the Act[2].

§ 6.—*Grades of Officers.*

The Central Provinces.—The Chief Commissioner is (subject to the control of the Governor General) the chief controlling revenue authority[3].

Over divisions are the Commissioners, and over districts Deputy Commissioners, as in any other "Non-Regulation" Province.

The Act also recognises Assistant Commissioners (including Extra Assistants), Tahsíldárs and Náib (*i.e.*, Deputy) Tahsíldárs[4].

[1] Act XXXIII of 1871, section 2. Náib or deputy tahsíldárs, who assist the tahsíldár and prepare cases for him, exist everywhere, but are not specifically mentioned in the Act.

[2] *Id.*, section 66. Revenue Rules, Chapter I, head "Powers."

[3] Act XVIII of 1881, section 5.

[4] *Id.*, section 6, and Definition I in section 4.

Power is given in any tahsíl, district, or division to appoint an "Additional" Commissioner, Deputy Commissioner, or Tahsíldár, and to vest him with all or any of the powers of the office[5].

Nothing is said about an Assistant being in charge of a subdivision; but this can be arranged, because the Act allows[6] any Assistant to be invested with the powers of a Deputy Commissioner, as in the Panjáb.

The method in which the subordinate officers are to work is also specially stated[7]. The Deputy Commissioner is empowered either to refer individual cases to his Assistant or other subordinate for investigation and report (or for disposal if the officer has been invested with the necessary powers), or direct that the officer is to take up all cases, or certain kinds of cases, within a specified local area, either to report on or (if vested with power) to dispose of.

The qánúngo is not mentioned in the Act, but such officers exist on the tahsíl establishment; they have no powers and are only useful for purposes of record, supervision, and statistics.

§ 7.—*Résumé.*

It will thus be seen that in all the provinces there is a general similarity.

At the head of each is a chief Revenue authority who deals only with matters of final control, and in appeal, and has the power of inspection necessary to those duties. In the North-West Provinces this authority is the Board of Revenue. In the Panjáb it is the Financial Commissioner. In Oudh and the Central Provinces it is the Chief Commissioner.

In all provinces, a group of districts, called a *division*, is presided over by the Commissioner, who is also a controlling and inspecting officer with appellate powers.

In each *district* we see the Collector, or the Deputy Commissioner with his Assistants, and his native subordinates in each

[5] Act XVIII of 1881, section 10.
[6] *Id.*, sections 11-15.
[7] *Id.*, sections 15-16.

"tahsíl," (ultimate revenue sub-division of a district). The authority rests with the Collector or Deputy Commissioner, unless we are dealing with a sub-division where an Assistant is invested with these powers. The other Assistants according to their grade exercise certain more or less limited powers; while the lowest grade Assistant and the Tahsíldár usually only report on or prepare cases for the orders of the District Officer; they also record certain facts, and exercise only a direct power of deciding or passing orders, when such powers are specially given them by the Act or Rules in force in the province.

§ 8.—*Local machinery for statistics and accounts.*

I must now proceed to notice the important machinery by which matters are brought up from the place where they occur to the authority at head-quarters. The same machinery also is the means not only of collecting statistics which will be wanted at any future settlement, but also of keeping up the revenue records of the time, both as regards the collection and realisation of the revenue and the maintenance of the records of rights.

On the accuracy and the efficiency with which this duty is performed a great deal is dependent. Not only is the possibility of dispensing with lengthened operations at a revision of settlement dependent on it, but almost all our knowledge of the statistics of production, the advance of agriculture, and the prosperity of the district, is also bound up with it.

The village headman and the village patwári are the prominent elements of the machinery, and it is important that their duty should be well understood.

The supervision of these village officials is directly entrusted to the qánúngo, who in fact is the link that connects them with the tahsíl, to which all their reports and records go in the first instance.

It is the tahsíldár, as the local representative of revenue authority, who passes it on with his report and recommendation for the orders of the District Officer.

§ 9.—*The Tahsíldár.*

The tahsíldár is thus a most important functionary. On his intelligence, knowledge of the district, and experience, depend, to a great extent, the working of the whole system.

It is not necessary that he should have large powers of *deciding* matters, but he generally reports on all cases, sending them up for the orders of the district officials. His great duty is to watch the progress of the revenue collections and the state of his tahsíl, to supervise the qánúngo, the patwáris, and the headmen, and see that none neglect their duty.

He is usually empowered to enforce, of his own authority, the milder process of coercion when necessary to get in arrears of revenue. He is allowed also to make certain "dákhil-khárij" entries, *i.e.*, to record changes in the record of rights in some cases. In the Central Provinces this is done always under the orders of the District Officer. He also can order the repair and maintenance of boundary marks, and act in certain cases of partition of estates, subject to sanction [8].

