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Government of Bengal

Report of the Land Revenue Commission Bengal

Vol. I

With
Minutes of Dissent

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1940

No. C. 2369.

FROM SIR FRANCIS FLOUD, K.C.B., K.C.M.G.,
Chairman, Land Revenue Commission, Bengal,

TO THE SECRETARY TO THE GOVERNMENT OF
BENGAL, REVENUE DEPARTMENT.

Calcutta, the 21st March 1940.

SIR,

I have the honour to forward herewith the final report of the Land Revenue Commission which was appointed by the Government of Bengal on the 5th November 1938. The report has been signed by all the members subject in some cases to notes of dissent on particular points.

The Commission as a whole desire to place on record their high appreciation of the services of the staff placed at their disposal. In particular it has been of the utmost advantage to have had the services of Mr. M. O. Carter, M.C., I.C.S., as Secretary and a member of the Commission. He has undertaken the general conduct of the work of the Commission, the summoning of witnesses and arrangement of our tours and he has been mainly responsible for the drafting of the report. In all these respects he has done admirable work and his intimate knowledge of every aspect of the land revenue system has been of the greatest possible value at every stage of our proceedings.

Mr. S. B. Hatch-Barnwell, I.C.S., who was attached to the Commission as a Special Officer to act as Private Secretary to the Chairman, has also done good work in recording the discussions at the meetings of the Commission.

The Assistant Secretary, Mr. S. Das Gupta, has rendered excellent service in collecting and tabulating the large mass of statistical material required by the Commission and during the recess last summer he was in charge of the office and was responsible for arranging the evidence which had been collected and obtaining additional statistics on many matters.

Of the other members of the staff, the Head Clerk, Maulvi Syed Hashem Ali, and the two stenographers, Babu Jatindra Narayan Bose, and Mr. K. Ramaswami, deserve special commendation for the efficient manner in which they have carried out their duties and their readiness to work long hours whenever needed. The Commission desire that their appreciation of the services of all members of the staff should be brought to the notice of Government.

I have the honour to be,

SIR,

Your most obedient servant,

Sd. F. L. C. FLOUD,

Chairman.

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VOLUMES III AND IV.

Replies to the Commission's questionnaire by the Landholders' Associations and their oral evidence.

VOLUME V.

Replies to Commission's questionnaire by Government and ex-Government officers and their oral evidence.

VOLUME VI.

Replies to Commission's questionnaire by the Bar Associations and other Associations and individuals and their oral evidence.

INTRODUCTORY.

Personnel.—The Land Revenue Commission was appointed by Government Resolution No. 22716-L.R. of the 5th November 1938, with the following personnel :—

Sir Francis Floud, K.C.B., K.C.M.G. (*Chairman*).

Sir Bijay Chand Mahtab, G.C.I.E., K.C.S.I., I.O.M., Maharajadhiraja Bahadur of Burdwan.

Mr. M. O. Carter, M.C., I.C.S. (*Member-Secretary*).

Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C.

Khan Bahadur Maulvi Hashem Ali Khan, M.L.A.

Mr. S. M. Masih, Barrister-at-Law.

Khan Bahadur M. A. Momin, C.I.E.

Sir Manmatha Nath Mookerjee, KT.

Dr. Radha Kumud Mookerjee, M.A., P.R.S., PH.D., M.L.C.

Mr. Brajendra Kishore Roy Choudhury.

Sir F. A. Sachse, KT., C.S.I., C.I.E.

Mr. Masih did not join the Commission and Sir M. N. Mookerjee resigned in January 1939.

2. **Preliminary work.**—The Commission assembled on the 19th November and its first meeting was attended by the Hon'ble Sir B. P. Singh Roy, Revenue Minister, Bengal, who introduced the Chairman, and outlined the importance of the work that lay before the Commission. During the following 10 days the Chairman, accompanied by Sir F. A. Sachse and the Secretary, toured in the 24-Parganas, Mymensingh, Dacca, and Bakarganj districts, while the other members began their consideration of the terms of reference, and the questionnaire which had been drafted by the Commission's office for their suggestions. The meetings at the end of November and in the first part of December were devoted to discussions on the questionnaire, and the list of associations, Government officials, and others to whom the questionnaire should be sent. The final form of the questionnaire was approved on the 12th December.

3. **Madras tour.**—Pending the receipt of replies, the Commission decided to visit the Province of Madras in accordance with the second term of reference, which directs a

comparison of the general level of rents in other provinces and the economic condition of the cultivators in other provinces with those of Bengal. The Commission spent 11 days during the first part of January 1939 in visiting Madras, where it met the Hon'ble the Revenue Minister and a number of officials and non-officials, and in making enquiries in Chingleput and Vizagapatam districts. The first is in the raiyatwari area; the second in the permanently-settled area.

4. **Recording of evidence.**—On its return to Calcutta, the Commission began the hearing of the oral evidence from Government officials, and from the beginning of March it recorded the oral evidence of associations representing the landlords, tenants, and bar associations, and that of selected gentlemen to whom the questionnaire had been sent. This evidence was concluded by the end of March when the Chairman left for England.

5. **Recess work.**—During the recess, the Commission's office was occupied with the arrangement of the enormous volume of evidence, oral and documentary, which had been collected, and later, with the collection of additional statistics from all districts regarding the average area in possession of cultivating families, the extension of the barga system, and other matters connected with the economic condition of the cultivators. The Director of Land Records and Surveys was kind enough to lend the services of 10 Kanungos to carry out enquiries in selected villages of every district during a period of four months.

6. **Additional appointments.**—The Commission re-assembled in November 1939.

On the 17th of November 1939, Government announced the appointment of the following additional members :—

Mr. Abul Quasem, M.A., B.L.,

Mr. Nuruddin Ahmed, B.L., and

Mr. Anukul Chandra Das, M.L.A.,

in accordance with the announcement made in the Resolution appointing the Commission that two more Muslim members, and one Scheduled Caste member would be appointed later on.

7. **Punjab and United Provinces tours.**—On the 16th November the Commission left for Lahore and spent 10 days touring in the Punjab. At Lahore it met the Hon'ble the Revenue Minister and several officials, and then visited several villages in the Amritsar, Jhelum and Lyallpur

districts, which had been selected by the Punjab Government. A similar programme was carried out in the United Provinces, where the Commission spent two days at Lucknow in meeting officials and then toured in the Aligarh, Agra, Jhansi and Benares districts.

8. **Concluding stages.**—The Commission returned from its tour on the 12th December and held five meetings before the Christmas holidays. From January 1940 until the conclusion of its work, the Commission examined the evidence tendered before it, framed its decisions, and considered the draft sections of the report.

9. **Appendices.**—The Government notification appointing the Commission and containing the terms of reference, together with the subsequent notification appointing three additional members will be found in Appendix I.

Appendix II is the Commission's questionnaire.

Appendix III is the list of associations, Government officers, and other persons to whom the questionnaire was sent, showing those who replied and those who did not.

Appendix IV is the list of witnesses examined in Calcutta.

Appendix V is the list of places visited, and persons examined in Madras, the Punjab and the United Provinces.

Appendices VI, VII and VIII are the Commission's notes on the tours in Madras, the Punjab and the United Provinces respectively.

Appendix IX contains the statistical information which has been collected by the Commission.

The documentary and oral evidence tendered before the Commission is contained in the subsequent volumes of the report.

Scheme of the Report.

10. **Terms of reference.**—Our terms of reference direct us generally to examine the existing land revenue system of Bengal in its various aspects, with special reference to the Permanent Settlement; to estimate the effect of the system on the economic and social structure of Bengal, and its influence on the revenues and administrative machinery of the Provincial Government; and to appraise the advantages and disadvantages of the existing system. We are also instructed in the fifth term of reference to report whether it is practicable and advisable for Government to acquire all the superior

interests in agricultural land so as to bring the actual cultivators into direct relation with the Government. Whatever may be our final recommendation for the modification or improvement of the present land revenue system, we are bound to give full consideration on its merits to the proposal to abolish the zamindari system in its entirety.

11. **Need for historical introduction.**—In order to appreciate the reasons for enacting the Permanent Settlement, and the various Regulations which were promulgated in 1793 and the following years, it is necessary to explain the meaning of land revenue and to refer to some of the theoretical aspects of different systems of land tenure.

We propose also to give an account, as briefly as is consistent with such a large subject, of the systems of revenue administration in the Hindu and Moghul periods, and the British period up to 1793; and to set out the conflicting views on the relative position and rights of the zamindars and raiyats prior to the Permanent Settlement.

12. **Subsequent sections of the report.**—The historical account will be followed by a description of the development of the system resulting from the Permanent Settlement between 1793 and 1859, when the Rent Act was passed; and an account of the successive modifications introduced by the series of Tenancy Acts from 1859 to 1938. We shall then describe the financial, administrative, social and economic results of the Permanent Settlement and enumerate what we consider to be the principal defects in the land revenue system. That will bring us to the central question contained in the fifth term of reference, whether or not the present defects can be remedied within the framework of the Permanent Settlement and the zamindari system.

We shall state the reasons why the majority of our members have come to the conclusion that the solution lies in the acquisition of the interests of the zamindars and all grades of rent receivers, and shall discuss the financial and other aspects of an acquisition scheme.

The subsequent sections of the report will deal with the problems of transfer, subletting, and the status of bargadars; the economic condition of the cultivators in Bengal, compared with that of the cultivators in other provinces; the possibility of improving economic conditions; the theory and method of assessing rent; and the possibility of improving agricultural credit, and the realisation of arrear rents.

CHAPTER I.

The Land Revenue System of Bengal.

13. **Land systems.**—Practically in all countries there are three parties interested in the land:—the cultivators, the landlord, and the State. In some countries the State has not reserved for itself any direct interest in the land. Landlords of various types are recognised as the owners of the land, and they let it out, usually by contract, to the actual farmers. In other countries the State regards itself as the owner of the land, and prescribes the terms by which it is held in smaller or larger blocks by the actual cultivators. In India by the ancient law of the country the ruling power has always held itself entitled to a certain portion of the produce of every acre of land, unless it transferred or limited its rights thereto[1]. Even at the height of their power it does not appear that the Moghul Emperors ever claimed a greater interest than this. They admitted the right of the occupiers or cultivators to the remaining share of the crop, which had to be at least sufficient to pay the cost of cultivation and to keep them alive.

According to most of the recognised authorities on political economy, the triple system—State, landlord and cultivator—has in theory many advantages. (1) The landlord provides the capital for agricultural machinery and development of new lands, also the expert knowledge and business organisation which a group of illiterate working farmers may not be able to provide. (2) The peasant supplies the labour, and the (3) State holds the balance between the two parties and sees that neither exploits the other. The State also provides for the maintenance of the peace and the administration of justice.

14. **Revenue and rent.**—It is clear that the State must have funds to fulfil its ever-increasing functions, and in a country like India, where the land is almost the only source of income to the majority of the inhabitants, the State has always been dependent for the major part of its income from land.

All Governments in India have considered themselves entitled to a share of the produce, and this share of the produce, whether collected direct, or through farmers of revenue, or through subordinates or intermediate landlords, is called "land revenue". There is no essential difference between land

[1] Preamble to Regulation XIX of 1793.

revenue and rent. Both are, in theory, a share of the produce, or its equivalent in cash. Technically, revenue is the share which the State receives into its own exchequer, whether from the tenants holding directly under the Government, or in lump sums from the zamindars or landlords to whom has been conceded the right to collect it from the actual cultivators. What the cultivator pays to an intermediate landlord, or the intermediate landlord pays to the proprietor is called rent. The difference between the rent paid by the cultivator, and the share of it paid into the treasury as revenue, is the profit of the landlord or of successive grades of landlords. It may represent either the landlord's commission for collection, or the value of his interest as proprietor of the soil.

15. **Revenue as a share of the produce.**—There are many theories about the nature of rent to which reference will be made in connection with the third term of reference, viz., what is the soundest principle for fixing fair rents. It is sufficient to note here that though land revenue may be described as a tax, whatever its actual incidence may be on any particular land, it is theoretically a share of the produce of that land, contributed by the occupier to the community. All economists have been inclined to treat land as a special kind of property because in all developed countries it partakes of the nature of a monopoly, of which there can never be an unlimited supply.

System of land tenure up to the Moghul period.

16. **The earliest period.**—The first recorded epoch of Indian history is the struggle between the Aryans and the primitive peoples, whether of Dravidian or Mongolian stock, whose ancestors had first brought the lands of India under cultivation. If, as is believed, cultivation began in Africa 5,000 years ago, it is probable that in most parts of India the original form of cultivation, which still prevails in the Chittagong Hill Tracts under the name of jhum, gave way to continuous cultivation of the same lands year after year at a still earlier period. When the Aryans came to India, they found the indigenous peoples living in communities under tribal or local chieftains. Not all the tribes were savages. The Nishada who lived under a settled organisation were envied by the invaders for their wealth. Besides the flourishing kingdom of Pandya in Madras, there were kings and vassal princes in all parts of India.

The Aryans themselves in their successive waves of invasion through the north-west passes of the Himalayas were led by

chieftains or kings whose functions are thus described in Helmolt's History of the World: "They conducted the temporal affairs of the tribe and represented them before the powers of heaven." Sometimes the king was allowed to be represented in religious ceremonials by a "purchita". This was the beginning of the separate priesthood, the struggle between which and the kings exercised a far-reaching influence on the further development of the Aryan people. Though the Aryans may originally have followed pastoral occupations, they took to agriculture when they settled down in India. They dispossessed the original inhabitants of the best lands, and either cultivated them themselves, or had them cultivated by the non-Aryans as serfs or bargadars.

17. **The early Hindu period.**—The Rig Veda was written about 3,000 years ago, when the Aryans were expanding their conquests from the Punjab to the territories of which the Ganges was the main river. At this time the village community had reached a very high degree of development. The ancient Sanskrit hymns and law books show that agricultural methods and the agricultural organisation were practically the same as at the present day. There were towns and villages and a hierarchy of officials. The king was the lord of all, and he exacted a share of the crop from every cultivator, and taxes from every other class of his subjects. But though he had certain powers to dispose of the waste, and to eject cultivators who were not doing their duty to the community by cultivating properly, it does not appear, in spite of the statements of Greek writers to the contrary[1], that he ever had any right in the soil. Hindu sages have said repeatedly that he was not the proprietor of the soil. He was entitled to a share of the produce for meeting the common expenses of the community.

Manu said that the land belonged to the person who cleared the jungle and brought it under cultivation. The same authority says that he could sell, give, bequeath or otherwise alienate it at his individual discretion.

18. **Period of Chandra Gupta.**—The Arthasastra, compiled about 323 B.C., gives a much more detailed picture of an organised state, in which there was a regular system of survey settlement and assessment. There were Crown lands cultivated by hired labour or serfs or convicts, or, if this was not convenient, by persons paying half of the produce.

[1] Diodorus and Strabo said that all land in India was the property of the king. Monahan in his "Early History of Bengal" says that these statements were probably a misunderstanding of Megasthenes, page 153.

Independent cultivators paid one-fourth of the produce. There were special rates for irrigated lands. The soldiers were a separate class from the cultivators. Like certain classes of holy men and large numbers of officials, physicians, veterinary surgeons and horse trainers, they held their lands tax free.

This description however applies to the Maurya kingdom of Chandra Gupta which had its headquarters at Patna. It seems that the Aryan influence never extended much beyond Bihar and the western parts of Orissa. When the Muhammadan conquest began, the whole of the present Province of Bengal was mainly Buddhist. There were several kingdoms like Kamrup with its capital at Gauhati, Samatata with its capital at Jessore, Tamralipta with its capital at Tamluk, and Adhra (Orissa), and there were numerous vassal kingdoms under them. Their administration was immensely inferior to those of the States described above and the remoter villages were left untouched by their existence.

19. **Individual ownership in Bengal.**—The village communities, as described by Sir Henry Maine, in which all the lands of the village, cultivated or uncultivated, were owned jointly, never existed except in certain parts of the Punjab, Oudh and Southern India. In Bengal there was no community or joint holding in villages, though they may have been subject to overlord tenures, with their connected fiefs and minor holdings[1]. In Bengal proper the land belonged without dispute to the original cultivators, and even when village communities found it necessary to strengthen their organisation for the sake of protection against outsiders, all that the community, as distinct from the individuals it governed could do, was to take a part of the produce from each family cultivating land for the maintenance of the village officials and the cost of administration.

20. **Growth of kings or chiefs.**—Sometimes the headman of a village usurped the powers of a community and became the virtual ruler of surrounding villages. More often the community was obliged to recognise the authority of some outside potentate and to pay him tribute[2]. But in no case did

[1] Baden Powell's "The Indian Village Community", page 178.

[2] Chen Han Singh in his "Agrarian Problems in China" (1936) says that in parts of China, two rights in land are still recognised. The "skin" right, or right in the soil, which remains as a right of occupancy with the cultivators, and the "bone" right, or the landlord's right to a share of the produce. He suggests that the latter right originated because the village community found it convenient to obtain the protection of a local magnate against the extortion of the Imperial tax gatherer by paying him a commission or rent. Something similar might have happened in India also.

the chief, either in the Aryan communities or among the primitive tribes, assert a right to the absolute ownership of all land. As Baden Powell says "the fact of the king having a share of the produce naturally put him in a position to exercise a degree of control, the limits of which in fact depended on his own sense of what was right. It became a recognised attribute of the ruling power that as a matter of custom it had the combined right to the share of the produce, the right to the waste and the right to transit dues. This aggregate of rights from very early Muhammadan times was spoken of as the zamindari[1]." By the time of the Moghul conquest, the old State-right, or zamindari, had been magnified into a general superior ownership of the entire domain, but the better class of even foreign conquerors never conceived of their rights as necessarily antagonistic to the concurrent, hereditary, permanent and long established right of the old cultivators of the soil.

The Moghul Period.

21. **Existing system maintained.**—After the Moghul conquest of India, instead of distributing all the conquered lands among their followers, the conquerors left the occupiers in possession, subject to the payment of "khiraj" or land revenue, and a poll tax. Theoretically, it might be held that all the rights of the zamindars then in existence, whether obtained by conquest or otherwise, came to an end. Actually the existing system was interfered with as little as possible. Not only were the old chieftains allowed to remain, and go on collecting and transmitting revenues from the areas under their control, but further zamindars came into existence between the State and the cultivating raiyats.

22. **Share claimed by the State.**—In the 16th century Sher Khan fixed the share of the produce payable as revenue at one-fourth, and attempted to introduce a more regular system of assessment and collection; but it was not until Akbar's reign that a really detailed system of assessment was introduced by his Revenue Minister, Raja Todar Mal. The basis of this assessment was measurement, and an estimate of the average produce from various classes of land. The State's share was fixed at one-third of the average gross produce. Produce rents were made payable in cash on the basis of investigations into

[1] Baden Powell's " The Indian Village Community ", page 208

prices carried out over a period of 19 years. Payment in cash was encouraged, and was compulsory if valuable money crops were grown.

23. **Todar Mal's system.**—Under Todar Mal's system, Bengal was divided into 19 Sarcars or districts, each district being subdivided into a number of parganas, the unit of the previous Hindu system. The assessment was made by reference to the actual produce of the soil, but payments in cash were encouraged. The total assessment was Rs. 1,06,93,151, but this covered besides the Province of Bengal as it is today, the whole of Bihar, and part of Orissa.

24. **No measurement in Bengal.**—There are good reasons for believing that Akbar's system of assessment by measurement was never applied to Bengal. When Bengal was annexed, Akbar maintained the existing system of assessment, which is described in the Ain-i-Akbari as "nasaq"—a term signifying a lump assessment. It is significant that whereas there are figures showing the actual area in bighas of the parganas and provinces in the central portion of Akbar's Empire, there are no figures for pargana areas in Bengal, Orissa and part of Bihar. Probably therefore the revenue derived from Bengal consisted of lump assessments, based on what could only have been an estimate of the cultivated area, and the assets.

25. **Subsequent increases of revenue.**—Todar Mal's assessment was made for 10 years but remained in force for 76 years until 1658, when Shah Shuja, the Nawab of Bengal, made a new assessment, by which he increased the assessment from 107 lakhs to 131 lakhs. Murshid Kuli Khan made a further increase to 142 lakhs in 1725. In addition to the revenue assessment he imposed three abwabs known as the khasnabisi, the kaifiyat, and the taufir. The kaifiyat represented an increment derived from "concealed collections", and the taufir was levied on the plea that there were concealed lands, to the income of which the State was entitled. At the same time he resumed the lands of a large number of jaigirdars. He also attempted a system of direct management by removing the zamindars, and appointing his own officers to carry out the collections. But this attempt was shortlived, and in 1728 Sujauddin Khan restored the zamindars to possession.

Between 1740 and 1756, Alivardi Khan imposed further abwabs, including the Mahratta Chouth. The revenue at this time amounted to 256 lakhs, of which 119 lakhs consisted of abwabs.

26. **Position of the cultivators.**—The position of the cultivators during the Moghul time was substantially the same as in the Hindu period. The State's share of the produce had been increased from one-sixth to one-third in Akbar's time, and generally to a half during Aurangzeb's reign, but otherwise there was little change. The old residential cultivators, who were called the khudkasht raiyats, had the right to remain in undisturbed possession of their holdings, subject to the payment of their dues. In effect they had the right which subsequent tenancy legislation has called a right of occupancy. The share of the crop, or its cash equivalent which they paid, was regulated by customary rates known as pargana rates. When an increase in revenue was made by the Moghul Emperor, or an abwab imposed on the zamindars and farmers of revenue, the increase was collected *pro rata* by them from the cultivators. Abwabs were additional impositions of the State, and amounted in fact to increases of revenue, although they were separately accounted for. They are to be distinguished from abwabs in the modern sense of the word, which implies an exaction by a landlord from a tenant in excess of the rent legally payable.

The khudkasht raiyats were liable to be evicted if they failed to pay their dues, and there is evidence that defaulters were sometimes treated with the greatest severity.

Besides the khudkasht raiyats, there was another class of raiyat called the paikasht raiyats. They were the non-residential cultivators, who came into the village to cultivate temporarily. They had no customary rights and no security of tenure, for which reason they generally paid at a lower rate than the khudkasht raiyats.

Rise of the East India Company.

27. **Early acquisitions.**—The East India Company first came to India as traders, but in 1698 they obtained from the Emperor's representative permission to purchase the taluqdari rights over the villages of Calcutta, Sutanati and Govindapur at a rental of Rs. 1,195-6. For the grant of a sanad they gave a present of Rs. 16,000 to the Emperor's representative, and as the purchase price they paid Rs. 1,300 to the zamindar[1]. In 1757 Siraj-ud-doula assigned to the Company 38 villages lying to the south of Calcutta, and at the end of the same year Mir Jaffar made over a tract of 822 square miles which came to be

[1] A Short History of Calcutta by A. K. Roy, pages 22 and 23.

known as the 24-Parganas, and the Company became the zamindar of this area on payment of Rs. 2,22,958 annually to the Nawab. The revenue was transferred in 1759 to Clive as his jaigir in return for services rendered to the Emperor. In 1765 the grant was confirmed for 10 years, after which it lapsed to the Company who held the 24-Parganas revenue free. In 1760 Mir Kasim assigned to the Company the revenue from the lands now covered by the districts of Burdwan, Midnapore and Chittagong. In defining the power which the Company was to exercise he directed in the deed of assignment that none of the zamindars or tenants should be dispossessed[1].

28. **Grant of the Dewani.**—By the agreement of August 1765, the Company obtained the Dewani of Bengal, Bihar and Orissa, in return for an annual payment of 26 lakhs to the Emperor Shah Alam. This meant that the Company became the representative of the Central Government and acquired the right to collect the revenue from those provinces, though the executive and judicial administration remained in the hands of the Nawab. The Nawab received an allowance of 53 lakhs a year as the necessary expenses of the administration, and for the maintenance of his position; and the Company had to defray the cost of its military establishment from its general revenues.

29. **Appointment of supervisors.**—For some years the Company maintained the revenue system which it had taken over and continued to collect the revenue through Muhammad Reza Khan, who was appointed Naib Dewan by Clive. Then defalcation was suspected, and in 1769 supervisors were appointed "to compile a summary history of the ancient constitution as compared with the present, and to draw up an exhaustive report on the state, the produce and capacity of lands, to ascertain the amount of revenues, the cesses or arbitrary taxes, and all the demands whatsoever which were made on the raiyats; and prepare a rent-roll from the time of Suja Khan downwards". Two Councils were appointed to control the work of the supervisors, one at Murshidabad for Bengal, and the other at Patna for Bihar.

30. **Direct collections.**—In 1770 a disastrous famine occurred, which is said to have swept away one-third of the population and thrown a large part of the province out of cultivation. This calamity enormously increased the difficulty of making the standard collections of revenue. In 1772, the

[1] Harrington's Analysis, Volume III, page 310.

Court of Directors decided to remove the Naib Dewan and to make direct collections. The supervisors, who had failed, as they were bound to fail, to make the exhaustive enquiries expected of them, were replaced by a Committee of Circuit, who were instructed to tour the province and make settlements by auction to the highest bidders for a period of 5 years. For the second time, therefore, the claims of the zamindars were completely ignored.

31. **Short term settlements.**—The new system proved an absolute failure. The old zamindars and farmers had to bid up to a higher revenue than their estates could bear, if they wished to retain possession. Speculators stepped in who overbid some of the existing zamindars and farmers, and could only realise the stipulated revenue by squeezing the last farthing out of the raiyats. The result was that at the expiry of the period of settlement the estates were left in an exhausted condition. Arrears accumulated and the decreasing collections of revenue so impressed the authorities in India as well as the Directors at Home, that steps had to be taken to evolve a more satisfactory system. The policy of short term settlements had also led to complaints that the hereditary and proprietary rights of the zamindars were being ignored, and this was one of the grounds on which Warren Hastings was impeached.

32. **Pitt's India Act.**—In 1784, Pitt's India Act was passed. Section 39 required the Court of Directors "to give orders for settling and establishing upon principles of toleration and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents and services of the Rajas, zamindars, polygars, talukdars and other native landlords should be in future rendered and paid to the United Company." The Act was followed in Bengal by investigations, which were carried out through Collectors over several years. These inquiries produced a large volume of information regarding the rights of the zamindars and raiyats, which was considered by some authorities of the time to be sufficient: by others insufficient.

33. **Controversy over the zamindar's status.**—In the case of the zamindars, the question at issue was not the relative rights of the zamindars and the raiyats, but the status and rights of the zamindars *vis-a-vis* the State. This question was discussed threadbare before the Permanent Settlement was enacted, and the discussions culminated in the well-known controversy between Grant and Shore. Grant maintained that

the State had supreme proprietary rights in the soil, and that the zamindars were nothing more than agents for collecting the revenue. Shore held that an analysis of the incidents attaching to the zamindars' rights, such as heritability and transferability, showed that they had a limited but not an absolute proprietary right. The conflict of opinion that existed then, and even now exists, is largely due to the fact that some of the incidents of the zamindars' tenure appear to be the antithesis of others. For instance, the zamindars undoubtedly had heritable rights; yet the more important zamindars were required to apply for sanads, or title deeds, on succession: the zamindars transferred their property without sanction in some cases, though strictly speaking they could only transfer with the Government's permission.

34. **Different classes of zamindars.**—In analysing the status of the zamindars, it is important to bear in mind that before the Permanent Settlement there were different classes of revenue payers. There were, firstly, the original independent chiefs, such as the Rajas of Cooch Behar, Assam, and Tripura, who retained possession of their territories on payment of revenue as tribute to the Moghul rulers; secondly, the old established landholding families, such as the Rajas of Rajshahi, Burdwan, and Dinajpur, who were *de facto* rulers in their estates, and like the independent chiefs paid a fixed land tax to the ruling power; thirdly, there were the collectors of revenue, who had been inducted by the Moghul Government, and whose office had tended, after several generations, to become hereditary; lastly, there were the farmers, who had been in charge of the collection of revenue after the grant of the Dewani, and who had come to be called by the general term "zamindar". It is obvious that if a settlement had to be made with any one, the first two classes had a strong claim, the third class had a lesser claim, and the fourth had virtually no claim at all.

The effect of the Permanent Settlement so far as the zamindars were concerned, was to level all classes under the same denomination. While the farmers obtained some rights as proprietors of the soil which they had never possessed, the independent chiefs and the old established landholding families were confirmed in the position they had occupied for centuries, and even lost some of the privileges they had previously enjoyed under the Central Government.

35. **Position of the raiyats.**—So far as the raiyats were concerned it was never the intention to take away any of their

existing rights: on the contrary it is clear that the intention was to allow them to go on enjoying the rights which they had always possessed by custom. As we have mentioned above, the holdings of the khudkasht raiyats were certainly heritable, and they were entitled to remain in undisturbed possession, subject to the payment of their dues. Whether or not their holdings were transferable is a question on which authorities differ, but at a time when there was more land than there were raiyats to cultivate it, transfers could not have been objected to by the zamindars or farmers.

36. **Enhancibility of rents.**—Of more importance is the question whether rents were enhancible. We have seen that enhancements of revenue were made during the Moghul period, which had the effect of increasing the pargana rates; and that subsequently various abwabs, or State imposts were added, which had the effect of increasing the amount paid by the raiyats, although they were separately accounted for, and not consolidated with the rent.

Without entering into a technical discussion on pargana rates, it can be definitely stated that although the authorities were anxious to secure that rents should remain at a level which the raiyats themselves recognised as customary, they found that so much uncertainty and confusion existed regarding the pargana rates, that they were unable to lay down any rules that would be generally applicable. The inquiries which followed the passing of Pitt's India Act showed that the rates differed not only from pargana to pargana, but from village to village within the same pargana, and that often there were different rates within the same village. It is also clear that different rates were payable for different crops. For instance, if a valuable crop like sugarcane was substituted for a less valuable crop like wheat, a higher rate had to be paid.

37. **Fixity of rent considered.**—Nevertheless the question of fixing the raiyats' rent in perpetuity was considered. The Court of Directors wrote: "it is an object of perpetual settlement that it should secure to the great body of the raiyats the same equity and certainty as to the amount of their rents, and the same undisturbed enjoyment of the fruits of their industry which we mean to give to the zamindars themselves[1]". But no provision to that effect was made in the Permanent Settlement Regulations which were enacted in 1793, and the

[1] Court of Director's Despatch of September, 1792.

reason was that the authorities found it too difficult a task to define what were the pargana rates, and the customs governing rent. It is also clear from the writings of Lord Cornwallis and other authorities that they recognised the dangers of fixing rent in perpetuity because the information about the area under cultivation, and the system by which rents were fixed was very meagre.

38. **Expectations of the authorities.**—At that time nobody thought it possible that rents could be further enhanced[1]; and when there was more waste land than there were raiyats to cultivate it, nobody thought that it would pay a zamindar to evict his raiyats. It was expected that security of tenure, and security against enhancement would be assured, by providing in the Regulations that the rate of rent of khudkasht raiyats should not exceed the pargana rate, and that it must be entered in a patta to be given by the zamindars to each raiyat. Any exactions over and above the stipulated rent were forbidden in future, but the abwabs which had been imposed under the later Moghul Governors were allowed to remain, and were to be consolidated with the rent, on the ground that there had been a rise in the value of agricultural produce since they were imposed.

39. **Failure of these expectations.**—The intention of the authors of the Permanent Settlement was therefore to confirm khudkasht raiyats in their existing customary rights, and to provide against enhancement beyond the pargana rates and against arbitrary exactions. But their intention was defeated by the omission to make any definite provisions regarding customary right and pargana rates. They hoped that the difficulties which they had found in their investigations would be resolved in the course of judicial proceedings before the civil courts. But the courts found it equally difficult, in the absence of express provisions in the Regulations, to decide what were the customary pargana rates.

40. **Raiyats at fixed rates.**—The only exception to the general policy of leaving existing rights to be safeguarded by custom was made in the case of raiyats, who prior to the Permanent Settlement held at fixed rates of rent by contract. Their rents were declared to be fixed in perpetuity if they had held at a fixed rate for 12 years, or in cases where they had held for less than 12 years, if they had a contract with their zamindars.

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[1] Lord Cornwallis' Minute of 3rd February, 1790.

Summary of Rights.

41. **The State.**—We may sum up the rights of the State, the zamindars and the raiyats at the Permanent Settlement, by saying that the State, although still regarded theoretically in parts of India as the supreme owner of land, has never in practice claimed any actual proprietary rights in the soil. Its claim has been limited to a share of the produce. This claim was normally one-sixth under the Hindu Kings; and it became one-third under Akbar.

42. **The zamindars.**—The zamindars in Bengal never had an absolute right of property in the soil; nor was it intended to give them such rights by the Permanent Settlement. Their rights have always been limited by the rights of the raiyats. In the great Rent Case[1], Mr. Justice Trevor described the position by saying—"The zamindar enjoys his estate subject to, and limited by, these rights and interests of the raiyats, and the notion of an absolute estate is as alien from the Regulations as it is from the old Hindu and Muhammadan Law."

43. **The raiyats.**—From early historical times the rights of the cultivators were limited by those of the King, or the persons to whom the King had made grants of land. In those early days their right was primarily a right to cultivate, and they could be evicted for failing to cultivate properly. At the time of the Permanent Settlement their holdings were heritable, and perhaps transferable. Their rate of rent was limited by a customary, but undefined pargana rate, and they could be evicted for failing to pay their dues. But their rights had become obscured during the latter part of the Moghul rule by an administration whose ever-increasing exactions of revenue were followed by rack-renting of the raiyats. The Permanent Settlement omitted to define the limit of pargana rates, and thus made the raiyats liable to enhancements of rent. But tenancy legislation from 1859 onwards, as we shall presently describe, while recognising the zamindars' right to enhance rents, has given the raiyats increasing protection, until today they have a large measure of proprietary rights. This is clear from the fact that if all the superior interests in land above that of the occupancy raiyat were acquired, and compensation paid for them, the occupancy raiyats would not, in the opinion of all our

[1] Weekly Reporter, Volume III, Act X, page 29, *et seq.*

witnesses, be prepared to pay any part of the compensation towards the acquisition of full proprietary rights. There are no elements of proprietorship for which it would be worth their while to pay anything.

The Permanent Settlement.

44. **Its terms.**—Having given as brief as possible an account of the early land revenue systems, and of the events that led up to the Permanent Settlement, we must now explain exactly what the Permanent Settlement was. It recognised that the East India Company, in its capacity of sovereign authority, and the zamindars or farmers through whom the State's share had been collected, had a joint interest in that share of the produce from every acre of land, which was the traditional property of the State. It fixed the revenue at ten-elevenths of the assets, which left to the zamindars one-tenth of the revenue which they paid. In addition, the zamindars were to be given the benefit of any future increase in the value of the State's share, which might result from the extension of cultivation or from other causes, and the State promised not to make any demand "for the augmentation of the public assessment in consequence of the improvement of their respective estates". In other words, the State declared that it would for ever afterwards be content with the sum then assessed as the cash revenue of each estate, and the property that it gave to the zamindars consisted of one-tenth of the State's share, plus the increment that might be derived from the extension of cultivation or other causes. In addition, the zamindars were declared to be the proprietors of the soil, and were deliberately given all property rights which could not be proved to be an encroachment on the prescriptive or customary rights of the tenants. These rights were not defined in the Regulations because on the information then available to the authors of the Permanent Settlement, it proved impossible to do so. They were content to reserve to the State the right at any time to legislate for the benefit and protection of the tenants, and to instruct the zamindars to treat them with justice and moderation.

At the same time the zamindars were made liable to have their estates sold for arrears of revenue, if the revenue was not paid by sunset of the latest day fixed for each instalment; and no excuses, such as drought or famine, were to be accepted for non-payment.

45. **Reasons for a zamindari settlement.**—Before proceeding to analyse the effect which the Permanent Settlement has had on the finances of the Government and the economic and social structure of the Province as a whole, we consider it important to state that in the situation which existed immediately before the Permanent Settlement, when the East India Company was preoccupied with wars outside Bengal, when the Mahratta raiders were a constant menace, and the country was still suffering from the disastrous effects of the famine of 1770, there were very cogent reasons for some form of zamindari settlement. The entire absence of maps and reliable records of the areas and rent of individual holdings made a raiyatwari settlement impossible. Quite apart from the difficulties caused by the lack of roads and means of communication, the Company had no trained staff capable of direct collection from the cultivators. Some form of agency for the collection of revenue on contract or commission was essential. The only practical alternatives were to collect the revenue either through the zamindars, who had hereditary connection with particular areas and who had carried out that duty for previous Governments, or to appoint an entirely new set of professional tax-collectors. The latter system had been tried between 1770 and 1775 and had failed disastrously. Lord Cornwallis and his advisers therefore preferred to entrust the collection to the zamindars, partly because Parliament and the Directors had instructed them to give full weight to the claims of persons possessed of any degree of proprietary title in particular estates, and partly because they thought that the zamindars would be a more popular and considerate agency on account of their hereditary relations with the cultivators.

46. **Reasons for a permanent settlement.**—Once this question of policy had been settled, the only question was whether there should be a permanent settlement or a settlement for a sufficiently long period to induce the settlement-holders to expend capital on the development of their estates. The primary object of the East India Company in reorganising the revenue administration was to safeguard the punctual receipt of the land revenue. For this purpose the expansion of cultivation was indispensable, and in the opinion of the Government, this object could only be achieved by giving to all people interested in the land down to the actual cultivator, a sense of security based on a well-founded belief that it would be they, and not their superiors, whether the State or the landlord, who would reap the benefit of their industry

and enterprise. Parliament and the Court of Directors, with whom Lord Cornwallis agreed, were therefore in favour of a permanent settlement. Though they recognised that the fixing of the revenue for ever would in time lead to loss of revenue to the State, they thought that Government could make up the loss by indirect taxation, and in other ways, from the growth of prosperity, trade, and industry throughout the province.

47. **Shore's proposal for temporary settlement.**—On the other hand, Shore and the local revenue experts realised how defective was the material then available for making an assessment which could never be altered thereafter, however inadequate or inequitable. They realised how much land there was in Bengal which could be brought under cultivation within a limited period, and they attached more importance than Lord Cornwallis to the loss which might result to posterity from declaring the revenue fixed for ever. For these reasons, Shore recommended a temporary settlement for 10 years. It can be seen now that if the Government had, at that time, taken a sufficiently long view, a temporary settlement not for 10 years, but for a longer period of 30 or 40 years would have been adopted.

48. **Permanent Settlements' immediate objects achieved.**—We have to admit, however, that the Permanent Settlement did secure its immediate objects. Cultivation did extend and the revenue came in with unfailing regularity. It is true that judging by the experience of the United Provinces, where temporary settlements for long periods have been the rule, the advantages which Lord Cornwallis expected from the Permanent Settlement were also achieved. In the early years of the 19th century cultivation extended just as rapidly as in Bengal and the revenue was realised with equal punctuality. Nevertheless, it must be admitted, that if in Bengal the revenue fixed at the time of the Permanent Settlement was as large a share of the actual assets as is generally believed, no temporary settlement could have been quite as effective as the Permanent Settlement, with its stringent sale provisions, in securing realisation of the revenue for the first twenty years.

Period from 1793 to 1859.

49. **Failure of the Patta Regulation.**—One of the provisions by which it was hoped to assure the customary rights of the khudkasht raiyats was the issue by the zamindars of pattas stating the rent payable by each raiyat. But the Patta

Regulation, as it was called, was a complete failure. The zamindars thought it against their interests to limit their claims; while the raiyats apprehended that they might be evicted at the expiry of the 10 years prescribed by the patta. To remove the deadlock which ensued, it was enacted that if the raiyats refused to receive pattas which were in the proper form, a legal tender of the patta might be made by the zamindars on a notified date, and when that had been done the zamindar could recover the rent claimed from the raiyat through the Courts, or by distraint.

50. **Subsequent insecurity of revenue.**—The effect of this provision was to throw on the raiyats the onus of proving what were the customary pargana rates, and to produce a huge volume of litigation, with which the Courts were unable to deal. Some of the raiyats abandoned their holdings and looked for land elsewhere: others began to withhold payment of rent. In the confusion that followed, Government's revenue became endangered, and the zamindars complained that unless their hands were strengthened, they could not collect their rents, or pay their revenue regularly. This was no less than the truth. The period immediately after the Permanent Settlement, and indeed for three or four decades, was one during which the zamindars were struggling for their existence against the sale law. At that time, one-third of the total area of Bengal according to Lord Cornwallis, two-thirds according to Colebrooke, and four-fifths according to Grant was uncultivated; and the only way in which the zamindars could improve their assets was by bringing waste land under cultivation. The competition was not for land, but for tenants to cultivate it. Consequently if the raiyats withheld their rent, or abandoned their holdings, the zamindar was hard put to it to pay a revenue amounting to ten-elevenths of his assets. The records of that period and the Fifth Report show that more than half the estates in Bengal were sold for arrears of revenue; many of the large zamindaris were dismembered; and most of the original zamindars reduced to poverty.

51. **The "Haptam" and "Panjam".**—The situation that developed led to the passing of the notorious "Haptam" (Regulation VII of 1799) by which the zamindars were vested with wide and arbitrary powers of distraint. To the Government of that time, it was an administrative necessity to have a stringent law of distraint in order to safeguard their revenue; but it is generally agreed that it was a mistake to arm the zamindars with such drastic powers without first enquiring

into the root cause of the trouble, which was, that the rights of the khudkasht raiyats had been left undefined. The "Panjam" (Regulation V of 1812) mitigated to some extent the harshness of the "Haptam's" provisions for distraint, without remedying the real defects.

52. **Report of Select Committee of 1812.**—In 1812, the Select Committee appointed in 1808 by the House of Commons produced five reports on the affairs of the East India Company, of which the fifth dealt with the revenue administration of Bengal. The Select Committee affirmed their desire to preserve the ancient law and constitution of India, but with regard to the rights of the raiyats, they considered that as pattas were being granted by the zamindars on such terms as were customary, or mutually adjusted between the parties, the intentions and expectations of the Government had been fulfilled, because no new Regulations had been enacted, rescinding the former regulations.

