

## CHAPTER XVIII.

### SETTLEMENT OF RENTS.

437. In order that the land revenue of the temporarily-settled estates should be equitably assessed, that the public burthens should be equalized, and that Government should obtain its fair share of the increased wealth of the country with the list possible loss to the landed proprietors, it was necessary to have a complete record of the rents payable to zamindars and of the value of the land for which no rent was actually being paid.

Introduction.

So much could have been done under the provisions of Regulation VII of 1822, but a good deal more was found to be necessary. Many tenants had been holding at rents fixed for the term of settlement, many at very low rents, and it was clearly right that both these classes should be made to contribute towards the increase to be demanded in the revenue. This principle had so clearly been recognised that under section 104 (2) of the Bengal Tenancy Act it was imperative to settle fair rents for all tenants in all cases in which it was proposed to revise the land revenue.

438. In a note of the 3rd February 1891 Mr. Finucane, in recommending that for this and other reasons Chapter X of the Bengal Tenancy Act should be extended to Orissa, wrote as follows :—

Principles of assessment, 1891.

“It would be premature now to discuss the principles on which settlement should be made. It will probably be found that the rents of the *pahi* raiyats are as high as the land can afford to bear, and that they may be left undisturbed.

“The rents of *thani* raiyats, which, under the terms of last settlement, ought to have remained unaltered for the past sixty years, will, as a matter of course, have to be now enhanced, if they have not in fact been enhanced during the currency of the existing settlement. It is not easy to lay down *a priori* the principles on which such enhancement should be made.

“The full enhancement which may be demandable on the ground of rise in prices cannot, it is probable, be taken, because the rents fixed for *thani* raiyats at last settlement were higher than the competition rents demanded from *pahi* raiyats.

“Neither can the rents of *thani* raiyats be fixed on the principle of raising them to those now paid by *pahi* raiyats. A middle course will have to be followed. The question is one regarding which the Settlement Officer should ascertain facts and ask for orders before finally adopting any principle of enhancement.”

The general impression appears to have been that rents would be enhanced up to the “prevailing rate”, as defined in the Bengal Tenancy Act, and Mr. Reily, early in 1891, issued to all Assistant Settlement Officers instructions for the preparation of soil maps, really rate maps. The system its attendant difficulties, and the possible alternatives are so clearly set forth by Mr. Finucane in his notes of July 1891 that I cannot do better than quote what he says :—

“When the attestation of a number of contiguous villages is done, the Assistant Settlement Officer goes over the village lands with maps and records in his hands, and divides the whole village into blocks or *chaks* of land. These blocks are pointed out by the raiyats and zamindars as being blocks recognised by them, which are said to pay the same rate of rent.

“The Assistant Settlement Officer marks off these blocks on the maps by drawing a line round the boundary of the block, each of which is coloured differently. The rate of rent, where there is a generally prevailing uniform rate, is also noted on the map.

“The Assistant Settlement Officer then extracts the fields belonging to each tenant in each block, and calculates what the rental would be on the area of the holding, at what may be called the block rate.

“Having worked out the rental of each holding in this way the Assistant Settlement Officer is supposed to compare the rental so arrived at with the rental actually paid, as already stated, by the parties and recorded by him, and if he finds that the actual rent paid is much less than the rent arrived at in the manner above described, he next proceeds to consider whether the rent should be enhanced on the ground that the tenant is paying at less than the prevailing rate. If he thinks that there are *prima facie* grounds for supposing that the rent ought to be enhanced, he, before proceeding to enhance it, calls on the raiyat to state the previous history of the holding and to show whether there is any reason for his being allowed to hold at less than the prevailing rates.

“This is the procedure described by Mr. Reily as being that which he proposed to follow, and has followed to this extent, that the attestation has been done in the manner described of 167 villages.

"The existing rentals of these villages have been recorded and the village lands have been split up into blocks, but the subsequent operation of extracting the area of the fields belonging to each raiyat in the several blocks, applying the block rates to these areas, working out the rental in this way and comparing it with the actual rental, has not been gone through.

"I examined the blocks or *chaks* into which the only one village in Cuttack, of which the records were available, had been split up, and had the rates actually paid marked on the fields of each block.

"The result was that in a village of 62 acres there are four blocks and thirteen different rates. In other villages it will, Mr. Reily thinks, be found, as he has found in a pargana of Puri, that there is greater uniformity of rates, that in fact there will be practically one uniform rate for a whole block.

"It is obvious that the system of splitting up villages into blocks in the manner described has one great advantage, in that it renders it necessary for the Assistant Settlement Officer to walk or ride through every village, or, as Mr. Reily says, to 'go over every inch of the ground', and thus enables him to note facts of interest regarding the village lands; but whether the system of splitting up the village into *chaks* will help very materially in the settlement of rents will very largely depend on the question of facts, is there, or is there not, a uniform rate of rent paid generally for the lands of the block? If there be a uniform rate, or anything like a uniform rate, then the system enables the Settlement Officer to see at a glance which of the tenants are paying at less than that rate, and also enables him to call on such tenants to show why their rents should not be enhanced up to the prevailing rate. But if it be found that there is not a uniform rate paid generally for the whole block, or for recognised classes of soil within the block, then it appears to me that it is questionable whether much will be gained, as regards settlement of rents, by splitting up the village into blocks and by extracting the fields belonging to each raiyat in each block; for the new rental cannot be worked out by the application of a prevailing rate to the areas of fields appertaining to each holding in each block, if there be no prevailing rate.

"The procedure is obviously a very elaborate and thorough one, and it must, I fear, add considerably to the cost of settlement. Mr. Reily is unable to say what the cost will be on the system above described. Babu Chaku Lal Sircar says he thinks the expense will be double of what it would be if the villages were not split up in blocks.

"The only alternative procedure which might be adopted would be to have the attestation of holdings made and existing rents recorded, as is now done, and then to make out a list of the tenants, showing the area of land of each class in each holding, and the amount of the present rent.

"When on looking over the list it is found that any particular tenant is paying less rent than is generally paid for the same area, he might be asked why he is paying less, and if he alleges that it is because the land he holds is of inferior quality to that for which the higher rent is paid, his particular fields might be noted on the map, and the Assistant Settlement Officer might go on the spot and ascertain whether these particular fields are really inferior to those for which the higher rent is paid.

"The effect would be that the Assistant Settlement Officer's enquiry on the ground would be limited to the particular holdings which, from an examination of the *terij*, appear to be paying an unduly low rent."

439. For more than a year all Assistant Settlement Officers continued to combine with the work of attestation and inspection of *khanapuri*, the preparation of rate maps and the collection of all the miscellaneous information required for assessment at the end of that time.

Mr. Nathan, who had all along been working in Kotdes, in the Puri District, wrote:—

"The system of preparing soil maps, as originally attempted, is not applicable to Orissa. The villagers are not able to point out with any degree of accuracy or certainty definite tracts of land bearing a uniform rent, and therefore the attempt to classify soils by the aid of present rates of rent, as stated by land holders and cultivators, has not been altogether successful."

He proposed, however, to substitute for it, not Mr. Finucane's alternative scheme of working solely on existing rents, but a system of classification of land according to the crop grown, and, following out this plan, made an experimental assessment of 24 villages of Kotdes.

Experimental assessment of Kotdes. 440. Briefly the principles of his assessment were—

- (1) To ascertain the rate of rent paid in each village for lands-growing a particular crop; this be called the "prevailing rate." When different rates were found in different blocks belonging to the same class, he formulated the following rule of practice for the determination of the prevailing rate: arrange the rates for corresponding to a particular class of soil in order of descending magnitude; against each write

the *pahi* area over which the rate obtains. By trial find the area highest on the scale, the sum of which with the sum of all areas lower on the scale is greater than the sum of all areas higher on the scale.

- (2) To ascertain the average of prevailing rates paid for lands of a particular class in a group of similar villages: this was the "guiding rate."
- (3) All rents primarily to be raised up to the prevailing or the guiding rate whichever was less.
- (4) The maximum limit of enhancement on the ground of rise in prices to be, in the case of rents fixed for the term of settlement, 100 per cent.
- (5) In the case of *pahi* raiyats whose new rent, according to the above rules, would be more than Rs. 10, a deduction to be made from the above enhancement in proportion to the rise of rent rates during the term of settlement.
- (6) In the case of tenants paying at privileged rates *bazyafidar* where the rent to be fixed was Rs. 5 or over the limit of enhancement, to be 200 per cent., or Rs. 5, whichever was greater.
- (7) In the absence of special reasons, the existing rent to be assumed not to be more than the fair rent.

Thus there were two methods of enhancement, either up to the prevailing rate under sections 30 and 31 of the Bengal Tenancy Act, subject to limitation by the guiding rate; or, on the ground of rise in prices, subject to the limitation of the guiding rate and to rules (4) and (5) above.

The results of this experiment were submitted by Mr. Nathan with a complete report dealing with the whole question of settlement of rents and assessment of revenue.\*

It was pointed out that, equitable and fair though the rents calculated under this system might be, it was still necessary to settle them in the manner provided for the trial of civil suits, and neither Mr. Nathan nor the Director saw any way of doing this without a prohibitive waste of time and money, excluding the expenditure on such legal proceedings.

Mr. Nathan estimated the cost of settlement of rents under his scheme at three annas per acre.

441. No final orders were at the time passed on the proposals, but

Mr. Finucane's note of December 1893. Mr. Finucane† pointed out that the cost of Mr. Nathan's scheme was prohibitive, that legally it was unsound, in that the so-called prevailing rates were not such as the Civil Courts would recognise, while, in order to enhance on the ground of rise in prices, it was necessary to show when a rent was fixed. He proposed that for the next two years the work of the Revenue Officers should be practically confined to ascertaining existing rents or status.

That they should assume the rents of *pahi* raiyats to be fair and equitable as they stood and should take no action of their own motion to alter them.

That the rents of *thani* raiyats should be fixed about 25 per cent. lower than the average incidence of *pahi* rents in the village, basing all enhancements on the "rise in prices".

If the rents so calculated were agreed to they would be settled; if not, it would remain for the Assistant Settlement Officer to put on record evidence of the rise in prices and any other points raised before proceeding to enhance the rents according to law.

The Lieutenant-Governor, Sir Charles Elliott, recorded his general agreement with these suggestions, while still thinking some simple form of soil map essential to an equitable settlement of rents with reference to the agricultural value of land.

442. The next attempt to settle rents was made by Mr. Taylor in the year 1894-95 in a block of 41 villages in the immediate neighbourhood of Cuttack. Mr. Taylor's experiment-assessment in Bakhraabad and Dalijora.

These formed a far more promising area for experiments in soil mapping than Pargana Kotdes. In the latter the rents were

\* Appendix A (2) (a).

† Appendix A (2) (c). Note of 14th December 1893.

all lump rents, the proprietors were notoriously ignorant of the details of their estate management, and, the classification of crops and soils appears to have been unusually complicated. In Kodinda and Bakhrabad Mr. Taylor found most of the estates in the hands of descendants of the proprietors who had held them at the last settlement, and a very large area belonging to a shrewd and capable zamindar whose papers were in excellent order and showed clearly his classification of the land, which was generally well known to the tenants also.

In this area Mr. Taylor, following Mr. Nathan's lead, divided up the villages into blocks according to the crop grown. He personally checked the rates and then caused a detailed rent-roll "*chakbandi* sheet," showing the area and class and rate of rent for every plot in each holding to be prepared. On this sheet the former area and rent were entered and the new rent at the "prevailing rates" calculated.

Existing rents were not reduced except for special reasons, such as deterioration or diluvion of the land, raiyati rents were never more than doubled; Mr. Taylor afterwards proposed to limit the enhancement to 50 per cent. except in the case of purely peppercorn rents. *Bazyaftidars* were assessed at full rates subject to a limit of enhancement of 200 per cent.

Where tenants were willing to accept, Mr. Taylor recorded their acceptance; where they did not appear, no steps were taken to enforce attendance.

Objections taken at the time were summarily disposed of and tenants were allowed a month in which to put in formal petitions for revision.

On the whole the experiment was successful. The tenants understood and appreciated the procedure and were willing enough to accept even large enhancements, and I am of opinion that the rents then fixed were very fair. Certainly the procedure removed many glaring inequalities, though perhaps the rates as a whole were in some cases a little high and in others a little low.

The drawbacks to the system were that it depended for its legality on enhancement up to a "prevailing rate" while the rates taken were in many cases "averages", and it would have certainly been difficult to prove that they were "prevailing rates" within the meaning of the definition in the Bengal Tenancy Act.

Further, the system entailed a lot of local inspection and lengthy calculations, so that it would have been costly and there would have been a considerable liability to error. Accordingly Mr. Taylor next took up the settlement of rents in *Killa Dalijora* to the north of Cuttack containing 100 villages, and contented himself with preparing a rough soil map used only for reference in case of objection.

Rents of raiyats were left untouched except for the assessments of lands held in excess of that shown in the zamindar's papers. In a few cases only where the rental shown by the zamindar was less than at the last settlement a general enhancement of *pahi* and *thani* rents was made on the ground of rise in prices.

Lands held by the proprietors, or tenants paying at privileged rates were assessed at the "village rate," *e.i.*, at the average rate paid in the village for all *pahi* lands or for all *pahi* and *thani* if the latter was higher.

The enhancement of rents of *bazyaftidars* was subjected to a limit of 200 per cent.

The assessment so made was a very lenient one and was readily accepted by the tenants, but the proceedings were never confirmed and the rents were eventually resettled in 1897.

443. Meanwhile an attempt had been made to tabulate figures for the

Rate Reports of 1895.

Province to show the area and rent under each class of tenants and the increase in cultivated area and in assets since the last settlement. Figures for seven Parganas of Puri were compiled in 1894, and the results were published in the annual report, but were considered too incomplete to be of any real use.

