would be made into two or more numbers, because there would be no inconvenience in one man or one body holding two or more numbers.

Where there were small holdings of the same kind, two or more were clubbed under one number, which was also no inconvenience, since by recording the holders as having shares separately liable (pôt-numbers)—in case the sharers desired it—all separate rights were preserved.

But this practice, as already stated, was never applied to separate holdings *of different kinds;* they were to be given separate numbers, even though the prescribed standard could not be attained.

§ 4.—*Size of numbers in waste land.*

Lands not fit for cultivation, or those still covered with jungle, were not divided on these principles, but were merely marked off into large blocks, each under one number. This of course did not include land which was culturable, but happened to be fallow, or temporarily unoccupied, but only to large tracts of waste or jungle which could only be brought under the plough, under the operation of the "Waste Land Rules," and by the gradual growth of the demand for land and the spread of cultivation[8].

§ 5.—*Size under present rules.*

The Code now prescribes[9] that no survey number is to be made less than a *minimum* size to be fixed from time to time for the several classes of land in each district, by the Commissioner of Survey, with the sanction of Government. For the Dakhan districts (above Ghát) of the Northern Division, as well as for the Southern Division, the rule now is, that any recognised occupancy is made into one field, if under 30 acres. A field of more than 30, and less than 50, is divided into two; one of more than 50, but less than 70, into three; and so on.

[8] These rules were in force when the Berár survey settlement was made.

[9] Section 98.

§ 6.—*Village and field boundaries.*

The Bombay survey is just as much concerned with the village boundaries[10] as the North-Western Provinces survey is. If the village boundary was not ascertained, it is clear that the boundaries of the fields lying on the boundary would not be. Moreover, the revenue-rolls and jamabandis are made out village by village, and there are also questions of jurisdiction which require the indication of village boundaries.

The maps therefore lay down the village boundary as well as the internal division into fields or survey numbers. Village boundaries are settled by agreement, or by reference to a panchâyat, or by the survey officer, subject to an appeal.

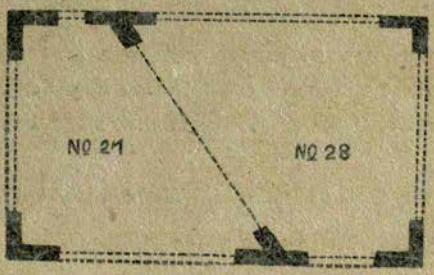
The field boundaries are also laid down, if there is no dispute, on the assertion of the occupant attested by the village officers. If there is a dispute, the survey officer takes evidence and decides. Arbitration may be referred to by consent of both parties.

If the dispute arises after the survey, the Collector decides.

It is of course of the greatest importance that the boundaries of fields should be permanent and well maintained. The Superintendent of Survey is empowered to determine the size and material of the marks[1]. The plan usually adopted is to make earthen ridges or set up stones at the corners of the field.

[10] Code, section 113.

[1] Which, of course, varies according to climate and locality. In some climates earthen ridges are washed away: stones have also their disadvantages. The method of corner marking will be understood from the sketch.



To connect one mark with the other, a strip of land is left unploughed, and this soon gets covered with grass, palm-bushes, and so forth, so that it is impossible to mistake the boundary.

In Berar there are rules for the maintenance of these strips between the marks (Berar Settlement Rules XXIV, XXV).

Strict rules are in force under the Bombay system for the periodical inspection of the field marks, and the Code, in Chapter IX, gives ample powers for their maintenance. These will be alluded to under the head of Revenue business. It is obvious that the entire preservation of the results of the survey depends on the keeping up of the boundary marks.

§ 7.—*The survey.*

The field survey is on a scale of 8 inches to the mile. Great pains are taken in constructing the maps.

In all the later surveys the Great Trigonometrical triangulation has been taken as the basis, and the system of village traversing has been adopted, so that the maps have a topographical as well as a revenue value.

The survey work is afterwards combined into táluká[2] and district maps, which are furnished by the department, as well as the large scale field-to-field maps.

§ 8.—*Commencement of a Survey-settlement.*

A survey settlement is set in operation by direction of the Governor. The Code[3] does not require any notification in the Gazette to begin with; that comes afterwards, when the assessments are declared.

For the purposes of survey and assessment the Governor in Council appoints such officers as may be necessary[4]. The Code speaks of any one appointed under this section as a "Survey Officer."

[2] In Bombay they use the Maráthí form—táluká—of this (originally Arabic) word.

[3] See section 95.

[4] See Code, Chapters VIII, IX, and X, and section 18.

There is a Survey Commissioner who supervises the whole; while individual settlements are in charge of Superintendents of Survey or Survey Settlement-Officers, with assistants, under whom again are staffs of surveyors, classers of soils, &c. Appointments are to be notified (in the Gazette).

A convenient clause distinctly specifies that subordinates may, by delegation, exercise such portion of the powers of their superior as he may direct, but always subject to a right of revision by the superior.

A special Chapter (III) deals with *security* to be furnished by officers when necessary, and this includes not only the Survey but the ordinary Revenue staff.

Section III.—The Assessments.

§ 1.—*Classification of soil.*

All land, whether applied to agricultural or other purposes[5], and wherever situate, is liable to the payment of land revenue to Government, according to the rules of the Code, unless expressly exempted. While the survey is done by the proper establishment, a separate staff of "classers" examine the soil of every field and place it in a certain class in the following manner:—

The classes and soils actually described (taken from the Joint Report) apply only to the above Ghát districts of the Dakhan[6], but the principle of classification is the same for other districts, only the detail of the rules differs according to local circumstances.

The classer deals separately with—

(1) Unirrigated or jiráyat (jerayet) land.

(2) Rice land.

[5] Code, section 45. I have not in this chapter taken any notice of the assessments of sites in towns, &c. Chapter X of the Code must be consulted, if necessary, by the student for himself.

[6] In Bombay we have (apart from Sindh) (1) Guzarát, (2) Khandesh, (3) the Dakhan, including Násik, Poona, Ahmadnagar, Sátára, Belgám, Kaládgi, Dhárwár, and Sholapur, (4) the Konkan (comprising the below Ghát districts—Thána, Kolába, and Ratnagiri) and North Kanára.

(3) Garden land called bágháyat (begayet), which is motásthal if watered from wells, the water being raised by buckets; and pátásthal if from tanks or dams, the water being brought on by small water-courses[7].

Rice land grows nothing but rice, though some garden land may grow rice also.

Rice land may be entirely irrigated by rain or by artificial means.

Commencing then with jiráyat (always taking the Dakhan rules as an example), it was found by experience that soils could be graded into three orders—(1) fine, uniform black; (2) coarser, red; (3) "barad," or light soil.

Three feet (or $1\frac{3}{4}$ cubits) is the maximum depth of soil which it is of any importance on agricultural grounds to consider; within that limit, however, the value of each soil varies with its depth; and the gradations are fixed from $1\frac{3}{4}$ cubits to $\frac{1}{4}$ of a cubit, with less than which, land of any kind is not culturable at all.

The soil of each order will thus require seven classes—$1\frac{3}{4}$, $1\frac{1}{2}$, $1\frac{1}{4}$, 1, $\frac{3}{4}$, $\frac{1}{2}$, and $\frac{1}{4}$; but as soils of $\frac{1}{2}$ and $\frac{1}{4}$ cubit depth in the poorest order, are lower valued than any others, two additional classes were added; and for some years past a tenth class has been recognised, to be used for the poorest soil of all.

The best class in the highest order is relatively valued as *one whole*, or 16 anas in the rupee, the second at 14, and so on, and the lowest at $4\frac{1}{2}$ anas[8]. The best class in the second order is valued at 14 anas, and so on, down to the lowest at 3 anas. The best soil of the third class rarely or never exceeds one cubit in depth, so that the highest class is valued at 6 anas and the lowest at 2.

[7] Whence the name. "Mot" is a large bucket, "pát" is a raised watercourse.

[8] It may be necessary to remind the student unfamiliar with Bombay that these numbers have nothing to do with an actual money rate for assessment. They are relative numbers only. If, for example, the actual highest rate fixed for 1st class soil was Rs. 3 an acre, the 16-ana land would pay Rs. 3, the 12-ana land $\frac{3}{4}$ths of Rs. 3, or Rs. 2-4, and so on.

This will appear from the following table :—

Class.	Value.	First order, black.	Second order, red.	Third order, light.
	Anas.	Cbts. depth.	Depth.	Depth.
1	16	1¾	...	...
2	14	1½	1¾	...
3	12	1¼	1½	...
4	10	1	1¼	...
5	8	¾	1	...
6	6	½	¾	1
7	4½	¼	½	¾
8	3	...	¼	½
9	2	...	...	¼
10	1	...	...	...

§ 2.—*Accidents affecting soils.*

Then, besides each order of soil being in a particular class according to depth, there are *accidental circumstances* which, again, depreciate the value. These have been found in practice to be seven in number :—

2. Admixture of nodules of limestone.
2. Admixture of sand.
3. Sloping surface.
4. Want of cohesion.
5. Impermeability to water.
6. Exposure to scouring from flow of water in the rains.
7. Excessive moisture from surface springs.

Each of these accidents is held to lower any soil by one class, and if it occurs in excess, by two classes.

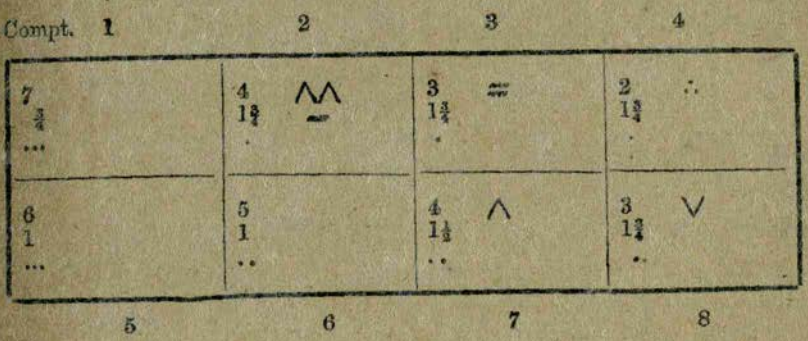
Certain marks are used to denote these accidents.

§ 3.—*Method of recording class and relative value of land.*

The classer now makes a sketch of the field on a piece of paper, and after studying the ground on the spot, he determines to divide

the sketch into a number of compartments of equal area. The number of spaces or compartments necessary is fixed by local orders according to the variability of the soil. Usually they average about 1 or 2 acres each. It is a general rule that, however small the field or survey number may be, at least two compartments are to be made.

Here, for instance, is such a sketch—[9]



Beginning at the lower left-hand corner of each square, the dots indicate the order of soil, *one* being the best (fine black), two being the *red*, and *three* the poor soil.

The numbers 1, ¾, &c., just above, mean the depth. Now let us take the first compartment. The soil is poor (three dots), and being ¾ of a cubit deep, by reference to the above table, it is in the 7th class; hence the class of this is marked 7 in the upper corner.

The No. (2) is of the 1st order, and is 1¾ cubits deep, so that it would have been in the 1st class, but it has some accidental defects. It is impervious to water (^) in a double degree; the mark is repeated twice; and it is also liable to be swept over by drainage water (—); hence, as each defect lowers it one class, it has to come down from the 1st to the 4th class, and the figure 4 is entered.

[9] The figures are imaginary; but in the Dakhan the soil is so exceedingly variable that varieties from class 1 to class 9 or even 10 may occur in one field, perhaps of no larger extent than 5 acres.

In the same way we find the whole 8 compartments of the sketch give—

						Anas.
1	=	3rd	order	7th	class	= 4½
2	=	1st	„	4th	„	= 10
3	=	1st	„	3rd	„	= 12
4	=	1st	„	2nd	„	= 14
5	=	3rd	„	6th	„	= 6
6	=	2nd	„	5th	„	= 8
7	=	2nd	„	4th	„	= 10
8	=	1st	„	3rd	„	= 12

Total 76½ anas, or an average of 9 anas 6 pie for the whole field. As regards soil, then, this field will bear $9\frac{1}{16}$ of the maximum or full rate of assessment, whatever it is.

§ 4.—*Addition for irrigation.*

Rice lands and irrigated lands have to be classified in this way as regards their soil or natural unirrigated aspect; but they require further examination to test the effect of the well or other means of irrigation, which may result in their being assessed with an addition over and above the unirrigated rate, and the addition will be the full or maximum, or a part only, according to the character and value of the means of irrigation.

The area of *irrigated land* is separately measured, for it may be that in one survey number part is irrigated and part unirrigated. Tables can be made out showing the value to be assigned to wells according to the supply of water in the well, the depth, quality of water, sufficiency of extra land around the well to allow a rotation of wet and dry crops, and the distance of the garden from the village which affects the cost of manuring[10].

[10] The following paragraphs from the Joint Report explain the subject:—

"Of these elements, the supply of water in the well is of most importance, and should be determined by an examination of the well, and enquiries of the villagers, in addition to a consideration of the nature of the crops grown, and the extent of land under irrigation. This is the most difficult and uncertain operation connected with the valuation of the garden, especially in the case of wells which have fallen into disuse, and, therefore, that to which attention should be particularly directed in testing the estimate of the classer, and fixing the assessment of the garden. The remaining elements admit of being determined with accuracy.

"In deducing the relative values of gardens from a consideration of all these elements, which should be separately recorded by the classer, it would greatly facilitate the operations, were the extent of land watered always in proportion to

It is obvious that the rate to be added to the soil class-value may be applied to the whole acreage of the field; or if the irrigation does not cover the whole, a fair number of acres is calculated which it is estimated the well waters; this number depends on the capacity and water-supply of the well. This rate can then be adopted at its full figure, or reduced by the consideration that the well is very deep, that the water is brackish, or that it is far away from the village, so that the profit of irrigation is reduced by the difficulty of getting manure, which is the complement of garden cultivation.

Rice land[1] requires special rates, even when not artificially irrigated, because it is different in character from ordinary jiráyat land.

the supply of water in the well. But it is not so, as in many instances the extent capable of being watered is limited by the dimensions of the field in which the well is situated, or the portion of it at a sufficiently low level; and in others, supposing the capacity of the well to be the same, and the land under it abundant, the surface water will be more or less extensive, as the cultivator finds it advantageous to grow the superior products which require little space, but constant irrigation, or the inferior garden crops, which occupy a more extended surface, but require comparatively little water.

"Wherever the extent of land capable of being watered is not limited by the dimensions of the field, the most convenient method of determining the portion of it to be assessed as garden land, is to allot a certain number of acres to the well in proportion to its capacity. By this means, the most important element of all is disposed of, and our attention in fixing the rate per acre restricted to a consideration of the remaining elements which are of a more definite nature.

"The relative importance of these elements varies so much in different parts of the country, that we find ourselves unable, after a careful examination of the subject, to frame a rule for determining the value to be attached to each, and the consequent effect it should have upon the rate of assessment under all circumstances. It must be left to the judgment of the superintending officer to determine the weight to be assigned to each circumstance affecting the value of garden land, and this determined it will be easy to form tables or rules for deducing from these the relative values of garden land under every variety of circumstance."

[2] On this subject the Joint Report states as follows:—

"In rice, as in other irrigated lands, the chief points to be considered are the supply of water, the nature of the soil, and facilities for manuring. The supply of water is often wholly, and always to a great extent, dependent on the ordinary rains. In some parts of the country, to guard against the effects of intervals of dry weather occurring in the rainy season, small tanks are formed from which the

§ 5.—*Assessment rates.*

When the classer has classified the soil according to its nature and prepared tables showing the requisite facts regarding the irrigation of "bághayat" land, and those regarding rice, the Superintendent of Survey, as assessor, has now to adopt actual rates.

He has to ascertain—

(1) the full or 16-ana rate for dry cultivation, and for other lands considered in their unirrigated aspect;

(2) the addition he will make to form suitable "irrigated" rates;

(3) the additions he will make to get his rice-land rates.

This he has to do by aid of careful local inspection, and by taking into consideration all the circumstances with which the classer has nothing to do (whose business is only with local facts of soil, water, &c.), namely, the climate, the facilities for market, the productiveness of the land, and so forth. He has also here the aid of figures compiled, just as in any other settlement; he has the rates of former Native and British settlements; he sees whether they have been paid easily, or with much compulsion and large

rice may be irrigated for a limited period. In estimating the supply of water, there are two distinct circumstances, therefore, to be considered, *viz.*, the inherent moisture resulting from the position of the field, and the extraneous aid derived from tanks or from channels cut to divert the water from the upper slopes into the rice grounds below. The weight to be given to each of these elements, in the classification of the supply of water, depends so much upon local peculiarities, that we feel it impossible to frame a system of universal application; and consequently the determination of this point must be left to the judgment of the superintending officer. All that we can do is to indicate the principles according to which, as we conceive, the operation should proceed.