53. **Contrary official views.**—It is rather surprising to find this conclusion, because it was quite the reverse of the views expressed by some of the highest officials of that time. Colebrooke, Lord Moira, and others were of opinion that the Regulations, however well intentioned, had had the effect of destroying in part the customary rights of the raiyats. Their views received recognition in a despatch of the Court of Directors in 1819, in which the Directors agreed that both classes of raiyats, khudkasht and paikasht, were equally entitled to Government's protection, and added:—"however well intended for this purpose, our Regulations under the Permanent Settlement have not been effectual to it. It is clear that the rights which were actually conferred upon the zamindars, or which were actually recognised to exist in that class by the enactments of the Permanent Settlement were not intended to trench upon the rights which were possessed by the raiyats." They agreed that it was necessary to define the rights of the raiyats

54. **Regulations of 1822.**—The Government of India proposed in 1822 to enact rules which would allow the authorities in Bengal to fix fair rents for the cultivators in permanently settled estates, and the Court of Directors in their reply again urged the importance of adjusting the rights and interests of the raiyats. But these intentions never materialised. In the same year, two Regulations were passed. One, Regulation VII, provided for the fullest enquiries into

the rights and conditions of tenure of the raiyats, but it applied only to temporarily settled estates. The other, Regulation XI, amended the sale law, and provided that all engagements with the raiyats could be annulled, which had been entered into subsequent to the Permanent Settlement by the defaulting proprietor or his predecessors in interest. Leases for dwelling houses were excepted, and the prescriptive rights of khudkasht, kudimi, or residential and hereditary cultivators were protected interests. Previously the law had been that all engagements with the raiyats could be cancelled, and that the purchaser of an estate could collect from the raiyats whatever the former proprietor would have been entitled to demand had the engagements so cancelled never existed. The change in the law gave rise to the doctrine that khudkasht or residential raiyats, whose tenancies originated after the Permanent Settlement were a distinct class, liable to eviction; or if not evicted, liable to be assessed at the discretion of the landlord.

55. **Report of Select Committee of 1830.**—In 1830 a second Select Committee was set up by the House of Commons. After recording a large volume of evidence regarding the nature, object and results of the Permanent Settlement, the Committee came to the conclusion that the benevolent intentions of Lord Cornwallis had not been carried into practice. Of Bengal they observed:—"In the permanently settled districts nothing is settled, and little is known but the Government assessment"; and they ascribed this lack of information to the "error of assuming that the rights of parties claiming an interest in the land were sufficiently established by the custom and usage of the country to enable the Courts to protect individual rights". They pointed out that no measures had been taken to limit or define the demand of the zamindars on raiyats who possessed a hereditary right of occupancy; and they made the interesting suggestion that Government might acquire zamindaris by private or public purchase, in order to protect the raiyats' rights, provided that the outlay involved was not so great as to prevent the working of such a scheme.

They were not in favour of interfering between the zamindars and raiyats in order to fix fair rents. They considered that this would amount to a breach of faith with the zamindars; but they made an exception in the case of estates which had defaulted in payment of revenue, and suggested that instead of selling such estates, Government might attach them, and effect a fair and equitable settlement between the

zamindars and raiyats, founded on the particular tenures and local usages of each district.

They also proposed a thorough reform of the office of the patwari, or village accountant. This office, along with that of the Kanungo, had been abolished at the Permanent Settlement, and the village records had in consequence ceased to exist.

56. **Necessity of tenancy legislation.**—But these recommendations were never carried into effect. By the middle of the 19th century a revulsion of feeling developed against the working of the Regulations, and agrarian discontent appeared, which compelled the attention of Government. In 1857 a Bill was introduced which was originally intended to amend the law relating to the recovery of rent. But during the progress of the Bill substantial additions were made, with the result that the Act which finally emerged—Act X of 1859—contained for the first time a definition of the right of occupancy, and laid down the law between landlord and tenant.

57. **Summary of period 1793 to 1859.**—The period from 1793 to 1859 was therefore one in which, administratively, the Government were concerned primarily with safeguarding their revenue. That is the background of all the legislation which was passed until the Rent Act of 1859. But as was pointed out by the Select Committee of 1830, the failure to define the rights of the raiyats defeated the intention of the Permanent Settlement Regulations to preserve the customary rights of the raiyats. The amendments that were intended to give relief to the raiyats failed for that reason. Regulation V of 1812 was intended to mitigate the severity of the distraint law in Regulation VII of 1799. Regulation XI of 1822 amended Regulation XLIV of 1793 with the object of protecting the raiyats, when an estate passed to a purchaser. Both failed in their objects, because without a full examination of the raiyats' rights, it was impossible to make a complete and satisfactory adjustment of the relations between zamindar and raiyat. Until the Rent Act was passed, the raiyats were undoubtedly left to the mercy of the zamindars, and failed to obtain from them the generous treatment which was enjoined by the Permanent Settlement Regulations. They were described by the Government of India as having been rack-rented, impoverished, and oppressed[1], and it was for those reasons that the Government of India intervened on their behalf.

[1] Land Revenue Policy of the Indian Government, 1902, page 6.

Economically, the period commenced disastrously for the zamindars; but as a feeling of security developed, and large areas of jungle and waste land were brought under cultivation, the zamindars' margin of profit increased, and by the middle of 19th century they were far less vulnerable to the sale law.

PERIOD FROM 1859 TO 1938.

58. **Chief provisions of the Rent Act.**—The revenue history of the period from 1859 up to the present day is concerned mainly with the statutory development of rights given to occupancy raiyats, and later to under-raiyats. The Rent Act defined the right of occupancy as 12 years' continuous possession of the land in possession of a raiyat. It thereby obliterated the older distinction between the khudkasht and paikasht raiyats, and made length of possession the criterion of occupancy rights. It laid down that rent must be fair and equitable, and it recognised the zamindar's right to claim enhancements on the grounds that there had been an increase in area, that the value of produce had increased, or that the rent of a particular holding was below the prevailing rate. Reductions of rent could be claimed on the ground of a decrease in area or a decrease in the value of the produce. It was also provided that ejectment for non-payment of rent could only be made through the Courts.

59. **Defects in the Act.**—The defects in this legislation soon appeared. It was decided by the High Court in 1862 that the right of occupancy entitled a raiyat to the right of occupying his holding in preference to any other tenant so long as he paid a fair and equitable rent. But there was no definition in the Rent Act of what was fair and equitable, nor was there any principle for the guidance of the Courts. Another serious difficulty was created by the judicial interpretation that in order to maintain a claim to occupancy rights, a tenant was bound to prove that he had been in possession of all his land for 12 years. This interpretation appeared to Government to be contrary to the intention of the Act, and they entered into correspondence with the Government of India with the object of amending the law. The chief defects in the existing law were considered to be—

(*i*) In the absence of village records the raiyats had great difficulty in proving possession of all their fields for 12 years continuously. It had been the zamindars' practice to change the fields in the possession of

raiyats before 12 years had expired in order to prevent their acquiring occupancy rights, or to get them to execute leases for periods of less than 12 years.

(*ii*) It was not laid down in the Act what period should expire before a claim to enhance rents could be entertained.

(*iii*) The landlords had great difficulty in proving that there had been an increase in the value of the produce, because there were no official price lists.

(*iv*) There was no definition of improvements.

During the next two decades, the Act proved to be in some respects unworkable. In Eastern Bengal especially, where the value of the produce was increasing owing to the cultivation of jute, the landlords found great difficulty in sueing for enhancements. The tenants combined to resist the landlords, and in some districts they refused to pay their rents. The history of the period immediately after the Permanent Settlement was repeated. Agrarian discontent grew, and for some years the amendment of the Rent Act became the subject of agitation.

60. **Agrarian disorders.**—In Pabna district riots occurred in 1873, when the Natore estate was broken up and purchased by five zamindars, who attempted to enhance the rents. These riots were the chief reason for the Agrarian Disputes Act, which was intended to meet apprehended agrarian disturbances by transferring in special localities and for a limited period the jurisdiction of the Civil Courts to Revenue Officers. The Act was a temporary measure, designed to be supplemented later by permanent legislation and it was never actually put into force.

61. **Proposal to amend Tenancy Law.**—In 1876 a Bill was introduced by which it was proposed to lay down the principles for fixing rents. This was dropped, and in 1878 a Commission which had prepared a Bill for the realisation of undisputed arrears of rent recommended to Government that it was desirable to undertake a complete revision of the tenancy law. The Government of India agreed, and a Commission was appointed which presented a draft Bill and a report in 1880.

62. **Tenancy Act of 1885.**—The Tenancy Act which resulted in 1885 was based on this Bill. It repaired the defect

in the law relating to occupancy rights by enacting that a raiyat who had been in possession of any land for 12 years, either himself or through inheritance, would become a settled raiyat of the village, with occupancy rights in the land he already possessed, and would immediately acquire those rights in any new land which he took into cultivation.

The right of a raiyat was made a protected interest in the event of his superior landlord being sold up; he was given the right of mortgaging his holding; and of subletting it for a period of not more than 9 years. It was also laid down that raiyats should not be ejected for arrears of rent, but that their holdings must be sold up in the Civil Court.

63. **Discussions regarding transfer.**—The most difficult problems of the Committee centred round the questions of transfer and subletting. The majority were in favour of making holdings transferable on the ground that transfer had already become established by custom. Though in some estates the landlords asserted their right to choose their tenants, and exacted a fee for recognising a purchaser, in others the custom of transfer prevailed without regard to the landlords' wishes. The number of registered sales of raiyati holdings, both occupancy and mokarari, amounted in 1881-82 to nearly 34,000, and the purchase money to nearly 34 lakhs.

The case against transfer was forcefully expressed by Sir Richard Garth, who maintained that it would be against the best interests of the raiyats, and would lead to the transfer of land to money-lenders and others and the reduction of many raiyats to the position of labourers. Nevertheless the Government of India agreed to the proposal that occupancy holdings should be made transferable. The Secretary of State also agreed, subject to the conditions that transfer should be restricted to agriculturists, and that the landlords should have the right of pre-emption. But the difficulty of defining a *bona fide* agriculturist and other difficulties of drafting ultimately led the Commission to leave the rights of occupancy raiyats in respect of transfer to be governed by local custom.

64. **Discussions regarding subletting.**—As regards subletting one suggestion was that an occupancy raiyat who had sublet more than half his land should be treated as a tenure-holder, and the occupancy right should pass to his lessee. This proposal was dropped because it was reported by most of the local officers to be unworkable, particularly on account of

the difficulty of registering such tenures. Apart from the difficulty of fixing any proportion of the total land of a tenancy which might be sublet without the raiyat forfeiting his rights, the proposal would have involved the creation of a number of tenancies with a double status, or, if the portions sublet had been made separate tenancies, a large increase in the number of tenancies would have resulted. It was eventually decided to permit subletting to under-raiyats for 9 years, provided the rent did not exceed the raiyat's rent by more than 50 per cent. It was recognised that this restriction would be difficult to enforce, but it was preferred to the alternative suggestion of limiting the rent to five-sixteenths of the produce. It was considered that a share of the produce can never be entirely satisfactory as a method of fixing rent.

65. **Discussions regarding enhancement.**—Enhancement of rent was another subject which attracted the attention of the Commission. They retained the existing provisions for enhancement and reduction of rent in the Act and added two more grounds: (*i*) that the productive powers of the land had been increased by improvement effected by the landlord, and (*ii*) that the productive powers had increased owing to fluvial action. A decrease of rent could be obtained on the latter ground if the soil had deteriorated permanently owing to fluvial action.

66. **Proposals to amend the Act of 1885.**—In 1912 the High Court brought to the notice of Government the difficulties the Civil Courts were experiencing in administering the existing law, specially with regard to transfers, and a Committee was appointed in 1921 under the Chairmanship of Sir John Kerr to report what amendments were needed in the Bengal Tenancy Act. The Bill drafted by the Committee was introduced in the Legislative Council in 1925 and referred to a Select Committee. The Select Committee introduced so many changes that Government decided not to proceed with it during the lifetime of that Council, and later referred it to a small Committee consisting of an ex-Chief Justice of Bengal and three officials. This Committee, whose report was submitted in July 1927, restored the provisions for conferring occupancy rights on under-raiyats and some of the other provisions omitted by the Select Committee, but after considerable hesitation accepted the proposal of the Select Committee that no cultivator, who did not pay a cash rent, or a fixed amount of produce as rent, could be a tenant. On the basis of their report, the Amending Act of 1928 was passed.

67. **Chief provisions of the 1928 Act.**—The other rights given to occupancy raiyats were :—

(*i*) holdings were declared to be transferable in whole or part, subject to a transfer fee amounting to 20 per cent. of the sale price, or five times the rent. The landlord was given a right of pre-emption on payment of the sale price plus 10 per cent. as compensation to the purchaser. He also retained the right to levy a fee for the subdivision of holdings in the case of part transfers, because the Act did not make it incumbent on the landlords to divide the holdings in such cases.

(*ii*) in order to prevent land from passing to mortgagees for indefinite periods, occupancy raiyats were allowed to give usufructuary mortgages only for a period of 15 years.

(*iii*) occupancy raiyats were given all rights in trees.

(*iv*) the right to commute rent in kind into a cash rent was abolished mainly on the ground of the agitation against the proposal of Sir John Kerr Committee to give occupancy rights to a certain class of bargadars whose rent might then be commuted to the detriment of many middle class people.

68. **Chief Provisions of the 1938 Act.**—The Amending Act of 1938 repealed the provision requiring occupancy raiyats to pay a transfer fee. Holdings, whether in whole or part, could be freely transferred, and the landlord was bound to recognise all transfers, and to subdivide holdings if the resulting rent was not less than Re. 1. The right of pre-emption was taken away from the landlords and given to co-sharer tenants instead. All provisions relating to the enhancement of rent were suspended for a period of 10 years.

69. **Rights of under-raiyats in 1885.**—The rights of under-raiyats were not mentioned in Act X of 1859 because at that time their number was so insignificant that it was not thought necessary to make any provisions. But in the Tenancy Act of 1885 it was admitted in section 183 (*2*) that they might have a right of occupancy by custom. Section 48 imposed a limit on their rent of 50 per cent. above the rent paid by their raiyat landlords in cases where a registered agreement had been executed, or of 25 per cent. where there was no written

agreement. By section 85 the period of leases to under-raiyats was limited to 9 years and they could be ejected on the expiry of the lease.

70. **Failure to limit rent or prevent subletting.**—Both these provisions failed in their objects. The provision limiting leases to 9 years was disregarded. Permanent leases were sometimes granted, and in some areas under-raiyats began to transfer their holdings, erect homesteads, excavate tanks and exercise many of the rights of occupancy raiyats. The provision limiting the amount of an under-raiyat's rent proved inoperative, because in cases where a raiyat had sublet part of his holding, the Courts could not decide what was the rent of the particular portion sublet. The legal limit on the under-raiyat's rent was thus made applicable only to cases where the whole holding had been sublet, and in consequence it was easily evaded.

71. **Rights of under-raiyats in 1928.**—The Act of 1928 considerably strengthened the rights of under-raiyats. It divided them into three classes. Under-raiyats who had already obtained rights of occupancy by custom were given the full rights of occupancy raiyats, except transferability and the right to be deemed protected interests against the superior landlord of the raiyat. The second class consisted of under-raiyats who had a homestead on their land, or had occupied it for 12 years continuously, or had been admitted in a document by their landlords to have a permanent and heritable right. This class could be ejected if they failed to pay their rent, or if they misused the land. The third class of under-raiyats could also be ejected on the additional ground that the raiyat wanted the land for his own cultivation. When the Bill was introduced it contained an explanation that for the purposes of this section, cultivation by the raiyat himself did not mean cultivation by bargadars. But this explanation was omitted from the Bill by the legislature. The initial rent of under-raiyats was left to contract, subject to the provision that it could not exceed one-third of the estimated value of the gross produce. But once their rent had been fixed, it could only be enhanced under a registered contract by 4 annas in the rupee.

CHAPTER II.

Retention or Abolition of the Permanent Settlement.

It remains to be considered, in connection with the preamble to our terms of reference, what have been the financial, administrative, social, and economic results of the Permanent Settlement, and to what extent they are responsible for the present economic situation in Bengal. Having described the results of the Permanent Settlement, we shall state what we consider to be the defects in the existing land revenue system, which have led the majority of our members to the conclusion that State acquisition is the only satisfactory solution.

72. **Loss resulting from fixity of revenue.**—The most obvious financial result of the Permanent Settlement is that the land revenue, which is the chief resource of Government in an agricultural country, has remained almost entirely inelastic for 150 years. The benefit of more valuable crops and higher prices has gone partly to the landlords, when they could increase rents, and to the tenants when they could not. More serious, the unearned increment due to the growth of towns and the development of trade and industries has also been appropriated by the few. The mineral resources of the Province, coal being the most important, which were not taken into account at the time of the Permanent Settlement, or were of no commercial value, have been developed for the benefit of individuals without any co-ordinated plan.

73. **Amount of loss uncertain.**—The annual loss in this generation resulting from the enactment of the Permanent Settlement in preference to a temporary settlement, may be estimated at anything between 2 crores and 8 crores. But no estimate can be exact, because any guess at the incidence of the land revenue at the present day, supposing there had never been a Permanent Settlement, would depend on innumerable factors on which nobody dare dogmatise. Nobody could say whether the zamindars would have been left with 10 per cent. of the assets as at the Permanent Settlement, or with 30 per cent. as in many of the estates of Bengal now subject to temporary settlements, or with 60 per cent. or 75 per cent. as in the United Provinces and the Punjab respectively. Nor could it be said

for what periods these rates would have remained in force; how soon Government would have taken steps to raise the rents of the raiyats to a more economic or uniform level; how frequently enhancements would have been made; what proportion of the profits from mines would have been left to the operating companies; or how much greater the gross profits would have been if there had been organised control.

74. **Gain from indirect taxation.**—On the other hand, the defenders of the Permanent Settlement argue that though the land revenue has remained low as the result of the Permanent Settlement, there has followed a distribution of wealth so wide that Government has gained more than it has lost, from other taxation which it has been able to levy. It is argued that Bengal contributes more income-tax and customs duty than Bombay, and that the revenue from court-fee stamps is very much greater in Bengal than in other provinces. It is an admitted principle that a low level of direct taxation by encouraging trade and private enterprise increases the opportunities for indirect taxation, and that the people can spend their surplus money more profitably than the State, but it is doubtful whether all the arguments on this basis have been applied correctly to the situation in Bengal. It cannot be a good thing for the Province that so large a share of its revenue should be derived from litigation. For every rupee the litigant agriculturist spends on court-fees, he spends several rupees on lawyers' fees, and the State has to maintain an expensive judicial organisation. If stamp revenue is reduced as the result of any change in the land revenue system in Bengal, it will be to the benefit of the people, but the State would have to make good the loss by other forms of taxation. Although the Permanent Settlement has distributed profits from land, which would otherwise have gone to the State, among a large body of non-agriculturists, it may be doubted whether individually the great majority have ever had sufficient income from agricultural sources to contribute substantially to income-tax.

75. **Administrative advantages.**—The administrative advantage that Government gained was security of the revenue, and its protection by a rigid sale law. No excuses were to be accepted for default, and the zamindars were expected to pay their revenue punctually in years of flood or drought. Government was thus saved the trouble of collecting the rents; and has been able to collect the revenue practically cent. per cent. from the permanently settled area. It also avoided the

necessity of dealing with natural calamities, until the introduction of the Famine Code recognised that Government also had a responsibility in this respect to the tenants of permanently settled estates.

76. **Administrative disadvantages.**—On the other hand the Permanent Settlement became synonymous with a policy of non-interference in the zamindari estates, and in consequence Government officers were much less in touch with the tenantry than in provinces managed raiyatwari. No measures were undertaken to improve the lot of the cultivators until agrarian disorders forced the situation on Government's attention, and led to the passing of Act X of 1859. The preparation of the record-of-rights, which has been of the utmost value to the Province, was postponed until the beginning of this century. It has been one of the greatest handicaps that throughout the last century the administration has had to carry on without any village maps, any record-of-rights, and without the wide knowledge of local conditions and customs which has followed settlement operations.

77. **Social and economic results.**—It is difficult to separate the economic from the social results of the Permanent Settlement. The promise given by the East India Company never to alter the assessment, followed as it was by the gradual growth of the zamindars' profits, encouraged subinfeudation and brought into existence a body of tenure-holders vastly outnumbering the original zamindars. It thus promoted the prosperity of, if it did not create, that class in Bengal which has had leisure for culture and politics, has provided educated men for the professions and Government services, and is responsible for all political progress. The Permanent Settlement alone, however, cannot be held to be responsible for the creation of the educated classes. The permanently settled part of Madras covers only one-third of the province, yet the cultured and leisured class in that province is hardly less prominent than in Bengal, and it is not entirely recruited from the permanently settled area. In Bombay where there is a raiyatwari system, the political classes are just as prominent as in Bengal.

78. **Effects of subinfeudation.**—The development of subinfeudation has led to a revenue system of immense complexity, particularly in districts like Bakarganj, where as many as 15 or 20 grades of tenure-holders are not uncommonly found. This chain of middlemen has shifted from one to

the other the responsibility of collecting rents, and looking after the interests of the tenants. The system has severed the connection between the zamindars and raiyats in estates where subinfeudation exists, and has defeated the intention of Lord Cornwallis to establish a landlord and tenant system in Bengal on the English model. It has prevented the zamindars from fulfilling the functions which provide the economic justification for a landlord and tenant system, because with few exceptions the tenure-holders immediately above the raiyats have neither the incentive nor the capital to effect agricultural improvements. The land is nobody's concern. The zamindar cannot today obtain an enhancement of rent, even for any improvements which he makes, and he feels that he is no longer responsible for improvements. The responsibility for agricultural welfare cannot be fixed at any particular link in the chain between the zamindar and the actual cultivator. And yet the State cannot remain indifferent to what constitutes the primary source of the Province's wealth.

But although subinfeudation below the zamindar has developed to a surprising extent, especially in some districts, it undoubtedly existed at the time of the Permanent Settlement. In itself subinfeudation is not necessarily an evil. Ordinarily it does not mean that the cultivator has to pay a higher rent. It is a division of the rent payable by the cultivators among various grades of landlords, and it is made possible in areas where there is a wide divergence between the rate of rent paid by the raiyat and the revenue which the zamindar pays. Provided the lowest grade of tenure is sufficiently large to yield a reasonable income to the tenure-holder, the fact that he is the *de facto* landlord instead of the zamindar should make it easier for him to devote his personal attention to the improvement of his property. It is the splitting up of estates and tenures, just as much as subinfeudation, that has tended to prevent the landlords of Bengal from fulfilling the responsibilities which Lord Cornwallis envisaged.

79. **Conclusion.**—It is equally difficult to separate the results of the Permanent Settlement from the operation of other causes on the economic condition of the cultivating classes. No one cause, certainly not the Permanent Settlement alone, has been responsible for the general poverty and indebtedness of the agricultural population of Bengal. Whether their economic position is better or worse than that of agriculturists in other provinces, we shall consider later with reference to the second term of reference.

Defects of the present Land Revenue System.

80. **Financial loss.**—Having given an account of the Permanent Settlement, its results, and the course of the tenancy legislation, we are now in a position to summarise what are the defects of the present land revenue system.

It has stereotyped the land revenue at a figure which is far below the fair share which the Government ought to receive from the produce of the land, and is substantially less than the share taken in provinces where there is no Permanent Settlement and where the land is less productive than it is in Bengal. It has deprived the Government of any share in the increment in the value of land due to the increase in population and the extension of cultivation; and it has perpetuated an assessment which has no relation to the productive quality of the land, which varies widely in its incidence from district to district, and which becomes more and more uneven as time goes on.

The Permanent Settlement has involved for the Government the loss of revenue from minerals and from fisheries in certain navigable rivers, as these natural resources were not taken into account at the time of the Permanent Settlement, and in consequence they have been exploited for private gain without any co-ordinated plan. The limitation of the revenue payable by the zamindars, coupled with their exemption from any income-tax on agricultural incomes throws an undue burden on other classes of tax-payers. This discrimination in favour of land has had the effect of creating a bias in favour of investment in land rather than in industrial enterprises, and has contributed to the over-capitalisation of rent-receiving as opposed to productive purposes either in agriculture or industry.

81. **Absence of contact with the cultivators.**—The low cost to Government of collecting the revenue and the punctuality of payment have tended to obscure the defects of the system, and the interposition of a buffer in the shape of the zamindars between the Government and the cultivators of the soil has until more recent years deprived the Government of the close contact with and intimate knowledge of rural conditions which the raiyatwari system affords. Even though settlement operations have improved the position, there is no provision in Bengal for the maintenance of an up-to-date record-of-rights such as obtains in other provinces.

82. **Absence of agricultural improvement.**—The Permanent Settlement has imposed on the Province an iron framework

which has had the effect of stifling the enterprise and initiative of all the classes concerned. If it was the case that Lord Cornwallis hoped that it would result in the creation of a class of landlords who would supply capital for the improvement of the land and the extension of cultivation, and if he aimed at the establishment of a landlord and tenant system such as then existed in England, his hopes have not been realised. It cannot be denied that the extension of cultivation since the Permanent Settlement has with few exceptions been the work of the actual cultivators rather than of the zamindars as a class. It was pointed out by Sir John Russell in his report on the work of the Imperial Council of Agricultural Research in applying science to crop production in India, that the most serious of all the difficulties confronting Indian agriculture is the lack of an agricultural aristocracy and of an educated agricultural middle class. The Linlithgow Commission on Agriculture also called attention to the absence of large scale farming in India. It is to the presence of these features that much of the successful operation of a landlord and tenant system in other countries is due, and their absence in Bengal is a measure of the failure of the Permanent Settlement to produce the results which were hoped for.

83. **Criticism by Government of India.**—The memorandum on the Land Revenue Policy of the Indian Government issued in 1902 referred to the "evils of absenteeism, of management of estates by unsympathetic agents, of unhappy relations between landlord and tenant and of the multiplication of tenure-holders or middlemen between the zamindar and the cultivator", and it described the Permanent Settlement as a system of agrarian tenure "which is not supported by the experience of any civilised country, which is not justified by the single great experiment that has been made in India, and which was found in the latter case to place the tenant so unreservedly at the mercy of the landlord that the State has been compelled to employ for his protection a more stringent measure of legislation than has been found necessary in temporarily settled areas". At the same time it is not necessary to deny that there have been and are public spirited and charitable landlords who have contributed to the social and educational welfare of the Province.

84. **Evils of subinfeudation.**—One of the most serious defects of the present system is the excessive amount of subinfeudation which it has encouraged. The margin between the fixed land revenue and the economic rent of the land has

permitted the creation of a number of intermediate interests between the zamindar and the actual cultivator which in some districts has reached fantastic proportions. The report of the Simon Commission pointed out that in some cases as many as 50 or more intermediate interests have been created between the zamindar at the top and the actual cultivator at the bottom. This has resulted in dissipating the responsibility for the best use of the land in the national interest among a host of rent-receivers, all of whom have to be supported by the labour of the cultivator, and none of whom have either the incentive or the power to exercise any control over the use of the land. It is not too much to say that the extent of subinfeudation has become an incubus on the working agricultural population, which finds no justification in the performance of any material service so far as agricultural improvements are concerned, and fails to provide any effective means for the development of the resources of the land, which is the greatest asset of the Province. The Government has done far less to develop increased production from the land than the Governments of other provinces. There has been little inducement to spend public money on agricultural development, when the benefit of the improvements goes into private hands.

Moreover this army of rent-receivers is increasing in number each year. The Census figures show an increase of 62 per cent. between 1921 and 1931, and since 1931 there has been a further process of subinfeudation below the statutory raiyat, which will swell the figures still more. At the same time a steady reduction is taking place in the number of actual cultivators possessing occupancy rights, and there is a large increase in the number of landless labourers. Their number increased by 49 per cent. between 1921 and 1931. They now constitute 29 per cent. of the total agricultural population, and the next Census will show a considerably larger increase. Side by side with the growth of subinfeudation there has been the further process of the fragmentation of proprietary interests in land. This is mainly due to the operation of the laws of inheritance and is not directly related to the Permanent Settlement. But it adds greatly to the complexity of the land system and the difficulties of all classes concerned. Striking illustrations of the complications due to subinfeudation and aliquot tenures, with no provision for partition or common management, can be found in the Bakarganj Settlement Report, in which Major Jack justly described the position as "the most amazing caricature of an ordered system of land tenure in the world"

85. **Administrative defects.**—The complexities of the Bengal land system have led to an immense volume of litigation. The time and attention of the Civil Courts are largely occupied in suits relating to interests in land, and though the court-fees produce a considerable revenue to the Government, the cost to the litigants is far in excess of the revenue and is out of all proportion to the amounts at stake.

There is a notable absence in Bengal of that certainty as to the respective rights and obligations of the parties which a sound and satisfactory system of land tenure should provide. Many of the records in the zamindars' offices are indifferently maintained and sometimes fraudulently manipulated, and the peasantry, 90 per cent. of whom are illiterate, are at the mercy of unscrupulous agents. In spite of the prohibition of abwabs and other exactions in addition to rent which were contained in the Permanent Settlement Regulations and in tenancy legislation, there is still evidence of their continuance in the reports of settlement operations. Indeed it is common knowledge that the naibs and other agents of the rent-receivers frequently live on a scale far above that which the salaries they receive from their employers would permit. Though the scale of abwabs is no doubt less than it was, they still represent an appreciable addition to the burdens of the cultivators.

86. **Absence of remission of rent.**—Another serious disadvantage of the present land revenue system from the administrative point of view is that it is virtually impossible to grant remissions of rent in permanently settled areas affected by drought, flood or other natural calamities. Although the Tauzi Manual makes provision for remissions, that provision, so far as is known, has never been used, because it would never pay a zamindar to take a remission of Rs. 100 in revenue if at the same time he had to allow Rs. 1,000 in remissions of rent.

87. **Increasing loss of occupancy rights.**—Rents in Bengal have not been fixed on any scientific principle and have no recognised relation to the quality of the land or the value of the produce from it. It is true that the general level of the rents of the statutory raiyats is low, but owing to subletting and the free right of transfer the actual cultivators are to an increasing extent men who are either paying a cash rent which corresponds to a full economic rent, or are cultivating under the barga system and paying as rent one half of the produce. The rapid increase in the number of bargadars is one of the most disquieting features of the present times; and it is an indication of the extent to which the hereditary raiyats are losing their

status and being depressed to a lower standard of living. It is true that the successive provisions of the Tenancy Acts have endowed the raiyats with the practical ownership of their land. But a large and increasing proportion of the actual cultivators have no part of the elements of ownership, no protection against excessive rents, and no security of tenure.

88. **Accumulation of arrear rents.**—At the same time the rent-receivers complain, not without reason, that they are seriously hampered by the absence of any satisfactory procedure for rent recovery, and that the process in the Civil Courts is cumbrous, expensive and dilatory. The result is that rents are allowed to get into arrear for several years before suits are instituted. This is a highly undesirable feature of the present system which it may not be possible to alter radically, so long as the Permanent Settlement and the zamindari system remain in operation. Indeed it is maintained by some observers that if the present system remains unaltered, with a strict observance of the Sale Law and a more sparing resort to the protection of the Court of Wards, there will be a complete breakdown of the whole system.

The situation has been complicated by the development in certain areas of a no-rent mentality among the raiyats, which threatens the stability and security of the land system as a whole.

The truth is that the present situation, while containing some of the features of both the landlord and tenant and the peasant proprietorship systems, possesses most of the disadvantages and few of the advantages of either system. Under it the actual cultivator has too often the worst of both worlds.

Minority View.

89. **Economic position not due to land system.**—On the other hand some of our members hold the view that State acquisition would not only be a hazardous experiment financially, but that it is undesirable for social and economic reasons. In their view the present economic difficulties of the cultivators in Bengal are unconnected with the land revenue system. The chief causes of those difficulties are the increasing pressure of population, the Hindu and Muslim laws of inheritance which have resulted in the subdivision and fragmentation of holdings, the absence of any occupation for the cultivators during a great part of the year, and the fall in

agricultural prices since 1929. These are problems which would have to be faced whether the existing system remains, or whether the Province becomes a Khas Mahal. Whatever may be the defects of the existing system, it is contended that it has resulted in a state of affairs where the occupancy raiyat in Bengal pays on the average a lower rate of rent than in any other province, and has been given greater protection by tenancy legislation than the tenants in any other province.

90. **Cultivators will not benefit by State acquisition.**—In these circumstances some members of the Commission do not see what benefits the cultivator will derive from a scheme of State acquisition. They hold that no scheme can be supported unless it can be clearly demonstrated that the cultivator will benefit by it, and that if, even with Government as the sole landlord, it would not be possible to redistribute the land in order to provide economic holdings; if the consolidation of scattered plots proves too difficult an undertaking; if the laws of inheritance remain unaltered; if transfers to non-agriculturists cannot be prevented, and if rents are liable to enhancement, the cultivator will gain nothing.

91. **Social dangers.**—It is contended that a scheme of State acquisition would lead to a social upheaval in Bengal. Whatever may be the arguments against subinfeudation, it has led to a wide distribution of wealth and has given an interest in land to many of the middle classes. According to the last Census return, there are something like $2\frac{1}{4}$ million persons, who are dependent, or mainly dependent on the rents they collect. Many of them have invested money in the purchase of zamindaris and tenures, and it is only reasonable that they should expect a return on their capital. It has to be seriously considered what would be the result if this large body of rent-receivers is cut off from all connection with the land. When Sir John Kerr's Committee proposed to give occupancy rights to a certain class of bargadars, an agitation followed, mainly among the middle classes, which led to the issue by Government of a communiqué stating that the proposal would not be carried into effect. It is maintained that any proposal to take away from the middle classes their vested interests in land would lead to even greater opposition.

92. **Economic dangers.**—The number of important landlords and tenure-holders is extremely small: the huge majority own small estates and tenures, and the compensation which they will receive for the loss of their rights will be

insufficient to induce them to invest their money in industrial concerns. They will either squander the money or attempt to re-invest it in land by purchasing occupancy holdings. It is unlikely that this process could be prohibited by legislation, and the result would be that a form of landlordism would again develop on a lower scale.

93. **Danger of rent reduction.**—Another grave danger, which some of our members apprehend, is that the level of rent may become the subject of electioneering campaigns, and that the tenants, whose votes control the legislature, will not tax themselves sufficiently if Government becomes the sole landlord. There is already in some areas a demand for reduction of rent which may well become intensified.

MAJORITY VIEW.

94. **Raiyatwari system the aim.**—The objections to a scheme of State acquisition, which are set out in the preceding paragraphs have been carefully considered by the Commission as a whole. The majority of the members are definitely of opinion that no other solution than State acquisition will be adequate to remedy the defects of the present land system which we have enumerated in paragraphs 80 to 88. No solution that can be proposed is free from difficulties and dangers, but we are agreed that the present system ought not to remain unaltered, and that there should be some modification of the Permanent Settlement. The division of opinion on the Commission relates to the degree of the changes in the present system which should be recommended and there is a clear majority on the Commission who are convinced that in order to improve the economic condition of the cultivators, the Permanent Settlement and the zamindari system should be replaced by a raiyatwari system, under which the Government will be brought into direct relations with the actual cultivators by the acquisition of all the superior interests in agricultural land.

95. **Advantages of State acquisition.**—As sole landlord, Government would be in direct relation with the actual cultivators and would be in a very much stronger position than any private landlord to initiate schemes for the consolidation of holdings, the restoration of economic holdings, the provision of grazing land, and the prevention of transfers of land to non-agriculturists. Government management, although it might not be universally popular, will certainly be more

efficient and more in the interests of the agricultural population than zamindari management. Even if rents were enhanced under Government management, the increment instead of going into the pockets of private individuals would be returned in the shape of improved social services.

So long as the zamindari system remains, it is difficult to evolve any satisfactory arrangement for revising rents all over the Province on an equitable basis, or for maintaining the record-of-rights. It is also doubtful whether so long as the present system remains, the legislature would agree to provide a really efficient machinery for the realisation of arrear rents.

96. **Conclusion.**—It is in the light of these considerations that the majority of the members of our Commission have been led to the conclusion that whatever may have been the justification for the Permanent Settlement in 1793, it is no longer suited to the conditions of the present time. A majority of the Commission have also come to the conclusion that the zamindari system has developed so many defects that it has ceased to serve any national interest. No half measures will satisfactorily remedy its defects. Provided that a practicable scheme can be devised to acquire the interests of all classes of rent-receivers on reasonable terms, the policy should be to aim at bringing the actual cultivators into the position of tenants holding directly under Government. We recognise that this proposal involves a fundamental change in the rural economy of Bengal, affecting vitally the whole social and economic structure of the Province, that it can only be carried out gradually over a term of years, and that it would be a most formidable administrative undertaking, which will tax to the full all the resources of Government.

97. **The constitutional position.**—In the later sections of our report we shall deal in detail with the implications of the conclusion that the actual cultivators should be brought into the position of tenants holding directly under Government. But before doing so we desire to record our view that the Permanent Settlement can no longer be regarded as exempt from any modification that may be called for in the national interest. Whatever may have been the obligations of the British Government as successors to the East India Company, the grant of provincial autonomy has created a new situation, under which the Government of Bengal is free to consider the problem afresh and to propose any modifications which they may consider desirable under present conditions. Indeed the appointment of the Commission itself and its terms of reference

are evidence that there is no legal or constitutional bar to the reconsideration of the Permanent Settlement, or to its replacement by any other system which is better adapted to the conditions of the present time.

The question was considered by the Joint Committee on Indian Constitutional Reforms, who stated in their report that it should not "be placed beyond the competence of an Indian Ministry responsible to an Indian Legislature, which is to be charged *inter alia* with the duty of regulating the land revenue system of the Province, to alter the enactments embodying the Permanent Settlement, which enactments, despite the promises of permanence which they contain, are legally subject (like any other Indian enactment) to repeal or alteration". At the same time the Joint Committee recommended that any Bill passed by the legislature which would alter the character of the Permanent Settlement should be reserved for the signification of His Majesty's pleasure, and this is provided for in the Instruments of Instructions to the Governor and the Governor-General.

CHAPTER III.

Acquisition of Zamindaris and Tenures.

98. **All grades of tenures should be eliminated.**—We shall now proceed to consider the implications of a scheme of State acquisition. In the first place, we are agreed that if any scheme of State acquisition is undertaken, it is desirable to remove not only the zamindars, but all grades of tenure-holders. If the patnidars and other tenure-holders on fixed rents were allowed to remain, the revenue from land would remain inelastic. If the tenure-holders whose rents are liable to enhancement were allowed to remain, the revenue could be increased from time to time; but there would still remain a large measure of subinfeudation above the actual cultivator, which is one of the chief objections to the existing system.

99. **Payment of compensation obligatory.**—Section 299 of the Government of India Act of 1935 requires that compensation must be paid for the transference to public ownership of any land, and that the amount of compensation, or the principles on which it is to be determined, must be laid down. Section 300 of the same Act specially refers to grants of land, or confirmations of title made prior to 1870, or to grants made after that date for services rendered. This would apply to a certain number of revenue-free estates, but not all.

100. **Principles of assessing compensation.**—We are not agreed what should be the basis of compensation. Some of our members consider that in view of the compulsory nature of the acquisition, all the principles laid down in the Land Acquisition Manual should be followed. Others take the view that the Land Acquisition Act was drafted with the intention of acquiring small areas of private property for Government, or local bodies, or commercial companies. When the acquisition of all superior interests in land for the benefit of the community as a whole is in question, some of the considerations laid down in the Act do not arise; and the provision for extra compensation at 15 per cent. should not be allowed.

We are however agreed that any compensation to be paid must be calculated at a flat rate for all interests. Different

rates of compensation for different classes of estates and tenures might be justified, but we think that it would lead to endless difficulties and complications if an attempt were made to calculate different rates of compensation for large estates, small estates, permanent and temporary tenures, tenures at fixed rates or liable to enhancement, and raiyati holdings.

101. **Rates of compensation.**—In the evidence which we have recorded, the highest rate of compensation claimed was a rate which would ensure to the proprietors and tenure-holders their existing income. The most extreme view on the opposite side was that no compensation at all should be paid, on the ground that the proprietors and tenure-holders have already made sufficient profit out of their property. But the few witnesses who expressed this view were prepared to make exceptions in the case of estates or tenures which have been purchased comparatively recently. The majority of the witnesses were in favour of following the principles laid down in the Land Acquisition Manual. Most of them interpreted those principles as meaning that the rate of compensation would be 20 times the net profit, though this is not necessarily the case. Others proposed 15 times, or 10 times the net profit.

We have been unable to reach an agreement on the rate of compensation that would be equitable. At one extreme, 20 times the net profit is proposed; at the other, 5 times. The rate which receives more support than any other is 10 times the net profit. The remaining members propose 12 and 15 times. For the purpose of framing an estimate of the financial result of a scheme of State acquisition, we have adopted 10, 12, and 15 times the net profit.

102. **Payment in cash or bonds.**—We have considered carefully whether it would be preferable to pay compensation in cash or in bonds. We are agreed that in principle it would be better to pay compensation in cash, although we realise that this method of payment might involve greater financial difficulties. Our reasons for coming to this decision are that if the zamindari system is to be abolished, it would be better to pay off the zamindars and tenure-holders once for all, rather than to have a huge body of annuitants dependent on the Government for 60 years, which is the term we propose for the sinking fund. If bonds were issued, the market would operate to put a valuation on them, and it is possible that their face value might depreciate. In view of this consideration, some of our members are of opinion that if bonds are issued

they should be guaranteed by the Government of India. An even stronger objection is that the issue of bonds would involve serious administrative difficulties. An account would have to be maintained at each District Treasury of the persons who are entitled to receive compensation. Every sale and every case of inheritance would have to be mutated, and the work involved would be much greater, particularly in districts like Bakarganj, than that of maintaining the registers of revenue-paying and revenue-free estates.