In 1895 rate reports were written by four officers for the circles of Jajpur, Balubisi, Utikan and Asureswar, but the figures have never been reviewed or put to any practical use.

444. In the spring of 1895, I proposed rents on the basis of a soil map in

Experimental assessment in Balasore.

14 villages of Balasore, and as the result of my experience submitted in my letter No. 1075 of

of 5th May 1895 proposals for the settlement of fair rents of which the following is an abstract:—

- (1) The *Kanungo* being duly empowered by a commission issued to him should prepare a soil map and enter the rates.
- (2) The soil map having been open to inspection for three days the Assistant Settlement Officer should dispose of disputes and objections and confirm or modify the rates.
- (3) In fixing the rates the guiding principle should be to make new rents, area for area, conform as nearly as possible to existing rents.
- (4) *Pahi* rents when less than the deduced rent, to be proposed at the latter amount, but not to be more than doubled except for excess area.
- (5) *Pahi* rents to be levelled down to the prevailing rates only in case of loss more than 10 per cent of the former area or for special reasons.
- (6) *Thani* rents to be enhanced by not more than 33 per cent. on the ground of rise in prices.
- (7) *Bazyafiti* rents to be enhanced up to full rates subject to a limit of 300 per cent. besides the assessment of excess area at full rates. The limit of enhancement to be 200 per cent. for substantial rents.

In proposing this rule for *bazyafitidars*, I gave it as my personal opinion that a settlement at half rates would be more equitable.

Working on this system I estimated that one Assistant Settlement Officer should be able to dispose of 8,000 or 10,000 plots in a month or 2,000 tenants at a cost of nearly 3 annas per acre.

445. During the rains of 1895 figures were tabulated and preliminary assessment reports written by Babu Sri Gopal Bhattacharjya in the Kapari, Adda, Tappa Parsand and Bhateswar sub-circles, and in the following cold weather the settlement of fair rents was begun by Babus Sri Gopal Bhattacharjya, Prasanna Kumar Banerji, Romesh Chandra Das and Girish Chandra Dutt,

They proposed rents in November and December to 13,805 tenants and the results were discussed by me in my letter No. 320 of the 10th January 1896 to the Director of Land Records and Agriculture.

The procedure adopted was based on Mr. Finucane's Note of the 14th December 1893, existing rents of tenants other than the privileged tenants being assumed to be fair, and the standard with which rents were to be compared being the "village rate" or the average incidence of rents paid by occupancy raiyats as found by dividing the total rent by the total area after exclusion of lands held rent free or at privileged rates.

Rents of all classes of tenants when found to be less than 90 per cent. of the product of the area held and the "village rate" were in general raised, some remission being allowed where cause was shown.

A compassionate reduction of one-third from the rent calculated at the village rate was suggested in the case of the privileged tenants.

Briefly the result of this experiment was to raise the nominal existing rental by a third, two-fifths of the increase being contributed by *bazyafitidars*. Occupancy raiyats' rents were in the aggregate raised by 10 per cent., no distinction being made between *thani* and *pahi*.

The bulk of the work, however, was done in tracts where in recent years there had been a large increase of cultivation very little of which had been assessed by zamindars. For this reason assets was raised by one-third a large proportion of the increase being derived from rents imposed upon excess areas.

446. Certain rules were framed by me and submitted with the report No. 320 already referred to. To discuss these rules I was summoned to Calcutta and returned with instructions to take charge of the whole of Orissa (Mr. Maude, the Settlement Officer of Cuttack and Puri having gone on leave). I was directed to start settlement of rents at once in all three districts.

In March Mr. Stevens, the Senior Member of the Board, Mr. Lyon, then officiating as director of Land Records, visited Orissa. They drew up the first set of detailed rules for the settlement of fair rents.

It was decided that:—

- (1) The rents of *pahi*, settled and occupancy raiyats and non-occupancy raiyats, were presumably fair and should not be interfered with except on the application of landlord and tenant.
- (2) That for difference of measurement an allowance of 10 per cent. of the former area should be made and any further excess found assessed at the village rate, i.e., at the average rate paid by cash-paying occupancy raiyats under the zamindar, as found by dividing the total recorded rental by the surveys \* area of their holdings.
- (3) That, subject to a maximum enhancement of 100 per cent. the rents of *thani* raiyats should be proposed at a rate which was the mean of the village rate and of the average rate paid by *thani* raiyats; this rate to be called the *mean rate*, provided that the rent of no *thani* raiyat already greater than the product of the mean rate and the survey area or within 10 per cent. of such product should be altered.
- (4) That the rents of *bazyafidars* paying nominal full rates should ordinarily be raised by 50 per cent. or in special cases by 100 per cent., provided that the rent so settled should not exceed two-third of the product of the village rate and the cultivated area.
- (5) That the rent of *bazyafidars* holding at half-rates should ordinarily be enhanced by 200 per cent. and in special cases by 300 per cent., provided that the rent so settled should not exceed two-third of the product of the village rate and the cultivated area.
- (6) That lands in the possession of proprietors should be assessed at the village rate, a grace concession being made in all deserving cases.
- (7) That invalid grants made by the zamindars should not be resumed but assessed for revenue, leaving the zamindars to take steps for their assessment.
8. That where additional rents were taken on account of the cultivation of specially valuable crops, such additional amount should not be included in the fair rent settled, but separately entered as a temporary *de facto* payment.

Such were the lines on which the settlement of rents began in Orissa generally. They depended for their validity on the general presumption enunciated in Section 27 of the Bengal Tenancy Act that the rent payable for the time being by an occupancy raiyat is fair and equitable, and on the liability of tenants to pay additional rent for land held by them in excess of the area for which rent has been previously payable by them. (Section 52 of the Bengal Tenancy Act.)

For the rest it was expected that the tenants would accept the rents proposed, and that if they did not it could be proved that the enhancements were justified by the rise in prices.

The system did not pretend to perfection, and it was obvious that it would leave untouched many inequalities that under a more elaborate method, such as that tried by Mr. Nathan in Kotdes, would have been removed.

On the other hand it was very justly claimed for it that it was simple; that it involved the least possible disturbance of the *status quo*; that on the whole the existing *pahi* rents might rightly be assumed to be fair, and that the settled rents would consequently be fair also; that it avoided the great danger inseparable from all systems of soil mapping of inequalities in assessment due to the idiosyncrasies of individual officers; and lastly that it was open to any person dissatisfied with the rent proposed to apply for the settlement of a different rent and adduce formal evidence in support of his contentions.

---

\*By survey area is meant the area of a holding as determined by the Survey Department.

447. Naturally the scheme provoked a good deal of criticism both from the District Officers and from some of the leading men of the native community, but they had nothing better to propose in its place and with some slight modification, the rules were accepted by the Local Government in their letter No. 400 T. R. of the 6th June 1896, and recommended to the approval of the Government of India in letter No. 766 T. R. of the 15th September 1896.

In a letter No. 4136-4010, dated the 3rd November 1896, \* the Government of India suggested further consideration of some of the points raised in the correspondence, and these were accordingly discussed in a conference held at Cuttack on the 25th and 26th January 1897. His Honour the Lieutenant-Governor being in the Chair, and the Senior Member of the Board and the Director as well as all the local officers being present. †

Alterations were made in the rules with a view to ensure that unduly low rents should not escape enhancement. A modification originally proposed by Mr. Thomson in the rules for assessment of *thani* rents was accepted, i. e., it was decided that where the average incidence of the *thani* rents was higher than or within  $12\frac{1}{2}$  per cent. of the village rate, *thani* rents in such village should be altered only for alteration in area or because some particular rent was exceptionally low, and where the difference came to more than  $12\frac{1}{2}$  per cent. all *thani* rents should be raised by half the percentage.

It was also decided to discontinue the separation of the additional rent taken for specially valuable crops from the normal rent; and to record a specially high rent only in cases where it was justified by the quality of the soil. with these and a few other minor alterations the rules were again submitted by the Government of Bengal with their letter No. 238 T. R. of the 12th May 1897 to the Government of India.

Some exception was taken by the Government of India to the rules for the settlement of *pahi* and *thani* rents and further reports ‡ were called for from the local officers. On receipt of these reports § the Government of Bengal expressed themselves satisfied that the rents settled were not unduly low, and the rules eventually received the approval of the Secretary of State, communicated in his despatch ¶ No. 20 of the 3rd February 1898 and are printed as Appendix C to this report.

I shall now proceed to consider in detail the most important points in the rules and correspondence, especially the treatment of the several classes of tenants found in Orissa.

448. In settling rents the revenue officer was, under section 107 of the Bengal Tenancy Act, required to follow the procedure laid down in the Code of Civil Procedure for the trial of suits, subject only to such rules as the Local Government might make.

The rule framed in this behalf, Rule 24, Chapter VI of the rules framed under the Bengal Tenancy Act, runs as follows :—

“When (1) a landlords or tenant applies for the settlement of a fair rent, or (2) in any case in which a revenue officer engaged in the settlement of the land revenue proposes to alter an existing rent, notice shall be given in the following manner to persons interested :—

“(1) In the case of an application made by the landlord or tenant, notice shall be served on every person interested in the application, together with a copy of the application or extract therefrom or summary thereof so far as the application concerns such persons.

“ Board’s instruction under Rule 24 (1) :

“ If only one person is interested in the application a copy should be served on him; if more than one, an extract containing such particulars as concern him, should ordinarily be served on each persons. If a summary only is given, the revenue officer should satisfy himself that such summary contains all that it is material for the parties interested to be informed of.

“(2) In the case of a settlement of the land revenue, a copy of the proceedings prescribed in Rule 23 shall be served by proclamation and beat of drum, and by posting it in the

\* Appendix A, No. 9.

† Appendix A, No. 10.

‡ Appendix A, No. 12.

§ Appendix A, Nos. 13 to 16.

¶ Appendix A, No. 17.

presence of not less than two persons in some conspicuous place in the village comprising the lands under settlement. Proof of service of such notice at least one week previous to the date fixed for settlement of fair rents shall be sufficient notice to all persons concerned."

The first preliminary then to settlement of rents was the preparation for each estate and tenure in the village of a schedule showing the name of each tenant, the area of his holding according to the survey papers, the rent paid, and the area for which it was being paid.

From these data the village rate and *thani* rate were extracted and the rents calculated and entered in the column for proposed rents.

Then having satisfied himself that the record was complete and that a month's notice had been given inviting parties to file applications for settlement, the Assistant settlement Officer fixed a date for proposal of rents and issued a notice accordingly. On such date he read out the proposed rent to the assembled villagers and after listening to their objections and making such modifications as he found necessary in his original proposals recorded the fact of their acceptance.

If any tenant whose rent it was proposed to alter was absent a notice was served upon him informing him of the amount of new rent and fixing a date for his appearance. Unless he made any objection the rent proposed was settled on such adjourned date.

In only a very few cases in the whole Province tenants refused to accept the rents ultimately proposed to them and in those instances evidence was recorded and a rent settled according to law.

The proceedings were closed by the record of a formal judgement recapitulating the general grounds on which rent had been altered and declaring the new rents entered in the schedule to be fair and equitable.

449. With the passing of Act III of 1898 a change was introduced. Before beginning the settlement of rents the attested records were published in the village. Then the tenants were sent for and rents proposed and settled as before, but objections were now more summarily dealt with at this stage.

The rent roll or schedule of old and new rents was then published in the village and the tenant allowed a month in which to prefer objections. These being disposed of, the roll was submitted to the Settlement Officer for confirmation before the new rents were entered in the *khatians*.

The later system certainly entailed more work on the Settlement Officer, but it enabled him to exercise a far more effective supervision, and also gave the tenants a better chance of getting their objections properly disposed of.

450. It was for a long time uncertain whether Section 101 (2) (d) of the Tenancy Act would apply before the date of expiry of the old Settlement, the wording used being "where a settlement of revenue is being made."

To clear up this doubt and also a difficulty as to the date from which the new rents should take effect, Act V of 1894 was passed.

This act corrected the wording of Section 101 (2) (d) to "where a settlement of revenue is to be or is being made," and further provided that the new rents should become payable from the date on which the new settlement of land revenue came into force.

451. It has been shown in paragraph 435 that in 1896 the state of the records was such that in the whole of the District of Puri and in one-fourth of Cuttack, it was necessary to go over the whole attestation again, and as settlement of rents was also going on the question was raised how the two processes could be combined so as to economise time and power.

In Puri in the rains of 1896 the experiment was first tried of letting one officer revise and attest the record and then pass it on to another, who fixed the village rate, sent for the tenants, and proposed and settled rents.

The great impediment to any closer combination of the two processes was the sequence prescribed in the Government Rules under the Tenancy Act, which required that, attestation having been completed, at least a week's notice should be given of the date for settlement of rents and that a month's time should be

Combination of re-attestation with settlement of rents.

allowed to all parties to apply for settlement of rents; and to comply with this rule, and yet prevent too great a waste of time, the following procedure was suggested by Mr. Lyon and work out during my visits to the Puri and Khurda camps in October-November, 1896 \*.

The preliminary attestation of the village being complete and objections disposed of, a schedule of existing areas and rents was drawn up, the village rate extracted, and the new rents calculated according to rule.

On the date fixed for attestation the new rents were also read out to the tenants and their acceptances, where given, recorded. They were then informed that on a date at least one week ahead the rents would be settled and a notice to that effect was published in the village.

On the date so fixed rents were again read out, the acceptances of former absentees recorded, and objections disposed of and the new rents entered as settled.

The records were however not published until the expiration of a month from the date on which they had been finally attested.

The great merit of this procedure was that it gave the tenants a whole week to think over the rents proposed to them and ensured nearly all objections being preferred before the record was published in the village.

After the passing of Act III (B. C.) of 1898 the reading out of the rents at the time of re-attestation was in many instances discontinued as causing delay in the publication of the record, and as being unnecessary in view of the subsequent publication in the village of the rent-roll.

