PART II.

THE LAND TENURES AND THE LAND REVENUE SYSTEMS.

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CHAPTER VI.

Introductory.

We have now completed the first stage of our inquiry. In that stage it has been our object to form a general conception of the Indian Land Revenue as 'an institution'—if I may be allowed the phrase. For this purpose we have taken a rapid survey of the Indian Provinces and their Government, and more especially of the District organization; we have considered the origin of the Land Revenue, and its history up to the commencement of British rule: we have taken notice of
certain questions commonly asked about the subject in modern
times; we have seen what lands pay revenue and what do not,
and in so doing we have taken the opportunity of describing the
rules under which the area of waste-land, still large in some of
the provinces, has been, and is being, colonized and cultivated.

Our second stage is to inquire how our modern Land
Revenue is assessed, and how it is collected, and how the
general business connected with its management is conducted.

But when we speak of assessment, we are reminded of the
peculiarity of the conditions under which the Indian Land
Revenue is levied. It is not a mere question of obtaining, by
survey, a detailed account of the area of each different kind of
soil, and of finding a suitable rate thereon—to be levied per
acre, or other unit of measure. In many Indian provinces that
is only one part of the work. In all cases, the revenue is
assessed with more or less reference to the tenure of land, to the
sort of estate or holding which may be regarded as a unit
paying a certain sum, and with reference to some definite
person (or a body of persons) who is to be held responsible.

Without going into details which would at present be
unintelligible, it may be usefully stated in general terms, that
land is held in one of these ways:—

(1) In various forms of landlord-tenure; the estates varying in size
from half a district to a few acres, but generally being of at
least considerable extent: in these there is one person (or at
most a few joint owners) distinctly vested with a proprietary or
landlord character; and the system accordingly lays one sum
of revenue on the whole estate, and makes the landlord (or
the co-sharers together) liable for it.

(2) In smaller estates, really of the same character as the first, but
with certain features which render it convenient to distinguish
them, these being in general, village estates where the village
(or part of two or more villages together) is held by a co-
sharing body or community; here the community is treated as
jointly and severally liable; the body regarded as a whole is,
in fact, the (ideal) landlord.

(3) In single independent holdings; though aggregated locally in

1 In some estates of this class the law of primogeniture applies, and so
the estate remains undivided in the hands of the eldest heir; in others the
estate may be divided or again united under one head, by the effect of the
ordinary law of inheritance.
villages, the group of holdings does not form one estate: the circumstances of past history have either caused the disappearance of any landlord (person or class), or such an interest has never existed; and the direct occupant is dealt with individually.

It might be supposed that under these conditions, it would still be a simple thing to determine the person who is to be liable for the revenue and to have the remaining profits of the estate, after the revenue has been paid; but here the complications of Indian tenure begin to appear. Only in the third case above noted, it is a simple matter to determine that the 'occupant' is to pay the Land Revenue and to take the remainder. Even in his case it may be that he has to settle with some other party above or below him, who has a claim, which essentially is (whatever the form) a title to some part of the profits of the land. And in other cases it usually happens (owing to causes which we shall discuss in the sequel) that there is not only the middleman landlord or landlord body, but that this middleman is often in a position much more doubtful or complicated than that of an English landlord with tenants under him paying a contract rent.

These considerations will not only point to the study of the Land tenures, as necessary in order to understand how the Land Revenue Settlements are made, but also remind us that Government has never been content merely to tax the land and leave the different parties interested in it to their own devices in order to get practical recognition of their several rights.

. Absence of all legal security for titles in old days.—From the very first, our administrators saw that, while securing the State Revenue, they must also secure private landed rights, if wealth and prosperity were ever to return to the agricultural population. Under native rule, there had been no such thing as legal security for titles to land; especially not for interests that had been partially submerged or reduced to a secondary grade. There was nothing but the autocratic government of a conquering chief or Emperor, whose will was law,—will tinctured indeed by a respect for the texts of a semi-sacred, but not very definite, law, and largely influenced by the great regulator of Indian affairs—CUSTOM. The 'law and constitution' of India spoken of by some writers, had no existence
except in a purely metaphorical sense. Even if it were otherwise
the changes in landed property, the growth of one class of rights
and the extinction or diminution of others, could not be systematic
or legalized, because such changes were not the consequence of
law or State policy, but of the gradual usurpation of Revenue
farmers, of the rise and fall of families, of forcible seizure, or of
compact, extorted by the necessities of self-preservation; they were
the result of those never-ceasing tribal and personal conquests
and adventures that make the past history of India what it is an
almost unbroken record of invasion, war, and intrigue. Hence the
British Government, while determining to limit and render moderate
its own demands on the land, and to give up for ever the inordinate
pretensions of the elders it superseded, found itself face to face with
the task of giving legal security and definition to various degrees
and kinds of right or interest in the land; from that of the great
landlord who received a ‘title-deed of perpetual ownership’ to the
humbler ‘subpropriator’ or ‘tenure holder’ or ‘occupancy tenant.’
This recognition and definition, it will be observed, was not only
necessary to give a secure position to the person directly re-
ponsible for the Revenue, it was equally necessary for the due
apportionment of the remaining profit (after the Revenue was paid)
arising from the land.

Before then we can attend to the formal operations of
a Settlement, we had best gain some general idea of the Land
Tenures.

1 This phrase is actually used in Madras, where each great landlord or
Zamindar received from the British Government a title-deed officially called
sanad-i-milikat-i-istimrad— a Persian phrase of which the English equiva-
 lent is that given in the text.
CHAPTER VII.

THE LAND TENURES.

Section I. The Village.

Use of the term village.—At the outset of any inquiry into the way in which land is generally held in India, we are struck by the fact that almost everywhere cultivation is aggregated into local groups which we call 'villages.' The term 'township' has occasionally been made use of; but general usage has established the term 'village.' It is needless to say that this word is used in a special sense different from that which it bears with reference to modern English agricultural life.

Usual features of a village.—The 'village' is an aggregate of cultivated holdings with or without some waste area, belonging to, or attached to it; and usually it has a central site for the dwelling-houses congregated together. In some cases, small homesteads and farm buildings are found separately located on the holdings. The village, moreover, often boasts a grove, or at least a single tree under which local assemblies will take place; there is also some kind of public office where the village patwári (p. 27) keeps his books, and where he sits for the disposal of his business.

1 Though not altogether dissimilar to what it meant in mediaeval times

2 In the Himál é yan districts the narrow extent of valley land or terraced hill slope suggests separate holdings with their own buildings; and so in Kánara and the West coast; in the latter country the people have no word for 'village.' The only term in use is supposed to be equivalent to 'street';—because the families would build their houses in a line, at the further end of which, the menials and village artisans have their cottages. The whole group is merely the homestead of a single family whose members keep together.
Whatever changes may be undergone the village as a local feature remains.—The village area, once established, it soon acquires a local name and becomes a permanent feature in the map. Its constitution may change; it may be bought and sold; it may begin as a village of one kind and gradually turn into another kind; it may be absorbed in the estate of a great landlord, or remain as a small separate property under a body of joint-owners. If once owned by a family proud of its hereditary right, it may again return to be only an aggregate of separate landholders. But under all such changes, the village itself remains; its fields are tilled and irrigated, the money-lender sits at his shop, the menials and artisans do their work, no matter who is managing the land or its rents and revenues, or how the landed rights change their character or pass from one hand to another.

Its value for administrative purposes.—The village as a unit may be of great importance for administrative purposes; and is hardly ignored even in Bengal where the Revenue administration deals not with villages, but with entire landlord estates. In places (such as those mentioned in a previous note) where villages do not naturally exist, the Government has always found it desirable to aggregate several holdings, hamlets or farms, into some kind of circle, for administrative purposes.

What is the bond which aggregates the village landholders.—If we next inquire what bond unites the landholders or cultivators in a village together, or determines their aggregation into separate groups, we shall easily perceive that there are certain natural and social causes which from the first invited the formation of villages in general; and further, that the actual bond of union depends on certain peculiarities of land custom—certain features of tenure.

Natural causes of village aggregation.—In the first place it is to be remembered that originally, at any rate, throughout entire regions, villages must have been established in a country then covered with forest or jungle; and the labour of clearing this, as well as of maintaining an unceasing struggle against the re-growth of semi-tropical vegetation, required co-operation;
and union would also be necessary for defence against the depredations of deer, pigs and other animals which are dangerous not only to the cultivation but to human life. And any group of cultivators would have to be prepared to present a common front against neighbours with whom they were probably at feud. Often too defence would be needed against marauding chiefs or some regularly invading force on the march, to say nothing of the ruthless freebooters and Revenue-farmers of later days 1.

Cause of the groups being limited. — And then there are other reasons, why not only should there be aggregation, but also why the groups should be limited in size. All popular settlements in India — those which resulted in permanent cultivation, and were not mere occupations of territory in a nomadic form — were first effected by tribes, that is by groups with a natural organization into clans, septs and family groups. These divisions naturally suggested a certain limit to the number of families that would wish to settle together in one spot. And when in later times new villages were established one by one, it was by individual leaders with associated followers, or by limited groups of grantees, settlers and colonists. Indeed in all cases where there was a natural organization of tribes, not only village groups but other territorial divisions also resulted. It was doubtless tribal divisions, and the limits of the authority of greater and lesser chiefs that gave the first idea of parganas and districts. Indeed several interesting cases are on record in which a whole clan was established on one considerable area, each family having its own share, without any village grouping at all. But in the course of time quarrels, rivalries and differences of habit would be sure to end in division into smaller groups.

1 It is owing to this that villages were so often surrounded with stout mud walls and defended by gates, within which the cattle could be driven against an apprehended raid. In Central India it was quite common for the headman's residence to be called garhi, i.e. fort or castle; and in the Karnál district (S. E. Punjab) I find an account of walled and gated villages with the houses so built as to prepare for street-fighting. In Oudh, in the later days of misuse, the readers of Sleeman's Journey may remember the author's account of how the revenue was collected by a regular siege, and with the aid of field guns!
• Nature of the bond uniting the groups internally.—So much for the natural and social causes of village aggregation; we have next to inquire what is the bond which internally unites, or holds together, the village groups when formed.

Two forms of village observable.—On taking a general survey of the villages in the different Provinces, we are struck by the fact that there are two main forms of village constitution, which are practically quite distinct. In the one, the village contains a number of individual cultivating holders (who usually work the land themselves with the aid of their families, but often employ tenants). These holdings are separate units; the cultivators do not claim to be joint-holders of a whole area, nor do their holdings represent, in any sense, shares of what is in itself a whole which belongs to them all. They are, however, held together by their submission to a somewhat powerful village headman and other village officers, and by use in common of the services of a resident staff of village artisans and menials, who receive a fixed remuneration on an established scale, and sometimes have hereditary holdings of service-lands.

1 Village headman and artisan staff.—The headman’s title is very various. In Bombay, Berar and Central India generally, he is the pátél (or pátí). In Bengal, where this type of village also is commonly found, he is called máníphá (but there are other tribal and local names). In Madras the titles are still more numerous, maniyakárán, nátamkar, redds, &c. These are quite distinct from the official representative headman or lambardár of the North Indian village system.

2 The staff varied with the locality and the size and wealth of the village. In Western and Central India the ideal staff was supposed to consist of twelve (the bára, twelve babú, village servants in Maráthi—sometimes contrasted with aítú, the official headman, kulkarní, &c.). The artisans usually included a carpenter, potter, blacksmith, cobbler, barber-surgeon, washerman (sometimes also a dancing girl; even a witch finder” may be locally discovered). Such servants are usually hereditary and are never paid by the job; they are given houses in the village, and perform all services for the residents (whom only provide, or pay for, the material employed). Their labour is rewarded by regular annual remuneration (of service land or an allowance in cash, grain, clothes, tobacco, &c.) paid at the harvest. Only strangers getting something made or done, would pay for the job. This system is common to all villages, and was necessitated by the circumstances of their position. No one could venture to set up a business on speculation in a village, unless it was a very large one. Nor could the village people go for all their simple but indispensable requirements to a distant town: so they attracted the necessary staff by giving them homes and a regular remuneration.
Importance of the headman and village officers. Official holding of land.—The headman and his aid, the writer or village accountant, have always a considerable importance, and were early taken, so to speak, into the State system, and were remunerated by the State (or turned out if inefficient). In Madras and Bombay, for example, it will be found that the village pâtel have often petty magisterial powers, and can decide civil cases under certain rules. They were formerly also entrusted (practically) with the farm of the village revenue, and in such a position had authority to dispose of the waste, and settle the annual revenue-payment with each landholder. In some districts we can still read how, in past days, the headman stood up as the protector of the village, fortified his house and resisted the marauder or other enemy. Very often it would be the case that the headman was the person who had led the party who first established cultivation and founded the village; and he may have planted the village tree or grove, and have furnished the means for making the tank, and so forth. But though the headman owned the central site where his house stood (and the site accommodated his whole family and their dependants), he made no claim to be owner of the entire village. He was quite content with his hereditary position, and above all with the holding of land (probably the best in the place) that was allotted to him as headman. This ex officio holding (accompanied as it was by mántpán or various rights of precedence on ceremonial occasions, and other dignities) was dearly cherished. In early times it was allowed to be free of Revenue, and was called by the Muhammadan rulers, wâtan. It was hereditary in the pâtel's family and shared among all his descendants, even though only one of them was performing the official duty of headman. The waste land that was left round the residences for general use, did not belong to the headman; and the cultivable waste adjoining the village belonged to the

1 Or the direct descendant of such a person.

2 The wâtan disappeared in later times in many villages and even in whole districts, but this was the result of revenue oppression. There can be little doubt that the institution was once universal through the Dravidian countries. It is apparently alluded to in Manu.
Rájá; the headman only took official charge of it and located cultivators or gave it out to applicants.

Besides the headman and the accountant or writer, there was also a village watchman and messenger, and perhaps a guardian of the boundaries. The accountant and the other officers also had their (smaller) watan lands.

Prevalence of the first form of village.—This form of village is universal in Madras, Bombay, Berár, and Central India: it was the original form in the Central Provinces until a certain artificial proprietary right was created; it was also the characteristic form in the greater part of Bengal, although there, the importance of villages had been thrown into the shade, and the influence of the village officers much broken down, by the growth of the Zamíndárs.

The second form of village.—The second form of village may be briefly described as similar in many respects to the first, but with one essential feature superadded, and others modified in consequence. The important feature is that there is an individual, or a family (or a group of ancestrally connected families) which has the claim to be superior to other cultivating landholders, and in fact to be the owner or landlord of the entire area within the ring fence of the village boundary, as already existing, or as established by their own foundation 1.

The proprietary body may now consist of twenty or fifty or more co-sharers, usually of common descent: the founder may be perfectly well known; or in the case of older foundations, the original ancestor may be rather a shadowy being, and the existing body can trace descent more definitely from a few persons more or less reasonably supposed to be—say—great-great-grandsons of the patriarch 2.

1 I take the case of a single village forming the estate, because it is very common and is simpler to understand. As a matter of fact there may be two distinct groups, each holding (in the same way) a part or tarf of a village; or it may be that the family has not obtained its lands all in one village, but some in one village and some in another; for which reason the actual estate is spoken of in the revenue language as the mahál—because it does not always coincide with the marca though it very often does, and quite usually so in the Panjáb, for example.

2 The descent may be real or have got so mixed as to be largely a fiction, but the fiction itself is important as showing the spirit and rationale of the
The menials and artisans who reside in the village hold their house-sites from the proprietors, paying them small dues, perhaps in cash, or in kind, and sometimes by supplying a load or two of manure annually: if these persons leave the village, it will be a matter of local custom whether they can sell the cottage or remove the roof, tree and timbers, or not. The uncultivated portion of the village is no longer 'Government waste' to be applied for when wanted and allotted by the village or Revenue Officers; it is the ānārajā or common property of the body, who graze their cattle on it; and if there are profits from wild fruits, thatching grass and the like, they share these among themselves. When this waste, or part of it, is wanted to extend the cultivation, it is regularly partitioned.

The management. Absence of a headman.—The management of the co-sharing body and its concerns was originally effected by a panchāyal or council of the heads of households. There is properly speaking no one headman: the families were too jealous of their equal standing to permit any one man to establish anything resembling the central authority, dignity and privilege, of a Central Indian pātel. But for Revenue and administrative purposes a headman of some kind becomes indispensable; and the head of the eldest or chief branch (or some other leading or capable man) is selected (subject to the approval of the Government officials) to act as representative of the body. Usually where the village is divided into sections, there is a representative of each section. In modern times such a person is called lambardār (p. 26).

As a matter of fact it depends on a variety of circumstances whether this official has much, or any, influence or power. Sometimes he really has to undertake a considerable personal responsibility for the revenue of his village: sometimes the sharers pay their own revenue share directly to the treasury, and the constitution. When a body needs strengthening, or it may be owing to various accidents and circumstances, connexions on the side of the wives of the co-sharers obtain land and admission into the circle; or purchasers or mortgagees do the same; and as time goes on, their really different origin is ignored and forgotten.

It may be that the older tenants have a customary right to graze their cattle on this waste so long as it is not cultivated; all these details vary according to the local custom and the position and origin of the tenants.
lambardar really has very little to do. And what with the progress of division of lands and other circumstances, the panchayats have almost everywhere disappeared, or at least are only assembled on some special occasions; their regular meeting to audit accounts and so forth, is very much a thing of the past.

This form of village, no less than the other, has the common services of a staff of artisans, watchmen and the like; for the causes which necessitate such an arrangement are the same in both cases.

Landlord villages may or may not contain a subordinate tenant body. Sometimes the co-sharers themselves cultivate the estate. Causes of the existence of tenant bodies under the village proprietors. — The co-sharing body may cultivate the land itself—that is, may work the fields directly, with no other aid than that of their families or of labourers or menials who have no position as tenants of any class. This will depend on circumstances, for instance on caste, and whether the proprietary body established the village on abandoned or virgin soil, or whether they grew up over an existing older body of cultivators, and allowed them to remain as their tenants. In many cases this latter condition obtains; and also if the landlord families are of a non-agricultural caste, then as their caste rules may prevent their touching a plough, they will always employ tenants—whether an older cultivating body or a new set called in and located by themselves. In the North-West Provinces, speaking generally, it is more common to find the proprietary communities consisting of non-agricultural castes: they are families of either conquering or ruling races, or of the official and revenue-farming and capitalist classes, who have grown up over the older villages, so that there is generally a tenant body which represents the old landholding group.

1 I have been asked whether a member of the community could be expelled. At present there is of course no power to deprive a man of his proprietary share; nor do I think it likely that there ever was; but if a person offended against caste or social rules in such a way as to render him obnoxious to the whole body, and he was not strong enough to form a party in his favour (as he most likely would do), then the panchayat could put him out of society so far as to refuse to smoke with him or let the water-carrier supply his household (kacha pani band). If it were a bad case, the man might find his position so uncomfortable that he would throw up his holding (or sell or transfer it) and go elsewhere.
In the Panjáb, especially on the frontier, we have the case of villages founded by immigration or conquest of active, energetic tribes, where there were often no pre-existing cultivators. But even here tenants were often a necessity, because in bringing virgin soil into cultivation, every hand is valuable. In such villages we find tenants occupying a somewhat secondary, but still privileged, position in the village; they consist of the camp followers and dependants who always come in crowds with an adventuring or conquering clan or tribe. The descendants of such associates will now be found to claim tenant-rights on the ground that they helped in the 'founding'; or at least that they were located and given land at an early stage in the village history. In many of the frontier district villages also, the landowners despise the plough (calling themselves sāhu = 'the gentry') and always give their land to tenants. In some cases we hear of fighting tenants employed to cultivate (and defend) outlying lands (in Pesháwar and Hazará). On the other hand, in the Central Panjáb among the Jat communities (and so with many other agricultural castes), the co-sharers very commonly work the whole land themselves, with no other aid than that of their wives and families; the village menials giving their services at harvest-time. In many agriculturist villages tenants have also been introduced; but this is often traceable to the times when it was necessary to invoke all the assistance that was to be had, in order to meet the burden of Sikh Revenue assessments.

I have said nothing about the extent of shares, or about the principle on which the proceeds of land cultivated in common are distributed; that will follow immediately; it was my object first to contrast the two kinds of village in their broad distinctive features.

Designation adopted for each kind of village.—It is desirable to find some brief designation by which to refer to the two kinds of village, and I have indicated the one in which the landholdings are separate units, and there is no sharing of a whole estate, by the term Rāiyātvarī village.\(^1\)

\(^1\) The individual cultivator, whether independent as in Western and Southern India or holding under a landlord as in Bengal, is generally
The other form may be provisionally called the landlord-
or joint-village, because there is always an individual owner—or more frequently a co-sharing body—holding the landlord right over the whole.  

Internal constitution of the village.—We must now proceed to say something of the internal constitution of the village and of the origins to which we may, in some cases at any rate, be able to trace them.

Of the first class raiyatiwari there is nothing more to be said in regard to the constitution. The several holders of land are distinct in interest, and the only bonds which unite them are the common locality, the common services of a group of artisans and menials, and a common subjection to the patel; these have been already sufficiently noticed.

Idea of right to the land in the case of the individual holdings in the village.—It may further be remarked, that the peasant's right to his separate holding is recognized in terms which imply a somewhat inferior claim. The reason of this will appear further on. Here, I can only say that although in the beginning of this century the idea of private rights in land had often become feeble, this was not necessarily the result of any decay in the village constitution; but only of agrarian oppression and over-taxing in unsettled times. There is no doubt that the idea of a right in land; on the ground of first clearing and establishing tillage, has at all times been cherished in India; but when
called raiyat (or ryot as it is phonetically written). This is accurately ra'iyat, an Arabic word meaning 'protected' or 'subject.' The term should be remembered because it has come to be used (often in compound terms to designate those forms of Revenue Settlement and Revenue management generally, in which the individual holding is dealt with, and not any kind of estate small or large, treated collectively. Thus we speak of a 'Kaiyatiwari Settlement' or a 'Kaiyatwari Province,' meaning one where the most usual (but of course not the only) form of tenure of land is that of the raiyat's separate holding.  

It is worth while noting, as showing how things may be looked at from different points of view, that while in Bombay the vast majority of villages are raiyatiwari, there are in certain districts a few villages whose origin is to some extent traceable, and which are unmistakably in the landlord form. So that the Bombay people have the spectacle of both forms of village before them: yet they call the raiyatiwari village sanja joint or associated, and the landlord-villages bhagdari or shared; because in the former case the absence of all landlord-right over the whole village, enjoyed in shares, is remarked; and the village is regarded as associated or 'united' on a common basis of equality and a common control of one patel.
all kinds of conquering rulers have claimed to be proprietors of the soil and have for generations past employed Revenue contractors or local land-officers, all of whom reduced the theory to the most rigid form of practice by habitually rack-renting the landholders, by putting in this man and turning out that, from year to year, simply with a view to securing or enlarging the Revenue, it is hardly to be wondered at that the idea of private right in land should in some places grow weak, and the people be more anxious to be allowed always to relinquish land that they could not manage profitably, than to have a title which would also carry a certain fixed responsibility. We shall hereafter see that in the raiyatwāri provinces this right of relinquishment (though now seldom resorted to) is still a feature of the Land Revenue system.

It is quite possible also, that a village anciently in the raiyatwāri form may pass under the power of some superior, whose family divide it among themselves in shares, and thus the village becomes a landlord village and may remain so for several generations. But if the family fall into poverty or their influence is lost, there may remain no more than a faint memory of the "shares," and the village will again become practically raiyatwāri. This change has in all probability actually happened in very many of the Dakhan villages. In parts of Madras also, there are villages in which there is no doubt that they were once owned by co-sharing families still known as mirisāhr, whose rights have long passed away. It is however quite impossible to hold that all raiyatwāri villages were once owned in such shares, and that all are merely a decayed form of something originally different.

Constitution of joint or landlord villages. Three methods in which land is divided among the co-sharers.—As regards the internal constitution of landlord- or joint-villages, there is much more scope for difference; it will be found, as a matter of fact, that the principle on which the co-sharers allot the land (or the profits and produce of the land in the case of an undivided holding) is not always the same. Speaking generally, there are three principles of sharing, one of which, at least, has several interesting varieties.

1. The Ancstral or family share system.—The first is the principle of ancestral fractional shares; that is to say, of each member of the co-sharing body taking the fraction of the whole which his place in the family "tree," or genealogical table, points out.

2. Special Customary system of sharing: (a) sharing in equal lots made up artificially of various strips of land.

1 See J. S. B. I. vol. iii. p. 256.
(b) Sharing by ploughs. (c) Or with reference to shares in water. (d) Or shares in wells.

In all these cases, the estate is still regarded as a whole, and there are shares in it; but the shares are obtained by classifying the soils and making up a suitable number of lots, which are distributed among the families owning the village. Or the number of ploughs possessed by the body of colonists or tribal-settlers furnishes a basis for allotment; or there are water-shares—because the land is abundant, but the valuable thing is the water of a hill stream, and this being limited, must be utilized according to a particular rule. Or again a number of wells are sunk, and allotment depends on the amount contributed by each family to the well (p. 10).

3. System of De Facto Holdings.—The third principle is where there is no specific rule of sharing; nothing but a de facto holding is recognized. Each household has cultivated according to its ability; at any rate, what it now holds is the measure of its interest. This may be an always existing custom, or may be due to the loss of a system of shares that once existed.

It will here probably be asked, how do these people come to be co-sharers on such different plans? The answer is that all joint or landlord villages—whatever theory of their origin may be true—must necessarily have been formed in one of three ways:—(1) They are bodies who have succeeded jointly (according to the law and custom of inheritance) to a village at first held by some one man—the common ancestor; or (2) they are bodies made up of a certain number of families belonging either to an immigrating or conquering clan which has settled and allotted the area on its own customary methods; or (3) they may be a merely co-operative colonizing group, formed under circumstances which led them to establish cultivation on the joint-stock principle. In the first case it is natural that the law of inheritance should direct the shares; in the others, some tribal custom, or some particular sentiment about equality, or some peculiarity in the soil and climate, will naturally suggest a special method of allotment.

How a single landlord right grows up.—The growth of
a village community from a single ancestor or founder may best be illustrated by taking the simplest possible case of an imaginary village, and tracing for it a course of development such as very many villages have actually and literally passed through. It is immaterial whether we take the case of an old-established village of (probably non-Aryan) landholders, over whom some superior family gained the lordship, or whether we suppose a grantee or an adventurer founding a new village, and locating as cultivators, a body of his own dependants, tenants, &c. But I will take the former case. The first stage is that some relative—possibly a distant cousin of the Rája's—or some other person who has to be rewarded, gets a grant of the village. In the first instance, the grant is not intended to deprive any existing landholder or diminish his right; it merely makes over to the new landlord the State-share of the produce, and other State rights in the village. But the grantee is gradually able to bring the whole of the adjacent waste under cultivation as his own. This fact alone may put him in possession of an area exceeding that of the old cultivating body. But even the older lands gradually fall into his hands; he will proceed to buy up one field, oust the insolvent holder of another, and so on, till he has got such a strong hold that he regards himself as owner of the whole place. In time his descendants forget that the cultivators had any rights independent of the lord, and they succeed in making them forget it too. Here then is a village (at first) under a sole landlord; and the Revenue books call this the Zamindári Khális tenure. The example we have selected is of the landlord originating in a grant. When we come to speak of origins, we shall see some other ways in which a village may fall under the power of a single landlord, both anciently and in comparatively recent times.

And then the right of a joint body of co-sharing descendants.—Let us now suppose that fifty or sixty years have passed away, and that there has been a period of tolerable quiet, in which wars, plundering incursions, or famine, have not disturbed the landlord and his family. The original founder or grantee is long dead, and his sons, grandsons (and possibly some con-
Estate managed in common.—Whether Hindus or Muhammadans (and being of a superior caste they are probably one or the other) they will have succeeded to the village-property jointly. They are all jealous of equal right and dignity as descendants in common of the same head; and for a long time they will not divide the estate: they appoint one of their number as the manager (or possibly employ a paid agent), and at first there is probably a panchayat or committee of heads of houses, to control the common affairs. Each family will have a certain area of land as its own special holding (sir in Land Revenue language) for which it pays nothing. The rents (of the area held by tenants) are collected, and these, together with any profits of waste-products and 'manorial' dues, will be devoted to paying the Land Revenue: if more than enough for the purpose, the surplus will be divided according to family shares: if insufficient, the necessary balance will be distributed accordingly, in the same fractional shares, among the members.

[There are other cases in which a body of co-operative colonists (not being a family descended from one ancestor) may cultivate in common or on the joint-stock principle, but these we are not now considering.]

An undivided community of co-sharers like this, may long continue, either from a jealous sense of equality and a desire

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1 Meaning of sir land.—If one of the sharers holds land besides his sir, it will be as tenant of the body, and paying rent to it. This opportunity should be taken to explain that sir land is an important matter in the North-West Provinces, Oudh, and the Central Provinces. It exists in all the numerous cases where the landlord body is distinct from, or supersedes on, a body of tenant cultivators (or cultivators who have become tenants). Each co-sharer has a certain home-farm for his own especial benefit. In the Punjab we hear much less about sir because there the villages are so much oftener held by families, or tribal groups who themselves are the direct holders of all the village land or the greater part of it; so there is no distinction. In the provinces first named, certain privileges attach to the sir, and accordingly the Land Revenue Acts and Tenant Acts define what is legally sir and what is not. (1) When an occupancy tenant-right is allowed, it does not extend to the sir lands. (2) When land is assessed, sir land is allowed a certain reduced rate (now ten to fifteen per cent.) below a full actual rental value. (3) If a man loses his proprietary right (under certain circumstances defined in the laws) he retains possession of his sir land as an occupancy tenant, with a certain privilege as to reduced rental.
that no one should, by becoming separate, get a start and perhaps buy up the other shares and so become the principal landowner; or there may be local circumstances making joint cultivation more convenient; or perhaps the greater part of the land (excepting the home-farms) is in the hands of resident tenants, and there is no object in dividing. Whatever the motive or cause for the continuing union, the joint-holding itself results simply from the customary principle of the succession of all the heirs together, which is in itself an archaic survival.

These undivided bodies of village landlords constitute the chief form of the tenure called in the books Zamindarí mushtarka—the undivided landlord-village community.

The families separate more or less completely.—But the time comes when jealousies or quarrels arise, or there is some other motive, and a separation is agreed to. At this point we must make a little diagram, to show the several degrees of direct male\(^1\) descent from the original landlord, founder or grantee. By the use of different kinds of type and by numbers, the grades of descent are made clear to the eye: the members supposed to be still surviving are enclosed in squares.

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The family with its surviving members, agree to partition. Let us note that it is very probable that, at first, only the four

\(^1\) Females are not usually allowed to succeed, or only in default of male heirs: sometimes daughters get a share till marriage. Widows of a sonless sharer hold for life only.
sons (A, &c.) will separate—constituting the patti or main shares\(^1\), each called by a local name—very likely that of the original owner; and inside the separate pattis the descendants will still remain joint. But let us now suppose that the partition is general. The principle of division of the land (and the payments with which it is burdened) will be the ancestral one, i.e. according to the fractional share indicated by the tree or diagram.

The shares of A, &c. are \(\frac{1}{3}\) each. a, b, c, d, will take each \(\frac{1}{4}\) of \(\frac{1}{3}\). e, will take the whole of his father's fourth, i.e. the entire patti. f, the successors of g, and h, will each take \(\frac{1}{8}\) of the patti, i.e. \(\frac{1}{2}\) of the whole. And so—coming to the last degree—1, 2, will have each \(\frac{1}{6}\) of \(\frac{1}{3}\) of the patti A: and so on throughout. Very likely as 5, 6, 7, 8, are smaller shares, they will agree to continue holding their lot in common or jointly.

**Nomenclature of shares and subshares.**—The main shares (A, &c.) are patti; the second grade (a, b, &c.) are thök or tālā\(^2\), the third (a, &c.) are beri. Below that the holding is khātā. Any person on the family 'tree' (i.e. not being a tenant or a casual owner of a plot\(^3\)) is called (generally) a khitedār—a holder of a khātā or part of a khātā.

In order to express the fractional shares, since in the early arithmetic no system of 'vulgar fractions' (expressed by a numerator and denominator) was known, it was usual to refer to the whole as 'one rupee', and the fractional shares are so many 'anas' and 'pies' (pāi); or the land measure was used, and the whole was one bīghā and the parts were so many biswa, biswānsī, &c. (p. 12).

But as the ordinary divisions of money and land measure would not go very far in a division where the shareholders are numerous and remote in descent from the common ancestor, for the purpose of tenure shares, a variety of further subdivisions are to be found, e.g. the 'rupee' is not only divided into 16 anas and the ana into 12 pāi, but the pāi is divided into 20 kirānt, &c. And so the biswānsī is made into a number of ren, pheni, &c., till we get tiny fractions representing each a few square yards.

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\(^1\) Sometimes there is a still earlier or larger division above the patti, and called tarf. This may be due to two leaders having originally founded the village, or some other remote cause of primary division.

\(^2\) There are some varieties of local nomenclature, and sometimes the meaning of the terms is inverted: the thök, e.g., may be the larger division above the patti.

\(^3\) In some villages, there are individuals, not belonging to the existing proprietary families, so far privileged as to be regarded as holding their lands in ownership, but not with the status of a shareholder in the whole state (p. 131).
In the ancestral share villages the Revenue burden follows the share irrespective of the relative value of the land.—It is important to remember that under this principle of division each co-sharer pays a portion of the Revenue burden exactly corresponding with his fractional share of the estate. To say, therefore, that a man pays 4-anas revenue (one-fourth of the whole assessed sum) means also that he owns a 4-ana share (or one-fourth of the estate). It may be that one fourth-share is better or more productive than another; but still all pay alike as long as the system is maintained.

In managing a village so divided, there is only occasional need for any common council or united action. Each divided co-sharer takes his own rents, and pays his own Land Revenue, according to the proper fraction; he pays through the lambardár of his patti or section; but it is now the practice to get permission to pay it to the Tahsíl treasury direct. His only concern is then with any common expenditure (malba, p. 28 note), as well as with any questions about the building-sites, grazing ground, &c., which are still joint.

Pattidári.—A village wholly divided in this way on the ancestral principle, and so that the revenue liability as it appears in the báchh or list of the distribution is a fraction corresponding to the land-fraction, is said to be on the Pattidári Tenure.

‘Imperfect’ Pattidári.—But very often the division affects only part of the land; not only the waste, but a portion of the old cultivated area also, is retained undivided, frequently because it is all held by occupancy-tenants and there is no object in dividing it (the rents are devoted en masse to paying the village Revenue, which may indeed, in some cases, be entirely covered by them). This is called ‘imperfect’ pattidári tenure.

Ancestral shares rarely remain unaltered.—It is also comparatively rare to find that the present holdings correctly correspond to the fractional shares; sometimes they do so roughly; in other cases the land shares have altered, but all other profits are still shared on the correct fractions; and so the principle is adhered to by the villagers.

Sometimes, out of family pride, they will have this scheme recorded at Settlement as customarily binding, though neither the holdings nor the actual payments correspond to the fractions; but
they have a sort of hope that they may one day return to a correct distribution. In some cases, at Settlement, villages actually consented to return to the ancestral shares--making a new start, either by a re-allotment, or by making up to those who had less land, by a grant out of the culturable common waste.

It is perhaps unnecessary to explain that shares are especially liable to get altered in places where the circumstances of climate and soil make such a difference between the holdings, that they become really unfair when each has the same fractional share of a heavy Land Revenue to pay. One sharer then fails to meet his liability and hands over part of his share to a solvent neighbour; sales, mortgages and the like, have their part in the change. But the chief cause of all is the long prevalence of rack-renting at the hands of Governors and land officials. Here, rather than lose the land, the family have to meet the Revenue demand as they best can, and every one pays and also cultivates according to his means. It may have been also necessary to call in outsiders to help; and these may have been secured by admission as co-sharers, or by altering the holdings to suit their convenience.

In the Panjáb, and I daresay elsewhere, a very large number of villages have, owing to such causes, lost all remembrance of ancestral shares, and now hold simply by the accident of possession, and pay in proportion to the holding; they accordingly fall into another class of village constitution: in Revenue language the village has changed from being pattidári to being bháiachárá (p. 87 note).

Villages held in severalty still retain many features of a close community.—Before leaving the pattidári village I may remark that though the shares may have been allotted, and the land wholly (or partly) divided, the body of co-sharers is still treated as one; the whole estate is assessed to one sum of Land Revenue; the members are together jointly and severally liable for it. They often have some common lands and common interests that hold them together; and many features of a self-contained community are preserved.

Sometimes the Division was made from the first.—It should be added, also, that though in the illustration I have selected the division was preceded by a period of joint holding, that is by no means always the case with pattidári villages. Some of them

1 For an example see L. S. B. I. vol. ii. p. 673.
have been divided for generations past, and may have begun with some kind of division on family shares, from the very first founding. This, notably, is the case with villages officially called *pattidāri* in the districts on the north-west frontiers of the Panjīb.

*And sometimes in a complex form.*—It is also worth while noting that when a separation takes place, it is not always so simple a matter as my illustration supposes. For a body of co-sharing descendants may own much more than one village; or they may have begun with one and expanded or extended into several. When they divide, in order to secure the shares being equal in value or advantage, as far as possible, they will ignore the village or mauza limits, and make the pattis and shares up of various strips and plots scattered about through several villages, one at a considerable distance from the other. The survey at Settlement marks these sections in each village; and tables are drawn up collecting the plots forming each estate, together; and the assessment is then on the *mahil* or aggregate of plots held under one family title, but otherwise exactly the same as if all the shares had been locally in one village. A common term for this scattered allotment is *khethat*; and where the division is by means of compact shares, it is *pattibat*.

*Villages shared on other principles.*—I must now pass on to consider villages still held by more or less closely constituted communities (who regard themselves as collectively landlord of the entire area) and yet either (2) share on some other principle than that of ancestral shares; or (3) hold by mere possession or *de facto* holdings (see p. 76).

*True Bhāiāchārā or holding by artificial equal lots.*—The most interesting form of (2) the sharing on a non-ancestral principle, is that which was originally called Bhāiāchārā or ‘custom’ (*āchārā* ‘of the brothers’ (*bhāi*). Here the whole area available was studied and was classified by the *panchāyat* into good and bad, better, best, &c.; and then a suitable number of lots were made, each consisting of specimen strips of each kind of soil, scattered over the whole area. Each lot so made up would be called the *bhāiwādi-bigha*, or *tauzī-bigha*—an artificial land unit, which had no relation to the ordinary or standard measure; then, according to the requirement of numbers in the families, a certain number of such units would be
made over\(^1\) to each section and subsection—who would form the \(\text{tarf, patli, thok, etc.}\), as before.

Sometimes other plans were adopted; for instance, it might suffice to let the unit of bad land be much larger than the unit of the best; so that when a distribution of burdens was made, the same rate would be applied to a larger (real) area of poor land, and to a smaller area of the best. Whatever was done it was always with the desire of equality—adjusting the share to the burden to be borne.

**Custom of bhejbarár.**—And this desire was further evidenced by the frequency with which, in certain parts of the North-West Provinces and elsewhere, a system known as \(\text{bhejbarár}\) was adopted\(^2\). This consisted in a periodical valuation of the different holdings \(\text{in statu quo}\), and determining on a new distribution of the Revenue burdens (with and without some exchanges in the land-holdings themselves), to suit the condition and present value of each shareholder’s lot.

**By ploughs and other methods.**—Very often, a simple plan of division was to assume, roughly, a certain area to represent what a plough with a pair of oxen could till, and then to count up the number of ploughs possessed by the body, and assign (by lots drawn or otherwise) an extent of ‘plough units’ corresponding to the number of ploughs owned. This would often happen where the village was formed by an associated or co-operative body.

Sometimes cultivation would be established by sinking a number of wells, each of which would command a certain area—an area usually much in excess of what the well could actually continually keep moist, but including all fields that could, under any circumstances, get a certain amount of water from the well; then the shares would be reckoned according to the ‘wells’ without any reference to the area of land actually in possession. Or the ‘well,’ i.e. the entire area watered by it, might form a lot to be subdivided.

**Principle of de facto holdings.—(3)** In some villages, the

\(^1\) By drawing lots for them, or by some other device.

\(^2\) As a matter of fact, I believe, this system originated in days of heavy Revenue assessment, when such an equalization of the burden was inevitable in almost any form of joint village, whether originally \(\text{bhādīchārī or patti-dārī}\); but it was characteristic of the former.
body may have come to regard itself as united landlord, and yet no system of sharing is traceable. This may be a constitution originally adopted because land was fairly equal in value and abundant, and so each family took what it wanted or had means to cultivate. Káshí-hash-maqdûr (cultivation according to ability) is the phrase then used to describe the system: or a man says his holding is his dád-illáhi (the Divine gift), meaning that he cannot account for the extent of his holding or its origin. In these cases it is always doubtful whether we have a really joint-village, or only a raiyátvári form, which is now treated as joint under the general Revenue system 1.

May be occasioned by loss of an earlier share system.— Often too, such a constitution has gradually come about through the loss of an earlier system of definite shares. I have already noticed how seldom accurate ancestral shares are maintained: the same causes carried further, may result in a total (or nearly total) loss of all memory of original shares—de facto possession is alone recognized. But sometimes there is positive proof of this loss in the fact that the feeling of joint ownership in the whole may remain, and that some profits, and even the waste land, may be divided on the old principle (see pp. 82–3).

Imperfect Bháíáchárá.—If, in any of these non-ancestrally shared or de facto holding villages, a portion of the land is held undivided, we have the ‘imperfect’ form (as adopted in the text books) just as we had in the pattídári (p 82).

In these cases the share of the Revenue always proportioned to the holding.—It will be observed that, unlike the case of pattídári villages, the Revenue burden is here always paid in proportion to the share or to the de facto holding.

Summary of these non-ancestral forms.—To summarize

1 Two prominent examples of this may be noted. The villages of Ájmer and those of the Kángra (hill) district in the Panjáb are returned as bháíáchárdli; both being simply treated as joint-villages at Settlement. In Ájmer, really, the villages were pure raiyátvári, as in Central India. In the Kángra hills no villages at all existed, but separate farms were aggregated together and an area of waste made over to them.