We think however that there are grounds for granting compensation in bonds in the case of Waqf, Debattar, and other property, the income of which is devoted to religious, charitable, or educational endowments, or to the maintenance of heirs[1]. These are trusts, either of a public or private nature, the income of which has to be safeguarded.

103. **Revision of record-of-rights essential.**—Although the loan to be raised in order to pay compensation in cash might strain the financial resources of the Province, we may point out that it would not be necessary to raise the entire amount at the same time. The revision of the record-of-rights would be an essential preliminary to a scheme of State acquisition, and it would therefore be possible to raise the loan by instalments of perhaps 4 crores, as the work in each district was completed, and the compensation assessed.

104. **Arrear rents.**—After State acquisition had been determined, the position that would arise with regard to arrear rents due to the zamindars and tenure-holders creates considerable difficulty. There are three alternative methods of dealing with this problem. Government as sole landlord might disregard the arrear rents, and leave it to the zamindars and tenure-holders to collect them through the Courts. Secondly, Government might collect the arrear rents and pay them to the zamindars and tenure-holders after deducting the costs of collection. Thirdly, Government might pay a lump sum down representing a percentage of the ascertained arrear rents in full satisfaction of all claims.

We are agreed that the first alternative can be ruled out. An impossible situation would be created if Government, as landlord, were to be made a party to innumerable rent suits between its tenants and the expropriated landlords; and it is certain that collections would be seriously hampered.

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[1] *Vide* paragraph 105.

The second alternative is also open to serious objection. If Government took upon itself the task of collecting and paying all arrear rents, it would not be possible to delay payment without becoming liable also for the payment of interest. The consequence might be that Government would have to collect something like 30 crores, and for a period of two years might derive practically no income from land revenue.

We are agreed that the best course is to adopt the third alternative, and we consider that it would be equitable to pay 50 per cent. of all arrears which were not time-barred, and which had been verified by the staff that would assess compensation in each district. The sum thus ascertained would be added to the amount of compensation to be paid to each zamindar and tenure-holder, and the full amount of the arrear rents would be payable to the Government.

As regards arrear rents due from tenure-holders to their superior landlords, we think that it would not be possible for Government to arrange for their collection, but that the superior landlords would have to be left to collect the arrears due to them, if necessary by attaching the compensation of the defaulting tenure-holder. The only alternative would be to empower by legislation the Government officers who would verify the arrears of rent, to deduct arrear rents due from tenure-holders from the compensation payable to them, and to transfer these amounts to the superior landlords.

Special Classes of Estates and Tenures.

105. **Waqfs, Debattars, and other Trust estates.**—There are several classes of estates which call for special consideration, or which might give rise to considerable difficulty if the zamindari system is abolished.

The first class consists of Waqf, Debattar and other estates, the income of which is devoted to religious, charitable or educational endowments. We are agreed that if Government were to acquire such estates it would be desirable that the sums which were being paid to these objects at the time of acquisition, should continue to be paid.

In order to avoid any loss of income to public trusts of these kinds, it would be necessary to grant compensation at a level which would produce the existing income, i.e., at 25 times their income, if interest is taken at 4 per cent. The effect of this

recommendation would also be that part of the income from this class of estate would not be available to the general revenues.

In addition to the public waqfs, there are waqfs known as waqf al-al-aulad, which are intended for the maintenance of the grantors' heirs. These may become public trusts in the event of the family becoming extinct. There are also waqfs which consist partly of one kind, and partly of the other, the income being assigned both to religious or charitable objects and to the maintenance of heirs.

In the case of the former, we propose that compensation should be paid at whatever rate is accepted as equitable for the proprietors and tenure-holders generally. In the case of the latter, that portion of the income which is devoted to religious or charitable objects should continue to be paid, and for the remaining portion, compensation should be paid at the ordinary rate. The principle should be that whether all, or part, of the income is now being devoted to religious, charitable or educational objects, it should continue to be paid by assessing compensation at a level which would ensure the income of a similar amount. The bonds issued in favour of the possessors of Waqf, Debattar, and Trust estates of all kinds should remain in the custody of Government, and the character and incidents of such trusts should apply to them.

106. **Other religious grants.**—The same difficulty arises in the case of grants of land made by zamindars or tenure-holders in the name of various deities. It is a common practice to assign the income from a particular block of land to a household deity, and the Courts have held that in such cases the deities are juridical persons, and become the actual owners of the property. In some cases grants of land have been made to the deity of a particular village, and the income is managed by a *shebait* on behalf of the whole village. We are not in a position to estimate the income derived from such grants but we believe it is very considerable. We think that grants of this kind must be governed by the same principle as that proposed in the case of Wakf estates.

107. **Fee simple estates.**—There are some estates held in fee simple, the revenue of which has been redeemed. These estates occur mainly in Darjeeling and Chittagong districts. If, as we believe, they consist mainly of tea gardens or urban lands, they do not fall within the scope of our enquiry and can be omitted from the scheme of State acquisition. There are

also some Sundarban lots, the revenue of which has been redeemed. These would be treated as ordinary revenue-free estates and compensated at the ordinary rate.

108. **Temporarily settled estates managed by Government.** —There are some temporarily settled private estates which are being managed by Government. In some cases they have been under Government management for a great many years. Malikana is paid to the proprietors, and the balance is treated as khas mahal revenue. Under a scheme of State acquisition, compensation would have to be paid to the proprietors, just as it would be to temporarily settled proprietors who manage their own estates. But the revenue payable by these estates has not been fixed in relation to their present assets, except in cases where Government has assumed management after the last revisional settlement was made. Before compensation could be assessed, the revenue would have to be fixed. The general principle should be followed of making an allowance of 30 per cent. of the assets to the proprietors.

109. **Tenure-holders in Khas Mahals.**—There is a certain number of tenure-holders in Government estates, although the proportion of rent intercepted by them is small in comparison with the amount paid directly to Government by the raiyats. The barga system also exists in Government estates no less than in the permanently settled area. In order to bring Government into direct relation with the actual cultivators in Khas Mahal estates, the same process of acquiring the superior interests would have to be carried out, though to a lesser extent than in the permanently settled area. We have not included any calculation of the cost of acquiring these rights in our estimate. The cost would be comparatively small, and it could be left to Government to undertake the operation at their convenience. We would however suggest that it might be worth while making the experiment of State acquisition on a small scale in Khas Mahal areas. This would provide some indication of the financial, social and other results that may be expected to occur, if State acquisition is undertaken district by district. There are a few Government estates in Bakarganj in which there is extensive subinfeudation, and these would give an idea of the practical difficulties that may arise in calculating compensation and paying arrear rents due to the tenure-holders.

110. **Khas lands and homesteads.**—As regards the homesteads and khas lands of proprietors and tenure-holders, we think that the best course would be to include them in the acquisition scheme, but to leave them in possession of the

proprietors and tenure-holders, provided that they cultivate the khas lands either themselves or by their servants, or by hired labour. Compensation would be paid for the acquisition of the khas lands, and fair rents would be fixed for them.

Acquisition of certain raiyati tenancies.

111. **Intention of the fifth term of reference.**—The fifth term of reference directs us to advise Government regarding the advisability and practicability of bringing Government into direct relation with the actual cultivators. We agree that the interests of raiyats or under-raiyats should be acquired in respect of the area which they have sublet. The cultivating tenants in actual possession would be treated as the direct tenants of Government, and their immediate landlords would be compensated. But the wording of the term of reference is clear enough to leave no doubt that we are to consider the situation that would arise if Government were to come into direct relation with the bargadars. Here the position is not so easy, and there are arguments both for and against the acquisition of the rights of raiyats who have given land to bargadars.

112. **Arguments against acquisition.**—On the one hand it may be contended that the bargadars are not legally tenants. It is not possible to treat them in a scheme of State acquisition as having the rights of tenants, and on that basis to pay compensation to their raiyat landlords. If compensation had to be paid, it would amount to the difference between the value of the share of the crop received by the raiyat, and the rent paid by him for the area cultivated by his bargadar. As approximately one-fifth of the land in Bengal is believed to be cultivated under the barga system, compensation would amount to such an enormous figure that it would render impossible any scheme of State acquisition. Moreover, it would be against the interests of the bargadars themselves to include them in a scheme of State acquisition because, as we have mentioned in paragraph 145, as soon as Government's intention became known, they would be generally evicted, and even greater agricultural distress would ensue.

113. **Arguments for acquisition.**—On the other hand it may be argued that the elimination of the zamindars and intermediaries cannot be considered unless it results—not necessarily at once but gradually—in bringing the actual cultivators under Government. The existing raiyats are not

all cultivators, and if they are in practice middlemen, there is the same case for giving their lessees the rights which were given to raiyats in 1859 and 1885. It would be a legal quibble to exclude the bargadars from a scheme of State acquisition and to retain the interests of the non-cultivating raiyats, because until the Tenancy Amendment Act of 1928 bargadars could be tenants. It would also be inconsistent to exclude them from a scheme of State acquisition, when we have at the same time recommended that they should be given the rights proposed in Sir John Kerr's Bill[1]. If the object is to give security to the actual cultivator, and to prevent him from being rack-rented, it is essential to include the bargadars in a scheme of State acquisition. It would not be necessary to pay compensation based on the difference between the value of the share of the crop the raiyat receives, and the rent he pays. Fair rent would be fixed for bargadars, and compensation would be based on the difference between the fair rent so fixed, and the rent per acre paid by the raiyat. It is possible that this proposal might lead to the eviction of a number of bargadars; and even that emergency legislation declaring them to be raiyats or under-raiyats as the case may be, would not prevent their eviction altogether. But it is likely that the non-cultivating classes would be unable to leave their lands uncultivated for more than a year or two, and would be compelled to re-employ the former bargadars, or other landless labourers.

114. **Decision and financial effect.**—We have considered the arguments on both sides, and think that the best course would be to carry through in the first instance the acquisition of all superior rights down to the lowest grade of cash paying under-raiyat. Although we are in favour of making all bargadars the direct tenants of Government, we are unable to recommend that this policy should be adopted until the interests above the lowest grade of cash-paying tenants have been acquired. Before acquiring the interests of landlords who have given land in barga, legislation would have to be passed, giving to the bargadars the rights which we have recommended in paragraph 146, and in that case compensation should be based on the difference between the landlord's rent, and the fair commuted cash-rent which would be fixed for the bargadar. Fair rents would therefore have to be fixed for bargadars all over the Province before attempting to acquire the interests of their landlords.

[1] *Vide* paragraph 146.

If compensation were paid at 10 times the profit of the landlords of cash-paying under-raiyats, the sum involved would be approximately the acreage sublet, multiplied by the difference between the average raiyati and under-raiyati rates of rent, multiplied by 10. This would be 9 crores. The financial effect would however depend upon the decision whether the existing rents of under-raiyats are considered to be equitable, or whether any reduction is thought to be desirable. On this ground we have not included this item in the calculation of the cost of State acquisition.

Fishery Rights.

115. **Need to consider acquisition.**—Fishery rights exist in large navigable rivers, in smaller rivers, in beels or other areas liable to inundation, and in tanks. In considering the advisability of State acquisition of fishery rights, we exclude rights in tanks which appertain to the holdings of tenants, and rights in tanks which are the khas property of proprietors or tenure-holders, and in which the tenants have acquired fishery rights by prescription.

The position regarding fishery rights is, broadly speaking, that the rights in small rivers or in fisheries which are included within the ambit of permanently settled estates, belong to the proprietors or tenure-holders; while the rights in the navigable rivers belong in some cases to Government and in others to the proprietors. In some rivers, the fishery rights have been the subject of long and costly litigation between Government and the proprietors. The question of acquiring fishery rights cannot be excluded in considering a scheme of State acquisition because they form part and parcel of the estates to which they belong: in fact, there are some tauzis which consist entirely of fisheries.

116. **Reasons for acquiring fishery rights.**—For several reasons we think it desirable to acquire all fishery rights. More injustice[1] results from the settlement of fisheries than from the settlement of land. The actual fishermen have no rights, and there is no limit to what can be exacted from them. The present system is wasteful and uneconomical, and results in the supply of fish at rates which must leave a very high margin of profit to the middlemen. In some cases there is as

[1] Report of Special Fishery Officer.

much subinfeudation in the leasing of fishery rights as there is in the land revenue system. If the Government were the proprietor of all the fisheries, it would be in a better position to see that settlements are made direct with people who derive their income mainly or partly from fishing, or with societies of fishermen; to enforce close seasons for catching fish; to prevent the catching of young fish; and to carry out experiments in pisciculture in order to preserve the stock of various kinds of fish in the rivers.

The question of granting rights of a permanent nature to fishermen has been considered by Government in the past. The practical difficulty is to define the areas within which these rights would operate. But it is certain that the grant of any rights would become a more practicable proposition if Government as proprietor, had control of the fisheries.

117. **Basis of assessing compensation.**—It is not possible to frame any estimate of the value of jalkar rights which are at present vested in the zamindars and tenure-holders. Jalkars which lie within the ambit of permanently settled estates would be acquired, and compensation paid in the same way as for the acquisition of rights in land. But the basis of calculation would be different, because jalkars are generally settled either annually, or for a short period of years, at rates which may differ widely at each settlement. We suggest that the basis for compensation should be the average income received during the last 20 years, less the cost of collection, if any.

Jalkars in navigable rivers could only be acquired after making investigations into the extent of each fishery, the subordinate rights, if any, and the average income received by the zamindars or tenure-holders or lessees over the same period of years.

Mineral Rights.

118. **The legal position.**—In all provinces except Bengal and Bihar the minerals belong to the State. In Bengal coal belongs to the zamindars of a few permanently settled estates, and judicial decisions have confirmed the mineral rights to the zamindars. The Privy Council quoted[1] with approval Field's statement—"The Zamindar is entitled to rent for all land lying

[1] 37 Indian Appeals 136.

within the limits of his zamindari and the rights of mining, fishing and other incorporeal rights included in his proprietorship." But in the Privy Council case—Raja B. N. Singh *vs.* Rajeswar Prasad[1]—and in other cases where the question was whether the minerals belonged to the zamindar or the patnidar, it was held that without an express grant of sub-soil rights only the surface rights pass. *Prima facie* on the same grounds Government might have claimed that subsoil rights did not pass at the Permanent Settlement. The Government of India, however, did not hold this view when referring the matter to the Secretary of State in 1879. In his reply Lord Cranbrook said that even if the legal right was with the Government, it was not desirable to enforce it. He left the minerals to the zamindars on very much the same grounds that Lord Cornwallis made a permanent settlement of the land with them. He believed that the indirect returns to the State would be more valuable than any direct returns. In the same correspondence it was decided that the profits arising from minerals could be taken into account in assessing land revenue. The position therefore is that mineral rights in Bengal are held as an integral part of the estates.

119. **Reasons for acquiring mineral rights.**—If Government decides to acquire all the superior interests in land down to the actual cultivators, the obvious policy is to acquire the whole property of the zamindars and middlemen and not a part. In fact the advantages of acquiring minerals are more certain than the advantages of acquiring the right to collect rent. Under the present system wastage is prevalent, and conservation from a national point of view is often neglected. The Inspectors of Mines have no powers to enforce conservation or prevent waste, and it is only recently that they have exercised control over working methods in order to safeguard the employees[2].

Owing to the necessity of taking leases from different landlords and the fact that the boundaries of the mines often follow entirely unsuitable Revenue Survey boundaries, many mines are worked uneconomically. The number of grades of landlords between the revenue payer and the working Company, all contending for royalties, have had much the same harmful effects as subinfeudation in land.

It was for these and similar reasons that the Burrows minority report advocated nationalisation of mines, the

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[1] 58 Indian Appeals 228.

[2] Teehrane Rees Commission of 1920—paragraphs 14 to 17; Burrows Committee of 1937—paragraphs 137 and 138.

nationalisation of royalties being the first step. The majority might have made the same recommendation, but they thought that the preservation of the coalfields from deterioration was too urgent a matter to wait the ten years which nationalisation proceedings might take[1]. It should be noted that the acquisition of mines as opposed to the royalties is a much more difficult problem. We are not concerned with it, because the position of the companies working the mines is parallel to that of the actual cultivators working the land. There is no proposal to acquire their rights. The collieries which are worked by the zamindars themselves might be treated as their khas lands and left in their possession subject to the payment of royalty. If they were treated in the same way as agricultural khas lands, they would be acquired and compensation would be paid for them.

120. **Estimates of cost.**—In England, mining royalties have recently been nationalised. The sum awarded was £66·45 million. On the English basis of calculation it has been estimated that 2.62 crores might be payable to the royalty-holders in Bengal. By a different method of calculation, which unlike the English system takes account of undeveloped or virgin properties, it has been estimated that the compensation would be 4½ crores.

The interesting feature of the English scheme is the nominal value it places on assets which are not expected to bring in an income for 20 or 25 years. Owners of a property of which the life is calculated at 52 years will receive 8 times the present income and 11 times the average income. If they invest the proceeds at 4 per cent., they will get an income in perpetuity amounting to one-third of the diminishing income which they are getting at present.

If Government decide to investigate the acquisition of coal royalties it will be necessary to consult experts as to the proper system of assessing the mineral assets of the estates concerned, and the amount of compensation that will be payable. In the estimate we have prepared for the acquisition of the superior interests in agricultural land, the income from royalties and khas collieries has not been included in the figure for assets.

121. **Recommendation.**—Whether or not it is decided to investigate the acquisition of royalties, we should like to recommend that Government should consider the desirability

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[1] Burrows Committee—paragraph 329, page 170.

of legislation declaring that all minerals, including oil, not yet worked or discovered, will vest in the State. This has been done in Great Britain in the case of oil.

Cost of State Acquisition.

122. **Estimate of assets.**—Before framing an estimate of the financial results of State acquisition it is necessary to explain the basis of each item of our calculation.

The starting point of our calculation must be an estimate of what are the assets received from all classes of tenants, i.e., what is the actual amount now paid to the zamindars and tenure-holders, which Government as sole landlord might expect to collect. The actual figures of rent paid by all classes of tenants are now available from the Settlement reports of all districts. On this basis we have found that the assets of the Province amount to 11.32 crores. The figure includes the rent paid by all classes of raiyats, or occupiers, including occupiers in urban areas whose rents were recorded during Settlement operations, and service tenures and holdings, which have been valued at the average raiyati rate of rent. It is possible that in districts where Settlement operations were carried out many years ago, there may have been enhancements of rent, but from the enquiries which we have made from District Judges it is evident that the increase on this ground would be inconsiderable. What increase there may have been is more likely to be accounted for by settlements of khas lands, or resettlement of khas purchased lands, at higher rates of rent. There might also be an increase in the assets from urban areas forming part of permanently settled estates, which have developed after the record-of-rights was prepared, and there would certainly be a considerable income from forest and fishery rights. It is difficult to estimate what might be the increase to be derived from these sources, but we think that when they are added, it would not be unsafe to accept 12 crores as the assets. To this has to be added the valuation of the cultivated khas lands of the zamindars and tenure-holders, the area of which is calculated to be 4·1 million acres. This may be estimated in various ways[1], but we think that the best and simplest method is to multiply the area by the average raiyati rate of rent, including produce rents. This would give a valuation of 1.5

[1] *Vide* Appendix IX.

crores for the cultivated khas land and a total valuation, including the raiyati assets, of 13½ crores for the whole Province.

The uncultivated khas lands would also be included in the acquisition scheme. In the absence of statistics it is not possible to say what proportion of these lands could be brought under cultivation, or what profit they might yield from other sources, but the income which would be derived from them might reasonably be expected to raise the total valuation of raiyati assets to 13¾ crores. From the figure of total assets, the income from Government estates—68 lakhs—has to be deducted, as the Khas Mahals would be excluded from the general scheme of State acquisition. The assets for the remainder of the Province would thus be 13.07, or say 13 crores. This we consider to be a conservative estimate.

123. **Basis of calculating net profit.**—In order to determine the net profit of the landlords, the revenue from permanently and temporarily settled estates has to be deducted, as well as the landlords' share of the cess, which Government would have to contribute to District Boards. These amount to 2.41 crores and 46 lakhs, respectively. A deduction has also to be made on account of the estimated cost of management and collection. The majority of our members are in favour of taking 18 per cent. of the gross assets on this account, because that is the average figure for management costs, including cost of litigation, supplied by a number of Court of Wards estates. Some of our members, however, consider that this would be too high a proportion and think that the cost of zamindari management should not be put down at a higher figure than the cost of management in Government estates. The deduction on account of management and collection costs should be calculated on the raiyati assets of each estate, and in estates where subinfeudation exists it should be apportioned among the different grades of tenure-holders.

We have made no further deduction on account of the remissions or irrecoverables of proprietors and tenure-holders. Some of our members consider that it would be reasonable to make a deduction of 10 per cent. on this account; but the majority hold that remissions are not in practice given in the permanently settled area, though some rents are allowed to become time-barred, and that compensation would have to be paid on the basis of the amount which the proprietors and tenure-holders are legally entitled to recover from their tenants, i.e., on their rent rolls.

124. **Cost of State management.**—We estimate from the actual figures of expenditure on Khas Mahal management that the cost of State management would be covered by 14 per cent. of the gross raiyati assets. This percentage would include the ordinary cost of management, the extra cost of supervision by higher grade officers which would become necessary, and the upkeep of the tahsil offices and Khas Mahal officers' quarters which it would be necessary to construct.

125. **Remissions, irrecoverables, and sinking fund.**—We estimate that 10 per cent. of the gross raiyati assets would be sufficient to cover remissions and irrecoverables. In proposing this figure we have taken into consideration the remissions actually granted in Khas Mahals during the last five, and the last ten years. We have allowed for a sinking fund for the repayment of the loan over a period of 60 years at 2 per cent.

126. **Cost of revising the record-of-rights and constructing buildings.**—As we have pointed out, the revision of the record-of-rights would be an essential preliminary to a scheme of State acquisition. We have considered the estimates of the cost of revisional operations made by the Finance Department and the Director of Land Records and think that a fair estimate would be Rs. 800 per square mile, including the cost of the staff which would assess compensation and verify arrear rents after revisional operations had been completed in each district. Excluding the Chittagong Hill Tracts, the cost of revisional operations for the Province would amount to 5.8 crores, and we have proposed that this sum should for the purpose of our estimate be added to the loan. The cost might be reduced by taking up first of all the districts in which original Settlement operations have recently been completed.

We have accepted the Finance Department's estimate of 1.3 crores on account of the capital cost of constructing tahsil offices, and quarters for Khas Mahal officers.

127. **Synopsis.**—Our estimate of the assets therefore includes the rents paid by all classes of raiyats and occupiers; a valuation of service tenures and holdings; a valuation of the estimated cultivated and uncultivated area of the khas land of proprietors and tenure-holders; and the miscellaneous income that would be derived from fishery and forest rights. The estimate excludes, for the reasons stated in each case, the mineral rights, the cost of acquiring the rights of raiyats who have either sublet or given land to bargadars, and the cost of acquiring the interests above the actual cultivators in Government estates.

128. **Calculation of financial result.**—The detailed calculations are as follows if 10, 12, or 15 times the net profit is paid:—

	Crores.
Assets	13.00
Less Revenue	2.41[1]
Less Landlord's share of Cess ..	0.46
	10.13
Cost of landlord's management at 18 per cent. of the assets.. ..	2.34
Sum to be capitalised	7.79

Effect of State acquisition.

(*A*) At 10 times the net profit the loan would amount to 77.9 crores, plus 13 crores for arrear rents, 5.8 crores for revisional operations, and 1.3 crores for the construction of tahsil offices and quarters—in all 98 crores. The interest at 4 per cent. would be 3.92 crores.

	Crores.
Assets	13.00
Less Revenue	2.41
Less Cess	0.46
	10.13
Government management at 14 per cent.	1.82
	8.31
Remissions and irrecoverables at 10 per cent.	1.30
	7.01
Interest on loan	3.92
	3.09
Sinking Fund, 60 years at 2 per cent.	0.86
	2.23

[1] 2.15 permanently settled and 0.26 temporarily settled.

(*B*) If 12 times the net profit is paid, the loan would be 93.48 + 13 + 5.8 + 1.3 = 113.58 crores and interest at 4 per cent., 4.54 crores.

	Crores.
Assets, less Revenue and Cess ..	10.13
Government management at 14 per cent.	1.82
	8.31
Remissions and irrecoverables at 10 per cent.	1.30
	7.01
Interest on loan	4.54
	2.47
Sinking Fund, 60 years at 2 per cent.	1.00
	1.47

(*C*) If 15 times the net profit is paid the loan would be 116.85 + 13 + 5.8 + 1.3 = 136.95 crores and interest at 4 per cent. = 5.58 crores.

	Crores.
Assets, less Revenue and Cess ..	10.13
Government management ..	1.82
	8.31
Remissions and irrecoverables ..	1.30
	7.01
Interest on loan	5.48
	1.53
Sinking Fund, 60 years at 2 per cent.	1.20
	0.33

Special Financial Considerations.

129. **Arrear rents.**—As the sum which would have to be paid on account of arrear rents due to proprietors and tenure-holders has been included in the loan, the whole of the arrear rents, estimated at 26 crores, or such part of them as could be

collected, would come to Government and could be utilised to reduce the amount of the loan. These collections could be put down on the credit side.

130. **Reduction of high rents.**—On the other hand we must emphasise that our estimate is based on what we believe to be the actual assets, and that compensation would have to be paid on that basis. We are not in a position to know whether any reduction of rents, which are considered to be unfairly high, is under the contemplation of Government. High rents certainly exist in parts of Hooghly, Howrah, 24-Parganas and in other areas, but we must point out that if any reduction in such rents is made after a scheme of State acquisition has been initiated, there will be a financial loss, unless the reduction in assets is balanced by enhancements of rent which are unduly low. If therefore any reduction is contemplated, it is essential that it should be made before acquiring the interests of the proprietors and tenure-holders.

131. **Decrease in stamp revenue.**—We must also point out that State acquisition will inevitably lead to a decrease in the revenue from stamps. Although the number of criminal cases is not likely to be affected, it is certain that there will be a decrease in the volume of civil litigation. The revenue from stamps amount normally to nearly 3 crores per annum, the bulk of which is derived from title suits and rent suits. Both of these would be substantially reduced when Government became the sole landlord. We are not in a position to make any estimate of the financial effect, but it is a matter which deserves the careful consideration of Government.

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132. **Temporary settlements.**—As an alternative to a scheme of State acquisition, we have considered the desirability of recommending less drastic modifications of the existing land revenue system. The first of these is the substitution of temporary settlements for the Permanent Settlement. We are agreed that although temporary settlements might possibly afford some relief to the finances of the Province, they would do nothing to remedy any of the defects which have been ascribed to the Permanent Settlement. There are some permanently settled estates in Bengal, though not many, whose existing revenue is higher than 50 per cent. of the assets. There are others which are leased out to patnidars and in which the profits are small. In these a substantial increase in the revenue might render the estates losing concerns. Moreover the increase in revenue would be obtained mainly at the expense

of the zamindars, and not from the patnidars and other tenure-holders at fixed rates of rent. The contracts by which they hold at fixed rates could not be set aside.

A system of temporary settlements would lead to complaints by the zamindars against the invasion of their rights no less than a scheme of State acquisition, and it is doubtful whether there would be an appreciable increase of revenue. The Permanent Settlement Regulations would have to be repealed, and that could not be done without paying as compensation to the zamindars for the loss of their rigths, an amount which might largely absorb the increase in revenue.

133. **Release of Court of Wards estates, etc.**—Another suggestion for bringing estates under Government control is that the estates now under the Court of Wards should be released; the Sale Law should in future be rigidly applied; and Collectors should be instructed to bid on behalf of Government for estates which are put up in revenue sale. It is believed that if these measures were adopted, a large number of estates would become Khas Mahals within a few years. But this would not necessarily be so in the case of the estates under the Court of Wards. If they were released, they would not come to Government at Re. 1, but would be taken over by the creditors who hold mortgages on them.

If Collectors were instructed to bid for estates in revenue sales, it is probable that a number of estates would come to Government; but they might be estates which are difficult to manage, or the profit of which is small, and they would be scattered at a distance from existing Government estates. This would render management much more difficult than if all the estates in a district are acquired in compact blocks.

We think that the disadvantages which are likely to follow this suggestion render it unacceptable.

Agricultural Income-tax, or Cess.

134. **Why suggested.**—We have also considered the desirability of recommending that an agricultural cess or income-tax should be imposed. We are aware that the Commission is not primarily concerned with the financial arrangements which it might be necessary to adopt, in order to carry out the measures which we may recommend for the improvement of economic conditions. At the same time we desire to point out that on the basis of the present two-party

settlement operations it would not be possible to carry out a scheme of State acquisition in less than 30 years. The suggestions which we may make for improving economic conditions should not be postponed for so long a period, and in order to put them into operation it will be necessary to raise additional revenue.

135. **Agricultural income-tax.**—There appears to be no legal bar to the imposition of an agricultural income-tax, and we concur with the view expressed by the Indian Taxation Enquiry Committee that agricultural incomes should not be exempted from taxation[1]. The Government of Bihar has imposed a tax on agricultural incomes since 1938, and a similar measure has been under contemplation of the Governments of Assam and Madras. In Bihar, the tax has been imposed on incomes over Rs. 5,000, after deducting revenue or rent, cess, collection charges, and various other items. Income-tax was imposed from 1860 to 1865, and again from 1869 to 1873 on incomes whether they were wholly or partly derived from agriculture. Under present conditions, income-tax is paid on incomes, excluding agricultural income, to the Government of India. A tax on agricultural incomes would be paid to provincial revenues, and therefore a person whose income from agricultural and non-agricultural sources was just below the limit in either case, would escape assessment altogether, although his total income exceeded the assessable limit. This might be avoided if an arrangement could be made between the Central and Provincial Governments to collect and divide the tax which might be assessed in such a case. The Indian Taxation Enquiry Committee contemplated such an arrangement, provided that it was administratively feasible[2]. There is therefore a case for fixing the limit below Rs. 2,000 and we propose that Rs. 1,000 should be the limit, unless an arrangement can be made to collect the tax on incomes exceeding Rs. 2,000 which are partly agricultural and partly non-agricultural.

136. **Agricultural cess.**—Agricultural cess is an alternative method of raising revenue from the land. It could either be imposed on the land as a rate per acre, to be paid by all classes of rent-receivers, including occupancy raiyats who cultivate through bargadars; or it might be assessed on the net income of all rent-receivers, in which case it would amount in practice to very much the same as an income-tax. We are not in favour however of an agricultural cess, chiefly because of the extreme

[1] Report, Volume I, paragraph 263.

[2] Report, paragraph 260.

difficulty under present conditions of devising any means for its collection, except through the proprietors and tenure-holders, and as a surcharge on rent. It would have to be collected in the same way as road and public works cess, and educational cess. Realisation of educational cess has not proved satisfactory, owing to the difficulty which the landlords are experiencing in its collection, and we feel that under present conditions it would be useless to recommend the addition of a further cess.

137. **Recommendation.**—We should prefer an agricultural income-tax, to be imposed as a transitional measure until the scheme of State acquisition is effected, or as a permanent measure, if Government consider that State acquisition should not be undertaken for financial or other reasons. We are strongly of opinion that if agricultural income-tax is imposed, it should be applied solely for the improvement of agriculture, or for projects connected with agricultural improvement.

138. **Summary.**—Before concluding this section of our report, we desire to summarise the implications of a scheme of State acquisition.

We realise the immense financial difficulty of carrying out an operation of such magnitude. It may not be possible, particularly during the duration of the war, to raise the necessary amount, even by instalments. If this is the case, and Government are unable to accept our recommendation that compensation should be paid in cash, we should recommend the issue of bonds subject to the provision that small amounts, say up to Rs. 500, should be paid in cash.

If compensation is paid at 10 times the net profit the estimated surplus is 2.23 crores. At 12 times the net profit, the estimated surplus is 1.47 crores and at 15 times it is 33 lakhs. The estimates have been prepared on a conservative basis and we have no reason to think that the estimated surpluses would not be realised, provided that the Government do not yield to any demand for a general reduction of rents. Indeed if Government is able to collect a considerable proportion of the arrear rents, the amount of the loan and consequently the interest charge can be reduced, and the surplus will be increased. But here we must emphasise our view that although financial results have to be carefully considered, we do not support a scheme of State acquisition solely on the ground that it may lead to a financial gain. If it resulted in a financial gain that would be an additional advantage, but our recommendation

that the State should be brought into direct relation with the actual cultivators is the outcome of other, and in our view, more vital considerations.

We also realise that it would not be possible to carry out the scheme without reducing by half, or even more, the present income of the proprietors and tenure-holders and other rent-receivers according as compensation is paid at 15, 12 or 10 times the net profit; and we have considered the possible social upheaval which may ensue if many of the middle classes lose their vested interests in land.

Nevertheless the majority of the Commission hold the view that in the interests of the Province as a whole, the present land tenure system cannot remain unaltered. In fact, if present conditions continue, it may not be too much to say that the system will break down of its own accord. It is unsuited to modern conditions, and has brought about a situation in the Province, in which the welfare of agriculture is neglected, and a great proportion of the wealth from the land is appropriated by middlemen, most of whom have no connection with agriculture and have treated the land simply as a commercial investment. The choice lies between introducing a raiyatwari system, by buying out all the interests in land above the cultivator, and attempting to prolong the life of a system which has already outlived its usefulness. The majority of members feel that the defects in the present system can only be remedied if the State comes into direct relation with the actual cultivators, and would strongly emphasise their view that this should be the aim of Government.

CHAPTER IV.

Transfer and Subletting.

139. **Maintenance of direct relations with the cultivators.**—The majority having decided that it is practical and advisable for Government to acquire all the superior interests in agricultural land so as to bring the actual cultivators into the position of tenants directly under Government, we have now to deal with the question which is raised in the last sentence of the fifth term of reference,—whether it would be possible to maintain them in that position. The answer depends on the extent to which the practice of subletting and transfer, which are the subjects of the sixth and first terms of reference, can be controlled, or at least discouraged in the future. Even if the State becomes the sole landlord, all the existing cultivators cannot be expected to remain cultivators for ever; and even if their under-tenants become the direct tenants of Government, in course of time some of them also will cease to be the actual tillers of the soil and convert themselves into rent-receivers. If, after completing the scheme of acquisition which the majority have recommended, it were not possible to prevent the processes of sub-infeudation and transfer to non-agriculturists, it would be necessary to carry out the acquisition of rent-receivers' interests at intervals of 30 or 40 years.

140. **Subinfeudation below the raiyat.**—Subinfeudation below the raiyat was not created by tenancy legislation; legislation has merely recognised existing facts, belatedly and reluctantly. As long as there is a sufficient margin of profit, the operation of economic laws makes subletting a natural process, and we do not think that it is desirable in the interests of the community as a whole that persons who do not feel themselves interested or qualified should be obliged to go on cultivating for ever. If a close caste of cultivators were created, to which there could be no future admission, and if none of the existing families of agricultural labourers could have any hope of acquiring any land in their own right, one of the main incentives to saving and enterprise would be lost to the agricultural population. It is an essential of any land system that it should be elastic, and capable of adapting itself to future changes in the habits and desires of the people. We cannot therefore entirely prevent both subletting and transferability.

141. **Criticism of tenancy legislation.**—Unrestricted subletting invariably leads to rack-renting, to prevent which has always been one of the main objects of tenancy legislation. The chief criticism of tenancy legislation in this Province which has been made in the evidence before us is that the Act of 1885 did not protect, as such, the actual tillers of the soil. When Act X of 1859 was passed, the occupancy rights which it created were intended for the actual tillers of the soil. As time went on, subletting to under-raiyats became more common but the raiyats retained all their occupancy rights and the under-tenants were to all intents and purposes tenants-at-will. The vital blunder was to attach occupancy rights, not to the land, but to a particular class of tenants who might be non-agriculturists or might cease to cultivate. From this point of view the legislation of 1928 made the position worse. Though it strengthened the position of cash-paying under-raiyats by giving them occupancy rights it recognised produce-paying tenants only in so far as they are raiyats or under-raiyats paying a fixed quantity of produce. The bargadar or adhiar does not come within this category; and although the majority of them finance agriculture themselves, providing the seed, plough and cattle, they have no status even as tenants-at-will[1].

142. **Effect of 1928 Act on bargadars.**—The provision in the Tenancy Act of 1928, which definitely declared the bargadars with few exceptions to be labourers was, we hold, a retrograde measure. At present, probably one-fifth of the land in Bengal is cultivated for zamindars, tenure-holders, raiyats, or under-raiyats by people most of whom themselves hold lands as raiyats or under-raiyats, and to all of whom agriculture is the ancestral profession. Socially, they are regarded in their villages as having a better status than labourers. Many bargadars are the original tenants who have lost their lands in the Civil Courts for failure to pay their rent or other liabilities. Some belong to aboriginal tribes like the Santals who originally brought land into cultivation, but were gradually bought up by their landlords or creditors, and were converted into serfs. Chapter VIIA was inserted into the Tenancy Act too late to save many of them from the consequences of their own improvidence. These are the people tied to the land of whom Sir Henry Maine says "the status of

[1]Under the barga system, generally one-half of the produce goes to the lessor. It may be regarded either as rent or as his own share of the produce, while the remaining half which is kept by the cultivator may be regarded either as the wages of his labour or as his share of the produce which remains after the payment of rent.

the slave is always deplorable, the status of the predial slave is often worse than that of the household slave, but the lowest depth of miserable subjection is reached when the person enthralled to the land is at the mercy of peasants, whether they exercise their powers singly or in communities".

We are of opinion that this is one of the most difficult problems that we have to face. It is bound up with the commercialisation of land to which our attention is drawn in the first term of reference, i.e., the appropriation of the most valuable right in land—the occupancy right—by non-agriculturists.

143. **Advantages of barga system.**—We are all prepared to concede that the barga system has many advantages. When a share of the crop is paid, fluctuations in the cash value of the produce have no application, and whether there is a good or a bad crop the amount paid varies with the outturn. The system is of great assistance to widows, minors and other people who are temporarily incapacitated from agriculture. Such people would be great losers if their only way of getting their land cultivated, without losing for ever the right to return to it, was the employment of labour hired by the day or the month.

144. **Disadvantages of the system.**—Nevertheless the barga system overrides the principle that the tiller of the soil should have security and protection from rack-renting. No one denies that half the produce is an excessive rent. Further the balance of opinion in all countries is that this system of cultivation is not economic and therefore not in the interest of the community as a whole. The cultivator only gets the benefit of half the value of any increase in yield which is the reward of his own labour or enterprise. If the crop is even a partial failure, he does not earn the cost of cultivation.

145. **Considerations in proposing rights for bargadars.**—We consider that the legislation of 1928 in regard to bargadars has proved to be a mistake. Quite apart from any question of State acquisition or a radical change in the present land revenue system, bargadars under tenure-holders should be raiyats, and bargadars under raiyats should be under-raiyats. They need not necessarily have all the rights of occupancy. Provision might be made by which they could be ejected at the end of a written lease, as in the case of non-occupancy raiyats. There might also be a new provision for ejecting them if they

did not cultivate efficiently. We admit, however, that this might be difficult to prove in Court. In any case, the share of the crop they pay, which is now limited by section 178 (*e*) of the Tenancy Act to half the produce is too high.

The chief argument against any proposal to improve the status of the bargadars, is that as soon as it has become publicly known, the great majority of the bargadars will be turned out. But we do not think that the owners of those lands are in a position to cultivate the land themselves, or can afford to leave them uncultivated for more than one or two years at most. They must either employ the previous bargadars as labourers on fixed wages, in which case the economic position of these people might improve, or sooner or later they must reinstate the bargadars.

146. **Recommendation.**—Our recommendation is that the provision of Sir John Kerr's Bill should be restored, by which it was proposed to treat as tenants bargadars who supply the plough, cattle, and agricultural implements. If it is thought too difficult to frame a workable definition, then all bargadars should be declared to be tenants. We also recommend that the share of the crop legally recoverable from them should be one-third, instead of half, although we recognise that there may be practical difficulties in enforcing this limitation.

147. **Difficulty of preventing subletting.**—We recognise the practical difficulties of preventing subletting. The attempt to restrict the period of sub-leases to under-raiyats in the Tenancy Act of 1885 proved a failure. In Jalpaiguri, which is under Government management, attempts to prevent the jotedars from subletting have been unsuccessful. The same has been the experience in the Chittagong Hill Tracts, and in Cooch Behar. But in view of the problems which subletting has raised in the past, and the extent to which it has succeeded in defeating the policy of all tenancy legislation, it is obvious that we cannot contemplate its continuance or extension under a raiyatwari system. If the recommendation of the majority were carried out and all the interests of rent-receivers were acquired, it would be inconsistent to permit subletting on a scale which would again create a host of landlords over the actual cultivators. The ideal which the majority visualise is a State in which there will only be peasant proprietors cultivating their own lands and paying revenue to Government. We therefore propose to forbid subletting in any form. This is the only effective way in which transfers of agricultural holdings to non-agriculturists can be prevented.

148. **Recommendation—under State Landlordism.**—All sub-leases should be declared to be *ab initio* void, unless they have been made by a widow, a minor, a person who is physically unfit to cultivate his own lands, a convict in jail, or by a person who is forced to remain absent from his village for a temporary period. Such persons should be allowed to sublet for the period of their disability or absence from home, but no longer. Such a provision in the tenancy law might be disregarded in many cases, but if disobedience to it rendered the lessor liable to forfeit his land to the sub-lessee, or on the matter being brought to the notice of the Khas Mahal Officer, to the State without compensation, it would deter the vast majority of non-agriculturists from subletting their lands. They would be forced to have them cultivated by labourers on a fixed wage, or to sell them, or to find some system of usufructuary mortgage for not more than 15 years, any of which alternatives would ensure better terms to the actual cultivators than the present barga system is apt to do in most cases.

This recommendation may seem rather drastic, but we cannot replace a permanent settlement with one lakh of zamindars by a permanent settlement with 40 lakhs of occupancy raiyats, many of whom will gradually cease to cultivate. Restriction on subletting is not likely to arouse the same opposition, or to be as difficult to pass through the legislature as would restriction on transfer.