452. It was at first assumed that, except in the villages requiring re-attestation, the records were sufficiently perfect to allow of rents being settled at once without further corrections. Accordingly, so far as possible, schedules were prepared at headquarters in the recess of 1896, and issued with the records to officers about to settle fair rents.

Experience however soon showed this to have been a great mistake. It answered fairly in the records attested in 1895 and 1896 but in the case of those attested in previous years the result was that numerous corrections had to be made in the schedules which were so cut about as to become almost illegible.

More and more liberty had to be allowed to officers to correct mistakes before beginning to settle rents and in the season of 1897-98 the general rule was to make an informal revision of the record explaining all *khatians* to the tenants before proposing rents.

The records were a good deal altered at this stage, but schedules were only allowed to be re-copied where this was absolutely necessary.

453. In paragraph 11 of his letter No. 455 of the 11th February 1896 with which he recommended for approval the experimental settlement of rents in Balasore, Mr. W. C. Macpherson, the Director of Land Records, suggested that unless the signatures of tenants were obtained they might hereafter deny having accepted the rents, and that the mere record of the fact of acceptance might not be held by the special judge to be sufficient, and he recommended a change in the law whereby a tenant should not be allowed to subsequently object to a rent unless he within a reasonable time filed a written objection before the Assistant Settlement Officer.

The Board however and the Government of Bengal held that there was no reason to apprehend that the special judges would not be satisfied with a note of acceptance and did not consider any change in the law to be necessary.

Some attempt was made when beginning work in 1896 to obtain the signatures of tenants in token of their acceptance of the settled rents, but the villager writes so extremely deliberately that the waste of time was prohibitive and all that was done was to record on the schedule opposite the tenant's name "Accepts", and later "Appears and accepts," together with the name of the substitute if the raiyat did not come himself.

Genuine acceptances in the early stages of the work were very difficult

---

\* See Appendix C.

to get. Our rapid and somewhat summary method did not suit the slow understanding and love of detail of the Uriya and the *bazyafidars* in particular were not at that time convinced that their opposition to enhancement was hopeless.

In the end however every tenant was induced to give some sort of consent to the proceedings; and as the work went on and the people got more accustomed to our procedure and realised how easy our terms were and how little they gained by objecting, acceptances were obtained with no great difficulty.

Naturally it was not easy to get a man to definitely express his acquiescence in an enhancement even though he knew it to be fair and the Board of Revenue in their letter No. 486A dated 23rd April 1897, held that it was unreasonable to expect that every tenant who meant to accept would say so in so many words, and that regard should be had to the man's demeanour.

The number of appeals against fair rent decisions was very small and such as were brought were in contested cases in which the Assistant Settlement Officer had in the first instance recorded evidence.

The general opinion among the officers engaged in fair rent work appears to have been that the system of basing the settlement on acceptances was a mistake; that such acceptances might mean that the man really was willing to pay the rent proposed, or that he could not argue the matter with the Assistant Officer, or that he was really afraid lest he should draw down upon himself the anger of the all-powerful Government.

They would have had some system, such as that suggested by Mr. Macpherson in his letter of February 1896, whereby rents should be proposed to tenants and their objections listened to, but acceptances only taken in the case alterations; and that where such acceptance was not given the Assistant Settlement Officer should record the ground on which he made the alteration and settle the rent accordingly, leaving it to the tenant to put in a written petition to have such rent modified.

Practically this is very much what is done under section 104 A (1) (d) of Act III (B. C.) of 1898.

Rents in Orissa have, since that introduction of that Act, been proposed, and acceptances recorded, under section 104 A (1) (d), but where after allowing any reasonable concession the Assistant Settlement Officer has failed to obtain an acceptance he has under section 104 A (1) (d) retained or altered the rent, recording the grounds of alteration, if any and has left the tenant if still dissatisfied to put in a written objection under section 104 E, i.e., after draft publication of the rent-roll.

In the first code of rules it was provided that acceptances need only be recorded where rents were altered. Rents it was proposed to maintain were read out to the tenant and settled as fair unless a specific application for reduction or enhancement was made.

Subsequently, in accordance with the law, every rent was read out and settled whether alteration was made or not.

454. The present cultivators or raiyats of Orissa are generally divided into two classes: *Thani* meaning resident, and *Pahi* meaning non-resident. Of the latter *Pahi raiyats*. Mr. Ricketts, the Collector of Balasore, wrote in answer to the question of the Board of Revenue in 1831:—

*Pahee raiyats* are those tilling land in villages in which they do not reside. The rates paid by them are, as before mentioned, lower than the *thanees* rates. *Pahee raiyats* are to be found whom for a lengthened period have tilled the same land *pahee* at one unvarying *jama*. But no length of possession is considered to give a right, and should any person propose to settle in the village and take as *thanees* the land held *pahee*, the *pahee raiyat* must give way."

The settlement of 1837 left their rights unchanged, except in the few Parganas in which *pattas* were given by Mr. Wilkinson and Mr. Hunter, and for the most part there was not even a record of the rents payable by individual raiyats. The grant *pattas* was definitely forbidden by paragraph 8, Government order No. 1199 of 22nd August 1837, and there after the aggregate rent payable for all the *pahi* land under cultivation was taken as the basis of assessment to revenue, and the raiyat left to make his own terms with the zamindar.

Act X of 1859 gave rights of occupancy to such raiyat: as had held the same land for 12 years, but the landlords continued to enhance rents periodically, though, except in Balasore, their power of ousting tenants without recourse to the Courts became much more limited.

The rights of *pahi* raiyats and their relations with their landlords are dealt with fully in another chapter,\* here it must suffice to say that in the present proceedings the provisions of the Bengal Tenancy Act have been applied and they have been treated as having the rights of settled, or occupancy or non-occupancy raiyats under that Act.

It has been assumed that their rents are competition rents† and that they should not ordinarily be altered except for the assessment of excess area or because they were found to be lower by a third than the village rate, without any reason for the difference.

It may here be noted that the term *pahi* is applied only to raiyats paying directly to the zamindars or proprietary tenure-holders of the village, and not to tenants holding under the resident *lakhirajdars* and petty tenure-holders, who, by the custom of the country, were all regarded as "under raiyats" without rights.

On the whole, the enhancement of their rents has been as follows :—

|           |      | Former rent. | New Rent. | Percentage of enhancement. |
|-----------|------|--------------|-----------|----------------------------|
|           |      | Rs.          | Rs.       |                            |
| Cuttak.   | .... | 11,40,500    | 11,95,700 | 4.9                        |
| Puri....  | .... | 2,38,500     | 2,52,500  | 5.9                        |
| Balasore. | .... | 6,04,600     | 6,59,400  | 8.4                        |
| Total.    | .... | 19,83,600    | 21,07,600 | 6.2                        |

These figures exclude the *pahi* lands included in mixed *thani-pahi* holdings, for which another Rs. 2,60,000 should be added. Adjusting the figures Mr. Kingsford found in Balasore that the total *pahi* enhancements were from Rs. 7,23,550 to Rs. 7,84,300 or 8.4 per cent., *i. e.*, the same as for pure *pahi*.

455. Under section 52 of the Bengal Tenancy Act VIII of 1885 every tenant was liable to pay additional rent for all land proved by measurement to be in excess of the area for which rent had been previously paid by him, and in determining the amount to be added to the rent the Court was to have regard to the rents payable by tenants of the same class for lands of a similar description and with similar advantages in the vicinity.

The area found by measurement appeared on the face of the record; the area for which rent had been previously paid was found in the zamindar's papers and attested. To the latter area in order to cover possible errors due to difference of measurement 10 per cent. was added and the amount so obtained deducted from the survey area; the remainder, if exceeding .4 of an acre, was assessed at the village rate, *i. e.*, an amount equal to the product of the remainder, and the village rate was proposed to the tenant as additional rent, but was in many cases reduced for specific reasons, *e.g.*, inferiority of soil. In a few cases it was raised on application of the landlord on the ground of special fertility of the soil.

This rule as to excess area was the subject of much discussion. It was on the one hand pointed out that in Wards' Estates it was the practice not to assess any excess amounts less than 20 per cent. on the former area, while on the other hand some of the local officers were in favour of only allowing one gunth in the *man*, *i. e.*, 4 per cent. as the margin of error in the case of *thani* and other holdings, known to have been accurately measured.

Eventually as a compromise Rule 10 of Appendix C was adopted providing :—

- (i) That 10 per cent. should be the normal allowance.
- (ii) That in special cases the allowance might on the application of the landlord and tenants be reduced to 4 per cent.
- (iii) That no excess of less than .04 of an acre should be assessed.

\* Chapter XI, paragraph 324, &c.

† Settlement officer to Commissioner No. 2770, dated 31st December 1897, paragraph 19. Appendix A (13).

The only zamindars who moved in the matter were those of Utikan, who claimed to have the allowance for error reduced to 4 per cent. in the case of all tenants in their zamindari.

In Madhupur special arrangements were made and are described in the chapter\* dealing with the settlement of that estate.

Ordinarily no attempt was made to identify the particular plot of land which constituted the excess, but the tenants often knew, and if it was inferior usually claimed and got a small reduction.

Where either the *khanapuri* was bad or the landlord's papers inaccurate, the tenants would in many cases deny the existence of any excess. If they did so they were on payment of annas 11 a day allowed the services of an *amin* to re-measure the land.

Sometimes it would be found that the measurement of the field was actually wrong and in that case the fee deposited for the enquiry was refunded; more often the tenant had had recorded in his name a bit of some one else's land, or of fallow which he did not want and gave up, but generally the survey papers were found to be practically correct, and the objection groundless, or due to an error in the zamindar's papers, or to a misunderstanding on the part of the raiyat.

The percentage of assessments on excess area varied very much from circle to circle and from district to district. The percentage was greatest in Balasore and least in Puri. It appears to me that the percentage of enhancement to a certain extent varies according to the quality of the *khanapuri* and attestation. In Balasore we worked on good *khanapuri* and well-attested records, great pains having been taken to record in the village, or at the camp close by, the area for which the tenant was paying rent. In Puri and parts of Cuttack this had not been done and in many cases the zamindars borrowed the areas contained in our records when they were called on to file rent-rolls at the re-attestation stage. At any rate in Balasore there was no re-attestation. Cuttack was partially re-attested and Puri entirely so. It must be added however that there is a larger area for extension of cultivation in Balasore than elsewhere.

The assessment of excess lands in Orissa has throughout been based on the rates generally payable for similar lands in the vicinity; the alternative of a proportionate increase on the existing rental provided by section 6 of Act III (B. C.) of 1898 has rarely been used, except in the case of homestead lands.

456. The rules as at first framed contained no provisions for the reduction of rents. This omission was subsequently rectified and it was provided :

Reduction of rent. That where a tenant's lands as found by measurement were less by 10 per cent. than the area for which he was paying rent, he should receive a reduction of his rent proportionate to the deminution in the area of his holdings. †

This was sufficient provision for cases of dispossession or diluvion, but tenants could also claim a reduction as of wright for deterioration of the soil of their holdings by deposit of sand or other specific cause. (Section 38, Act VIII of 1885.) Such cases were met with in Paraganas Kodinda, Olas, Saibir, Kalamatia of district Cuttack, and to some extent throughout the whole of the unprotected area. Purubduai and Oldhar in Puri had suffered especially great injury owing to the Adlabad breach in the Bhargabi river which it has been finally decided to leave open. Such cases as these had to be dealt with each on its own merits, and much was necessarily left to the discretion of the Circle Officers; but rules showing the general principle on which the reductions should be calculated were drawn up and issued early in 1897, and the case of Purubduai and Oldhar was specially reported to the Board.

As a rule in such cases soil maps showing the areas affected were prepared and the block rates ascertained, but instead of calculating the fair rents directly on such rates the decrease in the annual value was calculated for each holding and the amount deducted from the former rent. The rules are printed in Appendix C, Part VI.

A third case was where the existing rent was unduly high, but there was no specific ground on which the tenant could claim a reduction. Such rents were

---

\* Paragraph 605.

† Appendix C, Part I.

occasionally found where petty landlords in a densely-populated area rack-rented their tenants, but as the Local Government had not thought fit to vest any of the officers engaged in settling rents with powers under section 112 (1) (b) of the Tenancy Act they were unable to redress the injustice and inequality complained of.

It is true that very high rents were the exception and not the rule, and that without soil maps or rates it would have been difficult to be certain which rents were too high, but I think it is a matter for grave regret that in a settlement where rents found to be obviously low were unhesitatingly enhanced, the Settlement Officer should have been powerless to reduce rent which he knew to be oppressively high.

The result of this inability to equalise rents has been to enable the landlord who rack-rents his tenants to make a double gain, firstly in that he extorts more from his tenantry, and secondly that, owing to the great increase in assets and for the security of the public revenue, it has been necessary to leave with him a larger share of his collections. It is my opinion however that cases of this nature are rare and officers entrusted with the power to reduce rents would very rarely have been called upon to exercise them.

457. The criterion by which the fairness of all rents in a village has, under the summary procedure adopted in Orissa, to be judged is the average "village rate" i.e., the average incidence of competition rents.

Village rate.

It was not at first at all clear how this village rate was to be found, what was the area on which the rent should be held to be payable, nor what classes of tenants should be excluded.

In the rules of the experimental assessment in Balasore it was, where possible, to be ascertained by dividing the sum of the attested rents of *pahi* raiyats and of the *thani-pahi* raiyats paying lump competition rents by the sum of the areas of their holdings as shown in the zamindar's papers.

However, after a full discussion at which the Senior Member of the Board, Mr. (now Sir) C.C. Stevens, and Messrs. Lyon, Thomson and myself were present, it was resolved that the village rate should be based on present survey areas,\* and should be calculated by dividing the sum of the cash rents paid by the settled and occupancy *pahi* raiyats in each revenue-paying estate in the village by the sum of the present survey areas.

Before doing this it was the practice to deduct from both sides of the sum the areas and rents of lands growing special crops as well as those paying produce rents.

