in large villages (over 1,400 population) there is a watchman known as *jaglia*. In the States there is often an assistant to the chowkidar. Village servants usually hold rent-free service holdings and so long as the villagers do not have to pay more than one servant, or the village is sufficiently large to afford two or more without increasing the burden of the individual ryot or labourer considerably, it is proposed to leave it to the discretion of the States to appoint village servants other than the chowkidar. It will therefore be left it to the State to prescribe the village servants and their duties by rules provided the villagers do not have to pay more than one anna per rupee of land revenue or its equivalent in kind for village servants. There should be no separate levy for the chowkidar's dress if the ryot is already paying one anna per rupee. Excessive payments now being recovered will have to be stopped as proposed in the law. At present, non agriculturists in a number of States do not pay for village servants and it is only fair that a payment should be recovered from them. This is provided for.

I do not think that there is any need for a head chowkidar or *dafedar* in Korea and Tigiria which are the only two States out of thirty-nine to have these additional servants. I have not examined the State's reasons for these servants but *prima facie* they appear unnecessary, and the States may be advised to eliminate them unless they can show good cause to the contrary. In Orissa there are *dafedars* but the system there is different and in nearly all the States as well as in the Central Provinces or Sambalpur there is no *dafedar*.

There are a number of village servants like *baiga*, *lohar*, barber, *dhobi* and others who are paid for services rendered by the villagers. They perform menial services to officials and others. In the interests of the State revenue I recommend that all the lands held by them should be assessed to rent and converted into ryoti. In order to avoid hardship the same rule for settlement of the land is provided as in the case of village headmen. Also as there may be individual villages where it is necessary to retain rent-free holdings in exceptional circumstances the clause in the law is made merely an enabling one.

In order to avoid problems caused by sub-letting of service lands as in Khandpara, such lands should be sub-leased only with the permission of a revenue officer, and it is provided that if there is any sub-lessee cultivating without permission, the jagir-holder can be called upon to cancel the lease, but if a lessee at the time of the commencement of the law has been cultivating for over twelve years he may not be ejected without compensation. If the jagir-holder is not able to eliminate the lessee the land may be assessed to rent or the lessee may be called upon to perform the service.

CHAPTER XII.—Forests.

The next important matter in which the cultivator is most interested, *viz.*, forests nistar, grazing, etc. will now be taken up.

123. *Policy.*—During the earlier discussion it has been suggested that the administration of forests in the States is somewhat one-sided, that is, the interests of the cultivators do not receive adequate emphasis. The policy of the Central Provinces Government will show that the cultivator's interests need special representation and examination and in the Central Provinces, it is not considered adequate to let the entire matter rest with the Forest Department, which, on the whole, is inclined to take a rather technical view. "Government however recognises that certain privileges and concessions, which do not amount to rights of user have been enjoyed in the forests by the neighbouring population and desires that these privileges and concessions should continue to be enjoyed as freely as possible. They must, however, be defined and delimited and should not be allowed to increase except in unusual circumstances. The most satisfactory method of giving effect to this declared policy is to embody its principles in the provisions and prescriptions of working plans, and for this purpose a revenue officer should be associated with the preparation or revision of each working plan", [para. 82, C. P. Forest Manual, Vol. I; also section 4(2) of the Indian Forest Act.]. The special revenue officer is required to state for the orders of Government "the case clearly from both points of view" and to make recommendations after examining the whole matter. I do not indeed suggest that if one of the State revenue officers had been

associated in the preparation of the working plans this by itself would have made any difference and that the failure to do so has caused serious injustice. What I wish to indicate is that State policy should recognise that the cultivators have interests in forest management which need careful consideration and decisions should be less summary than they seem to me to be at present. State policy so far has, as already indicated, been rather sweeping in forest matters. It seems to be actuated by the idea that with the exception of the State personfied by the Ruler, none else has any right in forests or forest-growth except as a matter of favour or concession. Thus it is that all forest-growth is claimed by the State and forest rules apply to all land in the State. The final decision in many States in a matter like the allotment of waste land for cultivation rests with the forest department and in some States (Bamra) the question rests entirely with the forest department. It is the forest officer whose permission is necessary to cut down trees, it is that department which appropriates the income from all trees and the proceeds of allotment of waste land, it is the forest department again which lays down the policy in the matter of crop protection and it is under forest rules that contracts of lac, tendu and other commodities like hides and skins are given out covering agricultural land and village cattle, and export duties on agricultural produce are imposed, the forest department controls minerals whether found in forest or not. This wide jurisdiction of the forest department assists in the squeeze for revenue which has already been mentioned as a characteristic of these States. The attitude of the State towards forests has of course been copied, except where definitely prohibited, by zamindars, *ilaqadars* and others.