149. **Ad interim recommendation.**—Pending the completion of the scheme of State acquisition, we consider that it would be desirable to discourage rather than to forbid subletting. We recognise that the large majority of the present raiyats have been cultivating for generations, that there is no prospect of their being able to take to other occupations on a large scale, and that every possible step should be taken to help them to retain the lands they now have. We recommend that the law should be amended to provide that in future the rent of an under-raiyat will not be more than one-third in excess of the average rent of his immediate landlord, if the latter pays a lump rent; or if he pays different rates for different classes of land, not more than one-third in excess of the rate paid for the class of land sublet.

150. **Transferability.**—The right of transfer was conferred after a long struggle on all occupancy raiyats without any fee or restriction in 1938. We have stated in paragraph 35 that the authorities are far from unanimous whether before and after

the Permanent Settlement raiyati holdings were transferable. There is no certainty that the decision of the Full Bench in the Great Rent Case of 1865 was correct, that occupancy raiyats could not legally sell or mortgage any of their lands. In the discussions on the Act of 1859 there was no mention of transferability. In 1885 the final decision was to leave the question of transferability to be decided by local custom. This provision naturally led to the belief that where no such custom could be proved, holdings were not transferable; and as it was practically impossible for the raiyats as a class to produce evidence of custom which would convince a Civil Court, this provision of law had little effect. Nevertheless the raiyats did transfer their lands and sooner or later the transferee could always obtain recognition by paying a fee to the zamindar. As the High Court wrote to Government in 1912, the Courts could not decide whether such sales were void *ab initio* or merely voidable at the will of the landlord.

In 1928 occupancy rights were made transferable subject to the payment of landlords' fee and by the subsequent Act of 1938 the landlords' fee was abolished. This change in the law has been regarded as a great boon by all raiyats. It has substantially increased the value of their lands, so that in theory they can discharge their debts by selling a smaller portion. Any proposal to take it away would be unpopular in the extreme. Nevertheless it has not proved an unmixed blessing, because among cultivators with a low standard of education, increased credit means increased borrowing. Free transferability has tended and must tend to facilitate the transfer of raiyati lands into the hands of mahajans and non-agriculturists, with the result that the number of rack-rented bargadars and under-raiyats is going up by leaps and bounds. It is clear that it is as great a danger to the stability of the existing raiyats as their opportunities for subletting.

151. **Suggestions for restricting transfer.**—Several methods have been suggested for restricting the right to transfer. The first is that transfer should be allowed only to *bona fide* agriculturists. The practical difficulty about this suggestion is the impossibility of finding a satisfactory working definition of an "agriculturist". In the Land Alienation Act of the Punjab, a schedule of *bona fide* agriculturists is given in the form of a list of castes, but this classification has not prevented capitalists belonging to agricultural castes from buying up the lands of small peasant proprietors on a large scale. In Bengal, no list of castes could be made which would

include all *bona fide* agriculturists and exclude non-agriculturists. Further, a family which lives by agriculture today may cease to be agriculturists tomorrow, and *vice versa.*

A second suggestion is that land should be transferable only to families which possess less than 5 acres a head, or, say 20 acres altogether. The object of this proposal is to prevent the accumulation of large quantities of land in the hands of one person. An exception is suggested in the case of an institution or individual who wishes to invest capital in large scale scientific farming, and who could obtain a certificate about his *bona fides* from the Collector of the district.

A strong objection to this suggestion is the difficulty of suggesting a suitable agency for ascertaining the quantity of land which a prospective purchaser is already possessing. Benami transactions would be numerous. Another objection is that the price of agricultural land may fall heavily. There may not be enough people with less than 20 acres who are in a position to pay a good price for more land. If the market is confined within this limit, a raiyat who is obliged to sell land to meet his liability may have to sell a much larger amount of land than if the market were unrestricted.

The third suggestion which is the converse of the second, is that a raiyat who possesses less than 5 acres in East Bengal and less than 7 acres in West Bengal, who in other words does not possess an economic holding, should not be allowed to sell any fraction of his holding. The object of this suggestion is to prevent an increase in the number of uneconomic holdings. But it would tend to perpetuate the existing uneconomic holdings. Like the second suggestion, it involves annoying investigations. It would force a raiyat who might have been able to get out of his difficulties by selling a small portion of his land, to sell the whole, and it might arouse opposition.

152. **Conclusion.**—These proposals for restricting transfer, have been dealt with on the two assumptions that the zamindari system remains, and that any attempts to veto subletting are ineffective. Restriction of transfer has two separate objects:—to help the present raiyats to keep their land, and to prevent the passing of land held in occupancy right into the hands of non-agriculturists, who cannot or will not cultivate themselves, but sublet on barga rent or on excessive cash rents.

In order to achieve the former object and also to maintain the system of peasant proprietorship, the majority of us think that the second of the three measures suggested above is likely

to have the best results. We are agreed however that all of them are likely to prove extremely difficult in practice.

The only alternative which would promote the second object is the suggestion that all transfers except to *bona fide* agriculturists should be forbidden. Provided that the cultivators to whom the non-agricultural transferee's sublets are given sufficient security, and protection against excessive rent, there seems to be no great objection to the lessors retaining the incidents of occupancy rights, though in fact they may be tenure-holders or middlemen. For this reason we have recommended that bargadars should be regarded as tenants and given definite rights, though not necessarily all the rights of occupancy raiyats. If this change in the law is introduced, further restrictions on transfer are not absolutely necessary. Transfer of parts of raiyati holdings is not in itself objectionable, and we think that the right must remain, if the right of subletting goes, in order to allow people who are unfit or unwilling to cultivate to divest themselves of the responsibility.

CHAPTER V.

Economic conditions in Bengal and the Provinces visited.

Causes of Economic Difficulties.

153. **Pressure of population.**—The economic difficulties that exist in Bengal today are primarily due to the ever-increasing pressure of population on land. Between 1891 and 1921 the agricultural population increased from 25·5 to 36·1 millions. The 1931 Census returned the agricultural population at 33·4 millions, but it is certain that the apparent decrease is due to a different system of census classification, and it is unlikely that there has actually been a decrease. The density of the agricultural population in Bengal is 430 per square mile, over the total provincial area, compared with 343 in Bihar and Orissa, and 330 in the United Provinces. The incidence per square mile on the net cultivated area is 739 in Bengal: owing to the smaller percentage of the cultivated area in the other provinces, the incidence in Bihar is 744, and in the United Provinces 640. In the other provinces it is considerably less. The fundamental reason for the difficulties of the rural population in Bengal is that there is not enough land to go round. Even the cultivators with sufficient land for the maintenance of their families have to earn their livelihood during three or four months, and have to sit idle during the remainder of the year, because there is no organisation for the development of cottage industries, and four-fifths of the cultivated area is sown with only one crop.

154. **Subdivision of holdings.**—The pressure of population, combined with the effects of the Hindu and Muslim laws of inheritance and the free right of transfer, has led to a systematic increase in the subdivision of holdings. A cultivator owning 5 acres of land is succeeded by five sons, each of whom inherits one acre. Under the existing law they can split up the parent holding into five small holdings or transfer their share in the parent holding, and the landlord is bound to recognise the subdivision if the resulting rent is not less than Re. 1. But it makes no practical difference whether the co-sharers remain in joint possession, or whether they split up the holding into a

number of smaller holdings. In either case the area in the possession of each co-sharer remains the same, and if it is insufficient for the maintenance of his family, he is compelled to look for additional land or to increase his income from some subsidiary occupation. In its essentials the problem is not one of the number of holdings which may be created out of the parent holding, but of the number of persons which each holding has to support.

155. **Impracticability of preventing subdivision.**—We have considered whether it would be practicable to check the subdivision of holdings by suggesting an alteration in the laws of inheritance. We have also considered whether it would be possible to introduce the system of the "preferred heir", by which one co-sharer in a holding would look after the cultivation, and be responsible for supporting the remaining co-sharers. We are agreed, however, that neither suggestion is capable of being carried into practice, and that is the view expressed by nearly all our witnesses.

156. **Uneconomic holdings.**—The effect of the tendencies described above has been to increase the number of uneconomic holdings in Bengal and to reduce many of the raiyats, who have been compelled to part with their land, to the position of bargadars without any rights. We have no settlement figures to show what proportion of holdings in the Province could be regarded as uneconomic, but we believe that about half of the holdings in Bengal are barely sufficient for the maintenance of the families which own them. The enquiries which were made for our Commission by the Director of Land Records and Surveys took into account the economic position of nearly 20,000 families in selected villages of each district. They indicate that two-thirds of the families of agriculturists own less than 4 acres. Cultivators in such circumstances may be compelled to increase their income by working as day labourers, hiring carts, or by other forms of subsidiary occupation.

157. **Fragmentation and consolidation.**—Another problem affecting the economic situation is the fragmentation of holdings. This means that the different plots which make up a holding lie scattered, often at a great distance from one another, with the result that a great deal of time is wasted in cultivating them: One of the reasons for the Commission's visit to the Punjab was to examine the working of the consolidation of holdings in that province[1]. We were greatly

[1] *Vide* Punjab Note: Appendix VII.

impressed by the results that have been achieved; but we are agreed that although consolidation is desirable in Bengal, there would be great difficulties in carrying it out, and it would not benefit the cultivators to the same extent as in the Punjab. The greatest advantage of consolidation in a province where the crops depend entirely on irrigation is that the peasant proprietor whose plots are consolidated is in a position to sink a well which he could not do if his plots were scattered all over the village. Another fact which facilitates consolidation in the Punjab is that there is very little subinfeudation, and where peasant proprietors have sublet, their tenants have no rights. In Bengal, subinfeudation would create greater difficulties, and it is certain that a great deal of propaganda would have to be carried out, as had even to be done in the Punjab, before any scheme could be attempted. Nevertheless we think that in spite of the difficulties, the advantages which would follow consolidation of holdings are sufficient to justify the experiment in Bengal, and we recommend that experiments should be made in selected areas, both in Khas Mahal and permanently settled estates, where there is little or no subinfeudation.

158. **Fall in prices.**—The economic situation in Bengal has been affected, as is the case in other provinces and countries, by the fall in agricultural prices since 1929. The standard of living has been reduced and the difficulties of the cultivators increased. The situation has been aggravated by the great restriction of rural credit. Whether this restriction is in itself a good or a bad thing we shall discuss later in connection with the seventh term of reference. The Bengal Agricultural Debtors' Act was passed in 1935 with the object of scaling down the debts of cultivators and allowing them to repay the debts so fixed over a period of years; but excellent as were the intentions of the Act, it has resulted in an even greater restriction of credit, and it would not be too much to say that at present rural credit is almost non-existent.

Examination of Statistics for Bengal.

159. **Absence of scientific statistics.**—Before comparing the economic position of the cultivators in Bengal with that of the cultivators in the provinces which we have visited, it is necessary to refer to the statistical material which is available. At the outset it must be observed that no dependable statistics exist in Bengal which have been prepared on a scientific basis to show the yield of the various crops. This complaint was

made in 1876 by MacDonnell who wrote:—"on the threshold of my enquiry I was confronted with what has been held to be a great want to an administrator in Bengal, the want of agricultural statistics[1]."

160. **Statistics of yield: how prepared.**—Each Provincial Government publishes once in five years the result of crop-cutting experiments conducted by the Collectors and officers of the Agricultural Department. It also publishes annually forecasts, or estimates of the area under each crop, and of the yield of principal crops expressed as percentages of the normal outturn. What is meant by a normal yield is thus described :—

"That crop which past experience has shown to be the most generally recurring crop in a series of years; the typical crop of the local area; the crop which the cultivator has a right to expect, and with which he is (or should be) content, which if he gets more he has reason to rejoice, and if less he has reason to complain." In other words, it is the "figure which in existing circumstances might be expected to be attained in the year if the rainfall and season were of a character ordinary for the tract under consideration, that is, neither very favourable nor the reverse."

The total outturn of the different crops is then obtained by multiplying the forecast area by the forecast yield per acre.

The normal yield was never based entirely on the result of crop-cutting experiments, but was adjusted in view of various considerations, at the discretion of the Directors of Agriculture. In the most recent agricultural statistics of the Government of India, 1935-36, it is explained that the provincial averages for Bengal have been deduced solely from the results of the experiments conducted during the previous quinquennium, without taking into consideration the results obtained during the preceding periods. It is said that the provincial averages now deduced may safely be taken as normal yields.

161. **Statistics of acreage: how prepared.**—In the other provinces where record-of-rights have been regularly maintained, the figures of the Agricultural Department must be approximately correct. In Bengal the acreage figures are based upon reports from districts, which are largely guess-work in their estimates of the area sown under a particular crop. The figures have been proved hopelessly wrong in

[1]Report on the Food grain supply of Bengal and Bihar—Introduction, page iii.

comparison with the areas found in the latest settlement operations in Burdwan and Hooghly. In Burdwan the figure for the net sown area is 1,080,000, and in Hooghly it is 534,000 acres, as against 501,800 and 284,100 shown in the agricultural statistics for these two districts respectively. Such a wide discrepancy could not have occurred, had there been any co-operation between the Agricultural Department and the Director of Land Records and Surveys. Actual figures obtained in settlement or re-settlement operations should be incorporated as soon as they are available in the agricultural statistics. The unreliability of the Agricultural Department's figures has been pointed out by the Royal Commission on Agriculture which described them as mere guesses, and "not infrequently demonstrably absurd guesses[1]" and the Government of India referred to them as being "largely conjectural". The recently published report of the Bengal Paddy Committee also criticises them severely. It is well known that the jute forecasts are always considerably below the actual crop, as proved by the figures of export; and, as the Punjab Land Revenue Committee has pointed out, the figures for the cotton harvest are equally below the mark in that province. If the figures for the area and the yield of these two important crops are wrong, it is clear that the figures for the other crops must be subjected to tests from all the other evidence available.

162. **Yield of paddy—departmental estimates.**—According to the 1932-37 quinquennial report of crop-cutting experiments, the average yield of aman paddy for the years 1927-37 was 12½ maunds of rice, or 19 maunds of paddy in Bengal, a little less in Bihar and Burma and a little more in Madras. But as the result of the system by which the yield was each year reported by the Collectors as a percentage of the normal yield, the average outturn for the last 20 years comes to 15·9 maunds and for the last 10 years to 16·9 maunds. It appears therefore that in nearly every year the actual average crop has been estimated at a much lower percentage than the definition of a normal crop would have led us to expect.

The figures taken from settlement reports give the actual acreage found under each crop in the year when settlement operations were in progress, and the estimates of yield are based on crop-cutting experiments carried out by each Kanungo. These experiments have not been carried out on a scientific basis, and though their number is far in excess of the

[1]Report, paragraph 527.

annual experiments made by the Agricultural Department, they relate only to one year. They may therefore be regarded as a rough guide, the value of which depends on their corroboration by other data. Taking all the settlement reports together, the average yield for the Province works out at almost 19 maunds per acre.

163. **Random sampling surveys.**—As a result of the criticism of the Royal Commission on Agriculture, crop-cutting experiments by the random sampling method were introduced into India on the recommendation of Professors Bowley and Robertson. In 1925 Sir John Hubback started experiments on this system and it has since been followed in Orissa at all revisional settlements. The result has been a higher estimate of the yield of aman paddy. Thus in Cuttack the random sampling method resulted in yields of 23½ maunds for irrigated, and 23 maunds for unirrigated lands, as opposed to 19·72 maunds according to previous settlement crop-cutting experiments, and 17·9 maunds according to experiments made by the Irrigation Department. The only experiments which have been carried out by the same method in this Province are those which were made last year over an area of 1,000 square miles in Burdwan, Hooghly and Howrah districts. In the course of these experiments, about 95,000 cuts were made, and the results show that both in the irrigated and non-irrigated area of Burdwan district, the average yield of aman paddy is a little more than 19 maunds: in Howrah it is 18, and in Hooghly 18½ maunds per acre. If this is the case, it is difficult to believe that in the more fertile parts of eastern Bengal the yield is not as great, or greater.

164. **Other evidence of yield.**—There are other sources of evidence which it is worth while to take into account. The Congress Committee, which held an inquiry in the area covered by the Damodar Canal Scheme, came to the conclusion that the average outturn is 24 maunds, and that only once in 5 years had there been a partial crop failure, which could be estimated at 8 annas. There are also the reports of old surveyors like Dr. Buchanon-Hamilton, Martin, Hunter, and others. Their reports show that the yield in Bengal districts could be as high as 35 maunds. Dr. Watts in his Economic Dictionary stated the normal yield of paddy in Bengal to be 35 maunds. Macdonnell in his report on the food-grain supply of Bengal and Bihar during the famine, came to the conclusion that 18 to 20 maunds was the average outturn in Dinajpur and Murshidabad. On the other hand Westland who wrote the

"Customs and Antiquities of Jessore" said that 13 maunds a bigha was what a raiyat would expect as a fair average outturn.

Colebrooke states that the figures for the yield of various crops in the Ain-i-Akbari would work out, in the case of rice, to 4 maunds 35 seers per standard bigha. This is the equivalent of 21½ maunds of paddy per acre[1]. Colebrooke, writing about the time of the Permanent Settlement, took the yield to be 7 maunds per bigha, or 21 maunds per acre[2].

The evidence as a whole is conflicting, but there is little difference between the results of the quinquennial crop-cutting experiments for 1932-37, the average settlement figure, and the averages obtained by random sampling in Burdwan, Hooghly and Howrah districts. In the absence of scientifically prepared statistics for the whole Province it is impossible to dogmatise about the yield of aman paddy, or any other crop. In Appendix IX we have given figures showing what we propose to take as the acreage and yield of various crops for the purpose of estimating the value of all crops, and of indicating the relative productivity of the different districts. We believe that these figures are substantially correct, and that the yield of paddy which we propose, 18·8 maunds, is not an overstatement. Some of our members, however, consider that this is too high an estimate. They believe that the average consumption of paddy is not more than 8 maunds per head per annum, in which case the yield must be less than 16 maunds per acre: otherwise there would be a surplus production of rice in Bengal.

165. **No general decrease of fertility.**—The high yields reported by early surveyors raise the question whether the fertility of the soil in Bengal is gradually decreasing as alleged by some of our witnesses. *Prima facie* it might appear natural that the continuous cultivation of the same crop without rotation, or without any manuring to speak of, should have resulted in the exhaustion of the soil after centuries of cultivation by the same methods. But this was not the finding of the Royal Commission on Agriculture. They expressed the view that this belief may often arise when the growth of population compels the cultivator to till inferior soil, thereby producing a decrease in the average yield. The Commission came to the conclusion however that experimental data support

[1]Colebrooke's Husbandry of Bengal, page 65.

[2]Ibid, page 66.

the view that where cultivation has been long established, no appreciable changes are to be expected in the outturn of crops, except those due to changing seasons, provided that the same system of cultivation is adhered to. They observed :—"while the paucity of records of crop outturn throughout India over any long period of time makes the matter impossible of exact proof, we are of opinion that the strong presumption is that an overwhelming proportion of the agricultural lands of India long ago reached the condition to which experimental data point. A balance has been established, and no further deterioration is likely to take place under existing conditions of cultivation[1]."

In coming to this decision the Royal Commission excluded from consideration land which has been rendered unfit by salt deposits; land which is eroded or damaged by river action; and land which has been recently cleared of forest. In Bengal there are some areas which used to obtain the benefit of alluvial deposits,—particularly in western and central Bengal, but which no longer do so. It is also true that saline deposits have affected some of the colonisation areas in the Sundarbans, and that the deterioration of the rivers, and of drainage, in some districts has proved as harmful as the restriction of spill areas in others.

166. **Low yield in Bengal.**—The inadequate yield of rice in Bengal is also due to the absence of any rotation of crops and the insufficient use of manure. Formerly wood was more plentiful for fuel but nowadays it has been replaced by cow-dung, and thus a valuable fertiliser within easy reach of the cultivator is wasted. Raw bones are systematically exported from rural areas, although they contain the materials for bone meal which is a very useful manure.

A comparison of the yield of rice in Bengal with that of other provinces and countries, indicates how low is the yield in Bengal considering its natural and climatic advantages. In Madras where every plot of paddy-growing land has to be irrigated from reservoirs, the yield is reported to be higher than in Bengal. In Japan where the same problems of overpopulation and uneconomic holdings exist, the yield is at least three times that of Bengal, and in China it is more than double. In some European countries like Spain and Italy, the yield is even higher than in Japan. Yet no other province or country has greater natural advantages than Bengal.

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[1]Report, paragraph 77.

167. **Total value of crops.**—In order to form a general idea of the income of an average family, we have endeavoured[1] to estimate the gross value of the crops in the Province and the average value of all crops per acre. The figure at which the majority of the Commission have arrived is Rs. 50 per acre. Some of our members however would prefer to accept a rather lower figure.

The value of the produce per acre naturally varies considerably in the fertile districts of eastern Bengal and the districts of western Bengal which grow practically nothing but rice, and have not the same fertility. In Rangpur the double-cropped area is 42 per cent. of the net cultivated area; in Mymensingh it is 39 per cent.; in Tippera 36 and in Dacca 35—whereas in Bankura it is only 3·3 per cent., in Birbhum 3·5, in Burdwan nearly 6 per cent., and in Midnapore as little as 2·3 per cent. Our estimate of the value of the produce per acre represents the mean between the most fertile and the least fertile areas, and may be regarded as a general guide; but under such widely varying conditions of fertility and cultivation it is not intended as a standard which can be rigidly applied to any particular area.

In 1929, the Bengal Provincial Banking Enquiry Committee estimated the gross value of the produce of Bengal to be 243.8 crores. Had they calculated on the basis of the cultivated and twice-cropped areas which we have adopted, their valuation would have been 297 crores. At that time agricultural prices were nearly twice as much as they have been on the average during the last ten years. But even assuming that present values are only half what they were in 1929, the valuation of all crops would be 148.5 crores according to the Banking Enquiry Committee's figure, as revised on the basis of the area we have adopted. That approximates closely to our estimate of 143 crores.

Including rent-receivers, the agricultural population of Bengal is 33·4 million according to the 1931 Census. The value of all crops per head of the agricultural population is therefore Rs. 43.

168. **Cost of cultivation.**—We have been given widely differing estimates of the cost of cultivating the principal crops in Bengal. Some of these estimates even show that the cost of

[1]Appendix IX.

cultivation is greater than the value of the produce at prices prevailing during the slump, and that from 1930 to 1937, every maund of jute must have been grown at a loss. It is impossible to make any precise calculation because an estimate must depend on variable factors, such as the size of the holding, the fertility of the soil and the amount of hired labour employed. Hired labour in turn depends on whether agricultural prices are high or low. When the price of jute is high, the weeding is done almost entirely by hired labourers: during the slump, hired labour was largely dispensed with, and the cultivators co-operated to weed each other's fields in rotation.

We think that any estimate must consider primarily the average family consisting of five persons who themselves cultivate an average-sized holding and only employ hired labour occasionally during the ploughing and reaping seasons. If the rains are delayed or are irregular, it may be necessary to plough the holding in a shorter time than would otherwise be required; and at the harvesting season hired labour is commonly employed especially if the paddy ripens simultaneously in all plots of the holding. Instead of going into elaborate calculations which are often apt to produce misleading results, we should prefer to estimate the cost of cultivation as a share of the value of the crop. By estimating the cost of cultivation as a share of the value of the crop, the fluctuations in cost are avoided. We think that one-third of the value of the crop is a proportion which would cover the cost of cultivation by an average family, including the cost of occasional hired labour. That is the proportion which is recognised by section 32 of the Bengal Tenancy Act. In allowing enhancements under this section, two-thirds of the increase resulting from a rise in the price of staple food crops is taken as the basis of calculation, and the remaining one-third is left out of account as representing the cost of cultivation, i.e., the share of the crop on which the cultivator can obtain no benefit from the rise in prices. It is also the basis of the Cess Act of 1878, when it was assumed that the rent, the cost of cultivation, and the profits were all equal.

169. **Average size of holdings.**—The number of raiyati tenancies, according to Settlement Reports, is 16·4 million. The area in possession of all classes of raiyats is 28 million acres, and that sublet by them to under-raiyats is 3·1 million acres,—in all 3·1 million acres. The average size of a raiyati tenancy is therefore 1·9 acres. This does not of course imply that each raiyat possesses only 1·9 acres: on the contrary the great majority possess more than one tenancy.

167. **Total value of crops.**—In order to form a general idea of the income of an average family, we have endeavoured[1] to estimate the gross value of the crops in the Province and the average value of all crops per acre. The figure at which the majority of the Commission have arrived is Rs. 50 per acre. Some of our members however would prefer to accept a rather lower figure.

The value of the produce per acre naturally varies considerably in the fertile districts of eastern Bengal and the districts of western Bengal which grow practically nothing but rice, and have not the same fertility. In Rangpur the double-cropped area is 42 per cent. of the net cultivated area; in Mymensingh it is 39 per cent.; in Tippera 36 and in Dacca 35—whereas in Bankura it is only 3·3 per cent., in Birbhum 3·5, in Burdwan nearly 6 per cent., and in Midnapore as little as 2·3 per cent. Our estimate of the value of the produce per acre represents the mean between the most fertile and the least fertile areas, and may be regarded as a general guide; but under such widely varying conditions of fertility and cultivation it is not intended as a standard which can be rigidly applied to any particular area.

In 1929, the Bengal Provincial Banking Enquiry Committee estimated the gross value of the produce of Bengal to be 243.8 crores. Had they calculated on the basis of the cultivated and twice-cropped areas which we have adopted, their valuation would have been 297 crores. At that time agricultural prices were nearly twice as much as they have been on the average during the last ten years. But even assuming that present values are only half what they were in 1929, the valuation of all crops would be 148.5 crores according to the Banking Enquiry Committee's figure, as revised on the basis of the area we have adopted. That approximates closely to our estimate of 143 crores.

Including rent-receivers, the agricultural population of Bengal is 33·4 million according to the 1931 Census. The value of all crops per head of the agricultural population is therefore Rs. 43.

168. **Cost of cultivation.**—We have been given widely differing estimates of the cost of cultivating the principal crops in Bengal. Some of these estimates even show that the cost of

[1]Appendix IX.

cultivation is greater than the value of the produce at prices prevailing during the slump, and that from 1930 to 1937, every maund of jute must have been grown at a loss. It is impossible to make any precise calculation because an estimate must depend on variable factors, such as the size of the holding, the fertility of the soil and the amount of hired labour employed. Hired labour in turn depends on whether agricultural prices are high or low. When the price of jute is high, the weeding is done almost entirely by hired labourers: during the slump, hired labour was largely dispensed with, and the cultivators co-operated to weed each other's fields in rotation.

We think that any estimate must consider primarily the average family consisting of five persons who themselves cultivate an average-sized holding and only employ hired labour occasionally during the ploughing and reaping seasons. If the rains are delayed or are irregular, it may be necessary to plough the holding in a shorter time than would otherwise be required; and at the harvesting season hired labour is commonly employed especially if the paddy ripens simultaneously in all plots of the holding. Instead of going into elaborate calculations which are often apt to produce misleading results, we should prefer to estimate the cost of cultivation as a share of the value of the crop. By estimating the cost of cultivation as a share of the value of the crop, the fluctuations in cost are avoided. We think that one-third of the value of the crop is a proportion which would cover the cost of cultivation by an average family, including the cost of occasional hired labour. That is the proportion which is recognised by section 32 of the Bengal Tenancy Act. In allowing enhancements under this section, two-thirds of the increase resulting from a rise in the price of staple food crops is taken as the basis of calculation, and the remaining one-third is left out of account as representing the cost of cultivation, i.e., the share of the crop on which the cultivator can obtain no benefit from the rise in prices. It is also the basis of the Cess Act of 1878, when it was assumed that the rent, the cost of cultivation, and the profits were all equal.

169. **Average size of holdings.**—The number of raiyati tenancies, according to Settlement Reports, is 16·4 million. The area in possession of all classes of raiyats is 28 million acres, and that sublet by them to under-raiyats is 3·1 million acres,—in all 3·1 million acres. The average size of a raiyati tenancy is therefore 1·9 acres. This does not of course imply that each raiyat possesses only 1·9 acres: on the contrary the great majority possess more than one tenancy.

The chief difficulty in attempting to estimate what is the average area in possession of agricultural families is that no figures were collected during the course of Settlement operations to show the number of holdings in the possession of each family. A rough estimate of the average cultivated area in possession of agricultural families can be obtained from the Census figures. Excluding rent-receivers, the agricultural population was reported in 1931 to be 31·2 million, and the average number of persons per family 5·2. There would thus be 6 million families in possession of 28·9 million acres of cultivated land, so that on the average each family cultivates 4·8 acres and holds either 2 or 3 tenancies. If agricultural labourers, who represent 29 per cent. of the population, are excluded, and the khas cultivated lands of proprietors and tenure-holders deducted, the average cultivated area in possession of the families of cultivating owners and tenants comes to $5\frac{3}{4}$ acres.

But these figures can only be treated as a rough indication. In the Census classification of cultivating owners and cultivating tenants there are some occupancy raiyats who hold land as under-raiyats or as bargadars; there are some families which have under-raiyati holdings and barga land, and there are others, probably a small percentage, which hold exclusively as bargadars. It is not possible in the absence of statistics to estimate the proportion of families in each class. We have endeavoured to obtain information on this point by having enquiries made in selected villages of each district through the agency of the Director of Land Records and Surveys. During the course of those enquiries, the economic position of nearly 20,000 families was examined. The average area in the possession of a family was found to be 4·4 acres, and it was found that 34 per cent. of the total area is being cultivated either under the barga system or by labourers. On the evidence before us we are inclined to put down the average cultivated area per family, including the families of agricultural labourers, at about $4\frac{1}{2}$ acres.

170. **Average family income.**—We have endeavoured in preceding sections of our report to estimate the value of all crops per acre and the average area in possession of a cultivating family. The multiple of these two factors gives the average income per family from the produce of the land. According to the figures which we have adopted, the average income would be Rs. 225. The Bengal Provincial Banking Enquiry Committee estimated in 1929 that the income per family was Rs. 406. Prices during the last five years have been nearly

half what they were at that time, and at present the income of a family would according to the Banking Enquiry Committee's estimate, be about Rs. 220. This is very much the same as our figure, which may be accepted, subject to varying conditions in different parts of the Province, as an indication of the average income of an agriculturist's family.

171. **Subsidiary income.**—This estimate however does not take into account the income derived from subsidiary sources. Almost all cultivators have other sources of income besides their crops. Milk and vegetables are generally used for home consumption, but the surplus is often sold. The breeding of cattle, and goats may also be profitable. Most Muslim cultivators keep poultry, and derive an income from the sale of fowls or eggs. In the slack season, the cultivators hire out bullock carts or boats, and many of them catch fish, either for home consumption, or for sale in the local markets. The Banking Enquiry Committee estimated that the income per family from subsidiary occupations might be put down at Rs. 44. At present prices their estimate would be about Rs. 25. This figure however is only to be taken as an indication. We do not think it is possible to frame any definite estimate for the subsidiary income of the ordinary agricultural family. It differs too much according to local circumstances and the particulars of individual families.

172. **Size of an economic holding.**—The size of an economic holding depends on several factors, the most important of which are the fertility of the soil and the proportion of the double-cropped area. Broadly speaking, the soil in eastern and part of northern Bengal is more fertile than that in other parts of the Province and there is also a larger percentage of double-cropped area. It is evident that a holding in the fertile areas of the Province which can maintain an average-sized family in reasonable comfort would not be sufficient in most parts of central and western Bengal.

Conditions vary so widely in different parts of the Province that it is impossible to lay down any one area as an economic holding; and it is not surprising that in the evidence we have received, the estimates of what is an economic holding vary considerably. The lowest estimate was $2\frac{1}{2}$ acres in the most fertile part of Tippera district, where there is a large proportion of twice-cropped land, and the gross value of the produce was estimated to be as much as Rs. 80 per acre. The highest estimate was 10 acres as the minimum area sufficient in western Bengal for the maintenance of an average family. The most general view was that 5 acres would be the minimum

area required to keep an average family in reasonable comfort; but if the land is capable of growing nothing but aman paddy the area required would be about 8 acres. We consider that these figures may be accepted as being substantially correct. They account for the fact that the incidence of the agricultural population is higher in the fertile areas which are capable of supporting a larger population. Thus in Tippera and Mymensingh the area of cultivated land per head of the district population is ·42 and ·52, in Nadia it is ·83, in Bankura ·72, and in Midnapore ·71. But if we say that 5 acres is necessary for the average family in the eastern and northern Bengal and that 8 acres is the minimum required in the rest of the Province, it becomes evident that the total requirement of land must exceed the cultivated area.

173. **Uneconomic holdings.**—One of the most disquieting features of the enquiries made for the Commission by the Director of Land Records and Surveys is that the percentage of families holding 2 acres or less is 41·9 per cent. and the percentage holding between 2 and 4 acres is 20·6. If these figures can be taken as representing the economic position throughout the Province, it means that two-fifths of the agricultural families hold an area of 2 acres or less, which is insufficient for their maintenance, and that they are compelled to take land as bargadars, without any legal rights, or to supplement their income by working as day labourers, by hiring carts or by other subsidiary occupations. One-fifth of the agricultural population has just sufficient land for their maintenance in moderate comfort, but without any margin for unforeseen expenditure. Those families whose land is insufficient for their maintenance cannot pay their rent, unless they can make sufficient income from other sources. It makes little practical difference if the rent of such holdings is high or low: nor does it make any practical difference if the rent is reduced, because the difference would be too small to have any appreciable effect on the cultivator's budget.

However we look at the problem of uneconomic holdings we are forced to return to the fundamental fact that there is not enough land to go round. There is now slightly less than one acre of cultivated land per head of the agricultural population. As population increases, the available land per head of the population decreases. We consider that the pressure of population on the land is the ultimate cause of Bengal's economic troubles. It is the most difficult problem which we have to face because it is virtually impossible under present conditions to suggest any remedy for it.

174. **Economic conditions in different classes of estates.**—Having given some account of the economic position in Bengal, we are now in a position to compare the condition of cultivators in Bengal with that of the cultivators in other provinces which we have visited. Before doing so we may state that so far as the different classes of estates in Bengal are concerned, there is no substantial difference in the economic conditions of the cultivators. In the permanently settled estates, the average incidence of cash rent paid by occupancy raiyats is Rs. 3 per acre. In the temporarily settled estates it is Rs 4-6 and in the Government estates Rs. 4-11.

But the incidence of rent has little effect on general economic conditions. Rent is one of the least important items in the cultivator's budget. We are not prepared to say that there is any difference between the economic condition of a rent-free, and a rent-paying cultivator. The fertility of the soil, the yield of crops, and the price of agricultural produce are factors which have a far more important bearing on economic conditions than the level of rent. It is obvious that a bargadar who can produce 24 maunds of paddy on fertile land, and takes half the produce, is just as well off as a rent-free raiyat who can produce only 12 maunds on barren land. Rent materially affects economic conditions when it approaches the full economic rent, i.e., when it leaves practically no margin after the cost of cultivation and living expenses have been paid.

Rent and Economic Conditions in Madras.

175. **Level of rent in Madras Presidency.**—The incidence of the Government assessment in Madras works out at Rs. 2-9 per cultivated acre, but it is not certain that the pattadars are more lightly assessed than the occupancy raiyats in Bengal. In the raiyatwari area, four-fifths of the land is "dry" land, i.e., unirrigated land which grows crops like cholum and ragi. The value of all the crops grown on "dry" land is estimated to be only one-third of the value of produce grown on irrigated land. The average assessment on "dry" land works out at between Re. 1 and Re. 1-4 per acre and this has the effect of reducing the incidence of the assessment. But on the "wet" land, i.e., the irrigated land growing rice, the assessment works out at between Rs. 7 and Rs. 8 per acre. If the Madras system were applied to Bengal, the rate for "wet" land would be generally applicable to the aman growing land which covers 66 per cent. of the net cultivated area; and the higher land

growing jute, tobacco, sugarcane, aus, and other crops, would be assessed on its capacity for growing the appropriate grain crop, i.e., aus paddy. Homestead land would be assessed on the same principle, excepting the area covered by the huts and the courtyard which would be exempted. The dofasli area would be assessed for the second crop at half the rate applicable to the particular class of land. The effect would certainly be to increase considerably the level of cash rents for most of Bengal except in those districts where the existing level of rent is particularly high.

In the permanently settled area of Madras, which covers one-third of the province, the level of rents, according to the evidence which we recorded, is considerably higher than in the raiyatwari area. The rate for "wet" land is generally between Rs. 10 to Rs. 12 per acre and the general average of rate is about 50 per cent. more than in the raiyatwari area.

In addition to the assessment, the pattadars pay road cess at 9 pies and education cess at $4\frac{1}{2}$ pies per rupee of the assessment.

176. **Subinfeudation and rents of sub-tenants.**—We were unable to obtain statistics to show the extent of subinfeudation below the pattadars, because although the record-of-rights is maintained in the raiyatwari area, no account is taken by Government of the sub-tenants, who have no rights whatever and are left entirely to contract. We were given various estimates. In the Chingleput district it was thought that 10 or 12 per cent. of the pattadars had sublet some of their land; in the Vizagapatam district it was thought that there had been rather more subletting. But we certainly recieved the impression that there has been less subinfeudation below the pattadar in Madras than there has been below the occupancy raiyat in Bengal.

The sub-tenants in Madras pay extremely high rates of rent. The general average is between three and five times the pattadar's rate of rent and is certainly higher than the average of Rs. 6-3 paid by under-raiyats in Bengal. There are even rents as high as Rs. 75 an acre in the most fertile tracts of the Kistna and Godavari deltas, where two and even three crops are grown, but these are exceptional. As a general rule the rent paid by sub-tenants is half of the crop, and when it is paid in cash, it approximates to half the value of the gross produce.

177. **Question of restricting transfer.**—The pattadars in the raiyatwari area have always possessed occupancy rights, including the right of free transfer. In the permanently settled

area they have only had these rights since 1909, when the Madras Estates Act was passed. During the slump, economic conditions have led to an increasing number of transfers to creditors, most of whom are non-agriculturists. The Government has had under consideration the desirability of restricting transfer.

178 **Homesteads.**—The village sites in Madras are compact and the homesteads lie close together. The houses in the rural areas are built of mud, the roofs are thatched with palmyra leaves, or with tiles in the more prosperous villages, and there is not the same space round the homesteads as is found in the average Bengal village. The homestead area is exempt from assessment, on the principle that only lands capable of producing crops should be assessed.

179. **Average size of holding.**—The population increased between 1921 and 1931 by 10·4 per cent., but the net sown area only increased by 1·5 per cent. There is the same problem in Madras, as in Bengal, from the increasing pressure on the land and subdivision, following the laws of inheritance. Excluding agricultural labourers and rent-receivers, there are 7 million adult agriculturists[1], and the cultivated area is 31·7 million acres. Assuming that there is one adult agriculturist to each family the average area in possession of a family is 4½ acres. In the raiyatwari area the number of single pattas, i.e., leases granted by the Government to single pattadars, is 3·72 million, covering an area of 16·94 million acres. On this basis also the average works out to 4½ acres. It may be accepted that this represents the average area in possession of an agricultural family in Madras. We were told that the minimum economic holding can be put down as 5 acres, of which between 2 or 3 acres must consist of "wet" land. As four-fifths of the cultivated area consists of "dry" land it is evident that the average holding is barely sufficient to maintain the average family.

180. **Value of the produce.**—Considering the average area per family in relation to the yield of crops, Madras is worse off than Bengal. Although the yield of paddy according to

[1]According to the Census of 1901, the agricultural population was 69 per cent. of the whole. According to the 1921 Census, it was 71 per cent. The different system of classification adopted in the 1931 Census resulted in the agricultural population being returned as 46 per cent. of the whole, but the report states that the actual figure would not differ greatly from that of 1921. Assuming that the proportion is now 70 per cent, the agricultural population would amount to 32·7 million, and assuming 5 persons to each family, the average area per family would be 4·8 acres. The area per head of the agricultural population would be ·97 acre, compared with ·87 in Bengal.

official figures is 21 maunds per acre, it is only grown on 30 per cent. of the net cultivated area, as compared with 66 per cent. in Bengal. The only other crops of any value are sugarcane, which is grown on a negligible area, and ground nuts, which are grown on 3·36 million acres, or 10·6 per cent. of the net cultivated area. The remaining crops, like jowar and bajra, cholum and ragi, are of little value[1]. Manure has to be used on a much larger scale than in Bengal.

From the evidence which we received and from our own observations we think that more cultivators in Madras must be compelled to make a living from subsidiary sources, such as carting, cutting earth, etc., than is the case in Bengal. If the presence of a large population of agricultural labourers is any indication of economic conditions the situation in Bengal is not so serious as it is in Madras. Although the percentage of agricultural labourers increased to 29 per cent. in Bengal by 1931, the Census figures show that in Madras the percentage was 44 in the same year.

181. **Irrigation.**—Irrigation is essential for land which produces paddy. Apart from the deltaic areas, the main sources of irrigation are reservoirs which are maintained by Government. In the permanently settled area, the main sources of irrigation are maintained by the zamindars, but as a general rule maintenance is less efficient than in the raiyatwari area. Small irrigational sources are maintained by the pattadars, who are also responsible for carrying the water to their lands from the distributing channels maintained by Government.

182. **Agricultural debt and land values.**—In 1930, the Madras Banking Enquiry Committee estimated that agricultural debt amounted to 150 crores. In 1929 the Provincial Banking Enquiry Committee estimated the debt in Bengal at 100 crores. Debt in Madras thus amounted to Rs. 46 per head of the agricultural population, compared with Rs. 32 per head in Bengal. On the other hand, the value of land per acre is substantially higher than in Bengal. Good land fetched as much as Rs 500 per acre during the worst period of slump and the figures collected from registration offices show that between 1928 and 1931, the average value of irrigated land varied from Rs. 319 to Rs. 1,056 per acre in Nellore district, and from Rs. 896 to Rs. 1,100 in Karnul district between 1929 and 1933. It is difficult to understand why land values in

[1]The value of all crops per acre is estimated to be Rs. 34-6.