"The classification of the soil should be effected by a system similar in principle to that already described, though modified in details to meet the peculiarities of different districts. But the circumstances of the rice countries to which our operations have yet extended appear to vary so much, that we have not been able to agree upon any detailed rules for the classification that would be suitable to all.

"The facilities for manuring rice lands will be determined, as in the case of dry-crop soils, by distance from village, or the locality from which manure is procurable."

balances; he considers whether rates that would be high then, would be, owing to changed circumstances, easy now.

The Revenue-officers from time to time make experiments as to outturn of crops, and the assessor can make use of them.

§ 6.—*Maximum or full rates.*

He then takes certain tracts of country which he considers can bear uniform rates and fixes a maximum for each, which represent his full or 16 ana rates[2].

[2] The Joint Report should be quoted *verbatim* on this subject:—

"* * * * * It now remains for us to point out what we deem to be the best mode of fixing the absolute amount of assessment to be so distributed. The first question for consideration is the extent of territory for which a uniform standard of assessment should be fixed. This will depend upon the influences we admit into consideration with a view to determine the point. Among the most important of these influences may be ranked climate, position with respect to markets, agricultural skill, and the actual condition of the cultivators. The first of these may be considered permanent; the second and third less so; and the fourth, in a great measure, temporary. And as our settlements are intended to be of considerable duration, there is an obvious advantage in regulating the assessment by considerations of a permanent character, or, at least, such as are not likely to undergo any very material change during the term of years (generally thirty) for which it is to endure.

"In determining, then, upon the extent of country to be assessed at uniform rates, we are of opinion that the more permanent distinctions of climate, markets and husbandry should receive our chief attention. We should not think of imposing different rates of assessment on a tract of country similarly situated in respect of these three points, in consequence of the actual condition of the cultivators varying in different parts of it.

* * * * * * * * *

"Each collectorate being divided into districts (talukas) of which the management and records are distinct, it is an obvious advantage to consider the assessment of each of these divisions separately. And were the points bearing on the distribution of the Government demand alike in all parts of any such division, one standard of assessment would be suitable for the whole. But this is seldom the case; and there is usually such marked distinction between different portions of the same district, as to require the assessment to be regulated with reference to these. The first question, then, in proceeding to the assessment of a district, is to ascertain whether such distinctions exist, and to define the limits over which they prevail. This, however, will seldom be a task of much difficulty, or involving any very minute investigations; as marked differences only, calling for an alteration in the rates of assessment, require notice; and within the limits of a single district three to four classes of villages would generally be found ample for this purpose.

For example, on looking through the assessment report of the Indápur táluka of Poona, already alluded to, I find that a general maximum jiráyat rate of one rupee per acre was taken as fair;

"The relative values of the fields of each village having been determined from the classification of soils, the command of water for irrigation, or other extrinsic circumstances, and the villages of a district arranged into groups, according to their respective advantages of climate, markets, &c., it only remains, in order to complete the settlement, to fix the absolute amount of assessment to be levied from the whole.

"The determination of this point is, perhaps, the most important and difficult operation connected with the survey, and requires, beyond all others, the exercise of great judgment and discrimination on the part of the officer on whom it devolves. The first requisite is to obtain a clear understanding of the nature and effects of our past management of the district, which will be best arrived at by an examination and comparison of the annual revenue settlements of as many previous years as trustworthy data may be procurable for, and from local enquiries of the people, during the progress of the survey. The information collected on the subject of past revenue settlements should be so arranged as to enable us to trace with facility the mutual influence upon each other of the assessments, the collections, and the cultivation.

"This, in our opinion, can best be done by the aid of diagrams, constructed so as to exhibit, in contiguous columns, by linear proportions, the amount and fluctuations of the assessment, collections, and cultivation, for each of the years to which they relate, so as to convey to the mind clear and definite conceptions of the subject, such as it is scarcely possible to obtain from figured statements, even after the most laborious and attentive study. The information to be embodied in the diagram best suited for our purpose should be restricted to the land of the district subject to the full assessment; the extent of this cultivated in each year, the assessment on the same, and the portion of the assessment actually realised.

* * * * * * *

"Furthermore, to assist in tracing the causes to which the prosperity or decline of villages, or tracts containing several villages, are to be attributed, independent statements of the annual revenue settlements of each village should be prepared; and from these, again, a general statement for the whole district, or any portion of it should be framed, and its accuracy tested by a comparison with the general accounts of the taluka, and from the returns so prepared and corrected, the diagrams should finally be constructed. The nature and amount of the various items of land revenue and huqs (holdings revenue-free or at reduced rates) excluded from the diagram, should be separately noted, and taken into account in considering the financial results of the proposed assesment.

"And, finally, with the view of affording the fullest information on this important subject, detailed figured statements should be furnished, exhibiting the source and amount of every item of revenue hitherto derived from land of every description, whether Government or alienated, comprised within the limits of the villages for which an assessment is proposed.

"The information thus collected and exhibited, with that obtained by local enquiries into the past history of the district, will generally enable us to trace the

but Indápur itself had a very good market for its produce, so the land in a group round the town was raised to Re. 1-2. Then, in parts of the taluka certain groups of villages were badly off as regards communication, and still more so as regards the steadiness of the rainfall average, so these are grouped into tracts paying 14 anas only, or even 12 anas; in other places there was a fertilising overflow of the river which bounds the taluka, and so improved the conditions of agriculture, rendering them comparatively independent of rainfall, the general rate was there raised to Re. 1-8 per acre.

§ 7.—*Application of the rates.*

These rates being fixed, the classer's data could be brought to bear: the fields that showed the 16-ana class would pay Re. 1-2, the 14-ana class, Re. 1, &c., according to the group they were in; those that were in the 2-ana class would pay one-eighth of the rate. Fields that were irrigated by wells[3] would have certain rates added on to represent the well, the rates being added to the number of acres considered to be irrigated, and the full rate or a part being added according to the scale given in the tables showing the facts regarding irrigation facilities.

Rice land would be similarly dealt with as regards the rates.

It is then easy to test these rates by comparing them with former assessments and taking into consideration the general state

causes which have affected its past condition; and a knowledge of these, aided by a comparison of the capabilities of the district with those of others in its neighbourhood, will lead to a satisfactory conclusion regarding the amount of assessment to be imposed.

"But instead of a particular sum at which a district should be assessed, it amounts to the same thing, and is more convenient, to determine the rates to be imposed on the several descriptions of soil and culture contained within its limits, so as to produce the amount in question. And to do this, it is only requisite to fix the maximum rates for the different descriptions of cultivation, when, of course, all the inferior rates will be at once deducible from the relative values of our classification scales."

[3] At a revision, a well is an improvement made at the cost of the occupant, and he therefore gets the benefit without addition for the term of revised settlement; but here my object is to speak of the general plan.

of the country and whether the increase percentage produced by the new rates is excessive with reference to improved roads, railways, extent of population, and facilities for export[4]. The selling price of grain is also carefully considered together with the yield of the land: this affords a good means of comparison.

§ 8.—*Rules in other parts of the Presidency.*

The rules described are suitable to the Dakhan districts, but though the details differ, the principle is the same in other parts of the Presidency. In the Konkan, for example, the rainfall is so abundant that soil depth is of no consequence; in Sindh it is uniformly of great depth; but everywhere the rules lay down the observance of well-known classes of soil having different productive capabilities, both with water and without[5].

§ 9.—*Method of working.*

The work of soil classification is very rapidly done, and so accurately, that test classifications do not differ by more than 6 or 7 pie in a maximum valuation of 1 rupee. The classification will not take more than 20 to 25 minutes for a 20-acre field, and 7 or 8 fields will be done in a day by a classer, of whom 13 or 14 form the establishment of one Assistant Superintendent. The establishment will get over 45,000 to 50,000 acres of plain country in a month. The Assistant Superintendent tests from 5 to 15 per cent. himself by doing the work over, without reference to what has been recorded by the native classer, and it is surprising how small the corrections are as a rule.

It will be observed that, under the Bombay system, no less than any other, the actual fixing of rates is a matter for the Settlement

[4] For example, in Indápur, the making of roads and the introduction of carts, which had before been almost unknown, made the people much better off, and a much larger return was obtained from agriculture.

[5] Thus, in a recent settlement of the Morad taluka in Haidarábád (Sindh) I notice "river kachi" taken as an order of soil, and this is classified into (1) land drill-sown, aided by wheel to raise water; (2) land simply drill-sown; (3) land bearing wheat or barley, broadcast; (4) land roughly ploughed.

Officer or assessor; it is dependent on a consideration of circumstances, on wise calculation, knowledge and experience; but when once the general rates are determined, they are applied to each field by an arithmetical process, resulting from the classer's fractional valuation of each.

The whole assessment is not made by rule of thumb, as is sometimes supposed; it is a matter of estimate by experienced men, just as in Upper India; but each field has a relative value, fixed according to rules of classification, and the application of the rate to the field, whether the full rate or only a fraction of it, follows exactly and regularly from the classification.

The value of the system consists in this, that the soil classification and record of facts about wells and rice-irrigation can be so easily and satisfactorily checked, and that great experience is gained by the trained staff who are constantly employed as classers. No system can dispense with the assessor's (as distinct from the classer's) personal judgment, or exclude altogether an element of estimate or guessing; but this system leaves as little as possible to estimate, and when the rate is determined, applies it by uniform and exact methods to each field.

§ 10.—*Settlement of alienated lands.*

Alienated lands (as they are called in Bombay), that is, revenue-free grants or grants held on special terms, are not, as an entire class, assessed. But the Code gives power to survey the villages as regards their boundaries and to settle disputes regarding those boundaries. There may be an estate, or group of lands of considerable size, alienated, and there may be merely alienated fields or groups of fields in Government lands; or, possibly, Government may have a share in alienated lands. In the former case Government would ordinarily not interfere: the grantee would make his own arrangements with the occupants, who, in fact, pay revenue to him instead of to Government. In some cases, however, the inámdár will request the survey to determine the assessment; and then, if he accepts the rates, these are binding on him as regards the occu-

pants; and Government pays the expense of the survey[6]. In other cases, however, the lands would be assessed like the adjoining fields, only the assessment would not be levied, or only so far as Government had a share in it.

But in such lands the assessment should be known, because the local cess is levied on the basis of it.

The only local cess (the one-ana local cess) is devoted—one-third to education and two-thirds to district roads.

Lands belonging to the 'watan' of the hereditary village officials (and now held conjointly on joint succession by the present occupant as member of a watandárí family) were usually charged by the Maráthá Government with a 'jodí,' or quit-rent, often sufficiently heavy. In all cases watan lands are now assessed to a sum sufficient to provide a remuneration for the actual office-holder, which remuneration is calculated on the basis of a certain percentage of the revenue of the village. Should the full survey assessment be not sufficient to cover this, the balance is paid by Government.

§ 11.—*Revision of Settlement.*

When the period of settlement comes to an end the land is re-settled. This, in Bombay, is always called a "revision settlement."

It is generally assumed that a re-survey and classification of soil will not be necessary at revision; but although this is true as regards a general re-survey, in practice a good deal of work of this class is found necessary.

The Indápur revision, for example, was one in which, owing to peculiar circumstances, a re-survey and classification were found to be unavoidable.

It is a cardinal principle of revision that no increased assessment is imposed, consequent on improvements made from private resources and capital during the currency of the settlement[7]; but

[6] See on this subject Nairne's Handbook, Chap. XXV, page 364, &c.

[7] See Code, section 106.

only with reference to improvements made at the cost of Government, or with reference to natural advantages when private improvements have merely created the means of utilising such advantages.

Consequently, if, during the currency of a settlement, a well has been constructed at revision, an additional assessment will not be imposed for the well; the land will merely pay at the rate of unirrigated land, the benefit of the well being reaped by the maker for the term of the revised settlement[8].

The improvements and changes, however, which may affect the assessment will often necessitate, the revision of the groups, which bear uniform maximum or full rates. The chief points for consideration in this re-grouping of villages for the establishment of new assessment rates, will be—the state of present communications as compared with those existing at the time of the original settlement, and the establishment of new markets, or the decline of those which were the principal ones when the first grouping took place. Climatic differences will probably not alter, but they may have been neglected, and thus on revision they must be taken into consideration[9].

The assessment of land, which has been increased in value by building, quarrying, &c., may be enhanced, because, though the immediate work may be due to private enterprise, the general value of the land and its being in demand for such non-remunerative purposes has greatly been brought about mainly at the expense of the State.

§ 12.—*The Survey Department.*

The following concise account of the constitution of the Survey and Settlement Department in the Bombay Presidency is taken from Mr. Stack's Memorandum :—

"As at present constituted, the Survey and Settlement Department is under one Commissioner for the whole Presidency, including Sindh. Each particular survey is under the direction of a Superintendent, subordinate to whom are several Assistant Superintendents, having charge of parties of measurers and

[8] Code, sections 106, 107.

[9] See Report on Revision of Indápur Taluka, paras. 129—42.

classers. The operations of measuring and classing are conducted, as a rule, by separate establishments, and, generally, the classification of a district follows the measurement at an interval of one season. Every detail of the survey operations is closely supervised and tested by the Assistant Superintendents, who are European officers. On the Superintendent devolves, besides the general control of the survey, the duty of fixing the rates of assessment, submitting the proposals relating to them through the Survey Commissioner to Government, and introducing the settlement when sanctioned. The Superintendent submits his proposals regarding the assessment of a taluka to the Collector, who forwards them with his remarks to the Survey Commissioner, who again forwards the proposals with his observations to the Commissioner of the Division, who submits the whole correspondence with his opinion to Government. In many cases, and especially when there is any difficult point involved, the Superintendent consults the Survey Commissioner regarding the details of his proposals before submitting them in formal shape to the Collector. In the introduction of the assessments, the Assistant Collector in charge of the taluka is usually associated with the Superintendent. It has always been the practice to include no larger area than a single taluka in a proposal for settlement, and frequently the area is very much smaller, comprising only 10 or 12 villages.

"A peculiarity of the Bombay settlement system is its purely technical character. In other provinces, Settlement Officers are selected from the civil staff of the province; but in Bombay 'there is not at the present moment an officer in the Civil Service who has done a day's practical work in the Settlement Department, or has any real knowledge of the detail of its operations'(a) This peculiarity has operated to the prejudice of the Settlement Department.

"Act I of 1865 was passed to legalise the survey and settlement after it had been twenty-seven years in operation. That Act was amended by Act IV of 1868. Both these Acts have now been repealed by the Bombay Land-revenue Code (Act V of 1879, B.C.), which embodies the whole of their provisions, and is the existing law of survey and settlement throughout the province.

"The following table shows the time occupied in making the settlements now current in the various districts, and the dates on which those settlements expire. The time occupied in making the settlements has been reckoned from the beginning of survey, except in the districts marked with an asterisk, where the initial dates are those of the first introduction of the revised assessments, the survey dates not being ascertainable. Revised settlements are distinguished by the letter R.

(a) Survey and Settlement Commissioner's No. 232, dated 1st March 1880, to the Bombay Government, para. 47.

District.	Duration of settlement operations.	Date of expiry of settlement.
Ahmadábád	1851 to 1862	1866 to 1887.
Kairá	1857 „ 1868	1892-93.
Surát	1859 „ 1873	1894-95.

District.	Duration of settlement operations.		Date of expiry of settlement.
Baroch (Broach)	1863 to 1877		1900-01
Panch Mahâls	1865 „ 1879		
Khandesh	1854 „ 1870		1884-85
Satára	1855 „ 1864		
Belgâm	1849 „ 1857		1878 to 1884.
Ahmadnagar	1845 „ 1852		1879 „ 1883.
Násik (R)	*1871 „ 1880	(unfinished)	1902-03.*b*
Dhárwár (R)	*1874 „ 1880		1904 to 1910.
Kaládgi (R)	*1874 „ 1878	(do.)	1904-05 (*b*)
Poona (R)	*1867 „ 1880	(do.)	1897-98.(*b*)
Sholapur (R)	*1872 „ 1875	(do.)	1902-03.(*b*)
Thâna	1854 „ 1867		1884-85.
Kolába	1854 „ 1867		1886-87.
Ratnágiri	1866 „ 1876	(do.)	1894-95.
Kanára	1863 „ 1880		1893 94.