124. *Cultivators' Rights of User.*—In discussing the forests, it may be pointed out that wherever the theoretical ownership of waste land and trees may be assigned, the cultivating population has a strong precriptive right to the appropriation of forest produce for their own domestic purposes and the needs of their animals. These rights were of course exercised, at the time when the clearing of forests for cultivation began, in the forests close to the village and the free utilisation of forest produce in these forests must have been gradually regarded by the cultivator as one of his privileges and rights as well as an incident of the cultivating tenure. In the early days none interfered with his rights (forest had little value), and when there was such interference it was regarded of course as an encroachment on his rights. Except therefore in distant forests, away from inhabited areas the State could not exercise its rights without a conflict with the agricultural community. While therefore reservation of forests in which the cultivator exercises no rights of user raises no protest, in reserving forests near by, the primary criterion should be that such reservation is in the interests of the cultivator himself. Reservation by the State would be justifiable on the ground that the revenue from the forest goes to the State and is spent, at least partly, in the interests of the community. Far different is the case however, with zamindars and others; here reservation generally means that the cultivator definitely loses his own rights and only one individual benefits. Reservation by zamindars, if permitted at all, should therefore be subject to strict control by the State and should be restricted to areas in which rights of *nistar* have never been exercised.

This however, is to some extent a digression; to come back to the main theme, the cultivator has exercised customary *nistar* rights for a long time in forest near his village; it has provided him free timber for his house and agricultural implements, fuel for his hearth, grazing for his cattle and it is on this basis that cultivation first started. Apart from this, there is the fact that the average cultivator in India shoulders taxation which recognises no lower limit and operates on his income however small it may be, I think it will also be found that the rate of his taxation is far higher than taxation to which non-agricultural incomes are subject; the burden of land revenue is felt most by cultivators with small holdings and is felt less and less as the holding increases in size, contrary to systems of income tax, which bear lightly on the lowest incomes; there are few professions where income is more precarious and in hard times it is often forest produce which keeps him going; thus there seems to be a strong case for allowing full rights of *nistar* in forests whthin the village boundary, subject only to such restrictions as may be imposed in the cultivator's own interests. This is in fact the policy which is generally followed

in the provinces with small variations. In Bihar and Orissa, in the Government estates, except for certain reserved species no charge is made in the villages for nistar, and grazing fees for the cattle of agriculturists seems to be charged only in the Khurda protected forests in Orissa. In the Central Provinces, in the village forests (including malguzari and zamindari areas), the villagers are entitled to free customary *nistar* subject to certain rules made for the preservation of forests, and grazing is usually free. In connection with *nistar* rights the following passage from Mr. Kamath's report on Grazing and Nistar in the C. P. Zamindaris may be quoted :

"Before the conferral of proprietary rights * * * the village waste or village forest was, for all practical purposes, the property of the whole village community. Definite communal rights existed in it for the whole body of villagers, the person on whom proprietary rights were later conferred being in the position of no more than a manager. At the time the grant was made, care was taken to maintain these rights, the newly created proprietor, however, being left to enjoy what income he legitimately could from the waste, provided he did not thereby interfere with or curtail the recognised rights of the village community * * * . If the existence and the nature of these very definite communal right is, realised, it will not be correct to describe village forests as the absolute private property of the zamindar". In Sambalpur the rights in village forests is similar to the Central Provinces position (what reservation of timber and other commodities is made by the zamindars in the Central Provinces in practice is illegal). In marked contrast is the position in the States. Nearly all the State levy a '*nistar* cess' and at the same time half the normal royalty is charged on tress of reserved species. In some places, grazing fees are also levied. The *nistar* forests in nearly every State have been drastically reduced, but even in these the State reserves the right to sell timber to traders and in practice also timber seems to be sold. Wood for State purposes is in some cases taken out of village forests though the reserves may well provide them.