Madras are higher than in Bengal, when the average value of crops is distinctly lower. The reason which suggests itself is that there is a greater demand for land.

183. **Unemployment of cultivators.**—In Madras the same problem exists of finding [illegible] for the cultivators during seasons when they are not employed in agricultural operations. On the average, the Madras cultivator sits idle for six months in the year. The position is the same in Bengal, and is even worse in districts where practically no crops are grown except aman paddy. In those districts the cultivators find employment only for three or four months in the year.

REVENUE, RENT AND ECONOMIC CONDITIONS IN THE PUNJAB.

184. **Incidence and assessment of revenue.**—The Punjab is owned by peasant proprietors, most of whom are small landholders; and their tenants correspond, for the most part, to the bargadars in Bengal. The economic condition of the peasant proprietors may therefore be fairly compared with that of the occupancy raiyats in Bengal.

It is difficult to make an exact comparison between the level of revenue paid by the Punjab proprietors and the rate of rent paid by occupancy raiyats in Bengal. The average incidence of revenue in the Punjab is Re. 1-9 per acre, but the incidence varies greatly according to irrigation facilities and the productivity of the soil. In the areas which depend upon a rainfall of 5 or 6 inches a year, the least fertile land may be assessed as low as 4 annas an acre, whereas in the irrigated district of Lyallpur, the average assessment of revenue alone in several tahsils is Rs. 6-6 per acre.

The policy of the Government since 1928 has been to assess the proprietors at one-fourth of their net assets. After each harvest approximately 10 per cent. of the crop is allotted to the blacksmiths, cobblers and other village artisans, and of the remaining 90 per cent., half is taken to be the proprietor's share, on the assumption that he has sublet his land on the batai, or half share system, and that this share represents the cost of cultivation and living expenses. In theory, therefore, the assessment amounts to 11 per cent. of the gross produce, but in districts where revisional operations have not been taken up after 1928, the Government's share according to the former rules, is still half of the net assets, and the proprietor is paying in theory $22\frac{1}{2}$ per cent. of the gross produce. In practice the assessment is often less.

In addition to the assessment of land revenue, the proprietors pay a surcharge of 12½ per cent. on their revenue to the District Boards and 5 per cent. on the revenue as collection fees of the lambardars.

185. **Water rates.**—The area irrigated by canals covers 38 per cent. of the total cultivated area. The water rate varies for different crops in accordance with the amount of water which they require. The rate for sugarcane might be Rs. 8 to Rs. 10 per acre; for rice it is normally Rs. 7-8, for wheat about Rs. 3 and so on. The general average would be about Rs. 3-8 per acre. It would be misleading however to add this figure to the revenue paid, because the water rate is sometimes paid partly by the proprietors and partly by the tenants. The water rate is an occupier's tax, that is to say the tenant is legally liable for it; but in some districts the practice is for the proprietors to pay half of the water rate, and for the tenants to pay half of the land revenue.

186. **Estimate of all charges on land per acre.**—A rough idea of the average payment made by proprietors might be obtained by spreading the total charges from land over the total cultivated area. The cultivated area is 31 million acres and the total charges on land, including land revenue, water rates, District Board rates and lambardars' collection fees, amount to 9·68 crores. The rate per acre for all charges is therefore Rs. 3-2.

187. **Rent of tenants.**—Tenants under the peasant proprietors consist of two classes,—occupancy tenants and tenants-at-will. The occupancy tenants have heritable rights, and pay the land revenue of the proprietor, together with a malikana in recognition of the proprietor's superior right, which may amount to 2 annas in the rupee, 4 annas, or 8 annas, according to the degree of privilege enjoyed by the tenants. The number of occupancy tenants is comparatively small and they only cultivate about 7 per cent. of the total area. The great majority of the tenants are tenants-at-will, who pay half the crop and have no rights whatever. They cultivate 47 per cent. of the total area. A small percentage of the tenants-at-will pay cash rents which vary with the price of agricultural produce, but approximate to half the value of the crop. The present rate of cash rents is between Rs. 10 and Rs. 12 an acre.

188. **Value of crops.**—The principal crops are wheat, cotton, gram, millet, maize, rice, oilseeds and sugarcane. The value of all crops per acre is naturally higher in the irrigated than in the unirrigated areas. The Irrigation Department

has estimated that the value of all crops per acre is Rs. 32 in the irrigated area, and the Director of Land Records estimates that for the whole province the average value would be Rs. 25 per acre. If that is the case, the average value of the produce in the unirrigated part of the province would be only Rs. 20 per acre.

189. **Condition of villages.**—Considering the comparatively low value of the produce, it was rather surprising to find that the villages which the Commission visited appeared to be more prosperous than the average Bengal village. The village sites are compact: the homesteads lying close together. As in Madras, they are exempt from assessment to revenue. The houses are well constructed and are extremely neat and clean. The more prosperous landholders have houses built of bricks, and in one of the model villages which the Commission visited in Lyallpur, all the houses were built of bricks, except those of the menials and the poorest cultivators. In the areas where rural reconstruction has made progress we were greatly struck with the improvements that have been effected, particularly improvements in sanitation. Every house was well ventilated and many of them had outdoor bathrooms with handpumps. The cattlesheds were well built and neatly kept and in most cases properly ventilated. The cattle are bigger and stronger than the Bengal cattle and are much better tended. There is little grazing land, but it is the general practice to grow fodder crops for the cattle.

190. **Subsidiary income.**—The Punjab cultivator has to work harder for his living than the Bengal cultivator. On the other hand, he has a better physique and may be able to make a larger subsidiary income from dairy produce and other sources than the cultivator in Bengal. Agricultural unemployment is less than in Bengal, because as soon as the rabi crop has been reaped, the land has to be prepared for the sowing of the kharif crop. There are however slack seasons, during which the cultivators are not employed, and the Department of Industries has put into operation a programme for the occupation of their spare time. The principal occupations which the Department is trying to develop are fruit farming and fruit preservation, poultry keeping, and lac cultivation. Valuable experimental work is being done by the Lyallpur Agricultural College which the Commission visited.

One reason for the prosperous condition of the villages which we visited is that although the value of crops per acre is only about half the value of crops in Bengal, the area of

cultivated land per head of the agricultural population is 2¼ acres, compared with rather less than 1 acre in Bengal. Another reason may be the large income which is derived from military pensions. These amount to nearly 1½ crores.

191. **Uneconomic holdings.**—The problem of over-population has not yet become as serious in the Punjab as it is in Bengal. Owing to the extension of irrigation, the Punjab Government has been able to colonise large areas of land, hitherto uncultivated, and to stave off the problem of over-population perhaps for another generation. Nevertheless the problem of uneconomic holdings exists in the Punjab, and the position there is very much the same as in Bengal. According to the report of the Punjab Land Revenue Committee, 20 per cent. of the proprietors hold less than one acre[1]. Those who pay less than Rs. 5 as land revenue number 1·76 million and those who pay less than Rs. 10 number 2·42 million[2]. Consequently many of the small proprietors, who have insufficient land for the maintenance of their families, are compelled to cultivate land of the larger proprietors and pay them half the crop in the same way that the occupancy raiyat who has insufficient land cultivates as a bargadar the surplus land of the non-cultivating or well-to-do raiyat. It is estimated that a tenant in the Punjab who cultivates on the batai system; i.e., pays half the crop, would require 10 or 12 acres for the maintenance of an average-sized family.

192. **Agricultural debt.**—Agricultural debt in the Punjab is extremely heavy. In 1930, Sir Malcolm Darling estimated that the debts of the proprietors alone amounted to 120 crores, or 22½ times the annual land revenue. The average debt per proprietor worked out to Rs. 600. In the same year the debts of the tenants were estimated at 20 crores or between Rs. 150 and Rs. 160 per family, being the equivalent of one year's income. But, as in Madras, the value of land is high compared with land values in Bengal, considering its relative productivity. Irrigated land is now selling at Rs. 250 or Rs. 300 per acre, a price which could only be fetched by good land in some eastern Bengal districts.

Rent and Economic Conditions in the United Provinces.

193. **Classes and rights of tenants.**—The United Provinces is temporarily settled, except for the Benares division,

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[1]Report, paragraph 157, page 74.

[2]*Ibid*, paragraph 150, page 72.

which covers one-tenth of the area of the province and is permanently settled. Although many of the proprietors themselves cultivate and own small estates, we may take for purposes of comparison with Bengal the occupancy and statutory tenants under the proprietors. The occupancy tenants have heritable rights, and the statutory tenants had, until the recently passed Tenancy Act, the right to remain in possession of their holdings during their lifetime, and their heirs were allowed to hold on for five years. The new Tenancy Act has created a class of hereditary tenants which comprises all tenants who are not on fixed rates, exproprietary tenants or occupancy tenants. That means that all statutory tenants and their heirs will in future have heritable rights. No class of tenants has transferable rights excepting the tenants holding at fixed rates of rent in the permanently settled area. Subletting by tenants is restricted to a period of five years and they cannot again sublet for three years after the expiry of the lease.

194. **Incidence of rent.**—The incidence of rent varies considerably. In the more fertile and thickly populated districts like Aligarh as much as Rs. 9-4 is paid; whereas in barren areas like Jhansi the average is Rs. 2-8 per acre, and in tracts where cultivation is precarious it is as little as Re. 1-8. Including the permanently settled area, the average rate of rent for all classes of tenants in the United Provinces is Rs. 6 per acre.

The proportion of sub-tenants is small. They are tenants-at-will holding from year to year and paying rents which approximate to half the value of the produce.

195. **Irrigation.**—The productivity of the soil depends entirely on the water-supply. Irrigation from canals is not so extensive as in the Punjab, and where this form of irrigation is not available, the crops are watered from wells which have to be sunk at the expense, or by the labour of the tenants. The water is raised by cattle, and carried down runnels on the fields. This involves a great deal of labour, and we learnt that the cattle often work the whole day simply in raising water. The maximum area that can be watered in one day is 1½ bighas.

196. **Value of crops.**—The chief crops are wheat, sugarcane, millet, oilseeds, gram and pulses. As in the Punjab, there are two harvests,—the kharif and rabi, and it was estimated that the cultivators do not as a general rule sit idle

for more than three months in the year. The Co-operative Department has put into operation a programme for the development of cottage industries designed to occupy the spare time of the cultivators.

In the most fertile areas, such as Gorakhpur and Meerut, it is estimated that the value of crops may be as much as Rs. 50 per acre, whereas in Bundlekhand it would amount to barely Rs. 20. The United Provinces Banking Enquiry Committee estimated in 1929-30 yields varying from Rs. 78 to Rs. 27 per acre. At that time prices were nearly double what they are now. The Revenue Department estimates that the average value per acre may be taken at about Rs. 32 and this may be accepted as a general guide.

Considering the level of rent in relation to the value of the produce, it is evident that the ratio is higher than in Bengal. In some areas the tenants pay at least one-fifth, and more like one-fourth, of the gross produce. The Collector of Aligarh estimated the value of the produce at Rs. 35 per acre and the general level of rent in the district at Rs. 9. For occupancy raiyats, who generally pay a rather lower rate of rent than statutory raiyats, the level of rent would be about one-fifth of the value of the produce. That is the proportion which the Congress Government desired to fix as the limit, and Settlement Officers have instructions to apply that standard as a general check on the level of contractual rents.

197. **Condition of villages.**—Judging by the condition of the villages which the Commission visited, the standard of living in the United Provinces is distinctly lower than that of the Punjab. The homesteads are situated close together and, as in the Punjab and Madras, are exempt from assessment. But the villages have not the same air of orderliness or prosperity which was evident in the Punjab. Many of them appeared to be dirty and in a rather dilapidated condition. We commonly saw walls that were crumbling to bits, and roofs which stood badly in need of re-thatching. With the exception of one model village which we saw in Benares district, there was no attempt in the average village to carry out any sanitary improvements.

The cattle in the north-west are of good size and are worked very much harder than the cattle in Bengal owing to the necessity of raising water from wells. In Jhansi, however, the cattle were much smaller and about the same size as those in Bengal. Some of the cattle sheds were well constructed, but the standard is not so high as in the Punjab.

198. **Uneconomic holdings.**—The problem of uneconomic holdings exists in the United Provinces, particularly in the districts which are more fertile and consequently more heavily populated. Considering the relative value of the crops, the pressure on the land is as serious a problem in the United Provinces as it is in Bengal. The incidence of population per square mile of the net cultivated area is 640, compared with 739 per square mile in Bengal. In the Gorakhpur division, the average area per family is 4·8 acres, whereas in the Jhansi division which is comparatively barren, each family holds rather more than 12 acres on the average. A classification was made in 1931 over part of Agra district and the results showed that 27 per cent. of the families held less than $2\frac{1}{2}$ acres and 23 per cent. held between $2\frac{1}{2}$ and $4\frac{1}{2}$ acres. The average area per family for the whole province is 6 acres.

199. **Subsidiary income.**—The position is therefore substantially the same as in Bengal. The tenant who has not sufficient land to maintain his family has either to take land as a sub-tenant, paying half the produce, or to increase his income from subsidiary sources, or to emigrate and find employment elsewhere. Emigration from the United Provinces is much more common than in Bengal where the average cultivator is by nature most unwilling to leave his land or his village. The income from subsidiary sources must also be greater in the United Provinces, where 31 per cent. of the agricultural population have subsidiary occupations, as compared with 6 per cent. in Bengal.

We should also be inclined to say that more has been done by the Government for the tenants in the United Provinces than in Bengal, by establishing seed stores, fixing the price of sugarcane, and adopting a vigorous programme of rural improvement.

200. **Agricultural debt.**—There is the same problem of agricultural debt and restriction of credit in the United Provinces as there is elsewhere. In 1929 the total agricultural debt was estimated by the Banking Enquiry Committee at Rs. 124 crores. It is a rather surprising feature of rural economy in the United Provinces that credit could be obtained by the tenants on what seems to be such insufficient security. Holdings in the United Provinces are not transferable and the creditors cannot obtain possession of them. The only security is the crop, and this is hypothecated first to the payment of rent. Security will be still further restricted by the Debt Redemption Bill which provides that not more than one-fourth of the crop can be attached at any harvest in

execution of a decree. One explanation may be that nearly half the debt is owed by tenants to their landlords. In 1934 it was found that 39 per cent. of the debt was owed to money-lenders, 46 per cent. to landlords and 15 per cent. to cultivators.

COMPARISON OF ECONOMIC CONDITIONS AND LEVELS OF RENT.

201. **Economic conditions in Bengal summarised.**—The standard of living in Bengal rose steadily until 1930. According to the Provincial Banking Enquiry Committee's Report[1]:—"Within the last two generations a remarkable advance had been made. They (the peasants) now wear more numerous and more expensive articles of attire than their grandparents did half a century ago. Attention is directed now to sanitation, education of children and medical treatment, on which more money is being spent every year. Luxuries have increased to a large extent by introduction into villages of the improved means of communication."

When the slump began in 1930, the cultivators were hard hit by the fall in agricultural prices and were compelled to reduce their standard of living. Many of them found themselves unable to repay what they had borrowed, because they had to sell double the amount of produce to make the same payments towards capital or interest. Worse still, the majority had been allowed in a period of prosperity and high agricultural prices to fall into three or four years' arrears of rent, which they were unable to pay. But the slump affected other provinces no less than Bengal. If it is true to say that in 1929 the economic condition of the cultivators in Bengal was as good, if not better, than that of the cultivators in other provinces, the same must be true today. Though the pressure on the land is greater in Bengal than in any other province except Bihar, it is unquestionable that Bengal has a more fertile soil and greater climatic advantages than the other provinces. No other province is capable of growing jute on anything like the same scale as Bengal, and no province can produce better crops by irrigation than the areas of Bengal which are sufficiently irrigated by rainfall.

The price of jute has recovered since last year and there has also been a small rise in the price of paddy. This has eased the economic position, and if the improvement is maintained it is

[1]Report, paragraph 27, page 29.

likely that many of the difficulties with which the Province had to contend during the last 10 years, will disappear. If the price of jute were to remain at Rs. 7 or Rs. 8 per maund and the price of paddy at about Rs. 2-8 a maund, we believe that there would be little complaint from the agricultural community in regard to prices[1]. Taking into account the various estimates which have been made of a family's consumption of rice, we believe that about 30 maunds of rice, or 45 maunds of paddy, is sufficient to provide two meals a day for the average family though many families may not be able to afford even 24 maunds of rice. This is the produce of about 2 acres. In the Punjab, the tenant on batai, i.e., paying half the produce, requires 10 acres for the maintenance of his family.

202. **Comparison with other provinces.**—From what we have seen in Madras, the Punjab and the United Provinces, we have no hesitation in saying that the cultivators of Bengal are, as a whole, better off than those in Madras and the United Provinces. Although the homesteads in those provinces are exempted from assessment, this is not such a large advantage as it might appear at first sight, because in Madras and the United Provinces land which is capable of growing agricultural produce is liable to assessment; and consequently it is only the area covered by the huts and the courtyard which would in Bengal be exempted from assessment if the system of those provinces were adopted. The land included in the homestead plot which grow vegetables, cocoanuts, jackfruit and other produce would be assessed.

Both in Madras and the United Provinces, the cultivators unquestionably have to work harder for crops which are less valuable on the average than those grown in Bengal. The same applies to the Punjab. We have suggested the reasons which explain why the villages in that province appeared to be more prosperous than the average Bengal village, considering the comparatively low value of the produce. The cultivators in the Punjab have also the advantage of good physique, more nourishing food, and a more invigorating climate. They probably make a larger income from subsidiary sources, and as we have pointed out, the large sum paid annually in the shape of military pensions must be a great asset to the family budget.

203. **Comparison of level of rents.**—Comparing the level of rent paid by occupancy raiyats in Bengal—Rs. 3-5 per acre

[1]The Paddy and Rice Enquiry Committee stated that this was the view of many competent witnesses.—Report, paragraph 44.

—with the land charges paid by the peasant proprietors in the Punjab, we should say that there is very little difference. We have referred to the difficulty of attempting to strike an average figure for the dues paid on account of land in the Punjab, and the figure that we have suggested, Rs. 3-2, can only be taken as a general indication. Expressed as a proportion of the value per acre of the gross produce, the average of the land charges paid in the Punjab is higher than the average rate of rent in Bengal. If we consider the rent paid by the tenants under the peasant proprietors we can only conclude that they are much worse off than the under-raiyats in Bengal. With the exception of a small minority of occupancy tenants, they have no rights and they pay in most cases half of the crop. They are hardly better off than the bargadars in Bengal.

In Madras the pattadars in the raiyatwari area, which covers two-thirds of the province, pay an average rate of revenue which is rather less than the average rate of rent paid by occupancy raiyats. But expressed as a share of the value per acre of the produce, it becomes rather more than the proportion in Bengal; and in the permanently settled area, where the pattadars pay about 50 per cent. more than in the raiyatwari area, it would be appreciably more. As we have mentioned, the Madras system of assessment, which we shall describe in a later section, if applied to Bengal would result in enhancements of rent in the great majority of tenancies.

The under-tenants in Madras stand on the same footing as the tenants-at-will in the Punjab and pay half the crop, or cash rents approximating to the value of half the crop.

In the United Provinces, the average rate of rent for all classes of tenants is Rs. 6 an acre and represents approximately one-fifth of the value per acre of the produce. The level of rent is nearly twice as high as the level in Bengal, and having regard to the value of the produce it is about three times as much.

The sub-tenants, as in the other provinces, are tenants-at-will, holding from year to year and paying half of the crop.

204. **Conclusion.**—Our conclusion therefore is that considering the level of rents obtaining in the provinces we have visited, the value of the produce, and the prevailing economic conditions, there would be justification for enhancements rather than reductions of rent in Bengal. In making this observation, we do not intend to imply that a general enhancement of all rents could be made. There are high

contractual rents in Bengal which could certainly not be enhanced, and would even be reduced, if the systems of assessment in force in other provinces were applied to those particular tenancies.

Suggestions for Improving Economic Conditions.

205. **Importance of increasing yield.**—We have expressed the view that the pressure of population on the land is the ultimate cause of Bengal's economic difficulties. Already the area of land available for cultivation is insufficient to provide economic holdings for all the cultivators and the situation will become steadily worse if the population continues to increase at the present rate. The Royal Commission on Agriculture pointed out that "no lasting improvement in the standard of living of the great mass of the population can possibly be attained if every enhancement in the purchasing power of the cultivator is to be followed by a proportionate increase in the population[1]". All practicable steps should be taken to render suitable for cultivation land which is at present uncultivated but this can only be done gradually and in some cases the cost may be prohibitive. In these circumstances we are of opinion that the Government should concentrate on measures of agricultural development which will increase output and so improve the economic position of the cultivators. Of these the most important is the increase in the yield of crops, particularly of paddy. Paddy stands on a different footing from jute, tobacco and other crops, the price of which may fluctuate greatly in relation to the quantity produced. Although the price of rice also fluctuates, it is the staple food crop of the Province, and the chief means of subsistence of the agricultural population. The report of the Paddy Enquiry Committee shows that there is not much difference between Bengal's imports and exports of rice, and if we are to believe the figures of yield and acreage shown in our statistics, there are some districts in Bengal which do not grow enough rice for home consumption.

206. **Yield of paddy.**—The need for increasing the yield of paddy is obvious. Even if an increase of only three maunds per acre could be obtained, the cultivating tenants would get the value of Rs. 6 which would be sufficient to cover his rent and local taxes. The poorest cultivators, who have little or no

[1]Report, paragraph 420.

surplus paddy to sell, derive little or no profit from a rise in prices, but they are the class that would be most benefited by an increased yield. It is alleged that the poorer families with insufficient land, can only take one meal a day, between harvests. If that is the case, it is a strong argument in favour of increasing the yield. It is evident that a higher yield in Bengal can be obtained. In the estate of the late Sir Daniel Hamilton at Goshaba, an area of 30 square miles of jungle has been converted into fertile paddy land, and as a result of careful experiments, improved seeds are being used all over the estate which give an average yield of 30 maunds per acre. The Director of Agriculture told us that on some of the higher land in Brahmanbaria subdivision an outturn of 2 tons, or 54 maunds per acre, has been obtained annually over a period of five years. Experiments in Raina thana of Burdwan district, and elsewhere, have produced yields considerably above the average. If these results can be achieved in parts of Bengal, there is no reason why similar improvements cannot be made in the rest of the Province; and we would emphasise strongly the necessity of increasing the yield of winter rice, through the distribution of selected seeds.

207. **Increased budget provision necessary.**—We realise that the Agricultural Department in Bengal has been handicapped by lack of funds. Until last year, the departmental budget has been as little as Rs. 9 lakhs. In Madras, the budget provision last year was Rs. 22 lakhs; in the Punjab it amounted to 38¼ lakhs, and in the United Provinces the Department's budget proper is 26¼ lakhs this year, in addition to which 11·78 lakhs have been allotted for improvements and 40·3 lakhs for rural development. These figures illustrate the need for making a substantial increase in the budget of the Agricultural Department in Bengal. The present provision is quite insufficient for the needs of the Province: the minimum requirement would be in the region of Rs. 27 lakhs. This sum could not however be used immediately, as the necessary trained staff is not available. It would take five years to train up a staff equal to that employed in the provinces which we have visited. We think therefore that the policy should be gradually to increase the budget of the department up to its minimum requirement, and to take up the training of the additional staff as early as possible.

208. **Criticism of policy.**—At the same time we cannot help thinking that the Agricultural Department has tended to concentrate too much on research work, and not enough on

propaganda, distribution of improved seeds, and marketing. It is unfortunate that the one crop with which the department has produced the most valuable results is jute, the production of which has had to be restricted. It has also been a mistaken policy in the past to choose particularly good lands for demonstration purposes, and to confine demonstration farms mainly to headquarters. No cultivator will be impressed if good crops are grown on the best land : they want to see paying crops grown on inferior lands. More attention should also be paid to reserving crops grown from departmental seed for seed purposes on neighbouring land, instead of allowing the grain to be used for home consumption or to be mixed up with ordinary seed. No adequate steps have been taken to ensure this.

209. **Need for rural organisation.**—The present policy of the Agricultural Department is to link up the District Farms with the cultivators through the agency of Union Farms. We are strongly of opinion that this policy should be pushed forward as fast as possible. At present there are some districts which have no farms, there are few Union Farms, and the only work that is being done in the actual villages is carried out by an inadequate staff of demonstrators. The most essential feature of any scheme for the distribution of improved varieties of seed is the maintenance of efficient local organisations, which will see not only that improved seeds are used, but that the improved results are maintained. The Royal Commission on Agriculture pointed out that "the work of the plant breeder in evolving improved varieties of crops is obviously merely a means to an end, and its value depends entirely on the efficiency of the link with the cultivator for whose benefit the improved variety is evolved[1]."

210. **Agricultural development in the Punjab.**—Our Commission was greatly impressed by the work which has been carried out by the Agricultural Departments of the provinces we visited, particularly in the Punjab and the United Provinces. In the Punjab, there is a larger research staff than in any other Agricultural Department of India. For experimental purposes, the Agricultural Department has between 12 and 13 thousand acres, in addition to which each of the 5 Deputy Directors of Agriculture has a 500-acre farm. There are also District Farms of 100 acres each, half of which is kept for experimental purposes in case the results obtained at the

[1]Report, paragraph 101.

Central Farms are not suitable to particular areas. The department has now distributed nearly 3 lakhs of maunds of improved wheat seed, and 90 thousand maunds of improved cotton seed. The seeds are supplied either from Government farms or from special grantees who are under contract to supply pure seeds. Commission agents are appointed all over the province for the sale of improved seeds, and are paid a commission of 2 annas a maund for wheat seed and 3 annas a maund for cotton seed. Wheat seed is sold by these agents at 2 annas a maund above the current market price in order to ensure that the seed will not be used for food, and we were told by the Director of Agriculture that the cultivators are only too glad to pay the extra cost for the improved varieties of seed.

211. **Agricultural development in the United Provinces.**— In the United Provinces, the Agricultural Department maintains one college and two schools. There is a research branch which carries out experiments in improved varieties of sugarcane, cotton, oilseeds, pulses, agricultural chemistry and manures; and an engineering section which is concerned with the boring of masonry wells, construction of tube wells and the design and manufacture of improved agricultural implements. In addition, there are sections for the development of horticultural gardens, and a marketing section. In order to carry the results of the research work to the cultivators, a rural development organisation has been established, with a budget allotment of 40·3 lakhs this year. Under the Rural Development Officer there is an assistant for each division, and in each district there is an association with an executive committee of three members, one of whom must be an official. These committees co-ordinate all rural development activities in the district. Each Rural Development Assistant has 15 or 16 centres under his control, each covering an area of about 25 villages, and each of these centres has a seed store in charge of a Supervisor. There are now about 600 seed stores in the province serving about 20,000 villages. The Supervisor is responsible for agricultural improvements in the village attached to his seed store. He has under him 3 kamdars who arrange demonstrations on the cultivators' fields and distribute seeds to be sown in compact blocks. The cultivators have to enter into an agreement that they will sell the produce to the department if so required, and that they will carry out departmental instructions in raising the crop. A portion of the produce from the improved seed is purchased by the department and stored for distribution in the following year.

The object is to multiply the improved seed locally until the inferior varieties have been entirely replaced. The seed stores also stock improved agricultural implements which they sell to the cultivators, or lend to them for demonstration purposes.

212. **Manuring.**—Connected with the question of improved yield is that of better manuring. Owing to its small grant, the Agricultural Department has been able to do little until this year to supply manure. It has however carried out research work, and has been successful in producing a manure from organic refuse mixed with cow-dung. It is a regrettable fact that there is a great manurial loss throughout the Province, and that the cultivators are very slow to adopt better methods. We think that there is a great deal of room for improvement in this respect. Even if it is not at present possible to supply departmental fertilisers, there is no reason why properly constructed silage pits should not be the general rule instead of the exception. Wherever rural reconstruction has made headway in the Punjab, each cultivator has constructed his own silage pit in which he deposits various kinds of refuse. The Royal Commission on Agriculture pointed out the possibilities of improvement and observed: "The Indian cultivator has much to learn from the Chinese and the Japanese cultivator in regard to the manufacture of composts. Artificial fertilisers are used as little in China as they are in India; but there is no organic refuse of any kind in that country which does not find its way back to the fields as a fertiliser[1]".

Artificial fertilisers are at present little used in Bengal but they are capable of increasing the yield considerably. It was stated by the Imperial Chemical Industries Limited, that reliable experiments have given an increased yield amounting to 6·54 maunds of grain, and 15·28 maunds of straw by the application of 120 lbs. of sulphate of ammonia to one acre of paddy land at the time of transplantation. The cost of this fertiliser for one acre is Rs. 7-2. The increased yield at Rs. 2 a maund for the grain is worth Rs. 13, and for the straw at 3 annas a maund, Rs. 2-14.

213. **Increase of Dofasli area.**—Given an agricultural organisation in the rural areas it would be possible to effect a considerable increase in the twice-cropped area and to pay more attention to the rotation of crops. There is plenty of once-cropped land in Bengal which is capable of growing a second crop. The simplest form of growing a second crop

[1]Report, paragraph 183.

is to broadcast a pulse like kèshari when the water is drying up on the aman growing fields. This practice is in vogue in some areas of Bengal, but is unknown in others. It not only provides extra income to the cultivator, but has also a beneficial effect on the soil. All leguminous plants like pulses have a nitrogenous value. In the Punjab and the United Provinces, it is common to find a pulse or fodder crop sown along with wheat.

Although there seems to be no scope for further canal irrigation over the greater part of the Province, we think that there are great possibilities for smaller schemes, and that the cultivation of rabi crops might be greatly extended by irrigation. In the Punjab and United Provinces, irrigation in areas where there are no canals is carried out by Persian wheels, and ordinary wells from which the water is raised by bullock-power. There is no reason why the same methods should not be used in Bengal. It would also be possible to extend irrigation either by tube wells or by portable pumps which would draw water from rivers, beels or wells. The practicability of sinking tube wells for this purpose would depend on the flow, and the depth to which a well had to be sunk; but irrigation by portable pumps would be practical and inexpensive, even though its utility would be confined to areas bordering rivers and beels.

214. **Better cultivation of rabi crops.**—In addition to the possibility of increasing the twice-cropped area, there is much room for improved methods of cultivation, particularly in the case of rabi crops. These are often put down as a catch crop. The land is roughly ploughed up once and no attempt is made to break up the large clods of earth. The crop is then sown broadcast and left to struggle up. In order to produce good rabi crops, it is essential to plough several times and as deeply as possible.

215. **Extension of valuable crops.**—There are also possibilities of extending the cultivation of valuable crops such as betel, sugarcane, tobacco, various kinds of condiments and vegetables. Of these, sugarcane might be cultivated on a much larger scale in Bengal. The area under sugarcane is only 181·6 thousand acres which is quite insufficient for the needs of the Province. Most of the sugar consumed in Bengal is imported. Yet experiments have shown that sugarcane can be grown over a very much larger area. Even in the undulating country, which covers part of Malda, Dinajpur and Rajshahi districts, experiments have been successful. Along with the question of extending the cultivation of sugarcane, should be considered the question of fixing the price on the

same lines as has been done in the United Provinces and Bihar. As we have mentioned in Appendix VIII, this policy has been very profitable to the cultivators of sugarcane in those provinces. "Sone" or hemp, could be grown on a greatly increased scale. It is preferred to jute by fishermen for their nets and ropes, it is an excellent cattle fodder; and if ploughed into the land, a most valuable manure.

More attention should also be paid to the cultivation and marketing of vegetables and to the planting of fruit trees, trees for fuel, and bamboos. In Madras, groves of casuarina trees provide firewood, which is carted to the towns and sold to the profit of the agricultural labourers. The possibility of growing bamboos over large and compact areas should also be examined. There must be plenty of land in a district like Nadia which could be used for this purpose. There is no reason why the supply of bamboos for the manufacture of paper should come from outside the Province, and from distances which must involve a higher railway freight than would be payable from supply centres situated closer to the paper mills. This question was examined by the Board of Economic Enquiry, but it is not known whether the results have been satisfactory.

Irrigation and Drainage.

216. **Recommendation of the Royal Commission on Agriculture.**—The Royal Commission on Agriculture made three main recommendations with regard to irrigation in Bengal[1] —firstly that a survey should be made for a general scheme of irrigation development; secondly that the functions of the Irrigation Department should be divided into two sections: irrigation proper, and navigation, embankments and drainage; thirdly that a committee of experts should be appointed, including at least one expert who is familiar with the management of deltas of large rivers in other countries. The first recommendation has been followed up, and a contour survey has been undertaken. The other two recommendations have not been put into effect. The chief irrigation problem in Bengal is the deterioration of the rivers, particularly in western and central Bengal. This has had such evil effects on health and on the fertility of the soil in parts of the Province that we think it desirable to support strongly the Royal Commission's recommendation, and to bring the best available expert opinion to bear on the problem.

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[1]Report, paragraph 292.

217. **Working of Irrigation Acts.**—The Acts under which improvement schemes can be carried out are the Bengal Agricultural and Sanitary Improvement Act of 1920 and the Bengal Development Act of 1935. The former is little used. Most Collectors have had the discouraging experience of initiating under this Act schemes which have come to nothing because of the cumbrous procedure, and the difficulty of financing them. The chief financial objection is that the capitalised cost of maintenance is included in the project estimate and the total amount to be recovered from the tenants is thereby raised to a high figure. The whole of this amount, together with interest, is recoverable within a comparatively short period, and the annual instalments payable by the tenants probably exceed considerably the value of the increased yield. It is doubtful whether this Act at present serves any practical purpose. Its defects have been removed by the Bengal Development Act and it is this Act upon which reliance must be placed for carrying out major development schemes. Experience has however shown that the utility of such schemes is not always appreciated by those for whose benefit they are made. The chief difficulty in Bengal arises over the payment of water rate. In some years the rainfall may be sufficient: in others insufficient. The payment of water rate in a year of sufficient rainfall is really an insurance against the failure of the next monsoon. In the Punjab and the United Provinces, the supply of water is essential. It is therefore possible to make the payment of water rate optional, and the cultivators willingly pay as much as Rs. 7-8 per acre for rice land, and even higher rates for sugarcane. We think that in spite of the difficulties which have been encountered over some of the major irrigation schemes, it would be a mistake not to pursue the policy of framing and carrying out schemes under the Development Act.

218. **Problem of embankments.**—Some embankments were in existence before the Permanent Settlement: others have been subsequently constructed. It is now accepted that a policy of flood protection by embankments interferes with the natural spill of a river and is bound to lead to its deterioration in course of time owing to the deposit of silt in the river bed. The consequence is that the embankments have to be raised higher and higher. The drainage system also deteriorates in the protected area. It is extremely difficult to find any solution of this problem. Technically, the proper course would be to remove the embankments and allow free play to the flow of river spill; but where there are important vested interests to be protected this course would hardly be feasible. Although

there might be an improvement in public health, and in the productivity of the soil owing to the silt carried by the flood water; there might be serious loss to property, especially in years of high flood. It would be essential in the first instance to carry out a survey which would enable the department to decide to what extent the flood water would be likely to extend, and during what period it would be likely to remain on the land. The most practicable course would be to draw off the flood water on to the surrounding country through controlled escapes constructed on the embankments.

219. **Drainage and waterways.**—In eastern Bengal and parts of western Bengal, such as Arambagh and Ghatal, the problem is not one of supplying water to make up a deficient or uncertain rainfall, but of draining away the excess rainfall and maintaining communications in rivers which continually change their course. One of the recommendations of the Royal Commission on Agriculture was that an expert committee should consider and report upon the advisability of setting up a Provincial Waterways Board[1]. In principle we are in favour of this recommendation, but we do not think it possible to separate the problem of drainage from that of the waterways. The Irrigation Department has already a number of drainage projects which will be put into operation as funds become available. If it were considered advisable by Government to establish a waterways board, we think it desirable that the Irrigation Department should be strongly represented on it, and that the object should be to ensure proper drainage in preference to the interests of navigation and river borne trade.

Industrial Development.

Before suggesting the lines on which industries in rural areas and cottage industries might be developed, we desire to give a brief account of the work that has been done in the Punjab and the United Provinces.

220. **Small scale industries in the Punjab.**—In the Punjab the Department of Industries has an annual budget of 21 lakhs. Its principal object is to develop home industries, and to help the people in the marketing of their products. The most important industry in the province is the textile industry. Government has established an institution for research work connected with the hand-loom industry, and the manufacture

[1]Report, paragraph 292 (end).

of hosiery and other articles. It retains experts who give advice to the manufacturers. As hand-woven cloth cannot compete with cloth produced by the mills, the department is teaching the weavers how to print designs on cloth. It is also developing the production of woollens and tweeds.

Under the State Aid of Industries Act, the department grants loans to help the establishment of small industrial concerns, and guarantees a return of 3½ per cent. for the first five years. For this purpose there is an annual budget of 2 lakhs. A further 2 lakhs is also allotted for encouraging the manufacture of useful articles which cannot be exploited through lack of funds. Such grants are not refundable.

221. **Demonstration parties.**—There are also peripatetic demonstration parties which tour the districts and give courses of training. The policy is to keep these parties at one centre for at least a year and sometimes for two years. At each centre the students are trained in batches and are given a six months' course. The subjects in which training is given are refining of oil, cloth printing, manufacture of castor oil, fibre industries, weaving, spinning, carding, glue making, rope making, pottery, dyeing and gur manufacture.

222. **Marketing schemes.**—There are three schemes for providing marketing facilities. The first is for products of the hand-loom industry; the second for the marketing of articles produced by the small wool workers; and the third is the general marketing scheme for the remaining industries. The first two schemes are financed by the Government of India, and the third by the Provincial Government.

223. **Cottage industries.**—The chief subsidiary occupations designed to occupy the spare time of the cultivators are fruit farming and fruit preservation, poultry keeping, bee keeping and lac cultivation. A great deal of work has been done to develop the fruit industry in the Punjab. The department has a fruit-specialist and an Assistant Professor of Horticulture, as well as a large staff which is employed on research work. This branch of the department is financed partly from provincial revenues and partly by the Imperial Council of Agricultural Research. Experimental fruit gardens have been started in different localities and a number of fruit nurseries have been established for the production and sale of reliable plants. Courses of instruction of varying length are given in all branches of the fruit industry—both fruit growing and fruit preservation—at the Lyallpur Agricultural College which the Commission visited. Various kinds of fruit drinks, such as lemon squash and mango squash

and condiments such as tomato juice and tomato ketchup, are manufactured, bottled and preserved,—all at a very low cost. All the processes which are taught in this section of the College can be carried out without any outlay of capital by a cultivator in his home. The only exception is the process of canning, for which a machine can be purchased at a cost of Rs. 100.

A central poultry farm has been established with subsidiary farms in the districts where courses of instruction are given in poultry keeping, and research work is carried out to improve the breed. Two bee keeping stations have also been opened and courses of instruction are given annually.

224. **Cottage industries in the United Provinces.**—In the United Provinces, the development of cottage industries has received special attention during the last two years. The budget allotment for this branch of rural reconstruction is 2·4 lakhs. Two polytechnic institutes have been opened for training in village arts and crafts. One of the conditions of training is that the student must settle down in a rural area and follow the craft in which he has been trained. In order to develop the hand-loom industry a number of stores have been opened, which are managed on co-operative lines, and supply raw materials and new designs to the weavers. Peripatetic demonstration parties have also been organised in the same way as in the Punjab. The industries in which training is given are improved processes of manufacturing gur, handspun or hand-woven cloth, hand-made paper, and the production of woollens through co-operative societies and stores which organise and control production.

The department has made some progress in providing for the marketing of goods produced by these cottage industries, but a large development is to be undertaken in the near future. It is proposed to establish a chain of 140 stores in rural areas, with 10 central stores at divisional headquarters.

225. **Unemployment of cultivators in Bengal.**—In Bengal, especially in the districts which grow only aman paddy, the cultivators are unemployed for a greater part of the year than in other provinces. Attempts have been made in the past to provide employment, mainly for the bhadralok classes, by sending out demonstration parties to teach various forms of manufacture; but there has been no organised attempt to develop cottage industries on a provincial scale, or provide employment to occupy the spare time of the cultivators. The department has been unable to make much progress in developing industries owing to its inadequate budget allotment. Last year the allotment amounted to 16 lakhs. In

the weaving section there are 39 schools and 10 demonstration parties,—a number quite inadequate to the needs of the Province. The department also maintains a number of demonstration parties for the manufacture of umbrellas, leather goods, coir, soap and other articles, but as we have pointed out the work of these parties is not concerned with giving employment to the cultivating classes.

226. **Lines of industrial development.**—Government has recently appointed an Industrial Survey Committee to report on cottage industries and small industries as well as on the key and heavy industries. The report of this Committee is not at present available.

In view of the increasing pressure of population on the land it is obviously desirable to encourage industrial development with the object of diverting part of the population from agriculture to industry. If it were possible to localise big industries in rural areas, more Bengalis might be given employment. But the main industries like cotton and jute are centralised, and it is idle to expect that agriculturists from the rural area of Bengal will seek employment there in any large numbers. More than 90 per cent. of the employees are up-country men. Their standard of living is lower than that of the Bengalis, who are by nature disinclined to leave their homes and villages.

The development of factories in rural areas and of cottage industries seems to offer the best possibility, but it is unlikely that capital, which is notoriously shy of industrial ventures, will be forthcoming in Bengal unless Government take the initiative. This could be done by purchasing a certain percentage of the shares; by guaranteeing dividends up to a certain limit; or by assuring the purchase of a certain quantity of the manufactured articles.

227. **Sugar factories.**—The industries which we consider most suitable for development are sugar factories, small jute spinning mills, and small cotton spinning mills.

As we have pointed out, the production of sugar in Bengal is very limited. The Province needs at least 25 more factories for the production of the sugar which it consumes. At present there are only 5 large and 7 small factories in the Province. The report of the Industrial Survey Committee will perhaps indicate the areas in which sugar factories might be located, but if, as we have recommended, steps are taken to extend the cultivation of sugarcane, the policy of establishing factories would have to be co-ordinated with that of increasing the area

under sugarcane. The establishment of sugar factories would probably give an impetus to the cultivation of sugarcane and would certainly increase the income of the growers.