In these cases the joint responsibility is never enforced, and the gift of the waste and the example of neighbouring villages led the people to acquiesce. Such a plan was tried, but had to be given up, in parts of the Central Provinces; but local conditions were there quite different.
these villages which are held otherwise than on ancestral shares, we have—

1. Villages shared on the true bhātiāchārā principle of equalized artificial lots or holdings.
2. Villages shared by ploughs, well-shares (or by any other method), but the allotments are still regarded as shares of a jointly owned whole.
3. Villages once pattidārī, but owing to the changes and chances of time and the effect of heavy Revenue burdens, the old share system was upset, and the de facto holdings have become stereotyped completely.

To these we must now add:

4. Villages where only de facto holdings, on no known principle of sharing, have all along been recognized, but still the villagers have come to regard themselves as a joint body.

Summary of the whole group of landlord villages.—And then finally, to summarize the entire group of joint (or landlord) villages under all forms of constitution, we have—

Revenue burden 1. Single landlord villages (Zamindārī— proportioned to khādis.)
fractional share
2. Held by a joint body undivided (Z. the estate (more mushtarka).
or less nearly
3. Divided on ancestral shares (pattidārī).
and in principle.
4. ‘Imperfect’ (part undivided, form of 3).

Revenue burden proportioned to the actual holdings.
5. Shared on other principles, or on no principle (of the four kinds above noted—all now officially generalized under the name bhātiāchārā.)
6. ‘Imperfect’ (part undivided, form of 5).

1 Official (generalized) use of the term bhātiāchārā.—It has unfortunately become the custom in Statistical tables to lump all these four cases under one heading—bhātiāchārā. The loss of historical tenure-details, thus occasioned, it will require no very vivid imagination to realize. Probably the cause of this generalization was that from a revenue point of view, all possessed one (important) feature in common. The revenue burden was always proportioned to 1l.: holding, and not (as in ancestrally shared villages) to the fractional share.
Origin of the forms of village.

It is common to find in histories and text-books, that these two forms of village—the raiyātwārdī and the landlord form—are generalized together, and a description is given of one (supposed) universal type of 'village community'; and from want of access to details, even eminent writers have been content to take the matter for granted, and to proceed to account for such a type, with reference to the analogy of European forms, such as the (supposed) German 'mark,' the Russian 'mir,' or the Swiss 'allmend.' I trust I shall not be supposed to speak with the slightest disrespect of these writers; but it must be remembered that the historical jurist is very often compelled to construct his system on a very slender basis of fact; he is rather concerned to show, on principles which it is his great merit to have discovered or elucidated, that given (or even assuming) certain facts, the way things will develop is in this or that direction. And it seems to have been taken for granted, when the landlord-villages first became known in North-Western India, that we had here a form of primaeval village-tenure, from which all other forms were descended. To state the matter very briefly, it was supposed that a joint or undivided tenure came first in point of time, and that the pattidārī and bhaiāchārdā (or divided tenures) were later stages in the general process of development from the early joint-holding to modern individual proprietorship. And if any attention was given at all to the enormous area covered with raiyātwārdī villages, it was supposed that these represented a decayed form of the other. And indeed the case of the Dakhan and Madras villages already alluded to (p. 76) was sometimes quoted to suggest that the old mirāstī families represented not only an earlier, but a universal, form of joint-family holding which decayed into that now prevalent.

It is impossible in the space at my disposal, or indeed with reference to the purpose of this book, to go into theoretical discussions. I must therefore pass over the important question raised by M. Fustel de Coulanges and others, as to the validity of the evidence for the communal German 'mark' and other such institutions, on which the case for the joint or common tenure, as the original form in India, was largely made to rest. I can only briefly indicate—

1. That there is reason to believe that the earliest tribal movements in India resulted in the distribution of territory into areas for clans and tribal sections, which were further subdivided into village, or even smaller groups. But the family-holdings inside these small groups were separate; the jurisdiction of the village- or hamlet-headman alone held the group together.

¹ Notice, e.g., the interesting case of the Bhīl tribes noted by Sir W. Hunter, Brief History of the Indian People, 20th ed. p. 43.
There is no evidence of any pre-Aryan, or other really primaeval, holding 'in common,' or of a joint holding of land, as a general practice.

2. That whatever be the date of the 'Laws of Manu' — representing the custom as established in Northern India, the only kind of village known to that author is the rājyaśātāri village under a headman with an official free holding of land. The only title to land known, is the right by first clearing the jungle. It is to me quite incredible that if a really earlier and universal form of village existed, in which the right was a common right, marked by periodical exchange of holdings, and that the families exercised their joint ownership by virtue of inheritance or birthright 1, that not the faintest trace of such a common-holding or such a claim or title to land should be found in Manu.

3. That in a large number of cases we can positively trace how the joint-village has grown up over an older (rajaśatvāri) village, or is newly founded on virgin soil on the same principle, owing to the proud feeling of the families of higher, military, religious, or dominating caste in general, which founded it or obtained the superiority.

4. That in cases like the (supposed very ancient) vestiges of a common holding in Madras, however numerous, the facts are at least perfectly explainable on a hypothesis which is conformable to what is observed elsewhere, namely, the growth of special landlord families or joint-colonist groups, and does not necessitate a supposition that all villages were once held 'in common.'

Bulk of early cultivation must have been non-Aryan.

I will only remark briefly on these four heads, that we have evidence of a series of racial movements and tribal immigrations in India which occurred, in general, before the intellectually and otherwise superior race of Aryans descended from their first settlement beyond the Indus (and in the Himalayan valleys) and marched across the Panjāb to occupy Northern India from the Jumna eastward.

Whatever may be the correctness of the classification of races, and the actual affinities of any particular tribe, there can be little doubt that the distinctions implied by the terms 'Tibeto-Burman,' group (Assam and the Eastern and Central Himalaya), 'Kolarian' (Vindhyān hill system and South-West Bengal), 'Dravidian' (West and South India, but probably extending northward also), correspond with actual distinctions of race. We have some evidence of what sort of villages were formed of old in Assam and the Himalayan districts. We have also the curious fact that though both Kolarian and Dravidian have almost ceased to exist as separate races, and have merged in the general Hindu population, still some of their

1 It will at once be admitted that in all 'joint' or landlord villages, whether primeval or not, the holders claim their right as 'mirāst' or some similar word implying inheritance or birthright.
tribes found refuge in the secure but fertile fastnesses of the Chutiyá Nágpur country (South-West Bengal); so that there, the old forms—the tribal union, and the village grouping—have been maintained, in spite of some encroachments by later landlords, in a way that would not have been possible elsewhere.

We can, there, still trace customs which show that some of the people we call Dravidian had a superior village organization—notably a powerful headman, with an allotment of land held¹ in virtue of his hereditary office; and indeed with all the features which are calculated to produce the raiyatwári village in its modern form. And it can hardly be doubted that these features (of which indication can also be found in other parts of the country) were really the marks of Dravidian land-holding in general.

When we reflect that the Aryan immigration was that of a non-agricultural people, whose two upper castes (military and religious) regarded agriculture with loathing²; that it had therefore only a residuary (upper) caste, the Vatsyá, and its mixed lower strata (Súdrá) to take to cultivation at all; when, further, we recollect that the Aryans came in very limited numbers, hardly more than sufficient to form armies and take the ruling and official position over States already peopled with non-Aryans, and that they gradually multiplied by admixture with the better sort of the indigenous races, it may certainly be considered at least a very natural order of things, that the joint or landlord village should have grown up as the result of a local lordship, or at least by the founding of new villages at the hands of the superior families, or by the location of conquering tribes proud of their birth and ancestral connexion, and that the joint village (see remark at p. 80) should be the result of the joint succession and the ancestral connexion in these families, rather than a primaeval institution which goes back beyond all the earliest customs that we can actually trace.

Leaving, however, a subject of which only the fringe can be touched, I propose briefly to state how some of the joint villages are known to have originated.

Landlord villages derived from three principal sources.—

1. Single founders, Grantees, Revenue farmers.—If we first roughly and generally classify the known origins of landlord bodies, we shall observe three great sources from which some

¹ There is an allotment for the chief (afterwards the Rájá, p. 34), one for the headman, &c., and one for the priest and for religious worship; the remainder was for the cultivating body who accompanied the headman and his family. The privilege or right to these lots was fully understood; but there is no trace whatever of a common holding or of the headman being proprietor of the whole village.

² The poorest Rájput, long driven by necessity to cultivate with his own hands, will try and avoid the indignity of touching the plough, if he can help it.
joint-villages have been derived. One is the growth, in or over an existing village, of some one man who obtained a grant, or elevated himself by energy and wealth, or who developed a position out of a contract for revenue farming; such a grantee—or any adventurer,—may also found and establish a new village in the waste, with exactly the same results.

2. Dismemberment of ruling chiefs' houses.—Closely connected with the first head, is another under which many high caste, or quasi-aristocratic village-bodies, descended from a common ancestor, may be grouped. I need hardly enlarge on the fact that under the continual succession of wars, invasions, and internecine struggles, which mark the history of every province, royal, princely and chieftains' houses were always gaining the lordship of territories, and again losing it; gathering head, founding and acquiring dominions, and in time losing them, while the houses lost rank and were broken up. And when any of the greater conquests like those of the Mughal and the Maráthá powers occurred, the petty Hindu and other principalities, all over the country, would go to pieces; cadets of families would break off and assume independence; and territorial rule would be lost; but the family would contrive to cling, by timely submission, and by favour of the conqueror, to relics of its possessions, no longer as ruling chiefs but as landlords. This fact is universal, and accounts for more varieties of land-tenure in India than almost any other. We have already seen (pp. 40-1) how the Rájás, subdued under the Mughal arms, would be accepted by the Emperor as a kind of revenue-agent (though he still called himself Rájá), and thus he ended by becoming landlord where he was once ruler. The same circumstances enabled scions and cadets of noble houses, or petty chiefs whose power was destroyed, to keep a footing in the individual villages of the old territory.

The rule of primogeniture which holds estates together in times of prosperity becomes relaxed. So long as a family of superior rank has some territorial position, it usually retains a rule of primogeniture, so that the estate as a whole remains intact: but when the ruling position is lost by defeat in war or by other misfortune, the members separate, and each clings to some small area
—whether it is a group of two or three villages or a single village. Gradually such families—their claim to consideration grown dim with time—are assessed to a full revenue by the ruling power, and fall, more and more decidedly, into the rank of peasant co-parcenary bodies, with perhaps vague recollections of a distinguished origin, and with caste pride which may long enable them to refuse to handle the plough themselves, and so to rely on their tenants.

These two heads of origin account for the bulk of landlord villages in the North-West Provinces and Oudh.—In the North-West Provinces and Oudh, there are a few interesting cases of the tribal settlements—to be mentioned next, but putting these aside, a majority of the villages that are really joint (and have not merely become so under the Revenue system) may fairly be traced to one or other of the two origins hitherto dealt with, viz. their founders were

(1) Grantees, Revenue-farmers, and the like; or (2) Scions of once ruling or territorially powerful families that broke up and became local landlords.

3. Tribal groups; colonist associations. Tribal settlements especially marked in the Panjáb.—The third principal source of joint-villages is the local conquest, or (possibly) the peaceable settlement, of clans and tribal groups—Jats (or locally, Játs), Gújars, Rájputs and others, whose place of origin and course of movement are difficult to ascertain except from traditional indications. But in different parts, we find extensive groups of villages evidently of this origin; and in the Panjáb we have it exemplified on the large scale, and in a double form. All along the North-West Frontier we have tribes settled at comparatively modern dates, of a peculiar character, and with special institutions; while, throughout the central plains, extensive areas have been peopled at a much earlier date, by Jat and Gújar clans on an apparently large scale. I have mentioned that instances of this kind are not wanting in the North-West Provinces and Oudh; and there it is frequently interesting to notice that in such cases, the villages are held 'not on the 'aristocratic' pañidári principle, but by methods of equal

1 For, strange as it may seem, we have instances of tribal groups settling without a Rája or chief—only an equal aggregation of families with the council of heads to manage common affairs.
holding, sharing by ploughs, &c., (p. 84) (bhājāchārā). Very often, as we shall see in the case of the Panjāb frontier tribes, though there is a strong landlord or proprietary spirit, and a sense of union among the tribal groups that were aggregated into villages (and sometimes settled in large areas divided at once into family shares without any village grouping), there is a peculiar method of allotting lands, which on the whole cannot really be brought under the definition of either pattidārī or bhājāchārā, as these terms are generally understood in Northern India.

Illustrations of cases under either head. Landlord Family originating by grant.—I may now offer a few illustrations of these village origins. Taking the first source—that spoken of as, in a wide sense, origin ‘by grant’; we have several varieties to notice. In the first place, the circumstances of the early Hindu (and other) conquering kingdoms must have always occasioned the necessity of finding provisions of land for distant relatives or inferior connexions of the Rājās, and for various persons not important enough to receive official posts or regular territorial allotments in the State organization. As the Rājā had a right to a share of the grain (as well as to other rights) in each village, and had all the waste land at his disposal, the natural thing was for him to make the necessary provision by issuing a grant. Such a grant might be made over an existing village (probably of pre-Aryan or mixed caste cultivators) or it might be to found a new village in the waste. Not only minor members of the Rājā’s house, but soldiers, courtiers or servants to be rewarded, would obtain similar grants. Sometimes grants were given (sub rosā) for a consideration in money. In Oudh such grants can be frequently traced under the name of bāri (Sanskrit vrillī). I have already described (pp. 77, 78) the effects of such a grant and the consequences which ensued from it. Numerous villages throughout the North-West Provinces (where the co-sharers are of higher caste and descended from a common ancestor) originated in this way.

Modern instances of grant in Central Provinces. Estates in villages.—Under this head, too, we must not omit to take
notice of the effect of modern grants, as exemplified in the case of a large number of villages in the Central Provinces, which were often held by a non-Aryan or mixed population, and were naturally of the raiyâzwâri type. When the Land Revenue Settlement was made under the North-West system, the desire was to make the villages, as they stood, into joint-estates; but circumstances did not admit of this; so, as the system necessitated a landlord responsible for each village (cf. p. 151), the position was conferred by grant on the village headmen and revenue-contractors whom the Marâthâ Government had established. These persons were called in official papers Mâlguzâr; hence the Settlement with them is often alluded to as the Mâlguzârî Settlement of the Central Provinces. Accordingly here we have an example of landlords by grant; and as the original grantees pass away, their descendants will form co-parcenary bodies—probably pattîdâri. The grant here was a limited one; that is to say, extensive sub-proprietary and occupancy rights were secured to the tenants; but with that we are not at present concerned.

Village landlord bodies descended from Revenue-farmers Revenue officials, and auction purchasers.—Village proprietary bodies whose origin is by descent from a Revenue-farmer, are obviously closely analogous. In the North-West Provinces a very large number of villages can be traced to an origin not much earlier than the present century, by descent from such a Revenue-farmer, or from some person who stood security for the village revenue and who purchased the village and became owner when a default occurred. In early days, also, when the immediate sale of an estate was ordered if any failure in the Land Revenue payment occurred, numerous villages fell into the hands of auction-purchasers who became landlords with a 'parliamentary title.' The sales were, indeed, often purposely brought about by fraudulent devices; and such was the injustice done, that a special commission (in 1821) was appointed to rectify matters. A number of sales were set aside; but still many villages could not be recovered.

While a number of these village bodies are not more than a
century old—yet with all the marks of the so-called 'primæval communities,' they will very likely talk of their rights 'by inheritance,' as if they were of great antiquity. It will be remembered that in the early days of our rule, the Revenue system dealt always with some one man in each village. Hence there was an abundant supply of farmers, sureties, or single co-sharers of wealth and importance, ready to develop into landlords. It was only when Regulation VII of 1822 was passed, and a record of rights was made, that the recognition of the whole co-sharing body as jointly entitled to the proprietary position, followed. This source of origin is naturally rarer in the Panjáb, because the province was not annexed till after the British Revenue system had been improved, and the idea of joint bodies of owners was familiar.

By mere growth and usurpation without grant.—An exactly similar result would happen when there is no formal grant of the State rights or sale, to begin with, but where some particular family rose to a dominant position by mere energy and pushing; and so again where, in the numerous forays and petty local incursions, individual chiefs conquered and seized villages and managed to retain them; or where single adventurers set out from their own country to seek a new home, and founded new villages.

A remarkable instance of this may be quoted from the Siálkot district in the Panjáb. In the village of Siálkot, some generations back, a young chieftain named Dhífru (who claimed to be a Chauhán Rájput, and one of the Chattá family) came from his ancestral home in the Ganges plain, in search of a new location; he found a place in Siálkot. Having married twice he had eighteen sons; as these grew up and found abundant land that was waste (and also doubtless acquired other lands in various ways) they gave rise to a number of co-sharing bodies forming separate villages: these men once had their heads and family-chiefs, over groups, but the Sikh Mahárája reduced them; and now no less than eighty-one separate villages have arisen from this one centre: all are of course strong landlord villages—probably pátidrī. Not very far off, a small number of Bhattí tribesmen settled, and have now formed a group of eighty-six villages, of which Pindí-Dhättián is the centre, a place considerable enough to be shown on the maps.

1 The Chattá is one of the noble families described in Sir L. Griffin's Panjáb Chiefs.
Illustration of landlord rights arising from a lost ruling or territorial position.—Turning now to the case of landlord villages arising out of the break up of territorial estates, or the disruption of a Raja or other rulership, I have already (p. 91) stated how this comes to pass. And it is obvious that it may either result in tolerably large estates, or else go so far as to leave the members of families in possession only of single villages or even less. Some further remarks will be made in Sec. II (Landlord Estates): here, therefore, I will only give some cases of village estates arising out of such disruption, and ask the reader to refer also to Sec. II which follows. In the Raí-Barélf district of Oudh, there is a remarkable group of estates—some of them being single villages, others being larger groups—but the whole originating in the dismemberment of the family territory of a celebrated Raja of the Bais caste called Tilok Chand. In quite another place, the Gujrát district in the Panjáb, will be found a number of villages of Chib Rájputs which are also traceable to a dismembered ‘Raja’ that lasted down to the Sikh times and was then destroyed. The Raja and his barons and their territorial rule completely passed away—the descendants of the stock remain as bodies of village proprietors. On the Malabar (west) coast of India, the Náyar janmi landlords (as they are called) are only the descendants of territorial chiefs who lost the ruling position, and still adhered to their land, claiming it (as usual) ‘by birthright.’ But instances of this class can be found all over India.

Illustrations of clan or tribal settlements.—Under the third head, we include all cases where a certain area of country is occupied, more or less exclusively, by villages belonging to one clan or tribe. This may be a large area, as in the case of the great Jat (in the Panjáb the a is short) and Gujgr settlements; or it may be in comparatively smaller areas, like the Goráha Bisen settlements in Oudh (Gonda District), or those in the Hardoi district, or the Pachahra Jats of Māthurá (North-West Provinces.)

Impossibility of determining that there was any considerable body of settlers; often large groups of villages originate with a single family.—One thing, however, is to be
observed; it is a mere question of available space and a sufficient lapse of time whether a now extensive clan-location should be attributed to any considerable tribal movement; it may often be due to a few families settling down and afterwards multiplying and separating. I have already given, in another connexion, an instance of groups of eighty villages and more, all originating in one single founder. And in the North-West Provinces, there is a highly interesting case of the expansion of a single family into a large group of villages covering an area of 28 sq. miles (it is only recently that separate villages have been formed; the whole area was originally divided at once into family shares). The place is known as Kharaila-Khās in the Hamīpur district. The Pachahra Játs of Mathurá also settled about 200 years ago on the left bank of the Jumna, apparently only as a few individuals; they now form quite an extensive colony.

North-West frontier tribal settlements. Classification of soil for purposes of division, on a principal of equality.—But on the North-West frontier of the Panjāb, the districts have been almost entirely peopled, within historic times, by tribes who evince a strong sense of territorial right by conquest, and always speak of their ‘inheritance’ in the land. But they did not settle in groups holding the land in common. Where, in places, joint-stock or common cultivation is practised, it is not due to any archaic (supposed) communistic ideas, but to suit special conditions and local circumstances. Speaking generally, we find that the frontier tribes always made a division, and one that was not by any means always founded on fractional ancestral shares. Sometimes they divided the land, and sometimes, when the water of a canal or hill-stream was the important requirement for cultivation, shares in the water were arranged. In some tribes, we observe the formation of village groups; in some cases we find a whole tribal area divided out at once

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1 For some details see L. S. B. J. vol. ii. p. 134.

2 Whenever a family is found claiming its lands on the ground of birthright or inheritance (mirās, wārisī, wīrāisī, &c.), it is a certain indication of landlord claims.
Illustration of landlord rights arising from a lost ruling or territorial position.—Turning now to the case of landlord villages arising out of the break up of territorial estates, or the disruption of a Raj or other rulership, I have already (p. 91) stated how this comes to pass. And it is obvious that it may either result in tolerably large estates, or else go so far as to leave the members of families in possession only of single villages or even less. Some further remarks will be made in Sec. II (Landlord Estates): here, therefore, I will only give some cases of village estates arising out of such disruption, and ask the reader to refer also to Sec. II which follows. In the Rai-Bareli district of Oudh, there is a remarkable group of estates—some of them being single villages, others being larger groups—but the whole originating in the dismemberment of the family territory of a celebrated Rajah of the Ruis caste called Tilok Chand. In quite another place, the Gujrat district in the Panjabis, will be found a number of villages of Chib Rajputs which are also traceable to a dismembered ‘Raj’ that lasted down to the Sikh times and was then destroyed. The Rajah and his barons and their territorial rule completely passed away—the descendants of the stock remain as bodies of village proprietors. On the Malabar (west) coast of India, the Nayar janmi landlords (as they are called) are only the descendants of territorial chiefs who lost the ruling position, and still adhered to their land, claiming it (as usual) ‘by birthright.’ But instances of this class can be found all over India.

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2 Whenever a family is found claiming its lands on the ground of birthright or inheritance (mírá:, wárist, wírásat, &c.), it is a certain indication of landlord claims.
into family or individual shares and not first into villages. But there are always allotted shares, sometimes per capita, sometimes by families or households. Very frequently the whole territory was first classified and formed into certain different groups or lots (wand, vesh, &c.), and the shares would be made up of strips or plots out of each lot; here the plan directly points to a desire for equality of advantage in the holdings.

Periodical exchange of holdings.—We find also in these places a not yet entirely extinct custom of periodical redistribution of holdings among the families (and at first among the lesser sections of the entire tribe—as if little kingdoms were to exchange territories en bloc).

This appears to me to be primarily due to the desire to secure equality, by giving each a turn at the good or the bad; such equality not having been altogether secured by the making up of the shares in the way above stated. It is, however, held by some to be an indication of an early stage of property in which the right is supposed to reside in the clan or tribe collectively. It should be remarked, however, that this periodical exchange (vesh) is I believe never (certainly very rarely) found in places where cultivation is only possible by aid of irrigation, and where consequently fields are all laboriously built up and embanked, so as to utilize the water from the hill-streams during their seasonal flow.

These frontier villages are quite a thing per se, and their occupation is of comparatively late date, and in one case as late as the fifteenth or sixteenth century.

Extensive Tribal locations in the Central Panjáb.—The Jat and Gújár settlements in the Central Panjáb are much more ancient, and it is now impossible to account for specific origins. Most persons, looking to the whole circumstances of the case, will probably conclude that they represent really large tribal allocations. Although the areas have, in the course of time, received a certain admixture of villages of other castes (and of

1 The village division usually follows it at a later date; see examples in L. S. B. J. vol. ii. pp. 134, 135, 668. These were all very large areas, not divided into villages but at once into a number of family, or household, or individual, shares.

2 For some details as to the tribes in the Panjáb plains (which were never occupied by the Aryan immigrants), and the relations of Alexander with them, see L. S. B. J. vol. i. pp. 122, 141.
other origins) there is no mistaking the general prevalence of one particular race. But there are also many local groups of villages which represent the expansion and subsequent division of families during many generations, all deriving their origin from a few ancestral chiefs, the locale and form of whose territorial rule have long been forgotten. In some villages there are now several different elements combined;—evidently representing a state of things naturally brought about by the necessity for united effort against enemies or severe taxation, in the past.

In a considerable number of Panjāb villages (not speaking of the frontier districts) the pattiṭāri or ancestral principle is wholly or partly preserved: but a still greater number have been called bhāiāchārā (in the official sense) because the share system has been upset or even wholly lost. There are some cases of the (true) bhāiāchārā form where the land is held in artificially equalized lots; and many in which the holding is by 'ploughs' and by 'wells' (pp. 84–5), the last two being frequently met with.

Present condition of Panjāb villages.—Long periods of disorder and severe Revenue assessments have here resulted, as always, both in mixing the landholders—necessitating the admission of good workers of other castes and families to maintain the village, and in breaking down artificial systems of sharing; substituting de facto holdings, and payments corresponding thereto (pp. 83, 86). But under all circumstances the Panjāb villages, though much invaded (in some districts) by money-lenders, who have bought land against loans not repaid, or mortgages unredeemed, still show a good deal of the strength of union. They are not allowed, as under the North-West Provinces law, to completely partition the village estates, i.e. to break up family holdings into entirely separate estates. The custom of pre-emption is recognized by law, in its rather strong local forms; and wherever the co-sharers are well to do, they have the opportunity of getting the 'first refusal' of every plot of land that is being sold in their village, and so preventing its passing into the hands of strangers.

Colonist villages.—It must not be forgotten that besides clan groups of villages, and those which owe their origin to individual founders and their multiplied descendants, many villages owe their foundation to associated parties of colonists, who having reclaimed the waste by their co-operative efforts, are very likely
LAND TENURES. [Part II.

(though not connected by common descent in many cases) to have a 'feeling of union, and very possibly a sense of joint ownership to the tract which they have colonized. We have instances of this class of village in the South-east Panjab; and the Settlement Reports of Sirsa and Rohtak give interesting accounts of the formalities observed on founding the village-residences in a central position, and in drawing lots for the landholdings 1.

Early Colonist villages in Madras.—From a distant part of India comes another example of the same kind. Among the villages of the usual raiyutawdi type in Madras, there are local, and sometimes numerous, cases, where some of the landholders claim to belong to families that had once held the whole villages in common or in shares; and accordingly they speak of their kāmīatsi (afterwards called mirīslī) rights. In such villages, however, the old families have now lost their original position; only the shadow of joint rights remains.

Without going into any controversy regarding the origin of these villages, it is an undeniable fact that, locally, they are connected almost entirely with the district (once the kingdom) of Tanjore, and the district of Chingleput 2. Now the latter was the centre of the ancient territory called Tondai-mandalam, and there are historical and traditional data, universally accepted as having a foundation in fact, which account for there being here landlord-villages; inasmuch as a Hinduized Dravidian kingdom like that of the Cholā princes, would not only make grants to Brahmans but would produce other leading families who would found, or obtain the lordship of, villages. But more especially there is evidence of a great colonization of Tondai-mandalam (principally in or about the eleventh century A.D.) by means of an energetic caste called Vellālar; and in virtue of their colonizing services, a special right to the land they cultivated was recognized. That they should largely have adopted the joint-stock cultivation (pasang-karei) is just what we might have expected 3.

2 When I speak of these districts, I do not of course mean to confine myself to their exact modern limits; the Trichinopoly district was also part of Tanjore; and the Chingleput mirīslī villages extend, I believe, into North Arcot.
3 Under this method, no permanent allotment was made; each year it was determined (doubtless by the common council) what fields each would plough up; and the proceeds were thrown into a common stock and divided according to the share of each. Sometimes a modified method (called karētyidsa) was adopted. Here the land was allotted for a short term of years, after which an exchange or re-allotment was made. This method is admirably adapted to cure inequalities, because each family gets its turn at the good and bad holdings. In some of the villages we have also traces of a permanent division into shares (Arudikarei).
The after history of Tanjore, and its fate under the Marathi oppressors, amply account for the gradual decay of such joint-villages, and for their falling into the raiyatwari form. The old mirast families would still have a memory of their superior right; and among the other landholders, some would be the old resident tenants brought in probably, at the founding, by the superior families (such are called ūkūdi), and others (parakūdi) would be the later cultivators employed from time to time and not connected with the village foundation, or not hereditary residents in the village.

A superior right or overlordship occasionally arises over landlord-villages.—In concluding a notice of the landlord- or joint-village, it may be mentioned that by the effects of subsequent grant, or conquest, even a co-sharing body with a landlord claim may come, in turn, to be subjected to some new superior. In the Panjāb and elsewhere, we find such villages with two landlord groups in them—a family of ‘superior proprietors’ (alā-mālik as they are called) taking certain rents or dues from the village proprietors. This is only another instance of how, in India, one set of rights grows up over another; the complication that would, in modern times, ensue, being obviated by the fact that, in early times, all varieties of right were met by division of the grain produce among the different claimants.

Section II. Landlord Estates (other than village estates).

The space we have devoted to village tenures is not disproportionately large, when we reflect on the fact that village-estates, and villages made up of groups of individual landholdings, constitute a very large majority of the landed interests in most of our Provinces. And even where some form of landlord estate on a larger scale is the prevalent tenure, still it will be villages that form the component parts of the estate; and their rights, though now subordinate rights, are still in existence, and cannot, at least in many cases, remain unnoticed. Moreover a great deal of what has been said regarding landlord-villages—
the growth of families by grant and usurpation and the effect of the disruption of petty kingdoms—applies equally to the larger estates. Very commonly the greater estate is a lordship arising in the same way, only that starting from a source of higher rank or being more directly connected with the ruling power, it has extended over a larger sphere, perhaps to a pargana or even a whole district, instead of a single village.

If we glance over the list of provinces, we shall note that they vary considerably as to the degree in which landlord-tenures (other than village communities) prevail. Landlord estates (some great and many smaller ones) are the general characteristic feature of Bengal and of Oudh. They occur to a certain extent in the North-West Provinces; but they are rare (and of quite exceptional origin) in the Panjab. The estates owned by landlords in the Central Provinces occupy a considerable proportion of the total area of the province; but they are of a special character and not landlordship in the Bengal sense. Parts of Ajmer and Berar are held by landlords who were formerly territorial chiefs. In Bombay there are a variety of (practically) landlord estates, but mostly in the Gujrat districts, and on the West Coast. In Madras, the Northern districts show some great Zamindarship of the Bengal type, and there are also some landlord-estates in other parts; but nowhere, except in the North, do they form a characteristic feature of the districts. In Assam a few estates are held by landlords. In Burma there are few or none, unless waste-land grantees are included.

Cases where the Government is direct landlord.—I may preface this account of landlord-estates in their general varieties, by noting that in some cases (and apart from older historical theories of the State ownership of land in general) the Government is the direct owner or 'actual proprietor' of the soil.

It will be enough to simply enumerate the kinds of property so owned:—

1. Property of former Government; and escheats.—Houses, lands, or gardens, that were part of the personal estates of former rulers or Princes, and passed to the British Government on the acquisition of the Province (commonly called nazil lands). To these I may add also lands escheated owing to failure of heirs; and estates forfeited in past years for State crimes and rebellion.

2. Lands sold* for arrears of Revenue and bought in, &c. Lands not under Zamindars and exempted from the Regula-

1 The jami landholders of Malabar may form an exception, but they are special to this district.
tions. Alluvial lands. Policy in Bengal to retain such lands.
Lands (chiefly in Bengal) of which a Settlement has been refused,
or which have been auctioned for arrears of Revenue, and have
not found a purchaser, have become Government property. Cases
of this kind rarely occur in other provinces; and where, in
former years (when sales for arrears of Revenue were more
frequent), lands did come into the hands of Government in this
way, the policy was always ultimately to find owners for them.
There are also 'Government Estates' in Bengal, in some cases,
because there was no proprietor to whom the permanent Settlement
applied; in others because the territory was exempted from the
(Permanent Settlement Zamindari) Regulations and declared to be
directly under Government management. Sometimes considerable
areas of alluvial island (char they are called) formed by the changing
action of the rivers, become Government property, when, under the
circumstances, the law does not regard them as 'accessions' to
either of the riparian estates.

In the older reports, such estates were called Khats (special,
private), i.e. directly held by Government. In Bengal it is thought
politic to retain their management, partly because sometimes they
are large areas (the Raitawali tracts of official returns) in which
the actual rayats or cultivators are much better off as tenants
dealing direct with the Government officers, than they would be
under some middleman proprietor; and partly because the charge
of such estates enables experience of land-management to be
gained, as well as a knowledge of agricultural conditions, which (in
the absence of a survey and all statistical returns) could not be
gained in any other way.

3. Waste lands not included in any estate are always the
property of Government.—It may be necessary again to
mention, in this list of Government estates, all unappropriated
waste lands (p. 57) which are still awaiting disposal under the
Waste Land Rules.

4. Lands acquired for public purposes.—It is hardly necessary,
however, to make a fourth head for the lands which are acquired
for special public purposes under the Land Acquisition Act (1870),
and with which, ordinarily, the Land Revenue Administration is
not directly concerned.

Landlord rights of private persons.—Coming now to
private rights of this class, the greater landlord interests—varying
in size from a whole pargana or taluka (and even a still larger
area) down to a group of a few villages or less—will generally
be found to have arisen in one of these ways:

a. The present landlord derives his right from a position as
Revenue-farmer, or a land-official under native rule.

b. From a former territorial chieftship or rulership.

c. From a State-grant of some kind.
(a) Estates arising mainly out of Revenue-farming.

The Bengal Zamindar.—The typical instance of this class is the Bengal Zamindar, who was acknowledged as landlord by the Permanent Settlement under Lord Cornwallis in 1793 (to be described hereafter). Only a small percentage of the existing estates are large enough to have an area of 20,000 acres and over; for those first constituted were much broken up, partly by failure to pay the Revenue, which caused their sale piece-meal; partly by the effect of partition between joint heirs.

A curious instance of this is afforded by the old estate once called 'Haveli Munger' (Monghyr district). A couple of brothers in the days of the first emperor had obtained the official position of district officer or chaudhari. Then they became Zamindars or Revenue-farmers; and as the family multiplied, the whole estate was divided up into turfs or family lots: some of these passed by sale out of the family, others remained as separate taluqs or smaller estates, and were ultimately brought under the Permanent Settlement as so many small independent Zamindaris.

But a great number of holdings separately dealt with as Zamindaris were, owing to local circumstances, always petty.

Origin of the regular Zamindars.—Speaking of the larger district Zamindars in general, the persons who acquired the estates had been of varied origin; but they had gained and consolidated their position by being allowed to farm the revenues. Some of them were the old Rajas or territorial chiefs of the country (p. 40); others were district officers; so that really the Bengal Zamindar illustrates all three of the heads of origin above enumerated.

Extent of the estates.—Whatever the estate was, its extent was determined by the list of parganas, villages or lands mentioned in the warrant by which the Zamindar was appointed to manage the Revenues. The limits of such areas were known only by custom, with reference to local landmarks and written descriptions.

Beginning of the landlord title to the estates.—The origin of official Revenue-farming is uncertain. There was no one date
at which a system of the kind was formally promulgated. Rájás and territorial chiefs were probably from quite early times recognized as managing their old estates subject to a fixed contribution or tribute to the Imperial Treasury (p. 41). It may be broadly said, however, that farming became general as a system, in Bengal, from the reign of the Emperor Farukhísíyár (1713 A.D.).

Zamíndárs originally not landowners but Revenue agents. Subject to official appointment by warrant and no power of alienation. Process by which the position became hereditary and turned into landlordship.—That originally the Zamíndár was not in any sense a local landowner (except as far as he had private lands, or had, as Rájá, some kind of territorial interest) cannot reasonably be doubted. His position depended on an official warrant which ran for his life only, and that on condition of good conduct and subject to the pleasure of the ruler. This warrant contained nothing that indicated any grant of landed rights; nor was there any power of alienating any part of the area. But still the position of Zamíndár was such, that a century before British rule sufficed to develop it into a practical landlordship. The position became hereditary (as it would naturally tend to be in the case of a Rájáship, where the title itself was hereditary). The opportunities for such a farmer to become actual owner of the estate were many. Then there was, as I have said, a large area of waste, and each Zamíndár was fully entitled to cultivate this (by his own located tenants), so that he really became owner of it. Areas so appropriated were called khámár (and by other names in Bihár). There was also a certain nucleus of private land (nij-jot or sír). Lastly there were ample opportunities of buying up land, getting it in mortgage, or seizing it for unpaid arrears of rent. Each Zamíndár could also get certain land exempt from revenue (representing a deduction on his total payment) as nánkar, i.e. land for his private subsistence (lit. 'bread making'), and this he would naturally absorb as his own.

Reason for former difference of opinion as to the rights of Zamíndáras.—The reason why so much discussion about
the real claims of Zamindars at one time arose, was that one set of writers kept their attention fixed on the original intention of the farming system and its first features, and the other appealed to the existing results as they had been produced by the practice of a century and perhaps more.

Other interests in Bengal practically placed on a level with Zamindari estates.—In Bengal, the same policy (of this presently) which resulted in a formal recognition of ownership (including a full right of alienation) in favour of Zamindars, also conferred a similar right on many small landholders of different origin, who in the end became landlords in the new legal sense.

Proprietorship was always a limited one.—Only let it be remembered that the proprietary right conferred was by no means an unlimited or absolute title. It was always intended to be limited by the maintenance of all practical interests (by whatever name designated) which existed, though in subordination to the Zamindar. At first, as we shall see, those interests were, in many grades and degrees, insufficiently protected, because the subject was not understood; but as time went on the law was improved.

Persons who became landlords under the Permanent Settlement, other than regular Zamindars. Bengal taluqdaars and other landlords.—A few words will now be necessary to describe the other persons (in Bengal) who became owners, though not belonging to the official class of Zamindar in the earlier sense. In the first place, in the outlying districts of the East, North-east, and South-west, there were no regularly established Zamindars, but local chiefs, and sometimes the state officers in charge were treated on the same footing, and these were accepted as landlords under the Permanent Settlement.

But even in the old-established districts, certain persons had been protected by State warrant under the designation of taluqdar. That meant that they were not in a position to be called Zamindar, but their estate (talug) was allowed a fixed or favourable assessment; and the management of it was left to the holder (who was thus freed from the exactions of land
officers or of the neighbouring Zamīndār). In some cases the *taluq* had existed before the Zamīndār, and for this or for some other reason, it was recognized as *Huzūri* (paying direct to the Huzūr or State Treasury). In other cases, a *taluq* holder was recognized as entitled to a fixed payment, but he had to pay through the Zamīndār, who was thus able to exercise a certain control. Such *taluqs* were said to be ‘dependent.’ Often the Zamīndār himself created such *taluqs*—granting fixed or favourable terms to some old landholder whom he felt it necessary, or politic, to conciliate in this way. At the time of Settlement, rules were made as to which *taluqs* should be separate and which remain as subordinate interests under the great landlord. Those that were allowed a separate Settlement (and they were numerous) became themselves (smaller) Zamīndāris.

Other petty landholders.—In some of the Bengal districts, there had been no great Zamīndār, and the conditions under which land had been settled and cultivated were peculiar, so that the persons recognized as Permanently Settled landlords were of a peculiar character, and often were no more than petty landholders who would have been called *raiyats* under any other system.

As an instance, the district of Chittagong may be cited. Here the country was originally a dense semi-tropical jungle; it had been settled in patches (wherever facilities for cultivation were greatest) by little groups of cultivators under leaders called *turfsdār*, who were responsible for the Land Revenue. The occupied lands had been measured at the time: so that the *turfsdārs* were recognized as ‘actual proprietors,’ and, in this instance, according to the areas measured in 1764. The unmeasured land (subsequently tilled and called *nauūbdā* = new cultivation) did not come under the Permanent Settlement; and the holders of it are under a different system of temporary Settlement, and are practically (but not *e v. *nomine) proprietors of their holdings.

Landholders in Bihār.—In this connexion I must refer to the Bihār districts (Northern Bengal). It will be remembered that in Bengal generally, the growth of the Zamīndārs had obliterated the village rights, and the importance—except for purely local purposes—of the village grouping. This was facilitated by the fact that in the Central Zamīndārī districts
the villages had never (as far as can be traced) been otherwise than of the raiyatwārī type; no strong or high-caste landlord families had grown up in or over them to claim the village-area in shares. The headman (mandal) soon lost his influential position, and became merely the subervient nominee of the Zamīndār; and the raiyats easily fell into the general status of tenants. But in the Bhīrār districts, and still more in the adjoining Benares districts (which a year or two later were also brought under the Permanent Settlement), village landlord-bodies had grown up. In Bhīrār their origin was due to the local predominance of a peculiar caste called Bābhan, of the military order (and probably of mixed—possibly Brāhman—origin). These bodies had however fallen, to a greater or less extent, under the power of the neighbouring Revenue-grantees and officials, and these latter were settled with as Zamīndārs over the heads of villages.

But these village-bodies still retained cohesion enough, even in this secondary or tenant position, to secure certain mālikāna or cash allowances as a compromise for their lost rights; these allowances the new landlords were bound to continue.

Zamīndārīs in Madras.—Turning now to other Provinces, Madras is naturally the first to engage our attention. It is only in the North (and exceptionally elsewhere) that Zamīndārs had been recognized by the Mughal ruler\(^1\). Generally speaking, however, the Northern Zamīndārs were not so much farmers of Revenue, as tributary territorial chiefs; and a notice of them more properly belongs to the next group.

Some great landlords in the North-West Provinces.—In the North-West Provinces certain Rājās and other territorial magnatūs were recognized as landlords when, by the exercise of Revenue-farming rights under the Oudh kingdom, they had established a virtual title to such a position; but the villages under them were protected (in many cases) by separate Settlement engagements which fixed their payments to the overlord.

\(^1\) In Madras a few proprietary estates called 'mootah' (mutthid) may still be found; they are relics of the attempt to introduce a general Permanent Settlement, under which, in the absence of real Zamīndārs, parcels of land were put up to auction as landlord estates. Most of these artificial landlords failed and disappeared.
The Policy adverse to their recognition. Compromise by means of a 'double tenure' allowance.—There is nothing that calls for remark about these landlords; except to say that in the North-West, their interest was often of such a character as, in the eyes of the responsible officials, did not amount to a full landlord right. Whether this was so or not was indeed a question of fact, but it depended much on the policy of the day; and some severe (and not always discriminating) strictures have been passed on the conclusions adopted. The result was rather to minimize the concession of landlord rights, and to prefer the recognition of what was called in the North-West Revenue language, a taluqdári or 'double' tenure; this meant that the village owners were recognized (and settled with) as the actual proprietors, but that a sort of overlordship or taluqdári interest over them was recognized, and this took the shape of a money allowance paid through the Treasury.