The question of grazing fees will be considered later; though I consider that the levy of a *nistar* cess of commutation fee is not really justified I do not propose its abolition in view of the fact that the States have been levying it for some time and abolition of it in addition to the proposals for abolition already made would result in a heavy reduction of State revenue.

125. *Proposals regarding village Forest and Nistar.*—What I should consider equitable as a policy in this matter of *nistar* in the village forest is (1) wherever village boundaries have been demarcated and include village forest, villagers should have free rights of *nistar* as well as grazing (see para. below on grazing) subject only to restrictions for the preservation of the forests, and no cess or fee should be imposed if it does no exist already; (2) if the village boundary is not demarcated, steps should be taken to demarcate it, including such area of forest as may be considered reasonable, having in mind the present condition and possibility of future development as well as the desirability of reservation of areas with valuable forest growth in the general interest; (3) where a *nistar* cess is being levied at present for the use of the village forest, no additional royalty should be charged for the trees valuable as timber though there should be provision for control of *nistar* preferably through the agency of a village *panchayat*; (4) where there is no forest within village boundaries but 'protected' forests are provided, a commutation rate or *nistar* cess may be levied but there should be no additional royalty on particular species, on the cutting of which there may however be restrictions in the villagers' interests and in the interests of preservation of the forests; (5) the commutation rate should be optional and based upon either the *haisiyat* or status of the cultivator or should be an acreage rate on the land he holds, the rate being graduated according to the quality of the land he holds; (6) forest rules should not apply to the management of forests within village boundaries. I may note here that Mr. Kamath who examined the position in the C. P. zamindaris recommended village "*nistar panchayats*" to control *nistar*, a suggestion which I favour and which I myself proposed once. In Jashpur the management of forests through a village *panchayat* was ordered in a proclamation. I do not propose to include detailed rules about *panchayats* in the draft law, however, and the working of the *panchayats* will be governed by rules to be framed under the law.

126. *Grazing.*—Grazing is the next important point. It was reported on by Mr. Bowstead [F. 22 (4)-P/40] and the Resident, the Governor of Orissa agreed with him that grazing fees should be gradually abolished except in reserved forests. Col. Barton, in commenting on Mr. Bowstead's proposals, noted that the Forest Adviser also agreed. Orders were issued accordingly. I find however that Mr. Mooney has somewhat different ideas. He is "in favour of charging a fee on all cattle surplus to agricultural requirements with the idea of limiting to some extent the number of uneconomic cattle maintained by the villagers". (D. O. No. 185/F., dated the 20th January 1942 from Mr. Mooney to me). He is "prepared to admit that the small fees now charged for surplus cattle may provide little in the way of a deterrent", but contemplates the gradual raising of such fees in the interests of animal husbandry. He does not favour the levy of grazing fees as a source of revenue though he recommended it in Talcher where it does not exist at present, on the ground that there is need for placing some check on the number of excess cattle. While discussing village forests, I partly made out a case for free grazing of the agriculturists' livestock in the village forest, that is, in all areas within village boundaries. Grazing is a question on which much has already been said, and much more can be said without still removing the matter from the field of controversy, particularly if it is desired to associate the question of improvement of livestock with it. I fail entirely to see that the imposition of grazing fees is likely in any way either to improve the condition of livestock or to reduce the number of 'useless' animals in the circumstances which prevail in this country. The idea that rather than pay grazing fees the cultivator would get rid of his 'surplus' cattle is, I fear, engendered of superficial consideration. To begin with, it is for the cultivator the same whether certain fees are charged on some of his cattle, the others being exempt, or a lighter fee is charged on all his cattle; if for instance a cultivator has six animals, and on four of them he has to pay a fee of 12 annas, it is not different to him from the imposition of a uniform fee of two annas each on all his cattle. Then again, 'useless' cattle are to him only those which have not much longer left to live, particularly in the case of plough bullocks or cart bullocks; these are usually driven so long as they are able to pull. It may be quite true that the work of three emaciated animals may be done by a single good one, but the good one usually costs much more than the cultivator can afford, and in the absence of veterinary aid and the prevalance of carnivora, bovine life is quite precarious and the cultivator only stands to lose by purchasing an expensive animal. Breeding of cattle costs little and, though they may be poor 'stuff', the cultivator can get two or three such for practically no cost and what they lack in quality he certainly attempts to make up in quantity; the loss of such an inferior animal is not a really serious matter; if the same quantity of milk is provided by three animals at less cost and risk than one, why, of course, the former is preferable. Thus it is that the cultivator breeds and keeps a large number of 'surplus' cattle. To him they are not surplus so long as he can keep them going on the village grazing. As regards animals which even to him are useless, his religion prohibits him from destroying them, and the imposition of a grazing fee high enough to force him to do this, would entail serious consequences; he also has this argument: if the animal is to be destroyed because it is old and useless, should I also be destroyed because I am old and useless? Thus the imposition of a grazing fee fails entirely in its meant to reduce the number of 'useless' cattle. Mr. Kamath gives facts and figures (inpara. 236, page 93 of his report on Grazing and Nistar in the C. P.) which go to show that the imposition of grazing fees has not resulted in the reduction of the number of cattle. Further, whatever Mr. Mooney's ideas behind the imposition of fees, the States certainly look on it as a source of revenue and this is shown by the fact that Bamra declined to accept Mr. Mooney's advice on the point of exemption of agricultural cattle. Mr. Mooney further admits that my suggestion that in many places, the pasture available on village grazing grounds and forest is so exiguous that it provides no nourishment for the cattle and that to charge a fee is to charge for, something they do not get is true, but he would suggest remedies or exemptions. On the whole, I must say that his case for the imposition of