228. **Jute spinning mills.**—The object of establishing small jute spinning mills would be to supply yarn to the cultivators, who would be taught jute weaving for the production of articles required for every-day use, such as gunny-bags for transporting agricultural produce, carpets, satranchis and rope. This form of weaving would help to occupy their spare time, and would be profitable provided that proper organisation exists and there is a centralised agency for supplying yarn and warps. The production of yarn itself could not be carried out by the cultivators as it is a much longer and more difficult process than the actual weaving.

229. **Cotton spinning mills.**—Similarly small cotton spinning mills could be established, which would supply yarn at competitive wholesale rates for the development of the hand-loom industry in rural areas. Spinning by charka is not recommended, as that method would not produce sufficient yarn from the whole of one village to supply a loom for two days. As a practical solution it can be discounted. From the yarn supplied by the spinning mills, cloths, towels and lungis could be manufactured in rural areas. The average family requires Rs. 15 a year to clothe itself. The cost of the yarn is Rs. 9 so that there is a saving of Rs. 6 if the cultivator weaves from yarn supplied to him. Lungis are manufactured on a negligible scale in Bengal: they are imported to the value of lakhs of rupees every year from Burma. The establishment of cotton mills would however depend on the extension of the area under cotton, which at present covers a very small acreage in Bengal. Here again, co-ordination would be necessary between the Agricultural Department and the Department of Industries.

Other Industries.

230. **Oil mills.**—In addition to the establishment of sugar, jute spinning and cotton spinning factories, the possibility of starting oil mills, tobacco factories and fruit canning factories should be examined. There is a large number of oil mills in Bengal with a capital of nearly one crore of rupees. The Agricultural Department has been experimenting recently with seed for mustard oil, and it is expected that sufficient seed will shortly be available for the mills. Previously, mustard seed used to be imported from Etawa and

Agra. If a sufficient supply of seed can be made available, the question of establishing small oil mills in the chief producing localities could be taken up.

231. **Tobacco factories.**—The chief tobacco growing district is Rangpur, from which 99 per cent. of the best variety is exported to Burma and comes back to India after being manufactured into cheroots. A large quantity of cigars and cheroots is also imported into Calcutta from Madras, Trichinopoly and other centres. There is no reason why cheroots should not be manufactured in Bengal. The only firm which is known to have undertaken this form of manufacture is Andrew Yule and Company.

232. **Fruit canning.**—We have referred to the development of fruit canning and preservation in the Punjab. Development on these lines is equally possible in Bengal. The cultivation of lemons could be extended; oranges are available from Darjeeling district; and good quality mangoes are plentiful in Malda and Murshidabad districts.

233. **Silk and lac.**—These two districts also produce almost the entire supply of silk and lac. The silk industry was adversely affected by the import some years ago of huge quantities of Japanese silk. It is understood that the desirability of imposing an increased duty on silk has been considered by the Central Government, but we think that before attempting to raise a tariff wall against foreign products, the local silk industry should be put on a sound commercial basis. In the past there has been no commercial demand for local silk thread because it had not been re-reeled by machinery.

The lac industry enjoyed a boom during the last war, but during the slump it became almost extinct. Lac is produced in the sandy strip bordering the Ganges, and its manufacture into stick lac is carried out by very crude methods. Most of the lac supplied to Calcutta comes from Bihar districts but there is no reason why with proper organisation the industry in Bengal should not be revived.

Cottage Industries and other Sources of Income.

234. **Paddy husking.**—The development of cottage industries is of primary importance in consideration of the number of people which such industries might employ. There are many lines along which development can be carried out.

The industry which might be developed in every village is that of paddy husking. The old method of husking by dhenki has almost disappeared, owing to the growth in the number of the rice mills. There are nearly 400 mills in Bengal the great majority of which are situated in the Presidency and Burdwan divisions. The rice which the mills produce is deficient in vitamins and is believed by some to be responsible for the increase of beri-beri. We do not think it is possible to place restrictions on the existing rice mills, but we recommend strongly that Government should consider the desirability of restricting by legislation their establishment in the future. In order to develop paddy husking in rural areas the best course would be to follow a policy of decentralisation, and to introduce into the villages a simple type of husking machine which can be worked by hand. A sample machine has been produced by the Department of Industries, which has been proved not to cause any deterioration in the food value of the rice. The cost of husking rice by this machine is not greater than the cost of husking in the mills.

235. **Other cottage industries.**—There are great possibilities for the manufacture of carpets, satranchis and other articles from coir in all districts where cocoanut trees grow abundantly. This is especially the case in Barisal and Noakhali districts, where it might be possible to arrange for the export of coir.

Baskets are commonly manufactured in the village but there is at present no organised centre for this industry. The Department of Industries is trying to divert part of its available funds to technical schools which would give instruction in basket making.

Pottery is imported into Bengal on a large scale although the materials exist in the Province for local manufacture. The department had established two factories at Belghuria in which there were 700 employees. There is no reason why the manufacture of pottery should not be extended.

236. **Poultry and milk.**—Many Muslim cultivators keep poultry and make a subsidiary income from the sale of fowls and eggs. There is great scope for development in this industry. At present the Agricultural Department has established poultry centres in 13 districts. A suitable cross breed has been evolved which gives a much larger egg than that of the deshi fowls. In Hooghly district, there is a Poultry Union comprising 79 villages, and in Rajshahi an equally

successful union has been established. The eggs fetch a better price in the market, and the fowls can be sold at 4 to 8 annas more than the deshi fowls. Another possibility is the development of subsidiary industries based on milk, such as the production of ghee and chhana. This is an industry which the cultivators cannot develop without financial assistance.

237. **Marketing organisation.**—The Royal Commission on Agriculture drew attention to the necessity of marketing organisations to enable the cultivator to obtain an adequate price for his produce. They recommended the development of co-operative sale societies as the ideal[1]. This system has produced remarkable results in some countries, especially in Denmark. In Japan there is a central depot which keeps in touch with village industries, gives them advice, and markets the finished articles. In Bengal there is only one Marketing Officer under the Department of Industries, and one Senior Marketing Officer with four Assistant Marketing Officers under the Agricultural Department. The agricultural section of the marketing organisation is part of the scheme for the whole of India, which is financed mainly by the Government of India. The programme aims at the control of all markets in Bengal which are concerned with agricultural produce and it will be put into operation as soon as the Agricultural Crops Marketing Bill has been passed by the legislature.

We regard the development of a marketing organisation both for agricultural and industrial products as being of the utmost importance As an illustration we may refer to the results of a survey which was recently made by the Department of Industries of the bell-metal industry. It was found that the total annual value of the manufactured articles is 50 lakhs, of which the actual manufacturers are receiving barely three-fourths of a lakh. Owing to the absence of a proper organisation for marketing the goods, the profits are going almost entirely to the middlemen.

238. **Improvement of cattle and milk supply.**—Various reports have referred to the inadequate yield of milk in India[2]. It is estimated that the average yield is as little as 600 lb. per annum, or less than one seer a day, whereas it should be between 2,000 and 3,000 lb. The average consumption per

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[1]Report, paragraph 342.

[2]Report of the Royal Commission on Agriculture, paragraph 196.

Report on the development of the Cattle and Dairy Industries of India, by Norman C. Wright, M.A., D.Sc., Ph.D., Chapter IX.

head of fresh milk is nearly half the amount required according to the existing dietary standards for the maintenance of satisfactory growth and health. All provinces have been trying with the help of financial assistance from the Government of India to improve the breed of their cattle. In the United Provinces, a great development in the Veterinary service is under contemplation. It is proposed to open 250 cattle breeding centres under the supervision of trained stockmen. In the Punjab the Government Farm for Hissar cattle is much the largest stock-breeding farm in British India; and that province has made great progress in the castration of scrub bulls. In Bengal the improvement in the breed of cattle has received attention from 1927. Between 1927 and 1939 upwards of 1,700 stud bulls have been issued to villages, but the number of scrub bulls castrated is a very small percentage of the total stock. The Veterinary staff employed in the districts has little knowledge of animal husbandry. A training college has recently been opened, which will, it is hoped, remedy this defect.

Until a substantial increase is made in the budget of the Agricultural Department, it can only be expected that progress will be slow. We may point out however that the success of a scheme for improving the breed of cattle depends upon a careful grouping of the stud bulls in selected localities, as opposed to distribution over a wide area; and on regular inspection which will ensure that they are properly housed and fed and are not overworked.

239. **Improved fodder supply.**—There is also scope for improvement in the supply of cattle fodder. Most cultivators feed their cattle on chopped straw, and would be unwilling to surrender any of their crop-growing land for the cultivation of napier grass or other fodder crops. This is one of the most regrettable features of animal husbandry in Bengal. In the Punjab it is the general practice to grow fodder crops for cattle and in the canal irrigated areas, the water rate for fodder crops is assessed at half the normal rate. The Agricultural Department of Bengal has distributed a large quantity of napier grass cuttings and fodder seeds to the retainers of stud bulls. It is desirable that the distribution of such fodder crops should be much more widely extended. We realise the difficulty of inducing the cultivators to give up lands for this purpose, but in most villages there must be small areas of high land or waste land on which napier grass and other fodder crops could be cultivated.

240. **Other suggestions.**—Before concluding this section of the report, we desire to refer to two suggestions which have been made to us in evidence. The first is that it is essential to have co-operation between all the nation building departments, and that their activities should be controlled by a Board consisting of three experts, who would co-ordinate the work of all the departments. The second suggestion is that in order to raise additional revenue for the development of industry in Bengal, a tax of one-half per cent. should be imposed on all transactions between buyers and sellers in the phatka market.

We would also emphasise the desirability of keeping in touch with industrial developments in other provinces. We are informed that no officer of the Department of Industries has ever been sent to examine the developments which have taken place or are under contemplation of other Provincial Governments.

CHAPTER VI.

The Nature and Assessment of Rent.

Rates of Rent at the Permanent Settlement.

Before proceeding to discuss the questions raised in the third and fourth terms of reference, it is desirable to give a brief account of the rate of rent that prevailed at the time of the Permanent Settlement; of the manner in which the level of rent has been determined in Bengal; and of the systems of assessment in force in the provinces which we have visited.

241. **In other provinces.**—The evidence is overwhelming to the effect that in the permanently settled areas of Bihar, Madras and the United Provinces, the burden of rent, including the abwabs recognised by the Permanent Settlement Regulations, amounted just before the Permanent Settlement to the utmost that the raiyats could bear, and was only limited by the knowledge of the zamindars and revenue collectors that they would be unable to pay the revenue if the raiyats were driven to surrender their lands and move to other estates.

The Collector of Gaya wrote in 1789 that some of the zamindars began to decrease rents, which they recognised to be excessive, when they heard that there was going to be a Permanent Settlement. Cash rents were mentioned by him to have been reduced in some places from 30 to 20 shillings a bigha for sugarcane to 12 or 8 shillings. The rent for rice land is said to have been[1] 4 or 5 shillings for a bigha estimated to measure two-thirds of an acre. From produce rents, one-eighth of the crop was deducted as the cost of appraisement, to be borne equally by landlord and raiyat and only half of the balance remained with the raiyat. This practice is said to have been prevalent also in Burdwan and other parts of Bengal[2]. In the United Provinces rents varied at the Permanent Settlement from 8 annas to Rs. 2-8 per bigha, and for indigo lands the rate was between Re. 1-10 and Rs. 2-8[3].

In Vizagapatam the rent was as much as Rs. 5 an acre.

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[1]Law's Resources of Bengal, pages 60 to 62, foot-note. The rupee was then worth 2*s.* 6*d.*

[2]*Ibid*, pages 103 and 104, foot-note.

[3]Law and Custom of India: (Kingsbury, Parbury and Allen, 1825).

242. **In Bengal.**—The evidence from Bengal is more conflicting. Grant valued the produce of Bengal, as the province then stood, at 851 lakhs, and the rental at 284 lakhs. According to this estimate the rent amounted to approximately one-third of the gross produce, and as the cultivated area was estimated to be 18,000 square miles, out of a total of 90,000 square miles, the average rent would be Rs. 2-8 per acre. Grant also states that the rates were Re. 1-8 a bigha in the vicinity of Calcutta and that elsewhere Re. 1 a bigha was more common[1]. The bigha to which he referred measured ·46 of an acre. The rent for 8 lakhs of bighas in the 24-Parganas is mentioned as having been Rs. 12.3 lakhs, which gives an average of Rs. 3-4 an acre[2].

On the other hand, Colebrooke estimated the cultivated area to be one-third of the whole[3]. If this figure for the cultivated area is accepted, and a deduction made for the revenue free lands, the rate of rent would be about Re. 1-5 an acre.

The Collector of Dinajpur reported in 1789 that the fixed nirik for first class land was Rs. 3, for second class land Rs. 2-8 and for third class land Rs. 2[4]. The Collector of Chittagong reported in 1771 that land which originally paid Re. 1 was then paying Rs. 4-10-10½ [5]. The rate would, he said, have been raised to Rs. 5-5-10 had the tax commonly called "the two-anna tax", which was in reality an eight-anna tax on the asal jama, been levied by Muhammad Reza Khan in order to defray the expenses of the Tippera expedition.

A letter written in 1770 from Gobindgunj[6] to the Supervisor of Rangpur encloses a complete jamabandi of a village in which is shown the area in possession of each tenant, the asal jama and the abwabs. The total area is 471 bighas and the total rent, including abwabs, Rs. 696. The area of the bigha is not mentioned but it was probably half an acre. The average rent was therefore almost Rs. 3 an acre.

Between 1771 and 1780, Mr. Harrington was specially deputed to estimate the actual assets of two parganas in Rangpur. He reported that instead of paying the pargana rates, which were the basis of the asal jama shown in the

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[1]Appendix to Fifth Report—Firminger, Volume II, page 320.

[2]Appendix to Fifth Report—Firminger, Volume II, page 258.

[3]Colebrooke's Husbandry of Bengal, page 17, foot-note.

[4]Letter from Mr. Hatch, Collector of Dinajpur, dated 11th December 1789.

[5]Records of Chittagong, 1760-1773, page 27.

[6]The letter copy books of the Resident at the Durbar at Murshidabad, 1769-70—Firminger, pages 29 to 31.

Kanungos' papers, the cultivators were actually paying a flat rate of 15 annas per acre. In his own words "pargana rates were completely divorced from reality[1].

From Midnapore it was reported in 1768 that a taluq of 100 bighas had been granted at progressive rates of rent rising in the fourth year to one hundred rupees. The rate of Re. 1 a bigha was said to be rather less than the common rent that would be paid for the same quantity of land according to its usual value in that part of the Province[2].

The Collector of Jessore reported that the nominal rate of rent in that district was Rs. 3 a bigha, but that the actual rate was only Re. 1, "as the raiyats possessed 15 bighas, whereas the pattas stated 5 only, and upon this last quantity the assessment of Rs. 3 for each is made[3]. Holwell, describing in 1765 the manner in which the zamindars, farmers and raiyats concealed their assets wrote: "I may justly aver there is not a tenant in Indostan but possesses and occupies a greater quantity of land than his patta expresses, or than he pays rent for..... It extremely well answers the tenant's purpose to possess if he can for a small bribe more land than he pays for[4]."

In Chakla Burdwan the average rate of rent is stated by Grant to have been ascertained after local inquiry in 1763 to be Rs. 2 per bigha. The bigha measured ·46 of an acre and the rate was therefore Rs. 4-5-7 per acre[5].

Many other instances could be given to indicate the varying rates of assessment in Bengal, but the following will suffice. Information from the Record Rooms of Murshidabad, Jessore and Rangpur shows that in Murshidabad 173 bighas were assessed at Rs. 141; in Jessore 305 bighas were assessed at Rs. 225; and in Rangpur 637 bighas were assessed at Rs. 1,080. In Patiladaha pargana the rate was from 4 annas to Re. 1 per standard bigha, but separate rates were paid for special crops; Rs. 3 was paid for onions and chillies, and Rs. 2 or Rs. 2-8 for sugarcane. In Baharbund parganas, where the bigha measured two-thirds of an acre, the rate for first class land was from Rs. 5 to Rs. 7, for second class land Rs. 4 to

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[1]Rangpur Settlement Report.

[2]District Records—Midnapore, Volume II, 1768-1770, page 55.

[3]Harrington's Analysis of Regulations—Volume III, page 4.

[4]Holwell's Interesting Historical Events relating to the Province of Bengal, page 223.

[5]Fifth Report—Firminger, Volume II, page 416.

Rs. 6, and for third class land from Rs. 2 to Rs. 4. If we accept Grant's estimate the general average was Re. 1 for a bigha measuring ·46 of an acre, or Rs. 2-3 per acre. The average rate of raiyati holding on fixed rates in Bengal is Rs. 2-15 per acre, which is not very much less than the average rent paid by occupancy raiyats.

243. **Relation of rent to produce.**—In Bengal, as opposed to Bihar, most rents were paid in cash; where they were paid in kind, they varied, according to Colebrooke[1], between one-third and nine-sixteenths of the produce. According to the firman issued by the Emperor Aurangzeb in 1668, the incidence of full customary rates in reclaimed lands was to be estimated at half the produce[2]. But it is certain that in practice cash rents in Bengal did not reach this level. It is difficult in the absence of any detailed information to find a definite relationship between the rent and the produce at the time of the Permanent Settlement. It is believed that the price of paddy was more like 6 annas than 8 annas a maund at that time. Prior to the Permanent Settlement it seems to have been much the same, though it rose considerably higher in years of famine. In 1781 the Collector of Rangpur sent to Calcutta a lakh of maunds of rice which he had purchased at 8 annas a maund, and in 1768 the price of paddy in Rangpur was between three and four maunds per rupee. The cheapest rate known for husked rice was 2 maunds 24 seers to the rupee, but in the famine of 1787, the price of rice rose to between 18 and 25 seers per rupee[3].

Colebrooke states that "rice in the husk sold, one season, as low as eight mans for the rupiya. In the following year it was eagerly purchased at the rate of a rupiya for two mans[4]".

It is not possible on the available evidence to dogmatise about the level of rent in relation to produce at the time of the Permanent Settlement. The only certain conclusion would be that in Bengal as opposed to Bihar, the raiyats did not pay the full nominal pargana rate, if only because they held more land than was shown in their pattas; and that if the rents which they paid did not approximate to half the value of the produce this was the main reason.

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[1]Colebrooke's Husbandry of Bengal, pages 35 and 36.

[2]Bengal Manuscript Records—W. W. Hunter, Volume I, 1782-1793, page 50.

[3]Bengal District Records—Rangpur—1770-79, pages 23 and 24.

[4]Colebrooke's Husbandry of Bengal, page 67 (foot-note). Considering the prices prevailing in other provinces, he adopted an average of 12 annas a maund for rice, wheat, and barley, in estimating the value of the gross produce (page 15).

Characteristics of Rent in Bengal.

244. **Rents mostly lump-sums.**—We have referred to the fact that Akbar's system of detailed measurement was never applied to Bengal, where the unit of assessment was the pargana, and the detailed assessment never extended down to the holdings of the raiyats[1]. As a general rule the revenue demand which the zamindar or farmer had to pay was distributed in a more or less arbitrary manner among the raiyats in accordance with their ability to pay. Thus the Supervisor of Rajshahi who was stationed at Natore wrote in 1770 to say that in Chuppalyat pargana which he had visited, there had been a decrease in cultivation in the course of three years amounting to 12 per cent. of the area, and that as the revenue had not been abated, the amount levied upon the remaining cultivators must "of consequence have been increased in a still greater proportion to make good this deficiency, exclusive of the share of increase which this pargana has borne in common with the whole Bhettorya district[2]". Colebrooke wrote to the same effect:—"The landlord, estimating the amount of his own wants distributes it at pleasure on his tenants, and endeavours to levy this assessment[3]."

The practice of assessing lump rents existed at that time, and has tended more and more to become the general rule with the passage of time. There are still many estates which have different rates for homesteads and cultivated lands, and there are some estates which have different rates for different classes of cultivated land. In some districts higher rates for valuable crops like betel-leaf still exist. But broadly speaking, rents in Bengal are lump rentals. They are not based on any systematic method of assessment, but represent the customary

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[1]Even in the provinces where Akbar's system of assessment by measurement was in force, the pargana rates became obliterated. In 1819 all Collectors were asked to report whether there was any pargana rate which could be referred to in a case of dispute between the cultivator and the proprietor.

The Collector of Saidabad said: "There is no fixed pargana rate sufficiently acknowledged and accurate to be referred to in case of dispute between proprietor and cultivator."

The Collector of Agra said: "The pargana rates are all in kind, and differ in almost every pargana. In practice they are much at variance with the rates in force in the villages, and are not admitted as authority or reference in dispute between zamindars and cultivators."

(Auckland Colvin's Memorandum on the revision of Land Revenue Settlements in the North-West Provinces, 1872, pages 8.)

[2]Letter Copy Book of the Supervisor of Rajshahi, Natore—edited by the Revenue Record Room—1775-1785.

[3]Colebrooke's Husbandry of Bengal, page 41.

levels of rent, which are distantly connected with the nirikbandi of the Regulations. Where the general rate of rent is low, the conclusion would normally be that the low customary rate has continued more or less unchanged, and has not been much affected by enhancements or by competitive rates.

245. **Competitive rates.**—The element of competition was introduced as the pressure on the land increased, and the demand for land became greater. An increase of population normally leads to increased rentals, although in Bengal a lower level of rent has been maintained on account of the practice of taking salami. Specially during the boom period at the end of the last war and until 1929, there was a great demand for land, and settlements were made at high rates of rent, which the tenants had difficulty in paying when the depression began.

246. **Varying incidence of rent.**—The absence of any systematic assessment in Bengal has led to a rate of rent, the incidence of which varies considerably from district to district and from holding to holding, and has little relation to the productivity of the land. The average rate of rent in Hooghly, Howrah, and 24-Parganas is considerably higher than the average rate of rent paid in many of the more fertile districts of eastern Bengal. This is due in part to high rents near urban areas and in part to historical reasons. At the time of the Permanent Settlement, western Bengal, and Burdwan in particular, was more extensively cultivated than the rest of the Province, where there were large areas of jungle and waste land which the tenants had to be induced by preferential rates of rent to bring under cultivation.

Assessment in other Provinces.

247. **System in Madras.**—In Madras there are two principles that govern all the processes of a settlement. The first is that the assessment is on the land and does not depend upon the kind of crop grown, except that on "wet" land the assessment includes a charge for irrigation. The Settlement Officer's first duty is to classify various kinds of soil with reference to their productive capacity. For this purpose, the soils are first divided into main classifications, such as the black cotton growing soil, and the red soil found all over the Presidency These classes are then subdivided according to the amount of clay or sand which they contain and experiments are carried out over a fixed area of each class of soil to determine

its productive capacity. In the earlier settlements these experiments were most elaborate. As many as 2,000 plots were sown with paddy on "wet" land and the outturn on each plot was measured. As many as 60 classifications of land were adopted in some cases. As a result of these experiments, the Settlement Officer was in a position to calculate with fair accuracy the normal yield to be expected from an acre of each kind of soil. These figures expressed in Madras measures of 120 tolas are called the grain outturns. They are converted into money values, not at the current rates prevailing at the time, which might be abnormal, but at the average of the prices prevailing during the 20 years, excluding famine years, immediately preceding the settlement.

The second principle governing the assessment is that having obtained figures for the gross produce of each holding the net profit of each cultivator has to be estimated. Various deductions are made from the gross produce. To cover vicissitudes of seasons, and unproductive areas such as embankments and channels, a deduction varying from $6\frac{1}{4}$ to 25 per cent. is made; a deduction varying from 10 to 20 per cent. is made to cover the cost of cartage to the nearest market, and the difference between the local selling price and the retail price; and a deduction is made for cultivation costs, which include the seed, depreciation of cattle and agricultural implements, and the cost of manure and labour. When these deductions have been made, and the net profit has been obtained, the Settlement Officer is in a position to fix the assessment on any holding. Of the net profit, 50 per cent. is claimed as the maximum Government share; but in practice it is often less, as the maximum only applies to lands which enjoy the greatest natural advantages.

248. **Resettlements.**—Resettlements are carried out at intervals of 30 years and a fresh calculation is made of Government's share of the net profit. If a tenant has sunk a well or constructed a tank for irrigation, Government claims no share of the increased profits. But where other improvements have been made a share is claimed,—for instance if marketing facilities in a backward area have been improved by the construction of a railway. Enquiries are made whether the previous assessment has worked well and is reasonable. In considering this point great importance is attributed to the sale value and lease value of land. If the previous assessment is found to have worked satisfactorily, no change is made in basic principles, but if there has been a rise in prices, an increase is made in the Government's demand. The calculation

is again made over a period of the 20 non-famine years preceding the resettlement. In practice the full enhancement has not always been taken, as it might have amounted in some cases to as much as double the previous demand. In 1924, Government decided to limit the enhancement on this ground to $18\frac{3}{4}$ per cent.

249. **Comments on the Madras system.**—The Madras system is based on scientific principles and claims a half share of the economic rent. It cannot be said to be unfair, although in the raiyatwari area it results in a rate of rent for paddy-growing land amounting to between Rs. 7 and Rs. 8 per acre, which is quite double the average rent of occupancy raiyats in Bengal. We doubt whether the elaborate classifications of the soil aimed at, can be worked out successfully by a settlement staff which can have little technical knowledge of soil properties. In any case the system of classification is not really understood by the tenants. It is obviously necessary to have different rates for land in the deltas, which are much above the average fertility, and for dry land as compared with irrigated land. But otherwise all-round rates of rent might not have been actually more unfair.

250. **System in the Punjab.**—The Punjab system of assessment aims at fixing a moderate revenue to be paid by each village as a whole. All the peasant proprietors are jointly liable for the revenue of their village. Up till 1928 the maximum revenue that could be assessed was half of the net assets. In that year Government's claim was reduced to one-fourth of the net assets, though the former rate is still in force in districts where resettlement operations have not been taken up. By net assets is meant the average surplus which the estate is expected to yield after deduction of the expenses of cultivation; and the expenses of cultivation are assumed to be half the gross produce, which is the amount generally paid to the peasant proprietors by their tenants-at-will. No detailed calculations are made to estimate the detailed cost of the various stages of cultivation.

Resettlements of revenue were formerly made at intervals of 20 years, but recently legislation has fixed the period at 40 years. In the opinion of some of the Revenue Officers whom the Commission met, this is too long a period.

251. **Procedure for determining net assets.**—The procedure is elaborate. The various classes of land within the assessment circle to be taken up for settlement are first of all determined, and then an estimate is prepared of what is called the matured

area of each class. This means the area sown, excluding the area on which crops have failed. In order to determine this area the acreage under different crops is examined for different periods since the last settlement took place, and a period of 5 or 10 years is selected which is typical of the whole period. Crop cutting experiments are then made in order to estimate the average yield, and by multiplying the yield and the matured area, the gross produce is obtained. This is valued according to commutation prices based on the average of a sufficiently long number of years, excluding years of famine or scarcity. The rates prevailing at the time of settlement have also to be taken into account and are determined by reference to official price-lists and by making enquiries in markets. When the commutation prices have been fixed, the total yield of each crop is multiplied by its commutation figure and the cash value obtained. This calculation, as has been explained, is based on the assumption that the proprietors have sublet to tenants paying half the share of the crop which represents the cost of cultivation. But before proceeding to calculate the Government demand, a cross check is made by calculating what the assessment would be on the basis of cash rents actually paid. Rents which are obviously too high or too low are excluded, and when the average cash rent per acre has been worked out, it is applied to the whole matured area, and the total thus obtained is compared with the total obtained by the calculation on the basis of rent in kind. Generally there is some difference between the two figures and the Settlement Officer then proposes what figure should be taken as the true assets. Government's share has then to be calculated on the net assets. These are obtained by deducting first from the gross assets what are called the menials' expenses. These are payments, amounting to about 10 per cent., which are made after each harvest to the blacksmiths, cobblers, and other village artisans who work for the village community. From the resulting figure, half is deducted as the landlord's share and various adjustments may then have to be made in cases where the landholders supply part of the seed, or pay part of the water rate, or in cases where the tenants pay part of the land revenue. The resulting figure represents the landlord's net assets and of these the Government is entitled to claim one-fourth.

252. **Distribution of revenue over assessment circles.**— When the revenue for each assessment circle has been fixed by this method, it is then distributed over the villages. The Settlement Officer has discretion to alter the rates if in any area a particular crop is inferior or for any other good reasons; but

the variation must not amount to more than 3 per cent. of the total revenue assessed on the circle.

After Government has approved or modified the proposal, the Settlement Officer goes through his notes of the circumstances of each village, and assigns a certain lump assessment to each. There may be three villages, of which the assessment on the basis of the approved rates for each class of land would amount to Rs. 2,000. In the first there is one landlord, who realises 30 per cent. of the gross value of the crops without any expense to himself. In the second there are 70 landlords, who do most of the cultivation themselves. Though they get the whole crop, their expenses, including water rate, are nearly half the value of the crop. Each only earns a small net profit on which to support his family. Obviously these people are less able to pay one quarter of their income as revenue than the sole landlord of the first village. A third village has no market near it, where forest produce and straw can be sold, or the water-supply is not sufficient to provide as much water as is wanted. Under these circumstances the Settlement Officer may propose that the first village will pay Rs. 900, the second Rs. 600 and the third Rs. 500. The villagers are then called together. If they agree that the whole revenue should be realised from the irrigated lands, instead of partly from the unirrigated or fallow lands, they can decide that instead of paying the rates in the assessment report, they will pay Rs. 2 for each acre of irrigated land and nothing for non-irrigated land. Provided the resulting assessment will realise the total revenue assigned to the village, the Settlement Officer has no objection. These rates are then calculated for each holding and entered in the jamabandi. Provided the villagers all agree, they can distribute the assessment as they think fair. The rates in the assessment report are only applied if the villagers cannot reach agreement.

253. **Comments on the system.**—This is a feature of the Punjab system which is open to criticism. Once flat rates are adopted for a whole village or for particular classes of land, the elaborate classifications of land and calculations of yield are rendered inoperative. There is also a rule that no new assessment must exceed the previous one by more than 25 per cent. This rule has had the effect, in a recent settlement, of reducing the rate for irrigated lands from Rs. 3-15-6 to Re. 1-15, and for non-irrigated lands, from Re. 1-11-7 to 14 annas 6 pies.

It seems therefore that there is a considerable difference between the theory and the practice of assessment, and that a great deal of the elaborate inquiries and calculations is wasted.

254. **The sliding scale.**—One noticeable feature of the Punjab system is the automatic adjustment of revenue in relation to agricultural prices under the sliding scale which was introduced in 1937. Prior to 1937, *ad hoc* measures were adopted to grant remissions on account of low agricultural prices. The sliding scale adjusts revenue in relation to the prices current in the preceding year. As has been explained, the assets are calculated by multiplying the area, the estimated yield, and the sanctioned commutation price of each crop. This gives an index figure. A corresponding index figure is calculated for the year previous to that in which remissions are to be given, it being assumed that the percentage of each crop and the average yield per acre are constant. The only variable factor is the price. The difference between these two index figures represents the proportionate amount of remission that is granted in a particular year. The sliding scale thus operates downwards only. If prices rise, Government may get the benefit of the rise up to the sanctioned commutation figure but even if prices go above that level, Government cannot take anything more.

255. **System in the United Provinces.**—In the United Provinces, the revenue in the temporarily settled area was formerly revised at intervals of 30 years, but in 1929 the period was extended to 40 years. The only exceptions to this rule are the alluvial estates, and the areas like Bundlekhand where cultivation is precarious. In Bundlekhand the rule is that a revision may take place after five years, if the area of established cultivation has varied by more than 10 per cent. The system of assessment is based upon a proprietor's assets, consisting of the rents he receives from his tenants, the produce from his khas land, and the siwai income, which corresponds to sayer income in Bengal, and includes collections from fisheries, grazing land and the like.

The maps are first brought up to date or a resurvey is made if many corrections are necessary, and the records corrected and attested. The Settlement Officer then proceeds to carry out a classification of the soil in every village, according to its productive value. There may be four, five, or six classes of soil, the productivity of which is estimated in relation to the average good land of the village. The Settlement Officer then

picks out those holdings which lie entirely within one classification of soil, with the object of determining the fair average rent paid for that class. He excludes any rents which are obviously unfairly high or too low, and examines generally the pitch of rents which have been fixed since the last settlement. When he has decided what is the fair average rent for each class of land he is in a position to commence the actual assessment. Prior to 1938 he had no power to reduce rents of his own motion. Now rents which are inequitable can be reduced, but rents which are too low can only be enhanced on the application of the landlord, subject to a limit of 25 per cent. Rents may therefore be increased or decreased when a revisional operation takes place, but until the expiry of a settlement, the rent of any khas land that may be settled is governed entirely by contract. In fixing fair rates for each class of land, the Settlement Officer also takes into consideration the prevailing level of agricultural prices and the rise in rentals as well as the average level of cash rents. But a rise or fall in agricultural prices is not of itself a ground for enhancement or reduction. He may commute grain rents into cash rents, and many such commutations were made when high prices prevailed. In areas where rents are largely paid in kind he may determine circle grain rates. When the rates have been fixed, the Settlement Officer has to apply as a general check the standard of one-fifth of the estimated gross produce. Under the present rules the resulting rent should not exceed this proportion, though it seems that in practice rents are higher than one-fifth in some cases. In calculating the assets of proprietors' khas land, a concession ranging from 15 to 30 per cent. is made for the land which they themselves cultivate. The normal deduction on this account is 25 per cent. An allowance is also made for improvements effected by the proprietors. The siwai income is then added, and the total assets are thus obtained. The Government's share of the total assets is normally fixed at 40 per cent.; but in cases where the number of proprietors in a mahal is large, or their circumstances are poor, a lower percentage, not usually less than 30 per cent. may be taken. Enhancements of revenue are limited to one-third of the previous demand, except in estates where the previous demand if increased by one-third would amount to less than 30 per cent. of the assets.

256. **Comments on the system.**—The system in force in the United Provinces resembles the Bengal system for assessing revenue in temporarily settled estates. It is based largely on the pitch of contractual rents, but these can be reduced or

enhanced according to the fair rates which are fixed for different classes of land. The chief difference between the system in the two provinces lies in the very elaborate inquiries and calculations which are made in the United Provinces to classify the productivity of the land.

Assessment of Rent in Theory.

257. **Economic rent.**—In the preceding paragraphs we have given some account of the methods of assessing revenue, which is the same thing as rent in the provinces settled raiyatwari. We come now to a consideration of what would be, in principle, the soundest method of determining fair and equitable rents provided any Government had a free hand.

We have considered various methods of fixing fair rents. According to Ricardo's theory, rent is the difference, or a share of the difference, between land which yields a certain profit, and land which just repays the cost of cultivation; or in other words, the difference between the gross produce and the sum which compensates the cultivator for his labour, seed, manure, depreciation of cattle and implements and other expenses of cultivation. It is thus explained by Henry George: "the rent of land is determined by the excess of its produce over that which the same application of labour, etc., can secure from the least productive land in use". According to this theory, the economic rent has to be fixed on the supposition that the cultivator is fully employed, i.e., that he has enough land to occupy him fully, and the maintenance of the cultivator is the first charge on the land, the rent being paid out of the surplus.

In theory the correct principle would undoubtedly be to fix rent as a certain proportion of the economic rent. The practical difficulty is to determine what is the economic rent in every case. It is impossible to calculate the value of the average gross produce and the costs of cultivation in the case of every holding. The Rent Law Commission decided[1] in 1879 that the economic theory of rent could not be applied in practice because it assumes that no land will be cultivated which will not yield the ordinary profit derivable from capital employed in other undertakings; whereas in India there is little or no capital employed in agriculture. The immediate object of cultivation is subsistence, not profit on capital. The Commission could only define fair rent by the rather indefinite

[1]Report, page 18..

description—"such a share as shall leave enough to the cultivator of the soil to enable him to carry on the cultivation, to live in reasonable comfort, and to participate to a reasonable extent in the progress and improving prosperity of his native land[1]."

In practice the theory of economic rent can only be applied by taking averages of the yield of different classes of land, and applying them to all tenancies. In the same way the cost of cultivation, and any other deductions that are to be made, can only be calculated approximately and applied generally. But apart from the difficulty of estimating the produce and the costs of cultivation, a strict application of the economic theory would involve maxima and minima rates differing so widely, that they would cause a revolution in all Indian ideas of rent. If land producing Rs. 20 an acre just repays the cost of cultivation, land producing Rs. 100 an acre would be liable to pay Rs. 40, if half the net profit were taken as the rent. Every Government which has adopted this principle has been forced to modify it in practice to such an extent that the relation of the existing revenue or rent to the surplus profit derived from cultivating the best land, is no nearer the economic rent than the existing rents in Bengal are to a definite share of the produce. In Madras and Burma a modified form of economic theory has been adopted, by taking half the profit of the cultivator, after deducting all the expenses of cultivation, including the food of the cultivator and his family.

258. **Rent as a share of the crop.**—Rent as a share of the crop was the system of assessment throughout the Hindu and Moghul periods, but as we have shown, the cash rents which were generally paid in Bengal at the time of the Permanent Settlement bore no relation to a share of the crop based upon measurement. This method has a certain historical sanction, but it depends entirely on the share fixed whether the resulting rent is fair or not. It is impossible to state categorically what is a fair share of the produce, or to fix a share which would be equitable in every case. There is no logical reason why it should be fair for a bargadar to pay half of the crop, for an under-raiyat to pay a maximum of one-third, and for an occupancy raiyat to pay one-fifth, or any other proportion. In the evidence we have received, varying estimates have been given of what might be considered a fair share. They range from one-fourth to one-tenth of the produce. Most of our witnesses

[1]Report, page 24.

recommended either one-fifth or one-sixth, but were not in favour of a share of the produce as a method of assessment. The commutation rules, which were abolished in 1928, laid down that the produce rent of an occupancy raiyat when converted into a cash rent could not exceed one-fifth of the value of the produce. This is the proportion that is most generally accepted in theory. It was contained in the Tenancy Bill of 1885, but was omitted from the Act.

The advantage of the system, provided the rent is paid in produce, is that it automatically counter-balances the changes in prices; but if it is paid in cash, it has a counter effect. It cannot work with absolute equity because the cultivator of poor land may not be able to live on half the produce of 5 acres, while in another part of the same village, half the produce of 3 acres may yield a substantial surplus. In theory all rents should have some relation to the value of the gross produce, but we think that in practice the chief utility of this system is that it affords a standard for judging the level of rents, as is ithe practice in the United Provinces. As a method of assessing rents it is without any scientific basis.

259. **Rent fixed on market values.**—Another method of fixing rent is in relation to the market value of the land. Though this principle has not been adopted as a sole criterion of fair rent in any province, considerable importance is attached to it in Madras and Bombay. We do not think that it is a sound principle in assessing the fair rent of agricultural land. In practice it would lead to difficulties. The market value of land fluctuates greatly, and fluctuating rent would be equally troublesome to landlord and tenant. There would also be difficulty in making a valuation of land with any exactness, because for a variety of reasons, specially high or low prices may have been paid.

260. **Competitive rates.**—Competitive rates are an indication of the highest rent that a cultivator is prepared to offer for land in a particular locality. They are much the same as the economic rent, if economic forces had full play. According to the present law, there is no means of preventing landlords from demanding the highest rent at new settlements which the tenants are prepared to pay. Even if legislation restricted the amount of rent for new settlements, it would be difficult in practice to prevent landlords from defeating it by taking a premium. On the other hand it is true that when agricultural prices are high, competition tends to result in unduly high rents. Whenever there is a sudden demand for

land, the possibility of a fall in prices is overlooked and there is a tendency to overbid. It is undesirable that the rivalry among tenants to get settlement of additional land should lead them into making offers which in normal times would be extravagant. It has always been the aim of tenancy legislation to restrict the settlement of land at rates fixed by competition, and any change in this policy would be against the sentiments and interests of the tenants.

Assessment of Rent in Bengal.

261. **Customary rates.**—Customary rates are, as we have mentioned, the general rule in Bengal, and custom is still the main factor in the level of rent. As we have shown, there are objections to all the systems of assessing rent to which we have referred. In no province which has adopted other principles of assessment, are those principles followed to their logical conclusion. In all, drastic modifications and lump reductions have been made, which to a large extent render inoperative the elaborate inquiries which were involved. It therefore seems that there is much to be said for the principle of tenancy legislation in this Province, which is to accept the existing rents as fair and equitable until the contrary is proved. It has been mentioned that most of the existing rents in Bengal are lump rents, having no uniform relation to either the gross produce or to the net profits. Nevertheless, they have some connection, however remote, with the customary village rates which were at some period based on a classification of the soil and the nature and amount of the produce they could be expected to grow. Now that settlement operations have been completed in every district, every landlord and every tenant has had an opportunity either to claim enhancements or reductions. From that point of view the existing rents must be accepted as being, on the whole, reasonably fair.

Although we think that a share of the economic rent is theoretically the best system of assessment, it would not be in consonance with the system that has always prevailed in Bengal. It is doubtful whether the elaborate investigations which it involves would justify its introduction, or whether any settlement staff could be found with sufficient agricultural and technical knowledge to make an assessment on its principles that would be more equitable than customary rates.

262. **Difficulty of finding a standard of assessment.**—We agree however that if Government became the sole landlord in Bengal, equality in the incidence of taxation would become an

important consideration; but, as we have pointed out, the incidence of rent in Bengal varies widely and has no relation, or only a very remote relation to the productivity of the soil.