The Oudh Taluqdárs.—In Oudh, I have already incidentally mentioned the local chiefs—representatives of the old Hindu kingdoms (of which Oudh anciently was a centre). It is only necessary to add that the landlords who had been called Taluqdárs by the Native Government, were not always Rájás, but sometimes bankers and capitalists, grantees and military officers; and in one great estate, at least—that of Balrámpur, the Názmí or district officer became Taluqdár. Under the first Settlement after the annexation, it was intended to recognize the village estates in preference to the Taluqdár landlords; but the (incomplete) work of the Settlement was swept away by the Mutiny; and after the amnesty, the Taluqdárs were recognized and settled with—all, that is to say, but a few whose lands were permanently confiscated, in which case the estates were conferred on others.

1 The amount at first varied; but speaking generally, the 'Taluqdári allowance' is ten per cent on the Land Revenue.
2 This was a very remarkable family; the high official who founded it was a man of great genius and power, and soon carved but for his family a fine estate; he was in fact within a short space of becoming a formidable rival for the Oudh throne itself. As to the term Taluqdár, see note at p. 41.
3 In this way the Rájá of Kapúrthálá, a native Prince in the Panjáb, received a grant of a great estate in Oudh as Taluqdár.
LAND TENURES.

The Taluqdārī estates of Oudh differ from the Bengal Zamīn-dāris in several ways. The Revenue Settlement is not permanent—only in a few cases, as a special reward for loyal service, was the assessment declared unalterable. Certain rules about the non-division of the estate, and the succession by primogeniture, were applied to the first-class estates. The rights of the village bodies under the landlords were protected by law, as will appear hereafter.

Use of the term Taluqdār elsewhere than in Oudh.—The reader will not have failed to notice that in other provinces besides Oudh, the terms taluq and taluqdār are made use of. In Bengal, taluq often indicates a holding in the second grade, inferior to a full proprietary estate; elsewhere its widespread use—and its present application to a variety of tenures—arose from the fact that the Mughal and Southern Muhammadan Governments had been in the habit of applying the name as a general and conveniently vague indication of ‘dependency’ on the central authority, in the case of any kind of local chief from whom it accepted tribute, but otherwise left in possession. In the North-West Provinces (apart from the special rights of the Oudh landlords) ‘taluqdārī right’ and ‘taluqdārī allowance’ refer to the cases already noted, where a limited overlordship has been held to be established, and where that superior right is held to be satisfied by a cash allowance.

The Bombay Khot.—One other class of landlord estate, which arose out of Revenue-farming, may be mentioned; it is peculiar to the Konkan or Upper Coast districts of Bombay. In this Presidency generally, the later system of Revenue-farming, cruel and oppressive as it was, had been carried out chiefly by the agency of the Land-officers (desmukh, despándyá, and other titles) without developing landlord estates. But in the coast districts, local farmers of villages (or groups of villages), called khot, had grown into such a position—probably owing to some original connexion with the villages of a different kind,—that after much discussion, legislation was had recourse to, and the Khots were recognized as virtually landholders; but the old village landholders (dhárekar) were protected in their rights.¹

¹ Bombay Act I, of 1880, deals with Khot estates. The holders claimed all the waste and Forest land; but this was disallowed. Only by way of compromise, it was allowed that when State Forests were formed, a certain part of the net proceeds should be paid to the Khot.
(b) Landlord Estates arising out of former territorial possessions or Ruling Chiefships.

Estates of this origin, as a class, cannot be sharply severed from those last considered; for though the influence and the opportunities of the Revenue-farmer’s position were there referred to as the direct origin of the right in the existing estate, the position of Revenue-farmer itself was often secured by the old territorial connexion which the grantee had as Rájá, Thákur or local chief. Indeed, some of the now permanently settled Bengal landlords (e.g. those in the Chutiýá Nágpur districts) were never Revenue-farmers at all, but simply local chieftains with whom the Mughal ruler had not cared to interfere. In Orissa the few Zamíndárís that exist are of the same character: for in the hill country, the Chiefships were recognized in the superior rank of Tributary States, rather than as Zamíndárís.

The Tributary or Feudatory State and the (subject) Zamíndárí often distinguishable only in degree, not in kind.—And this reminds me to add that when we consider the class of landords who were once ruling chiefs, it is generally difficult to draw any real line between the subject Zamíndár (who may have a title of rank or be an hereditary nobleman, but still is a subject) and the class of smaller Feudatory States which are not subject. The only practical difference is that in the former a Settlement is made, and the jurisdiction of the Collector runs: in the latter case the tribute is settled by treaty; and the territory is not subject to the British Revenue or other jurisdiction, but only to general political control.

Madras Landlords. ‘Polygars.’—The Zamíndárí estates of Madras are properly of the class now under consideration; the holders are mostly local chiefs, who were tributaries rather than Revenue-farmers to the Mughal Government; at any rate the largest estates were so. But there are some estates (páliam) of chiefs called pálegára or ‘polygar,’ which more especially represent territorial chiefships, and admirably illustrate the way in which landlord estates arise out of the disruption of a kingdom. The Vijýanagar dynasty of Southern India which rose on the
ruins of the earlier Cholá, Cherá and Pándyá kingdoms, flourished for some centuries, and reached a high degree of power and civilization. But it ultimately succumbed\(^1\) in 1565 A.D., leaving a number of its ‘barons’ (called náyaka) who still retained a local rule in their several estates. But their descendants, lacking the control of a powerful head, soon fell into lawless ways, becoming more like freebooters and marauders than hereditary rulers. There were, indeed, several varieties of ‘polygar’; some of them were of less dignified origin, having begun as land officers with certain revenue functions, and partly having police duty; they too, finding themselves unchecked, threw off all restraint, and mercilessly rack-rented their lands. Notwithstanding the doubtful claim and position of many such chieftains, they would (as a class) probably have given rise to a not inconsiderable number of landlord estates, under the policy of a permanent Settlement, had not the majority of them become so accustomed to lawless independence that they could not settle down under a new order of things. In most cases they went into armed resistance and open rebellion, whereon they had to be subdued by military force and mostly disappeared. Some of their descendants still receive small cash pensions. The greater and more dignified chiefs of Rámnád, &c. (Southern and Western Polliams) have been confirmed in their estates, and are in all respects like the great Zamindárf estate-holders of the North.

Central Provinces Zamindária.—In the Central Provinces, the ‘Zamindárf’ estates had nothing to do with Revenue-farming\(^2\), and wholly belong to the class we are now considering. They are simply the estates of the old Gond chiefs or barons of the former régime. The Rájá being overthrown, his Khálsa became the territory directly managed by the conquering Rájás of Nágpur. The old ‘baronial’ territories being in the hills on

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\(^2\) It had, however, been customary to make over tracts of country to managers with a view to extending cultivation and increasing the revenue, and they were called *Zamindár*. These chiefs managing their own lands were similarly denominated.
the outskirts of the Maráthá domain, were not productive of much Revenue; they were therefore let alone, the chiefs being made to pay a moderate tribute. This position was maintained under the British Government. The estates were subjected to a general kind of Revenue Settlement, which varied in form (and in degree of detail) in different districts, and according to the rank and circumstances of the chief or landlord.

Relics of earlier chiefships in other parts.—The province of Ájmer and the northern part of Bombay (chiefly in the Ahmadábád district) also afford examples of this class of estates, in some rather curious varieties. In both we have remains of the old Hindu quasi-feudal system, under which the Rájá or sovereign held the khálsa or central territory, and his chiefs held the outlying portions (p. 121).

In Ájmer the Government has settled the khálsa territory with village bodies under the North-West Provinces system. In the rest, the chiefs (Taluqdárs as they were called when Ájmer became part of the Mughal Empire) have been recognized as landlords paying a fixed tribute.

Landlord chiefs in Bombay. ‘Wántá’ estates. Mevási estates.—The Gujarát country affords a still more curious instance of tenures arising from the disruption of old local chiefships. In the wars that followed one after the other (especially after the attempt of the Emperor Aurangzéb to conquer the South, and after the Maráthás rose to power at the close of the seventeenth century) the whole country became prey to the ravages of rival chiefs. The old Rájás had long disappeared, and their khálsa land had become the Revenue-paying lands of the conquering power: but the subordinate chiefs—often holding the wilder or hill country, or at all events

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1 Here again is an instance of what is noted at p. 111. A certain number of these territorial chiefships were admitted to the rank of Feudatory States and so are not subject estates or Zambilírdís at all. Otherwise there is little real difference. Among the actual Zambilírdís, the smaller ones were settled quite like private estates, all subordinate rights being recorded; the larger were settled in more general terms and without detailed records. Large areas of forest are included in these estates, but under certain special conditions as to their management (see Sec. 124 A of the Land Revenue Act XVIII of 1881).
the outlying territory—were more fortunate. If they submitted, and agreed to hand over a portion of their Revenue to the conqueror's treasury, it was convenient to leave them in local control of their territories, under the usual designation of Taluqdár. Sometimes, however, the chiefs were not left in peace. Long before the Marâthâ times, some of them were considered to be too powerful, and for this or for some other reason, their estates were sequestrated, and only a fourth or other portion left them. Estates of this origin are still known by the name of Wántâ or 'portions'. In troublous times, moreover, a number of dispossessed chiefs turned into marauders and freebooters, and would then roam the country and contend fiercely for the rents of different villages. Old estates broke up, and new ones were consolidated; while the roving chieftains took to levying blackmail and placing under their protection such groups of villages or stretches of territory as could be held from some fort in the Vindhyân hills. These irregular tenures, never really under the authority of any Central Government, constituted what were called the Mevasâi estates. It is somewhat surprising to find that such possessions have survived at all; but the descendants of the chiefs to the present day hold some of the lands, under the same designation. In some cases all territorial rights had really passed away; or at any rate they were sufficiently compensated by a cash allowance—still paid to the descendents of the families.

1 And even some of these (reduced) lands were made to pay a quit-rent or adhad-jama, as it was called.

2 This was especially the case in Northern-Central India, because the growth of the British Power, after the defeat of the Mysore Sultans, had gradually brought all but the central (Marâthâ) region under its control, and so left only the Dakhan open to the camping-ground of the rival chiefs, and the refuge for adventurers and freebooters driven out of the other States. All this is admirably explained in Sir A. Lyall's Rise of the British Dominion in India, 1893, p. 250 ff.

3 Such are the girāsiyâ or (political) allowances paid in Bombay to a few families. Girâs means a ' mouthful' or subsistence. In the Royal demesne, the Râjâ's younger sons were often allowed villages as girāsiyâ chiefs, i.e. holders of subsistence grants; but the term came to be applied, in North Bombay, to the lands seized by marauding chiefs who levied blackmail, or accepted the rents of land, as the price of not harrying the village. The allowance noted in the text is regulated by (Bombay) Act VII of 1887.
In conclusion it is worth while to notice, how seldom territorial chiefships gave rise in the Panjáb to landlord estates; and yet both on the frontier and in the interior, a division into smaller or larger local chiefships was once a general feature. Neither the genius of the people nor the policy of the Sikh rulers allowed such a growth. Ranjit Singh had made the chiefs his jagirdar, i.e. he expected military service and the support of effective troops in return for the Revenue he allowed them to take; and often when he thought they were getting too well off on an assignment of the entire Revenue, he would reduce them to be 'chahārami,' that is allowed them only one-fourth.

(c) Estates arising out of Grants in various forms.

We have two main kinds of grant to consider, one where the land, either waste or abandoned by former cultivators, was given on a direct title; the other where a grant of some Revenue privilege was originally made, and the right to the land has grown out of it, by a process practically the same as that by which the Revenue-farmer became landlord.

Direct grants of waste or abandoned land.—Direct grants of land to be cultivated and owned by the grantee have at all times been made. Sometimes the object was simply to increase the Revenue; the usual plan being to allow a very light assessment (or none at all) for the first years (during which there is much expenditure on clearing the land and little profit) and after that to charge the full rates. Often too, such grants would be made on permanently favourable terms, as a reward for service, or to encourage settlement in a country where some special inducement was necessary.

Proprietary titles by modern grants of waste land.—Under this class will also come those grants of waste land that were made in the earlier periods of British rule and under the first waste land Rules (p. 59): for then the grants were usually of the full proprietary right and possibly free of Revenue charges also. All proprietary estates of this class represent such simple instances of direct title to the land, that further explanation is unnecessary.

Revenue grants or assignments.—But a great many
existing land titles have originated in grants or assignments of Revenue which were never intended to include a landed right at all; these demand a little more consideration.

We have already noticed the system of Revenue assignments in connexion with the question 'what lands are liable to pay revenue?' (p. 52). But here we have to notice the subject from the tenure point of view. Many estates and landholdings, even though the Revenue privilege is now wholly or partly withdrawn, still owe their origin as landed interests to what was originally a Revenue-free grant. It may save a reference backwards, if I here remind the reader that the Mughal system always contemplated two kinds of grants of Revenue. One was in perpetuity or at least for as long as the object of the grant continued in existence; and it was always intended to convey a title to the land as well: it was a milk grant, i.e. an out and out gift of soil and Revenue both. The land perhaps already belonged to the pious, learned or decayed noble family, for whose support the Revenue charges were remitted; in that case the land became 'freehold'; or it might be waste and the grantee would himself bring it under cultivation; or at any rate it was so held that he would have no difficulty in becoming the superior owner. Grants of the milk class are called in'am; or more specifically, mu'áfí grants.

Jágir Estates.—But another large class of grants had nothing to do with the land-right. The Imperial territory was classified into two large divisions (adopted from the Hindu organization). There was the khálsa, administered by the Emperor's Diwán, 'A'mil, and other officials, the Revenue of which went to the Treasury: the rest was the jágír land (which included the frontier and outlying tracts) of which the Revenue was assigned to certain State offices and military commands, as already described (p. 53).

At first this system was regularly carried out. Free grants were issued only by the highest authority. Even the Governors of Provinces could not make them, except in the most distant Provinces like Kábul and the Dakhan. The assignments were for life; and no more Revenue could be taken than was specified
in the grant. But the time came when the decline of the Empire brought relaxed control and chronic impoverishment, and I have already stated (p. 54) how such grants began to be issued irregularly and even established fraudulently. Then it was that all kinds of grants became permanent because they were not surrendered on the death of the grantee. When British rule began, forged titles and pretended grants, backed only by the fact of present possession, were everywhere to be found. Under such circumstances a jāgirdār or other grantee easily usurped the right to the land as well as the Revenue privilege. And indeed in many cases it would be very natural for him to take it; for he might have cleared, at his own expense, large areas of the waste; he would probably have some private property of his own as a nucleus, and he could easily buy up a great deal more, and so complete a working title to the whole.

When the first British Land Revenue Settlements were made, the Administration was mainly concerned with the question whether, in the numerous cases of claim by grant, the Revenue should continue to be remitted (p. 55): but in Settlements which included an adjustment of landed rights, there was the further question whether the grantee was (or had become) proprietor or not. It might easily be the case, that a jāgirdār could show himself to have become the owner of an estate, and yet fail to satisfy the authorities that he had a good claim to hold it Revenue-free: Government would then assess the land and not continue any Revenue-free privilege, though the ownership was acknowledged.

In Bombay and Madras such grants became proprietary. —In Bombay it was found that the Marāṭhā rulers had often imposed a quit-rent (in the lump and without detailed valuation) on these tenures; this device avoided the odium of appearing to resume them. A number of estates having acquired in this way a fixed Revenue payment in the lump, are shown in the returns as udhaḍ-jama'banaḍ lands. The proprietary right was,

1 In that case the fixed payment is not liable to change at a revision of Settlement.
in these provinces, recognized as conveyed by a Revenue grant; and the lands were said to be 'alienated,' i.e. the State right, both in the soil and to the Revenue, had been parted with (p. 52).

When the inquiry was set on foot, detailed proof of the grant and its terms was generally waived on the grantee consenting to accept a 'summary Settlement'—which equitably determined the local limits of his grant, and imposed a moderate quit-rent or Revenue. If he chose to undergo the ordeal of a full inquest, it might be that he would succeed in establishing a valid grant to be wholly Revenue-free; but he was just as likely to fail, in which case he would get nothing at all.

The inām holdings in Madras were also settled in a similar way, and if allowed they were confirmed by title-deeds on the basis of a procedure called 'enfranchisement,' which was very like the 'summary Settlement' of Bombay. The grants to be admitted at all must have been in possession for fifty years: and if the claimant chose to prove the absolute freedom from charge and any other incidents, he might do so; otherwise all difficulty could be avoided by undergoing ‘enfranchisement,’ that is accepting reasonable limits for the estate, and a moderate fixed assessment (in some cases this was allowed to be redeemed).¹

In Northern India.—In Northern India generally, there was no universal rule that either the jāgīrdār, or the smaller grantee (mu‘āfīlār), was, or had become, proprietor; it depended on the facts and circumstances in each case.

In Bengal.—In Bengal the same remark applies; the rules which were acted on at the Permanent Settlement had nothing to do with the title to the land. All grants before 1765 A.D. (the date of the grant of 'Bengal, Bihār and Orissa' to the Company) were allowed as valid, and all others were more or less set aside: the details cannot here be gone into.²

Distinction between mu‘āfī and jāgīr not maintained in modern times.—In Northern India, the grants in mu‘āfī and in f jāgīr are now hardly distinguished. Properly speaking, the former indicates the 'pardoning' of the Revenue charges on a man's own land, or on land that had been granted to him; and it does not involve service or keeping troops; the latter means an assignment of the Revenue of a tract of country,

¹ The Madras Commission (since 1858) dealt with 444,500 claims affecting some six and a-half millions of acres (see note ² p. 55).
² Information will be found in L. S. B. i. vol. i. p. 42 ff.
always on condition of service. If any distinction now exists, the jāgīr is usually the larger political grant, and the other is the smaller personal grant. The term inam (inʿām) is more commonly used in the West and South (where ‘alienated lands’ are spoken of) and muʿāfi in the North. It would be interesting, but it would occupy too much space, to enumerate the local names by which the smaller inʿāms or free grants are known, and the various purposes for which they were issued: these have been noticed in general terms (p. 53). The regular jāgīr or service grants were more uniform; being in all cases, to pay for service, to support troops, to provide for the administration of frontier tracts, or for the restoration of land that was out of cultivation.

Ghātwaḷī Tenure.—One variety, however, may be indicated, namely the grants called ghātwaḷī, where a chief was allowed to take the Revenue of a hill or frontier tract on condition of maintaining a police or military force, to keep the peace and prevent raids of robbers on to the plain country below. The curious feature is that the benefit of the grant was distributed through all the grades of the militia forces: the head chief got his (larger) share, and every officer, and every man of the rank and file, had his free holding of land. Landholdings of this kind exist at the present day in several districts.

General observations.

In concluding this notice of the greater landlord estates, a few general observations may be permitted.

Subdivision of large estates on exactly the same principle as villages.—It should be noted that though the divisions of an estate into sections (tarf, patti, &c.) are more characteristic of villages, yet many larger estates, where there is no rule of primogeniture to keep them intact in the hands of the eldest heir\(^1\), divide up exactly on the same principles; they break up into tarf and patti also\(^2\). Indeed there is really (as I have said) no

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\(^1\) Whenever it is thought desirable to keep the higher class of estates from breaking up (e.g. Oudh Taluqdars, Ahmadābād Taluqdars and those in Ajmer), regulations are, as far as possible, introduced establishing primogeniture.

\(^2\) In the Ambāla district (Panjāb) there are certain jāgīr families—
sharp line to be drawn between the estates that consist of one village (or of shares extending over two or three villages) and the larger class of estate embracing twenty villages or more; and whenever a larger estate is from any cause in a condition of decay, it is likely to dissolve first into a number of co-parcenary village estates.

Tendency of Revenue farming to become landlord right. — It is curious also to notice how invariably Revenue farming tends to develop into a proprietorship of the land itself, whenever, that is, the Revenue farmer is left uncontrolled, the government being weak and inefficient. In Bengal this growth had been so steady and so complete, that though repeated efforts were made to get rid of Zamindârs, they were always unsuccessful; and at last it was found politic to consolidate the position and regulate it by law, rather than to ignore it. When, however, the Revenue farmer is confined to his duty by effective control, as in the Maráthá States, cruelly as he may oppress the people, he does not become landlord ¹.

Territorial position as Ruler tends, in its disruption, to become a local landlord interest. Stages of the process.— Another very remarkable tendency is for the higher castes and members of ruling families not to pass away altogether, in the frequent event of the disruption of the whole kingdom, or of schisms in the family group, but to descend from the ruler's place and cling to fragments of the old territory either as tributaries and Revenue managers of the conquering State, or even without the aid of such recognition. At first they may maintain a position of superiority, not interfering much with the land, and content with the grain-share or rent; but as time goes on, and the suc-

descendants of Sikh horsemen who conquered a number of villages and obtained part of the Revenue or State share without getting any hold over the land itself. This right having become prescriptive, is continued solely in the form of an assignment of a fourth or other share of the Revenue to the families who have no concern with the land in any way. This family 'cash-estate,' if I may so call it, is nevertheless distributed in shares, patti, &c., among the branches of the family exactly as if it were a landed estate.

¹ The case of the Central Provinces málguárás is no exception; they were made proprietors by the British Government in pursuance of a particular policy and in conformity with a particular Revenue system.
ceeding State assesses the landlord family like any one else, they
descend more and more to the rank of peasant proprietors, being
reduced perhaps to working the land themselves, only they still
retain a family sense of union and a certain feeling of superiority.
Their neighbours, all permeated with caste ideas, recognize
this too; and long after any tangible privileges or distinctions
have passed away, the remote descendants of the once superior
families are still distinguished as mirāṣṭādār or by some
such title.

This change to a landlord character facilitated by the
old territorial and administrative organization.—The facility
with which estates (groups of land under one title) have been
formed in India, whether Rājās' estates, Chiefs’ estates, jāgīrs
or village-estates, is due to the ancient customs of territorial sub-
division, which really are nothing else than the divisions of the
conquered or occupied area allotted to the sections of the
original Tribe. Each branch, according to its seniority, has
a graded place in the organization, and its chief a certain territory
appropriated to him.

Origin of groups of eighty-four, forty-two, and twenty-
four villages locally formed.—The Hindu kingdoms were
nearly always small; and when we hear of great Emperors
like Chandragupta and Asoka, or extensive kingdoms like
Vijayanagar, it was that they took the lead as Suzerain
over a confederacy of smaller States, each of which was, as
regards its internal affairs, practically independent. Not only
was the kingdom itself of limited size, but the central feature
of its constitution was a further division into 'feudal' territ-
ories: the best land for the Rājā, and the rest for the great:
officers (heads of clans); frontier and wild tracts were held by
the chief selected for his special ability as Senāpati or Commander
of the forces, and by special grantees. As to the principle on
which the limits of the royal and other shares were fixed,
this depended largely on value, on the natural boundaries
and rivers, or on distinctions of hill and plain, jungle-land and
alluvial soil, &c. But we can everywhere trace a tendency in
occupied country to allot by groups of villages; we find the
chaurassi¹, or territory of eighty-four villages, and the half of that as the béalisés, and so forth. The Land Revenue was taken by the chief, as by the Rájá himself, each on his own tract. The Rájá took no Revenue from the chiefs, or in their estates; though he could demand benevolences or aids in time of war, and also a fee on succession. The real bond of union was the investiture by the Rájá and the necessity of furnishing the quota of troops for the royal service, and coming in rotation for ceremonial attendance at Court.

Inside the territories thus allotted, there was again the administrative division into villages, groups of villages, and districts². All these divisions naturally provided the basis of so many different sized landed-estates, when the rule was lost. Speaking broadly, the Chief’s territory or perhaps the whole ‘Ráj’ became the Zamindari; and the pargana, under a lesser chief, became the Taluqdari estate; smaller lordships survived as single village-estates, or at most as estates consisting of groups of villages.

Section III. Formal Recognition under British Rule of Rights and Interests in Land.

Two principles or foundations for right in land.—The general outcome of the preceding brief investigation of tenures, as far as it has gone, has been to establish two principles, or two bases, on which all rights of ownership in land may be said to rest. I am speaking of rights of independent holding, and not merely of those of a tenant who recognizes that the land is not his, and that he holds under, and pays rent to, some one who is the real owner.

1. There is the right of the individual landholder—probably the most ancient form of right of which we have any proof—the right depending on the occupation of a plot of land, and the

¹ As to the prevalence of this division, there are some interesting details in Beames’ Elliot’s Glossary, s. v. chaurassi.
² As we read in Manu of the ‘lord of ten villages,’ the ‘lord of 100 villages’ (i.e. district or pargana), and so on.
subsequent clearing of it from the trees and perhaps dense jungle that covered it.

2. There is also another kind of right—that which originates in conquest, grant, or natural superiority; it frequently appears as, in reality, the shadow of what was once a territorial or ruling position. Right in land of this kind, is spoken of as the 'inheritance right'; and it resides either in one landlord, or (commonly) in a joint body having lordship over a village or a larger estate, as the case may be. It is the existence of the right of one kind or of the other, which has made the holding, or the village, or the great estate (as the case may be), the natural unit with which the Land Revenue administration deals, and which it assesses in one sum.

Necessity for consolidating and defining rights.—In order, however, that not only should the right person be made liable for the Revenue, but that the right person should be secured in a just enjoyment of the remaining profits of the estate or holding, it was necessary to place the title to land on a secure basis (pp. 64, 5).

Historical retrospect regarding right in land.—It is necessary for us to take a very brief glance backward at the history of landed right in India, in order to explain how the customary bases of rights and interests in land were dealt with under our Anglo-Indian legislation.

Right by first clearing alone known to ancient times.—Whatever may be the real date of the Laws of Manu—whether it be as early as 500 B.C., or whether the form in which the work now stands is as late as the fifth century A.D., we have no earlier record, as far as I am aware, of prevailing ideas on the subject of right in land; and it is remarkable that Manu says 'land is his who first cleared away the jungle as the deer is his who first brought it down.' Throughout the whole work the slightest trace can be found of the superior ownership by 'hereditary' right (mirāsī as the Moslems called it), still less of anything resembling a holding in common.

The right by first clearing, is still essentially the basis of the raiyatwāri holding; and of that of the humbler classes, now
become tenants under landlords, who claim to be privileged or hereditary tenants because their ancestors first cleared the land. The superior right by grant, conquest, colonization, &c., now summarized in a number of vernacular designations, all signifying a right by inheritance, is a subsequent or at least an independent growth.

Superior right as territorial ruler not as landlord, originally claimed by royal and noble houses. Conquering rulers at a later date claim to own all the land. Manner in which this claim was dealt with by the British Government.—In early times therefore, we are not surprised to find the old Rájás and chiefs content with the territorial rule; no sign of any claim as landlord or direct owner of all land, can be traced. It is equally certain that in the days of Mughal rule, private right in land was recognized. But in later days of continual conquest and change of dynasty, and especially when the great deputies of the Mughal Empire, in Oudh, Bengal, Hyderabad, &c., set up as independent sovereigns, and when Maráíhá chiefs conquered territories all over Central and Western India, the claim was extended beyond the old right to the State-share, and the right to the waste; it was made to embrace the entire area. In 1765, it was certainly a fait accompli, that the ruler of every State in India was the superior landlord of every acre. The rulers of Native States make the same claim to this day, as applying to all land which they have not granted Revenue-free. When the British Crown succeeded, this right passed, on all principles of law, to it. But our first Governors, e.g. Lord Cornwallis, whether or not they were aware that it was not truly an ancient right but the result of later conquests and usurpations, at once perceived that it was impolitic; and while the first Regulations were not always very exact or consistent in their language, it may safely be stated that the British Govern-

1 The landlord group may also have ‘founded’ the village, and so unite the claims of the first clearer with that of the superiority of caste and family as overlord: but their founding was not work with their own hands; hence in a subordinate grade, the tenant who has actually dug up the fields, also bases his right to consideration—and that more directly—on the ‘first clearing’ (bīla shīdīf, and other phrases).

2 For some authorities on this point see L. S. B. I. vol. i. p. 226 ff.
ment accepted the right only so far as it afforded a convenient basis or standpoint from which to declare and define private rights.

**Private right as landlord recognized.** To all Zamindārs, Taluqdārs and grantees expressly.—Our first dealings being with the great Zamindārs of Bengal, it was there first declared by law, on grounds of policy as well as on a recognition of facts, that those landholders were full owners as far as might be, consistently with the just rights and interests of other parties. In Madras the same declaration was made to the Zamindārs and other ‘actual proprietors.’ It was afterwards made to the Taluqdārs of Oudh; and generally either by law, or by the grant of title deeds, to all sorts of proprietary grantees and estate holders, in all parts of India.

**And to village landlord bodies. And to heads of villages in the Central Provinces.—** It was also made, by direct inference from the language of Regulation VII of 1822, and by the terms of the records of Settlement, in favour of all the landlord-villages of Upper India, where these were independent and not in turn subject to a superior landlord. It was similarly declared in the case of the mālguzārs of villages in the Central Provinces. In all these cases the right was essentially a proprietary right; as full as possible, i.e. including all rights (not inconsistent with law and custom) of disposal by gift or will, sale or mortgage, but always limited by the right of the tenants, ‘subproprietors’ or others, entitled to share in the benefits of the land.

**Government is then no longer the universal landlord.**—In the face of declarations affecting so large a portion of the cultivated and occupied area in British India, it is impossible to go on speaking of the (British) Government as universal landlord (see p. 49).

**Modified declaration of Right in individual holdings in the Raïyatwári Provinces. Reason for not defining the raïyat as formally ‘proprietor.’—** But in the case of the individual holdings in raïyatwári villages in Bombay and Madras, the case was different. Whatever may be the real theory of origin, these individual holdings represented, at the time, a some-
what weak form of right, because the cultivators had long been so harassed with Revenue burdens and local exactions, that their hereditary attachment to the land had to contend with the fear of being unable to hold it without starving; instead, therefore, of welcoming any legal fixation of their right which would have secured it, but also bound them to be responsible for the Revenue whether they cultivated or not, they desired to have a freedom to hold if they could, but to let go if their means failed. It was in Madras that this was first (though slowly and reluctantly) recognized: and it became an essential feature in the raiyâtwâri system that the landholder might always (by giving notice at a proper time) relinquish any field or definite part of his holding, and thus escape the Revenue liability. In this state of things, it has been usual to avoid calling the 'raiyat' owner of his land eo nomine. In Bombay he is called the 'occupant,' and his right as such—hereditable, transferable and liable only to the Revenue assessment and to any other payment that may be due to some superior—is defined by law. In Madras there is no general Land Revenue Act, and there is no legislative definition of the raiyat's tenure; but the question has been discussed in the Law Courts, and practically the right is the same as that defined by the Bombay Code: in common language, it is a right which is theoretically, rather than practically, distinguished from a proprietary right. In other provinces, where individual right is the customary tenure, a similar plan has been followed: the Burma Land Law and the Assam Land Regulation define the 'landholder's' right, without calling it ownership.

In these cases therefore (but not otherwise) it is open to any one to argue, that there is a residuary or ultimate proprietary right remaining to the State: and that is why, in the Provinces where land is held by grantees, (in'âmdâr), these lands (in which there may be a proprietorship in set terms) are said to be 'alienated.'

1 It will be remembered that in every landlord village or estate, because the owner has a secure title, he has also the responsibility for the (moderate) Revenue; he cannot get rid of the liability by not cultivating, or by throwing up the estate.

2 And where there is some kind of overlord right, as in Bombay, the holder of it is called the superior occupant and the other the inferior.

3 See L. S. B. I. vol. iii. p. 128 ff.
Section IV. Sub-proprietary Rights in Land.

Superimposition of landed rights and interests one on another.—It has been already remarked that Indian tenures are largely the result of changes and growths, the fruit of the wars and incursions, tribal and local conquests or usurpations, and of the rise and fall of ruling families: the right by conquest or 'birthright' supervenes upon the right by 'first-clearing.'

There was no systematic or political attempt, at any time, to remodel land-tenures formally; but claims grew—one set of rights was superimposed upon another. If the right in land may be assumed to have been, at first, a simple thing—a tribal group settling down in one place, forming villages, and allotting separate family holdings; in any case circumstances soon altered: a scion of the ruling chief's family got a grant of the State share in a village, and his descendants, in the course of years, were found to have appropriated (as a joint body) the whole; the Governor created a Revenue farm, or granted a Jāgīr, and a new overlord right was established; and as changes went on, the lords or noble families that first had the dominant position, in their turn fell into the second rank under a new lord who arose over them. All the former right-holders then strove to maintain some recognition of their lost position. When once a landlordship is established, the landlord himself feels bound to recognize the older claims in some way; and he allows subsidiary tenures, which are often permanent rights. Sometimes also he creates similar but new rights to provide for some part of his estate which he cannot manage himself. In any case, various grades of right are found to co-exist; some being very nearly proprietary, others being more and more distinctly what we should call tenant-rights. The people distinguish between 'resident' and 'non-resident' cultivators, or one kind of landlord and another; but such customary distinctions have not the effect of a definition in an Act of the Legislature.

Security of legal position to the person at the head, necessitates definition of the rights below him. Difficulty of the task.—When once the necessity of defining the legal position
of the proprietor or other head primarily interested and responsible for the estate or holding, arose, it followed that, however defective our first perceptions of the question may have been, a legal security for all other secondary and tertiary interests was necessary also. And this was difficult, because the incidental and often haphazard character of the changes—the fact that all were due to gradual processes of growth and decline—resulted in this, that the different interests appeared in all shades and degrees of strength or weakness: here, was a landlord who had obliterated all rights but those of bare tenancy, below him: there, was a landlord whose position was so doubtful that it was a debated question whether he should be recognized at all: here, were strong tenants still proudly remembering that their forefathers were once great jāgirdārs or even territorial chiefs; there, were others whose only anxiety was not to be bound down to the land, but be allowed to give it up directly they felt unable to pay the rent.

General plan of the legal recognition of various interests.—Broadly speaking, the way in which the matter has been dealt with is this. In raiyatvāri countries, the holdings were generally simple; the mass of holders farmed the land themselves, or employed tenants about whose contract position there could be no doubt: at most there would be some overlord whose rights were confined to a rentcharge with no power of ejecting the actual occupants. Therefore the Revenue law simply regarded the actual occupant of the holding, and dealt with him. But in all landlord estates, there might be many varieties. In some there might be a Rājā or other magnate who was clearly the landlord, or actual proprietor of a considerable tract of country. In other cases, there would be a general claim of some magnate over a tract of country, but his direct interest was so limited that it was regarded as only an overlord interest, and was called a taluqdārī right, represented by the receipt of a cash payment calculated at a certain percentage of the State Revenue. In others, there might be a number of landlord villages—all of some conquering or colonizing tribe, with nobody over them, and with none but tenant rights under them. In others, again,
there might be (1) the immediate landlord, or 'actual proprietor' (individual or co-sharing body); (2) certain persons who on various grounds were called 'sub-proprietor' or 'inferior proprietor'; (3) old tenants, who were 'hereditary' (maurusi) or 'occupancy' tenants; and (4) tenants at will.

And of the classes (3) and (4), be it remembered, that in a large number of cases they do not represent any contract tenancy, but merely a grade of interest which has gradually fallen, in the course of generations, to an indefinite subordinate position under a superior; we of the West can only designate it by the term 'tenant,' but our Legislators (in Bengal, e.g.) have often preferred the vaguer native term raiyat (p. 74 note). The distinction, however, may be easy to draw on paper; but when many years have passed away, an ignorant peasantry does not easily retain proof, if it even has a tradition as to its origin, as to which class it really belongs to. In all these cases it becomes a question of no small difficulty how to define and to characterize the different grades of right.

In consequence of these gradations of right, it is possible to represent landed interests in India in a kind of scale or table. Regarding the Government with its Revenue rights, and its occasional direct ownership of land, and as the fountain head of rights, as the first degree in the scale, and the actual cultivator, wherever he has any permanent right to occupation, as the last degree, it may be there is one, or two, or more, interests intervening. Thus:

<table>
<thead>
<tr>
<th>One Interest.</th>
<th>Two Interests.</th>
<th>Three Interests.</th>
<th>Four Interests.</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. The Government is sole proprietor. (Khas estates, alluvial islands, &amp;c. in Bengal).</td>
<td>1. Government. 2. The raiyat or 'occupant' with a defined title (not a tenant). (As in Madras, Bombay, Berar; &amp;c.).</td>
<td>1. Government. 2. A landlord. (Zamindar, Taluqdar or a joint village body regarded as a whole.) 3. The actual cultivating holders, individual co-sharers, &amp;c.</td>
<td>1. Government. 2. An overlord or superior landlord. 3. An actual proprietor or landlord (usually a village body). 4. The actual cultivating holders, individual co-sharers, &amp;c.</td>
</tr>
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1 Or, in Bengal, 'tenure holder' is the technical term.
LAND TENURES.

(1) Sub-proprietary rights.—Practically all the intermediate degrees are recognized either (1) as ‘sub-proprietary’ or (2) as rights of privileged (or ‘occupancy’) tenancy. Wherever the right is sub-proprietary, the holder is owner in full as regards his particular holding; he has, however, no part in the whole estate or its profits, nor a voice in its management. There may be locally incidental conditions and features of his tenure which vary. When the right is not so strong, it is admitted in the tenant class, but with occupancy rights in several degrees, as we shall presently note.

Local names and customary forms of tenures not proprietary.—As regards the local names representing these tenures, they are very various. Sometimes the names remind us that the rights are the vestiges of an older, different position; more frequently they indicate the purpose for which the tenure is created; and still more frequently merely indicate the nature of the privilege, or the features of the tenure as regards its extent, duration, and the payment to be made. I can only here give a few selected examples of subordinate rights or tenures.

Subordinate rights in Bengal. ‘Tenures’ and their privileges.—In Bengal no grade of such right has been formally defined as ‘sub-proprietary’ in the sense above noted. But the ‘tenure’ of the Bengal Tenancy Law is practically of this class. Many permanent interests (heritable and transferable and held at a fixed payment and often called taluq, sometimes jol), though not entitled to independent proprietary recognition, have all along been considered entitled to protection; and the...
Tenancy Act of 1885 has put the matter on a clear and definite basis as far as possible. The Act does not indeed define what a 'tenure' is, as it was found impossible to do so; but there is a presumption that the larger subordinate holdings (exceeding 100 bighás) are of this favoured class; and it is for the landlord to rebut it. The practical privileges of fixity of holding and unenhanceable rent-payment are secured.

As an example of such rights I can only allude to the patni or patni-taluq—in this case a modern right created by the Zamindar. When a landlord found that he was not fond of land management, or that some one else would manage better than himself, or still oftener, when a portion of his estate needed development and he had not the means or the inclination to undertake the work personally, he would create a patni; this in effect consisted in giving a permanent managing lease for a part of the estate: the contract specifies a fixed sum representing a rough rental value (either estimated by bargain or as the total of existing rents) of the tract, and the lessee or patnidar binds himself to pay that amount, course being allowed all rights of management, breaking up the waste, enhancing rents, &c. In time the patnidar will probably have a large profit, and then in his turn he may divest himself of the soil of direct management or (oftener perhaps to share the work of developing a waste tract) he will create (by 'sub-infeudation' as it is called) a patni of his patni, and there be a dar-patnidar: and this process may again be repeated to a sirdarpatnidar, and even further. Patni tenures only began to exist in the present century; and it is in 1819 that we first find a Regulation dealing with them.

There are many other 'tenures' of which the feature often is that they are perpetual (istimrawid) and at fixed rates (muqarrar); often both.

Sub-proprietary in village estates.—In Northern India (and the Central Provinces) the common form of secondary right occurs in (landlord) village-estates where the present proprietary body has grown up over an earlier group; and here and there a group of fields is held by a person or family whose right is so strong as to be recognized as proprietary quasi the particular plot; i.e. the holder pays no rent, but only the Government Revenue and cesses; and of course there is no question of ejectment or enhancement of rent. But the holder does not otherwise share in the general rights and profits of the village, nor has he as a rule any voice in its management. In the Central Provinces, owing to the more or less artificial character of the
grantee 'proprietor' of the villages, a number of persons were allowed to hold their lands on these terms, and were here called málik-qabża, or málik-maqbūza (lit. owner of the plot in possession). The same term is made use of in some cases of the kind in the Panjáb.

In Oudh, where the Taluqdār's estates are overlordships over a number of villages, (often landlord village-communities), it was occasionally the case that an entire village had preserved its rights almost intact; it had been granted the management of its own entire area, and that permanently, on condition of making a certain rent-payment to the Taluqdār. The same condition of relative freedom was found to be maintained by villages in other districts also—in those cases where a territorial magnate had acquired the general landlordship. In such cases a 'sub-settlement' (mufassal Settlement of Regulation VII and the earlier Revenue Reports) would be made; this would fix the amount to be paid by the village to the landlord, as the Settlement itself fixed the payment by the landlord to the Government. Thus all questions of enhancement, and of change of any kind—at any rate for the term of Settlement—were obviated. For Oudh, a special Act (XXVI of 1866) prescribed the conditions under which such a privileged position was conceded. In the majority of cases the village body had not secured such a position as a whole; but the Settlement Records would still recognize sub-proprietary rights in individual plots, e.g. the grove planted by a family; the old sir or special holding of a family in its former landlord position; the field granted by the Rájá

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1. The persons who acquired such rights were sometimes former Revenue assignees who had improved the land and planted gardens, or had other claims to consideration. In some cases they were former proprietors who had retained possession of these lands, while the rest had been seized on and cultivated by some powerful family which had supplanting them. In other cases they were old cultivators who, though not descended from the same ancestor as the proprietary body, had been called in to bear the burden of the Revenue in old days, and had never paid any rent over and above their share of the Revenue and cesses. In the Gujrát district (Panjáb), at the time of the first Settlement, ten per cent. of the total cultivated area was held by such persons.

2. In Oudh the attachment to groves is a marked feature. See L. S. B. I. vol. ii. p. 243.
for the support of a household whose head had been slain in war; and many others.

Such sub-proprietors not easily distinguished from privileged tenants.—In these cases of right surviving in individual plots, it was not always easy to draw the line between the sub-proprietor (or 'plot proprietor') and the 'tenant' privileged with occupancy rights. Doubtless, some persons who in one district would have been recorded in the first, were in other places recorded in the second, category. But practically the distinction was not of much consequence, when once a Tenancy Law made it clear what the rights of the class of 'occupancy tenant' were, and it appeared that those of the highest or most privileged grade, in practice differed but slightly from those enjoyed by a 'plot proprietor.'