(*b*) These are the *earliest* dates of expiry of the revised settlements.

"The two districts settled before 1860 (Belgâm and Ahmadnagar) were disposed of much more rapidly than those subsequently taken in hand. Survey and settlement work has steadily tended to become more and more exact, elaborate, and tedious. The average duration of settlement operations seems to be about twelve or fourteen years.

"The term of settlement is thirty years in most districts, but where the settlement of a whole district expires at once (as in Surát, for instance), the latest settled talukas have a considerably shorter period. Some backward tracts have been settled for twenty years only. The revised settlements are all for thirty years."

§ 13.—*Settlement of Sindh.*

The land-revenue settlement is also described as follows[10]: (the frontier districts have not been settled and are not included in this account)—

"Upon the introduction of civil administration in 1847, a seven years' settlement was made by measurement of crops and commutation of the Government share at assumed prices on raiyati lands, and by leasing out the zamíndári estates at lump rents. Prices subsequently fell, the assessments proved heavy, and the settlement expired in 1853-54 amidst general demands for reversion to the old

[10] Selections from Records of Government, No. XVIII, 1855, pages 8, 9—Papers relating to Revenue Survey in Sindh, 1875, page 43.

Native system of dividing the crop and taking revenue in kind. At the same time, the revenue records were exceedingly imperfect. There were no village maps, nor even any taluka lists of villages; boundaries were undefined, and land registers were unknown, all existing information being exhibited under the name of the person by whom, not of the place for which, revenue was to be paid. It was therefore determined to institute a 'rough survey and settlement,' as preliminary to a complete revenue survey and settlement at some future time. Settlement Officers were to demarcate village boundaries for the Topographical Survey then at work in Sindh, and were then to measure the fields, fill in the village maps, classify the soils, and make the settlement.

"This 'rough survey and settlement' went on till 1862. By that time about one-third of the provinces had been surveyed for settlement purposes, at a cost of 8½ lakhs; but no settlements had been made, the Settlement Officers having been fully occupied in demarcating boundaries for the Topographical Survey, and afterwards making their own interior survey of the villages. In the absence of precise rules, the system followed had more or less modelled itself upon the Dakhan revenue survey, and the assimilation was now made complete by the deputation in 1862 of a Bombay Settlement Officer to draw up a scheme of classification and settlement. The rules then framed still form the basis of settlement operations in Sindh, though in practice they have been subjected to great and material modification as regards details, so that the present form of settlement differs largely from that adopted about 1864-65, the failure of which became more and more evident eight or ten years later. The organisation of the department was completed by 1864-65, and regular survey and settlement work has been going on ever since. At first there were two Superintendents, one upon the right bank, and the other on the left bank of the Indus; but a single officer has had charge of the department since 1874.

"Cultivation in Sindh is almost entirely dependent upon irrigation. A certain area of land, composed of rocky detritus, along the skirts of the hills, can be cultivated with the help only of rain; but even lands of this kind are generally dependent upon hill torrents, which are caught in enclosed fields and allowed to soak into the soil. Excepting these tracts, the province consists generally of alluvial deposit, with a greater or less admixture of sand. The classification rules of 1862 divided this soil into four orders, differing from each other by their proportion of sand, and these again are liable to be degraded by 'faults,' *viz.*, the presence of salt, a sandy substratum, or an uneven surface. The second stage of the classification process relates to the nature and quality of the water-supply. The greater part of Sindh is watered by canals filled by the rising of the Indus. They are constructed so as to receive water during the inundation season, and most of them lose their supply when the river falls to low-water mark. Some of them are under the Irrigation Department, others are managed by the zamíndárs. In the latter case, the zamíndárs are bound to do the annual cleaning out and repairs, and the expenses are recovered by a special cess, if the Government has to step in and take the duty out of their hands. Irrigation from these canals is either by flow or by lift, that is, by the Persian

wheel. Besides the canal-water area, a considerable extent of country, especially in the Shikárpur district, is rendered capable of cultivation by natural flooding. These floods are quite beyond control, and often do more harm than good; but where they are tolerably certain, as is the case with the Manchar lake in the Karáchi district, they are very favourable to the growth of rabi crops, especially wheat, on the land which has been temporarily submerged. Thus, in making the settlement, water-supply has to be classed under one of three heads, *viz.*, flow (*mok*), lift (*charkhi*), or floods (*sailábi*), and then further classified according to the sufficiency and constancy of the flow, the expense incurred in bringing the water by lift to the field, and the certainty and duration of the flooding.

Section IV.—The Records of Settlement.

The Code is remarkably simple in its provisions on this subject.

The village maps are among the most important records. Accompanying these is the "Settlement Register," showing the area and assessment of each survey number, together with the name of the registered occupant of the number[1].

The Code leaves it to the Local Government to prescribe such other records as may be necessary. One record is, indeed, expressly mentioned in an earlier section of the Code[2]—a record of all alienated lands—that is, what would be called in Upper India 'lákhiráj' lands, lands of which the Government right to revenue has been wholly, or within certain limits, alienated or granted away.

A third record is mentioned in Nairne's Handbook, called the "botkhet," which is a detailed record of each holding—that is, each field or group of fields held on a separate interest or a separate tenure by one person or more than one, with detail of shares, &c.

These registers are lodged by the survey officers with the Collector.

Copies are given to each landholder of the record of his holding; and in khot villages (to the khot), such papers as are necessary to enable him to administer the estate properly.

[1] Code, section 108. [2] Section 53.

The original registers when complete, are not altered, except to correct clerical errors or mistakes admitted by the parties interested[3]. Mistakes as to a wrong entry of a registered occupant's name by error, fraud, or collusion, may be corrected within ten years, even if the parties do not admit it; but all subsequent changes by succession, partition, transfer, &c., are not made in the settlement registers themselves, but in separate village registers kept up for the purpose.

There is no place in the Bombay system for a 'Record of rights,' such as is noticed in the settlement papers of Upper India. There being, as a matter of principle or general rule, no intermediate landlord between the landholder and the State, there is but little room for those questions of sub-proprietary right which need such careful reservation in those settlements. In special cases where there are such superior rights, as in khoti villages, a record is made of the subordinate rights as specially provided by the Khoti Act (Bombay) of 1880. There also other cases of special tenures, such as the taluqdárs of Ahmadábád, which are dealt with in a special Act (VI of 1862).

Section V.—The Land Tenures.

§ 1.—*The subject stated. Varieties of tenure.*

The principal form of right in land in the Presidency is, of course, the "survey tenure;" that is, the ordinary tenure under which every landholder appears as the registered occupant of his holding, when he does not hold as a grantee, a sharer in a Narwá village, or under some special form. It is, naturally, the ordinary and most general form of landed right under a raiyatwárí settlement, and, except in those estates where there is a superior owner, as a jagírdár, or taluqdár, or khot, &c., all the earlier tenures of land tend to become practically assimilated under the simple terms of holding as recognised by the Revenue Code.

[3] Code, sections 109, 110.

The great bulk of the villages in the plains part of the Dakhan were, as I have said, of the non-united type—aggregates of separate holdings. In the Konkan also there are only individual holdings, and in them it is not often that anything but an individual right of occupancy can be traced. In the districts of the Guzarát province, in Kairá, Baroch, and Surát, however, villages exhibiting a joint tenure still exist; but even in these, in many cases, the enforcement of the joint responsibility is rare or wholly unknown, and the tendency is naturally for the holdings to become separate. This subject will be dealt with further on.

There are, however, in villages now non-united (and treated as groups of occupants on the survey tenure) some vestiges of a former right in the soil which was of a different nature.

In Khandesh and all the Central Dakhan a tenure called mirási is remembered. The mirásdárs have an original and hereditary claim to the land, and this tenure is distinct from the "gatkuli," which is an inferior tenure of lands[4] which belonged to the village and on which the proprietors had located outsiders. The term "upri" (uparí) is also remembered, showing a distinction between the old soil proprietor and the tenant who had no original proprietary right. Such terms may be explained on the supposition that once the land was possessed by a body of joint owners; probably a group of families descended from a conquering or ruling family who constituted themselves the 'landlords,' the others being 'tenants:' or it may be that the mirásidárs are the original founders (not necessarily a joint body) and the others are later settlers looked on as subordinate to the first. Under the modern raiyatwárí system, however, no practical difference

[4] 'Gatkul' means literally the land of a "family" which has "deserted" or left the place, but is applied to all the lands in a village not being the direct holdings of the mirásdár. In Maráthá times, when the joint claim to an area of waste inside the village boundaries was little respected, the rulers would often grant the waste, treating it as at the disposal of the State, and the holder would then get it as 'gatkul' land.

exists. The holder on gatkul tenure is the registered occupant of the fields in his holding, no less than the mirásdár in his[5].

There are, indeed, cases of superior tenures or right in two grades[6], dating back from the Rájput conquests and otherwise, but these are almost entirely confined to certain localities.

There are also in all parts lands held on a tenure, already described in the chapter on the Central Provinces. I allude to the 'haq' or 'watan' lands acquired originally in virtue of his office by the patel or other watandár village officer. Such lands pass by inheritance to the members of the family, so that many occupancies may originate in this way. As noticed in the chapter on Assessments, the watan may now be held revenue-free, or subject only to a limited assessment.

The Maráthá Government did not, as a rule, interfere with landed rights. When its power was firmly established, it dealt with the individual landholder, caring, indeed, very little for the nature of his tenure, and treating all tenures very much alike. There consequently was no opportunity for the growth of grades of proprietary right, and for conflicts between original proprietors and the later growth of powerful individuals who had absorbed the profits and acquired the position of proprietor; and where such had at one time grown up, as in the case of the mirási rights, the system tended to restore all classes to a level.

The villages retained their hereditary patels and their village officials, with their hereditary emoluments and their *watan*, and now, whether the holding was originally by mirási right or was a watan, it is held by the occupancy tenure of the Code.

[5] Unless, indeed, the mirásdár has not a more unrestricted right to trees on his holding (see Nairne, Chapter XXV, pages 367, 368). The mirásdár was also allowed a certain consideration under the Maráthá rule: thus a right of re-entry was recognised when a mirásdár had been obliged to abandon his land.

[6] And then the "occupant" is the person who has the highest order of rights (Code, definition clause).

§ 2.—*The survey tenure.*

The first form of tenure to be described is, then, the ordinary tenure of landholders who have no special grant, or other peculiarity in the title by which they are connected with the soil. It will be observed that the Code does not enunciate any theory of proprietary right: it does not call the landholder proprietor, but it describes in Chapter VI what the practical incidents of his right are. The "right of occupancy" is itself a property, but that is quite different to saying that the occupant is owner of the soil.

The student should also read the paragraph in Chapter II, section II of this book, headed 'Occupancy Tenure.' I have there more in detail described the limitations which mark the occupant's right.

The right of occupancy (unless expressly limited) is a perpetual right, subject to the payment of the revenue assessment[7] failure to pay this involves the land and everything on it to liability to forfeiture and to all processes for recovery of revenue[8].

It is a heritable and transferable property[9]. It does not[10], in the absence of special facts, give right to mines and mineral products which are reserved[1].

The occupant has a right to erect farm buildings, construct wells or tanks, and make improvements for the purposes of agriculture. But land must not be diverted from agricultural purposes without the Collector's permission; and the Collector may, subject to the orders of Government, require the payment of a fine for any such concession, in addition to any change in the assessment which may be legally made consequent on the different use of the land[2]. Neglect to obtain this permission will entail liability to summary eviction.

[7] Code, section 68.
[8] *Id.*, section 56.
[9] *Id.*, section 73.
[10] In unalienated or "Government lands."
[1] Section 69.
[2] Section 65

The occupant may continue to hold the fields he has, as long as he likes, subject, as before stated, to the payment of the assessment; but he can relinquish his entire holding, or any entire survey number, or a recognised share in a survey number, provided he does so by giving written notice[3] to the land revenue officer (mámlatdár or mahál-kari, as the case may be).

If the relinquishment is absolute, the notice must be given before the 31st March (or other date that the Governor in Council may fix), and it will take effect after the close of the current year, and the occupant remains liable for the remainder of the year.

Transfer is dealt with by the Code as a relinquishment, only not absolute, but in favour of a specified person, and this may of course be made at any time. In this case the transferee, or the principal of several joint transferees, must agree in writing to the transfer, and his name is then substituted in the register.

The Code makes further specific provision for the case where a lump assessment is fixed on an aggregate of fields or survey numbers.

As a number is liable to forfeiture if the revenue is not duly paid, there is a power given to a co-occupant tenant or mortgagee to prevent forfeiture by paying up the revenue.

But in all cases where there are several occupants and the registered occupant fails to pay, the Collector must not forfeit the whole; but if he thinks it would be unfair to the other's interest, he can deal with only the defaulting occupant's interest by transferring it to one of the others who pays up.

Just as the occupant can relinquish his holding, so he is at liberty to apply to take up a number or numbers which are unoccupied. All that is needed is that he should submit a written application[4], since any occupation without proper authority is made penal by the law.

[3] Called a "rázináma.

[4] Section 60.

In such cases the right of occupancy may be granted at a price (which shall include the right to all trees not specially reserved), or the right may be put up to auction, which will usually be done where land is much in demand[5].

Only one person is entered as the registered occupant of any number; so that if several persons are co-occupants or co-sharers, one among them will be registered, but the others may apply to have their recognised shares recorded; and when that is done, each recognised sharer is liable only for his own revenue, and his share is treated practically as a separate number, except that it need not be so separately demarcated; and there is the condition about relinquishment to which I have already alluded[6].

On the death of a registered occupant, his eldest son, or other person appearing to be his heir, or the principal among several joint heirs, is entered as registered occupant.

In recording at settlement the person entitled to the occupancy right, the survey officer does not go into any question beyond the bare fact of occupancy. The person in occupation is recognised; if he admits that he is not occupant, but a tenant on behalf of some one else, that person's name will be entered, that is all. If there is a dispute, the parties are referred to the Civil Court, and the survey officer or the Collector (as the case may be) recognises the decision and enters as the registered occupant the person whom the Court's decree declares to be such. The others have then just what rights the decision assigns them.

There may in ordinary cases be two conditions under which there will be a "superior" and an "inferior" landholder. In one case the superior will be a grantee of Government, or taluqdár, or jágírdár, or khot, &c., and the occupants on the land may then become the inferior holders; in the other the superior may be the registered occupant, and the inferior may be his "tenant."

[5] Section 62. | [6] Code, section 95

§ 3.—*Inferior rights.*

Here I may conveniently notice how, in registering the occupants of land, any questions of tenancy or other inferior right are disposed of.

The rules about inferior right are very simple.

If a person admits himself to be, or is decided to be, on the land as a tenant, the *terms of the tenancy* are those of the agreement; and if no agreement appears, the tenancy is presumed to be on the terms of rent payable or services to be rendered, according to the usage of the locality, or failing proof of such usage, according to what is just and reasonable (section 83).

And the *duration of the tenancy* is dealt with on similar principles. If there is no proof of its commencement and of terms agreed on, and no usage as to duration, it is presumed to be co-extensive with the duration of the tenure of the landlord. There is no limit to the landlord's power of eviction or enhancement of rent, except the terms of the agreement or the usage of the locality.

Questions regarding tenant-right can thus be simply and satisfactorily disposed of by the Civil Court if they ever arise.

Annual tenancies, in the absence of proof to the contrary, run from the end of one cultivating season to the end of the next: the cultivating season "may be presumed to end on the 31st March" (section 84).

Annual tenancy is terminable by giving three months' notice on either side.

In the case of superior and inferior occupancy arising from the existence of the taluqdárí or other tenure, or from the land being "alienated," that is, granted by the State to an inámdár, here the relation of the parties again entirely depends on the facts, as determined in the Civil Court if there is a dispute, and by the terms of any special law applicable, as the Khot Act of 1880, the Taluqdárí Tenure Act of 1862, and so forth. The actual occupier of land may admit that the superior is absolute owner, and that he is a tenant on certain terms; or he may claim to be irremovable and bound to

pay only a certain sum, which may or may not be in the power of the superior to alter.

The Revenue Code is only concerned to protect the inferior, by requiring that in all cases where a hereditary patel and village accountant (kulkarní) exist, the payment shall be made through such official; and the superior is liable to penalty if he attempts to receive or collect directly (section 85).

§ 4.—*Narwá and Bhágdárí villages.*

While the "survey tenure" thus described has come to be the really important one in the Presidency, it is at the same time both instructive and interesting to notice how various other tenures have survived from former days; though such tenures are now confined to certain localities only.