Further provision was made for special cases (*vide* Rule 5, Appendix C, Part I. and four alternative methods for ascertaining the village rate were prescribed :—

- (1) To take the average of the village rates of three or four adjacent villages.
- (2) To take the rate as deduced from the principal estates only of the village.
- (3) To make two rates for different parts of the village.
- (4) To neglect figures for estates in which there was obviously collusive and low record of rents.

The first provision was very frequently resorted to either where the *pahi* lands in the village were insufficient to form a safe basis for a rate, or where, owing to the very marked difference between the rate as deduced from the recorded rents of the village in question and those of the surrounding villages with similar advantages, there was reason to believe the rents to be incorrectly recorded.

(2) The second provision was used where, as was often the case, either owing to the inferiority of the soil or the absence of the proprietors, rents in the "*taksilalahida*" portions of a village were much below the general average.

(3) The third provision was very rarely used indeed, but was intended to provide for cases where there was a very well-defined distinction between *jala* and *pal* or rice and river side lands. It was based on the case of *mauza* Adda, Pargana Adda Rupiya, in Balasore, where there was one block of ordinary rice land and another of valuable *pal* lands paying widely different rates.

\* Survey area means the area entered in the record prepared by the Survey Department.

In all cases such deviations from rule were subject to the approval of the Settlement Officer or his covenanted assistants in charge of districts, and were carefully supervised.

458. By the custom of the country the collectors of revenue under the Hindu, Moghul, and Mahratta *regime*, held in part payment for their services certain lands free of assessment. Proprietors' lands. In the case of the superior officers their lands were known as *khanabari* (homesteads) and *nankar* (bread giving) lands and in the case of the *muqaddams*, *sarbarahkars*, and other village headman as *watan* or *pitrali* (ancestral) or *heta* (i. e., *jagir*) lands.

It is not very clear what rights in these lands were recognised, but there can be no doubt but that the village headmen always claimed to retain their *pitrali* even on sale for arrears of revenue.

This right the British Government did not recognise, as will appear from the following quotation from a letter of the Sadar Board of Revenue, dated the 8th November 1805, addressed to the Collector of Cuttack, in connection with a proposal of the *padhans* of Lembai to make over the rights connected with the payment of revenue to one Nilmoni Choudhuri:—

"It must be explained to the *padhans* that their *nankar* lands in common with the other land will be considered as forming part of the security of Government for the public revenue, and that in case it is necessary to have recourse to an attachment or to a sale of lands such *nankar* property will be attached and sold."

At the last Settlement all such lands were nominally assessed at full rates under the designation of *khudkasht*, *nijjot*, or *khamar* except small areas of homestead (*khanabari*) lands exempted from assessment.

No right of occupancy was at that time recognised in any but *thani* raiyats, and act X of 1859, while extending rights of occupancy to all raiyats who had held the same land for 12 years, exempted from this rule *khamar* and *nijjot* lands let for a term or year by year. Practically down to 1894 the record of *nijjot* land was made in accordance with local custom and Act X of 1859, no distinction being observed between the lands of zamindars and those of proprietary tenure-holders.

The question what should and what should not be considered to be *nijjot* was answered in the Director's inspection note of February 1892 in which it is provided that:

"Under *nijjot* is to be entered—(1) land held as *nijjot* at the last Settlement cultivated by the proprietor or his assignee; (2) land shewn as *nijjot* at the last Settlement, if specifically let to raiyats as *nijjot*."

In this report on Kotdes Mr. Nathan (paragraph 20) pointed out that, differing from Section 6 of Act X 1859, Section 116 of the Bengal Tenancy Act protected only the private lands of the proprietors and not those of any class of tenure-holders, and suggested the necessity of special legislation. The Board considered this view of the law to be correct, but thought the matter too small for legislation, and Government agreed.

Chapter XI of the Tenancy Act has, however, not been extended to Orissa and the rights of *muqaddams*, *sarbarahkars* and other village tenure-holders have been scrupulously observed in preparing our record.

In the Attestation Rules of 1895 it was laid down as follows:—

"*Nijjot* lands are defined in section 120 of the Tenancy Act. This section has not been extended to Orissa where the question of *nijjot* is still governed by Section 6 of Act X of 1859, but the spirit of the Tenancy Act definition must be followed with the exception of clause (a) which prescribes that *nijjot* must have been cultivated by the proprietor for 12 continuous years before the passing of this Act."

"The real guide to whether land is *nijjot* or not will be the custom of the country by which *nijjot* is held to be the last settlement *nijjot* with the addition of such lands as the zamindar may have reclaimed from waste, either by his own plough or by letting in *bhagchas* to a raiyat and for which no cash rent has been paid. To this area must be applied the provision of Sections 6 and 7, Act X of 1859, i.e., land can only be protected against the accrual of occupancy rights where it has been let out on lease for a term or from year to year."

All lands in the immediate possession of the proprietor or sub-proprietor and cultivated by his servants and not recognised as *nijjot* have been recorded as *nij-chas*. By the custom of the country *nijjot* included also the lands cultivated by a tenant paying produce rents, but applying the provisions of the Tenancy

Act. Such tenants have in this settlement been classed as occupancy or non-occupancy raiyats.

In the Assessment Rules of 1896 it was proposed to value all these lands, *nijjot* and *nij-chas*, at the "village rate", but to allow the proprietors a deduction not exceeding 25 per cent. of the gross valuation on all lands *bona fide* cultivated by themselves or their servants and not obtained by improperly ousting raiyats.

This concession was based on the analogy of Rule 53 of the North-Western Provinces' Board's Rules; which allows a deduction of 25 per cent. on all 'sir' land actually and in good faith cultivated by the proprietors, or by hired labour at their expense, and the adoption of this rule was approved by the Local Government. \*

The Government of India in their No. 4136, dated the 3rd November 1896, pointed out that a hard and fast rule such as that proposed might prove inconvenient and suggested that it would be sufficient to issue instructions to value *sir* lands leniently.

This suggestion was adopted and the final rule on the subject (†) runs thus:

"The Assistant Settlement Officer will make the normal valuation for *nijjot* and *nij-chas* at the village rate, should so far as possible, at the time of settling fair rents, assess *nijjot* and *nij-chas* lands at their actual valuation (letting value) rather than at average rates."

In making proposals for the assessment of revenue it was at first the practice to reduce the increase of revenue, in cases of apparent hardship, by allowing deduction from the valuation of the proprietor's lands, but Mr. Commissioner Cooke, in submitting for the orders of the Board of Revenue the settlement reports on 13 estates of Pargana Randia Orgara, expressed his disapproval of the under-valuation of *nij-chas* lands, and the Board of Revenue in their letter No. 21 A of the 18th January, 1898, accepted the Commissioner's views.

Thenceforward no reductions have been allowed in any valuations of *nijjot* or *nij-chas* except where the proprietors could show it to exceed the fair letting value of the land.

459. *Nijjot* lands are commonly sublet to tenants who usually pay half the produce as rent. A certain number of these tenants, though by no means all, have been recorded in our *khatians*, and their existing rents have been settled as fair and equitable, neither tenants nor land lords ever applying for alteration.

*Nij-chas* lands when leased out cease to be *nij-chas*, but by custom the zamindar may let them on produce rents without losing his right to immediate possession. In this settlement that custom has not been recognised and many fields claimed by the proprietors as *nij-chas* have been recorded as *raiya*ti.

On the other hand many fields actually let on produce rents are recorded as *nij-chas*, the tenants finding no place in our record and not claiming any.

460. By "special" crops are meant those crops for the cultivation of which an extra rent is paid in addition to that paid for the land when growing the staple crops of the Province.

Mr. Maude included under this head two crops only, the *Pan* or "piper betel", the leaves of which are used by the people to wrap round the preparation of the lime and betel-nut that they habitually chew, and sugarcane. To these I would add three more—tobacco, cotton and jute.

*Pan* is grown in raised gardens of from one-fiftieth to a quarter of an acre. At the last Settlement these gardens were assessed at Rs. 25 to Rs. 75 per acre, and though the life of a garden is only from 15 to 20 years, these high rates continued to be paid in some villages by the *thani* raiyats down to the present settlement.

*Pahi* tenants sometimes got leases for the term of life of a garden at a similarly high rate, but generally the rents were liable to revision annually

\* Government to Board No. 400 T. R., dated the 6th June 1896.

† Rule 17, Appendix C.

According to the area of the garden found in their possession and to its condition, very young and very old gardens paying less than the full rates.

Sugarcane is grown on ordinary rice land, generally near the homestead. It is a very paying crop, but entails much labour for its cultivation and cannot be grown on the same land two years in succession. In some parts, but by no means in all, it was the practice to take an extra rent from *Pahi* raiyats when they grew it. Another feature of sugarcane cultivation was the practice of exchange of fields, locally known as *akhubadali*, whereby a tenant desirous of growing sugarcane but having no suitable land temporarily exchanged one field with a neighbour and grew the crop on that. Each continued to pay his ordinary rent, but the actual grower of the sugarcane made also an extra payment to the zamindar.

Cotton is on much the same footing with sugarcane, but more dependant on the fertility of the soil.

Tobacco, a more valuable crop than either, is entirely dependant on silt deposits for its growth, and the high and variable rents taken may be accounted for by the varying depth and quality of the silt deposited from year to year.

The four cases have these features in common that in all the rent is higher than that paid for similar lands growing other crops in the neighbourhood; and the rent is annually determined by the addition of a certain sum proportional to the area actually growing the crop to the ordinary or normal rent of the holdings. To some extent this additional rent was a tax on industry, but in the case of tobacco and cotton it was chiefly due to the special qualities of the soil and in a sense this appears to be the case with *pan* also, as only in a few villages can good leaves be produced. At first it was proposed in all these cases to arbitrarily ascertain the normal rent of the holding, recording the balance as a temporary payment terminable on ceasing to grow the special crop.

Exception to this rule was taken by Government\* on the ground that it was opposed to the policy laid down in Lord William Bentinck's Minute of 1833 and that it must act as a check on industry and discourage cultivation of the more valuable crops. Two alternatives were suggested, the first that of settling as fair the whole rent actually paid, the second that of settling the normal rent only and treating all further collections as illegal *abwabs*.

The first alternative had the sanction of custom and of the practice in the last settlement, but was open to the objection that these rents could not in fact be always collected every year; the second proposal was in conformity with imperial policy, but it was in the first place very difficult to say how much of the extra rent should be treated as a tax on industry and moreover there was found to be no legal means of reducing the existing rent.

Eventually a compromise was effected and—

- (i) The rent actually paid was settled in full.
- (ii) If a custom of yearly alteration was found to exist, a note of the fact was made in the *khatian*.
- (iii) Where there was any fear that the whole amount could not be collected in full, or where the extra payments were considered not to be warranted by the fertility of the soil, only such amount was carried into the assests of the estate as the Settlement Officer considered should be demanded with reference to the capability of the land.

417. *Thani*† raiyats literally 'rai-yats of the place,' were those who had homes in the village.

*Thani* raiyat

They were in a manner proprietors of their holdings and from the earliest times had been protected against ejectment or enhancement of their rents beyond the recognised amount. To them in the last settlement leases‡ were given, showing the land held by them, the amount free of rent, and the rent payable on the balance. This rent was fixed for the term of settlement and had in most cases been unaltered up to the time when we began to settle rents.

In the present settlement, the *thani* right of every tenant who could prove that he held *thani* land by inheritance or purchase from the holders at the last settlement was recorded in the *khatians*, no attempt being made to identify

\* Letter No. 400 T. R., dated 6th June 1896.

† See paragraph 319 *Supra*.

‡ *Kalipatta*, i. e., ink leases.

the land plot by plot with the old settlement numbers unless the zamindar objected to the entry of any of the land as *thani*. A tenant forfeited his claim to recognition as *thani* by accepting a reduction or enhancement of rent by the zamindar or by abandoning his holding, as many did in the great famine of 1866, being only re-admitted as *pahi*.

Apart from these restrictions *thani* lands had been freely bought and sold (subject generally to the payment of a large premium to the zamindar), so that *thani* lands were sometimes found in possession of non-resident raiyats. Such men have generally been recognised as settled *thani* raiyats of the village, but the practice varied in different circles and at different periods, and I have found cases, as in Balubisi, in which the *thani* right was not recognised by the zamindar and has been disallowed. There were no authoritative rules on this point, but in the large majority of cases the right of the purchaser to hold as a *thani* raiyat has been recognised.

The right to create new *thani* tenancies since the last settlement has no-where been admitted; in places the zamindar had given tenants leases of land as *thani*, or had practically recognised the *thani* right by allowing raiyats their homestead free of rent, but such holdings have been classed as *pahi* and the holders as ordinary settled raiyats, their *minha* land being assessed to rent or revenue.

It was decided at the visit of Mr. (now Sir) C. C. Stevens and Mr. Lyon to Orissa in March 1896 that some consideration should be shown to the *thani* raiyats and that their rents should be fixed some what lower than those of the ordinary occupancy raiyats. Accordingly the limit of enhancement was fixed at a rate which should be the mean of that formerly paid by the *thani* and that paid by the *pahi* raiyats. It was pointed out however that the result of the rule was to exempt from all enhancement the rents paid for the more valuable *thani* lands, which were generally the best lands in the village, and towards the close of 1896 the rule was modified,\* and it was provided that where the *thani* rate, i. e., the average incidence, of existing *thani* rents, was more than 12½ per cent. below the village rate, all *thani* rents in the village might be enhanced by half the percentage of difference. This rule depended for its equity on the assumption that *thani* rents were fixed at the last settlement on the basis of a soil classification and that what were then the best lands are generally still the best.