grazing fees on the cattle of agriculturists is weak though I agree that in view of the limited pasture available, grazing in village forests must not be free to all cattle irrespective of whether they belong to agriculturists or not; I have suggested already that the agriculturist needs special consideration on account of the taxation he is subject to. To discuss the question from the beginning would take enormous time and paper. I might briefly say that it is the agriculturist who is entitled to free grazing for his cattle in the village forests, just as I have pointed out that he is entitled to free nistar. Along with 'agriculturist (whom I would define as a person whose principal means of livelihood is agriculture), I would include village officials and servants such as chowkidar, blacksmith, *baiga* etc., as well as agricultural labourers, generally persons on whom the agricultural community depends. These persons would be entitled to graze all their cattle free. Non-agriculturists, that is, those whose principal means of livelihood is not agriculture or agricultural labour, particularly ahirs, gaolis and similar persons would not be permitted to graze their cattle on the village waste at all if alternative grazing in reserved forest is available at a reasonable distance, or only their plough cattle, if any, would be allowed to graze, unless the village forest is adequate for all the cattle in the village non-agriculturists would pay a fee on all cattle. If there is inadequate grazing for all cattle in the village forest and there is no alternative grazing near by, then I would impose a prohibitively high rate on the cattle of non-agriculturists if there was any danger of the village waste being denuded by their cattle, so as to induce them to keep their cattle elsewhere, or migrate to other villages. Grazing is a matter in which it is difficult to lay down uniform rules for all villages without causing difficulties, and it is proposed to allow enough latitude to revenue officers to deal with villages according to the actual grazing circumstances. An appendix shows the grazing proposals of Mr. Kamath for the Central Provinces zamindaris with the general principles of which I am in agreement. The classification of agriculturists and non-agriculturists, I have in mind, is more or less the same. Mr. Kamath points out in para 241 of his report the undesirability of dividing cattle into 'agricultural' and 'non-agricultural', and I am of opinion that the reasons given by him apply largely to the States.