This variety in the incidence of rent is due to historical and other causes. Western Bengal was in a far more advanced state of cultivation at the time of the Permanent Settlement than eastern Bengal. In some districts the population has always been denser than in others; in some the fallow land available for the increasing population has been greater than in others. In some estates the landlords have been successful in making enhancements: in others the tenants have been successful in resisting them. The Rent Law Commission observed in 1879[1]:—"the progress of nearly a century has created relations of persons and conditions of things, to sweep away which for the purpose of establishing an ideal normal standard would involve an interference with vested interests and a disturbance of existing associations, which would irritate the feelings of those concerned, and render the remedy worse than the disease." No Committee or Commission which has deliberated the question in the past has been able to devise any practicable principle that would give satisfactory results under all circumstances. We are agreed that it would be impossible in Bengal to graft a new method of assessment on to the Province without regard to its historical development, or to the laws which have governed rent since 1859. Our suggestion therefore is that with certain modifications, the provisions in our Tenancy Act for fixing fair and equitable rents should remain in force, whether the Government becomes the sole landlord or not.

The Existing Law for Fixing Rents.

263. **Revisional settlements.**—Revisional settlements are normally carried out in khas mahals and temporarily settled estates at intervals of 15 years. The exceptions are Sundarban Lots which are held under 99 or 40-year leases, and small estates which it may not be worth while to re-assess when their term of settlement expires, because the increase in revenue would be insufficient to cover the cost of the revisional operations. The main objects of revisional settlements have been to obtain an increase of revenue and to bring the record-of-rights up to date. The prospect of obtaining an increase in revenue has been a

[1]Report, paragraph 47.

consideration, in view of the cost of revisional operations. We are strongly of opinion however that an increase of revenue should not be the chief consideration. We think that the advantage of having an up-to-date record-of-rights, and of collecting much valuable information during these operations is sufficient to recommend them. In the view of the majority, district revisional operations are no less desirable than resettlements in khas mahal and temporarily settled estates, and their cost should be defrayed by Government. Some of our members, however, are of opinion that the cost should be recovered solely from the landlords.

264. **Defects in policy and procedure.**—The chief criticism which has been made by most of our witnesses is that it was a mistaken policy to continue enhancing rents after 1930 when the slump began. We all agree that this criticism contains much force. At the same time it is a fact that the enhancements taken after 1930 have fallen short of the amount which might legally have been taken by the strict application of section 32 of the Tenancy Act.

Another defect in the assessment of fair rents in temporarily settled estates has been the interpretation of the provision that existing rents must be presumed to be fair and equitable. In the past Settlement Officers have held the view that high contractual rents, which might have been perfectly legal, could not be reduced except on the specific grounds contained in section 38 of the Tenancy Act. The practice of maintaining contractual rents which are considered to be unfair has now been abandoned, and it has been held that Settlement Officers have a free hand in reducing such rents. We consider that this is the correct interpretation of the law, and that contractual rents which are clearly inequitable should be reduced. Although the assets are reduced, the revenue of the proprietor or the rent of the tenure-holder is also reduced, and the ratio of revenue to rent remains the same. We think that the law should make it perfectly clear that high contractual rents can be reduced.

265. **The prevailing rate.**—We shall now proceed to consider the various grounds on which rent may be enhanced or reduced, the criticisms of them that have been made, and the suggestions that have been offered for their improvement.

The prevailing rate was originally the pargana rate and the idea of enhancement on that ground came from section 7 of Regulation IV of 1794. When Regulation V of 1812 was passed it was stated that the pargana rates had become very

uncertain, and a provision was made that if the pargana rate could not be ascertained by the purchaser of an estate, or by a Government Officer who attached an estate, the rents should be collected at the rate payable for land of a similar description in places adjacent[1]. Subsequently it was incorporated as a ground of enhancement in Act X of 1859, which provided that rents substantially below the prevailing rate could be levelled up to it. There was no provision in Act X of 1859 for a reduction of rent on this ground, but Act XIV of 1863 introduced this ground of reduction, taking it from the North-West Provinces Act, against the opinion of the Sadar Board of Revenue[2]. Act XIV was repealed in 1865. It was held that contractual rents which were in excess of the prevailing rate were perfectly legal, and the mere fact that they were higher than the prevailing rate could not in itself be a reason for reducing them[3]. In the Great Rent Case it was held that the omission in Act X of 1859 to provide for reductions on this ground could hardly have been a mere accident[4]. When the Tenancy Act of 1885 was under discussion, the question of retaining or rejecting it as a ground of enhancement was carefully examined. The Government were in favour of rejecting it, but the Select Committee ultimately proposed its retention. At that time there was no clear distinction between the prevailing rate and the average rate, so that the effect of allowing enhancements on this ground might have been a continuous increase in the average rate of rent. The illustrations in section 31A of the Tenancy Act were added in 1898 in order to obviate any confusion between the prevailing rate and the average rate of rent. It was also laid down that once rents had been enhanced up to the prevailing rate, they could only be enhanced again on the ground of a rise in prices. The object of these amendments was to prevent a continuous rise of the average rent. At the time the Tenancy Act of 1885 was under discussion, the prevailing rate had commonly been used as a ground of enhancement; but after the amendments of 1898 the difficulty of ascertaining rates for different classes of land with similar advantages, when most rents were paid in lump, discouraged landlords from claiming enhancements on this ground, and the section is now hardly ever used.

We think however that if the Government were in the position of sole landlord it would be desirable to retain the

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[1]Section 7—Regulation V of 1812.

[2]Papers relating to the working and amendment of Act X of 1859, Volume II, page 131.

[3]*Ibid*, page 122.

[4]Weekly Reporter, Volume III—Act X, page 68.

prevailing rate, as defined in section 31A of the Tenancy Act. It is a fair ground for enhancing rents which have been fixed at unduly low rates for some special consideration.

We also consider that, within certain limits, it is a reasonable ground of reduction. It could be used to deal with isolated cases of excessive rents either by the Civil Courts, or by Revenue Officers in the course of revisional operations. In areas where all, or the majority of rents, are particularly high for various reasons, this ground of reduction could not be used. For such areas we think that the Government should issue a notification under section 112 of the Tenancy Act, and undertake revisional operations, as has been done in part of Mymensingh district.

We recommend that a new sub-clause should be added to section 38 of the Tenancy Act, in order to allow reductions of rent on the ground that the existing rate of rent is substantially higher than the prevailing rate. In deciding whether an existing rent is substantially higher than the prevailing rate, a Revenue Officer should follow the procedure laid down in section 31A, but should not reduce any rent which he estimates to represent less than one-eighth of the normal gross produce of the holding as a whole.

266. **Enhancements for a rise of prices.**—The ground of enhancement that has been most generally used in khas mahal and temporarily settled estates is a rise in the price of staple food crops. Owing to the more or less continuous rise in prices until 1929 this was the most convenient section. It applies only to staple food crops, i.e., to rice, and the effect of the enhancement is to level up rent in relation to the higher prices obtaining over the previous 10 years, so that in terms of produce the rent remains the same. The method of assessing the new rent is to compare the average price of rice during the decennial period preceding the current settlement, with that of the decennial period preceding the previous settlement. Two-thirds of the difference between the two sets of prices is the maximum up to which rents can be enhanced.

267. **Defects of this ground of enhancement.**—Although practically all our witnesses are agreed that this ground of enhancement is fair and should be retained, some of them pointed out that the procedure of comparing two decennial periods is too rigid and may operate harshly on the tenants. When Settlement operations were in progress a few years after the slump began, it was found that by comparing prices over decennial periods, an enhancement of 8 annas in the rupee could be obtained in some khas mahal estates. The high prices

current up to 1929 still predominated, and the low prices from 1930 onwards had not begun to operate fully. Had quinquennial periods been adopted instead of decennial periods, the enhancement legally obtainable would have been much smaller, and had triennial periods been adopted, there might have been no enhancement at all. We think that when there is a marked fall in the price of agricultural produce it is desirable to compare prices over a shorter period than 10 years. A landlord is in a position to wait for an enhancement of rent, but when there is a sharp fall in prices, the tenants cannot afford to wait for a reduction. It has been proposed to remedy this defect by adding the words "or equitable" after the word "practicable" in section 32(*c*) of the Tenancy Act, in order to leave it to the discretion of the Court to decide what period should be taken in comparing price levels. We recommend that this proposal should be adopted.

Another defect in the law of enhancement on the ground of rise in prices, is that it emphasises the discrepancy in the levels of rent. For instance, one raiyat pays Rs. 15 for 5 acres: another pays Rs. 30 for a similar area. Both receive the same benefit from a rise in prices, but the rent of the first, if enhanced by 2 annas in the rupee, is only increased by Re. 1-14, while the rent of the second is increased by Rs. 3-12. We think that the Courts in making enhancements under this section have not paid sufficient attention to the provisions of section 35 of the Tenancy Act.

268. **Applicability to uneconomic holdings.**—We have also considered whether it would be possible to grant any relief from enhancement under this section to tenants who have uneconomic holdings. If a raiyat requires the whole crop for home consumption, he can derive no benefit from a rise in prices. Theoretically this is correct, though it is doubtful whether there are many tenants who do not sell some portion of the crop, however small. It is certain that any attempt to exclude uneconomic holdings from the operation of this section would give rise to endless practical difficulties. There would be innumerable claims for exemption which could only be decided after holding local enquiries into the productivity of each holding and the family budget of each tenant. The subdivision of holdings would be encouraged, and there would be many cases for which it would be impossible to legislate. For instance, a cultivator with ten dependants holds an area of 5 acres, which is barely sufficient for their maintenance. He transfers it to a cultivator who has only three dependants. The holding then becomes economic. If the position were reversed, an economic holding would become uneconomic. In

fact every transfer might involve local enquiry into the economic position of the transferee. We think it undesirable to suggest the exclusion of uneconomic holdings from the operation of section 30(*b*) of the Tenancy Act. The provision of section 35 is sufficiently wide to allow consideration of special circumstances in particular cases.

269. **Reductions for fall in prices.**—Reductions of rent on the ground of a fall in prices can be made in khas mahal estates at any time, and in temporarily settled estates the rents could be revised with the agreement of the proprietors before the expiry of the period of settlement. In the course of recent revisional operations reductions of rent have been granted, the low prices current during the last 10 years having begun to operate fully. In permanently settled estates the only way of obtaining reductions on this ground is for the tenants to sue in the Civil Court under section 38 of the Tenancy Act. Owing to the delay and expense of Civil Court procedure, the tenants as a whole have made no use of this provision, although they may in some cases be legally entitled to a reduction. Probably the percentage of cases in which reduction would be allowable is not very large. The general level of prices during the last 10 years is not substantially different from the level of prices prevailing before the last war. It is mainly the rents which were fixed during the boom period between the end of the last war and 1929 that would be affected. We consider however that it is only reasonable to provide facilities for reductions to which the tenants may be legally entitled. We recommend that such reductions should be made through the agency of Revenue Officers. Section 38 of the Tenancy Act would have to be amended to empower them to deal with such cases in areas to be notified by Government.

270. **Fluvial action.**—Fluvial action is the result of natural causes which affect landlord and tenant equally. When a holding is wholly or partly diluviated, there is no difficulty, because a reduction of rent can be obtained under the existing law. The question of enhancement under section 30(*d*) or reduction under section 38 of the Tenancy Act becomes contentious when the fertility of the soil is increased by a deposit of silt, or decreased by a deposit of sand. Some of our witnesses held the view that as the landlord is not instrumental in improving the fertility of the soil, there is no reason why he should be entitled to an increase of rent. This view is in contradiction to the Hindu and Muslim theory of rent as a share of the produce. Even in Akbar's time provision was made for a lighter assessment on lands that were unfertile, or

liable to inundation. But if they regained their fertility again they were liable to pay the full assessment.

The practical aspect of the question is that owing to the deposit of sand or silt, the productivity of good land may be greatly impaired, and that of poor land greatly improved. In the former case it is only reasonable that rent should be reduced as early as possible; but if a reduction is allowed on this ground, there must logically be an enhancement if the productivity has increased. The real point is that a deposit of sand or silt results in a change in the classification of the land. The question is not therefore so much one of enhancing or reducing rent, but of readjusting it under altered circumstances. This is the practice which is now being followed in khas mahals and temporarily settled estates, and it should be allowed to continue.

271. **Enhancements for improvements, and by contract.**—Enhancements may also be made under section 30(*c*) on the ground that an improvement is effected at the expense of the landlord In theory it is only reasonable that enhancements should be allowed on this ground, but in practice the landlords have effected few improvements, and have made little use of the section, chiefly because the expense of Civil Court procedure may not make it worth while to sue for enhancements which may turn out to be negligible. The principle of this section has however been adopted in the Bengal Development Act which provides that half of the estimated increase in the yield resulting from an improvement can be recovered by Government.

The only remaining ground of enhancement is contained in section 29, which applies to permanently settled estates, and provides for enhancement by contract provided that it is registered and the enhancement does not amount to more than 2 annas in the rupee. In the event of the State becoming the sole landlord, as the majority have recommended, this section as well as section 30 (*c*), would automatically disappear.

Other Defects and Suggestions.

272. **Payment of rent in cash or kind.**—Having discussed the sections of the Tenancy Act which are concerned with enhancements and reductions of rent, we shall now refer to other defects and other suggestions for improving the present procedure.

It has been suggested to us that it would be of benefit to the tenants, particularly when prices are low, if they are given

the option of paying their rent in cash or in kind. Some of our witnesses considered this a reasonable suggestion, but most of them thought that it would be a retrograde step, and one to which there are many practical objections. The landlords would find it difficult to collect produce rents, and would have to establish numerous centres on their estates for storing the crops. The commutation of cash rents into produce rents would also be extremely difficult. The price of agricultural produce varies from year to year, and from place to place, and would be a continual source of dispute between landlord and tenant. Government would have to issue annual commutation rates for each crop. If prices rose, most tenants would prefer to pay cash rents, and the produce rents would then have to be reconverted. The process of commutation might provide an opportunity for enhancement, because the High Court has held that the conversion of a cash rent into a produce rent which exceeds the value of the cash rent at current prices by more than 2 annas in the rupee does not amount to an infringement of section 29 of the Tenancy Act. The majority of our members consider that the practical difficulties are too great, and are not in favour of this suggestion.

273. **Rent in urban areas.**—The question of assessing fair rents for tenancies, the value of which has greatly increased on account of urban development, is one which has created great difficulty in the past. The Civil Court has held that once a tenancy is determined to be a raiyati holding it must always remain so, and the consequence has been that areas covered by factories, mills and houses retain their raiyati status. It was to avoid this decision that the Non-Agricultural Lands Assessment Act was passed in 1936. The Act may prove to be workable in khas mahal and temporarily settled estates which are managed by Government, because the Collector is empowered to realise the fair rent by certificate; or if the tenant has sublet, the Collector may demand the same rent from the under-tenant, should the tenant refuse to pay. But it is difficult to see how the Act can work elsewhere. Although fair rents can be assessed by a Revenue Officer, the proprietor of a temporarily settled estate has no means to compel his tenants to pay them, because the Act distinctly lays down that the rents so fixed are not binding between the proprietor and his tenants.

274. **Appellate authority under section 104G.**—Though the great majority of our witnesses have found little fault with the existing procedure under Chapter X of the Tenancy Act, it has been suggested that no distinction should be made between the appellate authority in cases under section 104 and

in cases under section 105. Under the existing law, appeals from assessments in khas mahal and temporarily settled estates go to the Director of Land Records and to the Board of Revenue, and appeals against decisions of Revenue Officers under section 105, which concerns permanently settled estates, go to a Special Judge. Some of our members do not see sufficient justification for transferring the appellate powers of the Director of Land Records and the Board of Revenue to a Special Judge. They consider that the two classes of appeals stand on a different footing, because appeals from khas mahal and temporarily settled estates involve the amount of revenue paid to Government: the other class of appeal does not. Others of our members think that in view of the apprehension in the minds of appellants that the Revenue authorities may be influenced by a desire to obtain increases of revenue, the appeals of both classes should be heard by a Special Judge.

275. **Period of settlement.**—Under the existing practice, resettlements in Bengal are supposed to be carried out at intervals of 15 years. Some of our witnesses suggested that this is rather too short a period. In Madras the practice is to make resettlements at intervals of 30 years. In the Punjab, the interval was previously 20 years, but has recently been extended to 40 years, and in the United Provinces the interval was 30 years, and has also been extended to 40 years. A long interval tends to induce a greater feeling of security, and enables the temporarily settled proprietors to enjoy the advantages of any improvements or developments, and the benefit of a rise in prices for a longer period before the State steps in and takes a share of their increased profits. On the other hand, great fluctuations in prices may occur during a long period of settlement. The State may lose its share of the increment resulting from a steady rise in prices or from urban development[1]. It may also become necessary to grant large remissions if there is a marked fall in prices. This has happened in Madras, where a lump remission of 75 lakhs was made in 1937, and in the United Provinces where remissions have brought down the incidence of revenue from 2·1 to 1·7 rupees per acre.

Considering the views of the revenue experts in the provinces we have visited, we think that 40 years is too long an interval. The majority of our members are in favour of fixing the interval at 30 years: others are in favour of 20 or 25 years.

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[1]One feature of the system in the Punjab and United Provinces which appeared to us unusual, is that agricultural land which is built over with houses or factories is altogether excluded from assessment to land revenue.

RENTS IN PERMANENTLY SETTLED ESTATES.

276. **Periodic revisions not recommended.**—Although theoretically there would be no objection to the fixing of fair rents at intervals in permanently settled estates, we do not think that such a policy can be recommended. If Government acquires all the superior interests above the actual cultivators it would be essential, as we have pointed out, to have a system of assessment that would equalise the incidence of taxation; but if the reduction of inequitably high contractual rents is carried out through the agency of Revenue Officers, we do not think that any further interference would be justified so long as the present land revenue system remains. It is not unlikely that the fixing of fair rents would lead in many cases to enhancements, which would go entirely to the proprietors and tenure-holders and not to the Government. In the view of the majority, there could be no justification for such enhancements in the present situation: they could only be justified if the State were the sole landlord, and returned the benefit of those enhancements in the shape of improved social services.

Apart from the grounds in section 38 of the Tenancy Act, the only grounds on which contractual rents can be reduced under the existing law are contained in section 112 of the Tenancy Act. If the Government considers that it is necessary to intervene in the interests of public order, or for the welfare of the tenants in any locality, it may, under this section, order fair rents to be fixed, and the rents may be reduced on any ground, whether specified in the Tenancy Act or not. The scope of this section is wide, and is sufficient to protect the interests of the tenants against the levy of inequitable rents on a wide scale, or of rents in excess of those entered in the record-of-rights. It could not however be made applicable to isolated cases of high contractual rents. It is for this reason that we have recommended reduction of such rents on the ground that they are substantially above the prevailing rate.

277. **Fixing of rents in perpetuity.**—We have expressed the view that if the State becomes the landlord, it would be a mistake to fix rents in perpetuity, thereby following the same policy for which Lord Cornwallis has been criticised. It cannot be assumed that the financial requirements of the State will be satisfied for ever with a fixed income from land revenue: nor would it be possible to maintain fixed rents in cash, once it is accepted that the level of rent ought to be readjusted from time to time in relation to the rise or fall of prices. It could not be contended that if there is a marked fall in prices, not of a temporary nature, the tenants should not get the benefit of

reductions. Of the provinces which we have visited, the only one which does not readjust the level of rent to the level of prices is the United Provinces. There, the rise or fall in the price of agricultural produce is not a ground for enhancement or reduction of rent, but at the time of resettlement the Settlement Officer takes into consideration the prevailing level of agricultural prices. This may be a defect in the system of assessment. We certainly think that the rise or fall in prices must be taken into account in adjusting the level of rent, and if that is done the level of cash rents cannot remain fixed, although the rent in terms of produce remains unaltered.

CHAPTER VII.

Agricultural Credit.

278. **General observations.**—The seventh term of reference invites us to consider how the credit facilities of the agriculturists can be improved. It seems to be universally held that cultivators must be able to borrow money for sowing seeds or purchasing cattle at the harvest time, or even for maintaining themselves until the next harvest is reaped. We agree that facilities for short term credit are necessary, though we think that lands capable of cultivation rarely remain fallow in a normal season for the want of it. At the present time, the economic depression, the operations of Debt Settlement Boards, and the introduction of the Money-lenders Bill have compelled the cultivators to manage without credit. One consequence has been a marked increase in the number of sales, and a corresponding decrease in the number of mortgages, indicating that the cultivators are being forced to part permanently with land, in order to raise the amounts they require.

In discussing the effects on the agriculturists of the provisions for free transfer. we have suggested that facilities for selling their land tend to encourage them to indulge in reckless expenditure and borrowing. We do not altogether agree with the view of the Bengal Provincial Banking Committee[1] that all occupancy holdings should be freely transferable simply in order to provide further credit, and we certainly do not agree that the protection given by Chapter VIIA of the Tenancy Act to aboriginal tribes should be withdrawn. A comparison of the number of registered mortgages with the index figures of prices over a period of years indicates that debt increases as prices rise[2]. At the end of the boom period when jute was selling at high prices, the tenants in the chief jute-growing districts were more heavily indebted than at the beginning of the boom. Their difficulties have been due to the fact that agricultural prices have fallen by half during the slump, and that all loans have to be repaid by the sale of double the amount of produce that was necessary when they were incurred. The same thing happened in the

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[1]Report, paragraph 306.

[2]*Ibid*, paragraph 83.

Punjab when cotton and wheat were selling at high prices. Indeed it is common knowledge that the more land a man has and the larger his resources, the more he borrows.

Assuming however that cultivators must be in a position to take short term loans, and that they cannot do so to a sufficient extent on personal security, the question is how their credit can be improved. In the case of the lowest grades of cultivators, an obvious answer is to give them better rights in land, because a money-lender will not regard a tenant-at-will as a safe client. On the other hand, it has to be considered that if the right to sell or mortgage were conferred on them it might only encourage them to borrow.

The course that would be in the best interests of the cultivators would be to restrict the security for loans to the crop, instead of to the land. This is the practice in the United Provinces, where no holdings, except those of mokarari raiyats in the permanently settled area, are transferable. In theory we are in favour of this restriction; but as we have described in paragraphs 151 and 312, there are great difficulties in preventing transfers to non-agriculturists, and there are objections to the restoration of distraint.

279. **Co-parcenary among landlords.**—In the case of raiyats who have occupancy rights with power to sell or to mortgage up to 15 years, the seventh term of reference suggests that the value of their holdings would provide better security for loans if there were not so many co-sharers among the landlords and so many partners among the tenants. We admit that co-parcenary to the extent it prevails in Bengal in all grades of tenancy is a serious evil. Though the tenants do not seriously object to co-parcenary among landlords, and in fact sometimes escape payment of part of their dues because the share of some landlords is so small that it hardly pays them to realise it, still it must be inconvenient to pay rent every year to ten different landlords, or different groups of landlords. On each occasion they may have to pay something in addition to the rent to landlord's agents, and if they want to deposit their rent or send it by money-order, the extra expense is no less an obstacle. Similar difficulties arise in transactions other than the payment of rent, such as suits for arrears or enhancement of rent, applications for registration of transfers, applications for mutation, and partition suits. At some stage or other notices have to be served on a multitude of co-sharer defendants or plaintiffs, and the original object of the Tenancy Act as embodied in section 188 that co-sharer landlords must always act jointly; has been entirely ignored by the Courts. The law

was considerably modified in 1928 in order to bring it into closer conformity with existing practice. Sir John Kerr's Committee however proposed that as a *quid pro quo* common agents should be appointed in all estates, tenures and groups of tenures having a common share over raiyati tenancies, with powers to collect rent and issue rent receipts and to accept notices of transfers. The legislature refused to make the appointment of such common agents compulsory, with the result that the number in Bengal today is less than 50.

280. **Recommendation.**—We are in favour of restoring the provision of Sir John Kerr's Committee. We cannot accept the position that the co-sharers within an estate or tenure are always so distrustful of each other that they cannot nominate one or other of their number to act as common agent; or even if this were the case, that a lawyer or some other reliable person cannot be found to undertake the work at a reasonable fee, especially if he were appointed by application to the Collector, and the cost of his appointment were divided among several estates or tenures. It would of course be desirable to avoid appointing the same agent for interests one of which was subordinate to another, but this could easily be avoided.

The only point on which we feel some doubt is whether a common agent should be empowered to exercise all the ordinary powers of a landlord, particularly the right to settle waste or khas-purchased lands, or whether his duties should be confined to the mechanical functions contemplated in Sir John Kerr's Bill of 1925. It is one of the most annoying hindrances in the preparation of a record-of-rights to find that different co-sharer landlords have made settlements of the same land with different cultivators, or in shares differing from their legal shares, or at rents which are disproportionate to their shares. This may be a defect which cannot be remedied so long as the zamindari system remains. But whatever the desirability of giving full powers to common agents, we cannot recommend their appointment on such terms, thus making Collectors responsible for supervising perhaps half of the 3 million estates and tenures that exist in Bengal. Whether or not it is decided to acquire all the superior interests in land, we recommend that the Tenancy Act should be amended so as to make the appointment of common agents compulsory as proposed in the Bill of 1925.

Some of our members however consider that although the appointment of common agents is desirable in theory, the practical difficulties would be so great, that their appointment should not be made compulsory. It would be preferable in their opinion to amend section 99A of the Tenancy Act, in

order to provide that the Collector may appoint common agents on the application of the landlords, or more than half of the tenants, or on his own motion.

281. **Co-parcenary among tenants.**—As regards co-parcenary in raiyati holdings it is an equal handicap to the landlords to have to serve notices on a large number of co-sharers; and the tenants often take advantage of the technicalities of the law to delay cases, by claiming that necessary parties have been omitted, or that heirs must be substituted. Partition is the obvious remedy by some system more expeditious and economical than the Civil Court, but in view of the impetus it would give to the extension of uneconomic holdings it cannot be recommended. There is no reason however why landlords should be reluctant to allow partitions of really large holdings, especially those in which different groups of cosharers have possession of separate land. Another remedy would be to change the Hindu and Muslim Laws of Succession. We have considered whether it would be possible to provide that a holding should descend to the eldest son or to a nominated son, or whether the law could provide that one heir should manage the property and pay the other heirs their share of the produce. As we have previously stated, both proposals seem to us impracticable. Even if there were public support to such a proposal, it would not help the economic position as a whole. Heirs thrown out of their ancestral property might be a danger to the community, and if each heir had a family, the profits from the holding would not suffice for the maintenance of all. Whether the farm was worked jointly, or by one heir acting as trustee for the rest, it would still not be sufficient to keep all the family members in comfort, and there might be endless complaints and litigation.

It has been suggested to us that although it is impossible to check co-parcenary in raiyati holdings, it would minimise the difficulties of the landlords if all the holdings of each tenant, or of the same group of co-sharer tenants, were amalgamated into one holding. We consider that this is a reasonable suggestion and recommend its adoption. The objection that a tenant who failed to pay his rent might lose all his land, instead of only one holding, is met by the proposal which we have made in paragraph 315 that only such portion of a holding should be sold, as is sufficient to cover the amount of a rent decree.

282. **Maintenance of record-of-rights.**—No suggestions however for the restriction of co-parcenary either among landlords or tenants would have much practical effect in

improving the credit of agriculturists. The same can be said of the suggestion that agricultural credit would be improved by the maintenance of the record-of-rights. We strongly recommend this on its own merits. In our visits to other provinces we found that the officers and the public could not conceive of a system which allowed a record-of-rights once prepared to fall out of date owing to the absence of any agency to record mutations. In Bengal, the position is that the programme of district settlement operations is almost complete, and a programme of revisional operations is shortly to be undertaken, starting with those districts where the earliest records were prepared. If a raiyatwari system were in force in the Province, there would be no difficulty over the maintenance of records: the work would be done by Khas Mahal Tahsildars. But under the existing system it is extremely difficult to suggest any efficient agency for their maintenance. It is certainly a waste of public money that the records of a district should be revised, and then be allowed to fall out of date during the ensuing 25 or 30 years, when at the same time notices of all transfers are received in Sub-Registry Offices. We have considered the suggestion that the revised records might be maintained through the agency of a settlement staff attached to each Sub-Registry Office. If such a system were adopted it would also be necessary to provide that mutations by inheritance, new settlements, abandonments, exchanges of holdings or plots, and so forth, should be reported. It is doubtful whether legislation on these lines would be possible. The cost of maintaining such a system over a period of 25 or 30 years would also have to be calculated in order to see whether it would prove in the long run more economical than revisional settlements. But no scheme of maintenance, any more than the appointment of common agents would operate, except indirectly, to improve agricultural credit.

The Position in Madras.

283. **Debt legislation.**—We have described the economic conditions and the agricultural indebtedness that exist in the provinces we have visited. We propose now to give a brief account of the measures which have been taken in those provinces to deal with the situation.

In Madras the Agriculturists' Relief Act was passed in March, 1938, with the object of scaling down existing debts, reducing the rate of interest on future debts, and writing off arrears of rent. Debts are classified into two categories: those which were incurred before, or after, 1st October 1932. In the

former class, all interest outstanding on that date is wiped out, and only the principal, or such portion as may not have been paid, is due from the agriculturists. If the repayments of principal and interest taken together amount to double the principal, the entire debt is wiped out[1]. If they amount to less than twice the principal, only the difference is payable. In the case of debts incurred after the 1st October 1932, the principal or such portion of it as may be outstanding is not affected and has to be repaid. Relief is given only in respect of interest, which is calculated at 5 per cent. simple interest. All payments made towards interest are deducted from the interest calculated at this rate and only the balance, if any, remains due from an agriculturist. For future loans, i.e., loans incurred after the 22nd March 1938, interest has been limited to $6\frac{1}{4}$ per cent. simple interest.

If any immovable property of an agriculturist had been sold on or after the 1st October 1937, the debtor was entitled to apply to the Court within 90 days of the passing of the Act to have the sale set aside. The interest of the creditor was safeguarded by providing that any alienation of immovable property made by the debtor after the 1st October 1937 would be invalid against his creditor. If movable property had been sold after the same date, the sale held good, but the decree-holder was required to refund any sum received in excess of his claim as a result of the sale.

284. **Land Mortgage Banks.**—There are three kinds of co-operative institutions in the Presidency: Land Mortgage Banks, Rural Co-operative Societies, and Sale Marketing Societies. The redemption of long term loans through Land Mortgage Banks has made much more rapid progress than in Bengal, but, as in Bengal, a debtor in Madras cannot borrow up to more than half the value of his property. If his present debt exceeds this value he cannot clear his loan from a Land Mortgage Bank. There are 115 Mortgage Banks. Up to June 1938, they had issued loans amounting to $1\frac{3}{4}$ crores. The Land Mortgage Banks are financed by a Central Land Mortgage Bank which raises money at 3 per cent. and lends it to the Land Mortgage Banks at $4\frac{1}{2}$ per cent. Their rate of interest is $5\frac{1}{2}$ per cent. and repayment is spread over 20 years.

285. **Rural co-operative societies.**—The organisation of the Co-operative Department is the same as in Bengal but the rate of interest is lower. Rural societies are financed by

[1]This is commonly known as the law of *damdupat*—vide Report of Provincial Banking Enquiry Committee, paragraph 315.

Central Banks and Central Banks by the Provincial Bank. The interest charged by rural societies is 7½ per cent., by the Central Banks 5 per cent., and by the Provincial Bank 4 per cent. Since the passing of the Agriculturists' Relief Act, 25 per cent. of the rural societies have brought down their rate of interest to 6¼ per cent. There are 11,000 societies, whose advances represent about 6 per cent. of the agricultural debt. Few of them have gone into liquidation, because Madras has avoided the mistake of making no distinction between long term and short term loans. The policy of short term loans was adopted in 1929, and the total capital that has been employed on such loans is 2·11 crores. Short term credit is allowed mostly for productive purposes and is repayable at the following harvest. Loans are however allowed for marriage expenses, but in no case can they exceed Rs. 200. As in Bengal, the members of societies have unlimited liability.

286. **Marketing societies.**—Marketing societies are managed on a co-operative basis and are controlled by the Provincial Marketing Sale Society. There are 118 such societies with a paid up share capital of 1·84 lakhs. These societies were recently established and in order to control credit, i.e., to ensure that the loans granted are used for the proper purpose, the department has introduced the system of control credit. Loans are granted as and when required, but the borrower has to undertake to bring all his produce to the sale society, which arranges for its sale to the best advantage. There is at present a sale society in each taluq, consisting of 60 or 70 villages. In order to encourage marketing societies Government have lent the services of Co-operative Inspectors, and have advanced money for the construction of godowns. Of these grants, 25 per cent. is given by Government, and the remainder is recovered by instalments over 30 years.

287, **Debt Adjustment Boards.**—Debt Adjustment Boards had been recently started when our Commission visited Madras. They have no compulsory powers, as is the case with the majority of ordinary Boards in Bengal, and the scaling down of debts has to be made with the consent of the creditors. The chief difference between the systems in the two provinces is that in Madras the Government had made arrangements by which the debtors can pay off the adjusted debts by fresh borrowing financed from Government funds. In Bengal this can only be done in cases which are dealt with by the Land Mortgage Banks' Special Boards. The amount available for this purpose is necessarily limited by the budget provision and would never be available to all debtors even over a series of years.

THE POSITION IN THE PUNJAB.

288. **Debt legislation.**—In the Punjab, the Relief of Indebtedness Act was passed in 1934 and the Debtors' Protection Act in 1936. The effect of this legislation has been a great restriction of credit: in fact it has virtually brought about a moratorium. The Debtors' Protection Act has prevented creditors from selling up land or attaching any crop, except cotton, and the items of movable property which are exempted from attachment are so numerous that it is practically impossible for creditors to realise anything through the Courts.

289. **Co-operative societies.**—The co-operative movement seems to have made more progress than in Bengal. There are now upwards of 17,000 rural societies with a membership representing 11 per cent. of the agricultural families in the province. The total advances outstanding with societies amount to 6·20 crores. The Co-operative Department has experienced the same difficulties as has Bengal owing to the economic depression. There are now 1,400 societies in process of liquidation owing to their failure to pay their dues to the Central Banks.

The policy of the department is now to devote 75 per cent. of loans to short term credit for the purchase of cattle, seeds, and for the payment of land revenue, and 25 per cent. to other loans. Advances are made to members on the surety of two other persons. This is necessary because of the provisions of the Land Alienation Act. Loans are allowed for the payment of land revenue, because the revenue has to be paid by the end of January, and landowners often wait for a rise in the price of cotton before selling their crops. Such loans have to be repaid within six months. Loans are also allowed for trading purposes, because some agriculturists purchase cattle on a large scale and sell them on the frontier. The co-operative movement is not altogether popular, as is the case in all provinces, because of its strictness in recovering advances. In the Punjab it is more successful in the canal irrigated areas than in the barani areas, where the success of the crop is often uncertain, and regular payment is more difficult. The interest payable by members of rural societies varies from 9½ per cent. to 12½ per cent. and although money-lenders usually take anything from 20 to 40 per cent. people often prefer to go to them because they are more accommodating.

290. **Debt Conciliation Boards.**—Debt Conciliation Boards were first established in 1937 in five districts. Their success induced Government to extend the experiment and to establish Boards in each of the remaining districts. There are now 29 Boards. They correspond more to the Special Boards of Bengal than to the ordinary Boards. Their Chairman and members are paid a salary of Rs. 200 and Rs. 150 a month, respectively. The cost of maintaining 27 Boards in 1938-39 was 1·63 lakhs and the average monthly disposal was 25 cases. The only fee charged from the parties is 8 annas per claim, irrespective of the amount[1]. Debts to banks and co-operative societies and on account of land revenue are excluded from the operation of Debt Conciliation Boards, but not rent. No distinction is made between debt incurred for agricultural and social reasons, but trading debts are excluded. The reduction of debt effected amounted in 1937 to 46 lakhs.

The Position in the United Provinces.

291. **Debt legislation.**—In the United Provinces, the Encumbered Estates Act was passed to assist indebted proprietors. The period for filing applications recently expired. The number of applications filed was 34,000 involving a sum of 25½ crores. These were investigated by Special Judges, who reduced the rate of interest and declared what was the fair debt. On the basis of these judicial findings the Collector has to work out the valuation of the property, and fix instalments according to the proprietor's ability to pay. The money-lender is given a bond, and the instalments of debt are collected along with the land revenue.

Up to the present, no legislation has been passed for scaling down the debts of tenants and there are no Debt Conciliation Boards. But several Bills were recently introduced in the legislature. The Agriculturists' and Workmen's Debt Redemption Bill was introduced with the object of scaling down debts and drastically reducing the rate of interest, especially in the case of small tenants. It only applies to landlords who pay less than Rs. 1,000 as land revenue and is designed to protect part of their property from sale in execution of a decree. In the case of tenants it provides that not more

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[1]In Bengal, the fee is 1 per cent. of the adjusted debt. The annual cost of working the Boards is about 19 lakhs, and the number of cases disposed of in 1939 was 2.9 lakhs. The cost of working the Boards up to date has been practically covered by the fees realised. Up to the end of July 1939 creditors' claims amounted to 8.15 crores, and the debt determined under section 18 of the Act to 4.61 crores.

than one-fourth of the cultivator's crop can be attached at any harvest in execution of a decree.

The Money-lenders Bill provides for the registration and licensing of professional money-lenders. When it becomes law only licensed money-lenders will be allowed to apply to Courts for the recovery of their dues.

The Regulation of Agricultural Credit Bill provides that no decree can be executed against agricultural produce after four years have expired from the date of a decree. It also protects the land of proprietors paying less than Rs. 250 as revenue by providing that their estates cannot be sold in execution of a decree, unless the Court is satisfied that the sale would not be adverse to the debtor's interest.

A third Bill provides that land which is protected against the execution of a decree cannot be permanently alienated without the Collector's permission. This provision is based on a similar enactment in the Bundlekhand Alienation of Land Act, which prohibits transfers to non-agriculturists in the area. The difference between that Act and the Bill is that no distinction is made in the Bill between agricultural and non-agricultural classes.

In addition to these Bills, a fourth Bill is under consideration, the chief provisions of which are to amend the Civil Procedure Code in order to exempt further property of agriculturists from attachment and sale; to amend the Usurious Loans Act by reducing the rate of interest; and to provide a simple procedure for the redemption of mortgages.

292. **Co-operative societies.**—The Co-operative Department in the United Provinces is in much the same position, and seems to have made much the same mistakes as has the department in Bengal. When the movement was first introduced, the work of organisation was not carried out on sound lines. From 1904 to 1924 the expansion was too rapid, and the formation of rural societies was not thoroughly organised. When the slump came, many societies were compelled to go into liquidation. Since 1932 the policy of the department has been one of cautious expansion. At present the number of rural societies covers between 5 and 6 per cent. of the agricultural population. Previously no distinction was made between short term and long term credit, and, as in Bengal, liability was joint and unlimited. It is now under consideration whether the principle of joint liability should be abandoned and that of limited liability substituted.

The Position in Bengal.

293. **Co-operative Societies Bill.**—Legislation in Bengal dealing with agricultural credit and the co-operative movement consists of the Co-operative Societies Act and its Amending Bill of 1939, the Money-lenders Bill of 1939, and the Agricultural Debtors Act of 1935 with the Amending Bill of 1939. The Co-operative Societies Bill gives wider powers to the Registrar to control societies if the rules are contravened, or if there is mismanagement. In order to control alienation, it compels members of societies to report sales, mortgages, or transfers of any kind, and it limits loans to the maximum credit of each member, at the same time providing a penalty for the issue of loans in excess of the stipulated amounts. A Land Mortgage Bank is empowered to apply for the distraint and sale of crops if any instalment has remained unpaid for more than one month. Though the tendency in European countries has been to substitute limited liability, and the same proposal is being considered by the United Provinces Government, joint liability has been retained. The Bill does not separate supervision from audit. Although the Select Committee were in favour of separation in principle, they were unable for financial and other reasons to recommend it. The Royal Commission on Agriculture pointed out the desirability of separating these two branches of co-operative work[1], and we think it desirable that this recommendation should be put into effect as early as possible.

We are also doubtful whether it is a sound principle to limit loans to the maximum credit of members of societies, rather than to their maximum income. Their maximum credit is the total value of their property. If they fail to repay their debts, they may lose their entire property; but if their credit is restricted to the amount of their income, this is not the case.

294. **Money-lenders Bill.**—The main objects of the Money-lenders Bill are to register money-lenders and to reduce the rate of interest. The Bill contains the same provision as the Madras Agriculturists' Relief Act, that no debt can exceed twice the amount of the original principal. Interest is fixed at 8 per cent. on secured loans and at 10 per cent. on unsecured loans. The difficulty of enforcing these rates is that a money-lender can always evade the law by entering in the bond a larger sum than the actual loan. Some difficulty may also arise

[1]Report, paragraph 377.

in enforcing the provisions of the Bill in the case of persons who are not by profession money-lenders, but who make advances of money or paddy to their tenants or bargadars. It is the general practice in Jalpaiguri district that adhiars are financed by their jotedars. The loans taken from rural societies or from co-operative banks are rightly excluded from the operation of the Bill.

295. **Agricultural Debtors Act.**—Nearly all of our witnesses severely criticised the Agricultural Debtors Act on the grounds that it is an interference with the sanctity of contract, that its working and procedure are defective, and that it has killed all rural credit. We are not prepared to say that the defects of the Act are such that it should be repealed. It has served as a useful buffer at a time when indebtedness had become such a serious problem in the Province, that grave results might have ensued had there been no means for bringing creditors and debtors together. Although the Act has hardly been in operation long enough to judge the effect of the awards, so far as we can see it has served its purpose, and repayments of instalments fixed by the Boards are being regularly made. Up to date certificates have only had to be filed in about 1 per cent. of the cases.

We do not consider that it was a mistake to bring arrear rents within the purview of the Act. But we consider it desirable to provide that priority should be given to the repayment of rent in the instalments fixed by the Boards, on the ground that rent is the first charge on the land. Such a provision can be made under the rules, and we understand that unless arrears of rent amount to more than half of the debt, the time allowed for the repayment of rent cannot exceed four years. It is only because there is a Permanent Settlement in Bengal that a delay of as long as four years can be allowed. It is hardly conceivable that any Government which has a raiyatwari system would allow the payment of its revenue to be postponed in this manner.