The rights classed above as (2) tenancy rights, are so important and numerous as to demand a separate section for their consideration.

Section V. Tenants.

Tenant Law.—Every province has its own law regulating the subject of Tenancy. The precise circumstances of the land, and the history of the growth and decay of rights, are naturally different in each; and so the legal provisions need to be different, although a generally similar policy will be found to pervade them all 1. I may therefore indicate the general principles on which the protection of the rights of the Tenant class has been effected.

Features of tenancy common to all provinces.—The

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1 The Bengal Tenancy Act is VIII of 1885 (in some districts the older (Bengal) Act X of 1859 is still in force, and some districts have special laws applicable to them alone); North-West Provinces XII of 1881; Oudh XXII of 1886; Central Provinces IX of 1883; Panjab XVI of 1887. In Bombay the few provisions requisite are contained in the Revenue Code (Bombay Act V of 1879), chap. vii. In Madras there is a Rent Recovery Act (Madras) VIII of 1865, which provides all that is necessary for the protection of tenants in general. The other provinces have no need for special Tenant Laws; but such provisions as are necessary have been inserted in the Land law; e.g. in Assam Regulation I of 1886.
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remarks already made about the way in which landlord and overlord rights grew up, over, and often at the expense of, other rights in land, are illustrated not only by the existence of grades of proprietors; they are far more widely illustrated by features of Tenancy in landlord estates. As time goes on, and the dominant grade of landlord confirms its position, the whole of the original landholders tend more and more to sink, along with the landlord’s own located tenants and followers, into one undistinguishable mass of non-proprietary cultivators.

A certain number, no doubt, of the strongest rights succeed in asserting themselves: the landlord has probably found it worth while to conciliate some of the old cultivating body by granting a lease on terms which really attest a former superior position; or otherwise, there is distinct proof forthcoming, that a tenant has all along paid a fixed rent, or a rent which only represents a share of the Revenue burden imposed by the ruler, and that he has a permanent tenure: or there may be no sort of doubt that a tenant is an ex-proprietor. Thus there are always some tenants whose case can be more or less easily explained; and every Tenancy Act will be found to make provision for what I may call the ‘natural’ class of protected tenants;—those in whose favour definite facts can be asserted and proved.

But all rights are not thus definable. Where the landlord class is itself non-agriculturist, and where its origin can be largely traced to a position as Revenue farmer or grantee, or where it represents the fallen families descended from once ruling houses, we may be quite certain that a proportion of the tenants represents the old landholding class who originally had tangible if not legally secured rights in the soil, but has now sunk to the tenant level. And even where the tenants have, at some more or less distant time, been located by the present landowners, or their ancestors, still they may have been located on special terms or under circumstances which give a claim to a privileged position. Yet in all these cases definite proof of the circumstances and the origin of the tenancy may be difficult to obtain.
Difficult of distinguishing classes of tenants.—As a matter of fact, in the North-West Provinces and Bengal, it was found excessively difficult to draw a line between tenants who represented the old landholders and those whose position was really due to contract. In the course of time rights become obscured, especially when possessed by an improvident and ignorant class: and even in the case of those later tenants who really were located by the landlords, and had nothing special about their origin, there was always this (not unimportant) feature in their favour, that they had been called in at a time when no one thought of evicting tenants because they were far too valuable;—tenants were in demand, not land.

The twelve years' rule.—Consequently in Bengal and the North-West Provinces, where this difficulty was especially felt, the Legislature in 1859 (Act X of 1859) cut the Gordian knot by enacting a general rule, that where any tenant had continuously held the same land for twelve years, he should be regarded in all cases as an 'occupancy tenant.' The later laws have not departed from this principle: but where the tenant has also certain special circumstances in his favour (over and above a mere twelve years' possession) he may be recognized as not only occupancy tenant, but as having superior privileges, and perhaps be called by a distinctive name.

Tenant right controversy. The twelve years' rule not always needed.—The general rule was not, however, accepted without a somewhat fierce discussion. As for years past the practical power of the landlord (under the influence of Western ideas of landlord and tenant) had been continually growing, it was naturally to be expected that some authorities would

1 This rule is retained *totidem verbis* in the existing 'North-West Provinces Act.' Elsewhere, it has been so far modified that holding of any land in the same village (the individual fields may have changed) gives the right: this prevented a landlord's defeating the intention of the law, by making a tenant give up his fields and take others in their place before twelve years were out. On the other hand, this evasion could not be practised with the large class who had already held (themselves or their ancestors) for more than twelve years: and this simple fact was comparatively easy to prove where it would have been difficult to establish more specific incidents of a former position; hence the North-West Provinces were satisfied to retain the narrower rule.
be in favour of the landlord; and others inclined to back the
tenant. The Legislature had the difficult task of holding an
even balance between the two extremes. In certain provinces
the existence of what I have called the natural classes of
privileged tenant was so clear, and the circumstances of the
landholding interests were such, that there was no occasion for
any further general provision. In the Panjáb and Oudh the
'twelve years' rule' does not apply. In the Central Provinces
it is only applied in a special and limited way. In these three
provinces, however, as I have already mentioned, a number of
privileged landholders were recognized as 'sub-proprietor' or
proprietors of their holdings. And when this class was provided
for, there was less difficulty in restricting the occupancy tenant-
right without recourse to any broad artificial rule.¹

The position of tenants never defined before the days of
British rule.—It should always be borne in mind that there was

¹ These provinces, however, did not escape the usual troubles of divided
opinion and discussion. In the Central Provinces, it was at first directed
that Act X of 1859 should be in force; but under such conditional circum-
stances, that tenants who would have no claim except in virtue of the
twelve years' rule, were put down in the records as 'conditional occupancy
tenants'—meaning that their position would depend on the ultimate
retention or rejection of Act X of 1859. But other tenants were regarded
as so well entitled to protection that they were recorded as 'absolute
occupancy tenants'—whose rights were in any case to be respected. It is
with regard to these latter that the controversy arose, chiefly on the point
who was to bear all the burden of proof. As it has turned out, a modified
tenant law was passed (Act IX of 1883, amended in 1889) and the position
of all tenants has now been adjusted. In the Panjáb, Act X of 1859 was
never in force, but the first Land Revenue Settlement Records were framed
on the North-West Provinces models under which the prescribed forms of
register contained columns adapted to the (there legal) distinction between
twelve years' tenants and others: hence, in several Settlements, the
recording officials showed a number of tenants in the 'occupancy' columns
by reason only of a certain number of years' holding. This, legally speaking,
was not tenable. Thereon arose a long controversy about revising the
eñries: a 'compromise was ultimately effected: and the existing law
allows, as one class of occupancy tenant (the rest being the natural classes),
those whose names were maintained in the Records of the first Settlements
(as revised). In Oudh, also, a controversy arose as to whether the
provisions of the Sub-Settlement Act (determining the case of sub-pro-
prietors), and the Tenant law provisions regarding the natural classes of
privileged tenants, were really sufficient; and whether justice did not
require a more extended recognition of occupancy rights. The question
was settled by the revised Tenant Law of 1886, which did not enlarge the
occupancy class, but gave certain privileges to all tenants in the matter of
a seven years' term without further enhancement or ejectment.
one feature in agricultural life which made it possible to raise an argument, when it came to be a question of securing any class of tenant by giving occupancy rights. It is simply impossible to point to any time when there was any law that a tenant (whether under a person practically the landlord, or under the State regarded as landlord) could not be ejected, or have his rent raised so that he could not afford to keep the land; there was, no doubt, a certain popular feeling on the subject; notably that the descendant of the first clearer of the land, or one who had helped to found a village, had a permanent hereditary right; on the other hand, there was also the principle that might was right:—in the case of every despotic ruler and every land officer under the pressure of stringent demands from the Treasury Department. Whatever might result from the conflict of these two sentiments, there was this important corrective, that landlords never wanted to turn out a cultivator as long as he would work diligently—they were only too eager to keep him. Consequently, the right to 'eject a tenant' was not a matter that occurred to any one to consider; while as to 'enhancement,' if an over-zealous Collector or a greedy contractor made his demands so high that the cultivator was forced to take flight, he would readily find land to cultivate, and protection for his person, on a neighbouring estate. This must naturally have secured the cultivating class, independently of the sentiment of hereditary right above mentioned. Fortunately, also, this hereditary sentiment made the old tenants strongly attached to their lands; and they would strain every nerve to pay a high rental rather than abandon the ancestral holding. Naturally then (as without cultivators there is no Revenue), all tolerably good rulers encouraged and protected, if they somewhat highly rented, their old resident tenants.

Natural distinction of Tenants.—Speaking of the 'natural' classes of occupancy tenant, there is always a well-known distinction between settled or 'resident' tenants (many of whom had held their own lands—as they once were—from the first) and casual or 'non-resident' tenants. And there was a not inconsiderable class represented by ex-proprietors—people once themselves landlords, but who in the changes and chances of time had lost their position, but could still point to the fields

1 Though the temptation to put a heavy rent on tenants who would rather pay than lose their dearly cherished ancestral lands was often yielded to, still oriental rulers and officials were extremely skillful at squeezing and letting go in time. They always knew how to stop before driving a good tenant to despair. Only a few villainous tyrants and land- contractors, who had a temporary chance, acted otherwise. Unfortunately, however, the tenant class came to acquiesce in a state of things that kept them in a perpetual state of bondage; living near the edge of necessity, on a bare sufficiency with no surplus, they had to work for their lives, and could have but small enjoyment in them.
that were their sir or spécial holding (p. 79 note). And similarly there were ex-grantees (mu'āfidār, jāgīrdār) who had claims to consideration of various kinds.

Remarks on 'ex-proprietary' tenants.—It is important to remark on this, that everywhere in India, the loss of a proprietary (or superior) position on land, and the descent from a landlord, or a co-sharing right to a tenant position, does not always, or even frequently, imply the actual loss of cultivating possession of at least a part of the land. To this day if an unthrifty village co-sharer gets into the toils of the money-lender, and first mortgages his land, and then submits to the foreclosure of the mortgage, he does not leave the land; he cultivates as before; only that now he is tenant of the purchaser, and has to pay rent in cash or kind. And the same thing always happened when a purchaser or other person obtaining the landlordship by grant or aggression, was not of the agriculturist class. He could not till the fields himself; and unless (exceptionally) he wanted a better class of tenant, he would retain the quondam owner or holder of the fields: very often a new overlord would be unable to get other tenants, or circumstances compelled him to conciliate the existing holders.

Tenants who took part in the founding of a village.—Another natural class of tenants with rights, is represented either by the old dependants, servants, or humbler relations, of the village founder, who came with him to the work of establishing cultivation, and helped him in sinking the wells and building the cottages (see also p. 73): these might never pretend to equality with the landlord family, but, they were hereditary tenants in virtue of having shared (or wholly performed) the labour of digging out the tree-stumps and clearing the jungle. And where, in after times, Revenue burdens pressed, and tenants were called in to till additional land, and thus make up the total sum, their invaluable assistance was secured by the offer of many privileges: among others they paid nothing but their share of the Revenue, as, indeed, might be expected ¹. If after-

¹ It may be added that custom very generally recognized that old resident tenants had a right to plant trees, sink wells, or make improvements
days of prosperity enabled the landlord family to exact some small percentage payment or fee, it did not alter the nature of the case. All tenants of this kind at the commencement of British rule, represented a class that must have been established for many years if not for generations, and they were clearly entitled to legal protection.

It will now be advisable to enumerate the 'natural' and 'artificial' classes of tenants contemplated by the different Laws.

Features of the Bengal Tenant Law of 1885.—In Bengal, I must confine my remarks to Act VIII of 1885 (which, however, applies to all the oldest and most wealthy permanently settled districts). We find first of all a distinction (already alluded to) as to raiyats (for they are still so classed) who are 'tenure' holders (p. 130).

'Raiyats at fixed rates' are the highest class of tenant, and have practically very much the same privileges as the 'tenure-holder.' The rent cannot be enhanced, and the holder cannot be ejected except for some express breach of the conditions of the tenancy. All other privileged tenants are grouped together as 'occupancy tenants'; and the term includes (a) all persons who acquired the position under Act X of 1859 or other law, or by custom, prior to the passing of the Act of 1885. (b) persons called 'settled raiyats,' i.e. persons who have held land (not necessarily the same fields) continuously for twelve years, in the same village. The twelve years may be before the Act or after it, or part before and part after (so occupancy rights can go on growing).

All other tenants are 'tenants at will' and have only the benefit of some general protective provisions, which, however, are valuable. Some rules also are enacted regarding 'sub-tenants,' i.e. tenants of a tenant.

The North-West Provinces Act XII of 1881.—In the North-West Provinces, there are, in the permanently settled districts (Benares division), certain tenants at fixed rates just as in Bengal.

1 By the use of this term it is not intended to imply any objection or disparagement, but merely to distinguish the cases in which the position recognized by the Acts depends on a general rule of twelve years' occupation (or whatever it is), which makes it unnecessary to go into details as to former position. In the class of rights which I call natural, the tenant has to prove the specific facts which give him his claim; but ordinarily, in those cases, he would be able to do so without much difficulty.

2 In fact these areas were the petty proprietary holdings which were not thought sufficiently important to be treated as separately settled estates, and yet the Revenue farmers themselves had felt it necessary to recognize them as not liable to alteration of payment, still less to ejectment.
All other tenants if they have held the same land continuously for twelve years, are occupancy tenants (no other proof of special circumstances is called for). Tenants of less standing are 'tenants at will.'

Among the occupancy tenants, one feature may give rise to a distinction; if they are also 'ex-proprietary tenants' (p. 138), that is are in possession of land that was once their sir or home farm, they have a privilege of a reduced rent, which is twenty-five per cent. lower than that of ordinary tenants.

The Central Provinces Act (IX of 1883).—In the Central Provinces, the more or less artificial creation of mālguzār proprietors over the villages (p. 93) 'resulted' in a wide scheme of protection for the rights of the old cultivating class. So that we have here the somewhat (to Western eyes) unique spectacle of a country where the landlords have no control over a large part of their tenantry, either as regards raising their rents, or ejecting them from their holdings. Ejectment can only be effected by decree of Court on very special grounds provided by law; and enhancement is impossible because the rent is fixed by the Settlement Officer when settling the Land Revenue; in other words, the rents can be only enhanced when a new Settlement occurs. The Act mentions specifically, 'absolute occupancy tenants,' these being a class recognized at the first Settlements as having an exceptionally strong position. They cannot be ejected (practically) for any cause whatever; and their (privileged) rent must be fixed for the term of Settlement. The next class is of the ordinary 'occupancy tenant.' In certain districts all tenants (except as mentioned below) are tenants of this class. In the others, only those tenants belong to it, who had completed an occupancy of twelve years on the same land, before the Act came into force. Rights of this class are not (except in certain districts) growing up as in the North-West Provinces and Bengal. The occupancy right does not arise (in either case) on the proprietor's home farm nor when a tenancy was created with an express contract that occupancy rights were not to be acquired. Tenants holding land as a remuneration for village service, are specially recognized in the Act. Ordinary (non-occupancy) tenants are also protected in various ways, and practically their rent also is settled by the Land Revenue Settlement operations.

The Panjāb Law (Act XVI of 1887).—The Panjāb affords

1. See note, p. 136. I cannot give the details as to what tenants were so recorded, but I may mention generally that it was always on the ground of specific features of the tenure independently of any general artificial rule: the class included old hereditary cultivators, those who had once a proprie-
tary character, those who had expended capital, those who had taken part in the founding of the village, &c. (see L. S. B. I. vol. ii. p. 481 ff.).

2. And in these Provinces it consequently became necessary to make some rather elaborate distinctions as to what is, and what is not, sir land: the improvement of the definition in the Tenancy and Land Acts was one of the chief objects of the amending law in 1889. Details will be found in L. S. B. I. vol. ii. p. 490.
an instance of a province where the occupancy right is almost purely one of natural growth; indeed it would be entirely so, but for the necessity of recognizing those who, whether strictly entitled or not, did get recognized at the early Settlements, and whom it would be unjust now to disturb.

In the Northern districts up to the frontier, where so many of the villages represent an occupation by conquest, there are many old landholders reduced to the position of tenants; or the newcomers brought camp-followers and dependants who helped them in their first settlement; and in many other parts there are numerous tenants who claim to have cleared their land and to have assisted at the founding of the estate. And the Panjab villages had all of them to undergo a long-protracted struggle to maintain themselves against heavy Revenue assessments. The marks of this struggle are not only seen in the large number of villages in which the old share system has been upset, but also in the fact that tenants were called in to aid in keeping up the cultivation, without which the Revenue payment would have been impossible. These conditions are indicated by the fact that the tenants paid neither rent nor service; the utmost that was customary was some small overlord fee. 'Ordinarily,' says Sir J. B. Lyall, 'rent did not go to the proprietors in those days; the Government or the jagirdar took the real rent direct from the cultivators by grain division or crop appraisement' (pp. 35-6); and the proprietors got only 'proprietary dues.' These consisted of some money payment, or a small share in the grain (one seer in forty or so). The reason why so many tenants are shown as paying cash rents in the present day, is, that they really only pay (through the proprietor) the amount of the Government Revenue (which is always in cash), to which perhaps some small addition (usually calculated at so many anas per rupee of Revenue) is made.

The Act therefore (after allowing for cases already admitted under the earlier law and practice) simply defines as occupancy tenants, those who for two generations have paid neither rent nor service to the proprietor but only the share of the Land Revenue; those who are ex-proprieters; those who had settled along with the founder and aided in the first clearing; and those who had been Revenue assignees and had remained in possession of the land. A general power is, however, given to any one to prove any special facts other than these, which in the judgement of a Court of Justice would give a claim (on general principles of law and equity). These naturally entitled classes (secs. 5, 6, and 8, of the Act) are given different degrees of privilege, according to the general custom and sentiment on the subject; and the limit of rent-payment in each case is expressed in terms of its being so many anas per rupee of Government Land Revenue 1.

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1 Thus the 'sec. 5 tenant' cannot be asked to pay a rent which exceeds two to six anas (according to the kind of tenant) per rupee of Land Revenue plus rates and cesses. Those under sec. 6 and sec. 8 pay twelve anas in the rupee as the limit.
Features of the occupancy privilege.—The foregoing paragraphs having given some idea of the kind or class of tenants who are protected by law, a few words will be necessary to explain in what the protection consists. In general, there is a limit to the enhancement of rent; both as to the amount, and as to the period which must elapse before a rent once enhanced can be enhanced again. And there are conditions protecting the tenant from ejectment. Either provision would be useless without the other. It would be no use to provide that a tenant could not be ejected, if at the same time rent could be demanded at such a figure as to leave him no profit: nor would it be useful to restrict the enhancement, if at any moment the tenant could receive notice to give up the land.

Each Act must be referred to for details, but the following will serve as an indication of the manner in which both subjects are dealt with.

Enhancement.—There are exceptional cases (as already suggested) in which enhancement of the existing rent cannot be had at all; ordinarily, enhancement (in the absence of express agreement in due form) can only be had by decree of Court on proof of certain circumstances. The rules of enhancement are adapted, in each case, to local requirements and customs. Either the grounds of enhancement or the amount of it may be restricted according to the grade of privilege which the tenant holds.

The occupancy right heritable.—The occupancy right is declared heritable; and the rule of succession is laid down.

And conditionally alienable.—The tenant right is declared alienable, but subject to the consent of the landlord, or to other conditions; e.g. the landlord usually has a right of preemption.

Law of distress for rent. Notice to quit. Rent instalments and remissions.—The Acts also extend a certain protection to all kinds of tenants, especially with a view to preventing harsh dealing in the matter of distress for arrears of rent; and

1 e.g., in the Panjáb, it passes in the direct male line and only to collaterals in certain circumstances of joint tenure. Widows are allowed a life-interest.
allowing the exemption of cattle, tools, and seed-grain, in the event of a sale. Various provisions may be found tending to obviate rack-renting; and always to secure the tenant having due notice to quit, and that at a proper season. The payment of rents by instalments—after the harvest is reaped, and the means of payment are secured—is a matter of great importance to the tenant: it is accordingly regulated by law, and it is often provided that if the Government has extended grace to the landlord in the matter of Revenue payment in a bad year, the benefit shall also be passed on to the tenant.

Right to make improvements.—An important protection is also given by laying down rules as to who has the right to make improvements on the land; and by determining how far enhancement may follow on such works, and how far a tenant's expenditure of capital is to be protected for his own benefit.

Rent-Courts.—Some of the Acts provide that questions between landlord and tenant, as of rent, ejectment, and other matters shall be decided by Revenue Officers sitting as Revenue Courts: but this matter will be more conveniently noticed in a later chapter on Revenue Business and Procedure.

Tenancy in Raiyatwári provinces.—Hitherto the general purport of my remarks has been to describe the relations of landlords to their tenants in provinces where the prevalent form of landholding is that of a landlord, or at least of co-sharing village bodies regarded collectively as landlord. We have still to take notice of the case of Tenancy in Raiyatwári countries. In both Madras and Bombay as well as Beráh and Assam, there are some landlord-estates; but in general, there has been but little artificial growth of a landlord or middleman class, and consequently there has not been the same scope for the general growth of a variety of grades of interest—resulting in different kinds of 'sub-proprietor,' 'tenant at fixed rates,' 'ex-proprietary tenant,' and the like.

Even the ordinary raiyat or 'occupant' may have on his land tenants that he has himself contracted with, or old cultivators who were there before him. In Madras, the Zamindárs, polygars and other landlords, of course have villages of 'tenants' under
them; and in Bombay the Khāts of the Konkan, the Taluqdārs of Ahmadābād, the mālikī and kashātī holders, the In'ām holders, and all varieties of overlord-tenure generally, represent cases where virtually there is a landlord who has tenants under him. But the law is remarkably simple, and can be summarized in a few lines 1.

Provisions of the Madras Law.—In Madras, the grant of landlord rights was not intended to affect any other rights; Regulation IV of 1822 expressly declared this. The only provisions relating to tenants (and they apply, always—not only to Zamīndārī tenants) are contained in Rent Recovery Act (Madras) VIII of 1865.

Every tenant is allowed to have whatever privilege he can prove. There is no artificial rule about rate of rent or limit of enhancement. Every landlord must give his tenant a written lease (pattā) and can require a counterpart or an agreement; and no one will be permitted to sue in Court for rent, unless he has given such a lease, or at least he has tendered one and it has been refused 2; or the issue of it has been waived by consent. No extra charge whatever above the rent specified in the lease, is allowed. Where there is a dispute about the rate of rent, the Act lays down the principle of decision. All contracts, expressed or implied, are to be enforced. If there is no contract, the rate is to be that of the Government assessment in certain cases, or failing that, the customary rate of the locality, or a rate ascertained by comparison with lands of similar 'description and quality' in the neighbourhood. If the parties are not satisfied, either of them may claim that the rent be discharged, in kind, according to the vāram or old customary division between the State (or landlord) and the cultivator: and failing such a rate, the Collector may fix an equitable rent, having due regard to whether the landlord has improved the land, or whether its productive power has increased otherwise than by the agency, or at the expense, of the raiyat. There are certain provisions as to the right of the superior to apply to the Collector to enhance the rent, when the superior has effected an improvement, or when the Government has done so and has raised the superior's revenue accordingly.

1 As a matter of fact, these superior tenures are so much the result of survival of old territorial or ruling claims, that the raiyats on the estates have remained very much on the same terms towards the overlord, as the ordinary raiyats on the survey-tenure have towards Government, only perhaps paying somewhat higher rates.

2 And if either the landlord refuses to grant, or the tenant to receive, there may be a 'summary suit' before the Collector, so that a pattā may be directed to issue.
Tenants in general can only be ejected pursuant to a decree of Court on the merits; or in certain specific cases stated (wrongful refusal to accept a pattâ (sec. 10), or being in arrear (sec. 41) when no distrain can be had). Tenants can always relinquish their land at the end of the year.

The Act gives detailed instructions as to the recovery of rent in arrear, by distrain and sale of crops and moveable property; or by sale of the tenant's interest in the land—if by 'usage of the country' he has a saleable interest. On failure of these methods, there may be a warrant of ejectment from the land; and in a case of wilful withholding of payment, or 'fraudulent conduct in order to evade payment,' there may be an order of imprisonment, up to a limit specified, which varies according to the amount of the arrear.

The Bombay Law.—In Bombay the tenancy in general is succinctly dealt with in chap. vii of the Revenue Code (Bombay Act V of 1879). In the case of the estates of Khots, there are provisions about the tenants in the special Act I of 1880; in this case the old resident tenants are protected like occupancy tenants elsewhere. In all cases under the ordinary law, either the holder of the land is the direct 'occupant' paying Revenue to Government, or he is an 'inferior occupant' paying rent to some 'superior' (of whatever kind).

In the latter case, if there is an agreement, its terms alone determine the features, rentcharges, and liabilities of the tenancy; if not, then the usage of the locality is referred to; and failing that, what is just and fair under the circumstances. So with the question of duration; if it cannot be proved when the tenancy began, or that there was any agreement as to how long it is to last, or any usage in this respect, then the duration of the tenancy is presumed to be co-extensive with that of the superior occupancy. But nothing in the Code affects the right of the superior to enhance rent, or to evict for non-payment of rent, when he has a right to do so by agreement, or by usage, or otherwise.

An annual tenancy can be terminated on either side by a notice of three months before the end of the cultivating season (which may in the absence of other dates, be presumed to close on March 31). Superior holders may invoke the assistance of the Collector for the recovery of rent (or Revenue in alienated lands) due to them: this assistance consists in applying the same measures as might be taken to recover the Government Land Revenue. And in alienated lands, the grantee may have a 'commission' issued to him, in certain cases, to exercise certain powers for the recovery of the Revenue and otherwise.
CHAPTER VIII.

THE LAND REVENUE SETTLEMENTS.

Section I. Of Settlements in General.

We have now brought to a close our chapter on Land Tenures; we have only taken a flying view of the leading features of this wide subject, but still we have to some extent understood how it has come to pass that there are either (1) landlord estates, (2) village estates, or (3) separate holdings, to be dealt with by the Land Revenue administration. We have also to some extent realized how often it is that when some landlord interest appears and invites recognition above that of the immediate cultivator's holding we are left in doubt as to whether the apparent or claimant landlord is really the one who ought to occupy the position; and if he is recognized as entitled to a principal share of the profits, we have generally to take steps to secure other interests in the soil, which often have been borne down in the process by which the landlord grew up.

Consequently in all modern Settlements which deal with any kind of landlord estate, whether held by a great landlord or by a village-body owning only a few hundred acres, there is always something more to do than merely assessing the Revenue, and calling on some 'actual proprietor' to sign an agreement to pay it. There is sure to be a need for making a record (which has a certain public authority) of the rights and interests of persons other than the individual or the body who actually 'holds the Settlement' (as the phrase is). In some cases the
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record not only gives the local (and the legal) designation of the tenure, but also fixes the amount which the inferior is to pay to the superior; in other cases it is enough to describe the holder as a tenant of a certain privileged class; and then the Tenancy or Rent Law of the province will declare what limits are placed on the enhancement of rent and on the liability to eviction.

The Settlements of Western and Southern India which are able to deal directly with separate holdings, have no such double task; they simply record the person or family actually in possession of the field or holding, and determine the proper assessment which that person is called on to pay—an assessment which solely depends on the character and value of the land, and has nothing to do with the class of holder, or his relation to any one else.

And just as the nature of the tenures determines the form of Settlement and what rights have to be recorded, so also it affects the method of assessment. According as we have to determine a lump sum which a landlord, or landlord-village collectively, has to pay, or a separate charge for each holding or unit of survey, so different methods of valuation have been found convenient. Hence it happens that several kinds of Settlement have been locally developed. But primarily, the question which kind of Settlement should be adopted, has always depended on what kind of tenure is generally prevalent.

Requisites of a Settlement. Demarcation and Survey. Statistical data of agricultural conditions. Valuation of land and assessment.—Before we briefly consider each variety of Settlement by itself, we will take notice of some features which all varieties of modern Revenue-Settlement have in common. In the first place, they must start with (1) a complete survey of the land, involving a preliminary demarcation of the necessary boundary lines; because without that, neither can there be an exact account of the culturable land, and the extent of each kind of soil which requires a different rate of assessment; nor can there be any correct record of the rights of all parties, landlord, co-sharer, sub-proprietor, occupancy-tenant,
or whatever they are, in case the system requires a record of rights. And (2) in any case there must be a correct list of the revenue payers and their holdings, and a schedule accounting for every field and plot of land in each village. These are supplemented by other statistical tables and returns, which illustrate the past history and present state of the village. Lastly (3) there must be a valuation of the land, the ascertainment of revenue rates, the totalling up and adjusting of them to give the sum payable by the estate or holding; in some cases subsidiary proceedings as to the distribution of this total among co-sharers, and the adjustment of tenant rents, are necessary.

It is true that one form of Settlement was made without a survey, without a detailed valuation of land, and without (at first) any record of rights, and without any Statistical information: but the experiment—forced on us, as it was thought, by the necessities of the time—has never been repeated. No other Settlement dispenses with the general requirements above stated.

Three main kinds of Settlement.—As a matter of fact, there have been three main kinds of Settlement, following (as will have been already anticipated) the fact noted, that we have always to deal either with landlord estates, with village estates (or maháls), or with separate holdings. Each kind has one or two local varieties, depending partly on peculiarities of the agricultural conditions, and partly on the features and incidents of the prevailing tenure of land in the Province. I will at once give a comprehensive list of the varieties, which will afterwards be briefly explained and described.

1. Settlement for single estates under one landlord.—

Usually large estates, but not always (p. 122).

Varieties:

(1) Settlement with Zamíndárs, i.e. Permanent Settlement of Bengal and North Madras.

(2) Settlement (Temporary) in Bengal of estates and districts not subject to the Permanent Settlement.

(3) With Taluqdárs in Oudh.
2. Settlement for estates of proprietary bodies, usually village communities. (These are sometimes called mauzawár, or more correctly mahálwár Settlements).

Varieties:—

(i) Settlement of the North-West Provinces (including Oudh for villages that are not under Taluqdárs)
(ii) Settlement of the Central Provinces (called the Múlguzári Settlement).
(iii) Settlement of the Panjáb.

3. Settlement for individual occupancies or holdings.

Varieties:—

(i) The Raiyatwárí system of Madras.
(ii) The Raiyatwárí system of Bombay and Berár.
(iii) Special systems (in principle raiyatwárí, but not officially so called) of Burma, Assam, and Coorg.

Permanent and temporary Settlements.—But as a matter of fact there is another classification which is more conveniently adopted, and which has reference to the fact that certain Settlements are ‘Permanent,’ i.e. were made once and for all, at rates never to be increased or diminished; and others are made so that the assessment should be revised after a certain period of years: in Revenue language they are ‘Temporary Settlements.’

And the Permanent Settlement which was the first system to be tried, was the only one made without any demarcation of boundaries, without any survey of land, without any attempt to value the land in detail or to record rights (see p. 148).

Consequently it is more convenient to consider the Settlements with reference to this distinction. It will be found that the Settlements with great landlords in Bengal and Madras come under the first: and those with Oudh Taluqdárs under the second: all the Settlement systems of the North-West Provinces, Central Provinces, Panjáb, &c., as well as the systems called raiyatwárí, are all ‘Temporary’ and have the demarcation, survey, and record of rights carried out; although
it may be here repeated that the *raiyatwārī* Settlement does not profess to inquire into (or determine) rights, as the other Settlements do.

**Special kinds of estates in provinces which as a whole belong to a certain class.**—It may be necessary to explain that where a Settlement is as a whole Temporary, or on one or other of the systems above tabulated, there may be particular estates dealt with differently.

For example in the North-West Provinces, though, in general, village Settlements are made, certain landlords have been settled with as Zamīndārs for an entire estate of many villages. A still better example is Bombay. Here the great bulk of land is held in simple occupancy holdings (in *raiyatwārī* villages). But there are a few landlord villages (called *nawab* and *bhāgādirī*), some Taluqdārī and other landlord estates, and the (practically landlord) estates of Khots. In these cases there may be special arrangements made for each estate, and often special Acts regulating the matter. So too, in any province, particular estates may be allowed, as a reward or favour, a permanent assessment. This is the case with a few of the Taluqdār’s estates in Oudh, and with certain chiefs in Ajmēr.

**The Middleman.**—In writings relating to the Land Settlement we so often find reference to the ‘middleman’ proprietor, that it may be well to call attention to the general features which this term indicates. The distinction between Settlements of Classes 1 and 2, on the one hand, and those of Class 3 on the other (p. 148), has arisen, really, out of the fact that in the two former, there is some kind of middleman between the actual cultivator and the Government; and this middleman is, more or less fully, the proprietor and ‘holds the Settlement.’ In the latter there is ordinarily no such person; the occupant pays direct to the State, the Revenue assessed on the particular fields he holds. In Bengal, the Zamīndār had obtained such a firm position as middleman, that (as we have seen) it was considered not only just, but a matter of State policy, to give

1 Independently of the fact that a part of the province may be entirely settled under another system. Thus the Benares division of the North-West Provinces is permanently settled (p. 161) because it was, at the time, part of Bengal. So there are parts of Madras permanently settled because, at the time, a system similar to that of Bengal was applied (before the general *raiyatwārī* system was ordered).

2 In Bombay, for example, the returns show (approximately) thirty million acres held *raiyatwārī*, about two and a-half millions held by overlords (relies of territorial chiefship); rather more than two and a-half millions held by Khots and other (Revenue-farmer) landlords.
him a secure position; and this experience, backed by the 'landlord and tenant' ideas natural to English gentlemen of the eighteenth century, produced the feeling that there ought always to be some one person to whom the State should look for its Land Revenue, and to whom the State should in return give landlord rights to enable him to meet that responsibility and keep himself and his tenants in well-being. At a later time, the circumstances of the provinces in the North-West suggested an extension of this idea to the village bodies; but there the middleman is really rather an ideal being; he is represented by the jointly responsible body as a whole, of which the individual co-sharer is only a member, and does not deal directly with the Government. It is then the nature of the middleman proprietor and not the size or the extent of the estate, that distinguishes Class 1 from Class 2. And when the necessities of Madras caused Sir T. Munro so strongly to urge the new departure—the *raiyaṭwārī* method with no middleman (Class 3), there were not wanting, at the time, many people who foreboded ill of the scheme. It then became the distinctive mark of the two systems, that in the one the Government would never deal with a middleman, while in the other it would never deal with any one else.

And this distinction led to a special feature which distinguishes landlord Settlements (of all kinds) from *raiyaṭwārī*. In the former, the landlord has a legal proprietary title (p. 125), but also a fixed responsibility. He is bound to the land and to the payment of the Revenue on it for the whole term of Settlement; he cannot at his option relinquish the estate. Hence in early Settlements especially, he always signed an agreement for the term; and there is in fact a contract between him and the State. In *raiyaṭwārī* Settlements, the occupant is held by no lease and signs no agreement. He cannot indeed have the Revenue rate assessed on his holding raised during the period of Settlement; but he can at the close of any year and before the next cultivating season begins, relinquish his holding (or any recognized part of it) and so free himself from responsibility whenever he pleases.
Discussions as to the merits of systems.—In past days it was often the custom to enter into discussions as to the relative merits of the several systems. In reality nothing can be more fruitless. Each system in actual working has developed, and been found to need improvement in detail; but it entirely depends on the nature of the tenures whether one system should be adopted or another. The only question that can reasonably arise is where there is some doubt as to the real character of the prevailing tenures. If, for example, we have a district where, as a rule, there are no great estates, only villages, then it may be a question of fact whether, in a sufficient number of villages, there exists a landlord class, who can be conveniently dealt with as one, jointly responsible, body, or not; if there is, the village system will answer; if not, it is very likely to fail. In the Jhansi district (North-West Provinces), for example, in the light of modern knowledge it is perfectly clear that the villages were really raitawari, as in the Central Provinces; yet the attempt was made to apply the North-West Provinces joint-village system, and the result was failure. So some authorities believed that in the Dakhan, the traces of old families or brotherhoods of co-sharers in many villages, would warrant the village system being there applied; but it was decided that these traces were too shadowy, and the present condition too generally raitawari, to make any village system workable. In the North-West Provinces, again, it was not unfrequently a matter of doubt whether there was any great landlord really in such a position as to be entitled to a Settlement, or whether the village bodies under him were not entitled to be independently dealt with. All these were questions of fact; and owing to the obscurity of the indications, and the inclination of the authorities towards the (aristocratic) landlord view, or the democratic (supporting the peasant or village class), so the application of one system or the other was determined; and the decision may be criticized. But to compare the systems themselves—to say the one is intrinsically better or worse than another, is absurd.

Duration of Temporary Settlements.—Let me also here save future explanation by saying that though a term of twenty to thirty years has been very often adopted for ‘Temporary’ Settlements, it has never been thought wise to fix this or any other period, by law. The duration of each District Settlement is determined with reference to the whole of a variety of circumstances, by the Executive Government, in each case. A fairly long term is obviously requisite in order to enable profits to be fully realized and the benefit of improvements and extensions of cultivation to be enjoyed; but too long a term subjects the State to great loss in case a rapid development (e.g.) of canal and railway lines is taking place,
or there is a material alteration in the prices of produce. Dates have also to be fixed so that periods may expire one after the other, and not all at once; for in the latter case the Settlement Staff could not cope with so much work at once, and many districts would have to wait a long time before the revision could commence.

Initiation and close of Settlement work.—In general, it may be convenient to note, a Settlement (or a revision of Settlement) is set in operation by an order notified in the official Gazette of the Province; and this will state whether all the work of a Settlement is to be done, or only an Assessment, or a new Record of Rights (if the system requires it). A Settlement is said to be complete, either when a certain notification to that effect is issued, or when a certain sanction to the work is given, as the Land Revenue Act of the Province may prescribe.

The initial notification usually contains orders appointing the Settlement Officer (p. 30) and his Assistants, and if necessary investing them with powers under the Act.

Cesses and Local Rates.—Before leaving the subject of Settlements in general, it may be convenient to explain that though all the older 'cesses,' in the sense of illegal exactions and informal additions imposed as a means of increasing the Land Revenue, have been for ever abolished, there are certain rates over and above the Land Revenue, which are justly levied according to law, for local purposes. The Land Revenue is Imperial Revenue; a portion of it indeed goes to meet the general expenditure of each province; but there are purely local charges, such as District roads, Village schools, and District Public Works, the payment of village officers, and the like, which are justly chargeable solely on the local proprietors; hence in the Revenue Records may often be found the old division—in a new sense—of 'Revenue and Cesses.' There are local Acts in each Province, under the Permanent Settlement as well as the others, for the levy of such cesses.

Here reference may be made to Bengal Act IX of 1880 (Cess for Roads and Public Works); Acts 111 of 1878 and IX of 1889
for the North-West Provinces; Act X of 1878 for the Central Provinces; Act XX of 1883 for the Panjáb; Act II of 1880 (or III of 1889) for Burma, &c.

**Famine Insurance.**—One of the local rates imposed was to enable Government better to meet the expense of famines when they occur. This gave rise to the popular notion of a ‘Famine Insurance Fund,’ which it is supposed Government should husband—perhaps investing the annual proceeds of the rate like a trust fund—and spend it only on Famine Works. But such was never intended, nor would it benefit the public. The rate was provided to be spent on any object or any kind of work that tended to place the Government in a better position generally, to meet calamity when it occurs. One of these objects has been the reduction of the public debt; but there are many others; and it is a matter of good financial policy and convenience in each year, to determine what shall be done; any expenditure usually incurred, may be suspended or diverted to other purposes that are more pressing, without any mis-application or illegal disposition of the rate.

### Section II. Landlord Settlements.

**The Permanent Settlement.**

**As applied to Bengal.**—The celebrated Permanent (Zamín-dárī) Settlement of Bengal was made (in 1789–1793) under the auspices of Lord Cornwallis. It does not apply to the whole of Bengal even as it was in 1793; there were certain tracts to which for special reasons it was not adapted. There were also parts of districts which at the time were waste, and were only occupied long after the Settlement was concluded. It also does not apply to those districts which became British territory at a date subsequent to 1793. In these a different and Temporary system (p. 149) prevails.

The Permanent Settlement, as a system, has but little to recommend it either for study or imitation; but historically it is both interesting and important. On its arrangements depend the titles to the majority of the estates in the most populous and wealthy of the three Presidencies. Its principles have also largely affected other systems; and under it was gained the experience which enabled the Government to organize the work of district administration in other provinces. The
Collector and his Assistants (p. 25) as first appointed in Bengal, became the model for the District government of Madras and then of Bombay, and indeed of all the provinces that were afterwards annexed.

**Sketch of administration previous to 1789.**—The Bengal system acquired its peculiar features partly under the difficulties and circumstances of the situation (p. 46), partly under the influence of a deliberate policy. When the province of ‘Bengal, Bihár and Orissa’ was granted to the East India Company in 1765, at first no attempt was made to conduct the administration by British officers. A well-meant but ineffective supervision of the existing native official staff was provided for; but in truth the old Imperial system was so broken down under the corrupt and feeble Government which marked the days of the decline of the Mughal Empire, that in 1772 the British Government felt forced to undertake the direct administration of the Civil and Revenue departments, and the District Supervisors were accordingly made Collectors. Very shortly afterwards Warren Hastings was appointed Governor-General, and he at once set on foot measures for transforming the Company’s ‘merchants’ and ‘writers’ into District Officers.

**Attempts to improve the Land Revenue Administration.**—At first the staff was small, and various plans were tried, now of leaving ‘Collectors’ in each of the (then very large) districts (or zillas), now of locating them in groups at certain important centres to form Revenue Councils or Committees. No new Land Revenue Settlement was made, but the attempt was made to secure a better control of the collections by a system

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1 ‘Orissa’ then meant only the country corresponding (roughly) to the Midnapore district. The Diwání of Bengal, &c., granted by the Imperial rescript, meant the Civil and Revenue administration which was conducted by the Diwání, as the Criminal and Military (nizámät) was by the Náizim.