127. *Crop Protection.*—Crop protection has already been discussed at some length (see part I) and it is not necessary to go into in much further here. In the provinces, protection of crops is actively encouraged instead of being hindered as in the States. It is recommended that any person in cultivating possession of a field should be given the righ to protect his crops by shooting or by setting snares or other means, in, or in the vicinity of crops, any animals likely to cause damage to the crop; the right to destroy any animal which has killed or has come to kill village cattle including sheep and goats, within the boundaries of the village should also be recognised. There can be no justification for protecting pigs in any way and as they need to be killed in large numbers, the States should be advised to permit freely the shooting of pigs and also beats for pig anywhere within village boundaries; beats for pig should also be permitted in reserves adjoining villages but with special permission and under supervision. Beats are at present permitted in Bastar and Nandgaon. In the Central Provinces there are regular pig-killing societies. The Forest Adviser agrees that the shooting of all animals including elephants actually damaging, or in the vicinity of crops may be permitted. As already pointed out the shooting of elephants is prohibited in the States. The Forest Adviser feels that it is a delicate matter and speaks also of a religious prejudice which I have not heard of. He agrees however that they are one of the greatest curses of the cultivators. If the States wish to retain the ban on killing or shooting at elephants the cultivator should be given compensation for the damage done to the crops.

It has been pointed out that the number of gun licences issued for the protection of crops is inadequate in some States and also that the licence fees are high in some places. In the following States the number of licences is *prima facie* inadequate; Udaipur (48), Sarangarh (4), Rairakhol (51), Raigarh (76), Patna (158), Pal-Lahara (70), Korea (22), Changbhakar (98), Bonai (15), Bastar (404), Keonjhar (7), Jashpur (54). In Seraikela,

Sakti, Kharsawan no licences are issued. States with plenty of forest and wild animals should be advised to issue licences more liberally particularly Korea, Jashpur, Keonjhar, Rairakhol and Bonai, as soon as any policy of restriction followed on account of the war is revised. Certain States like Kanker, Changbhakar or Surguja have a fixed upper limit which does not seem to be based on any appreciation of actual need. Such upper limits do not seem to be necessary and discretion should be used in issuing licences according to circumstances.

The licence fees for muzzle-loaders is unduly high in Udaipur (Rs. 1-8-0), Tigiria (Rs. 2), Bonai (Rs. 2-8-0), Chhuikkhadan (Rs. 5), and States like Athgarh, Baramba, Keonjhar and others where it varies from four annas to Rs. 1-8-0. No licence fees should be charged for muzzle-loaders issued for crop protection only as in Bastar, Khairagarh and Changbhakar.

Regarding the question of reporting and disposal of animals shot, the cultivator should not be required to report to any person other than the village headman or chowkidar who may be made responsible for sending on the report to forest or other officials. It should also be the responsibility of the State to make arrangements for the disposal of the carcass through its village or other officials and the cultivator should have no responsibility in this respect. No fees should be levied for any animals shot. The relevant sections of the Law may be seen (Chapter on "Other Rights of the Ryots and Tenants").

128. *Monopolies.*—The various momopolies may now be considered. It is recommended that the hide monopoly should be abolished so far as village cattle are concerned; there can be no objection if skins of wild animals are made the subject of monopoly. It is laid down in the proposed law that the owner of an animal has a right to the skin and may dispose of it has he pleases; the only control necessary is in the matter of Sanitary disposal of the carcass and this is provided for. In States like Khairagarh or Nandgaon the commutation fee which is included in the land revenue of the ryot should be abolished.

The lac, tendu and harra monopolies are recommended to be abolished; contracts may be given out for these only in forests, including village forests but not ryoti holdings, on the basis of a tree tax or a lump payment for the exclusive right of propagation for the area; the cultivator should not be compelled to sell the lac, *tendu* or *harra* from his fields to any person. In the village forest or other forest to which his lease extends the contractor will have the exclusive right to propagate lac or get it propagated though villagers on reasonable terms to be prescribed in the lease, and the villager will have no right to propagate lac except on his own holding without the contractor's consent. In respect of *tendu* and *harra*, the customary rights of ryots in respect of their domestic needs must be safeguarded (this is provided for in some existing leases).

As regards *mahua*, this most important tree is a source of food to the cultivator and the States should *not* be permitted to give a contract outside reserve forests. The *sale* of *mahua* from village forests may however be restricted to the contractor or specified persons, if necessary. I do not think that export or import duties should de permitted on agricultural produce and cattle. If there is any hesitation about the hide and similar monopolies I strongly recommend that an export duty would be preferable to the machinations of a monopalist.