§ 10.—*Duties of the Qánúngo.*

The village revenue machinery which thus supplies the original data and facts for record, which sends in the ultimate revenue accounts, and so forth, must engage our attention in some detail. First I will take the Qánúngo.

§ 11.—*The Qánúngo in the North-West Provinces.*

In order to supervise the patwáris directly and see that they really *do* their work and keep up their books accurately, a system of inspection is carried out through the qánúngo, an officer deriving

[8] For the North-Western Provinces, see S. B. Cir. Dep. IX, page 161. At page 171 also will be found an account of an inspection book to be written up when a tahsíl office is inspected. A glance at the headings of inspection will at once show the variety of duties involved in a tahsíldárship.

In Oudh the tahsíldár's duty is described in the Circular 4 of 1878.

In the Panjáb the rules under the Land Revenue Act explain the powers of tahsíldárs (head I, Powers), Part II.

his title from the old Mughal system of revenue, but exercising functions in many respects, if not entirely, different from those of his historic predecessor.

The patwári receives his blank books from, and is constantly supervised in the course of their being written up by, the qánúngo appointed under the Revenue Act [9]. There are two or three of them to each tahsil,—one, generally the elder, is kept in the office as the "Registrar qánúngo;" the others are the active or "supervising qánúngos;" over them all is an experienced sadr-qánúngo [10], who remains at the Collector's head-quarters. The office is by law hereditary, if a qualified heir can be found in the direct line of descent. A qánúngo's heir who is designed to succeed him, must be sent to school and must pass an examination [1]. Various subordinate posts connected with revenue work are then available to him when he grows up, and in these he may gain experience till such time as he actually succeeds to the appointment. The "Registrar qánúngo" pays the patwáris, keeps (at the tahsíl) the "filed" patwári's papers, keeps and issues the blank volumes of forms; he also makes reports to the Revenue-officers when called on, and keeps up a series of registers which need not be detailed here. Some of them are, in fact, registers which give the totals of the patwári's books, so that on each register one line only has to be written annually, being a transcript of the corresponding totals in the patwári's records.

"Supervising qánúngos" are charged with constant supervision and inspection of existing patwáris, with the instruction of the patwáris' heirs in their future duties, and with making local enquiries. They keep diaries showing their occupation [2].

The "sadr-qánúngo" remains at the district head-quarters [3]. He compiles statements for the whole district from those of each

[9] Section 33.
[10] S. B. Cir., Part III,—Rules for Qánúngos.
[1] *Id.*, Chap II and Chap. IV, § 30.
[2] *Id.*, Part III, Chap. 15, page 35.
[3] *Id.*, Chap. XXII, page 47.

tahsíl staff. He also makes a tour in the cold season, and sees how the tahsíl qánúngos are working.

§ 12.—*The Qánúngo in the Panjáb.*

In this province the qánúngo's duties will be found described in the same chapter of the Rules under the Revenue Act which details the duties of the patwári. They are not formally classified into supervising and "registrar" as in the North-Western Provinces, but are generally supervised by a "sadr" or "district qánúngo" at the Deputy Commissioner's head-quarters.

The duties are succinctly described in the Rules[1], which may here be quoted:—

"(1) To maintain registers of village accountants and village headmen, and to report for orders all vacancies in these offices.

"(2) To maintain registers of assignments of land revenue, and to report all lapses of such assignments.

"(3) To maintain registers of mutations of proprietors, mortgagees, and other incumbrancers and tenants with right of occupancy, and to bring all changes to the notice of the tahsíldár for orders.

"(4) To assist at all measurements of land by revenue-officers, all local enquiries in the Revenue Department, and all audit of accounts of estates held under direct management.

"(5) To compile and produce, when required by any Court of Justice or any revenue-officer, information regarding articles of produce, rates of rent, and local rules and customs.

"(6) To superintend and control the patwáris, examine and countersign their diaries, ascertain that their records are correctly maintained, and all changes entered and reported, and test the annual village returns prepared in duplicate by them, retaining one of the copies until the papers of the following year are filed, and forwarding the other to the District Office after examination, and to discharge such other duties as may be assigned to them with the sanction of the Financial Commissioner.

"(7) He shall visit the circles of the patwáris subordinate to him, in order to ascertain by personal observation and enquiry on the spot that their duties are punctually and correctly performed, that no changes, a report of which is required, are overlooked, and that the boundary marks are properly maintained.

[1] Rules, Head B., Chap. II.