2 I take this opportunity to correct an error, which was inadvertently left at page 303 of vol. i. of my *Land Systems of British India*. Lord Clive finally left India in 1767, so that the sentence as it stands is unintelligible. It ought to have been ‘a proclamation assuming the administration was issued on the 18th of May, 1772; and although Clive had previously (in May 1766) taken his seat as Diwání or Minister of State at the annual assembly for fixing the Revenue, held near Murshidábád, our direct Revenue control did not begin till 1772.’
of five years' leases (or "farms") of the Revenue of Districts or parts of Districts. Under these arrangements, many of the existing Zamindârs were set aside; for even if they accepted a farm it would be solely as a matter of contract and without reference to their existing rights or privileges as Zamindâr. The plan failed and some injustice was done; it was soon found necessary to restore the Zamindârs, and leases were accordingly issued to them, year by year, for the sums roughly estimated to be due with reference to the old accounts. The state of affairs soon attracted the notice of the Home authorities. A 'Regulating Act' was passed in 1773; and this gave certain powers of local legislation, and established the general framework of local Government. But it did not attempt any change as regards the Revenue. The amelioration of this important branch of Administration was first directly attempted by the Act of 1784 (24 George III. cap. 57). This Act led to the re-establishment of the Zamindârs, and directed a full ascertaining of their proper 'jurisdictions, rights, and privileges.' To carry this direction into effect, Lord Cornwallis came out in 1786, as Governor-General and Governor of Bengal. He had with him Mr. John Shore (afterwards Sir John Shore and Lord Teignmouth), an officer who, in spite of the immense difficulties of the task, had thoroughly mastered the Land Revenue question and knew more about it than any one else at the time. Various and prolonged inquiries were made, chiefly as to the Revenue accounts and the sums that the Zamindârs ought to yield, and also regarding the history of the Zamindârs themselves.

1 See on this subject Sir A. Lyall's Rise of the British Dominion in India, p. 145 ff.
2 The Act did not in any way direct a 'Permanent Settlement' to be made, as is sometimes supposed. It only sought to put an end to injustice to the Zamindârs and to repeated changes—now farms, now annual leases—in the Revenue management. It was not till six years afterwards that the Settlement was proposed to be made permanent.
3 To this period belong the celebrated minutes of Mr. Shore (1788–89). These are to be found in the Fifth Report on the affairs of the East India Company presented to the House of Commons in 1812 and since reprinted. One valuable minute, which is not therein included, is given in Harington's Analysis, vol. iii.
The Decennial Settlement.—Rules were at first drawn up for making a Settlement for ten years with the Zamindars. These rules were concerned chiefly with prescribing the principles on which the Collector should fix the lump sum for which each estate in Bengal, Bihár and Orissa ¹, respectively, was to be responsible.

Consolidation of the position of the Zamindars.—But it was considered insufficient merely to agree with the Zamindars for the amounts to be paid; it was determined that they must be recognized in a secure legal position as landlords with a heritable and transferable estate, in order that they might be able steadily to realize the Revenue, and enjoy a substantial profit. Government, however, reserved to itself the right to enforce punctual payment of the Revenue according to the customary instalments, and to sell the estate at once if there was any default in payment. In conferring a landlord title on the Zamindars, and in recognizing their rights, not according to a theoretical view (however correct) of their original position, but according to existing facts after a century's growth and development, Lord Cornwallis was in entire accord with Mr. Shore and most of the Civil Servants. But the Governor-General further considered that it was not only desirable to confer the landlord title, but also to declare that the assessment fixed for ten years should be invariable or 'permanent.' In this he was opposed by Mr. Shore; and, indeed, the arguments of that able adviser were never really answered ².

This Settlement was not, however, made (as is sometimes supposed) in a hurry or without much consideration. Except as regards the declaration of permanency, for Lord Cornwallis might have let the original ten years' lease run out before further action—

¹ See note as to Old Orissa at p. 155.
² I cannot go into the question, which is explained more fully in L. S. B. I, vol. I, p. 405. Lord Cornwallis based his reply on some mistaken views—especially the idea that the raiyats' rent was in general dependent on agreement with the landlord. He, however, probably thought that in some way the permanence of the assessment was bound up with the security of the title to the estate. This was a very natural feeling, but it is not really logical; a man's title to his estate is no more compromised by a revision of his Revenue-payment than the property of a capitalist is by a change in the Income Tax.
the whole proceeding was marked by careful inquiry and much thought. The Governor-General deliberated about it from 1786 till 1790; and when a report on the proposal was made to the Home authorities, the Court of Directors again kept the question in suspense for two years, and only in 1792 did they give their somewhat reluctant consent.

In March, 1793, a proclamation (embodied in the Statute Book as Regulation I of 1793) was issued, confirming the Zamindârs, and declaring the Settlement 'permanent.' Regulation VIII, of the same year, republished (with amendments) the Settlement rules above alluded to.

Reasons for the absence of survey and other details.—The reasons why this Settlement was made without any survey or record of rights, were various. A survey at this time would have been, under any circumstances, a matter of the greatest difficulty; but it was also thought that any attempt to pry into the interior concerns of the estates would be prejudicial to, the interests of the new landlords and excite their distrust. As for the raiyats, it was hoped that the landlords would come to terms with them, and that their rights would be sufficiently protected. It was not, moreover, intended to make any detailed valuation of lands according to different classes of soil and their productive value, so that the want of detailed maps and area schedules would not be felt. There were already official lists of the estates, and of the villages and parganas which each included.

The Assessment. Adjustments needed owing to change of system.—Holt Mackenzie afterwards described the Permanent Settlement of Bengal as a 'loose bargain, ... intended rather to tax the individual than the land.' 'All that could be done was to determine a lump sum for each estate with reference to the rules above spoken of.' The old Revenue Kânângos (pp. 35, 6) had still their official records of past collections (as well as their local experience) to aid the Collector in finding out the proper sums; and the totals were revised, in the rough, with reference to general considerations of the prosperity of the estate, the value of its waste area, and its capacity for extension. But there were important adjustments to be made; in former times various
deductions had been allowed from the total Revenue payable. For example, as the landlords managed and paid the police, certain lands (called thanadari lands) were freed from reckoning, in order that their revenues might cover these charges; there were also certain allowances for pensions for which the Zamindar was made responsible. In future, as Government would relieve the landlord of such public charges, the police lands were resumed and assessed, and the allowance for pensions was struck off. So too, as the landlord was to have all the balance after paying the Revenue—a balance which would continually augment as the estate developed, and land and produce rose in value—there would be no need to make the old provision of naukur or land (held free of charge) for the Zamindar's subsistence. On the other hand, all cesses and extras on the Land Revenue (p. 39) were abolished; and as the landlord would no longer be liable to such additional demands, he in turn was strictly prohibited, under penalty, from levying such charges on the landholders, who now became legally his 'tenants.'

The sair or sayer. — It should be mentioned that in the old days, the Land Revenue (increased periodically by the abwaab or cesses) was called the Mal. But besides this the Zamindar had to account for the siwai, or 'other heads' of Revenue—which consisted of the sair (or in Bengal writing sayer) profits from waste land, grass, fruits, fisheries, and various tolls, duties and rates, on roads, ferries, markets and bazaars, and on pilgrimages, marriages, &c., not to speak of excise duties. The Settlement dealt with these (1) by handing over to the landlords (as part of their own profit) all the legitimate saier; (2) by abolishing altogether the tolls on pilgrims, marriages and other items of the kind which were oppressive or unjust (in some cases compensation was allowed for the abolition). (3) The excise duties and such road and ferry tolls as were proper to be maintained, were separated entirely from the Land Revenue, and taken under the direct management of the Collectors.

Protection of other rights in land. Separation of taluqas.—I have already indicated (p. 106) that the Government extended the privileges of the landlord-title and permanent assessment
not only to the old-established district farmers and to local chiefs and heads of districts who had held something of the same position as regards the Revenue of their districts, but also to smaller landholders in districts where there were no Zamīndārs. But with a view to the protection of rights in other cases, the Regulation directed the Collectors to consider the case of smaller estates called taluqs (p. 107), and to separate from the Zamīndārīs (under certain rules) such of them as appeared to be entitled to be dealt with as independent estates. The advantages of separation were very great, because not only would the now independent landlord be freed from all possibility of unauthorized exaction, but his tenure would be secure from being lost (as it might have been had it remained subordinate to a Zamīndār) in case the Zamīndār’s estate should be sold for arrears of Revenue. Some of the taluqdārs were clearly entitled to this ‘independence’ as having existed before the Zamīndārī; but the rules recognized several other reasons. One of them, for instance, provided that a dependent taluqdār who could prove that he had been subjected to unlawful exactions by his Zamīndār, might be separately settled with. As a matter of fact, an immense number of small estates were allowed to become separate; and in this way a considerable number of oldār interests were protected. Indeed, petitions kept coming in so fast, that it had to be provided that after a certain date no further applications for separation would be received.

'Resumed' lands.—Another cause of many separate landlord estates has also been incidentally noticed before, in another connexion (pp. 55, 118). When the whole question of rights to hold land Revenue free was gone into, and the invalidity of a large number of the claims appeared, it followed that the claims were disallowed, and the land was ‘resumed’ as the technical phrase was, i.e. assessed to Land Revenue (the question of the ownership

1 It is largely owing to this fact, but also to the naturally limited size of holdings in Bihār and some of the Eastern districts, as well as to the breaking up of many Zamīndārīs by sale piecemeal for Revenue default, that the number of small Zamīndārīs in Bengal is now so greatly in excess of the moderate-sized ones, while really large estates are quite in a minority.
of the land itself, if that was in dispute, was referred to the Law Courts). When such holdings were liable to resumption, the Government generously enough left the smaller ones (not exceeding 100 bighás in extent) to the benefit of the Zamíndár, if he chose to resume (under a legally provided procedure); but the larger ones were assessed permanently, and became so many separate 'landlord estates.'

As early as 1782, attempts had been made to adjust these troublesome claims, but the two Regulations of the Permanent Settlement really brought the matter to a definite issue. These were Regulations XIX of 1793, dealing with what were called bádsháhí (royal) grants, viz. those emanating from the royal order, and Regulation XXXVII dealing with those (non-bádsháhí as they were called, or hukmáni) which had been issued by local and subordinate authorities.

**Permanent Settlement of Benares.**—It will here be convenient to notice that the Permanent Settlement was extended to the districts of the Benares province, which, though acquired in 1775, was not settled till 1795. The tenures here consisted of landlord-villages with a rather strong clan or tribal connexion; in many cases, chiefs and heads of sections had also obtained the lordship over various groups of villages or estates made up of parts of different villages.

The great Rájá of Benares was at the head of the whole, but he was not in a position to be dealt with as Zamíndár or direct landlord of the entire Province; and as no idea of dealing with village bodies had yet occurred to any one, the Settlements were made either with some one elder or chief co-sharer in the village, or else with persons who were heads of families, and local magnates who had acquired estates or established chiefship over groups of villages.

A very interesting report on the co-sharing village bodies was prepared by Mr. Duncan the Resident in 1796: the joint ownership seems to have puzzled him exceedingly; he evidently could not understand how there could be more than one landlord in a village.

1 A number of them (as might be expected) were pattldárl as connected with local chiefs and noble families, and others were bhtldáchárd or constructed on the equal-lot principle (p. 84).
In order to include in one place what has to be said of the Benares Settlement, it may here be mentioned that in 1834 the Permanent Settlement districts of Benares—now Benares, Ballia (including part of the old 'Azamgarh district), Gházipur, Jaunpur, and the Northern part of Mirzapur—were separated from Bengal and henceforth belonged to the North-Western Provinces. Of late years they have been all completely surveyed, and a record of the subordinate rights of all co-sharers, &c. has been made; so that as they are under the ordinary Land Revenue Law of the North-West Provinces, they are in all practical respects on just the same footing as the rest of the province, with the one feature that the Revenue is fixed for ever, and that individual co-sharers (and others) have a more or less nominal superiority as the Settlement holders and actual Zamíndárs.

Lands subsequently settled permanently.—The Bengal Settlement extended to occupied lands or estates, which included a large and often indefinite area of waste land (see p. 57). But still there was much waste not so included; and at first, the occupation even of this land was tacitly allowed, only that it became liable to a (permanent) assessment under the name of tafsír. Other estates also—the 'resumed' lands above spoken of—were also gradually assessed permanently.

Lands which did not come under the Permanent Settlement. Waste lands after 1819.—But when, in 1828, the question of waste lands was more seriously taken up, and the right of Government was asserted, it soon came to be perceived that when these lands were granted by the Collector, or were otherwise allowed to be culivated, there was no legal obligation to grant them a permanent Settlement; for the Permanent Settlement Regulation VIII of 1793 only applied to the occupied estates existing at the time.

In the older districts where the waste was already either appropriated lawfully or had been dealt with under the law of 1819, very little could be done; but in the great tracts of forest land on the delta of the Húghlí River (The Sundarbaṅs) and in the Eastern districts, large areas of waste were secured. In Chittagong, for example, the old settlers and their tafsír (who became landlords—p. 107) had been located by measurement, and in 1764 the area held by
them had been roughly determined; so all the other lands (nāndād) were not subject to the Permanent Settlement. Similarly in Sylhet (now in the Assam province), a large area was recovered: there were many claims and some troublesome and protracted litigation in connexion with these lands, but ultimately the greater part have been recognized as not under the Permanent Settlement.

Non-permanently settled estates in Chutiya Nāgpur and in districts subsequently acquired.—It may also be added that owing to local peculiarities, parts of the Chutiya- (or Chotā-) Nāgpur districts were not permanently settled; and a portion of the ‘Santhál pargunnahs’ district was expressly exempted. All districts acquired in 1803 and afterwards, are (as already stated) not under the Permanent Settlement.

Measures subsidiary to the Permanent Settlement.

Effect of the Permanent Settlement on raiyats.—I have already given an account of the position of tenants or raiyats under the Zamindārs (pp. 130, 139); but it is desirable here to state more directly, how the Permanent Settlement at first affected them.

I have recently mentioned that a number of the older and stronger claims to land were recognized by separating them as small independent estates (p. 160). A certain number of interests were also protected by the fact that the landholders had claims sufficiently strong to induce the Zamindārs to recognize them as permanent tenures—often with fixed rent payments. All these cases were expressly provided for by the Regulation VIII of 1793 (secs. 49–52).

The Pattā Rules.—But for the bulk of the raiyats, many of whom were old ‘resident’ village landholders, nothing was thought of but to require that each should get a ‘pottah’ (pattā) specifying the area, as well as the terms and conditions of his holding. Various changes were made in the rules, but

1 For details as to Chittagong see J. S. B. I. vol. i. pp. 489, 554, and for Sylhet vol. iii. p. 443; and in the present work in the section of this chapter on the Settlement of Assam.
without much success. The grant of *pottahs* could not be enforced; some tenants did not like to take them for fear that they would be held to admit, thereby, an inferior position; others, because being illiterate, they never would be certain what they were putting their names to; and in some cases when such leases were accepted they proved only engines of extortion. For while on the one hand, the tenants had to be protected, the authorities were also anxious about the Revenue; and Zamindars complained while they themselves were under a strict law of punctual payment, they could not get proper rates of rent and regular payments; and therefore had not the means of meeting their instalments of Revenue. At various times Regulations were enacted, which though perhaps well intended, really pressed hardly on the tenants. Two of them, Regulation VII of 1799, and Regulation V of 1812, long known as *Qanún haftam* (seventh) and *panjam* (fifth), wrought great mischief.

**Effect of the 'Sale Laws.'**—But perhaps the greatest trouble arose out of the Sale Laws. It has been already indicated that if the Revenue was not punctually discharged by a certain time, the Collector might put up the estate for sale—either the whole or a part, as might be necessary. But if a purchaser was to be induced to come forward and buy the estate, paying such a sum as would clear off the arrears and represent a fair auction value of the property, he must get the estate with a clear title and free from existing leases and burdens; otherwise an outgoing defaulter might so burden the estate as to leave it worthless in the hands of a successor. Hence the first Sale Laws provided for the voiding of all mortgages, leases and contracts of tenure, except a very few. Consequently the newcomer was able to demand new rental rates from all but a very exceptional class of tenants and landholders, without restriction. This completed the misfortunes of the tenants.

'At last, in 1859, matters were ripe for the enactment of an improved Sale Law (Act XI of 1859); and almost at the same time the Legislative Council passed the first General Tenant Law (Act X of 1859) granting occupancy rights and limiting the power of enhancement (p. 135).

**Land Registration.**—As there was no survey and record of

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1 For details see *L. S. B. I.* vol. i. p. 634 ff. Regulation VII dealt with the power of distraint for arrears. Regulation V was expressly designed to benefit the tenants, but owing to certain defects, it acted just the other way.
rights, it became necessary to have a register of estates, and of changes in the ownership, by sale, gift, or inheritance; because these affected the person to whom the Collector was to look for payment of the Revenue. The first laws for registration failed to work; and even when tolerable quinquennial registers were secured, still they did not show any subordinate rights. A sort of register (though not legally binding) of the latter was, however, made, where a 'cess' was levied by law (p. 153), with a view to maintaining roads and public works; for this 'cess' had to be levied not only on estates, but on all landed interests over a certain value. Afterwards a further improvement was effected when the Sale Laws were amended, so as to give protection (by a certain procedure of registration) to subordinate tenures and interests which were to be maintained while other burdens were made voidable by the auction purchaser.

Bengal Act VIII of 1876 is now the law of land registration. Separate registers are maintained for all Revenue-paying and Revenue-free estates, arranged by districts and parganas, so that every acre can be accounted for. 'Estates' are compulsorily registered (i.e. are subject to a penalty for neglect). 'Tenures' (and other interests) can be registered optionally; but there are certain disabilities which exist in case they are not registered, notably with reference to their liability to be voided on sale of the estate (under which they are) for arrears.

Survey.—A separate Act has enabled a general survey to be made; but this extends only to showing the local limits of estates and villages; and though it may be directed to show limits of holdings and 'tenures,' this has not yet been attempted, nor has a record of rights been legalized in connexion with survey. Act VIII of 1885 has made a certain provision on the subject (chap. x); but this can only be applied under the express conditions enacted. The want of a cadastral survey is increasingly felt. The absence of it must foster law-suits as well as delay their disposal; and it renders impossible those

1 Bengal Act V of 1875. In alluvial and riverain lands (dēārā survey as it is called) a special law exists (IX of 1847); to these lands Act V does not apply.
useful agricultural statistics which are available in all other provinces.¹

The Permanent Settlement in Madras (Zamindaris).—
We must now turn to the Landlord Settlement in Madras. The

¹ A survey has been ordered (as a commencement) for the Bihar districts; and it may appear strange that this has been denounced with an impatience that shows more sentiment than reason. The objection really rests on the desire to keep up the old-world relations of Zamindar and Rajayat, under which everything was in the loose and unordered condition dear to oriental managers: the Zamindar was then able to do what he liked and to be the absolute master; the peasant was his slave. No doubt there is also a brighter side to the picture: the Zamindar puts on his books a very high rent—in Bihar it is most often levied in kind—but he works it elastically, and only takes the full in good years. This system may have its advantages; but it is too much dependent on the good feeling of the landlord; and it may be questioned whether it can long remain compatible with modern conditions and modern law. The objectors also strangely forget some facts, and almost ludicrously pervert others. It is easy for them to rely on the Zamindars' dislike, but that arises from the very natural feeling above noticed, and still more from fear of the heavy cost which will fall chiefly on them. It is also easy to stir up the ignorant tenantry—who do not in the least understand the matter—by appealing to their traditional dread of 'measurement,' which in the old days was a process directly indexed (by whatever device) to make out that they were holding more land than they were paying rent for. Very exaggerated pictures are drawn of the probable extortions of native surveyors; forgetting that there is no more reason why a survey should be oppressive in Bihar than it was in the neighbouring Benares districts, or in every other part of India where it has been successfully carried out. Indeed it should be less so, since the experience there gained will enable the present survey to be made in the best manner, and with the avoidance of earlier errors of management. It is also apparently forgotten that not only every civilized country in Europe, but every other province in India, has found a survey and a record of rights to be indispensable. And when it is urged that a survey will stir up questions and give rise to endless litigation, it seems to be overlooked that if such an anticipation is well founded, it at least indicates that boundaries, holdings, and questions of right must be, at present, in such a state of uncertainty, and so dependent on expedients and make-shifts as well as on the good-will of landlords, that sooner or later the condition of things must become intolerable.

The only real objections—or rather difficulties—to be met are, the question of cost, and the more serious question of maintaining the records and maps when made, in a state of continual correctness. But equitable arrangements as to cost are not beyond the power of Government to devise; and it is not a matter of optimistic opinion, but of simple fact, that in other provinces, records can be, and are being (every day with increasing success), kept correct. In spite of the difficulties about the Orissa records—made many years ago—they are exactly similar to what have been felt, and now overcome, in Northern India. And as to the benefits of survey and records wherever they have been made—as in Khurda and other great estates—there can be no possible doubt. It is skilfully kept out of sight, that the condition of the petty landholders of Bihar is deplorable; and certainly no real reason is given for the belief that it can be improved without recourse to what every other province has found to be the only safeguard.
earliest acquisitions of territory were made much about the same time as the grant of Bengal. For many years no form of regular Settlement was adopted; but when the districts ceded by Mysore, and the Carnatic districts, were also added, notwithstanding that a Settlement had been begun on other principles, the Central Government determined to apply a Permanent Settlement (on the Bengal model) to the whole.

It was only, however, in the northern districts that there were Zamindars or chiefs who had a similar position; there were also certain lands reserved for the benefit of the Native Court of Hyderabad (known as Haveli lands) and there were the polygars' estates (p. 111).

The Zamindars were settled without difficulty; the Haveli lands were free to be sold to persons who became the landlords; a few of the greater polygars were settled with just like the northern Zamindars; and the case of the other polygars has already been explained (p. 111). No other real landlord-estates existed; consequently it was impossible to settle the districts generally, without making artificial estates or parcels (mootah = muttha) of lands, and selling the landlord right by auction! This resulted in a miserable failure; in a short time the purchasers broke down one after another, and the attempt to carry the Permanent Settlement any further, was abandoned. The result is that we have now between one-fifth and one-third of the Presidency held in great Zamindars or as polliams, and there are many smaller relics (scattered through the districts) of inferior Zamindars and mootahs. The rest is all under a separate system. Inside the great Zamindars there were no serious difficulties as regards subordinate rights; the law reserved intact, every kind of right that could be proved to exist; and every feature of tenure or privilege, as regards fixity of rent or holding, can be secured on the sole condition of sufficient

2 The gross area of all kinds of landlord estates, appears to be about 10 million acres (this, however, is a total territorial area including much that is uncultivated), the raiyatrodr lands appear to be close on 30 millions of acres—but that is the Settlement area, i.e. takes in only the village (occupied and cultivated) area.
evidence of the facts or custom. There is no artificial twelve years, or other similar rule. Rent-free holdings in the Zamindarfs were all maintained. The Permanently Settled estates are still governed by Madras Regulation XXV of 1802. This is supplemented by Madras Act II of 1864 which provides for the recovery of arrears of Land Revenue, and by Act VIII of 1865 which regulates the Zamindar's dealings with his tenants (p. 144). The grant of the landlord title and the conditions of it are evidenced by a sanad or title-deed in each case (p. 65 n.). The absence of tenure difficulties may be due to the circumstance that the Madras landlords were mostly territorial chiefs who had not exercised that close dealing with the land which in Bengal resulted in so many subordinate grades of right.

It should be noticed, in conclusion, that there is no rule (as there is in Bengal) that landlord estates sold for arrears, must be again permanently settled with the purchaser. When therefore, on the failure of the numerous artificial estates and other new Zamindarfs, in the beginning of the century, some other arrangement had to be made, there was nothing to prevent the lands being simply treated like any other raiyatwari lands. This is the reason why even in the districts that are mostly made up of estates under the Permanent Settlement, there are some considerable tracts of raiyatwari lands.

The Temporary Settlement of Bengal.

So much for the Permanent Settlement with landlords. In Bengal, to which we must once more return, the existence of a number of scattered estates belonging to Government, or lands which from other causes were not liable to the Permanent Settlement law (pp. 162, 3), did not attract attention. For a long time these estates were informally managed without the aid of a separate law. But on the acquisition of Katak and the other Orissa districts, as well as those now forming the North-Western Provinces, the Settlement of so large and important a territory called for special measures; and after the usual period of
tentative arrangements, Regulation VII of 1822 was passed. This law (which is the foundation of all the system of Temporary Settlement with landlords and village bodies) will be more conveniently brought to notice in connexion with the North-West Provinces Settlement system. But it is here to be mentioned that this Regulation (with its amending regulations notably Reg. IX of 1833) is still the law under which Temporary Settlements are made in Bengal; but Bengal Act VIII of 1879, and now Act VII of 1885 (chap. x), have made important additions to its provisions: they have given power to Settlement officers, not only to record, but to adjust and enhance, rents. In the Orissa districts, and some others to which Act VIII of 1885 does not extend, the Bengal Act VIII of 1879 still applies.

The Settlement may apply to the Revenue or to the Rent payments. Mode of assessment.—The 'Temporary Settlements,' properly so called, are made for estates in which there is a recognized landlord or proprietor of some kind, who is responsible for the Land Revenue payment. But very much the same procedure is also adopted in fixing rents for lands in which there is no Land Revenue payable, because there is no landlord except the Government itself. The Land Revenue assessment is ascertained in Bengal, exactly as in the North-West Provinces; viz. by calculating the actually paid rent-rates on the estate; these form the 'assets' of the proprietor; and a percentage of the total assets represents the Land Revenue demand. The method of valuation for fixing rents is described in Sec. III, and it is unnecessary to repeat the details here. Whether there is a landlord whose rental receipts have to be calculated, or whether it is a Government estate where a rental has to be fixed for actual payment by the tenants, the work is very much the same. In either case the

1 The Chittagong Hill Tracts, the Santhál Pergunnahs and the Western Dwârs districts, have special laws of their own; and in the Chutiyà Nagpur districts there is a special Tenant Law, although Act VIII of 1879 applies also.

2 The percentage of total assets may not be the exact Revenue, because some minor additions or deductions have to be made on other accounts; but the statement is sufficient for our immediate purpose.
Settlement officer has to ascertain the correct rental value of land.

It may be indeed, that in a Settlement with an existing proprietor there may be no occasion to do more than discover and record existing rents (without any enhancement proceedings) for the purpose of calculating the Revenue rates; but in some cases the proprietor will ask to have the rents raised and adjusted, and then, under Act VIII of 1885 (as well as under the earlier law), the Settlement Officer has power to take action: he can enhance rents, under the conditions stated in the Act, and adjust rates of rent where they have not been settled between the parties.

In principle the procedure of Temporary Settlement, including the demarcation of boundaries, the survey, and the record of rights under the Bengal law, is virtually the same as that followed in the North-West Provinces system, next to be described. The forms of record of rights and other matters of detail may be learnt from the Settlement rules made by the Board of Revenue¹ and the Bengal 'Settlement Manual.' There would be no object in giving any further detail here. Only one point may be noticed: in Bengal (Temporary) Settlements with a middleman or proprietor, the proportion of 'assets' taken as Land Revenue, is seventy per cent. This is much higher than under the North-West Provinces Settlements; but in Bengal, the 'proprietors' who hold the Settlement are usually middlemen of a class for whom thirty per cent. of the assets (together with the entire profits from subsequent legal enhancements of rents, and all extensions of cultivation during the long period of Settlement and other profits not calculated) are an ample remuneration.

Orissa Temporary Settlements.—The most extensive of the Bengaí Temporary Settlements is that of the Orissa districts, but as this is not a 'landlord' Settlement, I reserve a notice of it to the next section.

Settlement with the landlords of Oudh.

Oudh Settlement not permanent, and reserved to the next section.—There is one other settlement dealing with great

¹ These are printed as Appendix I to Rampini and Firuncane's Bengal Tenancy Act (1885).
landlords, namely the Oudh Taluqdārs; but it has hardly anything in common with the Landlord Settlement of Bengal. It is not permanent (except in the case of a few estates, as a reward for special services); there is a complete survey and record of rights; and the component villages under the landlords are so much considered, that virtually the Oudh Settlement is regarded, and will be here described, as a modified form of the village Settlement system, in the next section.

Section III. The village (or Mahāl) Settlement System.

Just as the Permanent Settlement of Bengal is the typical form adopted where great landlords had to be dealt with, so the Temporary Settlement as developed in the North-West Provinces, is the typical form made use of in provinces where for the most part village communities with landlord rights are dealt with; that is to say where the joint body of co-sharers is regarded as the landlord and as responsible for one assessed sum of Revenue¹. This system can also be easily applied so as to make the Settlement with a landlord who happens to have acquired rights over a group of villages or a whole pargana, its features remain unaltered; that is why we consider the Oudh Taluqdāri Settlement (p. 170) preferably under this head. The same system was applied to Ájmer, to the Panjáb and to the Central Provinces, with only local modifications in each.

The 'North-West Provinces.'—The remarks already made will have familiarized the reader with the North-West Provinces, as extending from the Bihār frontier of Bengal as far as the Jumna river. The bulk of the districts were occupied by villages of the landlord type (pp. 71, 92), some of them in the hands of single landlords, others held undivided by a number of

¹ The map may here be referred to, which shows the Permanent Settlement in red (the Temporary Settlement in Bengal being yellow); the 'village' Settlements are blue; and the rāiyātūdāri Settlements in different shades of green—showing a certain connexion of principle under a variety of form.
sharers, and others being (divided) \textit{pattidāri} and \textit{bhāiāchārā} communities (p. 84).

\textbf{Early history of the Settlements.}—The earlier Regulations (1802–5) were still under the influence of the single-landlord ideas derived from Bengal and from Europe. And at first the villages were nearly always settled with one Revenue farmer or with some other (single) leading person. Indeed these Regulations (1802–5) read very much as if we were still in Bengal with landlords and ‘actual proprietors’ to deal with in each case. Moreover it was at first declared that the Settlement would be made permanent; only that this was prohibited by the Home authorities. Fortunately, however, light broke in on the scene, and that chiefly through the exertions of Holt Mackenzie, who may be regarded as standing in the same relation to the North-West Provinces system as John Shore did to that of Bengal.\footnote{There, however, the parallel ends: for the Permanent Settlement of Bengal could have no development, while the North-West Provinces system, which in its initiation is associated with the name of Holt Mackenzie, was continually improved till it attained its modern form under the care of James Thomason.}

\textbf{First proposals for the North-West Provinces Settlements.} The first design briefly was this: to make a ten years’ Settlement, in such a way that experience would be gained and the work improved as it went on. There was to be a first Settlement for three years, then a second for three years more, and then a third for four years, which it was hoped would prove satisfactory enough to be confirmed for ever. Consequently when the time came for making the last or four years’ Settlement, it was desired to make it with every care and precaution, and a special Commission was appointed, with Holt Mackenzie as its Secretary. This Commission was soon found indispensable, and became permanently constituted as the Board of Revenue (p. 19). Briefly, the results of the inquiry were to show:—(1) That village proprietary-bodies existed, and that it was impossible to let single co-sharers, farmers, headmen and others usurp the place of sole owner.\footnote{And in the early days after annexation, it must be recollected, not only was village farming general, but rich men were called on to stand security for village payments. Defaults frequently occurred, and indeed were often fraudulently brought about on purpose; the old sale-law was the only method of recovery then in use, and the consequence was that villages fell by hundreds into the hands of Revenue farmers, surties and the like, who bought them at the auction and became landlords (p. 94).} (2) That a survey and record of all rights whatever, were indispensable. (3) That a Permanent Settlement as a general measure could not be thought of. The whole subject was discussed in a long and able minute by Holt Mackenzie which bears the date July 1, 1819.

\textbf{The passing of Regulation VII of 1822.}—At the same time as these inquiries were being made in the North-West, the
question of the Orissa districts acquired in 1803, also came up: the result was that Regulation VII of 1822 was passed to apply to both.

Its application to Orissa.—The Orissa Settlements (under the Bengal Government) were accordingly made pursuant to this Regulation. These Settlements cannot be described in this book, though they are full of interest; but justice could not be done to the subject without going into a number of details which would be out of place. But I may here once for all say, that the Orissa Settlement was made without any reference to any theory requiring a landlord or middleman. In fact it is neither exactly a landlord Settlement, nor a village Settlement, nor a raiyatdāri Settlement; but when the survey was made and the details of holdings were ascertained, the Settlement Officers simply had respect to actual facts; they recorded and secured all rights as they found them existing. Some features of each of the three systems may therefore be traced. A few of the local magnates or chiefs were recognized as landlords, and their assessment was allowed (as a favour) to be permanent. Beyond that there are no ‘Zamīndārs’; but various persons had acquired rights of one kind or another over villages or plots of land. The Settlement therefore took the country, village by village; the rent or revenue payable by each kind of landholder was determined, and his rights recorded: there might be the old thānī or resident cultivator, there might be a village headman with certain rights; or a small ‘estate’ belonging to a chaudhari or a Kānūngo or to a grantee of some kind. The Settlements then made have been extended from time to time, and will not expire till 1897.

Regulation VII of 1822 in the North-West Provinces.—Let us then return to Regulation VII of 1822 as applied to North-Western India.

In some cases, as I have stated, it was necessary to acknowledge a great landlord or Zamīndār, or to acknowledge one so far as to give him a tuluqdāri allowance—as it was called (p. 109).

1 I mean those who were subjects; I am not speaking of the chiefs in the Hill Country who are recognized as ruling 'Tributary states.'
In the former case the assessment was on the whole estate, but it was for a period of years only. If the villages in the estate had preserved their constitution and were not bodies of contract tenantry, a 'sub-settlement' (mufassal Settlement was the term used in 1822) would be made, which fixed what the village was to pay to the landlord; only that in that case it would be fixed 'at a higher figure to allow for the overlord's profit. In cases where the taluqdárí or double tenure was found, the villages 'held the Settlement' direct, but the taluqdárí allowance was provided for by making the assessment so much higher as to include the amount (ultimately fixed at ten per cent. on the Land Revenue). This was payable through the treasury, and was not collected by the overlord.

Joint and several responsibility of the village bodies. By means of a representative lambardár.—Where the village itself was the only landlord, the section on village tenures will have made the form of ownership intelligible; so that it need here only be briefly stated that the entire body was settled with as a jointly and severally responsible unit; and that for each village or each patti or section, a sharer of standing and respectability undertook the primary liability and signed the Revenue-engagement on behalf of the whole body. Such a person was called lambardár (p. 26). The burden of the Revenue is distributed (with the advice and under the supervision of the Settlement Officer) among the co-sharers, according to the principles of sharing and constitution of the estate (i.e. either by ancestral shares or in proportion to the share or holding). (p. 87.) This process is called the báchh.

'Perfect' Partition of estates.—In case a section of the village or even a shareholder (above a certain limit) does not like the joint responsibility, he is allowed, by the North-West Provinces law, to apply to be completely separated, i.e. to have what is called 'perfect partition' which sets up a separate estate with separate Revenue liability. Perfect partition is not as a rule allowed (except at Settlement) in the Panjáb.

Amendment of the Regulation.—The Regulation of 1822 was excellent in principle, but it could not be efficiently worked,
partly by reason of some assessment difficulties which will appear presently, and partly because of the deficiency of local establishments and the burden of work thrown on the Settlement officers, who had to inquire into and decide rights at the same time that they were assessing the Revenue. Two amending laws were passed in 1825; but the more important amendment was that of 1833 (after a special Committee had sat to inquire into the whole matter). It is hardly too much to say that it was the passing of Regulation IX of 1833 that enabled the first Settlements to be made with fair success.

Under this Regulation, Native Deputy Collectors were appointed; the principle of assessment was revised; and the majority of judicial cases were transferred from the Settlement Officer's Court. At the same time also, the village Statistics were reformed; the Settlement Officer was empowered to fix rents for tenants, and the village maps and accompanying field-registers came into general use.

The work of Settlement considered as partly judicial, partly fiscal.—The principles thus established have never been departed from: and although details were from time to time altered so that it became necessary in 1873 to draft a new and comprehensive Land Revenue law (Act XIX), it remained a distinctive feature of the system that the Settlement involved two branches of work, (1) quasi-Judicial and (2) Fiscal. The first was concerned with the ascertainment and record of rights; the second with the valuation of land and the assessment of the Revenue demand and the adjustment of rents of tenants.

1 Leaving the Settlement Officers only the duty of recording unascertained rights or at least of summary inquiry on the basis of existing possession: if there was still a dispute and arbitration was not resorted to, the case would be tried in the Civil Court, and the Settlement Records would be filled up in accordance with the final decree.

2 Thomason's Directions to Revenue Officers.—As experience supplied the necessary data, a valuable book known as 'Directions to Settlement Officers' was completed by Mr. Thomason (who became Lieutenant-Governor); and this was supplemented by 'Directions to Collectors.' In 1858 when some new Settlements were being made, certain modifications were introduced by what were known as the 'Saharanpur Rules.' An important survey change (the use of the planetable) was introduced also. To embody these improvements a new edition of the Directions was issued in 1858. This work long remained a standard
The work naturally divides itself into stages—Demarcation, Survey, Record of holdings and rights, Assessment, and concluding proceedings.

Demarcation.—The first stage (preliminary to the survey) consisted in setting up the outer boundary marks of villages and estates (pp. 11, 147) and interior marks indicating the limits of holdings, shares, tenancies, &c. Legal powers to enter on land for survey and measurement purposes, as well as to require the erection of marks, were duly given by the Regulation, as they are also in the Land Revenue Act.

The persons entitled to record were those in possession. A disputed boundary was settled by a summary inquiry on the basis of possession; if possible, arbitration was resorted to; if not, the aggrieved party had to go to the Civil Court.

Survey.—Then followed the Survey: this was not a mere topographical survey, but resulted in producing for each village the Shajra or large scale map, showing every field with a red ink number, and accompanied by a descriptive list or index of all fields called the Khasra.

At first the survey was made by two independent agencies. A professional survey staff made the 'Revenue survey' of the district as far as the outer boundaries of the villages; the interior details were furnished by native surveyors on the Settlement Staff. But for the later Settlements (in the North-West Provinces and Oudh) what is called the Cadastre Survey was introduced, i.e. the entire work was done, village by village, by professional surveyors under the Survey Department. This was much more costly, but the work was absolutely reliable, and will never have to be repeated.

Modified Cadastre System.—Chiefly on account of economy, a modified system has been adopted in the Panjab and the Central Provinces (and probably elsewhere). Under this system, the work is more divided, but in a better way. A scientifically trained staff lays down (not the outer boundaries of villages which can only be used for check and comparison, but) certain base-lines and fixed points of importance, which serve as absolutely reliable data for the detailed interior survey; and for this work the Settlement text-book in the North-West Provinces and the other Provinces. It is still referred to as the exponent of principles, though its details have become superseded by later Acts and Revenue Circular Orders.

1 In some provinces the various grades of Settlement Officers were vested with special powers, as Civil Courts, to decide all classes of land suits. This depended on the nature of the Settlement work and the possibility of the Officers having time to dispose of the cases that arose.
staff and the local patwārs\(^1\) (p. 27) suffice. They fill in the field to field details, as well as roads, wells, tanks, groves, inhabited sites, and other features of the village area. This system is much cheaper and quite satisfactory in working\(^2\).

**Mode of preparing the village map.**—In order to make the village map, (1) a list of persons holding land is drawn up (each person being classed as tenant, co-sharing owner, &c., and against a tenant’s name is noted the owner he belongs to). (2) The fields are measured and mapped; and pari passu, each field, with details of its area, soil, and crop, &c., is entered:—

(a) in a permanent khasra or field index in which each plot is numbered as it is on the map.

(b) in a list which begins with the name of each holder, so that all the fields under one holder (of whatever class) are brought together.

From these data all other Settlement Records of rights and holdings, afterwards to be mentioned, can be compiled. As the lists of fields and the holders of them are made out, every kind of right—whether of a co-sharer in the estate, or of a rent-free holder, or of a tenant with some kind of privilege—is brought to record. Either the right is undisputed and is entered at once, or it may be necessary to file a suit to determine it. In that case the entry cannot be completed till the result of the suit is known. The records always proceed on the basis of undisputed rights or at least of those actually in possession.

**The principles of assessment.** The Land Revenue is a fraction of the total estate ‘assets.’ And those are chiefly the rental receipts.—The next part of the process is the assessment. The details of the subject can only really be

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1 To give an idea of the staff, I may instance the Panjāb, with which I am familiar. In other places where the population is denser, the staff would be stronger. A Settlement Officer (probably with one or more superior grade Assistants) takes in hand four tahsils; each tahsil will have about eighty patwārs. One Inspector (Kāmlīnā) looks after every six patwārs; and in each tahsil are four superior officials of the grade of Tahsildār for supervising the details of Settlement work.

2 The advantage of making the map by the same agency that has afterwards to keep it correct, is obvious.
learned (and this is true of all systems whatever) by practice in the field, by performing the different calculations, and learning how to make use of them, under skilled direction. Only the general idea or principle of the procedure can be set forth in a work of this kind. I have already stated that though the basis of the Land Revenue is the old 'Rájá's sixth,' modern systems have departed almost entirely from any attempt to value a share of the produce in money. Only traces of such a design are still observable in one or two Settlements. In the case of the village (or mahád) Settlements which we are now considering, the assessments are based, in all cases, more or less directly, on the actual rental value of the lands in the village. There is some difference as regards the mode of procedure in the North-West Provinces, Oudh, Central Provinces and Panjáb; but the underlying principle is the same, and the Revenue is technically said to consist of a fraction (usually fifty per cent.) of the 'assets' of the estate as annually received. The 'assets' mainly consist of the total rents actually received, together with the calculated rental value of lands held by the proprietors themselves, or allowed by them to be rent free; to these may be added any other sources of profit, such as valuable waste lands, income from grazing, fruits and wild produce, &c. The rental assets are of course the principal thing.

Modified methods of ascertaining these in different Provinces.—I will first briefly state the general ideas on which the practice of assessment is based, and then explain separately and a little more fully how the work is carried out in each Province. The 'rental value' spoken of is now based on rates of rent actually paid in each village, i.e. as paid at the time of Settlement, without reference to what they may subsequently become by the effect of legal encumbrance. That is the North-West Provinces plan pure and simple. In the Central Provinces, this plan was modified under the necessity of securing a more perfectly equal incidence of rents; because while in the North-West Province, the rents ultimately paid after the Settlement are largely matters of agreement (or at least of decision in the Rent Courts) between landlord and tenant, in the Central
Provinces, all rents are fixed by the Settlement Officer for the ensuing term of Settlement, and this officer has therefore not only to determine existing rents as a basis of calculating the Revenue, but rents suitable to be actually paid during the whole term, by the tenants. In the Panjáb, again, so much of the land is held by the proprietors themselves, or is in the hands of tenants who pay in kind, that a direct process of calculating cash rentals cannot be followed; and it is necessary to ascertain a fair rate for all lands of a given class, on the basis of some specimen holdings which are found here and there to be paying real cash rents, or which pay grain rents of such a kind that, when valued in money, they will fairly represent a real rental value. And these representative values are applied (with suitable local variations) to all the lands of the villages.