These assumptions open up a very large question which I shall have to consider more fully when analysing the rents now settled; here I only propose to deal with the question whether in fact the rents fixed were based upon the productive power of the soil. I would first quote from a letter from Mr. Commissioner Ricketts to the Sadar Board of Revenue (No. 1435 of the 23rd September 1836:—

“ Paragraph 11.—Actual payments, by which I mean the rates actually paid, are of course considerably influenced by the nature and situation of the soil. I have not, therefore, in directing actual payments to be made the basis of settlements, prohibited the assessment of lands at rates suited to their nature and situation which Mr. Mills in his report on the settlement of Haveli Cuttack says I have done; but the nature and situation of the soil are only two of an infinity of causes operating to increase and decrease the amount of rent the land can pay, and if we give up ourselves exclusively to those two guides to assessment and do not go wrong, it is my belief, luck, not learning, will have helped us on.”

“ Paragraph 15.—In those Parganas of Cuttack which have from the immemorial paid a considerable revenue, that is, those Parganas which from natural advantages were first cultivated, in every village are to be found *thani* raiyats paying different rates for lands in every respect the same. This all allow, and within the last eight or nine years, during which from repeated calamities season and other more remote causes the resources of the agricultural classes have considerably deteriorated, this inequality of assessment has become very general.”

“The *kudimi* raiyats, those who from industry or from having possessed the means of combating with their reverse of fortune have maintained their ground generally, are found to pay the highest, while the latest settlers pay the lowest rates.”

With reference to this report the Board in a letter to the Government of Bengal † gave a summary of the opinions expressed by the Commissioner and Collectors of Orissa in the following terms:—

\* Rule 8, Appendix C, Part I.

† Board to Government No. 15 of 30th October 1836, paragraphs 91 to 96.

"*Paragraph 91.*—Mr. Wilkinson observes that his principle in settlement making has been to assess lands according to their capabilities, and if he found a raiyat holding land in other respects of a similar description at a lower rate than his neighbour with reference to all circumstances, he either raised the one or reduced the other; that, in short, he did not consider that actual payments should be invariably assumed as the basis of settlements; that the equalization of the public demand (*vide* preamble to Regulation VII., 1822), the chief desideratum in settlements, would be defeated if merely actual payments were invariably made the basis of settlements."

"*Paragraph 92.*—Mr. Mills may be considered to hold the same doctrine with this difference, that he would take the rates actually paid by the tenantry and, where he found unequal rates to prevail, he would distribute the aggregate amount with the assistance of the people on the whole of the lands, with reference to their relative class. In short, he would remedy irregularities in rates as an essential part of the settlement. And he argues that this is the more necessary, since such irregularities—that is, unusually high rates—are mostly occasioned by the circumstance of the *thani* raiyats cultivating *lakhiraj* lands at low rates. Hence, as two-thirds of the rent-free tenures would fall below the Resumption Law, the cultivators of the *khalisa* lands would never be able to continue paying the same rates, if in the revision of settlement the rates on such *khalisa* lands were not made suitable to their productiveness."

"*Paragraph 93.*—Mr. Repton is of opinion that the basis of settlement should be the average rent actually realised by zamindars during previous years. He observes that all the *thani* raiyats are much over-assessed, and, as remarked by Mr. Mills, are only able to pay their rent by cultivating *lakhiraj* lands at an extremely low *jama*, that, if it is considered necessary to give *pattas* to the *thani* raiyats at fixed rates for a fixed period, it will then be necessary to enter more into detail to assess the lands as equitably as possible and to equalize the varieties of rate for the same land".

"*Paragraph 94.*—Mr. Ewart would listen to objections either from the zamindar or raiyat, would be guided by the existing state of things as proved by investigation, and, where he found adjoining lands in a village generally paying the same rates, yet some paying higher and some paying lower, he would make them correspond, or, where he did not find adjoining lands paying similar rates, he would adopt actual payment as his basis."

"*Paragraph 95.*—Mr. Ricketts would be guided by actual payments. He would make actual payments the ground work of assessment; to be altered only where the rate paid by any individual raiyats might appear to be lower than is paid by others from favour or other unsuitable cause, satisfactorily demonstrable".

"*Paragraph 96.*—With reference to any case in which it may be shown that the *kudimi* raiyats can no longer pay the assessment imposed on them, he would admit of a reduction, but he would not throw the amount of that reduction upon other raiyats less able to pay the load although cultivating lands of similar description, but assessed at a lower than the average rate".

Having thus summed up the views held by the local officials, the Board, recorded their own opinion:—

"Thus it is necessary for the Settling Officer to collect the following heads of information:—

"1st.—The very best information he can obtain by every available means, such a *patwari's* village accounts, &c. to ascertain what is the rent actually received by every proprietor from every tenant in his village.

"2nd.—A classification of the several descriptions of soils and their respective rates of rent with reference to their produce and situation in an average of years.

"3rd.—Enquiries into and comparison of the rates of land of the same quality in adjacent places and villages to a greater or less extent as his judgement or opportunities lead him to make.

"*Paragraph 107.*—Having obtained all these data, he then proceeds to determine to the best of his power what is the rent actually paid upon a consideration of the whole evidence before him; and when he finds cases in which, in reference to these data, the rate said to have been actually paid is irregular, high or low, he makes particular inquiries into the causes of it and either upholds the alleged rate of rent or increases or reduces it, as in his judgement appears right and equitable."

Such were the principles on which the settlement was based, and though the actual application varied according as a particular officer attached more or less weight to rates or to existing payments, yet, as far as my experience goes, neither was neglected.

The class of crop grown was entered by the *kanungos* at the time of measurement. The Deputy Collector checked these entries and ascertained by

local enquiry the rates paid for the several classes. These rates were compared with those in the zamindar's rent-roll and raised or reduced as might be necessary. The rates for the remainder of the village were then calculated so as to work up to what the Deputy Collector considered to be the true or proper total of the collections.

I think that it may safely be said that the rents so settled for the *thani* raiyats were within any one estate proportional to the value of the land, though there was often great disparity between the rates in neighbouring estates. The first assumption on which the rule for the enhancement of *thani* rents in the present settlement was based is therefore justifiable. As regards the assumption that rents which 50 years ago were adjusted to the value of the crop grown still continued to have any relation to it, the question depends so much on the physical characteristics of the village that it would be difficult to generalise. As a rule good low *sarad* lands continued to be valuable, and high or sandy lands to be poor but in areas much subject to flood or where canal irrigation had been introduced, the relative value of lands was liable to considerable change and Assistant Settlement Officers were warned to be careful, and given the option of reverting to the former method of enhancement if they found it more applicable.

462. It often happened that a *thani* raiyat held also *pahi* lands; indeed, so long ago as 1831 Mr. Ricketts writing from Balasore noticed the existence of a class of *Thani-pahi* mixed tenancies,\* "Thani-pahi tenants" holding both *thani* and *pahi* lands. After the Settlement of 1837 this became much more common. *Thani* raiyats took up *pahi* land at comparatively low rates—this was one of their privileges—and very often paid the rent of both *thani* and *pahi* lands together. As a rule a tenant knew his *thani* land and rent, and it was separately shown in the zamindar's papers, but this was not always the case, and in many Parganas, especially in Balasore, the *thani-pahi* lands had become indistinguishable. The rules for *thani-pahi* raiyats were framed especially with a view to dealing with the latter class, the principle being that it should be ascertained how much of the land and rent was, properly speaking, *thani* and that so much of the rent should be liable to enhancement in the same manner as pure *thani* lands, the rest being treated as *pahi*; but for the purpose of the assessment of excess area the whole of the lands, *thani* and *pahi* should be treated as a single holding.

The difficulty in working the rule was the very variable circumstances of the holdings to which it had to be applied; they might be *thani* and *pahi* lands really distinct but entered in one *khatian*; or they might be so far merged in one another that a single rent was paid though the lands were separate and recognised as such by landlord and tenant; or again the *thani* right might exist but, on paper, lands and rent alike have merged into a single holding. Where records were re-attested the *thani* and *pahi* lands were, where really separate, entered in separate *khatians*, leaving only those which were indistinguishable as 'mixed' holdings. These latter might, I think, have been treated as *pahi*, for that is what they were to all intents so long as the tenant could not say that any definite field was his *thani*. Indeed in some estates the zamindars succeeded in getting all tenants of this class entered as *Pahi* on the ground that the *thani* rights had long lapsed.

The treatment of *thani* raiyats' rents in this settlement is shown in the following table :—

| DISTRICT  | AT LAST SETTLEMENT. |          | AT PRESENT SETTLEMENT. |                |               |                       |                    |                |               |                       |
|-----------|---------------------|----------|------------------------|----------------|---------------|-----------------------|--------------------|----------------|---------------|-----------------------|
|           | <i>Thani.</i>       |          | <i>Thani.</i>          |                |               |                       | <i>Thani-pahi.</i> |                |               |                       |
|           | Area.               | Rent.    | Area.                  | Existing rent. | Settled rent. | Enhancement. Percent. | Area.              | Existing rent. | Settled rent. | Enhancement per cent. |
|           | Acres.              | Rs.      | Acres.                 | Rs.            | Rs.           |                       | Acres.             | Rs.            | Rs.           |                       |
| Cuttack.  | 133,700             | 3,78,700 | 41,700                 | 1,14,000       | 1,20,900      | 6                     | 84,200             | 2,13,800       | 2,25,300      | 5.4                   |
| Puri.     | 96,900              | 2,01,600 | 35,200                 | 64,600         | 68,800        | 6.8                   | 68,000             | 1,18,000       | 1,24,800      | 4                     |
| Balasore. | 107,100             | 1,85,000 | 11,700                 | 19,800         | 21,700        | 9.6                   | 111,800            | 1,79,100       | 1,91,000      | 6.5                   |
| Total...  | 337,700             | 7,65,30  | 88,600                 | 1,98,400       | 2,11,40       | 6.5                   | 259,000            | 5,10,900       | 5,39,700      | 5.7                   |

\* See paragraph 323.

463. By section 48 of the Bengal Tenancy Act it is provided that the landlord of a raiyat holding at a money rent shall not be entitled to recover rent exceeding the rent which he himself pays by more than the following percentage of the same, viz. :—

Under raiyats.

- (1) When the rent payable by the under-raiyat is payable under a registered lease or agreement, 50 per cent.
- (2) In any other case, 25 per cent.

It is also laid down in the Tenancy Act \* that in every case in which a settlement of fair rents is being or about to be made, the Revenue Officer shall settle fair and equitable rents for tenant of every class. The law officers of Government being consulted held :—

- (i) That a Revenue Officer acting under Section 104 (2), read with Section 101 (2) (d) of the Act, is bound to settle the rents of under-raiyats where a settlement of rents is being made. †
- (ii) That in enhancing or reducing the rents of under-raiyats the Revenue Officer should be guided by the principles laid down in the Act for the enhancement or reduction of rents of occupancy and non-occupancy raiyats according as the under-raiyats have or have not occupancy right; such enhancement to be subject to the provisions of Section 48 of the Act.
- (iii) That the existing rents of under-raiyats must be considered to be fair and equitable until the contrary is proved, and that the contrary would not be proved by showing that existing rent is in excess of the amount recoverable under section 48 of the Bengal Tenancy Act. ‡

These decisions are embodied in Rule 26 of the Fair Rent Rules printed in Appendix C, and the universal practice has been to alter no under-raiyat's rent, except on the application of landlord or tenant.

464. A full account of the working of the Resumption Laws will be found in Chapter XXIII., and a very brief account of the origin of the *bazyafiti* tenures will here suffice. §

At the last Settlement all claims to hold land free of revenue were investigated and in the event of resumption grants over 75 acres were made into separate estates, those of less extent being included in the revenue-paying estates || and assessed at half or at full rates according as the grantee could or could not prove uninterrupted possession since the conquest, ¶ the zamindars and *muqaddams*, if any being allowed collection expenses only at 15 per cent. on the nett *jama* of tenures assessed at half-rates.

In one respect the rules were not always observed, viz., it was often the case that where the settlement of the *khalisa* lands of a *maurasi* village, or village held by a proprietary tenure-holder, preceded the resumption proceedings, as in *taluk* Raghunathpur and many large estates, the *bazyafidars* were not made to pay through the *muqaddam*. In some of these cases the rents were however actually collected by the *muqaddams*, though they received no allowances for so doing.

The rules were interpreted with great leniency, no attempt being made to assess the lands at anything like the real rates paid for similar lands in the vicinity, so that instead of paying full-rates and half-rates the resumed lands were assessed at from a half to an eighth of their letting value; the average incidence of rent of those nominally settled at full-rates being fourteen annas and of these settled at half-rates seven annas per acre. The resumed lands assessed at full-rates known as *kamil bazyafiti* (perfect resumed) or *pura jama bazyafiti* (fully assessed resumed) comprised all resumed *jagirs* and the tenures of which the holders could not prove continuous possession since the conquest.

\* Section 104 and Section 104 A of the Amended Act.

† Opinion of 27th November, 1896.

‡ Opinion of 28th May, 1893.

§ See paragraph 313.

|| Board to Commissioner, No 542 dated 11th September, 1888.

¶ Rule XIII. of rules of 1841.

The rest were known as *nisfi* (half) or *adhajama* (half assessed) *bazyafiti*.

In<sup>1</sup> according their sanction to the rules of resumption the supreme Government had expressed a hope that these petty resumed tenures would, before the expiry of the settlement, have become merged in the general raiyati lands of the Province,

To some extent this has been the case with the *pura jama bazyafiti*, especially with the resumed *jagirs*, which were generally in the possession of men of low caste; but the lands assessed at half-rates belonged for the most part to Brahmins or to influential raiyats of the cultivating classes and have generally been preserved intact, as the following figures will show :—

|                  |      |      | AREA RECORDED IN ACRES. |                     |
|------------------|------|------|-------------------------|---------------------|
|                  |      |      | Last Settlement.        | Present Settlement. |
| <i>Pura jama</i> | .... | .... | 80,600                  | 55,200              |
| <i>Adha „</i>    | .... | .... | 221,300                 | 232,400             |

The *bazyaftidars* received *pattas* at the last settlement, and for this reason especially have been able to preserve their status.