"(8) The district qánúngo shall be the head of the qánúngo establishment of the district:

"1.—The annual papers prepared by patwáris shall be examined and tested by him before they are sent into the Record Office.

"2.—Mutation and partition cases shall be examined and checked by him when received from tahsíls, and all reports and orders relating to the appointment, dismissal, or control of lambardárs and patwáris shall be communicated to him before the files are sent into the Record Office.

"3.—He shall check alluvion and diluvion returns, and accompany the Assistant or Extra Assistant Commissioner deputed to test the measurements and report on the settlement of lands affected by river action.

"4.—He shall from time to time examine on the spot the registers and records maintained by qánúngos and patwáris, and bring to the notice of the tahsíldár and the Deputy Commissioner any errors or omissions which he may discover."

§ 13.—*The Qánúngo in Oudh.*

Qánúngos are provided or appointed by the Act as Superintendents of Revenue Records. I have not seen any rules relating to them [5].

§ 14.—*The Qánúngo in the Central Provinces.*

This functionary is not mentioned in the Act, but I understand that he is employed as a member of the tahsíl establishment much as in the other province. Indeed, where the system of patwáris is in force, some such supervising agency would seem necessary, not only to instruct and direct the preparation of records, but also to abstract and compile the information received village by village.

§ 15.—*The Patwári.*

The patwári is, speaking generally, a Government servant [6].

On the successful performance of his duty depends the accurate maintenance of the records which may be said to be "started" at

[5] Oudh Act, section 220.

[6] In the Panjáb and North-Western Provinces he is purely a Government servant. In Oudh his position is slightly different. In the Central Provinces the statement of the text is perhaps hardly true.

settlement, but require to be kept up to date by timely notice of deaths, transfers, and successions which affect the rights in land and the succession to village offices. On the patwári also depends the maintenance of the village accounts, and the record of payments made by ignorant tenants to the landowners, or of revenue by co-sharers, through the lambardárs, these persons being usually unable to keep their accounts themselves. Lastly, on the patwári depends in a great measure the record of statistics and facts about crops and the area under different kinds of cultivation, the sinking of wells, and other facts which will at a future settlement be sought for and compiled, to enable the assessment to be revised, and which also show the present condition and progress of every village, and whether the revenue at its present assessment can be realised steadily or not.

Though exhibiting a very general similarity, and though the results aimed at are precisely the same, each province nevertheless has its own rules, and I therefore must notice the patwári of each province separately. The system has, perhaps, been brought to its greatest perfection in the North-West Provinces, and I shall therefore describe the system there pursued as a sort of standard.

§ 16.—*The patwári in the North-Western Provinces.*

Here patwáris are required to be appointed by the Land Revenue Act. A patwári is not ordinarily appointed for each village, but over circles of villages as arranged by the Collector[7].

The landholders in the circle *nominate* according to local custom, but the Collector (or Assistant in charge) controls the appointment. The office is not necessarily hereditary, but preference is given to a member of the family of the late holder, if he is qualified. The patwári has a salary the amount of which is fixed by the Board of Revenue, and a rate is levied along with the land revenue, to meet the cost of this salary. Every patwári is a public servant, and

[7] North-Western Provinces Revenue Act, section 23 *et seq.*

the records he keeps are public property[8]. His duties and the forms of records and accounts which he has to maintain and submit periodically have all been prescribed in a very complete group of circulars by the Board of Revenue[9].

In order to provide that future patwáris shall be sufficiently educated to enable them to perform their duty, rules are made compelling the successor-designate of the existing official to be sent to school. Means are also provided through the agency of the qánúngo for teaching the patwáris to survey.

§ 17.—*Patwáris' papers.*

The "patwáris' papers" are so constantly alluded to in revenue proceedings, that it will be desirable to give some account of these documents. They may be grouped under the head of (1) village accounts, (2) official records for the information of the Collector, for use at future settlements, &c.

For the purposes of village account he used to keep—

(*a*) A "siáha" or daily cash book in which all payments to, or disbursements by, the proprietors or their agents on the revenue or rent account were entered. In the North-Western Provinces this is now obsolete.

(*b*) The principal account, or "bahi-khátá," is a ledger showing the holdings and accounts of each proprietor and cultivator.

Besides there are—

(*c*) The wásil-báqi. This is a rent account showing the holdings and the tenants who cultivate them, the rent claimed for each, with the amount paid, the balance, and the arrears, if any.

(*d*) The "jama'-kharch." This is a profit and loss account of the proprietors. Disbursements for revenue, cesses, lam-

[8] See Act XIX of 1873, section 35.

[9] Circulars about patwáris are now grouped together in Part III of the S. B. Circulars.