128A. *Composition of forest offences.*—The action required regarding composition of forest offences has been indiated in paragraph 47A. In the Central Provinces, the Divisional Forest Officer compounds offences but a report of cases compounded is invariably sent to the District Magistrate. If it is considered that forest officers in the States should have powers to compound, they should be required to send a report to a Magistrate. It is recommended that the practice of *darogas* compounding forest offences prevalent in Sarangarh should be put an end to. If

zamindars are exercising powers of inflicting fines for forest offences it is recommended that they should be prevented from doing so; they should file cases in the courts, if necessary.

CHAPTER XIII.—Other Matters

129. *Bethi-begar.*—The individual reports show that this system still prevails to a greater or less extent in most States. I should have thought that the total abolition of this levy in all forms needed no argument but actually *bethi* for certain purposes such as construction of *raths* and other purposes has been allowed to exist by the Political Agents. In Part I of this report the unreasonableness of allowing *bethi* for *raths* has been mentioned. I do not think there is need to compel ryots to labour without payment or inadequate payment in any of the States. As already pointed out, the cultivator is a heavily taxed person to whose burdens and misery it would be iniquitous to add. Labour is "dirt-cheap" in this country, and to insist upon free or underpaid labour is the height of callousness and perversity. I do not think there need be any fear of people refusing to turn up for work even on payment as people, particularly in the States, are most susceptible to influence by headmen or others in authority. Further I find it incomprehensible why the cultivator, a highly taxed person, is liable to this levy while non-agriculturists usually go scot-free. If there is to be any compulsion at all it should in my opinion be restricted to aid in case of fire or flood or other emergencies affecting general welfare; otherwise *bethi* should be abolished without any reservation and penalised. The question of cost seems to trouble the States only when the relief of the agriculturists is suggested, but they do not seem to mind it in the least when writing away thousands of rupees of State revenue in the form of grants for various purposes. If any difficulty is felt at all it is because of such improper acts, and it would be in the highest degree unfair if the ryot is to be made to labour so that a small number of privileged persons may enjoy rent-free grants. In Bonai a 'commutation' of *bethi* is being made (see report on Bonai). It is urged strongly that all *bethi-begar* should be abolished absolutely and no "commutation" should be permitted. Commutation is, I venture to think, a recognition of this obnoxious levy, a mere change of form. If this form of slavery is to be abolished because it is improper there can be no commutation of it. Commutation means that if a person is not willing to commute, or is unable to do so, then *bethi-begar* would continue as before. I urge with all emphasis that no levy or impost which is considered improper can be commuted; it would not be abolition but continuation of it in another form. I am not ignoring the practical aspects of the problem. If on account of the abolition of any such levy, the State has to find more money for expenditure, this should come from sources where there is scope for other taxation or by economies elsewhere. Taking the particular case of Bonai, where "commutation" is being made by putting up all rents I would point out that a survey and resettlement is highly desirable in this State for proper administration, and if in the course of the resettlement the land is assessed to a fair rent which is bound to be higher than the present rates which were fixed many years ago, the State would get a higher revenue; as it is, there is a chance of the State making one enhancement now on the ground of commutation and a further enhancement a few years hence on the ground of resettlement. What I wish to point out is that the case for additional revenue should be decided on the basis of a scope for further taxation and not simply on the ground of abolition, of *bethi* and as a *quid pro quo* for it In Surguja, the people are not in favour of a road cess being imposed in lieu of *bethi*; they are prepared to maintain the road, if necessary. This indicates that a surcharge on the land revenue is considered more objectionable than unpaid labour; if therefore a cess is imposed because *bethi* is not levied, such a proceeding would I think be definitely improper. I therefore propose to make a provision against *bethi* in the proposed law except for dealing with fires, floods or other emergencies such as defence and I recommend that ideas of commutation should not be encouraged. The case for additional revenue should be considered only on its merits and should not take any objectionable form such as a cess on land revenue or an increase of rates during the currency of a settlement.