Origin of the method.—With regard to village assessments generally, it will be remembered that the system we are describing was necessitated by the impossibility of repeating the old Permanent Settlement practice of merely bargaining for lump sums fixed on general considerations, without any reference to the actual valuation of the land. Obviously the only alternative to fixing a lump assessment empirically, is to ascertain the sum payable, with reference to the annual value of the estates according to their position and the kinds of soil they contain; the modern methods of valuation were only gradually discovered and perfected.

Attempt to value the net produce of each kind of soil.—In order to make a land valuation under Regulation VII of 1822, they began, at first, with a laborious attempt to find out the gross produce of land, and to value it in money; then deducting from this value the cost of production, they arrived at a net value. But this would not work. So many accidents and peculiarities affect different localities, that unless a calculation for each individual field could be made—i.e. for millions of fields, no correct, and certainly no equal, valuation would result.

Modified in 1833: method called 'aggregate to detail.'—A new departure was accordingly determined on, in 1833. And from that time up to the present day, the practice of
assessment has gradually improved. As might be expected, there were distinct stages of this growth.

For the first Settlements where was a rough method of calculating a general sum total, which it was thought might fairly be taken from an entire pargana or other local area; this sum was tentatively distributed over the village lands, and was modified till it gave acreage-rates that appeared justifiable. But that method was soon abandoned, because attention was more and more drawn to the rents paid by tenants as a natural standard of the value of different lands.

Attention gradually drawn to rental value of land. At first theoretical rents (rents as they ought to be) were considered.—But some years ago, the rents were still very much customary rents, i.e. they did not represent anything like a competition rental value of the soil. As, however, time went on, this feature began to disappear; land came to be more in demand for a largely increasing population; the rents paid gradually became more and more proportionate to the real value and advantage of different soils in different situations. But the difficulty was to find out what the rents really were, in all cases; for those recorded in the village accounts of past years were either incorrect, or the information was altogether wanting; and even when a rent-rate was found out, it was at first considered that this might be far below what the land would probably be made to pay, directly the Settlement was over. So it became customary to calculate full rent-rates, such as it was supposed would be obtained in the years immediately following the Settlement.

The assessment so obtained might be correct in theory, but its working success depended largely on whether the landlords succeeded, either by aid of the Settlement officer's friendly interposition, or by the action of the Rent Courts, in getting his tenants to pay rents at least up to the standard of those calculated by the Settlement officer. And the result was that unequal results were obtained, in spite of the great care and intelligence that were undoubtedly brought to the work. In the latest Assessment rules (issued in 1886) the practice has
been so far modified, that the rents taken as the basis of calculation, in making out a village rent roll (in which each acre of each kind of (cultivate) soil bears its proper rate) should be actually paid rent-rates without any theoretical increase for supposed future enhancements.

Practical steps towards obtaining correct village rent rolls. —Let us now shortly sketch the process of the rental asset valuation in the North-West Provinces. In the first place, the area under Settlement has to be divided into tracts, blocks, or ‘Circles,’ in which the general circumstances of climate, and physical or economical conditions, are similar.

Assessment ‘Circles.’—In one circle there will be the advantage of proximity to market, facility of transport, and a ready demand for all kinds of produce: another may be marked by low-lying unhealthy situation, or may be dry upland with precarious rainfall. In one circle, water can only be found at considerable depths, and irrigation is costly or at least laborious; in another, the entire area is moistened by river percolation. The same soils may occur in all the circles: rich soil in certain fields, stiff clay, sandy loam and the like, may re-appear in each; but the conditions which affect the whole circle may necessitate different rent-rates for the same soil in each circle.

List of soils to be adopted.—Then again, it must be determined what soils should be distinguished; the object is always to have as few as may be, and those really distinct and easily indicated by the agricultural population, who almost invariably have local names for each kind the practical distinctness of which they recognize. And there may be degrees of goodness of each kind. Still the number of different rent-rates necessary to cover all the soils and all the degrees of goodness of each soil, can be reduced to a very moderate limit, and yet furnish an appropriate value for every assessable acre in the village.

Zones of Cultivation practically made use of.—There was, in the North-West Provinces, a circumstance which facilitated this classification. It was observed that villages often had their cultivation in three broadly distinguished belts or zones (in vernacular hār). The first was the homestead zone, that nearest the village and easily accessible to manure and irrigation: long working and the supply of manure and water usually obliterated other distinctions,
and one rate (and that the highest) would represent all land in this condition. The next zone was the 'middle-land,' in which perhaps, natural soils had to be distinguished. The third was the 'outside' zone; here soils had to be distinguished, cultivation was poorer and more precarious, and water and manure were only occasionally available 1.

Tables of rent for each kind of soil in each village. Standard rent rates for kinds of soil in each circle. Called 'the prevailing rates.'—The existing and past rent rolls of the villages were scrutinized, and abstracted in the office, so as to give a table of rents for each kind of land; local inquiries and inspections to test and verify the rates were also carried out. In this way certain standard rates were ascertained, by adopting the rates of carefully selected average fields of each principal class of soil. These rates were such as were known to be fair, and were considered to be average or sample rates, being uninfluenced by any exceptional or purely local circumstances. Such standards were called the 'prevailing rates' of the circle.

'Corrected rent roll.' Villages above and below the average.—Now it is obvious that if by a judicious comparison of rents actually paid, we have obtained a series of rates representing each kind (and degree of kind) of soil recognized, and those rates represent neither very high nor very low rents, we have a scale of rates, which when applied to the soil areas of a village, ought, so to speak, to represent a fairly accurate rental value of at least some villages in each circle. Those will be in fact all the average villages. Even then, the valuation total will not equal exactly the rental account as shown by the most accurate village records. For in each village, there are lands held (of the proprietor's goodwill) rent-free; and there are also the sir lands or home farm (p. 79) of each co-sharer, either unrented, or paying nominal sums. As Government does not profess to exempt these from paying Revenue, the proper rental value has to be put on such lands. The rent roll of the village so

1 Care was taken to inspect the villages minutely and mark on the map the limits of the three zones, so that each 'number' or field in the map could be arranged in a list showing its zone, its soil difference (where that was needed), and the appropriate rent rate set against it.
supplemented, will, however, fairly correspond, as regards rates, to the actual rent roll of the tenant holdings; but (as I have above stated), this will be for average villages. In each circle, however, there are sure to be villages above or below the average; villages in which special features, confined to the village—such as caste of cultivator, number of tenants paying grain-rents, large proportion of land not rented and in the hands of the proprietors themselves—make it impossible to say that rates derived from the total of actual tenant rents shown in the books, represent a fair valuation. In such cases a specially ‘corrected rent roll’ has to be prepared; and this may be done, by referring to the prevailing or standard rates of the circle, or else getting ‘village rates’ as they are called, i.e. rates for the particular village, which are either rates derived from the average incidence of the total recorded rental (for full paying lands) on the total paying area, or are rates observed to be paid on neighbouring and similar holdings.

In some cases the recorded rents may be incorrect.—But there is yet (unfortunately) another cause why the recorded rental roll of the village may not answer to a roll prepared according to prevailing rates; it may be that the village papers are incorrect, or even fraudulently understate the real (or actual) rents paid; in that case no one can complain justly, if the Settlement officer sets aside the village records, and applies, as he is empowered to do, the ‘prevailing’ rates of the circle.

Allowance made in valuing Sir lands.—In speaking above of the application of rates to land which does not pay rent because it is the proprietor’s home farm (or sir), I should mention that it has been customary to make some allowance for the benefit of the owners; the land is not valued at full (tenant) rates for similar soil, but (under existing rules) at from ten to fifteen per cent. below those rates.

Rent Rate Reports.—It must also be mentioned, that the ‘prevailing’ rates, &c., intended to be made use of in calculation, have to be reported to the chief Revenue authority for sanction

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1 Which itself is an indication of some exceptional preciosity of the crop (pp. 35, 37 note), such as flood, drought, or depredation by wild beasts.
before they are made use of. The reports give all the data and statistical information (if in a suitable form) on which the rates proposed were ascertained.

Rental assets not quite the whole; some addition may have to be made for other profits.—The total, rental-assets of a village being thus ascertained, there may be some addition to the total to be made on account of 'manorial' profits (as it is often the custom to call them), and possibly to allow for some valuable waste which is not assessable acre by acre at full rates, but still should not be allowed to be wholly disregarded.

Proportion of the assets which represents the Land Revenue.—Of the total assets, the Government at first took sixty-six per cent. as its Land Revenue; but in those days the assets were very loosely estimated; and moreover the Settlement holders were very often farmers, sadr mâlguzarâs (as they were called), and others, whose right and responsibility were adequately recognized by the remaining thirty-three per cent. left them. "But in later times when the real proprietors were settled with, and assets were more accurately calculated, the rule came to be (and still continues) that from forty-five to fifty-five per cent. should be taken—fifty per cent. being the standard; anything above or below that requires to be specially reported and expressly sanctioned.

The jama'.—The percentage of the total assets is not always mechanically taken as the village assessment, for there may be some further local peculiarity of circumstance or some feature of past history which can be best allowed for by making a small lump addition to, or diminution in, the total. In any case the total assessment as finally sanctioned is called the jama'. It is distributed as already stated (p. 174) among co-sharers; so that, ordinarily the several co-sharers pay their own quota through their lambardâr, and the joint responsibility has but rarely to be enforced.

Adjustment of rents to suit the Settlement rates.—It will be noticed that in the North-West Provinces, although the rents used as a basis of calculation are as far as possible rates in actual (present) use, there is nothing to prevent the landlords from enhancing their ordinary tenants' rents in future, so long
as the Rent Law allows it, or the tenants agree. At the Settlement only certain privileged tenants are entitled to have their rents actually fixed for them by the Settlement Officer; the rest depend on voluntary settlement with the landlord, and with recourse to a suit for enhancement under the Rent Law, if necessary. But as a matter of fact in past Settlements, the officer in charge did a great deal, as friend of both parties, in bringing about an adjustment.

This refers to the past. — This account of the assessment refers to what has been done in all modern Settlements up to the latest series. In the future it is hoped that revisions of Settlement will be effected with greater facility. That ultimately no new demarcation, survey, or land valuation and soil classification will be required, is probable. It will only be necessary to revise the existing rates on some general principle of a percentage addition; and only in the less developed estates will it be necessary to provide for the assessment of new cultivation.

System applied to Oudh. — The system just sketched out was applied to Oudh, only that there, the Settlement was only occasionally with the villages; in most cases a single Taluqdār landlord was settled with (in one sum) for an estate comprising a greater or less number of villages; and these were in different stages of preservation as regards their rights in the second degree. The Taluqdār's Revenue payment was based on the aggregate of the sums leviable as rent from each village. Attention was therefore paid more to individual villages and their rent according to what past payments had been, and what they now might be with reference to local circumstances, and less to general rates of rent for soils, prevailing throughout circles. It might be that some whole villages under the Taluqdār were entitled to a 'sub-settlement' (p. 132); and therefore the payment they had to make was fixed so much higher as would allow.

1 Otherwise if the tenants are strong they resist the just demands of an easy-going landlord; or if weak they are made to pay rents that may approach a rack-rent.

2 In L. S. B. J. vol. i. p. 355 ff., I have given an outline of the proposals made and of the discussions which have taken place, regarding the future procedure of revision Settlements.
for the Taluqdār's profit as well as the Government share. In most cases, however, there were only sub-proprietors of plots (p. 132) whose Revenue paymēnt was fixed so as to allow at least for the minimum legal profit. A Taluqdār can never get less than ten per cent. profit after paying the Revenue; how much more he gets on the whole estate, depends on the number of villages entitled to sub-settlement and the number of sub-proprietors and occupancy-tenants.

**Applied to the Central Provinces. Equal incidence of Rents how to be secured.**—The modification of the system, as applied to the **Central Provinces**, is chiefly if not solely caused by the necessity of securing to the utmost degree possible, an equal incidence of rents. The result of the somewhat artificial creation of proprietors over the villages was, that a large measure of protection had to be accorded to the tenantry (pp. 94, 140). And this is given effect to by legal provision that the rents of all occupancy-tenants shall be fixed for the term of Settlement by the Settlement Officer; and as the Act gives power to settle all other rents also, and certain conditions arise in consequence of such fixing, it is admissible to say broadly, that in practice all rents are fixed at Settlement and for the term of it. The Settlement Officer's task is therefore not merely to fix rates for the purposes of Revenue calculation—rents which may be more than realized by the landlord afterwards; he determines, rents which are actually payable, and at the same time serve as the basis of assessing the Land Revenue. Hence it is especially important that the incidence of the rates should be, as far as possible, equal in all villages. It was perceived that this could best be secured, if by some process we could reduce all soils, so to speak, to a 'common denominator,'—that is, if we could ascertain the relative value of one soil to another, and thus

1 If the village were independent, it would get fifty per cent. of the assets (the Government taking fifty per cent.—p. 184). But as it is holding under a landlord, reference to the lease, or to past custom, may show that the landlord is entitled to twenty-five per cent. (it can never be less than ten per cent.); in that case the village would be assessed at seventy-five per cent. of the assets, of which fifty goes to Government and twenty-five to the Taluqdār. If the village terms were such that they got less than twenty-five per cent., they would not be entitled (under the law of 1866) to a sub-settlement at all.
by multiplying the area of each soil in a village, by an appropriate number or ‘factor,’ could reduce each total area to a number of units of the same practical value or productive capacity. As a matter of fact, this has been found possible. It was observed that while people are shy about telling the true rent paid for this or that soil per acre, they will disclose (and other means are also open for discovering) how one soil is valued relatively to another. Let us suppose for example two villages in a ‘circle’ (p. 181) A and B. Each has 1,000 acres; but A’s is made up of 300 acres ‘black soil’ and 700 ‘red soil.’ B’s, on the other hand, consists of 600 black and 400 red. By experimental reaping of crops, by analysis of rents and other sources of information, it is found that the productiveness of ‘black’ to ‘red’ soil is as 20:12. We can then reduce the area of A and B to equal area units and see whether the existing rent is equal in incidence or not.

For A’s area = \[
\begin{align*}
300 \times 20 &= 6,000 \\
700 \times 12 &= 8,400 \\
\hline
14,400 & \text{units of equal value.}
\end{align*}
\]

But B’s = \[
\begin{align*}
600 \times 20 &= 12,000 \\
400 \times 12 &= 4,800 \\
\hline
16,800 & \text{units of equal value.}
\end{align*}
\]

Now suppose that each village rental is at present R. 1,000. Dividing this by the number of equal soil units, the unequal incidence at once appears: A is in fact paying \(\frac{6,000}{14,400} = 0.41\) anas, while B is paying \(\frac{1000}{16,800} = 0.06\) anas. And so if we can find out a general fair rate, we can raise one or other or both. Suppose we find (by comparison of the highest rented villages) that 2.0 anas is a full but proper rate, the first village would be raised to R. 1,800 and the second to R. 2,100, and yet we are sure that the general rates are equal.

**Determination of ‘factor’ numbers.**—The general factors or numbers by which each soil must be multiplied to give the equal value units, are determined for whole tahsilis or other convenient areas, and can be modified slightly to allow for accidental peculiarities of soils. Thus if 24 is the factor for good ‘kanhar’ rice-land; it may be taken as 22 if the
situation is not as favourable for the retention of water, and as 16 if it is on a bad slope, &c. In each tahsil they make out a list of the soils which it is necessary to distinguish; and under each, the varieties of position, surface, slope, &c., which represent different grades or conditions of the same soil, are noted. If land is very valuable and competition rents run high, it may be needed to make a rather extensive list of such varieties; but that is not usually the case; rents are uniformly low and not very varied—in all but the best-developed districts.

Rent rates per unit.—As to the ‘unit,’ rates of rent, they have tables of all the village areas reduced to equal units; and from these it can be seen what the maximum rates are; an analysis of them will give an experienced officer who has studied the ground, a very good idea of a suitable standard figure that may represent a fair value and yet not cause too great a rise all at once. A standard unit rate being adopted, it is easy to modify it for any particular village by a small change upwards or downwards so as to meet local peculiarities of caste or other special circumstances which affect agricultural life and can only be reached in this way. Thus, supposing the actual unit incidence of the last Settlement period is 0.65 ana; and with reference to increased cultivation and rise of prices, 0.80 would be a more suitable standard rate for the new Settlement; this might, in some villages, be raised to 0.82 or 0.85 and allowed to fall to 0.75 or even to 0.70 in others. Given the ‘factors’ and the ‘unit rate of rent’ it is a mere matter of arithmetic to convert the figures back into actual rate of rent for each area of soil in the village, as it appears in the map and index-register (Shajra and Khatra). The rental value being thus ascertained, the Revenue rate is easily calculated and the village jama ma’ made up as already described.

Applied to the Panjab.—In the Panjab, again, we have the same Settlement system as regards survey, records, &c.; but there was a certain difference in the method of assessment, which is, however, one of detail. Unlike the North-West Provinces, the bulk of village lands is not held by cash-paying tenants. And even where such tenants appear in the returns,
it is often because they pay only at Revenue rates (which of course are cash) and not a competition rent in any shape; and where there are paying tenants, their rent is in kind. Consequently, it is not so easy—and at the first Settlement's was not possible at all—to calculate cash rental values directly.

*Standard rates derived from specimen holdings. Preliminary sanction to these required.*—The Settlement officer therefore calculates direct Revenue rates per acre for each kind of soil in the village estate; and these are based on what the rental 'assets' would be if a cash rent was uniformly paid; and (as usual) the revenue is about fifty per cent. of these assets. Just as before, 'circles' (in which the conditions are approximately the same) are arranged, and broadly distinguishable classes of soil are adopted within each circle. Then certain central or standard rates are made out by *taking a sufficient number of fair specimen holdings representing each kind of soil*, and finding out what they actually pay in cash (if it is possible); and if not, what the fair cash value of the grain rental is. (Observe the same principle of basing observation on what is the actual fact). This work if well done, really furnishes a very fair standard of rental value as applying to all similar lands. But owing to their being calculated rates, they are themselves made the subject of a special preliminary report. When sanctioned, they are used, not as actual rates, but as a sort of standard around which the actual rates should hover;—they give certain limits much above or much below which a fair assessment should not go. First the average villages of the circle are dealt with—those in which, on the whole, there is no reason why rates above or below the *sanctioned* should be adopted. And to them the standard rates will be more approximately applied, but still with regard to the character of particular fields and their condition, and existing rents; the caste of the cultivators also, will often make some modification necessary.

1 See p. 141, where the reason of this appears.
2 See *L. S. B. I.* vol. ii. p. 572 for the reasons why this notice of caste has to be taken.
Second report on Assessment rates.—But in each circle there will be villages, some much above, and some much below, the average; and then the central rates will need to be raised or lowered considerably in their application. And such changes will have to be justified in a further Report on actual rates made use of.

When once rates are satisfactorily settled, the village jama is calculated by the simple process of multiplying the area of each kind of soil in the village by the appropriate rate. On the total sum so obtained, some general increase or decrease may be ordered, as already explained (p. 184).

It will have been noticed that in all provinces, the rates and the final jama are all the subject of careful report, so that every chance of mistake is obviated; moreover the proprietors who are being assessed have considerable opportunity, under the Revenue Procedure Law, for appealing; so that it is unlikely (in the present day at any rate) that an assessment will be unreasonable without its coming to notice and being at once revised.

Allowance for improvements.—It should also be noticed that assessments are always arranged so as to allow the co-sharer or occupant who has spent his labour or capital in making an improvement, to get the benefit of it. (See Chap. IX, at the end.)

To some extent, of course, it is unavoidable to tax improvements; for the long-continued labour and careful cultivation which have brought up what was once a desert, to its present state—perhaps of garden land paying the highest Revenue rate—is as much an improvement and an expenditure of private means, as is the new embankment on which a richer proprietor has just spent 500 rupees in a lump payment. But it is possible directly to encourage the expenditure of capital; and for that reason, all provinces have their rules under which a certificate of such works being executed, is granted, and then the land will be rated at a Settlement, only on its unimproved aspect—as if the work had not been done, so that the whole extra benefit goes to the maker of the improvement for the period of years which the certificate specifies. After that, the land will pay its proper rate according to its class.
Fluctuating Assessments.

Exceptional tracts subject to river action, or in a desert climate. Fluctuating systems must be self-acting to a great extent.—In many provinces there are considerable tracts of country, or even small groups of lands, where the crops are always very precarious, either owing to liability to drought or to floods, or to changes caused by the capricious action of the rivers. In such cases, no fixed assessment for a term of years, adapted to the average of ordinary conditions, can be applied. If a very low rate were fixed, even that could not be paid in the worst years; while there might occasionally be a whole series of years of fine harvests in which such rates would be quite inadequate. It is true that all assessments are strictly moderate, and are designed expressly to meet the average conditions of harvest success. A mere deficiency (or even a considerable failure) in any one year, ought not to affect the payment, at any rate beyond what can be adjusted by suspending the demand or making a partial remission. But the tracts we are speaking of, are subject to such violent changes, that no average considerations of this kind meet the case. Ingenuity has there been exercised to devise a system of assessment which should be, as far as possible, self-acting, and should rise and fall with the result of each harvest, without having recourse to a separate detailed Settlement for each season, with its attendant inconvenience and expense. Two points have to be considered, (1) the extent of land sown: (2) the degree of success attained on that area: for i may be that the whole area has been sown, but only a quarter-crop has been reaped: on the other hand it may be that only one-half the normal area was cultivated, but the result on that limited area was very good. All systems of 'fluctuating assessment' depend on a measurement, after each harvest, of the area actually under cultivation, and on a general estimate of the crop—as full, one-half, one-quarter, or practically nil. Certain rates, already devised, are then applied.
The System designed in the Ajmer district. In Ajmer an ingenious system has been adopted, of fixing a standard area of cultivation which is recorded as reduced to units of dry (unirrigated) cultivation. For this, at a certain (quite easy) rate per acre, a 'standard' Revenue-total is fixed. It is then determined that this rate may be allowed to vary within certain limits: e.g., if the rate is 10 anas, it may not rise above 11$\frac{1}{2}$ anas or fall below 8$\frac{1}{2}$ anas. Suppose that the average area of cultivation of all kinds (when reduced to Aty units) is 560 acres, and that the dry rate is 10 anas per acre, then the standard revenue will be $560 \times 10$ anas, = R. 350. But in a good year, the cultivation will rise to (say) 650 (calculated in dry acres); applying this to the standard Revenue (of R. 350) the rate would be only 8$\frac{1}{2}$ anas per acre: but as 8$\frac{1}{2}$ is the minimum, the Revenue payable would be $670 \times 8\frac{1}{2}$ = R. 366, or R. 16 more than the standard. But next year the season is bad and the cultivation falls to 460 (dry acres); here if we were to apply the standard Revenue of R. 350, it would come to 12$\frac{3}{4}$ anas per acre; but the maximum is 11$\frac{1}{2}$, so that the Collector would only take $460 \times 11\frac{1}{2}$ or R. 323, and remit the rest.

Further provision is also made for the case where, though the area can be measured as so much land having a crop of some kind, the crop itself was only 'one-half' or 'one-quarter' or so poor as not to be counted. The areas are first divided by these fractions before applying the rate.

Instalments.

Revenue not paid in one annual sum.—It is a matter of importance to fix the dates at which the Land Revenue is paid. This is not required in one sum, but in instalments. And these are fixed with reference chiefly to the harvests; for landlords cannot pay their Revenue till they have got in their rents, and tenants cannot discharge their rents until the harvest is reaped;—and if they are cash rents, not till they have had time to sell the grain. Again, one harvest will produce grain that is chiefly kept for food, and another the crops that are sold; a larger proportion of rent (and Revenue) can therefore be paid after the one than after the other. Moreover as the Revenue is always payable in cash, the periods of its falling due are divided, otherwise there is too great a demand, all at once, for silver.

1 This is easy, because the various irrigated rates are always multiples of the dry rate: thus the tank-rate is (say) six times the dry: the 'well' rate four times, and so on: so that every acre of tank-land counts as six dry, and of well-land as four dry.
to make the payments; and such a sudden demand causes prices to fall, while the rate of interest rises. The Central Government has enforced upon the local authorities the necessity of fixing instalments, not so much by general rules, as with reference to the needs of each portion of the district or even of individual estates.

**Refusal of Settlement.**

Though it was commoner in past years, it may still conceivably occur that some proprietor will refuse the Settlement; i.e. after he has appealed up to the chief Revenue authority, and has not been successful, he declines the responsibility for the Revenue assessed. In that case he is excluded from the management of his land for a term of years (fixed by the Land Revenue Act), but is allowed a certain percentage (or malikina, as it is called). Further details are unnecessary.

**The Land Records.**

Preservation of the information as to rights and as to agricultural conditions gained in the process of Settlement. —When the inquiries of the Settlement Officer have resulted in determining all the rights and interests in land that are undisputed, or at least in possession, and are not merely the subject of unsettled litigation; when the assessments are ready, and rents fixed as far as the law and practice require; the varied and important details (both statistical and concerning rights) that have been got together, have to be embodied in a number of formal records, drawn up in tabular statements or otherwise, as the experience of the past has suggested or as the Revenue Circular Orders provide. The Acts prescribe the records in general terms, leaving all details as to form and contents to be regulated locally.

1 Decrees affecting land are always communicated to the Revenue authorities, so that the necessary entries may be made when the matter is finally settled.
THE SETTLEMENT SYSTEMS.

It will be sufficient to indicate the general nature of these records; the precise form of the chief documents, as well as the supplementary statements which different provincial rules require, can be found out in each province from the Rules and Circulars, and especially by going to a Collector's Record Office and getting some instructed Record-Keeper to show the Record of any village and explain the forms and statements contained in the volumes.

Nature of the Records.—The documents are partly statistical, i.e. bearing on the agricultural conditions, soil, products, and other particulars of the estate; partly having reference to rights in the soil and to the Revenue shares and rents payable; village customs bearing on the land revenue management are also recorded.

In general we have the following documents:—

1. The village map (Shajira), already alluded to (pp. 176-7).
2. The field-index (Khasra), which is a descriptive register showing the serial number, who owns, who cultivates, and what crop, if any, each field bears. (There may be appendices showing lists of wells and other particulars of irrigation, &c.)
3. Village-Statements, showing concisely all the statistical facts, population, and other details, about the village.
4. The Khewat, which is a record of the shares and revenue-responsibility of each member of the proprietary body.
5. Jamabandi, or list of tenants, and their rents.
6. The Wajib-ul-arz, or record of village customs.

Special character of the Record of Rights in the Panjáb.—In the Panjáb, owing to the position of tenants in general, the Khewat and Jamabandi (4 and 5) are combined into one detailed statement (also called Jamabandi), which is in itself a complete record of all rights and interests, showing every holding, of whatever kind. It is renewed in great detail once in four years; and in the intermediate years an abridged form is kept up. The list of sharers and state of proprietary interests is there specially

1 In the North-West Provinces and Quādūh a formal acceptance of the revenue-responsibility, signed by the landlord or by the representative lambardārs as the case may be, is one of the Records. In the Panjáb this has been abolished as unnecessary.
shown by the _Shajra-nash_, or genealogical tree, which gives all
the family relationships in the village, and the share and holding
of each.

_Recording village customs in the Panjáb._—The 'Record of
customs' used to contain all sorts of customs, not merely
about managing the village, about fees or dues payable by non-
proprietors, and such like, but its customs of inheritance and
adoption, &c. This was originally needed in the Panjáb, where the
Hindu and Muhammadan laws are little, if at all, followed by the
agricultural castes; but of late years such matters have been held
unsuitable to be placed in formal records, as they are not always
undisputed. Local customs are now collected in 'Tribal Codes,' or
books called _Rīwāt-i-'ādm_; these are useful for reference, but
have no legal authority beyond what other works of history or
general information have.

_Legal presumption of correctness._—This remark reminds
me to notice that the Records, when properly attested, are legally
presumed to be correct till the contrary is shown—which may
be either in a law-suit, or by the Record being in due course
altered in consequence of change by sale, inheritance or other-
wise. These changes are, however, not made in the actual
documents attested at Settlement (which themselves are never
altered except on one or two (limited) grounds prescribed by
law). They are noted in annual papers, which are in the same
form as the initial Records.

_Register of mutations of rights and interests._—The regis-
tration of all changes which occur since the completion of the
Settlement Record, is one of the duties of the Revenue Adminis-
tration, described in a concluding chapter; but it may here
receive a passing notice because it is directly connected with the
prospects of future Settlement work.

_Difficulty of keeping the Records in correspondence with
the facts of the time._—In the old days, when the Settlements
were made, the records were fairly copied and bound up in
volumes; the original was placed in the Collector's Record-room,
and copies were deposited at the _Tahsil_ and with the _Patwārs_
in each village office. But as time went on, these Records gradually
ceased to correspond with the existing state of things. Registers
of mutations were indeed maintained as now; but the _Patwārs_
were inefficient, inspection was unsystematic, and many changes escaped record altogether. In short, when the thirty years (or other period) of the Settlement came to an end, the maps and Records were found to be of so little use—so many changes had occurred—that the whole work of survey and record had usually to be done over again.

How overcome of late years.—The plan is now quite different. An initial set of documents is provided by the Settlement; and these represent what was the correct state of things for the date or time at which the Records were officially signed and attested. Then a set of statements, in the same form, is maintained by the Patwārīs in a state of continual correctness, by periodically introducing all changes reported and entered in the Register of mutations as soon as they have been approved of by the Collector. In the same way, copies of the map are kept correct by entering, in red lines, all changes in the old fields and the extension of cultivation by new fields, &c. This improvement will, it is hoped, completely obviate the necessity for any future resurvey and complete compilation of records of rights. The change has been rendered possible—(1) by the establishment of the Departments of Land Records (p. 20) charged with the supervision of these documents; (2) by the organizing and training of the staff of Patwārīs and their supervisors; (3) by enforcing, under penalty, the report of all changes by inheritance, gift, sale, possessory mortgage, &c.; (4) by organizing regular inspections by Patwārīs and supervisors, which not only bring to light changes in the map, and in the record of rights, but also provide the requisite information as to extension of cultivation, kind of crop cultivated, harvest due-turn, and other agricultural details.

Exemplified by the Act XVII of 1887.—The Panjāb Land Revenue Act (XVII of 1887) was drafted at a time when this system had been fully developed and had already begun to bear fruit. The Act was therefore able to prescribe definitely that there is to be (1) an initial record and (2) a corrected ‘edition’ of this—namely a series of annual records in exactly the same form. The first is maintained untouched for reference; the others may alter year by year, showing the changes that have occurred. But this is only
a legally enacted description of what the practice is, in fact, in all Northern India (including the Central Provinces).

Changes reported for sanction.—As the records have a legal prescription in their favour, it is necessary that they should only take note of changes that are real and have been acted on; hence, though the Patwári notes in his diary any change that is reported (p. 29), he does not embody it in the Annual Record till it has been officially passed or approved.

The English Settlement Report.—During the progress of the Settlement there may be more than one report required—notably, under all systems, the Report on the proposed Assessment and the rent- (or revenue-) rates; these are printed. But in order to sum up, in a convenient form, not only the principal features of the assessment, but all the local, historical, land-tenure and customary lore that has been gathered together by the Settlement Officer in the course of his study of the district, an English Settlement Report (which is not one of the formal Records of Settlement) is prepared. These volumes are sometimes of the greatest interest and value.

In the Panjáb the latest Settlement Reports are confined to the financial aspect of the work, and the local folk-lore and land-tenure information is placed in the 'District Gazettes,' which may sometimes be capable of revision or improvement on these subjects, when a new Settlement takes place. The change is, therefore, merely one of form.

Records, how preserved.—The formal Records of Settlement and the Annual Records are always in the Vernacular (the local government prescribing the language). They are bound in volumes, copies being available at the Collector's Office and at the Tahsíl, &c. There is a formal method of attestation prescribed by the Acts.

Resumé.—It will be convenient, before proceeding to the third system (p. 149)—the Rājya/pārāvāri—to give a brief resumé of the main facts about the village (or mahál) Settlements—which belong to the 'temporary' (or non-permanent) class (p. 149).

1 In Madras too the Settlement Reports are fiscal: information about tenures and district history is to be found in the volumes called 'District Manuals.'
Where there happens to be a landlord over a number of villages, he may be settled with in one sum for the whole, and then there may be (in some cases) subordinate Settlements made, determining the village payments.

But when the village (or group of lands in several villages, but held by one proprietary body) is the Settlement-unit, the whole is assessed to one zamindar, for which the body is jointly and severally liable,—until, by ‘perfect’ partition, the joint liability may be dissolved. The liability of each co-sharer is, however, separately determined and recorded, and this depends on the principle of co-sharing or on the constitution of the village.

The village and all its holdings and tenures are demarcated on the ground, and recorded in appropriate records after survey.

The object of a Settlement is, briefly:

(1) To assess the Land Revenue;

(2) To furnish the Collector (and his assistants and subordinates) with a correct list of the persons by whom it is payable;

(3) To secure the right and title, not only of the proprietors, but also of sub-proprietors, or tenants, or any others that may have an interest in the village lands or be entitled to some share in the profits or to some other payment.

Absence of Title Deeds.—It will be remembered that the Settlement ‘Record of Rights’ does away with the necessity for all the cumbersome title deeds of European countries. There may be specific grants, and other documents for special purposes; and modern sales and mortgages are usually effected with the aid of stamped and registered documents. But these are a small fraction of the land titles; written leases for tenants are also quite the exception, at any rate in some of the provinces; the ‘Record of Rights,’ therefore, is the mainstay of landed titles in general.
Section IV.

Settlements without a middleman (Raiyatwâri systems).

The Madras Revenue System.—First beginnings of a Raiyatwâri system.—Interrupted by the attempt to make a Permanent (landlord) Settlement.—I have already described how the Bengal Permanent Settlement was applied to certain parts of the Madras territories (p. 166). As a matter of fact the Permanent Settlement was not introduced before a beginning had been made with another system. When that part of the present Salem (Selam) district, known as the Bâramahâl (or 'twelve estates'), was acquired in 1792, Captain Read, and the celebrated Munro (afterwards Sir T. Munro, Governor of Madras) as his assistant, were instructed to make a Settlement, the principles of which were very much of their own devising. The plan worked out by them, though bearing but little resemblance to the modern system, still undoubtedly contained the germs of that method of dealing with separate holdings, and of laying a rate on the land rather than arranging a payment for the individual, which we call the Raiyatwâri Settlement system. The work gradually extended to the large area of other districts that were acquired in quick succession (by treaty or by conquest) between 1792 and 1801. The course of these early Settlements on original methods, was interrupted both by war and also by the general attempt to make a landlord Permanent Settlement; and when that attempt failed, the authorities were bent on trying what was called a 'village Settlement.'

Madras village Settlements.—It has been already mentioned (p. 100) that in some districts, but chiefly in Tanjore and in the country adjoining Chingleput, there were traces of bodies of village co-sharers—then distinguished by the name of mirâsidîr families. In Chingleput they were so far in survival, that Mr. Lionel Place, an able and zealous Collector at the close of the last century, had really attained considerable success by making the village co-sharers (as a body) liable for a sum total of Revenue, which they apportioned among themselves in their own way; his arrangements,
in fact, bore considerable resemblance to the landlord-village Settlements of the north. But, even in the absence of such special survivals, it was thought that, as a general method, a lump sum might be fixed for each village as a whole, and that a headman or 'renter' might be found to accept the responsibility for this, on a lease for a period of years, and that the sense of the body of local cultivators could be relied on to secure—which was the essential point—that the burden should be fairly divided among the cultivating landholders. The Reports that have been written regarding these village leases hardly establish the universal failure of the experiment; nevertheless, whenever (either originally or as the result of historical conditions) the village landholders had no natural connexion or system of co-sharing, it must have been always doubtful how far the burden would have been justly apportioned, and how far the 'renter,' at the head, would abstain from making himself the virtual autocrat and proprietor of the whole.

Village lease system is superseded by the Raiyatwârî.—The Raiyatwârî system was, however, destined to gain the day. Munro always held out for dealing 'kulwâr,' as he called it—that is, treating 'each and every' (kul) holding individually. And as he had visited England in 1807, and had an opportunity of personally explaining his views to the Court of Directors, the end was that, in a despatch of December 16, 1812, the Raiyatwârî system was formally ordered to be adopted (on the expiry of such village leases as were still running) for all estates which were not already established as Zamindâris.

Modern system begins 1855–58.—We must pass over all the early history of changes and developments, and come at once to the years 1855–58, when a general revision of the first Settlements and the appointment of a Director of Settlements were determined on.

Its features.—The Madras Settlement commences with an accurate survey, very much like that described in the last section, only that primary attention is paid to the division of the cultivated land in each village into permanent (carefully demarcated) 'survey numbers' or lots as nearly as possible representing the individual holdings. The work is carried out by a separate survey staff, which furnishes the village map. The map is (as usual) accompanied by a descriptive register of all holdings,

1 See the matter discussed in L. S. B. I. vol. iii. p. 26 ff.
which serves, in fact, as an index to the map. The Settlement staff then proceeds with the grouping of villages, the classification of soils and the assessment of the revenue demand. The Raiyatwári system does not profess to determine rights in the way that the North-West system does; dealing with the actual occupant of each field, there is no need to do more than value and assess the fields correctly. Nevertheless, as the actual occupant (or he and his relations jointly) is practically, in most cases, the owner, the Settlement records do really secure rights to a great extent; and an extract from the Settlement register is as good a working title-deed as can be wished. If there is any dispute about right, it is settled by the Civil Courts; the Settlement Officer will not take any action beyond recording the person in actual occupation of the land.

Demarcation: fixed fields a feature of the system.—Previous to survey, there is the demarcation of village boundaries, as well as those of each field or ‘survey number’; and provision is made for settling disputes as to exactly where the boundary line is or should be.

It will be noticed (see also p. 11) that under the Madras (and Bombay) systems, the ‘fields,’ or ‘survey numbers’—as we shall call them, for that is the correct term—are fixed things, and can never be altered except by formal proceedings as to internal subdivision. Every field very generally represents a holding, or not less than a holding; but there are some detailed rules which I do not go into. In Madras there is no minimum size for fields; but inconveniently small holdings of the same kind may, under certain conditions, be clubbed together.

It will sometimes happen that several relations jointly own a survey number, but the shares can always be demarcated on the ground by the Survey Department. In that case the shares do not make so many new ‘numbers,’ but are indicated by a letter attached to the general survey number: thus 21 A, 21 B, &c. Such divisions are technically called ‘interstitial fields,’ and there are certain conditions, e.g. that they must be compact—a share cannot consist of a little bit here and a bit there.

1 Act XXVIII of 1860 (amended by Madras Act II of 1884) gives the necessary powers.
2 See L. S. B. vol. iii. p. 56.
Grouping of villages under similar conditions (dry cultivation).—The next task is to arrange the villages of the tract under Settlement, into groups. Cultivation is broadly distinguished into ‘wet’ (or irrigated) and ‘dry’ (which depends on rainfall supplemented by wells, &c.) The grouping is different according as one or other is prevalent. ‘Dry’ villages are formed into groups, in each of which the conditions are similar with regard to climate, situation, market facilities, proximity to a railway line or a town, situation on high upland or low-lying land, and the like. These groups are placed in the tables in order of excellency; and it will afterwards appear that the assessment is greatly simplified by this, since a single series of rates can be applied to the several groups by a sliding scale; e.g. what is the highest rate in the third group will be the third in the first group, the second in the second group; and so on.

Soil classification.—Practice has determined that, in general, all soils can be classified in a series of five:
1. Alluvial and ‘permanently improved’ (exceptional soils).
2. Black cotton soil (regar).
3. Red ferruginous.
4. Calcareous (this is rare).
5. Arenaceous—more or less pure sand in coast districts.

‘Each ‘series’ is divided into classes according as there is more or less of the mineral constituent which characterizes the ‘series.’ This constituent is technically referred to as ‘clay’ (whatever its actual nature). Each series may have either (1) nearly pure clay; (2) half clay and half sand; (3) a preponderance of sand. They reckon fourteen classes in all to cover all the above ‘series.’ And, once more, each class may have several sorts—good, ordinary, inferior, &c.

Short mode of designation.—In tables of rates, however, it is not necessary to write out at length the whole description. Each kind is briefly indicated by the aid of two numbers—by a Roman numeral for the ‘class’ and an Arabic numeral for the ‘sort.’ The ‘series’

1 This is just, in fact, the formation of ‘Assessment Circles,’ as in Northern India (p. 181).
does not need indicating, because classes I, II always belong to the 'exceptional' series; classes III, IV and V to the 'regar'; VI, VII and VIII to the 'red'; IX, X and XI to the 'calcareous'; and XII-XIV to the 'arenaceous.' A soil described as VIII. 5 (for example) would mean red ferruginous series, of class (VII), containing not more than half clay, and of the worst sort (5).

**Grouping of 'wet' villages.** The 'wet' villages are grouped according to the character of the irrigation source, whether from an anicut (i.e. a system of channels distributing water from a river confined by a weir) or from a tank which always has water, or from a more precarious source (p. 10). These distinctions are found to obliterate differences caused by situation. In the 'wet' groups, the 'series' and 'class' of soil remain as before; but the 'sort' gradation is replaced by three or four distinctions based on the greater or less advantage of level, drainage, &c. for irrigation purposes.

**Assessment.**—The basis of the assessment is, in theory at any rate, that it is not to exceed 50 per cent. of the net produce. To find out this, the gross produce is first ascertained and valued at average prices; the costs of cultivation, &c. are then deducted, and half the balance is taken as the Revenue (omitting fractions). In many cases this calculation had to be laboriously worked out. The first question was what 'produce' should be taken into consideration? for different fields bear different crops. A sort of average or standard produce was taken as fairly representing the cultivation of a whole taluk; the guide being the recorded statistics, which showed what percentage of the whole taluk was under cultivation for each kind of grain. Food grains were dealt with always; other crops could be allowed for on the basis of a comparison of their value with that of food grains.