In the first place, in two of the Guzarát districts, Kairá and Baroch, we have instances of the joint-village presenting all the essential features of the North Indian village; and here not in a state of decay, or traceable only through the use of certain terms, but alive and in full vigour[7].

The bhágdárí and narwá villages are really of the same kind, though circumstances have impressed upon them the different names, and have issued in something of a practical distinction. But both are forms of the true joint village. At the present day the term "bhágdárí" is applied to the villages in Baroch, and the narwádárí is that of Kairá (with a few examples in Ahmadábád and Surát).

In both there is a joint responsibility for the entire revenue of the village, as a lump sum, to Government.

And there was this practical distinction[8], that in Baroch, in the bhágdárí village, every field was always separately assessed as in any other village. But the amount of revenue payable by each sharer and sub-sharer did not necessarily correspond to the amount

[7] The narwá villages are described in the well-known paper by Mr. Pedder, Selections from Records, Government of Bombay, No. CXIV (New Series).

[8] Administration Report, 1872-73, p. 57; see also Mr. Pedder's paper, p. 15.

actually assessed on the individual fields in the share or sub-share, but on the proportion which is payable according to the customary scheme of division of burdens and profits in the village. This method of assessment is still kept up, and the shares into which the total burden is distributed are ascertained from a record made at settlement, and called the "phaláwani" register.

In the narwá villages of Kairá there never was a separate field assessment; the revenue was a lump sum arbitrarily imposed by the Maráthá ruler. In British times, the fields have been separately assessed, but still the plan is retained of treating the village as a whole and maintaining the joint responsibility for the total assessment.

Whether the origin of these villages is to be traced to a tribal settlement, or merely to the dismemberment and division of a petty kingdom among the families connected by relationship with the ancient ruler, I am unable to say; but in these villages we have a proprietary body in possession of a certain area; they built the village on a convenient site, called in artisans, gave them houses and bits of land for their support, and so provided the villagers with the means of getting their household pottery, their doorposts and rude furniture, their ploughshares, and their cotton cloth. Then cultivators were located to till the land, which was more than the proprietary families could manage, and thus the village system was perfected. At first all was in common, but soon the different groups separated; the major division held by each section is spoken of as the "gámbhág," and the sub-division, "petabhági." The villages exhibit just the same stages of passage into severalty as elsewhere. In some of the villages (the perfect pattídárí of the North-Western Provinces) all the land is divided into shares. In others (imperfect pattídárí) part is held in shares and part in common (majmún), the revenue and cesses being paid out of the proceeds of the common land. All "pátídárs"[9] or sharers were addressed as "patel," but the head or senior, or principal man among the

[9] Here the form is "páti, pátidár," &c., not "patti," as in the north.

sharers in each patí, had a sort of representative character for the rest, and is spoken of as "múksh-bhágdár," or chief of the sharers, or as "muthádár, the man who puts his "signature" to documents on behalf of the others.

In such a community, Mr. Pedder says, the tenants soon became classified by custom. Those who cultivated the common land (or had been on the land from the times of the founder) were never disturbed, but those employed on the land of the separate sharers (sír holdings as they would be called in North India) were mere farm servants or tenants-at-will. These villages became, in some cases, "narwádárí" in consequence of the revenue-system of the day. The Maráthás never established an orderly rule in these parts, but were in Guzarát mere plunderers; and exactly as in other provinces where their rule was not consolidated, they did not exhibit the prudence and steadiness in revenue matters which they did in provinces under their undisputed sway. As usual in such cases, the villages were made over to revenue farmers. Speculators who agreed to pay a certain sum to the State coffers had full license to get what they could out of the people, over and above that amount. In many villages these farmers soon broke down all distinctions. Every one—tenant and family shareholder alike—had to give up all he could make out of the land, so that all became equal in the burden they had to bear; proprietorship no longer had any value. The people in many cases fled the spot, and the farmers usurped their rights. In Surát there are cases in which the revenue farmer has become the owner of the village, just as we have seen to be the case in the Central Provinces.

The village communities of the narwádárí tenure came under the same oppressive system of revenue-farming, but their inherent strength, or the excellence of the village system, proved itself by enabling them to bear up and survive. The shareholders succeeded in retaining the management of their lands, but no longer could the proceeds of the common land meet the heavy demands of the farmers. They therefore invented the plan of *dividing the excess*

which had to be made up, by an additional rate to be paid by each "pátídár" according to his share. Each páti was jointly responsible for its share of the narwá, and all the pátís together were jointly responsible for the whole. The amount of the narwá might also in time modify the extent of land held, so that a man's holding came to be according to the amount of narwá he paid, instead of according to his original share as it would stand by the genealogical table.

The bhágdárí villages, then, I take it, were simply those in which a field-to-field assessment was levied, and the sharers bore the burden, not according to the land they held, but according to their ancestral shares. This practically produced no inconvenience when the division of the state was not complete, and a considerable area of land remained common, and its produce was devoted to meeting the revenue burden. In the Kairá villages the form had been, of necessity, altered, since there, the Maráthás abandoned the field assessments and ordered the village to pay a certain lump sum; this they had to provide for among themselves as they best might; and in consequence the old theoretical shares would be modified; the richest men were obliged to pay the most and naturally took more land to compensate them; in time, the narwá formed the measure of rights not the ancestral share. Moreover the system tended to weaken the ancestral connection by necessitating, or at any rate permitting, the introduction of outsiders not originally of the family, who undertook a share of the revenue burden[10].

[10] Mr. Pedder (page 21, section 40, &c.) describes the modern method of settling the villages. All the lands were separately surveyed and their survey-value ascertained; and this revenue valuation of the land was imposed by a new distribution, proportionate to the several "narwás" or shares in the village. If this was less than the old lump assessments, the difference was adjusted by a percentage deduction from the sums paid by cultivators with rights (not being proprietary sharers). The cultivators who pay direct to Government are on the majmún land, and they pay according to their holdings. Consequently the sum which the narwádárs have to make good, according to their shares, is the total survey-valuation, less the amounts paid direct by the cultivators who pay direct to Government as occupants. The shares of each narwádár proprietor are shown, but not the field assessment; only the lump assessment and the share.

The joint village tenures are recognised by Bombay Act V of 1862. A field-to-field assessment is in practice actually made, because if the village should escheat or be sold for arrears of revenue, Government would at once be able to manage the village on the raiyatwárí system, knowing the proper assessment for each field. As long as the village remains joint, the sharers have their portion of the revenue-payment assigned, according to a customary distribution shown in the phaláwaní register. The sharers are responsible jointly and the sub-sharers severally, for the revenue, whether the land is cultivated or not; there is no relinquishing or taking up, as under the survey tenure.

Whenever (as most often happens) *all* the land of the village is not held in "bhágs" and "pátis" of the bhágdárí form, or in holdings according to the narwádárí form, the remaining common or majmún land is treated exactly like any other raiyatwárí land; that is, the revenue of each field shown in the register, is levied from the actual occupant according to his occupation. The occupation may be by the proprietors themselves, but as tenants of the body at large, or it may be by tenants or "inferior holders." The Collector takes the assessed revenue from the holder in either case according to the actual fields in his possession.

The main object of the Act of 1862 was to prevent confusion being introduced by the sale, or mortgage, of the sites for habitation (gabhán), and the homestead land belonging to each share or bhág (apart from the share in the village land), and also to prevent portions of the land other than recognised shares being sold, and so obliterating the ancient and recognised divisions and subdivisions. Power is given to render null and void all such alienations. The people themselves are averse to the breaking up of the joint responsibility[1]. Nevertheless there is a tendency for the holders of land to prefer to pay the survey assessment on the fields

[1] The people, Mr. Pedder says, are unwilling to dissolve their joint-tenure: they would lose their reputation and dignity (*abrú*), and would be unable to marry their sons and daughters as advantageously as they do now, if they did so.

in their holding rather than according to a scheme of ancestral sharing. And it is permitted, if the people choose, to make a joint village raiyatwárí, by giving up any surplus waste to Government; each holder of fields then becomes the registered occupant, responsible only for the assessment of his own holding. As long as the village remains joint, however, the sum fixed for the share and the recognised sub-share, must be made good as a whole, irrespective of whether certain fields are cultivated or not.

It is exceedingly remarkable that though it is *these* villages which are really in character joint, yet they have become so thoroughly "pattidárí" in form, that the people call them *shared* villages (bhágdári), and the term "sanja," *i.e.*, joint or united, is applied to the ordinary village of the country—the non-united village—because there is no "sharing" and division of lands; all are together on the same footing and under one headman.

§ 5.—*Cases of double tenure. Mewásí and Málikí tenures.*

In some parts of Guzarát some villages are held on what is called the "mewásí" tenure, which simply means that certain freebooter Rájput Thákurs or chiefs got hold of the villages in former days, just as the Sikh jágírdárs did in the Cis-Sutlej States of the Panjáb. They established themselves as over-lords, taking a rent from the villagers; and now their descendants form joint bodies, each having major and minor shares according to their position in the genealogical tree, and dividing the rent among them.

In the same way the "málikí" tenure of a few villages is due to the grant of them to certain families called málikzádas, nearly four centuries ago, in the Khásra taluka of the Kairá Collectorate. The Maráthás afterwards made them pay an "udhár jamabandi," or quit-rent, and then, at a later date, levied a further tribute called "ghásdána" (for grain and grass for the troops). These families have now become over-lords in their villages, paying revenue to Government at a certain reduced rate, and taking rent from the villagers.

§ 6.—*Ahmadábád Taluqdárs.*

But a more remarkable case of double tenure is to be found in the western taluqs of Ahmadábád adjoining Káthiáwár. The taluqdár is here by no means to be confused with the proprietor of the same name in Oudh.

Here the tenure is due to the *division* of the districts among the descendants of certain Rájput chiefs.

Each taluqdár is now owner of an estate consisting of one, two, or more villages; and in each estate there are many joint owners or several holders, but all in the position of sharers in the estate and over-lords over the people of the soil who have become their tenants. The tenure is in fact closely analogous to that of the Nairs of Malabar. The proprietary right of the taluqdárs was recognised by Bombay Act VI of 1862. It is, however, limited by special conditions. As is the case in the Ajmer chiefs' tenures, the lands can be mortgaged, they cannot be permanently alienated.

When the taluqdári estate is held by numerous sharers, there is a manager (wahiwatdár) appointed to collect the Government revenue due from the sharers, and there is a joint responsibility. The taluqdári family takes its dues from the land in grain. The crops are divided according to known customs. The taluqdár gets, speaking roughly, one-half.

It may be here mentioned that many families in Guzarát, which once held estates as chiefs, were dispossessed by the Muhammadans, but allowed to hold some portion of estates as "wánta," which is either held rent-free or subject to payment of a "salámi" or tribute-rent.

Here we have, in fact, relics of the old organisation of Rájput chiefs settled as an invading force, not as a *people*. The estates are now dispersed and broken up; and had the work only gone far enough, there would have been only a series of villages, each held by an ancestrally connected joint body,—the descendants of the former chiefs.

§ 7.—*The Khoti tenure.*

Another form of double tenure has arisen from the revenue-farming arrangements of former days. In the Konkan this tenure is known as the khoti tenure[2].

In the Thána Collectorate the "khots" are now in a different position to what they hold in Ratnagiri. There the khot is a mere lease-holder paying a certain revenue to Government, but he does not claim to be actual proprietor of the land. The isáfat tenure is similar, except that here the landholders under the isáfatdár hold on the ordinary survey tenure, while the khoti villages have not been surveyed, and the people have only their own original tenures under the khot, the superiors holding on the súti tenure as it is called, and the inferiors on the gatkuli. On the Coast certain lands are called shrilotri,—they were reclaimed from the sea and embanked, and are owned by the shrilotridárs.

In the Southern Konkan (Kolába and Ratnagiri) the khots were, as in Ratnagiri, originally only revenue farmers of the Maráthá rule. But in this part of the country they grew, on the same principle as the Bengal zamíndár did, to being proprietors of their villages. They consequently now own as superior landlords all the land in the village. Their rights in the waste will be mentioned presently. They have to make good the Government assessment of the estate and can deal with the land as they please, so long as they respect the rights of permanent occupants and other privileged landholders under them. These pay a fixed rent, only liable to increase at a general revision of the settlement. Other cultivators on the estate pay a grain-share to the khot. They are, however, protected

[2] A great deal of mystery was at one time made about this tenure, and a great discussion took place as to what the rights of khots were. The difficulty consisted in determining any general rule, or in applying such a rule to particular cases. On paper it is perfectly easy to describe the khot tenure. There was nothing proprietary in the original character; but the position was one which readily developed into a proprietary form. Each particular case might therefore be in a different stage of development, and the question whether it was yet proprietary or not, could be hotly debated.

in their holdings, only they cannot transfer them. A special Act (I of 1880, Bombay Code) has provided for khoti tenures. The Act primarily applies to the khots of Ratnagiri, and it may be extended to those of the Kolába Collectorate.

This Act recognises the rights of the khot as heritable and transferable, so also is the inferior right of the original cultivators under the khots, called dhárekári. There are other kinds of landholders, called in the Act quasi-dhárekáris, and locally daspatkári, dupatkári, &c., names which indicate landholders whose tenure is permanent, but who, unlike the dhárekári[3], pay something more than the survey assessment;—their rent-rates are fixed in the schedule appended to the Act, and amount to 2 anas in the rupee more than the assessment in the case of the daspatkári, and to certain weights of grain in kind, for the other classes.

Besides these, all cultivators who have held continually since the revenue year 1845-46 have an occupancy right as tenants, which is heritable but not transferable, as a rule. There may, however, be proof of the existence of a special right of transfer.

As already remarked, the law of succession causes these khot villages in many cases to be owned by several joint-owners or co-sharers. In this case they are jointly and severally liable to Government for the revenue, and they have to appoint a 'managing khot' who is like the lambardár of a North Indian village.

If there has been a partition, the khoti sharers are separately dealt with by the Collector, and become only severally liable for the jama of their share.

All cesses (*phaski*, *veth*, &c.) are abolished. The khot is liable to pay the Government local fund cess, which he recovers from dhára and quasi-dhára lands, but not from the other holders.

The khot pays a whole lump sum jamá on the village instead of an assessment on each field, and consequently he has the control of waste numbers in his village.

This led to a dispute as to whether Government had the right

[3] See section 33*a* of the Act.

to interfere with forest waste in the village; the dispute was ultimately compromised, and the Act now provides that Government may constitute reserved forests in any waste in a khot village (unless some special grant or sanad prevents it); but that, subject to the performance of any condition for duty or service in connection with the forest, the khot receives one-third of the net profits of the forest[4].

§ 8.—*Alienated lands.*

There were many lands throughout the Bombay Presidency, especially in Muhammadan-times and under Hindu chiefs, which were "alienated" by the State, either as jágír lands, held conditionally on military aid or as a reward for political services. Service tenures are called "jágír" or "sarinjám." These latter are found mostly in the Southern Division and in Násik and Khandesh. Grants were also made for "services," *i.e.*, to pay the services of village and pargana officers, for the support of police, &c. There are also religious and personal grants (inám).

In Guzarát, where these lands were numerous, the "service" lands were called "chákaríyat," and charitable grants were "pasáëta.[5]" It did not follow that the *land* was originally granted, only the State revenue; but of course it might happen that the land already was in the occupation of the grantee, or was waste, or was unoccupied, or that the grantee grew into the sole proprietary position, or at any rate into the superior proprietary position. In alienated villages there may therefore be superior and inferior occupants, or occupants (the descendants of the grantee) and mere tenants-at-will cultivating the soil. "Alienated lands" are not always entirely revenue-free (nakra); in some cases they were

[4] Section 41 of the Act.

[5] Administration Report, 1872-73, page 60. When the original grantee's family had sold the land, it was said to be "vachánia," and so a plot of land might be described by a series of names, as "pasaëta, vachánia, salámia," land granted originally in charity, &c., sold to some other person, and made liable to a quit-rent. Religious grants of Hindu origin are "dewasthán."

"salámia," *i.e.*, had to pay a sort of fixed tribute or tax: the Maráthás imposed a "jodi," or quit-rent, often heavy enough, on others.