The question of enhancing the *bazyafiti* rents was first raised in 1875 during the re-settlement of the Cuttack Town, when it was decided that the lands should be classified at the next lower rate in the scale of assessment to that under which they would naturally fall.

In a letter No. 20 T. R. of the 24th April 1895 from the Government of Bengal to the Board of Revenue it was decided to treat the *bazyaftidars* as tenants and not as dependant *tahqudars*, and the following principles were laid down for the assessment of their lands :—

- (1) That the rents settled for the *bazyaftidars'* lands should be included in the general assets or the revenue-paying estates to which they have been attached.
- (2) That the rents of the *bazyaftidars* should be enhanced on the same principles as may be applied in the case of raiyats and tenure-holders according as the *bazyaftidars* in each case may be recorded as a raiyat or tenure-holder, the enhancement being subject to a maximum of 200 per cent. or 156 per cent. over rents now paid by them when the rent is substantial.
- (3) That the privilege of transfer and of fixity of the rents for the term of settlement which the *bazyaftidars* enjoy at present should be maintained to them by an entry in the settlement records.
- (4) That *kamil bazyafiti* raiyats having no right whatever to hold at privileged rates should be treated as *thani* raiyats Government order No. 2604 L. R. of 10th May 1894).

The last order appears to have been passed under a misapprehension of the terms on which the *kamildars* actually held; it being assumed that having been nominally assessed at full-rates their rents would be on a par with those of the *thani* raiyats, whereas in fact the average incidence was very much lower.

Following these principles it was in the first Assessment Rules of 1896 provided that the half-rents of *nisfi bazyafiti* should be in the first place doubled and the full-rent so obtained should be ordinarily enhanced by 50 per cent. or if still very low by 100 per cent. *Kamil bazyafiti* rents were ordinarily to be enhanced by 50 per cent. and if still very low by 100 per cent.

The enhanced rents of both *nisfi* and *kamil bazyafiti* were subjected to a limit of two-thirds the product of the village rates and the cultivated area. No rent was to be assessed on the uncultivated lands and it was to be recorded that such lands would be liable to assessment if brought under cultivation on expiry of the settlement.

These rules on the whole worked well, and though at first it was found very difficult to get acceptances, yet after the *bazyaftidars* had been convinced that their rents were liable to enhancement and after a few objection had been disposed of by recording evidence and enhancing rents for rise in prices or on other grounds all general opposition ceased.

In a few instances the enhancement of rents of lands belonging to a village idol or to a Brahman of unusual sanctity was resented, but Assistant Settlement Officers were encouraged to listen to such objections and allow most liberal terms.

The chief addition to the rules has been the permission to raise rents beyond the prescribed limits where the extension of cultivation since the last settlement was more than 50 per cent. The rule was rendered necessary by the very small areas assessed in some parganas at the last settlement, so that *bazyaftidars* were not found to be holding large cultivated areas and only paying rent for a fraction of them. Several petitions have been received from the *bazyaftidar* of the three districts protesting against the enhancement of their rents and have been reported on by the Settlement Officer. So far as their objections apply to the general principle of assessment the only relief which has ever been recommended by the Board of Revenue or Government was that of a progressive enhancement suggested in Mr. Toynbee's Note of 17th November 1896. This proposal was dropped in consideration of the petty nature and great number of the *bazyafti* holdings which rendered its practical application almost impossible.

Another class of objections to the enhancements in particular areas is more difficult to deal with as it is not easy when the assessment of a village is once finished to discover the reason that may have led to any unusual enhancement. It would be strange if in no case had any of the large staff of officers employed in settling rents been led by excess of zeal, for the interests of Government, to enhance some rents beyond the limits of prudence and equity, but as a general rule I can say with confidence that the rents are far below the competition rates for the class of land, and rarely indeed amount to more than one-half of what an occupancy raiyat would pay. The enhancement of *bazyafti* rents resulting from the application of the rules work out as follows :—

|              | Nisfi Bazyafti. |        |                |               |                     |                       | Kamil Bazyafti. |        |               |               |                     |                    |
|--------------|-----------------|--------|----------------|---------------|---------------------|-----------------------|-----------------|--------|---------------|---------------|---------------------|--------------------|
|              | No. of holdings | Area   | Existing rent. | Settled rent. | Incidence per acre. | Enhancement per cent. | No. of holding  | Area   | Existing rent | Settled rent. | Incidence per acre. | Increase per cent. |
|              | 2               | 3      | 4              | 5             | 6                   | 7                     | 8               | 9      | 10            | 11            | 12                  | 13                 |
|              |                 | Acre.  | Rs.            | Rs.           | Rs. A.              |                       |                 | Acre.  | Rs.           | Rs.           | Rs. A.              |                    |
| Cuttack ...  | 98,800          | 94,800 | 35,700         | 1,03,200      | 1 1                 | 189                   | 23,600          | 22,500 | 19,400        | 30,000        | 1 5                 | 55                 |
| Puri ....    | 36,400          | 59,400 | 33,100         | 67,300        | 1 2                 | 103                   | 5,400           | 6,500  | 6,100         | 8,200         | 1 4                 | 34                 |
| Balasore ... | 48,300          | 78,200 | 22,900         | 68,000        | 0 14                | 197                   | 16,700          | 25,200 | 14,800        | 23,300        | 0 15                | 57                 |

465. A very full account of the origin of the *kharida* tenure is given in paragraphs 53 to 57 of Mr. Stirling's Minute printed as an appendix on pages XXXIV to XXXVI of Mr. Toynbee's History of Orissa.

*Kharida* tenures.

The name signifies simply 'bought,' and the tenure owes its existence to the practice by which *talukdars* and *mugaddams* were allowed to sell free of rent or at a quit rent patches of waste land *banjar kharij jama*, subject to the approval of the *sadar kanungo* or the controller in the Revenue Department.

These tenures were of three classes :—

- (1) *Ma'afi Kharida*, tenures excused payment of revenue.
- (2) *Tanki Kharida*, tenures subject to the payment of a *tanki* or quit rent.
- (3) *Sarbarahi Kharida*, subject to assessment of revenue.

The whole of the rights possessed by the alienator passed to the purchaser. Mr. Stirling indeed thinks that the right acquired was that of actual property in the soil, which was certainly not vested in the *talukdar* prior to the British conquest of Orissa.

At the last settlement the rights of *kharidadars* and the treatment to be accorded to them were discussed in 1837, in connection with the settlement of *taluk* Malipur in the Cuttack District, in the correspondence ending with Government letter No. 983 of the 27th June 1837. The conclusions arrived at in this correspondence may be summed up as follows :—

(1) Resident purchasers from zamindars acquired the same right of property as the zamindar and were to be called *kharidadars* of the first class.

(2) Resident purchaser from *muqaddams* or other dependent *talukdars* acquired the same right of property as was possessed by the vendor, and were to be called *kharidadars* of the second class.

(3) Rents of *kharidadars* of the first class were to be fixed at full raiyati rates subject to a deduction of 30 per cent.

(4) Rents of *kharidadars* of the second class were to be fixed at full raiyati rates subject to a deduction of 20 per cent. They were to pay through the *muqaddams* to whom another 10 per cent. was to be given for expenses of collection.

(5) The zamindar was allowed for expenses of collection the difference between 30 per cent. and the full amount of the allowances on the raiyati assets of the estate.

Sometimes in case of *kharidadars* of the second class 15 per cent. was equally divided between *muqaddam* and *zamindar*.

(6) Recusant *kharidadars* of the first class were allowed 5 per cent. *malikana* and the zamindar was placed in possession of the land and received the full amount allowed on raiyati assets less 5 per cent.

(7) Recusant *kharidadars* of the second class forfeited all right to re-entry and got no *malikana*.

(8) These rules applied to such *kharidadars* as were not permitted to enter into separate engagement for the direct payment of revenue to Government, whether *pursethi kharidadars*, i. e., purchasers of whole villages or integral portions of villages, or *kharida jamabandis*, i. e., purchasers of specific plots of land.

Besides these two classes there were *mazkuri kharidagi* estates admitted under the Moghul or Marhatta Government to separate engagement for revenue especially the *kharidagi baze asamian* estates generally composed of scattered plots of land extending over a large number of villages and held by a large number of *kharidadars* all jointly responsible for the payment of the revenue, though only the most influential were recorded as *malguzars*.

These were admitted to engage as proprietors, but when the estate had been sold for arrears of revenue they were treated as being of the second class only.

(9) *Ma'afi kharida* tenures were treated in the same way as other revenue free grants, but on resumption the holders were given allowances as *kharidadars* of the first or second class accordingly as they had purchased their tenures from zamindars or *muqaddams*.

In the present settlement *kharida jamabandi* tenures have been treated as tenures under the Tenancy Act and have been assessed under section 7 of that Act, a deduction being made from the gross assets of the tenure calculated at the percentage allowed to the *kharidadar* at the last settlement and the maximum limit of enhancement fixed at 200 per cent. or  $\frac{2}{3}$  of the product of the village rate and the cultivated area, whichever is less.

By an entry in the record of rights the privilege of holding at a fixed rent for the term of settlement has been allowed.

*Pursethi kharidadars* have been treated as village sub-proprietors and the amount to be paid by them fixed under the general rules for the assessment of revenue on proprietary tenures.

466. By the custom of the country, as indeed I believe of all Northern India, the *thani* or resident raiyats held their homesteads without payment of rent, this being one of the privileges which compensated them for the higher rates of rent that they had to pay.

These lands were at the last settlement exempted from assessment and recorded in the settlement papers and in the *pattas* given to the raiyats as *minha*, or 'deducted' from the assessed lands.

In a Government order No. 1183 L. R. of 2nd March 1895 it was decided with regard to *thani* raiyats and *bazyaftidars* :—

(1) That those who got their *gharbari* (house site and surrounding plots) *minha* (rent-free) at the last settlement should continue to hold them *minha*, and that those who did not should continue to pay rent for them.

(2) That the area of *minha* allowed to each raiyat at the last settlement should be deducted from the area belonging to him now to be assessed to rent.

(3) That in making this deduction a margin of about 10 per cent. should be allowed for differences of measurement. If, however, in any case the portion of a plot left after making the 10 per cent. allowance should not exceed one-tenth of an acre, or  $2\frac{1}{2}$  *gunts*, the Revenue Officer dealing with the case might leave it *minha*, but if the area exceeded  $2\frac{1}{2}$  *gunts*, it must not be left unassessed.

*Minha* lands had been by custom freely bought and sold, and sometimes the *minha* was now found in possession of a person possessing no other land in the village, and in other cases the land now classed as *minha* was not homestead at all but arable land. In dealing with such cases the orders of Government have been interpreted in their most liberal spirit, and no attempt has been made to confine the *minha* to particular plots or particular tenants, but wherever *thani-minha* was found in the last settlement papers and a title to that *minha* by purchase or inheritance was established by any claimant and the land identified, it was allowed *minha* without attempting to discover whether it was the same plot that was held *minha* at the last settlement.

467. The Government orders quoted applied to *bazyafti* as well as to *thani minha*, but it is rare to find a *bazyaftidar* holding his homestead free of assessment.

*Bazyafti-minha*, *Bazyafti minha* is more commonly waste land recorded in the last settlement as *minha nalayek kantabari jangal* (i. e., un-culturable thorny jungle) or in other similar terms, and is correctly described not as *minha* but as *mauqif jama* i. e., suspended from assessment. By the Assessment Rules of this settlement so much of the land as has now been brought under cultivation has been assessed to rent; in the case of lands still lying waste the assessment has, as before, been suspended and a note made in the village judgements that it will be liable to assessment if brought under the plough at the next settlement. \*

468. Not only raiyats but the proprietors and village sub-proprietors, used to hold their houses free of rent and revenue. In their case the *khanabari* (house and homestead) was at the last settlement either confirmed as *minha* or resumed. Generally a large area was claimed and part was resumed and assessed as *khanabari bazyafti*.

These lands were often retained by the proprietors even when their estates were sold for arrears of revenue and formed generally the most valuable part of the proprietor's private lands.

It was at first proposed to assess all such lands, but by Government order No. 4009 L. R. of the 21st August 1895, the privilege already granted to *thani* raiyats and *bazyaftidars* was extended to resident proprietors and tenure-holders. *Khanabari* lands have generally in the present settlement been classed as *nijot* and assessed at full rates; where the proprietors proved any land to be *minha* it was exempted from assessment, but the areas so exempted were very small.

469. Besides lands recorded in the papers of the last settlement three kinds of rent-free grants by zamindars were commonly found in Orissa :—

(1) *Zamindar-dia-minha*.— These were plots of land, mostly homestead, allowed by zamindars to a raiyat without payment of rent, and generally forming part of an occupancy holding.

(2) *Zamindar-dia-niskar*, or *kam jama*. —These were grants rent free or at a nominal rent made to Brahmins or old servants and by the custom of the country generally tenable more or less at the pleasure of the donor.

(3) *Zamindar-dia-jagir*.— Grants of land to retainers, servants, and others in payment of service. The zamindars commonly give small plots of land free of rent to low caste labourers and in exchange requisition the holder's labour for the cultivation of *nij-chas*.

Mr. Nathan in his report on Kotdes, paragraph 23, proposed that such lands should be assessed at full rate and the rents added to the gross assets of the estate or tenure in which they were comprised. This proposal was approved by Government in their letter No. 2604, dated the 10th May 1894. At the visit of the senior Member of the Board and the Director to Cuttack in March 1896, it was decided that no attempt should be made to assess to rent these grants, unless the zamindar or grantee applied, but that they should be valued and the amount of the valuation included in the gross assets of the estate.

The interests of the zamindar were protected by an entry in the *khatian* recording the circumstances in which he was entitled to resume and the amount of rent that might fairly be assessed.