Taking the statistics of a taluk, for example, it might be that (for dry crops) the largest percentage of the area was cultivated with Rāgī (a millet) and another grain called Varagu, and that other crops so approximated to them in value, that speaking broadly, we might treat the whole cultivation as consisting of or

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1 Tables of prices for the twenty (non-famine) years preceding Settlement are compiled. Certain percentage deductions are also allowed for the fact that raiyats get less for their grain than merchants; and to cover costs of carriage or to allow for difference between local and market rates.
being equivalent to, half Rágl and half Varagu. By the result of experiments, on a given soil, we find that an acre of Rágl gives (say) 32q Madras measures, and Varagu 440 measures; then as each acre is treated as bearing, half of it one, and half of it the other, its produce is 160 + 220 measures. Now the money values of these are 1 Res. 7-1-7 and Res. 6-1-11 respectively. The total gross produce value is thus Res. 13-3-6. It is also known (as the result of inquiry and calculation) that the cost of production may be taken to be, per acre (say) Res. 9-3-6; then the net result is Res. 4-0-0, and the Land Revenue is Res. 2-9-0.

Such calculations not repeated for all cases.—As a matter of fact such calculations are never of themselves uniform enough in their results, to be the real basis of working rates. At best they give some sort of standard, which is referred to as a check or as a limit beyond which the actual rates should not go. Attention is always paid to the existing rates, especially to those employed in neighbouring localities, and also to general considerations on which the existing rates (of the last or now expiring Settlement) may be raised (or possibly lowered).

In any case the calculation of rates has not to be separately made for each of the ‘sorts’ of each ‘class’ of soil—for many of them are of nearly equal value; and in practice a limited number of rates will answer all purposes.

‘Taram’ lists.—The general rates so arranged are called Taram; while the different village-groups are provided for, not by making separate rates, but by a sliding scale; the second Taram of the first group becomes the first of the second group, and so on; one or two lower rates may be added on to the inferior groups for soils that do not appear in the superior group at all.

To a large extent, therefore, the maximum or initial rates are empirical ones, only nicely adjusted to each variety of soil and circumstance. The rates, it will be observed, simply regard the land, and take no notice of such personal considerations as

1 As found from the tables of prices mentioned in the preceding note.
2 It hardly needs explanation, that e.g. inferior clay regar, fair loam regar, and best sandy ferruginous, though distinct in character, may yet be about equally valuable, and so bear the same rate. At one time it was attempted to draw up a general scale of rates for the whole country (Z. S. B. vol. iii. p. 69), but this was going too far in the direction of generalization. Each Settlement has its own scale, for the taluk, or district perhaps.
the ability of one agricultural caste as compared with another, and the like.

Single and double crop assessment.—'Dry' land is assessed on the supposition that it yields one crop; if it yields a second dry crop, no extra charge is made. Wells on dry land do not alter the classification, unless the well is in one or other of the exceptional positions indicated in the rules; (in those cases the well really takes the water from an irrigation source, and the land is virtually wet.) Wet land in general is assessed as two-crop land\(^1\); but in the case of the source of irrigation being precarious, and when the water has failed, a deduction is allowed at the annual settlement of accounts or jamabandi (of which we shall speak hereafter).

As the distinction of 'wet' and 'dry' land is important, the Settlement operations include a careful scrutiny of the actual holdings in each ayacut, or area commanded by a tank, or which are reached by the anicut system from a river weir. There are also various rules about alteration of fields from wet to dry and vice versa.

Distinctive features of the system.—It will be borne in mind that it is the distinguishing feature of the regular Raiyatwari system of Madras (and Bombay) that there is no joint responsibility under which the cultivators in a village may be called on to make good the default of one of their number. Each raiyat is free to relinquish his holding or any separately demarcated and registered part of it on giving notice in due time according to rule (see p. 126).

Records of Settlement.—The records prepared at Settlement may now be briefly described. \(^1\) The main document (answering very much to the Khasra of the last section) is called the 'Settlement Register.'

\(^1\) The assessment for the second crop being half that of the first; but in all cases, if one of two crops (whether first or second) is raised by the aid of irrigation (from a public source), a full single crop, wet, assessment is levied. In cases where there is a liability each year to have the recorded single-crop assessment raised by season of a second crop being obtained, there are rules for compounding for the whole in one fixed sum; and then, if the irrigation for one crop fails, there is a special rule about the rate to be paid for the year.
"It forms," says the Madras Settlement Manual, "a complete doomsday book, recording accurate information regarding every separate holding, whether large or small. The area is given in acres and cents (hundredths of an acre) and the assessment thereon stands in parallel columns. A single field on the survey map may be actually divided amongst twenty raiyats. In such a case there will be twenty subletters (p. 201), and each raiyat will have a separate line in the register, giving full particulars of his holding, even though the extent of it (as sometimes happens) is no more than the one-hundredth part of an acre.

From the Register is prepared a ledger known as the chitli, which gives each raiyat's personal account with the Government. Every field or fraction of a field held by the same raiyat is picked out from the Settlement Register and entered in his ledger, under his name, with particulars of area, assessment, and other details. The total of the area shows the extent of his different holdings in the village, and the total of the assessment is the amount due thereon by him to Government. A copy of this, his personal account, is given to each raiyat, with a note as to the date on which each instalment falls due, and is known as his patti."

(2) An English descriptive memoir, giving full details touching each village and its Settlement, and an account of all lands held revenue-free, or on favourable tenure, is also printed. A sketch map of the village, showing the tanks and channels and all similarly assessed fields laid out into blocks, is attached to it. A scroll map in two or three sections, showing the classification of a whole taluk, is also prepared and lithographed at Madras.

The descriptive memoirs of all the villages in each taluk, consecutively numbered, are bound into a single volume, with their respective eye-sketches, which thus supply complete information regarding each village.

It may be noted that the various annual and other statements which the village Patwâris (Karnams) have to prepare, are designed to keep the information gained at Settlement continuously correct by noting all changes that occur.

Duration of Settlement.—The Settlement is for thirty years, but the remarks made (p. 152) apply here also.

Bombay System.—The second great Raiyatwâri system of India is that of Bombay. Unlike Madras, Bombay possesses a complete Revenue Code (Bombay Act V of 1879), which includes all powers for survey, assessment, and other matters connected with Settlement. As some of the Bombay districts
contain special classes of estates, e.g. in the Gujarát districts and on the west coast, provision has been made for the necessary exceptional measures of Settlement and the acknowledgement of inferior rights, by Acts expressly relating to the Khot estates, the Ahmadábád Taluqdárs (pp. 110, 113), and the few joint-villages of the Kherá and Bharoch districts (pp. 75 note, 15).

The bulk of the villages being in the Raiyátwári form¹, the Settlement in general has the same leading features as that just described. There is an elaborate demarcation of boundaries, followed by a scientific survey, a fixing of permanent areas to be fields or ‘survey numbers,’ and a classification of soils. The mode of assessment is, however, special to Bombay. The Records of Settlement, as in Mairas, have no direct concern with rights, but do really protect the holders, and serve instead of title-deeds. The landholder, however, in Bombay has his title defined by law as ‘occupant’ (see p. 126).

We will therefore confine our attention chiefly to the ‘survey numbers’ of the ordinary occupancy or survey tenure—to the mode of their classification and assessment and to the Records prepared at Settlement.

Size of the survey fields.—The rules as to the size of the field taken as the unit of survey have altered. As first it was enough to fix a convenient but arbitrary area, which was large. The code now directs that no field is to be below a minimum size, fixed in each district, and for each class of land, by the Commissioner; but existing numbers below the minimum, if already recognized by the Records, are saved; and practically, every independent holding is separately measured and assessed on its own merits. Should a holding be too small, it may be

¹ Question in Bombay as to the possibility of village-Settlements.—The question was at first raised whether joint-village Settlements could not be made; the decision was, however, in favour of the separate dealing with holdings. For a long time no very satisfactory results were obtained; but at last, in 1835, a new start was made. The development of the system is chiefly due to the exertions of Mr. Goldsmid Lient. (afterwards Sir G.) Wingate, and Lieut. Nash. The results of their experience appeared in the compilation called the ‘Joint Report’ (1847).
THE SETTLEMENT SYSTEMS.

clubbed together with others; but each will constitute a sub-number (or pāl number, as the phrase is). In all cases a field, part of which is revenue free and part not, will be separated; and the larger numbers of former surveys have been divided. Generally speaking, the survey numbers of‘garden land’ are the smallest, of ‘rice land’ the next in size, and of ‘dry’ the largest.

Forms of cultivation.—This enables me to mention that these three classes of land are always recognized. Rice land is, of course, always irrigated or flooded. ‘Dry’ land (jirāyat) may have a well or some irrigation source on it; it is not necessarily absolutely dependent on rain. When it is irrigated and manured, and has thus been changed in character, it may become bāghāyat, or ‘garden land.’ The area under irrigation of any sort is always measured at survey, because there may be a different rate for the irrigated part.

Classification of soils for assessment purposes.—The assessment here fully exemplifies the principle noted at p. 48. The actual rates selected for each class of soil recognized in each group or circle, are empirical rates; they do not pretend to represent rental values or a share in the produce; but the soils are so classified and so accurately valued relatively, that the rates, assumed to be fair as maxima, can be graduated to suit each degree of relative value in the individual field.

Hence we must take notice of the classification. Dry land is taken as the standard, because there are more varieties; rice land has rates of its own; and so with garden land, which has artificially acquired a special character.

In the Dakhan districts, the sóiks, though they vary much, are all found to belong to one or other of three ‘orders’—fine black soil, red soil (coarser), and light soil (barad). The depth of soil is found to be the important consideration; and 1\frac{1}{2} cubits is the maximum of value in this respect; while with less than a quarter cubit, soil is uncultivable. Each diminishing degree of depth gives a lower grade in value; so reckoning (in the usual Indian fashion) by anas, we take 16 anas (one rupee) as the full or maximum value, and other values will be 14 anas, 12 anas,
and so on. It is found, in practice, that nine classes suffice in ordinary cases, and a tenth is added for very poor soil. The first class only occurs in the first order;—no other ‘try’ soil reckons as 16 anas; the 14 anas value is the highest of the second order, as it is the second of the first, and so on; thus:

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(very poor).

Observe that these are only relative values; whatever the full rate, only class 1 will pay it; class 3 would pay three quarters (or 12 anas) of the full rate; the 5th class one half (8 anas), and so on.

Accidental defects in soils.—But they also recognize seven accidental (chiefly surface) defects which may occur in any soil; and the occurrence of one of these, lowers the ‘class’ one degree, or if it is bad, two degrees. The accidents are indicated by conventional signs, and a ‘bad’ case is shown by writing the mark twice.

Field diagrams.—It, however, rarely happens that a survey number is uniform throughout, so a kind of diagram of each is drawn. No attempt actually to measure the limit of each variation of soil is made, but by the eye a sufficient division of the diagram is made. Let us suppose a case where the field includes four kinds of soil. The classifier will divide his diagram into four parts; on each he will mark, by means of one or more dots, that it belongs to first, second or third ‘order’; the depth (ascertained by actual digging) he will also enter in figures; if there is any accidental defect he will mark its conventional sign. Suppose that the first compartment has one dot (first order), and is one and three-quarter cubits deep; that would be in the first class; but it has also two defects, and one so badly as to be marked twice; here the
class comes down from one to four. Then the number '4' is written in the upper left-hand corner. Let us suppose that by a similar process the other three divisions are marked fifth class, third class, and eighth class; then we have a field composed of the four values to $as + 8 + 12 + 3e$ and the average value is $\frac{3}{2}$ or $8$ as nearly; the whole field will then pay half the full rate, whatever it is.

This classification, in the hands of an experienced staff, is performed very rapidly, and with such accuracy that the test classifications applied by way of check, rarely differ appreciably.

These are Dakhan soils; but all other dry soils are treated in the same way, though the scale may be somewhat different. When there is part of the land 'irrigated,' an additional rate may be put on for this: but private wells (sunk with private capital) do not increase the assessment.

'Rice land' and 'garden land' have rates of their own.

Calculation of the maximum rate to head the sliding scale.—The relative value being thus accurately graded, we have only to find out the full or '16 ana' rate; and this will be applied to each field according to its fractional value by simple division;—the '12 ana' fields paying three-quarters of the rate, and so on, down to the '1 ana' field which pays only one-sixteenth.

The actual full or maximum rates required for 'dry,' 'garden' and 'irrigated,' are found out with reference to previously paid rates and to general considerations of present prosperity, increase in cultivation, &c. The late Mr. Pedder, than whom no better authority can be quoted, says:—

'The Bombay method is avowedly an empirical one. When a tract (usually a tilluka) comes under Settlement ... its revenue history for the preceding thirty or more years is carefully ascertained and tabulated in figured statements or diagrams. These show, in juxtaposition for each year of the series, the amount and incidence of the assessment; the remissions or arrears; the ease or difficulty with which the revenue was realized; the rainfall and nature of the seasons; the harvest prices; the extension or decrease of cultivation; and how these particulars are influenced by each other;

1 The nearness of water to the surface, which is a natural feature, may be taken into account in fixing the rates, but not the (private) well itself.

2 They make great use of diagrams showing the rise and fall of prices and quantities by means of curves, or points on a scale connected by lines.
the effect of any public improvements, such as roads, railways, or canals and markets, on the tract or on parts of it, is estimated; the prices for which land is sold, and the rents for which it is let, are ascertained. Upon a consideration of all these data, the total Settlement assessment (of the tract) is ascertained.

That amount is then apportioned, pretty much in the same way, on the different villages; and the total assessment of each village is distributed over the assessable fields in accordance with the classification which has determined their relative value.

- Limit to increase in rates at revision. — It will be remembered that at all revision Settlements, it is a rule never to let the increase be too great all at once. A suddenly raised revenue; even if justifiable in itself, could not be paid without great inconvenience. It is therefore a rule in Bombay, to limit the increase taken, to thirty-three per cent. on the whole taluka, or sixty-six per cent. on the village total, or one hundred per cent. on the single holding, above the last assessment. This is not exceeded without special reasons and due sanction. Sec. 107 of the Revenue Code also expressly prohibits the increase of assessment in consequence of any private improvements effected during the currency of the previous Settlement.

Survey now complete in Bombay. — The field-to-field survey and the classification and relative valuation of soils is probably, by this time, nearly or quite complete throughout Bombay; and as the work has been all thoroughly revised during the past decade, it is final and will never have to be done again. All that will be necessary at future revisions will be to adjust the revenue rates to the increased value of produce or land, within the proper percentage limits.

- Period of Settlement. — The Settlements are made for thirty years, as a rule (p. 152).

Sindh Settlements. — In Sindh, a shorter period has been made use of. I may here add that in this Division, the assessment rates depend on the kind of irrigation made use of. Cultivation depends wholly on water, either percolating from the river (Indus), or obtained from wells near it, or raised by wheel or lift from irrigation channels. And as land so treated, has to be, subjected to continual periods of rest, a special arrangement is made. A holder can register himself as occupant
of a number of 'fields'; and under certain rules he is allowed to pay only for the ones actually tilled, retaining a lien on the others that are fallow.

**The Records of Settlements.**—The records prepared at the Settlement-Survey are in fact almost exactly the same as those mentioned as in use in Madras, only that the names, and the precise forms, are different.

1. There are the large-scale village maps.
2. The general Land Register.
3. The Bolkhat (chittá of Madras, p. 206), which is a personal ledger grouping together all the fields or recognized shares in fields held by the same occupant.

The Register shows the actual occupant; should a person be cultivating, say, as a tenant, and not claiming to be 'occupant,' the record would give the real occupant's name. It will show all such shares as are allowed to be separately demarcated on the ground, and also any shares that are recognized officially but not demarcated.

The original Records are attested and kept unaltered (except to remove clerical errors or mistakes admitted by all parties concerned). The changes in occupancy and other features that can change, are noted in the various registers and returns which the Kulkarní of the village has to keep up (p. 30).

**Berár.**—It is only necessary to add that Berár is settled under the Bombay system, and there is little or no difference, in principle at any rate, such as need here be noted. The Berár authorities have recently been drafting a Code of Revenue Rules of their own.

**Résumé.**—Let us now, as in the last section, give a brief

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1 L. S. B. J. vol. iii, p. 321. The whole history of land in Sindh is very curious; the fact is that land, as land, has no value whatever; right in land therefore, as established by conquest, meant a right of taking certain fees or dues on cultivation established by irrigation, within a certain territorial area. This led to difficulties, because persons claimed the ownership of large areas only part of which could be cultivated—now here, now there. Such persons could only be put down in the Register as in 'occupation' of all the numbers comprised in the claim, on the understanding that they would annually pay the Revenue of the whole. This would be hard; so the system was modified, and gradually the rule stated in the text has been arrived at.
resumé of the features of a Raiyatwári Settlement. In the
matter of duration for a term of years, in requiring a demarcation
of boundaries and a survey, the raiyatwári systems are like the
others. But the survey numbers are never allowed to be altered
as they represent fixed units of assessment. In the other
Settlements (except as a matter of private right for the time being)
the fields are of no particular consequence. Each holding is
assessed separately on a principle which starts with maximum
rates more or less empirical, but which are accurately adjusted
to every degree of relative value in the kinds of soil. There is
no joint responsibility, except among joint holders of the same
survey-number. The landholder is not bound to the holding
for the term of Settlement; any holder can relinquish his holding
(or a defined part of it) provided he does so at a certain date.
The Revenue payable is ascertained by making out an annual
account of the lands actually held by each raiyat for the year.

There are maps and Registers and Statistical records; but
the Settlement does not profess to record or to define varieties
of right, so the papers do not (formally) include any Records of
rights. Practically, of course, in all simple occupant-holdings,
the Field-Register does give perfect security of title.

Section V. • Settlements that are in principle, but not
formally, raiyatwári.

The Provinces of Burma, Assam and Coorg are all managed
under simple systems which are in fact raiyatwári,—because
there has been no trace found of groups of cultivators who have
a joint-tenure¹. The system has in each case simply followed

¹ In Assam we have one curious instance (Káchá district) of a sort of
joint-tenure which is special, and may really afford a clue to some of the
(much older) joint-settlements of colonists in other parts. The cultivators
voluntarily formed close groups with a joint responsibility for their revenue,
on purpose to keep out strangers, and prevent the intrusion of Revenue-
farmers and officials to look after the collections in detail. See J. S. B. I.
vol. iii. There may be anywhere a single holding which is enjoyed by a
number of members of a family together,—in a ‘house community’ as in
Coorg; but that does not give rise to any of the complicated features of the
joint-village of Upper India.
the facts, and created no artificial middlemen; nor has there been much occasion for rescuing, and providing for rights in danger of being trodden down under superior interests which have arisen out of conquest or State grant.

The simplicity of the Revenue system enables us therefore to deal with these provinces in a few paragraphs; but it should be said at once, that this is not due to any tendency on my part to undervalue these systems, or to imagine that because these provinces are in the outer corners of the Empire, therefore they are unknown or of little consequence. Assam and Burma are both provinces which have a great future before them: they are still undeveloped as to their resources, and rapid progress cannot be expected without a larger population (which is one of their greatest needs) and easier communication. These needs, it is true, are being gradually supplied, as the last census returns show; the former might be easily met by emigration from some of the densely stocked districts of Upper India, if only the popular feeling was not so strongly against removing away from home. Even this feeling however is shown, by statistics, to be gradually giving way. Burma has already seen its coast towns undergo the most wonderful expansion, and it can hardly be doubted that the same prosperity will gradually overtake the country districts. Already Burma is one of the best paying provinces, and it has magnificent forest resources. But owing to these very considerations, the Land Revenue Systems themselves are in a more or less elementary stage. They will almost certainly undergo some change in the future; and therefore it is not possible to commend them to notice in the same way as we can those systems which have reached their final development.

Assam.

Constituents of the Assam province.—The Assam Government, formed in 1874, received as its charge some of the old Bengal territory which had been permanently settled (Goalpára, 1 See Sir W. Hunter's Brief History of the Indian people, p. 216.
and part of Sylhet, and Cachar was also a Bengal district, though, as it was only acquired in 1830, it came under the Temporary Settlement. For the rest, the Assam province has to deal with the districts in the valley of the Brahmaputra, which were never under the Regulation law, and with the Hill districts which are still under a distinct and administrative system adapted to the more primitive condition of their tribes.

The Assam valley districts.—The Assam valley as a whole was acquired when the Burmese invaders were driven out (1824-1826). For some years it was left to the management of local chiefs under the supervision of British officers. This system broke down, and Act II of 1835 was passed to provide for a suitable administration. The Revenue System remained an informal one,—yearly assessments, levied at certain known customary rates for each class of land, according to annual measurement of cultivation.

Early condition of Assam.—The Ahom Rulers (a Hinduized dynasty of Tibeto-Burman (Shán) origin, which had ruled from the thirteenth century down to our own times) had organized the entire population into groups for service of all kinds. Each pathik or individual in the groups was allowed a certain area of land for his support. There was no regular land-revenue; the State income was derived from a poll-tax, and the profits of the service exacted, which was of all kinds,—military service in the ranks, labour on works, contributions of gains in trade, and even a portion of the products of handicraft. Any one, it seems, might cultivate land over and above his stated allowance, and then he paid a fixed rate for it. Proprietary right in land was apparently not thought of; and the lordship, by grant, or by official position, over an area which the serfs or subjects tilled, and from which the requirements of the lord’s household were supplied, was the only form of ‘estate,’ other than that implied by the ordinary peasant holding.

Land Regulation I of 1886.—When, in modern times, it became desirable to formulate the conditions of landed right in a Regulation (and this was first done in 1886), the only ‘proprietors’ in the province were the Permanent Settlement land-

¹ The ruler of this line became a Hindu in A. D. 1655; the kingdom was able to bear up against Muhammadan invasion, but eventually fell under feeble princes, whose dissensions at last resulted in one of the rulers calling in Burmese aid. This proved fatal.
holders of the older Bengal districts, and a few other permanent grantees, such as large Revenue-freeholders, and grantees of proprietary right in Waste-land (under the earlier Rules). For the bulk of ordinary cultivators, it was thought best to recognize a practical title which was not in name proprietary, but is defined as that of a 'landholder' in section 8 of the Regulation (I of 1886). As usual in raiyatwârf systems, the land held on such a title may be relinquished by notice at a certain date.

Old Permanent Settlement Estates.—The Regulation of course preserves the privileges of the old Permanent Settlement estates in Goâlpâra and Sylhet.

Revenue free estates. Nisfkhirâj.—As usual, some of the tenures recognized have arisen out of Revenue-free estates; and these gave some trouble. On the conversion of the Assam princes to Hinduism, they began, with all the zeal of converts, to make grants for religious purposes and to Brahmins; and there were certain lands held on a free tenure by the old Court officials and Chiefs (of many titles) or their successors. The British Government declared that all those grants were formally cancelled (as they were only held at the pleasure of the former Government). But it was not intended actually to deprive old established holders of real grants. In some cases local chiefs were allowed to retain their lands Revenue-free; others were subject to assessment. A number of other cases were dealt with by the officer in charge of the inquiries, who allowed the holders to pay revenue at half rates; by some mistake this was not reported as it ought to have been; and when some years had elapsed, the Government thought it impolitic not to recognize what had been done, and it condoned the irregularity. These holders are therefore recognized by a name that came into use about twenty years ago, 'nisfkhirâj-dâr' (= half-revenue holders). They are not reckoned as 'proprietors' under the Regulation, only as 'landholders,' and they will have to pay half whatever revenue is ordinarily payable for the term of Settlement.

'Landholders.'—The ordinary 'landholder's' title is not acquired by merely temporarily cultivating: the land must have
been held for ten years before the Regulation (on whatever title, or even with no title). After the date of the Regulation, as no one is at liberty simply to 'occupy' waste-land, the landholder's title is only acquired by a lease, or by grant of a Settlement for ten years.

Wasteland grants.—As in Assam there is as yet no district with more than 25-30 per cent. of its area under cultivation, titles under grants of waste must always have considerable importance. A great deal of land will be simply brought gradually under cultivation as an extension of existing villages, by means of the ordinary application to the Collector. But for larger grants, especially for tea-planting, there have always been special rules.

A few grants under the first rules of 1838 (proprietary estates with reduced revenue terms) still survive. A much larger number are under 'the Old Assam Rules' (1854) which began as long leaseholds, held under condition of bringing a stated portion of the area under cultivation within a fixed time. These have now become proprietary estates, and many of them were allowed to redeem the Land Revenue. There are also estates under the 'fee simple' rules (as they were called) of 1862-1876, under which the land was sold outright and revenue-free, but by auction, and at an upset or minimum price per acre which was gradually raised.

Since then, the more reasonable modern policy (p. 60) of granting land only on lease, has been followed. The lease is for thirty years; the land is put up to auction at an upset 'entrance fee' of one shilling an acre. It pays no revenue for two years, and then small rates per acre (only reaching a rate of one shilling per acre in the last ten years of the thirty). There is no condition about any proportion of the area to be brought under cultivation. At the conclusion of the thirty years, the holder remains in possession on certain conditions as to punctual payment of the assessment, of devoting the land to the purpose for which it was granted, of residing personally, or

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1 Which is limited to the highest rate paid in the district for ordinary agricultural land.
THE SETTLEMENT SYSTEMS.  

keeping an agent, on the estate; of maintaining the boundary 
marks, and of not alienating the estate piecemeal (it may be 
sold as a whole with due notice to the Collector). If the con-
ditions are broken, the favourable rates of assessment may be 
withdrawn.

Ordinary land and its Settlement.—Apart from the special 
'proprietary' holdings, and those held on lease, or by 'land-
holders,' a great deal of land is still held on an annually renewed 
permit or 'pattá'; at any rate on a lease for less than ten years.

In backward tracts, or where, from the nature of the soil or 
otherwise, the cultivation is not permanent, no regular Settle-
ment operations have been introduced; the extent of cultivation 
is annually measured, and a simple record of it made out, 
from which a written form giving particulars (and called a pattá) 
is copied out and given to the cultivator. Where the cultivation 
is by 'landholders,' and is permanent, a ten years' Settlement is 
made under the Rules.

There has been an old standing classification of land in 
Assam, into 'homestead and garden' (bárá or bastí), 'rice-land' 
(rúpit), and a residuary class for all kinds of land that is not bárá 
or rúpit, named faringalí.

At present there are established rates for each kind. The 
rates were revised in 1861, but I have not heard of any 
subsequent rise. Apparently, at present, the cultivation is so 
little developed, that the increase of land-revenue is sufficiently 
secured by the assessment of newly formed fields at the old 
rates. But the rates are of course liable to revision.

The mauzadár system.—As to the nature of the Settlement, 
and the records which accompany it, it is necessary first to 
remark, that though local village boundaries are known, they 
are not of much importance; they are superseded by an official 
aggregation of land into mauzá areas, each in charge of an 
oficial called mauzadár. The term mauza, as used in Assam, 
bears this meaning only. The mauzadár was formerly charged 
with making all measurements (having the aid of a sort

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1 These rates are not applied to land which has become more valuable as being within a radius of five miles from a civil or military station.
of 'patwâri' locally called mandal); at present he is only concerned with measuring unsettled lands. He collects the revenue of all holdings in his charge, and is held primarily responsible for it: he has, however, no concern with the revenue of any 'proprietary' estates that happen to be within his mauza. He nevertheless maintains registers giving an account of all the kinds of land or estate (Revenue-free, Government Forest, unappropriated waste, &c.) within his circle or charge.

Where permanent cultivation is more extended, and Settlement operations have been carried out, the mauzadar system is giving place to a regular Tahsil agency (p. 24).

Surveyed tracts.—Having mentioned that operations for a Settlement (for ten years) have been introduced in the better cultivated districts, it has to be noted that this Settlement includes a regular survey giving correct maps (instead of the old rough recorded measurements); land Registers in an improved and more detailed form are also being introduced. The 'survey-numbers' are arranged on certain simple principles, which, as usual, are designed to secure that separate holdings should, as far as possible, be separate 'numbers,' and that very large fields should be subdivided. Wherever there is a landholder's estate, or a proprietary estate exceeding fifty bighás in extent, separate registers are made out for it, and a separate report is made of its Settlement.

The Hill districts. The Regulations of 1873 and 1880—These remarks apply to the Assam valley. But a glance at the map will show how great a proportion of the province consists of hill-country. This not only extends along the northern and north-eastern frontier, but also occupies the centre of the province, in fact separating the Assam valley, from Sylhet and Caohar. The hill districts (when they are British territory) are managed under Regulation II of 1880 (as extended by III of 1884), which enables simple local rules to be substituted for the ordinary (more complicated) statute-law. When the hills are not wholly within British territory, Regulation V of

1873 is made use of to establish an 'inner line,' which means a boundary beyond which British subjects cannot ordinarily proceed, except under certain restraints and precautions. For there is a not inconsiderable trade in ivory, caoutchouc, and other wild produce, which invites the presence of merchants and their agents. The traffic is accordingly regulated, and the acquisition of land is prohibited, so as to prevent the occurrence of any disputes that might lead to raids and disorders.

No Land Revenue System applies to the hill districts, but there is a 'house-tax' and other dues also, locally. Cultivation is in some parts permanent on terraced fields along the hill sides. The forest-clad slopes however are still cultivated largely by the temporary or shifting method, called 'jām' (p. 12).

The old Bengal districts. Goālpāra.—Of the older districts now attached to Assam, it may be sufficient to note that Goālpāra consists of a portion of the old Rangpur Collectorate, in which certain Chaudharīs and other local magnates were recognized as landlords under the Permanent Settlement. There are in fact some nineteen such estates in the plain country above and below the Gáro hills district (which was from an early date removed entirely from the control of the Zamīndārs). In 1866, the Eastern Dwār districts were acquired from Bhutān, and were added to Goālpāra: these were not permanently settled; and with the exception of two tracts in which local Rājās have been recognized as landlords, they are under the ordinary 'landholders' tenure of Assam. A special Act (XVI of 1869) still applies to the Dwārs.

For the two remaining districts, we have to look below the central range of hills, to what is in fact the plain or valley of the Sūrmā river.

Cachar.—Cachar (Kāchār) is part hill country and part plain. The hills beyond the lofty limestone cliffs of the Barāil range are under a separate jurisdiction. On the lapse of the district owing to the death of the Rājā without heirs, in 1830 it was placed under a special administration formulated by Act VI of 1835. An 'inner line' (Regulation V of 1873) separates the district from the hills to the south (occupied by independent
tribes). Cachar, having been acquired only in 1830, came under the 'temporary' Settlement law. I have already alluded to the joint-tenure of the colonist bodies who established most of the ordinary agricultural holdings in the district. Apparently this method of colonization only began under native rule and was mostly developed under our own. There is no legal right in the land other than that of 'landholder' under Regulation I of 1886, but the joint responsibility for the revenue is continued. In this district there are many grants under the 'Waste Land Rules,' especially for tea estates.

Sylhet.—Sylhet (Silhat, a corruption of Srihati) was one of the old Bengal districts of 1765, and had come under Raja Todar Mal's Settlement (and consequent land-measurement) in the sixteenth century. The Bengal Permanent Settlement was extended to the district in 1790, but was not made with Zamin-dars or local land officers, but with actual occupant settlers of measured holdings, who were called mirasdir. Practically these holdings are raiyat-holdings; only that as they are under the old Regulation VIII of 1793, they possess a full proprietary right and a permanent assessment. The Permanent Settlement, however, extended only to land held in 1790; consequently a large portion of the district then uncultivated, is not subject to the old Settlement law, and is now under Temporary Settlement (see p. 162).

I cannot attempt here to give any account of the curious proceedings and complications that have arisen out of this division of land in Sylhet. I can only say that early in 1804, the Collector issued a proclamation inviting people to take leases of the then unoccupied lands: very few responded to the invitation; but as gradually different grants were made, a number of different holdings became distinguished (by the most heartrending terminology according to their origin), as under the 'proclamation' (ilam land), as newly-cultivated (hatalabati), &c., &c.  

1 Page 213, note; and see L. S. B. I. vol. iii. p. 434.
2 An immense number of these are very petty, paying no more than one rupee revenue! L. S. B. I. vol. iii. p. 444.
3 Why all these distinctions are not abolished, and all lands brought on one simple raiyatwari form of register,—merely noting against certain
The revenue is collected by a peculiar arrangement at the Tahsíl, designed to facilitate correct account-keeping with a multitude of petty holdings. In all estates, large or small, that have a Permanent Settlement, the rule of sale for default applies; but as there might be considerable injustice done by selling a small holding, the absent owner not being aware that it was in arrear, special rules have been legalized for securing service of a notice of demand on the owner, before proceeding to notify the land for sale.

Burma.

Upper Burma not described in this work.—The following brief note on the province will only apply to Lower Burma. The districts of Upper Burma, annexed in 1886, are passed over because their management under Regulation III of 1889 is admittedly a provisional one. The land-revenue is still largely replaced by an old native tax, the 'tithe' or ḫathāmedā; and a large proportion of the land is claimed as 'Royal land,' the holders of which are only tenants-at-will of the State. It is certain that, in time, a regular Land Revenue system will be introduced; and at present it is not possible to say how the administration will ultimately be arranged.

Lower Burma Official charges.—As regards Lower Burma, it may be convenient first to mention, that though the organization of districts under Deputy Commissioners (Collectors) is just the same as in other provinces, inside the district, the local subdivision is different in detail, though very much the same in principle. Each district consists of a number of 'townships' (so called, I suppose, because the officer in charge is styled Myō-dāk (myō = town or city). The 'township' is very like a Tahsil elsewhere; and the officer in charge is like the Tahsildār, though of somewhat higher rank and with somewhat numbers that they are 'permanently settled,'—passes the comprehension of any one outside the mysteries of local revenue management.

1 For further details I must refer to L. S. B. L. vol. iii. p. 449.
larger powers. Each township contains a number of 'circles' containing several *kways* or villages; the officer of the circle who collects the revenue (and is paid by a commission thereon) is called *thágyi*; and he may have one or more assistants; he is like the Indian *patwári*, inasmuch as all the survey work (subsequent to Settlement) is done by him, and the land records are in his charge; he is unlike the *patwári* because in India the *patwári* has nothing to do with the actual collection of revenue: on the whole the *thágyi* is more like the *mauzadár* of Assam (p. 218).

**Revenue under the Burmese kings.**—In Lower Burma, land was apparently recognized, in quite ancient times, as belonging to the 'first clearer'; the king also received a share in the produce. But the tithe-tax, a capitation-tax, and the produce of 'royal lands' were more relied on by Burmese kings; and where a 'rice-land tax' was levied, it was mostly assessed by a rude calculation of the number of cattle employed in the cultivation of a certain area.

Under the British rule, a survey and general adoption of a regular Land-Revenue have been introduced.

**'Villages' in Burma.**—There are no 'villages' exactly in the Indian sense; that is to say there is no body of joint-owners claiming a whole area; nor is there the regular *raiyátwári* village, i.e. a body held together under a common hereditary staff of village officers; but there are local groups of families, and a State headman is appointed. The cultivated area is held by families who are separate; but the joint-succession is recognized by Burmese law, and a holding may be held for some time jointly by the heirs (wife and daughters included) of

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1 In ancient times there is no doubt that princes whose *bloors* was to some extent that of the Aryan military caste, entered Burma from Afrakan and through Manipur, and founded kingdoms; thus it may have been that Indian notions of the State organization became prevalent. There were however, formerly, 'royal lands' in Lower Burma as in the Upper province. The British Government did not retain a special right (under the law of 1876), in Lower Burma, to royal lands.

2 Act III of 1889 was passed to improve and consolidate village government, regulating the appointment, status and duties, of headmen; this Act only operates in districts to which it is specially extended.
a deceased landholder. Hence the local groups, though not forming in the Indian sense a joint body, are still often connected together by natural ties. It has thus been found possible, for survey purposes, to recognize areas which are practically villages under the name of *queng* or *kwin*. Any area of land held on separate grant or lease, is also treated as a *kwin*.

**Title to land**—All titles to land are comparatively recent, and depend either on express grant or lease or on long possession following on occupation and ‘first clearing.’ Act II of 1876 has (rather technically and with too much refinement) explained what gives the title of ‘landholder.’

**Land assessment under the first form**.—At first, especially when land was very largely in excess of the population, temporary cultivation was undertaken for a year or two, and then shifted elsewhere. Settlements for a term of years were not thought of. The law permitted the chief Revenue Authority to declare certain rates for revenue purposes, which rates were to hold good (usually) for a term of years; and these were applied, by an annual measurement, to whatever land was liable to assessment. All land in Lower Burma is either rice-land, or garden and orchard, or (occasionally) miscellaneous cultivation called *Kaing*. Rice-land occupies the easily flooded, deep-soil-1, alluvial plains; it furnishes the principal harvest. Small patches near the homestead are cultivated with vegetables or garden produce. *Kaing* cultivation on ridges or on laterite slopes on the edge of the alluvial plain, is more precarious and the soil adapted to it is more easily exhausted.

Orchards and palm groves are not taxed by a rate on land, but on the trees.

**Settlements**.—Settlements, when made for the more advanced portions of the country, exhibit many of the features of a *raiyatwari* system. The land may be relinquished piecemeal, or the Settlement on the entire holding can be given up, and the holder will then revert to annual measurement and payment at the rates published for the circle.

**Demarcation**.—Where a district is notified for Settlement,
demarcation of such boundaries as are permanent, and the erection of temporary marks required for survey purposes, are the first requisites. This is in Lower Burma provided for by a special Act (V of 1886).

Survey.—The survey work is done by a professional staff under the direction of the Imperial Survey Department. It results, as usual in all modern Settlements of whatever class, in very complete, large scale, village (kwin) maps, showing every field and holding by a separate number. And a descriptive field Register, which is an index to the map, is prepared.

Records of rights.—The Settlement staff makes out all the Records of rights. These rights may be of 'landholders,' or of 'grantees'; or there may occupation on a terminable 'lease.'

The important registers are:

1. Description of holdings in each kwin:—holder's name; on what sort of tenure; what sort of cultivation; and if there are fruit trees on the land.
2. Gives an abstract account of such land in the kwin as is still unoccupied; or is excluded from assessment as village site, sacred place, jungle, grazing-ground; and often, 'parts under water' are mentioned.
3. Is an abstract of decisions about 'landholders' rights, in cases in which there has been a dispute.
4. Is a list of the 'grants,' mentioning the part of the grant still uncultivated and the number of years' exemption from revenue—an allowance always made to encourage settlers; for during the first year or two there is much outlay and little return.
5. Refers to 'leases' as (4) does to 'grants.'
6. Is a register of tenants; and it may be mentioned that no tenants exist but under agreement; and there are no artificial (or other) occupancy rights.
7. & (8) Show the grazing-grounds, which under the Rules can be allotted to village use1; also the gardens and the 'miscellaneous' cultivation.

1 See also Act II of 1876, sec. 20.
(9) Shows the classification of soils in each village, which will be explained directly.

These registers are kept in Burmese.

'Supplementary Survey.'—Though the thāgyis take no part in the original survey, they have to conduct what is called in Burma the 'supplementary survey,' the object of which is to keep the maps correct by annually noting all new cultivation and changes that occur. They have also registers of mutations, so that all changes in landholding, or by sale or inheritance, may be at once recorded. Just as in Northern India, the Rules prescribe a set of forms or schedules exactly the same as those of Settlement, which have to be periodically filled up according to the true facts for the year. There are Revenue-Inspectors who look after this work, under the Director of Land Records and Agriculture.

Soil classification.—As in other Settlements, uniform tracts or 'Circles' are distinguished for assessment purposes, so as to bring together the different villages that have the same general advantages and are similarly circumstanced: in these the same rates will generally apply.

In each circle or tract, a certain number of soils (which are natural and easily recognized—not fanciful or uncertain) are distinguished. There may be deep clay that is not exhausted by continuous cropping, or a poorer clay that needs fallow; there may be laterite and sandy soil (usually on the edges of the alluvial plain), whatever the distinctions, they are purely natural, and no more in number than are necessary, as bearing different values.

Assessment.—The principles of assessment (1) of land, (2) of orchards and palm groves, depend on the provisions of secs. 23, 24, Act II of 1876. Land is assessed at an annual money-rate per acre. The chief Commissioner is empowered to make Rules as to fixing the rates, which may be altered 'from time to time, as the chief Commissioner may direct.'

That of course applies to rates in general; when in the case of permanently established cultivation, the holder gets a Settlement,
the rates are not changed during the term of the Settlement, which at present is fixed at not less than ten or more than fifteen years. The old standard was, one-fifth the gross produce; the modern standard is (nominally or theoretically) fifty per cent of the value of the net produce. Detailed instructions for assessment are given in the Rules under the Act, and in a little volume entitled 'Directions to Settlement Officers' (chap. iii).

Nature of the assessment adopted in practice.—Miscellaneous cultivation is not assessed at these rates, nor are gardens or orchard land. For these, empirical rates are made use of, calculated on the best data available. In rice-land, a 'normal' produce is first ascertained;—that is, the average out-turn for each class or kind of soil, under different conditions of agriculture. The money value of this out-turn is ascertained on the average of the prices ruling during the three months after harvest, in a series of years, and making allowance for the cost of carriage, so as to obtain a local, not a market, value. The costs of cultivation, and of living, are then worked out; and deducting these from the gross value, we have a net value, fifty per cent of which is the Land Revenue. These calculations are usually made and explained in the Settlement Reports; but I have never seen the rates so obtained, actually applied without alteration, to lands of any class. It seems to be rather a matter of form; or perhaps I should say that such rates afford a kind of standard—actual rates being kept below and not above them. Really, the rates used are empirically calculated, but carefully considered with reference to existing rates, and to statistics of increase in prosperity, and rise of prices, since the last assessment. There are many different considerations present to the mind of an officer who has carefully studied the people and the locality, which guide him to a right conclusion as to rates; but he has to justify these in his report, and so requires standards with which to compare his actual figures. No actual rates ever are ascertained wholly by any arithmetical process or mechanical rule; but certain standards, marking upper or lower limits, can be arrived at by
rule, and then the real rates can be judged of by comparison with such standards.

_Cesses._—There is, as usual, a local cess or rate levied (under Act II of 1880 or III of 1889 if applicable) for district roads, sanitation, education, and local postal service. (In Burma it is ten per cent. on the Revenue). Sec. 34 of Act II of 1876 also provides that 'a capitulation-tax' is payable by all males between eighteen and sixty years of age. In some cases this tax may be commuted to a rate on land.