In Bombay, as elsewhere, great doubt hung over the origin and validity of many of these grants. A systematic enquiry was set on foot under an "Inám Commission" or Alienation Department[6]; but this did not meet with great success. At all events in 1863 Acts II and VII were passed for the summary settlement of inám estates. The main principle involved was that Government consented to forego a special enquiry into the title, if the inámdár chose to accept a summary assessment on the entire estate, as made by the Collector under the Act, and to submit to the conditions of the Act[7]. If the inámdár thought that he could establish his title, he would submit to an enquiry, which might possibly establish his right to lands either absolutely free of revenue payment, or subject to a lighter payment, as "salámia (quit-rent) or udhár jamabandi" (reduced assessment), than the Collector offered. But if he failed, his land was liable to full survey assessment; and in many cases it was profitable to avoid the expense, delay, and trouble of an inquest and to submit to a summary assessment of the estate, on accepting which the alienee got his estate confirmed by 'sanad,' or grant in perpetuity. Some ináms, not under the Summary Settlement Acts, are heritable, but the inámdár's succession is only to actual, not to adopted, heirs.

The estate granted under the Summary Settlement Acts is granted in full proprietary right, and is heritable, transferable, and adoption is allowed[8]. The estate pays revenue survey rates for land which has been surveyed and assessed, and rates agreed on between the Collector and the inámdár for unassessed lands. If

[6] Constituted under the Governor General's Act XI of 1852.

[7] The Acts apply to the districts in which Act XI of 1852 was in force, and to all "ináms" *not* being "political," *i.e.*, jágir or sarinjám grants, nor lands held for service, nor under treaty, nor formerly adjudicated on as "not continuable hereditary."

[8] Bombay Act VII of 1863, section 6.

a quit-rent (jodi), &c., is already payable, the assessment is at this, *plus* one-eighth of the difference between the jodi and the full assessment. The inámdárs are therefore considered entitled to all the waste and forest included in the terms of their summary settlement, unless it was specially agreed that such lands or the trees on the land, were reserved to Government. They are also allowed all land actually in possession, even if in excess of the original grant.

If on receiving a notice to elect between a summary settlement or an enquiry, the enquiry was called for, the Act itself contains rules as to the principles to be observed on enquiry, such as, for example, from what date a title was to be considered as prescriptive; what princes and officials of former Governments were to be considered as empowered to grant ináms, so that sanads signed by such princes and officials might be recognised as valid; when adoption could be recognised; and so forth.

The operations of the Inám Commission and of the procedure under the Summary Settlement Acts have resulted in a considerable saving to the State. At the commencement of the enquiry, the annual revenue alienated amounted to Rs. 1,20,88,034. Of this Rs. 50,13,936 have been disallowed, leaving Rs. 69,87,423 still alienated. Most of this is in land revenue-free, but a portion is paid by the State from the treasury direct. Up to 1872-73 the cost of the departmental agency of enquiry into and settlement of inám holdings had been Rs. 24,10,813[9].

§ 9.—*Rights in trees.*

Rights in trees may be here conveniently alluded to.

In Government (unalienated) lands under settlement made before the Code became law, all trees (unless reserved under special orders) are held to belong to the occupant of the number. Settlements, however, made not only before the Code, but before Act I of

[9] Administration Report, page 71.

1865 was passed, do not give right to teak, blackwood, or sandal-wood, unless conceded in express terms.

In settlement after the Code, all trees not expressly reserved go with the occupancy,[10] and so when an unoccupied number is applied for and granted.

All trees otherwise belong to Government, and so do road-side trees.[1] The latter trees are said to belong to Government while they live, but if they die, are blown or cut down, they belong to the occupant of the land, and the usufruct, produce of loppings, &c. (when lopping is allowed by the Collector), also belong to him.

But for a term of two years from the date of the Code becoming law, the landholder was allowed to get the strip of land on which such trees were growing cut off from his holding and the assessment reduced accordingly; then the trees and the land vested in Government.

When trees have been reserved to Government, as above stated, it may be that the reservation is accompanied with certain privileges of wood for fuel or domestic purposes; in such cases the privilege is exercisable under rules to be made by the Collector or such other officer as Government may direct[2].

In alienated lands, as a rule, the trees belong to the grantee, but not teak, blackwood, or sandal, unless they have been specially conceded[3].

§ 10.—*Land tenures in Sindh.*

There were doubtless old customs of landholding in Hindu times, but these have become completely obliterated by successive conquests and by the adoption of the Muhammadan faith by a large proportion of the population. There are still traces of a village

[10] See Code, sections 40—44.

[1] Revenue Code, sections 41, 43.

[2] *Id.*, section 44.

[3] For this information I am indebted to Colonel the Hon'ble W. C. Anderson, Survey Commissioner. See also Nairne's Handbook, pages 367, 368.

area or "deh" of a group of families acknowledging but one head; but "all trace of an organisation for administrative purposes, all trace of village officers with assigned duties and remuneration, has long since passed away, and at the present day is unknown even to tradition[4]."

The land then seems to have passed into the hands of chiefs or powerful landholders, who appear each to have held as much as his power enabled him to protect and his means to construct irrigation canals for. The cultivators would only too gladly in troublous times acknowledge themselves as inferior proprietors of their holdings under such a protecting landlord, and paid him "lapo," or rent. In many cases the landholders, for whom I have not learned any local or more distinctive name than "zamíndár," survive; in others they have disappeared, leaving the individual peasant proprietors of holdings. In the latter case, the raiyatwárí settlement is naturally suitable, and it has been introduced even where there are zamíndárs, because it is easy to assess each holding, and allow the zamíndár his dues as over-lord. But the raiyatwárí system treats the waste, whether divided into numbers and assessed, or left in large blocks unassessed, as at the disposal of the State; and in the zamíndárí estates the landlords had such a claim to this[5] that it was contemplated to allow them the right over the whole estate. It was obvious, however, that if they paid the raiyatwárí assessment on the whole, the result would be ruinous to them, unless they could cultivate it all. In 1875 therefore, the zamíndárs were offered leases providing that they might retain the waste, but pay a lump assessment, calculated at something (not exceeding 30 per cent.) less than the total of the amounts of the included waste and survey numbers. The area of waste included was further limited to what the holder could bring under cultivation, permanently or in rotation, during the term of settlement. Leases of this kind have, however, not been accepted, and that

[4] Administration Report, 1872-73, page 65.

[5] See Stack's Memorandum on Settlements, 1880, pages 9 and 523.

the zamíndárs prefer to hold under the ordinary "new system[6]." This system provides for the fallows that are necessary in Sindh, as well as for the accidents occurring in cultivation, which is dependent on the filling of inundation canals by the floods in the Indus river, and in some cases by the overflow of the river itself. The "survey numbers" are made of such a size that they can be fully cultivated in a single season: the assessment has to be paid if the number or part of it is cultivated; if it is not, the holder is not obliged to pay the revenue or relinquish, as under the strict Bombay settlement: he is allowed a lien on the numbers for one or two years, as the case may be, no assessment being charged for that period. After the period for free fallow has passed, the assessment has to be paid or the land resigned.

This system is said to work well, and it seems that the zamíndárs in these estates are content to work on this rather than take such leases of their estates, as I previously mentioned.

There is, in the northern part of the province, a species of land-tenure which seems closely to resemble the "chakdári" described as existing in South Panjáb. It is called "maurusi-háripan" (hereditary tenant (ploughman) ship). The tenant has to pay a málikána or quit-rent to the zamíndár, which is usually only 6 or 8 anas an acre, and cannot be enhanced. The tenant is the "registered occupant," but the quit-rent payable by him is recorded[7].

There are some revenue-free grants, jágírs, charitable grants (or khairát), garden grants, and a few grants near Shikárpur called pattádári.

[6] The previous system allowed every one an area of fallow for which the owner was expected to pay. The cultivator was allowed to hold three times as much land as he paid revenue on, *i.e.*, he virtually paid one-third of the full assessment. This led to people cultivating the *whole* till it was exhausted, or cultivating the whole for one year and then taking up a new place.

[7] Administration Report, 1872-73, page 66, where it is mentioned that this tenure resembles the *aforamento* of Portugal and the *beklemregt* of the Province of Groningen, mentioned by M. de Lavaleye in the paper on the Land System of Holland and Belgium (Cobden Club Essays).

The garden grants were made to encourage the bringing of land under garden cultivation. Jágír grants are heritable only by lineal heirs male.

Section VI.—The Revenue Officers and Official Business.

§ 1.—*The District or Collectorate.*

In Bombay the "collectorate" answers to what is called a district in other parts of India[8]. And the Revenue Code introduces the term "district" in the general sense in which it is used in India, providing that the present collectorates or zillahs shall form 'districts[9].'

The district consists of sub-divisions called "tálukas;" and these may be locally again sub-divided into "petas," &c.

The official designation under the Code, of a sub-division of a táluka, which has an assistant to the táluka officer in charge, is "mahál."

The Collectors hold charge of districts: they are aided by Assistant Collectors and by Uncovenanted Deputy Collectors, who may be placed in charge of a district consisting of one or more tálukas. The Assistant or Deputy in charge of a táluka or several tálukas has all the powers of a Collector as regards the local area of his charge. But the Collector may reserve certain powers to himself or assign them to another Assistant or Deputy Collector. And under Chapter XIII an appeal lies to the Collector. Over the táluka is the mámlatdár, answering to the tahsildár of Upper India: and when the táluka is sub-divided, the mámlatdár's assistant is called the mahálkari. In the mámlatdár's office are assistants called kárkun, and the head kárkun (like the naib-tahsildár of Upper India) may have subordinate magisterial powers[10].

[8] Formerly in Bombay 'district' was used as synonymous, not with a Collector's charge, but with a local division of it—the táluka. The term zillah (zila') used also to be employed as a purely judicial term, and is now obsolete in Bombay.

[9] Revenue Code, section 7.

[10] See Nairne's Revenue Handbook, Chapters II, III.

Over the Collectors are "Commissioners." Originally there were two of these officers, called Revenue Commissioners, one for the "Northern Division," one for the Southern[1]. A third Commissionership was created in 1877, and the title of the office is now simply "Commissioner," as in other provinces[2], and his charge is a "Division."

§ 2.—*Village officers.*

At the head of the village organisation is the patel. The patel may have his "watan," and then the patel's family all share in the watan, and one member, who receives a remuneration from Government, does the duty of the office. He collects the revenue from the raiyats, conducts all Government business with them, and exerts himself to promote the cultivation and the prosperity of the village. "Though originally the agent of Government, he is now looked on as equally the representative of the raiyats, and is not less useful in executing the orders of Government than in asserting the rights, or at least making known the wrongs, of the people[3]." On receiving revenue from the raiyats, the accountant enters it in the Government books and issues receipts. The patel is also the agency for reporting everything that is necessary to the námlatdár[4].

Where there is a watandár or hereditary accountant he is called the kulkarni. But there is no kulkarni watan in many villages, and even in some whole districts[5]. In that case a stipendiary accountant called talátí is appointed.

The village menial (called "mhár" in the South Maratha Country, "dher" in other parts) is the guardian of boundaries

[1] Originated under Act XVII of 1842. Sindh is of course separate.

[2] For details of powers, &c., see Nairne, Chapter II, and for Collectors, Chapter III. The Collector's head-quarters are described by the term "huzúr," which is the same as "sadr" in Upper India.

[3] Nairne, Chapter VI (quoting Elphinstone).

[4] In Guzarát in the joint villages the múthádár is the headman.

[5] Nairne, Chapter VI, page 87

and is the messenger: he it is who carries the revenue and the patel's reports to the táluka officer (the mámlatdár).

In some parts I find mention of a village watch called jáglia, as in Berar.

"The village system," writes Mr. Nairne, "exists most vigorously in the Dakhan, where every village has its full complement of watandars. In the Coast districts generally, it has not been so well preserved; in Kanára there are no hereditary village officers at all; in the Khoti districts of the Southern Konkan few watandárs of any sort; and in the Northern Konkan no kulkarnis, and but few inferior watandárs. But everywhere under our Government there is for every village, either hereditary or stipendiary, a patel, an accountant, and a menial servant[6]."

§ 3.—*Inspection.*

It is here necessary only to notice as a feature of general duty, that repeated inspection is made a great point of in Bombay. Under any revenue system, indeed, inspection is of the first importance. Revenue officers must constantly control their subordinates; otherwise they cannot develop the revenues of the district, or ascertain whether the revenue assessment is burdensome or easily borne, whether public health is good, whether irrigation works, and the making of roads, tanks, and wells, tree-planting and such like improvements are attended to; whether education flourishes and the people are happy and well governed; without constantly seeing for themselves and freely mixing with the people and hearing what they have to say locally, and without the restraint of a public office and the presence of subordinate officials. Moreover, for revenue and statistical purposes, the village accountants have everywhere to furnish statistics of crops, of land-transfers, and so forth: these will be filled in anyhow, if the makers of them do not know that a supervising officer will examine the records and check them occasionally on the ground. Village accounts will

[6] Nairne, Chapter VI, page 88.

fall into arrear, and revenue receipts fail to be properly given, if the accountant does not know that at any moment his papers may be called for. There is no province in India to which these remarks do not apply. But a raiyatwárí settlement requires, perhaps more than any, such inspection. It is therefore laid down as a rule that Collectors and Assistants are to pass the greater part of the year in camp; only the four monsoon months, as a rule, being spent at head-quarters.

The Government deals with each individual landholder, and therefore it is essential to see that his payments are properly acknowledged; the examination of raiyats' receipt books (kul-ruzuwát) is therefore an essential branch of inspection duty.

So also in the constant maintenance of the field boundaries, on which everything, I may say, in a raiyatwárí settlement, depends. The local subordinates are primarily charged with the duty, but their work has to be examined and checked by the superior staff.

§ 4.—*The jamabandi.*

Still more imperatively does the raiyatwárí system demand control over the actual extent of fields in occupation; for under this system every field has its own assessment, but the number of fields actually held by any one raiyat is liable to vary, and consequently the revenue for which he is responsible.

Any raiyat may abandon a field, or take up a new one; consequently it is essential not only to check the fields relinquished or occupied during the year, but the actual revenue amount payable by each raiyat has to be made out accordingly. The revenue-rolls or "jamabandis" are therefore to be prepared annually, and not only is every assistant made to check a proportion of them by making them out himself, but even the Collector is required to make out a certain number himself in such a way as to go over the whole district in the course of a few years.

The jamabandi work should be all done by the 15th February, or at latest the 15th March, as the official year ends on the 31st March.

§ 5.—*Relinquishment and occupation of land.*

I have already said something under the head of rights in land to explain the procedure in taking up and relinquishing fields. The razinámа or application in this matter goes to the mamlatdár. If an entire number is relinquished the process is simple. The relinquished number is granted to any applicant, and if not applied for is sold byauction as fallow land (for the grazing on it) during the year.

If a recognised share of a number only is relinquished, the share must be offered to the other sharers in the order of the largeness of the amount payable by each as revenue. If all refuse to take it they remain proportionately liable for the revenue of the relinquished share, till some one takes it up. This in effect compels the sharers either to take up the share, or else join with the sharer desirous of relinquishing, in giving up the whole number[7].

§ 6.—*Maintenance of boundary marks.*

As already remarked, the maintenance of the corner marks, whether stones, earthen ridges, or otherwise, so as to make permanent the survey division into fields, is of peculiar importance.

The Code definition of a boundary mark, it should be recollected, includes "any erection, whether of earth, stone, or other material, and also any hedge, vacant strip of ground, or other object, whether natural or artificial, set up, employed, or specified by a survey officer[8] or other revenue officer having authority in that behalf in order to designate the boundary of any division of land."

By section 123, every landholder is responsible to maintain the marks of his holding in good repair, and for any charges incurred by the revenue officers in cases of alteration, removal, or disrepair. The duty of the village officers and servants is to prevent destruction or unauthorised alteration of the village boundary marks. The duty of looking after the marks and requiring their

[7] Code, section 99.

[8] Section 3, No. 9, *i.e.*, the officer appointe under section 18.

repair and erection devolves on the Collector when the survey officer's work is over, and he has powers under section 122 to require the erection or repair, or to do the work himself (at the cost of the landholder) if the landholder neglects.

By section 125 power is given to the Collector, survey officer, mamlatdár and mahálkari, to summarily convict offenders for injuring marks and inflict a fine not exceeding Rs. 50 for each mark. Half of the fine may be spent in rewarding the informer and half in restoring the mark.