At this time section 192 of the Bengal Tenancy Act was not in force, but in order to facilitate the resumption of these invalid grants on the application of the proprietors it was extended to Orissa by a notification of the 17th October 1896. No alteration was however made in the prescribed procedure until the end of 1897 when Mr. Macpherson, in a letter No. 2624 S. of the 11th November 1897 to the Board of Revenue, pointed out that although section 192 only provided for assessment of grants when either the grantor or grantee applied, yet under section 104 (2) of the Act we were required to settle rents for all tenants in Orissa, and expressed his opinion that the latter section over-rode section 192 and that it was necessary to fix a fair rent for all these invalid grants.

This view being accepted by the Board and Government the assessment rules were altered and Assistant Settlement Officers directed to settle rents for all *zamindar-dia* grants with effect from the 1st January 1898, the holders of resumed *jagirs* being treated as non-occupancy raiyats and the others generally as occupancy raiyats (see Rule 14 of Appendix C). In the case of *minha* there can be no doubt that the fixing of a rent was the most convenient course, as it could be done by a small addition to the existing rent of the holding; but on the other hand I am of opinion that the rents were often high enough already and the *pahi* raiyats, like the *thani* at the last settlement, paid for their *minha* by a higher rate of rent on the rest of their land. In some cases of that nature the difficulty was got over by not recognising the *minha* as such, but treating it as an integral part of the rent-paying holding. In the case of gifts to Brahmans there is also no doubt that the fixing of a fair rent put the zamindar in a much stronger position than the mere assessment to revenue, as in the latter case the grant was only voidable on the sale of the estate for arrear of revenue (section 52 of Act XI. of 1859) if created since the settlement.

The case of *jagirs* stands on a wholly different footing. These grants were to chiefly two classes of persons, either to barbers and potters, etc., in payment for their services to the proprietor and his tenants, or to low caste men who in return carried the zamindar's *palki* and tilled his private lands. They were pure service grants tenable, by the custom of the country, only during the pleasure of the grantor, and excluded from the operation of the Tenancy Act. In many cases indeed part of the holding was rent paying and a portion only was held rent free in return for service, and it was simple to assess an extra rent for the balance previously rent-free. But such tenures were commonest among under-raiyats and tenants of *lakhirajdars* whose rents were not altered. To give the holders of purely service tenures occupancy or non-occupancy rights was certainly hard on the zamindars, who in some cases have complained that in consequence they have been deprived of the necessary services of the *jagirdars* who, once secure in the possession of their lands, refused to work.

In other instances neither *jagirdar* nor zamindar would accept any rent whatever, neither did they admit the relation of landlord and tenant. The difficulty was got over by treating the lands as the proprietor's *nijchas* and valuing them accordingly; and this, in my opinion, would have generally been the better course.

Certain cases however were found in which the so-called *jagirs* were merely suspensions of rent or a portion of the rent in a settled raiyat's holding in return for services. Not a few instances also occurred in which the zamindar caused a record of *jagir* to be made in the hope of destroying the status of his raiyats. With these exceptions the *jagirdars* had really no rights and it was quite unnecessary to record their possession, but they might have been entered in the

*khatians* as cultivating the proprietor's private lands in payment for services rendered. It is not possible to state accurately the number of invalid grants assessed to rent and revenue as they have in many cases been included in the *raiya*ti holdings, but the following figures are approximately correct; they do not include the permanently settled estate of Madhupur, the circumstances of which are wholly different:

| DISTRICT.     | ASSESSED TO RENT |                 |              | VALUED FOR REVENUE. |                 |              |
|---------------|------------------|-----------------|--------------|---------------------|-----------------|--------------|
|               | Number.          | Area.<br>Acres. | Rent.<br>Rs. | Number.             | Area.<br>Acres. | Rent.<br>Rs. |
| Cuttack ....  | 5,200            | 3,300           | 7,200        | 16,000              | 13,100          | 27,500       |
| Puri ....     | 160              | 800             | 700          | 4,000               | 1,700           | 3,400        |
| Balasore .... | 3,100            | 4,100           | 4,900        | 9,700               | 8,900           | 15,300       |

470.\* The village watchman, or *chaukidar* as he is now commonly called,

*Chaukidars.*

is one of the most ancient institutions of the country, so old that we have lost sight of his origin. In the Hindu times we find that the *danduasi* or 'staff-bearer' guarded the agricultural village as the *chatia* † did those of the bazar, and under the Mahomedan *regime* they only changed their name to *chaukia* or *chaukidar*. These men were essentially village servants, but the duties of watch and ward were also performed by *paiks* or footmen who appear, to have been servants or retainers of the *taluqdar* engaged equally in Police work and in rent collection. Yet another class are found of *khandaits* and of *paiks* of the *Khandait* caste holding larger *jagirs* and appearing to resemble somewhat the *Ghatwals* of Bankura and Birbhum. These men were independent of the zamindar and performed their duties in subordination to the *amil* or principal executive officer of the division.

Such was the police force at the time of the British conquest, and Regulation XIII of 1805 recognised the existing distinction, providing in Section 5 for the maintenance of *sardar paiks* and their subordinates under the control of the *darogas* of *thanas*, and leaving the village watchmen or *dusadhs* in the position of servants of the zamindar. Regulation XX of 1817 brought these village watchmen under the control of the *darogas*, though still leaving their appointment with the zamindar, and from that time forward they have been regarded as servants of Government though not without duty of service to the zamindar.

At the last settlement it was ordered that for every *chaukidar* about three acres of land should be allowed rent-free, the excess, if any, being resumed and assessed at full rate, and the prescribed amount made up where necessary by some addition from the culturable fallow or *mahal pahi* land. The confirmed *jagir* was treated as *minha*, the area being entered along with that of other unassessed land of the estate.

In 1841 Mr. Commissioner Mills made proposals for the resumption of all the *jagirs* and the payment of *chaukidars* by fixed salaries, and orders were issued in accordance with which the *jagirs* of *chaukidars* and *paiks* were resumed and included in the assessed lands. Pending however the confirmation of the proposed scheme the amount assessed was in most cases again deducted from the assets before the revenue was calculated. Later again, in 1843, the usual practice was merely to make a valuation of the *jagir* and leave a note that it was liable to resumption on the completion of the arrangements for money payments. In all cases the allowances on the resumed *jagir* were calculated at the same rates as those on the *raiya*ti rental of village. Mr. D. J. Macneill in his general Report on the Village Watch in Bengal expressed his opinion that the resumption of the *chakran* lands left incomplete in 1845 should be made at the next settlement, and police officers have for the last fifty years been unanimous in condemning the system of remuneration of village police by *jagirs*.

In the Government Resolution of 28th November 1891 on the report of the Police Commission the following orders were passed:—

"The *chaukidari* system in Orissa is shown by the Committee to be in urgent need of reform and three different courses of action are suggested, but not exhaustively examined. The Commissioner of the Division, in consultation with the District Officers is now considering a suggestion to bring all the Orissa *chaukidars* under the Act. If this measure be adopted, the Lieutenant Governor thinks it had better be carried out under the supervision

\* For a further account see Paragraph 333.

† See above paragraph 333 for an explanation of this term.

of the Settlement Officer when the *jagirs* held by the *chaukidars* have been surveyed and determined. All these lands should be commuted and the necessary number of *chaukidars* should be decided on and their pay fixed *pari-passu* with the progress of settlement."

Accordingly the Settlement Officer and his assistants were called upon for reports, which were submitted to the Commissioner with Mr. Maude's letter No. 1788 of 29th July 1893.

Government, however, in their letter No. 1561J., again referred the question for further consideration by the Commissioner, and when the settlement of rents began no final orders had been passed, but fair rents were settled for the *chaukidari chakran* lands conditionally on the introduction of a system of cash payments. In a letter No. 309 J., dated 30th April 1896, Mr. R. C. Dutt, the Commissioner, after reviewing the several alternatives before the Government, made the following proposals:—

"(i) *Khandayets* and *paiks* should be relieved of all police duties, and their *jagir* lands should, by an amicable arrangement with them, be assessed to rent, payable to the estates in which they are situate. The service lands of *chaukidars* should likewise be thus assessed to rent. The work of assessment is being done provisionally by Mr. Maddox in the temporarily-settled estates; a special officer should be deputed to do this work in the permanently settled estates, under the instructions of Mr. Maddox.

"(ii) *Jagir* lands thus assessed should be settled with zamindars in the permanently-settled estates by the special officer deputed for the purpose, and 55 per cent. of the rental should be fixed as Government revenue. In the temporarily-settled estates the *jagir* lands now being assessed will be settled with zamindars along with all lands in their estates, and 55 per cent. of the gross assets should be fixed as the Government revenue.

"(iii) In large Government estates like Khurda and Banki the Khurda system should be maintained or the Act introduced; the raiyats should pay a *chaukidari* rate, and a proportionate deduction should be made from their homestead rents.

"(iv) Excluding *chaukidars* in large Government estates, the total number of *chaukidars* in the Division should be reduced to 6,500. They should be paid at a uniform rate of Rs 3 a month. This expenditure should be considered a charge on land revenue after the *jagir* lands have been assessed and settled, and the temporarily-settled estates have been re-settled in the manner described above.

"(v) The pay of all the *chaukidars* in a district should be drawn by the District Magistrate and paid through the police in such manner as the Magistrate thinks safest and best. The *chaukidars* thus receive their pay directly and punctually from the Magistrate and the police, and should know no other masters."

The Lieutenant-Governor, Sir Alexander Mackenzie, decided that the *Chaukidari Act VI (B. C.)*, of 1870 should be extended to Orissa, exceptions being made only in the case of thinly inhabited and backward tracts; and in paragraph 10 of the Resolution No. 866 J. (Police), dated 9th February 1897, passed the following orders:—

"(1) The Act will be introduced throughout Orissa as soon as possible after the completion of the present settlement, the *chaukidari jagirs* being, in the meantime, resumed and settled with the *chaukidar*-holders, who will be treated in all respects as *thani* raiyats of the village in which the lands lie. They will be released from all obligation to serve as *chaukidars*, but will be eligible for appointment as such by the Magistrate.

"(2) The lands will be incorporated with the lands of the estates within which they lie and be included in the settlement of those estates, an allowance of 15 per cent. on the rent for cost of collection being made to the zamindar in each case.

"(3) In consideration of the receipt of the rents of the resumed *jagirs* (less the deduction of 15 per cent.) the Government will undertake to pay the salaries of the *sardars* *chaukidars* who may be appointed throughout the temporarily-settled parts of Orissa, at the rate of Rs. 6 each per mensem, the maximum number of *sardars* being limited to one for every ten *chaukidars*. This arrangement is subject to the sanction of the Government of India.

"(4) *Jagirs* in the permanently-settled estates will be treated under Part-II of the Act.

"(5) Mr. Dutt considers that the present number of *chaukidars* (8729) is excessive, and would reduce it to 6,500. The Lieutenant-Governor agrees that a considerable reduction may be made without loss of efficiency, and it will be for the District Magistrates to settle to what extent the reduction should be carried, with the view especially of securing that adequate pay shall be given to each *chaukidar*, without imposing an excessive burden on the villagers. The Lieutenant-Governor is disposed to think that the rate of pay should not ordinarily exceed Rs. 4. per mensem.

"(6) In the backward tracts in which it may be decided not to introduce the Act, the *chaukidars* will be under the direct supervision of the Police. They will be given settlement of the *jagir* lands, where such exist, and will, in addition, continue to receive the customary dues from the raiyats, for the realisation of which they should be given such

assistance as may be necessary and practicable, Regulation XX of 1817 will continue to apply to these *chaukidars*, until it becomes possible to work Act VI (B. C.) of 1870.

"(7) The Magistrate should be permitted to take advantage of the presence of the Settlement Officer to prepare, as soon as may be, his schedule of villages, settle the number of *chaukidars* required, and work out all details. Enquiries should be made as regards men suitable and available to act as members of *panchayats*, and early report should be submitted whether there are, in fact, any tracts in which it is absolutely impossible to work the Act, or to find even a single man to act as the *panchayat*, the provisions of Section 62 of the Act being bore in mind."

The Local Government's proposals were approved by the Government of India in letter No. 411 in the Home Department dated 1st July 1897 and recommended to the Secretary of State for India in the letter No. 211, dated 4th August 1897. In a despatch of the 4th November 1897 the Secretary of State expressed a doubt whether the *chaukidari jagirs* were liable to resumption, and accordingly a further report was called for and was submitted to the Commissioner with this office letter No. 878, dated the 13th April 1898.

The Commissioner, the Board of Revenue, and the Local Government were unanimous in their opinion that the *jagirs* were liable to resumption, and the Government of India having in their letter No. 458, dated the 27th September 1898, accepted this conclusion, the orders for resumption became final.

In accordance with these orders rents hitherto settled provisionally continued to be settled at the village rate or a little below it, an entry being made in the judgement that the rents would only become payable on the extension to the village of the Chaukidari Act. Consent was obtained with little difficulty, as the terms were very easy for the *chaukidar*. For the assistance of the Magistrate, maps on the scale of 1" to the mile of each Thana showing village boundaries, names and numbers, and the rivers and canals, together with lists of the villages in the Thana arranged geographically, and showing the area and approximate number of houses, have been made over to him.

As to the backward tracts mentioned in paragraph 10 (6) of the Government Resolution, the Commissioner points out that the effect of giving the *chaukidar* settlement of his *jagir* land would be to deprive the Magistrate of all control over him and recommended (letter No. 437 J., dated 25th July 1898, to the Chief Secretary to the Government of Bengal) that in any tract in which it was thought inexpedient to introduce the Chaukidari Act the *jagirs* should not be resumed. This proposal was approved by Government in their letter No. 5106 J., dated the 26th August 1898, to the Commissioner, but the orders came too late to be given effect to by the Settlement Department.