_Shifting cultivation called taungya._—A great deal of cultivation in the low hills of the Yoma, &c., is still carried on by the method of burning the forest and dibbling in seed with the ashes just before the rains (p. 13). The Land Act expressly declares that no right in the soil is acquired by this process, for there is no permanent occupation; and it may be added further that this destructive practice (see sec. 11 of the Forest Act XIX of 1881) is not allowed (on obvious general principles of law) to become a right of user or easement. At the same time it would be neither possible nor desirable to put a stop to it all at once. There are places where it does little harm, as there is no prospect of utilizing the forest material; and the Karen and other tribes could not (at present) live without it. But it is quite right that such a method of cultivation should be subject to regulation, and allowed only as a matter of concession. Where land is taken up as State Forest, and provision for the practice is desirable, a large area is set apart, and carefully surrounded with a cleared belt so that fire may not spread to the forest that is being conserved. Gradually, as population increases, and as the wood in the forest becomes valuable and marketable, this form of cultivation will be brought to an end; people will be induced to settle (by the encouragement of favourable terms) in the plains, or will perhaps permanently occupy the hill-sides by terraced fields.  

_Taungya cultivation_ is assessed merely by means of a small money-rate (Act II of 1876, sec. 33) levied on each

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1 See _L. S. B. I._ vol. iii. p. 504, and a very curious account of a sort of advanced or organized _taungya_ system on the Salwin River, p. 506.
male member of a family able to wield the dah or heavy knife with which the jungle is cut for burning. The family is jointly responsible for this annual tax.

Waste Land Rules.—In conclusion it may be mentioned, that (1) land may be given out by local orders for temporary cultivation or annually renewable lease; or other short terms; (2) it may be regularly leased for terms not exceeding thirty years—either for ordinary cultivation or on special terms for tea, coffee, cinchona, &c.; (3) it may be applied for with the design of acquiring permanently the ‘landholder’s’ title.

Grants and Leases require the sanction of different authorities according to their size. Grants or leases of over fifty acres require the approval of the Financial Commissioner (Chief Revenue Authority).
CHAPTER IX.

THE REVENUE ADMINISTRATION AND PUBLIC BUSINESS
CONNECTED WITH LAND MANAGEMENT.

Special jurisdiction of Land Revenue Officers.—The permanent Settlement of Bengal having certain peculiarities which were noticed in the last chapter, it has followed that the course of Revenue Administration and the modes of realizing the Land Revenue, are somewhat different in Bengal, from what they are elsewhere.

In Bengal, the Revenue being fixed in perpetuity, and therefore likely to become easier and easier as the estate progressed and land rose in value, it was, from the first, understood that punctual payment (without remission or drawback in bad years) would be insisted on; and the estate was declared liable to sale at once, in default of payment. Again, the desire being to leave the landlords as much independence as possible, there has been no room for that ‘paternal’ care of the estates and their condition and prospects, which has been extended in the districts where smaller village-estates are the Revenue payers.

‘Revenue Courts’ objected to in Bengal. The feeling counteracted by other considerations, in other Provinces.—Among the first Bengal Regulations codified in 1793, was one which rather ostentatiously abolished the ‘Mal-Adawlut’ or Revenue Courts in which the Collector and his Deputies formerly decided a variety of matters directly relating to land, and more especially to rent payments (and dealings generally) between the landlord and tenant. Everything was made over to the Civil Courts. In 1859, rent-suits (for
enhancement, arrears, &c.) were once more restored to the jurisdiction of the Collector; but the feeling in Bengal had become fixed; and, ten years later, the jurisdiction was altered back to that of the Civil Courts, where it still remains under the existing law. This feeling that the Collector is to have no jurisdiction as a Court, is perhaps an exaggerated one; for it cannot really be said that he is in any sense a judge in his own cause. However that may be, the feeling has never taken such hold in other provinces, because there was a strong countervailing reason. In the first place, these provinces were not managed by great estate-holders anxious to avoid all scrutiny and control; but much more than that, the whole method of Settlement required a special staff of officers whose duty kept them constantly out in camp and dealing with the villages on the spot; they thus acquired special experience and special knowledge of land affairs; and the Settlement Officer was, in fact, more 'the friend of the people' than the Civil Courts at head-quarters with their pleaders and formal procedure. It became a principle of the Revenue administration of Upper India generally, that questions of land-value, of rents and agricultural interests, had much better be entrusted to the decision of Officers accustomed to Settlement and Revenue work.

This reason less applicable to Bengal. Consequent differences in the law relating to Revenue Courts and jurisdiction.—That such a view did not become prominent in Bengal is not remarkable; because when the Permanent Settlement was once made (without any reference to actual land valuation) there was no further question about the assessment; and there was no need for a staff of Settlement Officers familiar with land-customs, and able to make use effectually, of evidential indications of landed-right and of the fairness of rentals, which would be unintelligible to the Civil Judges. To this day, knowledge of land-details is only obtainable in Bengal, indirectly and by means of the Temporarily Settled districts and estates, as well as from the Government estates (p. 103) which are kept under direct District

1 Except in a few districts
management. It will therefore not surprise the student when he finds that the different Revenue Procedure Laws vary as to their recognition of 'Revenue Courts'—meaning that the Land Revenue Officers have definite, (judicial) powers of deciding questions connected with land management, often hearing suits between landlord and tenant as well, and subject (ordinarily) to an appeal in the Revenue Department only. In Bengal, no such Courts are recognized; but the latest Tenant Act (of 1885) has once more found it desirable to make provision that rent and tenant-questions may be settled on the spot by a Revenue Officer accustomed to such inquiries; this is, however, only in certain cases and under special conditions. In Madras, Revenue Courts are not mentioned; but the Collector has a recognized jurisdiction in 'summary suits' and other matters, under Madras Act VIII of 1865 (e.g.) and, when so acting, he has the same powers as a Civil judge for the purpose of securing the attendance of parties and witnesses, and the production of documents, &c.

Bombay.—In Bombay, the code (chap. xii) speaks only of Revenue officers, their powers and procedure; but it mentions their holding a 'summary' or a 'formal' inquiry; and provides that these are to be deemed 'judicial' proceedings. An earlier Act (XVI of 1838), still in force, mentions directly, Revenue Courts (Courts of Collectors) and declares that they are not to have jurisdiction 'in regard to tenures' or the interests in land which arise out of a tenure claim, nor in claims to possession of land.

The North-West Provinces law as to Revenue Jurisdiction.—In the North-West Provinces, on the other hand, the Revenue Courts are fully recognized as such; and the Land Revenue Act (IX of 1873) expressly mentions a number of matters (sec. 24) in which the Civil Court has no jurisdiction. So all rent suits and other disputes between landlord and tenant are heard by the Revenue Courts (Act XII of 1881, sec. 95 ff.). But in rent suits there is an appeal, in certain cases, to the Civil Courts (i.e. to the District Civil Court), or in large and important cases, direct to the High Court.

The Central Provinces.—The Central Provinces (Land
Revenue Act) does not refer to Revenue Courts generally; but there are a number of matters in which Revenue Officers have to pass orders, and a Civil suit cannot be brought to question the decision (see sec. 152, Act XVIII of 1881).

In the Tenancy Act (IX of 1883) also, certain matters (including the fixing of rents) are reserved to Revenue Officers; but other suits between landlord and tenant (as such) are left to the Civil Courts, provided that the Court must be presided over by an official who is also a Revenue or a Settlement Officer, and so has the experience of land matters which such an appointment gives.

The Panjab.—In the Panjab Acts, no mention is made of Revenue Courts under that name; but the Land Revenue Act reserves certain matters from the jurisdiction of the Civil Courts (Act XVII of 1884, sec. 158). In this province, Settlement Officers can be invested with powers to hear land-cases, and there are special provisions in secs. 136, 137 of the Act. The Tenancy Law (Act XVI of 1887) goes into more detail (sec. 75 ff.). Revenue Officers alone have jurisdiction in suits between landlord and tenant (shown in the Act in groups) and in various "applications and proceedings" (also exhibited in groups). Provision is further made for the determination of any question of doubtful jurisdiction; and also for the validity of decisions which are fair and proper, only that there has been a technical defect of jurisdiction; and for the reference of certain points to the decision of a Civil Court (sec. 98).

Burma and Assam.—In the province of Burma there is no need of a tenancy law; and the Land Act (II of 1876) deals with the special jurisdiction of Revenue Officers in sec. 53. The Land Regulation (I of 1886) of Assam is similar.

Law of Revenue jurisdiction and procedure to be referred to in each Province.—For all provinces except Bengal and Madras, the powers and jurisdiction of Revenue Officers, their procedure in summoning parties and procuring evidence, the course of appeal, and the revision of orders, are provided in the ‘Land Revenue Act’ and perhaps in the ‘Tenancy Act’ also. In Bombay everything is to be found in the Revenue Code.
In Madras there are several of the earliest Regulations giving certain powers to Revenue officers; such are Madras Reg. II of 1803, and Reg. VII of 1828; but the principal provisions regarding powers and procedure are contained in two Acts—Madras Act VIII of 1865, called the 'Rent Recovery Act,' and Madras Act II of 1864 for the 'Recovery of arrears of Revenue.'

In Bengal, there is a longer list of Acts and Regulations which indicate the powers and procedure of Revenue officers; but there is no occasion to give any details, because there are 'Collectorate-Law Manuals' (e.g. that by Mr. H. A. D. Phillips) which give all the Acts, Regulations, &c. collected in one volume.

**Nature of the procedure adopted for Revenue cases.—**
The Revenue Court procedure is simple and untechnical. Where the law provides a special jurisdiction for the hearing of applications, or of contentious cases between parties, which are in the nature of suits, either the Civil jurisdiction is adopted (with such modifications as may be needed) or the entire procedure is laid down specially. It may be said broadly, that the object of Revenue procedure is to make the hearing of cases as easy and expeditious, and free from technical difficulties, as possible.

In some cases the law insists on the personal attendance of the parties, and discourages the expense and waste of time that too often follow on the employment of legal practitioners. Permission can of course always be had to appear by agent or to employ legal aid where it is really needed; but in the vast majority of cases that come before the Revenue officers, there is nothing but a simple question of fact to be gone into.

**Heads of Revenue duty.—** I have already (p. 23 ff.) indicated the grades of Land Revenue Officers—how the Collector is the District head; and how he is always Magistrate as well, and has the 'general supervision of all administrative work in his district: how he has Deputies and Assistants; how an appeal ordinarily lies from the decision of the lower grades to the Collector, and in other cases (including the orders of the Collector himself when these are appealable) to the Commissioner, with a final appeal to the Board of Revenue or
Financial Commissioner. We have here, therefore, to turn our attention to the everyday matters of land management and Land Revenue business which the Collectors have to dispose of. The heads of Land Revenue business naturally vary somewhat with the Province; but there is sufficient similarity to warrant a general description being included in the same chapter.

In Bengal, though the Collector has no concern with the internal affairs of ordinary landlord-estates, he still has to keep a watchful eye on the country in case of the approach of famine; and he may have the actual care of estates (with or without the aid of a paid Manager) in case they come under the Court of Wards, while the owner is a minor or incapable. He has the charge of Government Estates when they are either farmed, or managed direct,—the tenants paying their rent to Government. When these estates consist of large tracts (exceeding 5,000 acres) they are technically called 'raiyatwari' tracts, the direct holders of land (raiyats) being the tenants of Government though not necessarily tenants at will. The Settlement of rents in these tracts, as well as of the Revenue in temporarily settled estates and districts, is the duty of the Collector (with the aid, if need be, of Settlement Officers specially appointed). I have already alluded to the special procedure of Act VIII of 1885 (Bengal Tenancy) under which Rent Settlements may have to be made under certain circumstances even in Permanently Settled estates. There are also duties under the general Survey law, including orders regarding the erection and maintenance of boundary marks (Bengal Act V of 1875, sec. 20). The Collector is also concerned with the Registration of landed estates and with 'mutations,' i.e., the record of changes in the proprietorship by sale, &c. He also has the duty of registering 'tenures' (p. 138) for the purpose of their protection from being voided if the estate comes to sale for arrears of Revenue. When partitions of jointly owned estates are applied for, the Collector alone has jurisdiction to make the division and to determine how the Land Revenue liability is to be distributed over the shares: and even if there is no formal partition to make, there may be the right of co-sharers to
have their Revenue apportioned, and a 'separate account' opened with each, so that the default of one may not imperil the others—except under such circumstances as the law provides (Act XI of 1859, secs. 10–14). I need hardly say much on the Collector's duty in respect of Drainage works and Embankments, the maintenance of which may be of first-rate importance to agriculture in certain districts (Bengal Acts VI of 1880, and II of 1882). So too I only just allude to the assessment of estates and tenures to the 'District Cess' (p. 153) (Bengal Act IX of 1880). Lastly, there are the important duties of the collection of the Land Revenue, and the realization of arrears.

In other Provinces.—Though some of the duties thus stated are peculiar to the locality, others are common to all provinces. It will be possible, therefore, at once to give a brief comment on a series (selected) of the subjects of general Land Revenue administration most likely to be useful.

Tenancy procedure not included, but the jurisdiction noted.—As regards those provinces which entrust rent and other Tenant cases to Revenue Courts, I may say at once that it is not my intention to give any details as to the procedure in Tenancy cases. I have sufficiently alluded to the Tenancy law in general (p. 133 ff.), and I will only further remind students that, in each province, they will have to see:

1. Whether suits between landlord and tenant are heard by the Revenue officers or by the Civil Courts.
2. Or whether being heard by Revenue Courts, the course of appeal is wholly in the Revenue Department, i.e. to the Commissioner, Board, &c., or wholly or partly to the Civil Court.
3. In the Central Provinces only, is there a special provision, dividing, so to speak, the landlord and tenant (original) jurisdiction between the Revenue and the Civil Courts: but then there is an express provision that most rents must be, and all may be, determined for the term of Settlement, by the Settlement Officer. Hence the class of suits likely to come before the courts is special in kind, and limited.

1 When I speak of the 'Collector' it is hardly necessary to explain that I include the Deputy and Assistant Collectors who act according to their grade in the manner provided by the Acts.
Heads of Land Revenue duty enumerated.—Confining our attention then to the Land Revenue business, we shall find that the main heads of official duty calling for our notice are the following:

1. The collection of the Land Revenue.
2. The care of estates in general—including the preservation of boundaries, the maintenance of the records, especially with reference to the due registration of all changes in ownership.
3. Partition of joint estates.
4. Appointment and control of village officers.
5. Minor assessments—i.e. special cases where the Land Revenue has to be fixed subsequently to, or apart from, the general Settlement of the district.
6. Agricultural advances (Taqāvī).

It will not be necessary for our further remarks, to separate the provinces and repeat a notice of Revenue duties for each; there are some distinct features in the Permanently settled districts and estates of Bengal and Madras, in the Raiyatwāril provinces, and in the village-estate Provinces (North-West Provinces and Oudh, Panjāb, Central Provinces and Ájmer), but they can be sufficiently indicated in briefly describing the action taken in general, under the above six heads.


Difference between permanent and temporary Settlements as regards Revenue in arrear.—Naturally we consider that the first duty of a Collector being to 'collect'—the ingathering of the Revenue, and the enforcement of payment in case of default, is the first subject to be considered.

We have here to take notice of the different procedure under each of the three great systems. In Bengal and in the Permanently Settled estates of Madras, the gift of the landlord-right was accompanied with the condition that the Revenue must be paid
punctually under threat of the immediate sale of the estate. It was thought that this was better than subjecting a great landlord to the indignity of personal imprisonment or attachment and distraint of moveable property.

Sale law and Public demands recovery law in Bengal.—The existing Act (XI of 1859) regulating the Sale law of Bengal is, I believe under disussion, but no change has yet taken place nor is it likely that any principles will be altered. As, however, Land Revenue is not confined to permanently settled estates and moreover various other items of public money are provided to be recovered as if they were arrears of Land Revenue there is a double procedure. The whole law of (1) sale of estates and (2) the ‘certificate procedure’, for the ‘recovery of public demands’ is regarded together, being contained in Act XI of 1859, Bengal Act VII of 1868, and Bengal Act VI of 1880.

Where there is some kind of ‘estate’, with a landlord over it the estate is liable to sale, as the first and direct mode of recovery; certain fixed ‘tenures’ (p. 130) are also treated a estates. Where it is a case of recovery from a Revenue-farmer (still occasionally employed on certain lands) or from a Government raiyat, or from some other person, where there is no ‘estate’ to sell, a certificate of the arrear is issued by the Collector, and this operates like a decree of Civil Court, and is executed under the Civil Procedure Code.

1. Sale law.—In the case of estates, the old custom was that the Land Revenue fell due in monthly instalments, and the failure of any one month’s payment was held to authorize the sale; but this was found too harsh; and now, a certain date (or last day for payment) is fixed under the authority of the law, by which (up till sunset) all dues for the preceding year must be made good.

The ‘sunset law’.—Directly the sun has set, the time is past, and the estate must be notified for sale,—the sale to take place.

1 In Madras there is some difference; the Act (II of 1864) says the recovery shall be according to the terms of the title deed; and Reg. XXIV of 1802, sec. 7, provides that personal property shall in the first instance be attached.
thirty days later. It will be understood, however, that in practice, a very small percentage of estates is ever actually sold. The Collector may accept a payment after date, if it is desirable to do so. A reference to section 18 of the Sale Act will show that the Collector has absolute discretion (provided he makes a written order and states his reasons) to forego a sale or even to refuse to allow one. And this latter power may be specially required in order to obviate the necessary evil of a sale law, viz. that a landlord may be tempted to raise all the money he can by creating encumbrances on his estate (which will be avoided when the estate is sold) and then may purposely let his Revenue fall into arrear. If it were compulsory to put up the estate to auction, the fraudulent owner might virtually get the price twice over.

Sale of Estate with a clear title.—The auction purchaser gets a clear title and can void all encumbrances and contracts entered into by the defaulting landlord, and all tenures created by him; certain old standing tenures are, however, protected (by law) and so are others if duly registered; but registration only applies to the tenures mentioned in the Act, and then prevails only against private purchasers, not against Government. So that if an estate were heavily burdened with tenures which a private purchaser could not void, there would be no sufficient bid for the estate at the auction, and Government would buy it in. It is true that there is a "special registration" of tenures which will protect them even against being voided by Government; but such registration can only be had on condition that the tenures are such as leave a sufficient security (in an unburdened proportion of the estate) for the Land Revenue of the whole.

2. Certificate Procedure.—The "certificate procedure" classifies the demands into two series: in the one—to put it shortly—the certificate is more absolute and difficult to contest than in the other. A separate form of certificate for each class is provided: in either case, if there is any objection, a petition must first be lodged with the Collector within a certain time.

The encumbrances in all probability would be such as could not be registered to secure them (e.g. mortgages), and so purchasers would bid the price of the estate as free from encumbrances. Should, then, the sale price exceed the value of the arrears, the Collector would be bound to hand over the whole surplus to the original owner.
In the first class of cases, the money must be paid up (in deposit), and then a civil suit may be filed (against Government) to contest the certificate. In the second class of cases it is not necessary to deposit the money, but a suit may be filed to contest the liability; provided that the plaint must set forth that the grounds of objection sued on have been duly enumerated in a petition (as above) to the Collector: the suit can only proceed on one or other of the grounds permitted (sec. 8, Bengal Act. VII of 1880).

**Land Revenue recovery in Northern India.**—The Land Revenue Acts of the provinces where village-estate Settlements prevail, have a different procedure for the recovery of arrears of Land Revenue and other public dues that are provided by law to be recoverable as if they were arrears of Land Revenue. Briefly, instead of sale being the first and ordinary procedure, it is only adopted as the last resort. There are a series of measures, beginning with a simple notice of demand; and only if the others fail can the sale of the estate be ordered. All the Acts are similar in principle.

The Revenue is, I have explained (p. 192), made payable by certain instalments; and if these are not paid up in full at due date, the responsible party becomes a defaulter.

**Responsibility of village headman or lambardār.**—In the North-West Provinces and Central Provinces, the headmen are primarily and personally liable as defaulters for the Land Revenue arrears of their village or section (pattī) of a village. In the Panjab this rule is modified; the headman is only responsible if he neglects the duty of collecting—has not taken the proper steps to get in the Revenue from the co-sharers who are liable.

If it is necessary to adopt legal measures to realize the arrear, a certificate of the amount due is prepared and signed by the Revenue Officer—usually by the Tahsildār. This certificate is absolute proof of the arrear: it can only be contested by a civil suit, which again must be preceded by a deposit of the whole amount due. The processes of recovery are (in order of severity):

1. Serving a writ (dastak) of demand.
2. Arrest and detention of the person 1.
3. Distress and sale of moveable property including crops—but tools, seed grain, and agricultural cattle are exempt, and the Panjab Act expressly exempts a portion of the crop necessary for subsistence.
4. Attachment of the whole estate (mahāl) or the defaulting share only. The effect of this is to place the land under a Government manager, who receives all rents and profits: (payment to anyone else will not avail against the demand of the manager). This is popularly called khām-tahsīl.
5. Is a similar process; only that instead of making over the estate (or share) to a manager, it is made over to a solvent co-sharer who undertakes to pay up the arrears and holds the share till he has recovered all.
6. Annulling the Settlement of the whole estate, or of the share; in which case a new Settlement will be made; and the proprietor may find himself excluded for its term which will not exceed fifteen years.
7. Sale of the estate or share (pattī).
8. Sale of other immovable property of the defaulter.

There are small variations in detail in the Acts; but the foregoing list will give a sufficient general idea of the procedure. It may be mentioned that in Oudh, the Taluqdār's estates are (unlike the landlord estates of Bengal) treated by the same process as the village estates; they are not sold in the first instance; the only difference is that the Taluqdār is not liable to personal arrest and detention.

No interest charged.—Interest is not charged on arrears of Land Revenue; but the costs of process, &c. are included in the arrear to be recovered.

Cases of real inability to pay.—It will be borne in mind that while, in the Permanently settled estates of Bengal and Madras, no remissions or suspensions are contemplated, in the village-estates, the Collector is ever watchful to distinguish whether the default is due to neglect, or fraud, or (as it often may be)

1 This is usually a brief detention in a suitable place at the Tahsildar office: the Central Provinces Act directs detention at the Civil Jail.
to real inability to pay, owing to loss of crops, bad seasons, &c. In the latter case, he will apply his power of suspending the demand (p. 244), and ultimately perhaps, recommending the whole (or a part) of the arrear for remission.

It may also be mentioned that where there is a Revenue-assignee, jāgirdār, &c., there may be local rules as to whether he must receive his Revenue through the Treasury, or be permitted to collect it himself in cash (or sometimes in kind).

Collection in the Raiyatwāri provinces—the jamabandi.—In the Raiyatwāri provinces of Madras and Bombay, the really essential point to notice is, that each year, before the collections are closed, an account is prepared, village by village, by the village officers, and under supervision of the Assistant Collector (and occasionally of the Collector himself, as the rules may provide) of the lands actually held, and the correct total dues, for the year. This is necessitated by the fact that the raiyat may have relinquished (whether absolutely or by transfer) some of his land, or taken up new fields on application. In Madras, also, there are various items of Revenue account to be gone into; certain remissions which are always allowed for spoiled crops, and certain adjustments with reference to water rate, as e.g. where a full supply has not been received, or where the assessment is for a double crop, and water for only one has been received; or where a second crop has to be charged, the assessment being for one only (p. 205). This process, characteristic of the raiyatwāri provinces of Madras, Bombay, and Berār, is called the jamabandi. The details of practice must be learned from the local Manuals and Circulars 1.

Process of recovering arrears: Madras law.—As regards the actual process of recovery of Revenue in arrears, in Madras, the law provides for the attachment and sale of moveable and immovable property, and the imprisonment of the defaulter (which latter process does not extinguish the arrear). Madras Act II of 1864, sec. 8 ff.). Immovable property is not sold without first issuing a writ of demand and seeing whether the defaulter
can make some arrangement for payment (sec. 26). The property moreover, need not be sold outright, but may be taken under management. As to the conditions under which personal arrest and imprisonment are allowed, see sec. 48.

The Bombay law.—The Bombay Code is so clear (chap. xi. secs. 136-187) that it is only necessary to refer to it. It will be remembered that there are other tenures besides raiyatwari to be considered in Bombay; hence the legal provisions require some variety. I will only notice that in principle, if the registered occupant of land fails to pay, the amount may be recovered from any actual occupant; and he, having paid, is protected by certain provisions (sec. 136). Power is also given to attach crops before the Revenue falls due, in certain cases where such a precaution is judged necessary.

When default occurs there may be:

1. A written notice of demand.
2. Forfeiture of the occupancy.
3. Distraint and sale of moveable property.
4. Sale of the defaulter's immovable property.
5. Arrest and imprisonment.

When, in alienated lands (pp. 52, 118), the estate consists of a whole village or a share of one, the whole (or the share) may be taken under direct management by the Collector: and if at the end of twelve years, the owners have not 'redeemed' the land, it will finally pass to the Government (sec. 163).

Interest chargeable.—In Bombay and Madras, interest is (or may be) chargeable on arrears of Land Revenue (Madras Act II of 1864, sec. 7, which fixes six per cent.; Bombay Act V of 1879, sec. 148).

Other Provinces. Burma.—I do not propose to go into the details of the laws of other provinces; it may be noticed, however, that in Burma a convenient practice is provided by Act II of 1876 (Land Act) for the issue of demand tickets before any process to enforce payment is adopted. In general, the arrear of Revenue is recovered as if it were a sum due on a decree of a Civil Court, and by the Civil procedure; or if there is a saleable interest in the land, the land may be sold; or Govern-
ment may eject the landholder and take possession (Act II of 1876, secs. 47, 49).

Assam.—In Assam, the Land Regulation has to make provision for the ordinary landholdings of the province, as well as for the old permanently settled estates and holdings, some of which are subject to the Bengal Sale law (as also provided in the Assam Regulation). And the small (Permanently settled) holdings of Sylhet and the Temporarily settled lands of Kachar have always had certain peculiar features connected with the Revenue collection.

In concluding this notice of the Collection of Revenue, it is only necessary to say that, in general, resort to the severer forms of process for recovery is now rarely necessary. As a rule the Revenue is punctually, and in ordinary seasons easily, paid.

Suspension and remission of the Land Revenue demand.—One important matter remains to be noticed. There are, owing to the climatic conditions of most Indian districts or Provinces, times when the land could not be sown, or the crops have suffered or been destroyed outright, owing to failure of the usual rainy season, or to failure of river, tank or canal irrigation, (pp. 7, 10), or owing to some disaster—flood, blight, locusts and the like. The calamity may be (1) in the nature of a famine or some evil that affects the crops over a wide area; or (2) some purely local misfortune affecting perhaps only a single village, or a small group of fields. The Collector needs then to be armed with a power to afford immediate relief by suspending the usual demand for the Land Revenue, when the instalments fall due. For though the Assessment is moderate and adapted to average seasons and conditions generally, these climatic disasters upset all calculations. I do not speak here of those special relief measures to be taken when widespread famine threatens the population. The suspension of the Revenue demand is not only needed in times of actual famine, but on other occasions also. As a rule, however, it will be most needed—and that without delay—in widespread calamities; and will be more cautiously resorted to in local and partial cases. It may only be rarely

1 See L. S. B. I. vol. iii, pp. 448, 449.
required in estates and districts classified as 'secure.' Suspension is usually ordered on the Collector's own authority, for six months—i.e. till the results of the next harvest appear, and it is seen whether the amount can then be paid. Sometimes a longer period of observation is needed, and then a report will have to be made and the sanction of the Commissioner obtained. Usually, if the succeeding harvests are fair, and the loss has not permanently crippled the estate (as it does if the greater part of the cattle have perished), the recovery of the amount suspended will be ordered;—usually in part payments, added to the current demand. Where the circumstances are such that remission is called for, sanction of superior authority, on a full report of the facts, is necessary. The local Government itself will have to sanction any widespread remission affecting a considerable percentage of the local Revenue; and in cases sensibly affecting the Revenue of an entire province, the remission has to be approved by the Government of India. It is often (in landlord estates where there are tenants) made a condition of remission or suspension, that favour shown to the landlord shall be passed on to the tenants; and the Rent Act of the North-West Provinces as well as that of Oudh, contain special provisions on the subject.

These remarks apply to the country generally, and not to those exceptional tracts for which a 'fluctuating assessment' (p. 191) is already provided.

The permanently settled estates are not, as a rule, allowed to claim any remission or suspension—because their Revenue, fixed many years ago, is now excessively light: but I do not apprehend that relief would be refused (as a matter of favour) in case of any serious famine or unusually severe calamity.

Revenue accounts.—It hardly comes within my scope to say anything of the Revenue-rolls, registers and accounts kept both at the local (tahsil) treasuries and at head-quarters, by aid of which it is at once known what is the correct demand for every

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1 The object is to give relief so that the Revenue payer may not be forced to get into serious debt to meet the instalment.

2 See Act X X I of 1884, sec. 23; and Act X X I of 1886, sec. 19.
estate and holding, both for Revenue and cesses; what is in arrear, and what has been duly paid. In Bengal, the Collector's office has a regular department for this work, known as the "Tajih Department"—so called from the Revenue (Arabic) term tajih (taji in Hindī dialects), meaning a statement showing the Revenue demand,—the part paid and the balance still due.


Duty of inspection and free intercourse with the people on the spot. In provinces where the Settlements deal with village-estates and separate holdings, a great deal of care is taken to watch over the condition of the villages and the welfare of the peasant holders, which is not a matter of law or legal provision. I have frequently alluded to repeated inspection which is given, on the part of village patwāris, Revenue Inspectors, and District Officers. Great stress is laid on the duty of the District Officers to spend as much time as possible in camp. When in the village itself, they can freely talk with the people without the constraints of a public office, and the presence of subordinate officials which checks confidence. It is notorious that by this means, Revenue Officers can learn more regarding popular wants and difficulties, and of the condition of the district generally, than they could in any other way.

Care of Estates. Besides this, there is a regular system of reporting any unusual occurrence—such as locusts, destructive storms, cattle disease, and every other accident, that may tend to place the villages in difficulty. When the condition of an estate is known to be precarious, and the time comes for Revenue payment, the Collector has (as above noted) the power of suspending the demand at once; and to facilitate the efforts of the Collector in this direction, and to bring statistical knowledge to a focus, as it were, the Government of India within the last few years, has directed a detailed record to be prepared—either in the form of notes, or maps compiled for the purpose—of

Whence the term tajih-navis for the clerks employed to keep these statements.
the character of each part of the district and (if need be) of separate estates and parts of estates as regards their position of greater or less security.

Some villages will be protected by a permanently flowing canal: others will be in the low lands where water in wells rarely or never fails, and is reached at a depth of a few feet; others again are so situated that the river moisture on which the fields depend, may be extremely precarious owing to the changes in the course of the river and its subsidiary channels: some places are climatically precarious—the rainfall very uncertain, or the crops liable to depredation by storms or by wild animals.

In some cases indeed, such tracts of country will be excluded from the regular Revenue Settlement altogether, and placed under some system of fluctuating assessment (p. 194). But apart from such extreme cases, there is always scope for the classification of estates, villages and landholdings as more or less secure.

**Care of Boundary marks.**—The care of Boundaries and Survey marks is of importance both for the security of rights, for the prevention of disputes, and for obviating the loss of the data of survey, a loss which, if permitted might result in the necessity for a new survey.

The Revenue Acts will all be found to contain provisions\(^1\) (apart from those relating to demarcation and fixing of boundaries for Survey and Settlement) for the maintenance of marks. Every landholder is bound to erect and maintain boundary marks; and the village officers are charged with the duty of reporting any injury to such marks, and any cases in which marks are out of repair\(^2\). If the order to erect or restore a mark is not obeyed, the Collector has power to do the necessary work and recover the cost (as if it were an arrear of Land Revenue) from the parties concerned. He has also power to apportion the cost between adjacent owners. If there is any dispute about the boundary line, the Collector only recognizes existing possession; and any party objecting must have recourse to a civil suit to establish his contention.

**Penalty for injury.**—There is usually a penalty for injury to

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1. In Bengal and Madras where there are no Revenue Codes—see Bengal Act V of 1875; and for Madras Act XXVIII of 1860.
2. The Panjáb Act has thought it desirable to specify this as one of the legal duties of village officers: the neglect would consequently entail a criminal liability under the Penal Code. There is a similar law in Burma.
marks, and a provision for a reward to informers in case of injured marks. The Indian Penal Code has also a provision for the punishment of malicious injury to marks. The chief Revenue authority has power to prescribe the form and material of boundary and survey marks.

**Boundary marks in raíyatwári countries.**—It will be remembered that in raíyatwári countries, the marks are fixed and unalterable, having been originally adjusted with reference to the separate occupancy rights. In these places, the holdings have to be kept correct, and the boundaries maintained, according to the maps. All sales, &c. proceed with reference to the recognized survey lots, or authorized and recorded subdivisions of them, and this is a matter perfectly well understood. In other districts, some boundaries are, in the nature of things, unalterable; but otherwise there is no rule that the Settlement boundaries must be maintained; fields change and so do the limits of shares, and interests; the maps have accordingly to be kept correct to the facts.

**Record of changes in proprietorship.** Dékhil-kháríj or mutation of names.—Under all systems, great care is taken to record all changes in proprietary right (or occupancy right). On this depends the correctness of the records, that is to say, that the work of survey and Settlement is not lost, by gradual and unreported changes which would make the land records cease to correspond with existing facts. Whenever, therefore, a change takes place, by gift, inheritance, sale, or mortgage with possession, there is a process known as dékhil-kháríj (i.e. putting in and taking out). The former owner's name is removed and the new one put in; this secures the title to the land (p. 198), and also informs the Collector as to who is the right person to answer for the Revenue. When a change is reported, a public notice (for a fixed time) is posted up, and the Collector will only sanction the change being entered on the record when it is found that the transaction is an accomplished fact, that possession has been given, and that there is no dispute.

For it will sometimes happen that on the death of a land-owner, co-sharer, &c., a person will claim to have his name substituted as
being the adopted son; and collaterals will come forward and deny
the adoption, or the possession of the claimant; or a vendee from
a widow will ask for record of his purchase, and the family object
that the widow has only a life-interest and was not entitled, under
the circumstances, to sell: here the Collector may refuse to
recognize the transfer, and refer the parties to the Civil Court to
settle the matter: the change will only be recorded when a final
decision has been obtained.

The whole object of the land record system (I do not apologize
for repeating) is to obviate future re-survey and re-record,
by seeing that the initial maps and records of Settlement are
kept correct and in conformity with facts at the time. Good
records mean, the security of titles, the impossibility of encroach-
ment on subordinate rights, and the facility of decision in case
a dispute occurs, and especially in all kinds of cases between
landlord and tenant. The repeated inspections of land, and the
due writing up of the village-papers (p. 29), are the means
relied on to secure this object.

3. Partition of joint estates.

Under all systems, there may be joint estates or joint
occupancies, and partition may be desirable. All the laws
prescribe that this operation is within the sole jurisdiction of
the Revenue Officers. The Civil Courts do not act except
there is dispute as to the right of a claimant to be a sharer at
all, or as to the extent of his share. The actual land to be
given to each, and the apportionment of the Revenue responsi-
bility, these are matters which can be effectively adjusted only
by persons who have a Revenue Officer's experience.

The Land Revenue Acts contain general provisions. But
there are a vast variety of points of detail which can only be
dealt with by Rules under the Act, or are enjoined as matters of
practice, by the Circular Orders of the Chief Revenue authority.

Perfect and imperfect partition.—As to the law of partition,
only two points can here be noticed. In countries where there
is a joint estate (whether a village or a larger landlord area),
there may be a partition which leaves the Revenue liability
of the whole intact, and merely allots the separate holdings for
personal enjoyment ('imperfect partition'), or there may be one which completely dissolves the joint liability ('perfect partition'). Some laws do not allow the latter except at settlement, and for special reasons (p. 174).

In Raiyâtârî countries, the partition has further to respect the fixed survey-numbers or lots, and the partition may not result in lots below a certain minimum size. This will be realized by reading secs. 113 ff. of the Bombay Revenue Code.

In partition, there are always some lands which are left undivided (graveyards, common wells, &c.). The chief difficulty in making a partition is that, in any joint holding, each member usually has had of facto possession of certain fields, in the past; each will be eager to keep these; and it is not always easy to effect this, with reference to the value of land and the extent of each share; but in a good partition it will be effected as far as possible.

**Partition law.**—In Bengal, there is a special Partition Act (Bengal Act VIII of 1876). In Madras, Act I of 1876, and Act II of 1864, secs. 45, 46, make provision for Permanently settled estates. No special law exists for the partition of raiyats' holdings; that is a matter which depends on the rules of survey and the permissible subdivision of survey-numbers.

4. Appointment of Village Officers.

**Disputes as to the right to the office.**—This is also a matter for the Revenue Officer's decision only. The succession to the office of headman, and sometimes to that of patwârî, may be a matter of custom, and it may be hereditary: sometimes the rules allow a certain elective element; but there are very often rival claimants, or objections are raised to a person nominated by the Collector, on the ground of unfitness,—his being much in debt, having no sufficient interest in land in the village, and the like. Such cases are numerous and are generally contested in appeal as far as possible.

There will be usually found provisions in the Land Revenue Act, Rules and Circulars.
MINOR ASSESSMENTS.

Watandar Offices in Bombay, &c.—In Bombay there is provision regarding the village accountant in secs. 16, 17 of the Revenue Code; and as here there may be hereditary Officers remunerated by special holdings of land (avatan; p. 27), there is a special Act (Bombay Act III of 1874) which may be referred to; also for Sindh, Bombay Act IV of 1881. In Madras, there are several Acts and Regulations relating to the Karnam or village accountant in Permanently settled estates and in other villages. Madras Regs. XXIX of 1802, and II of 1806, refer to hereditary officers in estates; Madras Reg. VI of 1831, and Madras Act IV of 1864, refer to such officers in general. In Bengal, Reg. XII of 1817 is still in force, but patuviris do not exist except locally; and the whole village system has no vitality under the landlord estate system.

5. Minor Assessments.

Lands to be assessed apart from the general district Settlement.—Alluvial tracts near rivers.—From time to time lands held Revenue-free, or of which the Revenue has been assigned, lapse, and it becomes necessary to assess them and determine who is to be settled with; or waste land is colonized and new villages are established; and there are various other occasions in which lands have to be assessed—apart from the general Settlement of the whole district. One frequent cause in the Panjab (and other provinces much traversed by rivers flowing through alluvial plains), is the alteration of lands which appears as soon as the floods subside, when the rainy season is over. In some cases, the action of the river is so violent, that an entire area in the vicinity is excluded from the Settlement and put under a system of fluctuating assessment; but where that is not necessary, it is still desirable either to make provision (1) that whenever the entire area of the village has been affected to the extent of ten per cent. or more, the whole Revenue is to be re-adjusted (and its apportionment among the co-sharers); or (2) to separate the permanent lands from those liable to river action, and demarcate a separate ‘alluvial chak’ or circle which
may require to be re-measured and re-assessed after each rainy season, provided that a certain minimum degree of change has taken place. In these circles of course, as the Revenue will be reduced on account of land washed away or rendered un cultivable, so additional Revenue may be assessed on new land formed, or on barren land that has been rendered cultivable by a fertilizing deposit. It is the making of these minor settlements, with the survey work and inspection and reporting that they involve, that afford such excellent opportunities for training the junior officers and qualifying them for larger Revenue powers and duties.

6. Advances to cultivators.

Under the head of the care of estates, might have been included a brief notice of the fact that Government makes advances (to be recovered in certain convenient instalments) to enable agricultural improvements to be made. These advances, in fact, have always been customary in India, under the name of taqānī (written tecaree, takkānī, &c.; the word is Arabic and literally means 'strengthening' or 'coming to one's aid'). They are governed by Act XIX of 1883. An 'improvement' includes all works of providing wells and other means of irrigation which can be effected by private effort, as well as drainage, reclamation, enclosure, and any other works which may from time to time be declared by the local Government to be works of 'improvement.' The instalments may not extend (as a rule) over more than thirty-five years. The Act makes provision for the form of application for a loan, and for the security (and liability of the land itself to answer) for repayment.

Private works of improvement exempted from assessment.—It also makes the important provision that when an improvement has been made by private effort, and the land comes to be re-assessed under a revision of Settlement, the improvement is not to be taken into consideration; and as in certain classes of work, this exemption cannot go on for ever, the protection is effected by declaring periods of years for which a certificate of the improvement will hold good, so that no
increase can be levied during the currency of the period (see p. 199).

Additional powers of making loans.—In the year following the publication of this Act, a further law (Act XII of 1884) was passed, which empowers loans to be made (under rules) to owner and occupiers of land, for the relief of distress, the purchase of seed or cattle, or other purpose not specified in the (above-mentioned) Land Improvement Act, "but connected with agricultural objects."

Other branches of public business connected with land.

Sources of information about Revenue duty.—There are other matters of which notice might be taken, but they are only indirectly connected with Land Revenue Administration. Such are the valuation of land in case of its being taken up for a public purpose under the "Land Acquisition Act, 1870"; and various duties connected with District Boards and (in Bengal) with committees in connection with drainage works and embankments; and there are various functions of a Collector under the Provincial Canal Acts. In districts where there are still waste lands for disposal, it is the Collector to whom application must be made under the Rules; but these have already been sufficiently noticed (pp. 56 ff.). It only remains to be said that for a complete study of the direct Land-Revenue duties of Collectors, it is almost exclusively in Bengal and Madras that a number of Acts and Regulations have to be referred to: in all the other provinces, there is one Land Revenue Act or Regulation which contains the whole law. In Bombay this Code has indeed to be supplemented by a few Acts dealing with some of the special tenures, but that is all.

In the Bombay Presidency there is no Tenancy Law to be separately studied, nor is there in Burma, Berar or Assam.

'Rules' under the Land Revenue Acts.—In all Provinces however, it is essential to have the 'Rules' which the Local Government is empowered to make under the Revenue Act. In some cases (e.g. the Panjab Act) the collected Rules form quite a complete code of detailed instructions; and the Rules when duly sanctioned, have the force of law.
Circular orders.—There are also Circular Orders or Standing Orders in all provinces, issued by the Government or by the chief Revenue authority or both, which give detailed instructions on matters of practice, official routine and business details, and in some cases contain valuable explanations of the Act, and call attention to changes in the law. They are to be had in provincial volumes, to which additions are from time to time made as circumstances require.