§ 7.—*Partition: recognised shares.*

The terms "perfect" and "imperfect"[9] partition are not here applicable, because there is not, as a rule, any joint responsibility; but under the Bombay system there are two operations which may be performed in respect of shared lands which are in some respects analogous to partial and perfect partition. For example, there may be a partition which goes so far as to separately demarcate and number in the revenue records, the partitioned plots, if they do not already consist of fields bearing separate numbers; or there may be a process which is analogous to a partition, in which the shares are ascertained and "recorded," but not separately demarcated or given new numbers. The "recognised shares" are practically separate, as far as the liability for revenue is concerned, and each recognised sharer can ordinarily be held liable only for his own share. If a partition, or at least a record of shares separately assessed, has not been made, the one person whose name is, according to rule, always entered as "registered occupant" of the number, remains liable for the whole revenue, no matter how many sharers really hold along with him.

Under the Code, the partition spoken of is the complete partition. It must be made, if possible, so as not to divide existing survey numbers, but it should be contrived to give one or more whole numbers to each sharer. The splitting up of an existing survey number is only resorted to if really necessary, and even then

[9] See Code, Chapter VIII, section 113 *et seq.*

it cannot be carried out so as to leave any of the newly-constituted numbers below the minimum size[10]. Any bit of land that is over, and cannot be further divided out, owing to this restriction, is either given over by consent to one of the sharers on his making up the value of it to the other sharers, or it is sold and the proceeds distributed[1].

At time of survey or revision of survey, the survey officer can, of his own motion, subdivide any field and give new numbers and separate assessments without any formal procedure for partition.

Any one can apply for partition if he is admitted to be a co-sharer, and be so recorded, or if he can get a decree of a Civil Court that he is a sharer.

§ 8.—*Lands affected by river action.*

The Bombay Code provides that an alluvial accretion of not more than half an acre, and also not more than one-tenth of the "holding" against which it has formed, is at the disposal of the occupant of such holding. The term "holding" here means either a whole survey number, or a portion which has its separately recorded assessment. If the accretion exceeds this amount, the land is at the disposal of the Collector, who must, however, if he sells it, offer it to the adjacent holding and at a certain price[2].

If a holder of land loses by diluvion a plot of not less than half an acre, *and* not less than one-tenth of his holding, he is entitled to a decrease of assessment[3].

§ 9.—*Recovery of arrears of land-revenue.*

In Bombay, as already remarked, the registered occupant is primarily liable for revenue in Government lands[4], and in alienated lands (where revenue is payable) the superior holder,—the grantee.

[10] The minimum size has been variously fixed according to the circumstances of the different districts. See page 554.

[1] There are also special rules for joint estates like khoti tenures, into the details of which I do not enter.

[2] Code, sections 63, 64.

[3] *Id.*, section 47.

[4] *Id.*, section 136, 1st cl.

If the person primarily responsible fails to pay, a co-occupant of any alienated land, or a co-sharer in alienated land, or the inferior holder or person in *actual* occupation, is next held liable[5]. In the latter case credit will be allowed the inferior holder for such payments in all demands against him by the superior holder for rent. The revenue is paid in instalments fixed by the order of Government[6]. It is technically due any day after the first of the agriculture year, which begins on the 1st August and ends with the close of the 31st day of July following.

The Bombay Code requires revenue officials and others to give receipts for payment of revenue; "superior-holders" are equally bound to grant such receipts to their inferior holders[7].

The land-revenue is a first charge, taking precedence of all other debts and mortgages on the land, and is also a first charge on the crops. There are certain circumstances under which the Collector is empowered to attach the crops (either to prevent the reaping or the removal of the grain when reaped, according to circumstances) as a precautionary measure, to secure the current year's revenue, but only *one* year's revenue[8].

Revenue "in arrears" is revenue not paid on the instalment-due dates. Interest or a penalty may be charged on arrears under the Bombay Code; a scale of such penalty or interest-rates being fixed by Government[9]. A statement of account certified by the Collector, his Assistant or Deputy, is conclusive evidence of the arrears[10].

I do not propose to go further into detail as to the process of recovery than to say that it can be effected by—

(*a*) serving a written notice of demand;

(*b*) forfeiture of the occupancy right or of the alienated holding on which the arrear is due;

[5] Code, section 136 2nd cl.
[6] *Id.*, section 146.
[7] *Id.*, sections 58, 59.
[8] See Code for details—sections 140—45.
[9] Code, section 148.
[10] *Id.*, section 149.

(*c*) distraint and sale of movable property;

(*d*) sale of immovable property;

(*e*) arrest and imprisonment of defaulter;

(*f*) in case of alienated holdings consisting of whole villages or shares of villages (as in jágírs, khoti estates, taluqdárís, &c.), by attachment of such villages or shares.

Nothing is said as to the *order* in which these processes are to be applied, nor is it said that the one is to be resorted to only in case of failure of another[1]. It is left to the Collector to adopt any process or more than one at his discretion.

Officers who have to recover any public money under the Bombay law will do well to read and bear in mind the terms of section 187, which fully (and widely) apply the procedure for recovery of arrears of land-revenue to every species (almost) of payment due to Government.

Jágírdárs and all other superior holders in Bombay (*i.e.*, both jágírdárs from the occupants under them and occupants from the tenants under them) can get certain assistance from the Collector in recovering the revenue or rents (as the case may be) due to them[2]. Provided that the demand refers to the *current* year's rent or revenue, the Collector can set in motion the same machinery as he could to recover Government revenue. There is also a power given to issue to certain superior estate-holders a "commission," enabling them to exercise directly certain powers for recovery of revenue or rent. This does away with the necessity for summary suits for rent.

§ 10.—*Procedure.*

The XIIth Chapter of the Code contains rules for the *procedure*

[1] In this respect the practice is different from what it is under the North-West laws, *e.g.*, under the Panjáb Act, arrest and imprisonment is one of the first things to be tried: but then it is for a short time only. In Bombay the imprisonment spoken of may go as long as a civil imprisonment under a decree of like amount might. Sale of immovable property, other than that on which the arrear is due, is only allowed in the Panjáb in the very last resort and under special sanction. In Bombay it is put down as one of the ordinary processes for recovery.

[2] For details see Code, Chapter VII, sections 86—94.

of revenue-officers when making an enquiry or carrying out any business under the Act, and the XVth Chapter provides appeals from orders.

I do not propose to enter into details, but the chapter generally gives power to summon witnesses as under the Civil Procedure Code.

All enquiries are classified into "formal" and "summary." In the former, evidence is recorded in full, and so is the decision; in the latter only a memorandum of the substance of what the parties and witnesses state is made; the decision and the reasons for it being also recorded.

Unless the Code expressly directs that any enquiry is to be "formal" or "summary," the question which is followed is determined by rules made by Government, or, in their absence, by the orders of the superior officer, or by the discretion of the officer holding the enquiry, according as he thinks necessary, with a view to the importance of the case and the interests of justice.

CHAPTER II.

BERAR.

BERAR was, as explained in a previous section, assigned to the British Government by the Nizám of Hyderabad to pay for the support of the military force called the Hyderabad Contingent, and also to repay some accumulated arrears of debt.

There have been several treaties, which from time to time provided various changes owing to the increase of the debt and other circumstances. The treaty which finally created the present system was signed in 1853, and places the Berar districts in their present extent under the sole and complete management of the British Government. The surplus revenues, after paying the cost of administration and the maintenance of the contingent, are repaid to the Hyderabad treasury.

The districts, therefore, are not subject to British law as such, but are regulated by the will of the Governor General in Council. No Act has any force, *proprio vigore*; and when orders appear "extending" Acts, that merely means that the Governor General adopts such Acts as expressing his wishes on any subject to which they relate[1].

The administration is carried on through a Commissioner of Berar[2], who is the chief revenue and administrative authority in

[1] As a matter of fact, all the general Criminal and Civil laws, the Stamp law, Registration, and so forth, are in force, with or without certain modifications, as the case may be, in Berar, but their force is derived from the executive authority above described, not from their being Acts of the Indian Legislature.

On certain subjects, as forests, there are special rules, and of course there are many Acts not in force. But speaking generally, in the matter of law, Berar is administered very much like an ordinary Non-Regulation Province.

[2] Formerly there were two, one for East, and one for West Berar.

subordination to the Resident at Hyderabad. Under him are Deputy Commissioners of districts with their Assistants, as in a "Non-Regulation Province."

For regulating matters not requiring the orders of the highest authority, or for communicating and explaining such orders, "Circulars" are issued both by the Resident and the Commissioner, and these are now regularly printed, and are of course authoritative, since they are the orders of officers delegated to issue them (as part of their official duty) by the Governor General. The matters which in another province the Board of Revenue or Financial Commissioner would regulate are dealt with by the Resident, and the Commissioner's circulars deal pretty much with the same subjects that a Commissioner in any other province has power to regulate.

Many matters, especially in Revenue business, which is my chief concern, still remain regulated by custom or by the practice of the courts; and this circumstance would render it additionally difficult to describe the system of this province, were it not in contemplation to introduce the concise and clearly drawn Bombay "Land Revenue Code[3]" (Bombay Act V of 1879) as the general rule for guidance in revenue matters.

I think, therefore, that the most useful way in which I can deal with Berar is first to notice its settlement, which was made on the Bombay system, with some special modifications adopted to meet local requirements. I shall next proceed to discuss the land tenures; after which I shall briefly describe the revenue business of a district generally, taking the Revenue Code as a guide, but noting such express Rules of Berar as are likely to be maintained even if the Code is generally put in force. This chapter will then contain—

Section I.—The Settlement.
Section II.—The Land Tenures of Berar.
Section III.—The Revenue Officials and their Duties.

[3] Throughout this chapter I shall be understood to use the term "Code" with reference to the Bombay Act V of 1879.

SECTION I.—THE SETTLEMENT.

§ 1.—*Discussion as to the form to be adopted.*

I have already presented an outline of the "raiyatwári" settlement system as developed in Bombay.

I have alluded to the fact that in some parts of Bombay villages existed with something like a joint constitution which might have fitted them for a settlement on the North-Western Provinces model. And whenever the existence of such villages is a proved fact, it is not unnatural that the question should be raised,—are not the villages now of the non-united type, merely a decayed form of the other? In some instances, a study of history will furnish a decided answer in the negative: but it must be admitted that this is not always the case.

Now it will be readily admitted, even by those who are not favourable to the system of the North-Western Provinces, that whenever the village communities have really (and without the aid of a vivid official imagination) retained a joint constitution, it would be unwise not to avail ourselves of the facility which such a constitution undoubtedly affords to revenue collection, and no less wrong to ignore a custom which often guarantees self-government and continued stability in times of trial. It can never therefore be matter for surprise that administrators, who had been familiar with such advantages, should have asked somewhat anxiously, whether the non-united village groups were not really in times past of one family, and whether the union could not be restored.

When we turn to the settlement of Berar we find the influence of this feeling. The villages, as we found them in 1853, were, speaking generally, of the non-united type. But there were not wanting here and there indications which led many to suspect that the joint form had once existed. There can be no doubt that in some parts, the survival of certain local customs, and even some peculiar terms used in connection with holdings of land, point to the fact that there, the communities *were* once ancestrally connected;

and this fact led to some hesitation as to the revenue system to be adopted generally.

In South Berar some of the earliest of the short settlements (I believe they were annual) made on our first assuming management in 1853, were actually made "mauzawár," *i.e.*, by assessing a lump sum on the whole village; and a settlement on the North-Western Provinces system was even ordered for the whole province[4].

§ 2.—*The Raiyatwári system adopted.*

But ultimately the preponderance of opinion seems to have been that, save in exceptional cases,—themselves hardly numerous enough to warrant a break in the uniformity of system—the joint responsibility could not be successfully revived; and a settlement on the Bombay principle was finally ordered.

It may be mentioned, however, that in Berar, at a later period, an attempt was again made to modify the Bombay system by grafting on to it a "record of rights" on the North-West model. As the Bombay system neither requires such a record[5], nor does it possess the requisite machinery for making it, some confusion of course resulted. The demand for it is another instance of the curious influence which particular systems exercise over the minds of those who are brought up under them. Lord Lawrence was thoroughly imbued with the ideas of the Thomason and Bird school, and could not trust the Bombay system thoroughly; so he thought that a record of rights would be a useful corrective, whereas it has only proved a source of legal difficulty.

[4] Berar Gazetteer, 1870 (Bombay Education Society's Press), pages 94 and 96. It would appear that the plan was to make the headmen proprietors, as in the Central Provinces, unless there were surviving bodies or lands held by divisions of old families (still called patti) who could be settled with as joint proprietors.

In speaking of the tenures, I shall again refer to the surviving traces of an original union of proprietary families in villages.

[5] The North-Western systems, creating a middleman proprietor between the raiyat and the State, have to guard carefully the "natural" rights of landholders by record. But the Bombay system creates no such middlemen, and therefore no record can be necessary, except to note the shares when a field or number happens to be owned by several parties, or in case a double tenure exists.

§ 3.—*Survey and assessment on the Bombay system.*

At the time of settlement, the rules of the Bombay Joint Report, with which the reader of the preceding pages is by this time familiar, were adopted with certain modifications, and a Code of simple rules was drawn up, which was sanctioned by the Government of India[6].

The survey and assessment are not described in the rules: these were done by Bombay officers exactly on their own principles as in force at the time. The differences introduced by the rules are chiefly in the matter of certain rights and duties of the occupants, which will be mentioned in their place.

This procedure was applied to the whole of Berar except to the hill tract of the Melghát in the north (Sátpúra Range), which is a vast tract of forest inhabited only by wandering jungle tribes of Gonds and Kurkús, to whom such a system was in those days, at any rate, inapplicable.

For all details as to survey demarcation of the fields and method of assessment, the student must recur to the preceding chapter on the Bombay system.

The Berar settlement was sanctioned for thirty years[7].

The assessment is stated by the second settlement rule to have included all cesses, but that means cesses levied under the old Native Government on land, and it includes the road cess. The cesses for education (1 per cent.) and the "jáglia" or chaukidár's cess are separate, and are levied in one sum at the rate of 15 pies per rupee.

In Berar the jágír and inám (revenue-free) villages were surveyed with the object of being assessed. But the order for assessment was afterwards cancelled.

At the close of the thirty years a "revision" settlement may be made. This term is always used under the Bombay system, whereas in other places distinction is drawn between "revision" and a re-settlement, the former term meaning that only some of the operations of settlement are re-opened, such as re-assessment or

[6] No. 407, to the Resident at Hyderabad, dated 10th December 1866.
[7] Gazetteer, page 96, and Settlement Rules, 1.

the revision of the record of right, while in the latter all operations are done *de novo*.

By the Berar rules, the revised assessment will be fixed, "not with reference to improvements made by the owners or occupants from private capital and resources during the currency of any settlement, but with reference to general considerations of the value of land, whether as to soil or situation, prices of produce or facilities of communication[8]."

§—4. *Position of the landholder under the survey settlement.*

The holder on his own account of a field or 'survey-number,' whether an individual or a body of co-sharers or co-occupants, is called the 'registered occupant:' he holds on condition of paying the assessed revenue and other dues[9].

Being "in arrears" at once renders liable to forfeiture,[10] not only the right of occupancy, but all rights connected with it, *viz.*, those over trees and buildings.

On the other hand, no occupant is bound to hold his land more than one year if he does not like it. As long as he gives due notice according to the law, *i.e.*, in due form and at a fixed convenient season (so that the land may be available for cultivation to a successor), he is free to "relinquish" his holding or any part of it comprising an entire survey-number or part of a survey-number, his separate occupancy of which is recognised in the revenue account. But he must pay up the revenue for the year. This is only reasonable in the interests of the public treasury.

A transfer of occupancy by sale or otherwise is also subject to the same condition, for it is in effect a relinquishment by the registered holder and an assent by a new-comer to take the holding in his place, and the Government is not bound by the transfer till the current year's revenue is paid up[1].

[8] Settlement Rules, No. 11. See also Code, section 106.

[9] Under the head of Tenures I shall revert to this subject, and explain it more fully. See Code, section 73, and exactly the same in Berar Settlement Rule V.

[10] So the Code, section 56.

[1] See this further described in the Chapter on Revenue Procedure.

Though the occupant is thus at liberty to diminish his holding according to his own pleasure, he is nevertheless free to maintain it for ever if he chooses.

At the close of the thirty years' settlement he must accept the revised assessment (if any alteration happens to be made[2]) just as in any other Indian settlement, and if he does not approve of the revised settlement he may "relinquish" the land: that is all.

The occupant of a field or number which is appropriated to agriculture (*i.e.*, is not a plot of building land, or site in a village or town, &c.) may do anything he pleases in the way of improvement, and may erect farms and agricultural buildings[3]. But he must not apply it to any other purpose than agriculture without the permission of the Deputy Commissioner.