The only backward tracts in the temporarily-settled area to which the present extension of Act VI is reported to be inexpedient are Parganas Balarampur, Ragri, Shergara, and Kantajhar in Thana Dharamsala, and Dalijora in Thana Cuttack. Both Thanas contain backward and permanently-settled areas; and as the judgements expressly provide that the resumption shall not take effect until the Act is introduced, it will be simpler to postpone the extension of the Act to these areas.

The number, area, and rent of the resumed *jagirs* are as follows :—

|                    |      |      |             |
|--------------------|------|------|-------------|
| Number             | ...  | ...  | 12,100      |
|                    |      |      | Acres.      |
| Area               | .... | .... | 20,200      |
|                    |      |      | Rs.    A.   |
| Rent               | ...  | ...  | 43,000    0 |
| Incidence per acre | .... | .... | 2        2  |

In the permanently-settled areas, \* including Madhupur, *chaukidari jagirs* have not been resumed. It is to be observed that in Madhupur all *chaukidari jagir* is shown as granted by the zamindar of that estate, but it is as much Government property as in any temporarily-settled estate and cannot be resumed by the donor.

471. The *Khandaits* (swordsmen) and *paiks* (footmen) are the last relics of the old Hindu militia, and under Moghul and Mahratta were utilised as police in subordination

*Khandaits and Paiks.*

\* This is not quite correct. Rents were assessed on a few such *jagirs* in the *Sataishazari* and *Ekhrajat* mahals belonging to the Puri temple, but the proceedings will have to be revised by the District Magistrate.

to the *amil* and *kotwal*. \*

Regulation XII of 1805 protected from resumption the lands assigned to *Paiks* and *sardar paiks* for the performance of their police duties, and this section was understood to cover the *khandaits* and *rahbars* (or road patrols) and such of the *nahbars* as were of the *Khandait* caste.

These men, or such of them as had not been dispossessed by the zamindars or assimilated into the general body of the village watchmen, had their *jagirs* confirmed at the last settlement in consideration of the performance of police duties, which they did so badly that of recent years they had only been employed on miscellaneous duties such as patrolling the roads.

The advisability of resuming their lands was discussed in connection with the reform of the village police system; and in Resolution No. 866 J. (Police), dated 9th February 1897, His Honour Sir Alexander Mackenzie announced his determination to release them from all obligation to render service if they would accept settlement on easy terms. The Government orders were as follows—paragraph 11 of the Resolution referred to above :—

“The case of the *khandaits* and *paiks* has, lastly, to be considered. It has already been stated that there are two classes of *khandaits*—those who received their lands from the Mahrattas, and those who were nominated by the zamindars and appointed by the Magistrates. The Government cannot compel the *khandaits* and *paiks* to agree to the resumption of their *jagirs*; but there can be no objection to resumption if they agree, in consideration of the Government relinquishing the right to their services; and the Lieutenant-Governor learns that they have, as a fact, generally expressed to the Settlement Officers their willingness to accept settlement of their lands on that condition. The *jagirs* will, therefore, be resumed by amicable arrangement with the holders. The latter will receive settlement, and will be declared to be raiyats holding at fixed rates, and existing holders will sit at half the assessed rents for their lifetime. The holdings should be included in the estates within which they lie, and form part of its assets in future. If the area of any *khandait's* holding is such as to require that it should be treated as a tenure, the Settlement Officer should report whether it should be so settled at fixed rates. If it is deemed advisable to retain the services of some of the *paiks*, as, for instance, for the patrolling of the main roads, proposals as to the arrangement which should be made for the payment of the men after the resumption of the *jagirs* should be submitted to the Government for orders. The number of *paiks* is especially large in Balasore, and it is possible that they are in some parts of that district discharging the duties of the village watch. If so, the men so employed should be treated as *Chaukidars* the orders above relating to *Chaukidars* being applied to them and their *jagirs*, save that their *jagirs* should be resumed only with their consent, and settled at half rates for the lifetime of the present holders. The case of Khurda, where it is understood there is a very large number of petty *paik jagirs*, should be especially reported upon.”

By an oversight the rules for the settlement of fair rents were not modified in accordance with this Resolution, and rents continued to be settled at full rates though much leniency was shown in the way of small concessions.

The *khandaits* of Dihi Arakhpur objected at first to the assessment, alleging the great inferiority of their lands, but eventually executed a written agreement to pay rent at Re. 0-12-6 per acre, or at about a fourth of the rates for good average land. The lands held by the *sardar khandait*, Jadumani Paikra, in the Puri District and those of the *paiks* of Balasore were assessed at  $\frac{2}{3}$  of the village rate. Most of the remaining *khandait* and *paik jagirs* were assessed at full rates.

The rents so proposed had all been accepted when, towards the close of 1898, it was brought to the notice of the Board of Revenue that the orders of Government had been overlooked; and in their letter No. 960A., dated the 15th October 1898, they submitted to Government a report of the action taken, with a recommendation that what had been done should be approved *ex post facto*, i. e., that the rents accepted should be allowed to stand, that the zamindar should receive the full raiyati allowances on them, that the Chandbali *jagir* should be created a separate estate, and that the Deogaon and Masora *jagirs* should be treated as tenures with rents fixed for the term of settlement.

In their letter No. 6705 J., dated the 27th December 1898, Government decided that the original orders of Sir Alexander Mackenzie, so far as they presented half rents for the lifetime of the holders, should be given effect to, but accepted the other recommendations of the Board.

\* See paragraph 332,

Notices were accordingly issued to all *khandaits* to appear on fixed dates at the nearest Thana and have their *khatians* corrected, the same correction being made in the original record of rights and in the copies issued to zamindars. The assets and revenue of all estates were similarly corrected, only half the rents originally settled on the *khandaits'* *jagir* being entered as payable during the lifetime of present holders, and it was provided that the benefit of any increase in the rental of these lands during the term of settlement should be left with the zamindar.

The total area of *khandait* and *paik jagirs* resumed *rahbars* and *nahabars* classed as *khandaits*, is 6,910 acres, and the half rent assessed Rs. 5,090, an average of annas 12 per acre.

As to the proposal to retain certain *paiks* for patrolling after the resumption of their *jagirs*, in paragraphs 4 to 6 of his letter No. 437 J., of the 25th July, to the Chief Secretary to the Government of Bengal, Mr. Commissioner Stevenson recommended that all their *jagirs* should in any case be resumed leaving their pay to be fixed thereafter by Government; and in Government Order No. 513J. D., dated 25th May 1899, it was finally decided that it was unnecessary to retain the services of any of the *paiks* or *khandaits*.

472. *Patwaris* or village accountants were under the Hindu and Mahommedan and probably in the early days of the British rule to be found in every considerable village, but they gradually lapsed into the position of mere servants of the zamindar and at the last settlement their *jagirs* were, except in the largest estates, resumed and assessed at full rates.

The services of the *patwaris* then retained have been little utilised except in the Puri district, and an attempt made in 1873 to resuscitate them proved a failure.

The question of the maintenance of the record having been discussed in the early stages of this settlement it was generally agreed that paid agency must be substituted for that at present in existence, and in Government letter No. 2604 of 10th May 1894 it was decided that the service lands of *patwaris* should be resumed and assessed at full rates. In accordance with these orders 3,950 acres of *patwari jagir* have been resumed and assessed at Rs. 6,760, and the amount included in the mufassal assets of the estates.

473. In paragraphs 40 to 42 of his note on the assessment of the Kotdes Pargana Mr. Nathan proposed that the *jagirs* granted to blacksmiths, carpenters, barbers, washermen, and other village servants should be confirmed except where the holder was proved not to perform the service for which the land was granted. This proposal was accepted by Government in their order No. 2604 of the 10th May 1894, paragraph 6, and accordingly 8,560 acres of *jagir* land have been confirmed and 1,600 acres resumed and assessed at Rs. 4,800. These figures are for the temporarily-settled area only.

474. Since the year 1883 the question of the establishment of fuel and fodder \* reserves had engaged the attention of Government, and in a circular No. 6 of August, 1891, the Board of Revenue pointed out that it may often happen that a Settlement Officer will, in the course of survey and settlement operations, be in a position, either of himself or in conjunction with the managing or village authorities, to effect improvements in regard to sanitation by reserving tanks for drinking purposes, by the assignment of defined places for necessary uses, and for excavation of earth for building.

With these two objects in view, the establishment of fuel and fodder reserves, and the setting apart of specific places for sanitary purposes, the Settlement Officer caused all waste lands and tanks to the use of which the villagers appeared to have a customary right to be recorded as the property of the community *Sarba Sadharan*. Such lands were found in most villages though the right was by no means always admitted by the zamindars and was indeed strenuously opposed by the members of the Balasore National Society. The fact appears to have been that, to quote Mr. Stirling, the resident raiyats of each village were entitled

\* See also paragraph 263.

each to a share of the firewood, thatching grass, &c., sufficient for their own consumption, and to graze their own cattle without paying to anybody; they could not however dispose of any produce or admit strange cattle. Where land and fuel is abundant I have generally found this to be still the case, but in some parts the proprietors have kept all the grazing land in their own hands and made a charge for village and strange cattle alike.

The subject was discussed in Mr. Nathan's report on Kotdes, but no final orders were passed. In the Rules of 1896 provision was made for the reservation of lands for cremation and for grazing ground; with the consent of the zamindar. The Assistant Settlement Officers were directed to select in each village a few large fields, not more than 15 to 20 acres in an average village of 400 acres, suitable for grazing and to enter them in a separate *khatian* to which they were required to get the signatures of some of the leading raiyats and of the zamindar or sub-proprietors, or his agent.

A note was then made in the *khatian* that the village community were entitled to graze their cattle without charge on this land, and that it was on this ground exempted from assessment. Similarly, plots actually used as, or suitable for, cremation grounds were to be set apart, a note being made in the *khatian* of the right of tenants to their use.

Tanks used for drinking purposes were added to the list, but there was some difficulty in reserving these without interfering with the proprietor's right of fishery.

On the whole the measure has met with remarkable success, being extremely popular with the raiyats and not much opposed by the zamindars.

To safeguard these lands against subsequent encroachment a clause has been inserted in the form of *kabuliyat* to be executed by all zamindars and sub-proprietors entering into engagements for the payment of revenue, binding them to preserve as grazing grounds, cremation grounds, and reserved tanks, the plots specified in the schedule which is annexed to the *kabuliyat*, to take no rent or grazing charge, and to take action in the courts to eject trespassers if required by the Collector to do so.

This clause was objected to by the Balasore Zamindars' Association, but their objection was overruled by Government. \*

The clause will however become a dead letter unless from time to time attention of Collectors is called to it. Zamindars will be very loth to prosecute for cultivation of reserved lands when they can share in the profits by taking rent. An annual report as to the state of the reserved lands in his *chakla* should be called for from each *kanungo*. Inspections should also be made by District and Local Board officers. Of course, if the Maintenance of Records Establishment is introduced, the reserved lands would be looked after.

The total area reserved in the province under the above rules is 1,15,000 acres, as follows † :—

| District. |      | Total area. | Area of grazing grounds. | Area of cremation grounds. | Area of other reserved Lands. |
|-----------|------|-------------|--------------------------|----------------------------|-------------------------------|
| Cuttack   | .... | 55,300      | 48,800                   | 6,200                      | 300                           |
| Puri      | .... | 22,200      | 21,400                   | ....                       | 800                           |
| Balasore  | .... | 37,500      | 36,100                   | 1,300                      | 200                           |
| Total     | .... | 1,15,000    | 1,06,200                 | 7,500                      | 1,300                         |

475. By Rule 24 (2) of the Government Rules under the Bengal Tenancy Act, Chapter VI, it was incumbent on the officer settling rents in connection with a settlement of revenue to serve by proclamation and posting up in the village a copy of his proceeding setting forth the date on which and the place where he proposed to settle rents.

This notice was invariably given a week or more before the appointed date, and not only was a copy of the proceeding posted in the village, but copies were, as far as possible, served personally on the principal zamindars.

\* No. 873 T. R. of 26th October, 1898.

† See Appendix L.

Further, whenever the Revenue Officer proposed to alter an existing rent and the tenant had not appeared in compliance with the general notice mentioned above, he was served with a special notice informing him of the proposed alteration in his rent.

After the very first commencement there was little difficulty in procuring the attendance of raiyats, and the returns show that in the last two and a half years only 15,298 or 1 per cent. of the tenants dealt with failed to appear, and of these only 9,221 had their rents altered. For the first year's work no return of absentees was made, but the figures would not be very different, and the contrast with the stages of *khanapuri* and attestation when the indifference of the people was perhaps the greatest difficulty with which we had to contend, is very striking.

476. Under section 113 of the Bengal Tenancy Act rent fixed under section 104 of the Act, cannot, except on the ground of a landlord's improvement or of an alteration in the area of the tenure or holding, be altered.

Term for which rents are settled.

- (i) In the case of a tenure or, occupancy holding or the holding of an under-raiyat having occupancy rights, for 15 years.
- (ii) In the case of a non-occupancy holding or the holding of an under-raiyat not having occupancy rights, for five years.

The privilege of fixation of rent was only extended to under-raiyats by Act III. (B. C.) of 1898, and it is not clear that it applies to the rents settled previous to the 1st November, 1898.

By Government order No. 20 T. R., dated the 24th April, 1895, the privileges of transfer and of fixity of rent for the term of Settlement enjoyed by the *bazyafidars* were ordered to be maintained to them by an entry in the Settlement record. This has been done, and the same order has further been held to cover the rents of *kharida-jamabandi* tenure-holders and *tankidars* having rights equal or similar to those of *bazyafidars*.

The rents of *thani* and *chandina* raiyats have been fixed for the term of Settlement by an entry in the record of rights, made in accordance with the opinion given by the Superintendent and Remembrancer of Legal Affairs in his letter No. 1243 of the 13th February, 1893, to the Secretary to the Board of Revenue.\*

---

\* See Director to Board No. 14 T. A., dated 3rd January, 1893.