§ 5.—*Rules regarding trees on the land.*

The right to trees on lands may here be conveniently noticed. I am not speaking of jágír and inám or "alienated" lands.

The Berar Settlement Rules regarding the occupants are in some respects different to those described in the previous chapter on Bombay rights. By Rule I, an occupant is always allowed to plant fruit trees, which then become his property; other trees are not mentioned.

By Rule X, an occupant who has held a field for twenty years or for a period anterior to the age of the trees, owns them; otherwise the trees belong to Government.

When a man applies for an unoccupied number which has valuable trees in it, if he only takes it at the ordinary assessment (which does not take into consideration the value of the produce of the trees), he gets no right over the trees. But when such a field is applied for, it is put up to auction at a fair upset price which *includes* the trees, and then if the applicant (or whoever is the purchaser) pays the upset price or more, he acquires the trees, and has only to pay the ordinary assessment on the land in future.

[2] See Berar Settlement Rule V.

[3] Code, section 65.

Holders of "alienated lands" in Berar are the owners of all trees[4].

In Berar when an occupant has not a right in the trees, if he wants to cut them for agricultural purposes he must get permission from the village officers. The tahsildár must be asked for timber for repairing buildings; but if the occupant wishes to cut any large number of trees or to cut them for sale, he must apply to the Deputy Commissioner, who can impose "any conditions that may appear advisable."[5]

§ 6.—*Shares in holdings.*

When a "number" is held by a body of persons, whether co-sharers bound by a family tie (or possibly by a body of associated co-occupants), only *one* person is entered as the "*registered*" occupant of such field or number, and he is responsible for the revenue. But each sharer can get his share recorded as a "recognised share;" only the holdings *need* not be separately demarcated. Every recognised sharer is then separately liable for the revenue of his share, exactly the same as if he were the holder of a separate number[6].

7.—*The Record of Rights.*

Under the Bombay system, as I have remarked, there is properly no room for any record of rights which occupies so conspicuous a position in the North-West system.

By the Code[7], the survey officer makes out one simple "settlement register," which consists of a list of the survey numbers, with the area and assessment of each and the registered occupant's name: and that is all. The Government may order other records to be prepared, and a register of "recognised shares," the object of which has been explained, is kept up under such orders. A register is also (as a matter of course) kept of "alienated" and revenue-free

[4] In Bombay, not of teak, blackwood, or sandal, unless these have been specially conceded.

[5] Settlement Rule X. See also Code, section 44.

[6] See also Code, section 99.

[7] *Id.*, section 108.

grants[8]; but no record of tenants and inferior holders and their rights is made, except perhaps in estates where there is some peculiarity of tenure and some superior proprietor, the result of a Government grant or of the former revenue system[9]. In any ordinary village on the common tenure, which is found unvaried over great extents of country, there is no necessity whatever for such a record. The survey officer simply enters in his register the person who is in actual occupation of the number. If this person admits that he is only there as tenant or on behalf of some one else whom he names, well and good; the name of that other person will be entered as the occupant. If he says he is only a sharer, and that so and so is the man to be entered as "khátadár," or registered occupant, that will be done; if there is any dispute, the parties must go to Court and get a decree; the Settlement Officer will then enter them accordingly; meanwhile he will register only the actual *de facto* occupant.

In Berar I already intimated that a departure from the system was ordered. The practice has not altered as regards registered occupants of the fields, but it was considered desirable to make a further record of the rights of those who were in occupation, but not shown as the "registered occupants." Such persons might either be tenants merely employed by the registered occupant, or might have rights as co-sharers with him, and it was thought desirable to record the precise position of every such person. To determine this position a number of rules were drawn up called "sub-tenancy rules[10]." First let me clear the way by stating that

[8] See also Code, section 53.

[9] Such a record, for example, is kept up in the khoti villages in the Konkan (see Bombay Khoti Act I of 1880).

[10] The expression is unfortunate; it implies that the registered occupant is the tenant of the Government, and the cultivator is his "sub-tenant." But the registered occupant is by no means the tenant of Government; his rights are different from those of a tenant, even though they are not those of a full proprietor. It is no part of the theory of the Bombay settlement, as applied to Berar or otherwise, that the Government is the landlord. No theory is stated, every occupant has the rights of an occupant, whatever the law declares those rights to be. In the so-

those rules do not apply to the actual holders or possessors of land in estates held by a jágírdár. In such estates, it would seem that the matter is intended to be settled by Rule XIX, which recognised as *sub-proprietors* of holdings those ancient "tenants" on the estate who had been there before the grant was made by the State.

The object of the record in Government lands, seems to have been the prevention of any possible injustice by the registering of one man's name as occupant, and leaving all the others who claimed to be occupants or co-occupants, to get their title in the Civil Courts in case it was disputed. There seems to have been some anxiety, if inferior rights were left to be established in the Civil Court when not admitted by the registered occupant, litigation might become excessive, or rights unfairly lost. Such anxiety was not, however, borne out by the experience of other parts where the matter had been left to itself.

The record seems to have effected nothing except some little confusion, and to have given rise to a voluminous and most useless "tenant-right" correspondence. The duty of preparing it was entrusted to the tahsildárs at time of settlement, but they had neither the leisure nor the establishment requisite to make the enquiries properly. Nevertheless, it was first ordered that the rights recorded were to be treated as finally settled. In 1877 this was, however, modified, and an appeal to the Deputy Commissioner was allowed in the form of a regular suit, in the course of which more complete investigation would be made.

In cases where two or more persons appeared in some sort of connection with the land, it might sometimes be doubtful whether these persons were co-sharers or co-occupants, or whether one was "occupant" and the other was his "tenant." The "sub-tenancy rules" endeavoured to lay down principles for decision in case there was no reliable direct evidence as to the relation. Supposing, however, the person in possession to be clearly the tenant of the

called "sub-tenancy" rules, however, the term sub-tenant practically means any person who is on the land, but is not the registered occupant of it in the Government register.

"registered occupant," then the rules proposed to define his position as such tenant, to specify the rent and terms of his tenancy. Here we see an attempt to raise the "tenant-right" question of the North-West system. It was proposed to rule that any tenant who had held under the registered occupant for twelve years should be immovable, save by decree of Court; only that the tenants could not alienate their rights. This proposed rule led to much discussion, and, as Mr. Lyall puts it, "raised thorny and difficult dilemmas." In the end, the rule was dropped, and indeed it was never regularly enforced, although it would seem that in some cases, in making the record of rights, the principle had been applied.

The objection was felt here as elsewhere, that if a twelve years' rule was made, it would not only secure the position of tenants who might, "naturally," by the custom and the feeling of the people, be entitled to a permanent holding (if there were any such in Berar), but it would be perpetually causing such rights to grow up, as year after year passed away, and tenant after tenant completed a bare twelve years' possession. With reference to this rule, then, it is held practically to be not in force; but where any record of rights had been actually made in accordance with its principle, this was held to mean that at the time the tenant was held to *have a presumption in his favour*, and that it was for the lessor—the registered occupant—to show that that tenancy was not a permanent one. In all other cases the tenant may claim any rights he likes, but he must establish them by facts; no artificial prescription runs in his favour. This seems to be the general conclusion of the voluminous "tenant-right" correspondence in Berar.

§ 8.—*Rights in alienated villages.*

As regards the right which jágírdárs and other grantees have in land, I shall mention the subject under the head of Land Tenures. Here it will be enough to say that the Settlement Rules[1] prescribed that alienated villages were to be surveyed and assessed just as if the

[1] Rule XIX.

revenue was payable to Government; but this order was subsequently modified. The jágírdár makes his own arrangements as to the sum payable to him by the tenantry; and it is only in case the occupants have held from a period antecedent to the grant, that they are specially protected by the rule which declares that in that case the grantee cannot take more from them than the Government assessment. The grantee is allowed to dispose of waste or unoccupied lands as he pleases, and we have seen that he holds the right to trees on the estate. The rule goes on to provide that if the grantee can show that his grant gives him the "proprietary" right, or that it was waste and uncultivated when granted, and that he has settled and cultivated it, then he is deemed *the proprietor* in set terms, and such right continues, even though the grant should from any cause lapse and the lands become liable to pay revenue to Government. Thus, in principle, every grantee is owner of exactly what his grant gives him; each case on its own merits[2]—of the land if the grant proves it, or of the revenue only if it does not. In case the jágírdár is deemed owner, the original occupiers of the land are protected by the terms of Rule XIX.

§ 9.—*The Records of Settlement.*

The result of the survey and assessment is embodied in a series of settlement records which, just as under the North-West system, are faired and deposited with the District Officers. The Bombay Code requires the following, besides the village maps: (1) the "settlement register," showing the area of each survey-number, with the name of the registered occupant; and (2) such other records as Government may from time to time order[3].

In Berar I have had the opportunity of examining a settlement record[4]. The papers on it consist of the following:—

(1) The village map.

[2] See Resident's Circular XXIII of 1879.

[3] Code, section 108. See Nairne's Revenue Handbook, VIII, 126.

[4] My acknowledgments are due to Mr. A. J. Dunlop, Assistant Commissioner of Akola, who most kindly explained the record to me.

(2) "Akárband," a statement of the fields and their numbers (giving also the assessment) stated in detail under three kinds of cultivation.

(3) The "wasúlbáki," a comparative statement showing (1) each occupant's holding under its number, and its assessment as it was by the system antecedent to the survey for the year in which the new settlement was to take effect; and (2) the same holding as it appears now, with its numbers, area, and assessment under the new or existing settlement. Thus the statement forms a kind of "balance sheet" (whence the name) between the previous and the present order of things.

(4) The "phesal-patrak," showing the persons who were admitted and recorded at the time of settlement survey as the occupants of land.

(5) "Phor-patrak," showing the areas and assessment of recognised shares in one survey-number, as where, for example, two small holdings have been clubbed under one number.

(6) The "inám patrak," a list of rent-free or "alienated" holdings.

(7) "Bhágani register," a list of co-sharers and their rights.

(8) A statement of "numbers" not cultivated, but reserved as village grazing grounds.

(9) A list of fields in which there were disputes about the co-occupant's or co-sharer's rights. It was on this that the tahsildár proceeded to a summary enquiry under the orders for a "record of rights."

(10) A record of forest numbers and "babul bans" (waste numbers covered with *acacia* trees valuable as fuel), &c.

There is also a paper called "pahanisur" or "pahani khurd," but this is a sort of annual return, the result of the patwári's (pándya's) investigation, showing the local name of each field and

the occupants as they actually are, and the old numbers as well as the new ones made at settlement.

Besides these, there are also the "kábulaits" (corruption of kabúliyat), which are the engagement papers signed by each occupant of land at settlement, and which contain also the conditions of his holding; and in Berar (which is important) his formal admission of the rights of any co-sharer or tenant on the land.

Section II.—The Land Tenures of Berar.

§ 1.—*Introductory.*

The villages in Berar were found at settlement to be in many, if not in most, cases aggregates of individual holdings of land, no family or hereditary connection between the different occupants being remembered. The village was indeed managed by a headman and had its staff of officers, menials, and artisans: but this was all that bound it together. With this form of village community—if the term can properly be used—the reader is already familiar. Much also of what has been said in the Chapter on the Central Provinces Tenures, regarding the patel and his "watan" and of the other features of the village constitution, is equally applicable here.

It was a peculiar feature of the (Maráthá) administration which preceded ours, that it always believed itself to be consulting its own interest when it dealt direct with the cultivators; wherever it has been firmly established, so as to be able to carry out its own theory implicitly, it has allowed no agents or middlemen to intercept the State revenues. It was only in exceptional circumstances that they called in the aid of revenue contractors or "málguzárs." Consequently, neither the revenue officials nor the headmen nor any others had that opportunity for developing, as they did in the Central Provinces, into the position of proprietors of the whole village. Under such a condition of things, unless, as in the Central Provinces, the Settlement Officer was under the restraint of a *system* which required a middleman proprietor at all hazards, it

was only natural that the settlement should be "raiyatwárí;" in other words, that each occupant should be recorded as the "owner" of his several holding; or that where there were two or more persons together holding a field or group of fields, they should be jointly declared the owners of such holdings, unless they desired either to have their separate responsibilities for the revenue defined, or could get an actual separate demarcation of their holdings under separate numbers at the time of survey. And this plan was adopted in Berar. The term "owner," however, is not applied[5], because in fact there are certain conditions attached to the holding of land which are not altogether consistent with any theory of "ownership" properly so called.

The Bombay Revenue Code accordingly speaks of the "occupant" of land, and the Berar Settlement Rules did the same. The Code, as we have already seen, declares that the "right of occupancy" is a transferable and heritable property; but that is not the same as saying that an occupant is *owner of the soil*. Notwithstanding this fact, the student of the official correspondence and reports relating to Berar requires to be on his guard against the popular but incorrect use of the term "proprietor." I shall endeavour to avoid the difficulty by always speaking of the "occupant" of land, unless I really mean "proprietor" in its full sense.

In examining into the tenures of Berar we shall find that our study divides itself into—

(1) tenures which now appear in the form of the ordinary "occupancy" right in unalienated or khálsa[6] lands;
(2) tenures arising from the hereditary village and pargana officers;
(3) tenures arising from royal or service grants.

[5] Except in the case of some grants by the State; then the grantee is called "owner" advisedly.

[6] Lands paying revenue to Government, not to jágírdárs or other grantees. I make no apology for occasionally repeating an explanation of this sort; the student may be glad of the reminder.

I.—Ordinary Occupancy Tenure.

§ 2.—*Original form of the villages.*

In this section I have first to enquire how the occupants of the several holdings came into their present position, and then to offer some remarks as to the nature of the "right of occupancy" which the revenue law acknowledges, and as to the practical difference between it and a full "proprietary right," such as the Bengal system and its derivatives create or recognise.

I have already adverted more than once to the fact that villages where at present each landholder is in no apparent connection with his neighbour, may not originally have been so constituted. They may once have been owned by a group having a common descent from one ancestor. That ancestor would have been the natural head of the community, would have owned the village dwelling-site, and the lands all round would have been partly cultivated by him and his sons, and partly by tenants whom he called in to help him and located on favourable terms, or who may have come in at a later period. The lands may then have become divided into certain main groups according to major divisions of the family, and each of these groups may have at first remained joint within itself, the profits and the charges being thrown into a common stock, until some quarrel arising (or for some other reason) the groups may have again been split up into minor shares or "pattís," and then the pattís into individual holdings. In the course of long years, and by the effect of transfers, of abandonments, of forced expulsions, and other changes and chances common to unsettled times, the memory of the family connection may have gradually become lost; and the revenue systems of the day may have unconsciously helped on the separation by dealing with each holder individually till the term "pattí" became only a sort of local memory as applied to a certain group of lands, and each cultivator was the independent master of his own field.

§ 3.—*Relics of a joint constitution in some places.*

There is reason to believe that such was the history of at least some of the villages in Berar.

In larger villages or "kasba towns" divisions of the land are still remembered, called "khels," which seem to be, like the "pattís" of the North-West, the separated shares of different families or branches and of an original stock[7]. In such cases the members of the khel furnish the hereditary "patel" or headman, and in some cases the land is marked off and occupied only by members of the khel.

In Mr. (now Sir A.) Lyall's Gazetteer several interesting extracts from the earliest reports in Berar are given, which directly illustrate this question of the survival of original family connections.

In North Berar, it would appear, no relics of the joint communities existed in 1853. In South Berar a class of hereditary occupants of land was recognised by the term "mundkári," and the custom (unless violently interfered with by the State) was that this heritable right was also transferable. In the same villages persons of other castes who settled in the villages and got only annual leases to cultivate were distinguished by the term "khushbásh." This clearly pointed to a feeling in the minds of the people that the classes so distinguished, *though both resident*, were one of them ancient, hereditary occupants, and the others not so[8]. There were those on the land who could never plant a tree or dig a well without asking leave of some one in a superior position as regards ancestral

[7] It is also said that the major divisions of clans or tribal groups were called "dimmat," like the "taraf" of the North-West, and that the smaller groups of shares would be the "khel" or "patti." For instance, suppose a clan or group of settlers of different clans settled in one place, each group might form a taraf (or to use the Maráthí term "dimmat"); each of the families might then divide the land into a separate patti or khel), the patti being afterwards held by a number of grandsons and nephews together.

I was, however, told in Berar, both at Amraoti and Akola, that the term "dimmat" was hardly known, but that "khel" was.

[8] A mere tenant resident in another village and coming to till the land for what wages he could get is called "pyakári" or "walandwár."

connection with the land; and the village fortified enclosure or site—the "garhi"—belonged to the ancestral "proprietors," other villagers residing round, but outside it. It may reasonably be concluded that wherever these vestiges remain, there must have once been a proprietary family collectively owning to an ancestral connection, although in the course of time and under the influence of the Maráthá system (which cared nothing for the original custom or history of the tenure) the connection became forgotten. In Berar the terms "mirás," "mirásdár" (still used in Khandesh and all the Central Dakhan) have been almost totally forgotten[8], except in the case of the old families (generally ex-pargana officials), who are proud of the title mirásdar; but then this refers rather to the watan lands (of which hereafter) than to the ordinary land tenure.

The term just alluded to—"mundkári"—has something of the same force; but it is curious to remark that while "mirás" indicates an ancestral connection and an *inheritance*, "mundkári" indicates only the fact of *first clearing the land*.

In parts of Bombay there was a distinction still preserved (in name at least) between people who were "mirásdárs" and those who were cultivators—"úpris" or "gatkúlis"—although under our survey system the distinction is now of no practical importance. It has before been noticed that Malik 'Ambar, whose settlements in the Dakhan were what Todar Mal's were in Bengal, recognised a proprietary right in land; therefore his system would keep alive the ancestral right of the original families who first conquered or settled the land, and the distinction between these and the men of other castes or tribes who cultivated their lands or were reduced to being their tenants.

§ 4.—*Effect of the Maráthá rule.*

The Maráthá system soon obliterated all this: the land was assessed, and the village headman had to make out a yearly "lag-

[8] Gazetteer, page 92.

wán" or rent-roll showing how the assessment lay on each several holding. The revenue officers exacted this amount, and, if it was not paid, turned the holder out without caring whether the popular voice called him by one name or another. In this way it soon came to be recognised that the "sirkár" was the owner of the land, and that each man held his land in virtue of his yearly permission to pay the fixed assessment.

Where the Maráthá power was firmly established, the rulers were too wise not to be moderately considerate to the people; for there was the risk that overpressed cultivators would abscond and leave the land untilled. But the time came when the Nizám and the Maráthás were struggling for supremacy, and then the motives for moderation were removed. Revenue farms became more common, and the man who then held the lands by an ancestral claim was really worse off than any one else: the farmers could tax him heavily, partly because he was, as a rule, more wealthy, partly because he was more strongly attached to the land and would bear more before giving up his ancestral holding; but the limit of endurance was easily passed, and the "mirásdár" had either to abscond or to sell his lands, and sink perhaps into the position of a mere tenant of the purchaser[10].

This system of farming the revenue seems to have lasted from 1803 down to the days of our own administration.

It is no wonder, therefore, that the original proprietary right of families should have become a shadowy memory, preserved only here and there in a few local divisions of land and in certain country terms and popular customs.

§ 5.—*But non-united villages were also a general feature.*

On the other hand, there certainly are many villages, and that over extensive tracts of country, where no such joint original right

[10] It is noted in the Gazetteer that the Nizám's Minister, Rája Chandu Lal (A.D. 1820-40), put a stop to the transfer of landholdings, his object being, of course, to make every transfer dependent on his permission, which had to be gained with a handsome fine or fee.

can be traced. When therefore it is found to be the case that not only were the villages originally non-united, over considerable extents of country, but also that even where joint villages may be presumed to have existed, they have now fallen into complete decay, we can hardly help admitting that the system which best suited such a state of things was the equitable assessment of all *holdings separately*, and a declaration that each individual holder was entitled to be registered as the occupant with a heritable or transferable right of occupancy, subject to certain conditions which were necessary for the safety of the revenue.

This system avoids all theories as to who is the owner of land in a Western sense; it avoids also the difficulty of resuscitating a joint responsibility, to which the people would not have submitted, at least in very many instances.

§ 6.—*The occupancy or survey tenure.*

Sir Richard Temple has aptly called the occupant's right a "limited property," and Mr. (Sir A.) Lyall compares it to the tenure of an English "copyholder."

The right of occupancy is (as before remarked) declared to be "a heritable and transferable property," and the restrictions or conditions which apply to such occupancy are—

(1) The necessity for paying the revenue; failure to pay this causes the rights to terminate *ipso facto*, although, of course, it is in the discretion of the revenue officer to adopt other coercive measures to recover the balance instead of absolutely ejecting the defaulter.

(2) Partition of the land between persons holding jointly cannot, as will be explained subsequently, be carried on, so as to subdivide the land infinitesimally; it stops with a fixed minimum.

(3) The land may be improved, but cannot be destroyed or rendered unfit for agricultural purposes without express permission.

This last condition is alone sufficient to diminish the full "proprietary" right of Western law, for the full owner may destroy if he pleases.

There may also be some very practical distinctions between the acknowledged right of occupancy and a full ownership. For instance, if the land is taken up for public purposes, the occupant may have a right to compensation for loss of profits by cutting short his term of occupancy, as well as for money spent on unexhausted improvements; but the occupant has no claim to compensation, on the ground that the *land itself* has risen in value from any cause[1].

Again, a right of occupancy depends on occupation: it is lost directly a holding is relinquished by permission or is abandoned. You cannot hold over a right for a period of years, as you can a right of ownership in the soil, a right which you can revive at any time, so long as the Law of Limitation does not step in to bar your remedy in the Courts of Law[2]. The ordinary tenure, then, of land in Berar is that of an "occupancy," the origin of which is forgotten or is obliterated, and is now recognised on the basis of individual *de facto* possession.

[1] See Hyderabad Resident's Circular No. 14 of 29th May 1868.

[2] Yet I have heard of a case in which the circumstances were something of the kind. A recorded sharer in a field quarrelled with his co-occupant and left the place. Afterwards, thinking better of it, he transferred his share to a purchaser, who thereon tried to recover the occupation of the abandoned share. This was resisted, but the highest Court held on appeal that the possession could be recovered within a limitation period of twelve years. Now, there may have been special circumstances which made it appear that the occupation had been maintained constructively by the holding on of the other sharer. Possession *may* of course be constructively maintained, as when a person leaves his land and his "receipt book" in the hands of some other person, who cultivates and pays the revenue, getting the payments entered as made by, or on behalf of, the occupant in the occupant's book. But, otherwise, on principle, occupancy depends on occupation, and the right ceases with the occupation; no limit can apply, nor can it survive for a given time. Should such a principle as that applied in the appeal be generally recognised, it must lead to some inconvenience. I may allude to the case, well known in Berar, of the Gond cultivators in the Wún district, who so readily abandon land on superstitious alarms (see note to page 639, *post*). If such should have a claim to come back (and eject successors who have taken up the lands) within twelve years, the practice would lead to great confusion.

II.—Tenure by Office.

§ 7.—*The watan.*

I must now pass on to consider some cases where the origin of the land tenure is known and is to be found in institutions more or less peculiar to the province.

However much the true origin of the village landholder's right may have been forgotten, there is one class of holdings the origin of which has remained definite and universally recognised to this day. The Maráthá system, while it broke down all classes of rights in the soil, could not work without the quasi-hereditary officers, the patel[3], or headman, and pándya, or village accountant; and as these officials always held certain lands in virtue of their office, the tenure of land on this basis has everywhere survived. Not only those greater officials, but also the staff of village artisans and menials, necessary for the well-being of the community were often remunerated by plots of land held in practically the same way. These officials are spoken of as "watandár." The "watan," as I have already said, *includes* the holding of land, but is not confined to it. The hereditary watan is not only the official land, but the total of the official rights and perquisites; the "zirá'at," or land which he formerly held rent-free, or at a quit-rent, the official precedence or "mánpán" on ceremonial occasions, and the right to the building sites inside the village fort or mud-walled "garhi," with perhaps some dues and fees on marriages or other occasions.

The fact that the village headman had much to say to the yearly distribution of holdings and the assessment enabled him in former days, to get the best land into his own hands and assess it favourably or not at all. Under our Government the headman who actually performs the duties of office is allowed a cash per-

[3] The Maráthá term is pátíl (Wilson), the ordinary Hindi "patel," as I use it throughout. The word is often incorrectly written "potel" or "potail."

centage as remuneration, and therefore his "watan" lands are assessed[4] like any others, but still his tenure *of these lands as registered occupant* is dependent on the fact that he is a member of the family which got the lands originally in virtue of the office.

The succession to the hereditary lands is by the ordinary law of inheritance, so that all the heirs succeed together to the "watan," though generally only one is selected to perform the actual duties of office. In this way the "watan" lands have got to be held jointly by a number of relations, or may be divided out among them in recognised shares.[5]

[4] In Bombay under the Native Government the lands very often were not held revenue-free, but had a "júdi" or quit-rent (which was, however, often heavier than the British survey assessment), and the lands have continued to pay this (or less, when it was excessive).

The 'watan' lands are there assessed so far as is needed to make up a fixed sum (calculated usually on a percentage of the revenue of the locality), and this sum is paid from the Government treasury to the person who actually does the work of the office. The 'watan' lands (subject to this assessment) are held by the watandárí family at large.

[5] I have on a previous page given an extract showing how tenaciously the holders of watans cling to them; how families that might, under other systems, have developed into great jágírdárs and become the landlords of their estates, in Berar let go their grants, but retained the "watan" attached to numerous officers, which they managed to concentrate in their family. In other provinces we have seen how inveterate was the tendency of revenue officials and grantees of the State to become proprietors of the land. They first begin with their own holdings, then by sale or mortgage, and even by violent ousting acquire other lands; then by having the power of settling the waste, they become the owners of still more (since the tenants they locate to clear waste look on them as their landlords). In this way they come gradually into such a position that they are recognised as proprietors. The Maráthás were too keen financiers to let the middleman acquire such a position, and intercept so much of the revenue, and hence these officials never developed into proprietors; at least not in Berar, for in the neighbouring Central Provinces, where circumstances were different, the revenue farmer, or málguzárí *did*, as we have seen, grow into a proprietor, just as the Oudh taluqdár or the Bengal zamíndár did, only the nature of farm was such that the estate acquired was more limited in extent. The effect of the system on this growth of the proprietary claim is very curious to observe. As long as the Maráthás have strong hold on the country, no such growth takes place; where they are weak and their supremacy is contested, it does so, and results in the málguzár proprietors of the Central Provinces, or the khoti proprietors of some parts of Bombay.

III.—Tenure by Grant.

§ 8.—*The Jágír.*

These were either large grants by the governing power on terms of military service, called (here as elsewhere) jágírs, or else there were smaller grants spoken of as "inám," the mu'áfi of other provinces.

In the case of the small grants it seems that they really were of the proprietary right in the land. "These," remarks Mr. (Sir A.) Lyall, "are perhaps the oldest tenures by which specific properties in land are held in Berar[6]. The Settlement Rules[7] declare that when the land granted was waste and was settled and cultivated by the grantee, the *full proprietary right* is considered as granted also. In other cases it depends on the terms of the grant. Naturally, in the case of a small plot of inám, the grantee would (himself alone or with his family) be the existing occupant, so there would be no question but that he was meant to receive the proprietary title: at least this would be true in most cases.

In large jágírs, however, there would be a number of villages already held (as any other villages are) by the occupants of the land with their hereditary headmen. In such cases the grant places the jágírdár over the head of these, and the question arises—was the jágírdár meant to be the owner, and the existing holder to be regarded as only his tenant? The question is not without importance, as obviously if the jágírdár is practically the owner, he ought to be entered as the registered occupant of every field in his estates, besides owning all the trees and all the waste. If he is not the owner, then he would only be a grantee of Government revenue of the whole, *i.e.*, the villagers instead of paying the share in the rental and produce to the State, would pay it to the jágírdár. *They* would then be the registered occupants, and the grantee would only be the "registered occupant" of just as many fields as he had in his own particular holding.

[6] Gazetteer, page 101.

[7] See Rule XIX.

§ 9.—*Question of the jágírdár's rights.*

It was originally a matter of some difficulty to determine this question. It was thought by some officers that the jágírdár was proprietor of all, and it was accordingly held that his estate should neither be assessed nor surveyed; that in fact it was a revenue-free estate, and that Government had no concern with anything within its limits. This proposition was not, however, accepted, and it was ultimately laid down in the Settlement Rules that all such estates were to be surveyed and assessed. It was admitted that the jágírdár had the right to the waste numbers, and might locate cultivators on them as he pleased, and that he owned all the trees which would have belonged to Government had there been no grantee. All occupants of land, however, who had held the land for a period antecedent to the grant, were to be held to be occupants of their holdings, and from them the jágírdár could not take more than the revenue assessed on the holdings. The question still, however, was not settled whether the jágírdár could be regarded as the proprietor of *other* lands. If he was not, the occupants could only be charged with the fixed revenue, just such as Government would take, no matter what was the date of their holdings, since the jágírdár only was in the place of Government and had no greater rights than Government claimed. If he *was*, the occupants were his tenants, and he might take from them what he could get, provided they were not under the terms of the rule above alluded to.

The question has received its latest reply in the Resident's Circular No. XXIII of 27th March 1879. It is in fact left to the real circumstances of the case and the terms of the grant. If the jágírdár lived apart and did nothing but receive the revenues of the estate (and in some cases he only got this paid, not to him direct by the occupants, but through the Government revenue officials), then, naturally, his claim would be limited. If the grant, however, gave him the whole right, or if his practical position was such that he directly managed every holding,

perhaps advancing money for improvements and stock, and exercising a close supervision over the land, he might naturally be regarded as the immediate superior holder or "landlord" of every field. Facts were to decide.

§ 10.—*Duration of the grant.*

Originally the jágírs were granted for life, but soon acquired a hereditary character, it being deemed in Musalmán times, beneath the dignity of the State to resume a grant once made[8]. Under the Maráthás, however, a number of the large jágírs disappeared, as the service conditions attached to them fell into abeyance, for the Maráthás had no scruple in resuming an assignment when the service was not required or was not performed. And it would appear that the conditions often were not performed, or only performed nominally. "A few followers, to enable the jágírdár to collect the revenue, were sometimes the only armed force really maintained. No musters were held, and when the troops were seriously called out, the jágírdár made hasty levies, or occasionally absconded altogether[9]."

§ 11.—*Ghátwáli jágírs.*

In some of the hill districts, ghátwáli jágírs, just like those we found in the south-western districts of Bengal, were granted to hill chiefs on condition of keeping the passes safe and open. "In Berar," writes Mr. (Sir A.) Lyall, "as all over the world, we find relics of the age when law and regular police were confined at least to the open country, and when Imperial Governments paid a sort of black-mail to the pettiest highland chief. The little Rájas (Gond, Kurkú, and Bhíl), who still claim large tracts of the Gáwilgarh hills, have from time immemorial held lands and levied transit dues on

[8] Gazetteer, page 101, &c.

[9] *Id.*, page 102. It will be remembered that most of the jágírs dated from the days of the Mughals, some few being created by the Peshwa and by the Nizám. The Maráthás did not much respect the old Mughal grants, and often charged them with certain revenue payments.

conditions of moderate plundering, of keeping open the passes, and of maintaining hill posts constantly on the look-out towards the plains. And along the Ajanta hills, on the other side of the Berar Valley, is a tribe of Kolis who, under their naiks, had charge of the ghâts or *gates* of the ridge, and acted as a kind of local militia, paid by assignments of land in the villages. There are also families of Banjáras and Maráthás, to whom the former Governors of this country granted licenses to exact tolls from travellers and tribute from villagers, by way of regulating an evil which they were too weak or too careless to put down[10]." In the Akola district, at the foot of the hill ranges, some lands are held on a "metkári" grant, which means on condition of keeping posts to guard the plains against the descent of robbers from the heights above.

§ 12.—*Charitable grants.*

Of the smaller inám grants, many were made either for petty services or for support of religious persons or institutions; others (called dharmmál) were for repairs and maintenance of tanks and reservoirs.

§ 13.—*Waste land grants.*

There is another kind of grant which probably ought to be entered here,—the grants of lands at fixed terms under the "Waste Land Rules." These grants take effect in the large waste blocks,—it may be occupying whole "villages," which were not divided into the usual small survey numbers or fields. The first grants of this kind were certain long leases at a fixed and favourable rate made in 1865, and spoken of as "ijára[1]," which means a grant or lease for a long time at a favourable rate. They were leases for thirty years of uncultivated "villages," beginning at a low rent, which was gradually to rise with spread of cultivation. At the end of the term the grantee will have the option of taking the whole village at full assessment, and becoming the registered

[10] Gazetteer, page 103.

[1] *Id.*, page 109.