The procedure of the Boards has not been altogether satisfactory. The intention of the Act was to effect amicable settlement between creditor and debtor before honorary Boards by an "extra-judicial" procedure. The procedure should therefore have been as simple and expeditious as possible, but the Act has, perhaps necessarily, introduced a number of technicalities which have sometimes proved to be beyond the administrative capacity of Boards that have no legal training.

It may also be doubted whether the clerical work of the Boards can be adequately and efficiently carried out by clerks on a salary of Rs. 10 a month.

296. **Land Mortgage Banks.**—There are five Land Mortgage Banks which have advanced Rs. 6¼ lakhs up to date. They derive their money by borrowing from the Provincial Bank. The progress of these Banks is necessarily slow. Applications for loans have to be carefully examined by the Provincial Bank, and before any loan can be granted it is necessary to ensure that all the co-sharers have been made parties to the application. No loan can be granted which exceeds 50 per cent. of the security, and the security must be land in which the applicant holds at least a raiyati right. It is possible that this provision will restrict the scope of the Banks as in Madras, where only 10 per cent. of the applicants had sufficient security to offer. Each Bank has its own special Board attached to it, which deals with the scaling down of debts when applications for loans are made.

297. **Co-operative societies.**—In Bengal there are 25,000 agricultural credit societies, the membership of which covers 6 per cent. of the rural population. In the past the department has made several mistakes in policy, to rectify which may take a good many years. Rural societies were established too rapidly and often without sufficient investigation. When the economic depression began, many of them were forced to go into liquidation. The powers of the Registrar were insufficient; there was no distinction between long term and short term credit; the supervising staff was inadequate and completely untrained, and in consequence the lion's share of the credit was sometimes appropriated by a few influential members. Instead of the societies extinguishing the pre-existing debts of their members, they allowed them to get deeper and deeper into debt. It is expected that these defects will be removed by the Co-operative Societies Bill of 1939, but it will take time to extend the co-operative movement on a sounder basis, and it has to be recognised that for many years to come such agricultural credit as may be available will be provided very largely by the money-lenders.

298. **Agricultural Banks.**—Some of our witnesses have suggested that it is desirable to replace the traditional form of money-lending by establishing Government-controlled Agricultural Banks in every thana. We do not consider that this proposal is altogether desirable or practicable. It has been

represented to us that the establishment of Agricultural Banks would necessarily lead to the recovery of loans by stringent measures which would undoubtedly be unpopular. It might operate as a check on the normal outlet of national finance if Government acts as a money-lender through Agricultural Banks, and Government's management would certainly be more expensive. The cost of such a scheme might be prohibitive. Apart from the cost of constructing the necessary buildings, the capital involved would amount to a huge sum. One estimate which we were given was that each village might require between Rs. 2,000 and Rs. 2,500 and that 75 per cent. of the villagers might take loans. Another estimate was that the capital required for an average sized thana of 150 square miles would be 2½ lakhs. The capital required for the whole Province might therefore be in the region of 12 crores. To supply such a large sum would be financially impossible.

We think that if Government is to become the direct creditor of the agricultural population, agricultural loans under the present system are the most convenient form. We believe it is correct to say that these loans have generally been entirely recovered or, at any rate, that their issue has not involved any financial loss to Government. So far as is consistent with budgetary arrangements, we are in favour of extending the grant of agricultural loans, provided they do not overlap the operations of co-operative societies.

299. **Recommendations.**—We recognise that the reorganisation of the Co-operative Department may take time, but we are in favour of as rapid an extension of the co-operative movement as is consistent with sound organisation and management. The supervising staff needs to be strengthened, and we think it important that it should aim not only at the organisation of rural societies, but at the education and training of the people in co-operative principles. The loans issued by Central Banks to rural societies should be devoted to short term credit only, long term credit being dealt with entirely by Land Mortgage Banks. The loans issued by rural societies should be given for productive purposes, i.e., for the purchase of seed, cattle, agricultural implements and the like, and should normally be restricted to small amounts, not exceeding Rs. 20 or Rs. 25. The rate of interest for these loans should be as low as possible. We believe that this policy would not only prove to be popular, and encourage the extension of the co-operative movement, but that by restricting the amount of loans it would facilitate repayment.

We think that the need for linking credit to marketing has not been given sufficient attention in the past. We have been told in evidence that the marketing societies at Parbatipur, Goshaba, and Khepupara have proved successful, and there is no reason why similar societies should not be established. We have already referred to the development of marketing societies in Madras, where the whole organisation is controlled by a central society. A similar development is possible in Bengal, provided that the rule requiring members to bring their crops to the society's warehouse is strictly enforced.

The question of strengthening and training the supervising staff raises the wider question of inspection in the mufassal. In nearly every thana there are at present several Government officials belonging to different departments, each of whom moves over the same area, carrying out different duties. We suggest that Government might consider the desirability of training these officers in all branches of work. We believe that this proposal is practicable, and that it would result in greater efficiency of inspection, and give greater authority to each of the officers, because the area under his control would consist of only three or four unions, and he would be in sole charge of all branches of work.

CHAPTER VIII.

Realisation of Rent.

History of Rent Recovery

300. **Jurisdiction.**—The jurisdiction over rent suits has since the British period vested at different periods in Revenue and Civil Courts. Prior to the Permanent Settlement, the decision of all disputes regarding rent was in the hands of Collectors, who were given power in 1789 to proceed against the tenants for arrears of rent in the manner prescribed for proceeding against the zamindars and farmers who had defaulted in the payment of Government revenue. In 1793 the jurisdiction of the Mal Adalats, or Revenue Courts, was transferred to the newly established Dewani Adalats, on the ground that the proprietors could never feel secure in the privileges conferred upon them while Revenue Officers were vested with judicial powers, because if the Regulations for the collection of the revenue were infringed, the Collectors would be in the position of complainants as well as judges[1]. Zamindars were at this time empowered to distrain crops and cattle, other than cattle used for cultivation, without previous notice to the Collector, but they were prohibited from confining and punishing defaulters. Regulation XVII of 1793 contained provisions for distraint, but laid down that distrained property could only be sold by the Kazi or local Magistrate. Regulation XXXV of 1795 made a further provision that if arrears of rent amounted to more than Rs. 500 the defaulter could be detained in custody on application to the Dewani Adalat. The Haptam (Regulation VII of 1799) was passed, as we have described, to provide stringent powers for the realisation of rent, and thus to secure the Government revenue. The zamindars were allowed to delegate the power of distraint to their agents, and distrained property could be sold by the Kazi within five days of attachment. If distraint failed, the defaulter could be arrested on application to the Dewani Adalat, and kept in custody until he paid the arrears with costs and interest. These drastic powers were partially modified by the Panjam (Regulation V of 1812). A written notice had to be served on a tenant before the property of *a*

[1]Preamble to Regulation II of 1793.

tenant could be distrained; arrest was abolished; and cattle, ploughs, and agricultural implements were exempted from attachment.

The jurisdiction of the Civil Courts continued until 1831, when Regulation VIII was passed retransferring the jurisdiction over rent suits to Collectors in order "to provide more effectually for the adjustment of suits and claims relating to arrears or exactions of rent". Collectors were empowered to decide such claims summarily, and their awards were to be final, subject to a regular suit by the aggrieved party if brought within one year. The summary jurisdiction of the Collectors was restricted to the realisation of arrear rents, and did not apply to cases in which enhanced rent was claimed, unless there were *bona fide* written engagements for such enhancements. In 1832 provision was made in Regulation VII that regular suits to set aside the summary decisions of Collectors might be instituted before Sadar Amins, principal Sadar Amins, and Munsiffs, according to the valuation of the suits. When the Rent Act was passed in 1859, the question of jurisdiction was again discussed, and there was a considerable body of opinion in favour of transferring rent suits to the Civil Courts. The Act however maintained the jurisdiction of Collectors until 1869, when Act VIII transferred rent suits to the Civil Courts, and there they have since remained.

The Tenancy Act of 1885 provided that tenants could not be evicted for default, but that their holdings had to be sold in execution of a rent decree obtained in the Civil Court. The provisions for distraint were retained in the Act, and the landlords could still distrain through Court standing crops or crops which had been reaped. Distraint was abolished by the Tenancy Act of 1928, partly because it had been little used, and partly because public opinion was opposed to it.

301. **History of certificate procedure.**—Realisation of arrear rent by certificate was introduced by Act VII of 1880, which empowered Collectors to apply the procedure in the case of arrears due to Government. The amending Act I of 1895 enabled landlords other than Government to have recourse to the same procedure with Government's approval. The conditions on which certificate procedure was granted to private proprietors were that the record-of-rights was maintained, i.e., that it was revised by Government at intervals at the landlord's expense, and that relations between the proprietors and their tenants were cordial. The number of landlords who have applied for certificate procedure is small. In 1936-37 there were only 210 estates with powers under section 158A of

the Tenancy Act. In 1938 the amending Tenancy Act withdrew certificate procedure from the private landlords, and by executive orders it was suspended for two years in Government and Court of Wards estates. The only private estate, which now possesses certificate powers is that of the Nawab Bahadur of Murshidabad.

RECOVERY IN THE PROVINCES VISITED.

302. **Recovery in Madras.**—In Madras all arrears of rent whether in the raiyatwari or zamindari parts of the Presidency are realised through Revenue Courts. In the raiyatwari area there are virtually no arrears of rent. If the Government assessment is not paid it can be recovered either by selling the holding or by distraining the crops. It is not often necessary however to put up holding to sale. In cases where a pattadar has sublet, and fails to pay his assessment, the sub-lessee generally pays it in order to avoid distraint of his crops. He deducts the amount from the rent payable to his pattadar and receives an official receipt for the amount paid to Government. In the permanently settled area, the zamindars apply to the Revenue Courts for the realisation of arrear rents. The same procedure is followed as in the raiyatwari area but it generally takes rather longer to conclude the proceedings. Realisation is normally effected in the raiyatwari area within six months and in the permanently settled area, it may take about 9 months.

303. **In the Punjab.**—In the Punjab, suits for arrear rents are filed by landowners before Revenue Courts. Recovery can be made by distraint, attachment of crops, or the tenant may be ejected. He may even be arrested and kept in confinement by the Tahsildar's order. Most cases concern tenants-at-will who pay half of the crop. In these cases the amount of produce to be paid has to be determined, and regard is had to the estimated yields prepared by the Settlement Department. These are usually calculated on a conservative basis: consequently they go in favour of the tenant in a normal season. The procedure before Revenue Courts is summary, and decrees are often obtained in the lower Court within six weeks. There might be a longer delay if appeals were filed to higher revenue authorities, but as a general rule the recovery of arrear rents is very expeditious.

304. **In the United Provinces.**—In the United Provinces recovery of arrears is also made through Revenue Courts. The produce of every holding is hypothecated for the payment

of rent, and until that claim has been satisfied, no other demand, except a Government demand, can be enforced by any Court. The dates and instalments for the payment of rent are fixed, and any amount which is not paid by the due date becomes an arrear. Previous to the amending Act which received the Governor's assent in December 1939, arrears of rents could be recovered by distraint, or by ejectment if the tenant failed to pay after issue of a notice by the Tahsildar. The amending Act has substantially altered the law. Distraint has been abolished, and the landlord has to obtain a decree in the Revenue Court. This may be executed by selling the whole or a portion of the holding, and if the decree has not been satisfied in full within one year of the order, the tenant may be ejected from a portion of the holding, the rent of which does not exceed one-sixth of the decretal amount. The Court is also empowered to lease the holding for a maximum of six years to any person who pays the decretal amount.

The law regarding ejectment has also been changed. After obtaining a decree for arrears in the Revenue Court, the landlord may file an application for ejectment between the first day of June and the last day of August. If the claim is admitted by the defaulting tenant, he is ordered to pay the arrear and current rent into Court by the end of May next following the expiry of one year from the date of the order. If he contests the claim, he is ordered to deposit in Court the rent of each agricultural year, as it falls due, by the end of May. If he does not comply, he is immediately ejected. The effect of the amending law is therefore that once a tenant gets into arrears he cannot hold for more than one year unless he pays his rent in full. The procedure before Revenue Courts is summary and decrees are normally obtained within two or three months. There is a provision that not more than three adjournments may be given and that cases must be disposed of within six months.

The Position in Bengal.

305. **Arrears of rent.**—In Bengal the arrears of rent are much heavier than in any of the provinces which we have visited. The general practice is for landlords to sue for the rent of the three previous years, together with that of the current year which is about to expire. Although suits for rent may be brought after an interval of 9 months, following a previous suit against the same tenancy, the great majority of landlords prefer to sue for the full period of limitation, either because they think that a succession of suits would be

harassing to their tenants, or because the cost of litigation is too great to allow the filing of suits each year. It is the rule rather than the exception that rents in permanently settled estates are two years in arrears, and in some estates they may be more. The situation has been aggravated by the low prices of agricultural produce during the last 10 years, and in some areas by the agitation against the payment of rent. The withdrawal of certificate procedure has led to the filing of civil suits against tenants in khas mahal estates, and it is believed that this method of recovery is likely to prove even more unpopular than certificate procedure.

306. **Special procedure under section 148(k), Bengal Tenancy Act.**—Although the existing law provides in section 148 (*k*) of the Tenancy Act for the issue of special notices and a more summary procedure, it seems that little use has been made of it, either because landlords were not aware of its provisions, or because they did not think it more advantageous than the ordinary procedure. It has been criticised on the ground that *ex parte* decrees, which are granted in the great majority of rent suits, can be subsequently set aside under section 148(*k*)(*iv*): and that the provision was withdrawn by the amending Tenancy Act of 1938 whereby an application to set aside a decree had to be accompanied by a deposit amounting to half of the sum decreed.

307 **Effect of Debt Settlement Boards.**—It has been stated by some of our witnesses that the collection of rent has been adversely affected by the establishment of Debt Settlement Boards, and that the Agricultural Debtors Act is open to criticism on the ground that rent is not a debt which should have been included within the scope of the Act. This point was taken into consideration when the Act was framed, and rent was included among agricultural debts on the ground that if an award was passed for the repayment of ordinary debt, excluding rent, the landlord might sell up the holding at any time during the period fixed for repayment of the debt, and there would then be no security for the debt. At the same time the Act may operate unfairly on landlords, if instalments are fixed over a number of years, and we have already recommended in paragraph 295 that priority should be given to the repayment of rent, on the ground that it is the first charge on the land.

308. **Criticism of existing procedure.**—The Civil Court procedure for the disposal of rent suits has been severely criticised by nearly all our witnesses on the ground that it is

expensive and harassing both to landlord and tenant, and that it is unnecessarily cumbrous and dilatory. It has been stated, not without reason, that when rent suits are defended, the amount paid on account of costs, lawyers' fees, and the numerous journeys to and from the Civil Courts, are out of all proportion to the rent claimed. We have also been given several actual examples of the delay in disposing of rent suits, but it is common knowledge that their disposal not infrequently takes three or four years. This means that a landlord who is suing for three years' arrears may receive nothing for 7 or 8 years. The chief grounds on which the actual procedure of the Courts has been criticised by our witnesses are :—

(*i*) the service of notices is slow and inefficient, and the dishonesty that prevails among the Civil Court staff, particularly the process-serving peons, delays the proceedings still further;

(*ii*) there are no effective means for checking frivolous pretexts in rent suits. A tenant may falsely claim that his holding is rent-free. That question has to be decided as a separate issue but if the claim is proved to be false no action can be taken to penalise the false statement;

(*iii*) the proceedings before the Court may be dragged on by various pretexts for several years and the defendant may absent himself on the final date of hearing. An *ex parte* decree is passed and the tenant is then at liberty to make an application and have the decree set aside;

(*iv*) when a decree for rent has been obtained, often more than a year after the plaint was filed, a separate execution case has to be filed which may take another two years to complete. Once the record-of-rights has been prepared and the rents have been recorded, the first stage could be greatly expedited;

(*v*) the possession which the Civil Court gives as a result of execution proceedings, is always supposed to be actual possession as opposed to symbolical possession, unless there is a sub-tenant on the land. In practice, the decree-holder often finds it impossible to secure possession within a reasonable time. As soon as a decree for rent has been executed by delivery of possession, it should amount to criminal trespass if the tenant continues to occupy the land.

Remedies Suggested.

309. **Revised Civil Court procedure.**—While nearly all our witnesses are agreed that the present procedure for realising arrear rents is highly unsatisfactory, they have proposed different remedies, and have made various [illegible] for improving the present position. Some are in favour of retaining the jurisdiction of the Civil Courts, but of simplifying and expediting the procedure. It was suggested that the service of processes should be made by sending one copy to the Union Board and one by registered post. The postal receipt and the affidavit of the Union Board dafadar or chaukidar should be taken as evidence of service, and a time-limit of one month should be fixed for the service of processes. If the holding is brought to sale the sale certificate should be issued promptly.

310. **Certificate procedure.**—The view of the most experienced Revenue Officers who gave evidence was that certificate procedure, or something as near as possible to it, should be given to all landlords and tenure-holders. There would have to be adequate safeguards:—certificate procedure should only be used when the rent sued for is that entered in the record-of-rights, and it would have to be properly administered. The record-of-rights would also have to be maintained. The object would then be to enforce payment of rent after each harvest. The Special Officer who enquired into the working of certificate procedure in khas mahal estates came to the same conclusion,—that it is an efficient and a fair system provided that it is rightly administered. We believe that the unpopularity of certificate procedure has not been due to any inherent defect in the system, but to the fact that it has not always been properly administered. It has sometimes tended to become mechanical in its operation, and the disposal of certificate cases has in some instances been delayed no less than civil suits.

311. **Revenue Courts.**—Some of our witnesses proposed that realisation of arrear rents should be made by a summary procedure before Revenue Officers similar to that governing the sale of patnis under Regulation VIII of 1819. They suggested that applications for the sale of holdings should be made once a year after the principal harvest and that limitation should be reduced to one year. Any disputes regarding the amount of rent would be summarily decided, and no sale would be set aside unless the full amount were

deposited within 30 days of the sale, except in cases where fraud was established. This procedure would be simple and expeditious and might be made inexpensive to landlord and tenant.

312. **Distraint.**—The restoration of distraint was suggested by some of our witnesses who thought that although it might be difficult to carry out, the mere threat of distraint would act as a deterrent against the non-payment of rent. They pointed out that although distraint was abolished from the Tenancy Act in 1928, it is still in force as a means of recovering arrears under certificate procedure, and it is commonly used in other provinces. It is true that distraint is used in Madras and the Punjab and was only recently abolished in the United Provinces, but those provinces have a revenue organisation in the villages which makes distraint a more practicable proposition than in Bengal. In Madras there is a headman in each village called the Munsiff, who has under him a clerk, called the Kurnam and two or three peons. In the Punjab and the United Provinces there are Tahsilars in charge of three or four villages, and lambardars in each village. In Bengal, where no similar organisation exists, distraint is much more difficult to carry out in practice, and its restoration might lead to serious opposition. It is practically impossible for any Court to find sufficient staff to have recourse to this procedure at the right time of the year, if many tenants are in arrears at the same time.

313. **Payment by money order.**—Another suggestion which we have considered is that payment of rent by money order should be made compulsory. The chief advantage of this method would be that the demand of any abwabs at the time of payment of rent, would automatically disappear. The existing law already protects landlords sufficiently against any incorrect statements which might be made in the money order form.

We are not in favour of this suggestion. Tenants only pay their rent by money order when they apprehend that no rent receipt will be granted, or when a dispute exists. When such payments are made they are often not properly accounted for by the landlords' agents. In any case, this method of payment would be of no advantage whatever if the rent was not paid. The same difficulty of realising the arrear rent would remain. We think therefore that payment by money order should not be made compulsory, but should be left, as at present, to the option of the tenants.

At the same time it has been represented to us that landlords sometimes refuse to accept rent tendered by money order. Considering that the law protects them adequately against any misstatements in a money order form, we see no reason why they should ever refuse to accept rent tendered by this method. We consider that the penalty for refusal, prescribed in section 64A of the Tenancy Act might be made more stringent. Some of our members consider that if rent tendered by money order is refused, the landlord should forfeit his claim. We also think that the postal receipt for a money order should be accepted as conclusive evidence of remittance, and that it should not be necessary to call for the evidence of postal peons. On the same analogy deposits of rents in the Civil Court should be permitted without requiring anyone to identify the tenant.

Recommendations.

314. **Revenue Courts preferred.**—We have considered the suggestions which have been made to us for improving the realisation of arrear rents and the procedure that is in force in the provinces which we have visited. We hold the view that the present system in Bengal is cumbrous, dilatory and unnecessarily expensive to landlord and tenant alike.

So long as the zamindari system remains, in view of the stringency of the sunset law by which Government realises its revenue from the zamindars, it is clearly the duty of Government to provide the zamindars with an efficient machinery for collecting their rents. Further, it is not to the interest of the raiyat himself to be able to evade the obligation of paying his dues.

The situation in Bengal has been radically altered by the preparation of a record-of-rights. Now that all rents have been recorded, and the relationship of landlord and tenant determined, provided that the record-of-rights is reasonably up to date, the argument that Civil Courts are necessary to adjudicate these questions loses much of its force. All rent cases should in general be confined to the issue whether rent has been paid or not.

There is no reason why the officers presiding over Revenue Courts should not have the same status and legal qualifications as officers presiding over the Civil Courts. This is only a question of recruitment. Sir John Kerr's Committee considered at great length all possible suggestions for the simplification of the Civil Court procedure; but it has to be

admitted that the changes made, especially the introduction of section 148(*k*) for the summary disposal of rent suits, did not give the result expected.

The advantage of certificate procedure is that it obviates the necessity of going through the first stage of Civil Court procedure, that is, the obtaining of a decree. The failures and unpopularity of the certificate procedure have been due not to any inherent defect, but to the fact that it has not always been properly administered. We think that its principles are sound. The fact that the Certificate is itself regarded as a decree is subject to this important modification that it is always open to the judgment-debtor to dispute the decree by filing an objection under section 9 of the Public Demands Recovery Act. This is practically the procedure we suggest for the summary disposal of rent suits by Revenue Officers. Whether or not a scheme of State acquisition is put into operation, our recommendation is that the jurisdiction of rent suits should vest in Revenue Officers.

315. **Outline of procedure.**—We do not think it is necessary or desirable that we should attempt to give a concise account of the procedure to be followed, the amount of court-fees to be levied, and so on: it is sufficient to indicate the outlines of the scheme which we advocate. Our chief object is to ensure that rent suits should be summarily disposed of by Revenue Officers at local centres after the main harvest each year. The applications would be filed by landlords at subdivisional headquarters, where they would be grouped together in batches, and taken up for hearing at convenient local centres. A general notice would be issued first, and this would be followed by individual notices. The time for filing applications should be laid down having regard to the principal harvests in each district, so that the recovery of arrear rents could be started immediately after the harvest.

The procedure would be summary, unless, in the view of some of our members, the Revenue Officer considered that a *bona fide* question of title was involved, in which case the regular procedure should be followed, instead of a summary procedure. The Revenue Officer would pass a decree allowing a reasonable time for payment of the arrears. If the decree were not satisfied within the period stated, the holding, or such portion of it as was sufficient to satisfy the amount of the decree, would be immediately sold. We are not in favour of distraint, for the reasons already stated; the attachment and sale of movables in the case of all tenants has been forbidden by recent legislation; and we do not think that ejectment should be restored. The procedure should also be made as cheap as

possible. We are not in a position to make any recommendation regarding the scale of court-fees, but we think that there are grounds for assessing a lower rate for uncontested cases than for contested cases.

316. **Limitation.**—We are also in favour of reducing the period of limitation to one year, except in cases where the annual rent is less than one rupee. In such cases the limitation should be two years. Limitation for the filing of execution cases should also be reduced to one year. The object should be to deal with applications for recovery after the main harvest, and to execute the decrees immediately after the following harvest. As regards arrear rents of more than one year, outstanding at the time when limitation was reduced to one year, we think that it would operate unfairly on the tenants if arrears of two or three years were to be realised at once by a summary procedure. Provision would have to be made for their payment over a period of years, which would vary according to the amount due, and the ability of the tenant to pay.

317. **Adverse possession by judgment-debtors.**—One of the suggestions made to us in evidence, to which we have referred in paragraph 308, is that adverse possession after the sale of a holding should render the judgment-debtor liable to prosecution for criminal trespass. In the Tenancy Act third amendment Bill of 1939, a provision was made that along with the order for delivery of possession to a decree-holder, the Court should issue a notice calling on the judgment-debtor to show cause within 15 days why an order should not issue prohibiting him from remaining in possession of the decretal property. If no cause is shown, the Court passes a prohibitory order: if the judgment-debtor intimates his intention of having the decree set aside, he is allowed a reasonable time to do so. Disobedience of the prohibitory order amounts to an offence under section 188 of the Penal Code, and the judgment-debtor may be prosecuted on the complaint of the Court under section 195 of the Code of Criminal Procedure.

It happens not infrequently in Bengal that tenants whose holdings have been sold up, remain, often for years, in adverse possession, and the decree-holders are unable for no fault on their part to enter into possession. In many cases, judgment-debtors have been recorded in the course of settlement operations as tenants in forcible possession of the decretal property; and much of the time of Criminal Courts has been taken up with litigation connected with such cases, in which it is always difficult to decide whether the complaints really come within the jurisdiction of the Criminal Court, or whether

they are of a civil nature and should be dismissed. It can only be regarded as an unsatisfactory state of affairs, in which the orders of any Court can be deliberately flouted. Some of our members are strongly of opinion that a judgment-debtor who does not vacate within a reasonable period, or has no reasonable excuse for remaining in possession of the decretal property, should be rendered liable to criminal prosecution. They recommend that the provision of clause 6 in the third amending Tenancy Bill of 1939 should be adopted. Other members are of opinion that the existing law is sufficient, by which the Civil Court can give actual possession, and the decree-holder can call in police help to obtain possession, or prosecute the judgment-debtor as a trespasser.

318. **Advantages of system proposed.**—We believe that the procedure which we have proposed above would be more expeditious than the present procedure and that the hearing of rent suits at convenient centres in the mufassal would be cheaper and more convenient both to landlords and tenants. Considering the difference in the level of pay of Revenue Officers and Munsiffs, it would be possible to appoint a proportionately greater number of officers for the decision of rent suits. It is also expected that a Revenue Officer, using a summary procedure, would be able to dispose of more suits than a Munsiff, and would have the time and opportunity to supervise the proper service of processes and execution of decrees. His functions however would not be entirely judicial: he might also be a useful agency for various executive functions. He would be constantly on tour in the area allotted to him, and could report to the Subdivisional Officer the condition of crops, any cases of levying abwabs which were brought to his notice, and other matters affecting the welfare of the tenants.

319. **Appeals.**—We have also considered what should be the appellate authority from decisions of Revenue Officers. In Madras, appeals from the orders of Revenue Officers in rent suits go to the District Courts. In the United Provinces appeals from Assistant Collectors of the second class, in suits valued at less than Rs. 200 go to the Collector. Those from Assistant Collectors of the first class valued at over Rs. 200 go to the Civil Court. In the Punjab appeals are confined entirely to the Revenue authorities, the highest being the Financial Commissioner, who is the equivalent of the Member, Board of Revenue, in Bengal.

We think that there would be a good case for making the Board of Revenue the highest appellate authority if

Government were the sole landlord. Under the present system however, it is doubtful whether it would be advisable to remove the jurisdiction of the Civil Court entirely, and we would recommend that appeals, including motions, from the orders of Revenue Officers should go to a Court not below the rank of a Subordinate Judge.

320. **Codification of Revenue Laws.**—There is great need for the simplification and codification of the Revenue Law of Bengal. As pointed out by Major Jack in the Settlement Report of Bakarganj, there are 70 Regulations still in force, many of which contain much that is obsolete, in language which is now unintelligible[1]. In the Dacca Settlement Report Mr. Ascoli complained that resumption proceedings were initiated under Act IX of 1847, carried out under various isolated sections of Regulation II of 1819, Regulation XI of 1825, Act IV of 1868 and Regulation IX of 1833[2]. There are only a few out of many sections in most of the Acts which are ever referred to at the present day. If State acquisition is carried out, not only the old Regulations, but many Acts, such as the Estates Partition Act, the Land Registration Act, and the Diara Acts will become practically inoperative. All the provisions which will remain of value should be brought together subject by subject in a comprehensive Revenue Code. Even if State acquisition is not undertaken, it would be desirable to consolidate the whole body of Revenue Law into a single Code.

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[1]Report, paragraph 491.

[2]Report, paragraph 326.

Main Conclusions and Recommendations.

1. **Chapter II.**—The majority of the Commission have reached the conclusion that whatever may have been the justification for the Permanent Settlement in 1793, it is no longer suitable to the conditions of the present time; and that the zamindari system has developed so many defects that it has ceased to serve any national interest. These defects are summarised in paragraphs 80 to 88 of the report. In the view of the majority the present system should be replaced by one which will bring the actual cultivators into the position of tenants holding directly under Government by acquiring the interests of all classes of rent receivers. (Paragraph 96.)

A minority of the Commission dissent from this conclusion on the grounds stated in paragraphs 89 to 93 of the Report.

2. **Chapter III.**—Legislation should be introduced enabling Government to acquire the interests of all rent-receivers down to the actual cultivator of the soil in all revenue free, permanently settled and temporarily settled estates. (Paragraph 98.)

Compensation should be paid at a flat rate for all interests (Paragraph 100). The rate of compensation which receives more support than any other is 10 times the net profit of the proprietors and tenure-holders (Paragraph 101).

The net profit should be calculated by deducting from the gross assets the revenue, the share of the cess which is paid by the zamindars and tenure-holders, and, in the view of the majority, 18 per cent. on account of management, collection, and litigation expenses. No extra deduction for unrealisable rents need be made according to the view of the majority. (Paragraph 123.)

The revenue of temporarily settled private estates under Government management should be fixed at 70 per cent. of the assets before compensation is calculated. (Paragraph 108.)

If any reduction of high contractual rents is contemplated by Government, it should be carried out before the net assets of any class of estate or tenure are calculated for assessing compensation. (Paragraph 130.)

Compensation should be paid in cash if possible: otherwise in bonds redeemable after 60 years. Compensation amounting

to less than Rs. 500 should be paid in cash in order to avoid the expense to Government of keeping accounts and making annual payments of petty sums. (Paragraphs 102 and 138.)

3. Waqf, debattar and other trust estates should be acquired. The continuance of that portion of their income which is devoted to religious, charitable or educational objects must be secured by paying a higher rate of compensation in the shape of bonds which will ensure their existing income. The bonds issued in favour of such trusts should remain in Government custody, and the character and incidents of such trusts should apply to them. (Paragraphs 105 and 106.)

4. The acquisition of superior interests in khas mahal estates should be carried out by Government at their convenience. It is suggested that an experiment might be made in Government estates where subinfeudation exists in order to obtain an indication of the results. (Paragraph 109.)

5. The acquisition of royalties from mines is recommended by the majority. (Paragraph 119.)

Whether or not this recommendation is accepted, it is recommended by the majority that Government should consider the desirability of legislation declaring that all minerals including oil, not yet worked or discovered will vest in the State. (Paragraph 121.)

6. It is recommended that all fishery rights should be acquired. (Paragraph 116.)

7. The revision of the record-of-rights is an essential preliminary to a scheme of State acquisition. (Paragraphs 103 and 126.)

8. The arrear rents legally recoverable by each proprietor or tenure-holder should be ascertained. Fifty per cent. of the arrears should be added to the amount of compensation. The full amount of the arrear rents would be payable to the Government. (Paragraph 104.)

9. The homesteads and khas lands of all rent-receivers will be acquired as part of their estates or tenures. The homesteads, and also those khas lands which they cultivate by servants or labourers will remain in their possession as tenants under Government, subject to the payment of fair rent. (Paragraph 110.)

10. The interests of all raiyats or under-raiyats who have sublet on cash rents should be acquired. The financial effect would depend on the decision whether the existing rents of under-raiyats who would become direct tenants, are maintained, or whether they are reduced.

The acquisition of the interests of landlords who have their land cultivated by bargadars should not be undertaken until the Tenancy Act has been modified as proposed in paragraph 146. (Paragraph 114.)

11. There is nothing substantial to be gained by substituting a system of temporary settlements for the permanent settlement. (Paragraph 132.)

12. The imposition of an agricultural income tax is recommended as a transitional measure until the scheme of State acquisition is effected, in preference to an agricultural or other cess. The tax should be applied solely for the improvement of agriculture. (Paragraph 137.)

13. **Chapter IV.**—Further acquisition proceedings will be necessary at intervals of 30 or 40 years, unless means can be found of keeping the present cultivators permanently in possession of their lands by controlling subletting and transfers. (Paragraph 139.)

A complete veto on subletting in any form, including the barga system, is recommended subject to the exceptions mentioned. In that case it will not be necessary to forbid transfers to non-agriculturists, a class which it is too difficult to define in legal language. (Paragraphs 147 and 148.)

Until a scheme of State acquisition comes into force the rent of an under-raiyat should in future be not more than one-third in excess of the average rent of his immediate landlord. (Paragraph 149.)

14. The accumulation of large quantities of land in one hand is undesirable, except for scientific large scale farming. Transfer might be restricted to families owning less than 20 acres. (Paragraph 152.)

15. The provision of Sir John Kerr's Bill should be restored by which it was proposed to treat as tenants bargadars who supply the plough, cattle, and agricultural implements. The share of the crop legally recoverable from all bargadars should be limited to one-third. (Paragraph 146.)

16. **Chapter V.**—Experiments should be made in selected areas to consolidate holdings. (Paragraph 157.)

17. The pressure of population on the land and the large proportion of cultivators who do not possess an economic holding are the chief reasons of the poor condition of the agricultural classes (Paragraphs 153 to 156). In view of the difficulty of extending to any appreciable extent the area available for cultivation, it is of primary importance to increase the total agricultural output, especially the yield of the main crop—rice. This should be done by intensive propaganda on the part of the Agricultural Department, and extended use of improved seeds and fertilisers (Paragraphs 205 and 206).

18. The possibility of extending the cultivation of valuable crops such as betel, sugarcane, tobacco, condiments and vegetables should be examined. More attention should be paid to the cultivation of orchards and bamboo groves. (Paragraph 215.)

19. The twice-cropped area could be considerably increased if the cultivators were encouraged to irrigate their lands from rivers, bils, tanks, or wells. Small irrigation schemes are strongly recommended. Experiments should be made with cheap portable pumps. (Paragraph 213.)

The methods of cultivating rabi crops are capable of great improvement. (Paragraph 214.)

20. The cultivation of napier grass and other fodder crops should be encouraged and extended. (Paragraph 239.)

21. In order to improve the breed of cattle and the milk supply, the supply of stud bulls should be extended. The veterinary staff should be given a thorough training in animal husbandry. The grouping of stud bulls requires careful attention in order to ensure the success of a cattle improvement scheme. (Paragraph 238.)

22. The improvement of poultry farming and the possibility of developing subsidiary industries based on milk, such as the production of ghee and chhana, require examination. (Paragraph 236.)

23. The irrigation problems of Bengal and the deterioration of the rivers should be examined by an expert Committee, as recommended by the Royal Commission on Agriculture. (Paragraph 216.)

24. The difficulties which have been encountered in connection with some of the major irrigation schemes of Bengal should not deter Government from embarking on further schemes under the Bengal Development Act. (Paragraph 217.)

25. The budget provision of the Agricultural Department should gradually be increased, and the training of additional staff should be taken up as early as possible. (Paragraph 207.)

26. The establishment of Union farms should be extended and crops grown on the tenants' land under the supervision of the Agricultural Department. (Paragraph 209.)

27. In order to provide continuous employment in rural areas, and to relieve the pressure of population on the land, the development of factories in rural areas and cottage industries offers the best possibilities. Government would have to take the initiative in any scheme of development. (Paragraph 226.)

28. The silk and lac industries should be put on a sound commercial basis. (Paragraph 233.)

29. The development of cottage industries is of primary importance: paddy husking which is fast disappearing from many of the villages should be revived. Government should consider the desirability of restricting by legislation the establishment of rice mills. (Paragraph 234.)

30. It is desirable to keep in touch with industrial developments in other provinces and to send an officer to examine developments which have taken place or are under the contemplation of other Provincial Governments. (Paragraph 240.)

31. **Chapter VI.**—Generally speaking the rents in Bengal are lump rents, bearing little relation to the actual value of the produce (Paragraph 261). The system of assessing rent in other provinces are not completely satisfactory. The principle of the present Tenancy Act that the existing rents should be presumed to be fair and equitable until the contrary is proved has many advantages (Paragraph 262).

32. It would be a mistake, especially if the Government becomes the sole landlord, to adopt the principle that the present rents should remain fixed for ever. (Paragraph 277.)

There is no strong case at present for a general revision of the existing rents in Bengal. In the view of the majority,

there is no justification for enhancing rents, so long as the present land revenue system remains (Paragraph 276). In some areas it may be necessary for Government to undertake settlement operations under section 112 of the Tenancy Act with the object of reducing excessive rents (Paragraph 265).

33. Revisional settlement operations are desirable in permanently settled estates, no less than in khas mahals and temporarily settled estates (Paragraph 263). The period of such settlements should be 30 years, according to the majority (Paragraph 275).

34. The modifications which are recommended in the existing law for enhancement and reduction of rent are:—

(*i*) The principle of enhancing rents on the ground of prevailing rates should also be made applicable for reducing isolated cases of excessively high rents. The ground of prevailing rates should be used for enhancing rents which are substantially below the general level for no sound reason. (Paragraph 265.)

(*ii*) The ground of enhancement for a rise of prices should also remain. But the Court should have discretion to take the prices of any period however short, which it thinks equitable. (Paragraph 267.)

In all cases regard should be had to the provision in section 35 that no rent must be enhanced under any section to an extent which makes it unfair. (Paragraphs 267 and 268.)

(*iii*) Owing to the delay and expense of Civil Court procedure, tenants who might be entitled to a reduction of rent on account of the fall in prices during the last 10 years have made no use of section 38. We recommend that facilities should be given for reduction of rent on this ground through the agency of Revenue Officers. Section 38 of the Tenancy Act should be amended to empower them to deal with such cases in areas to be notified by Government. (Paragraph 269.)

35. **Chapter VII.**—Some members recommend the restoration of the provision proposed by Sir John Kerr's Committee that common agents should be appointed in all estates, tenures, and groups of tenures, with powers to collect rent, issue rent receipts, and accept notices of transfer. Others

would amend section 99A of the Tenancy Act to allow the Collector to appoint common agents on the application of the landlords, or of half the tenants, or of his own motion. (Paragraph 280.)

36. Whether or not a scheme of State acquisition is adopted, the maintenance of the record-of-rights is strongly recommended. The possibility of maintaining records through the agency of a settlement staff attached to each Sub-Registry office should be examined. (Paragraph 282.)

37. Some system of short term credit is necessary for cultivators. Their credit facilities must be increased. (Paragraph 278.)

The following recommendations are made to the Co-operative Credit Department:—

(*i*) The co-operative movement should be extended as rapidly as is consistent with sound organisation and good management, and the supervising staff should be strengthened. (Paragraph 299.)

(*ii*) The amount of loans given to members of co-operative societies should be strictly controlled. More regard should be paid to their income and capacity for repayment annually, than to the value of their property. (Paragraph 299.)

(*iii*) All loans should be restricted to productive purposes and should ordinarily be for small amounts. (Paragraph 299.)

(*iv*) Audit should be separated from supervision. (Paragraph 293.)

38. Government should grant agricultural loans on a more liberal scale under the present system rather than establish Government-owned Agricultural Banks. (Paragraph 298.)

39. In the awards of Debt Settlement Boards priority should be given to arrear rents. (Paragraph 295.)

40. The development of marketing on the lines of the policy adopted by the Madras Government is recommended. (Paragraph 299.)

41. The possibility of training inspecting officers of various departments in several branches of work and entrusting to them the work of various departments in smaller areas should be examined. (Paragraph 299.)

42. **Chapter VIII.**—Whether or not a scheme of State acquisition is put into operation, it is recommended that the jurisdiction over rent suits should vest in Revenue Officers with legal training instead of the Civil Courts. (Paragraph 314.)

43. Sale of holdings is the least harsh method of realising arrears of rent and is preferred to sale of movables, ejectment, or distraint. (Paragraph 315.)

44. The procedure for the trial of rent suits should be as cheap as possible. The question of assessing a lower rate of fees for uncontested cases than for contested cases should be considered. (Paragraph 315.)

45. The period of limitation of 3 years in Schedule III of the Tenancy Act should be reduced to one year except where the annual rent is less than Re. 1. In such cases the period should be two years. (Paragraph 316.)

46. Limitation for the filing of execution cases should also be reduced to one year. The object should be to deal with applications for recovery after the main harvest and to execute the decrees immediately after the following harvest. (Paragraph 316.)

47. In the view of some members, judgment-debtors who remain in adverse possession after being given a reasonable time to vacate, or who have no reasonable excuse for remaining in possession of decretal property should be liable to prosecution under section 188 of the Penal Code. Others consider that the existing law is sufficient, by which possession can be obtained with police help, or the judgment-debtor can be prosecuted as a trespasser. (Paragraph 317.)

48. Rents outstanding for two or three years at the time when this procedure was put into operation should be realised over a period of years, varying according to the amount due, and the ability of the tenants to pay. (Paragraph 316.)

49. The payment of rent by money order should continue to be optional; but if landlords refuse to accept money orders, the penalty prescribed in section 64A of the Tenancy Act should be made more stringent. Postal receipts for money orders should be accepted by the Courts as conclusive evidence of remittance. Deposits of rent in Court should be permitted without requiring identification of the tenant. (Paragraph 313.)

50. Appeals from the order of Revenue Officers should go to a Court not below the rank of a Subordinate Judge. (Paragraph 319.)

51. **General recommendations.**—There should be more co-ordination between the representatives of the different departments of Government, both at headquarters and in the districts. There is not sufficient co-ordination between the Director of Land Records and the Agricultural Department in the preparation of agricultural statistics. The areas found under each crop at a district or revisional settlement are not reported to the Agricultural Department as they are available. The results of crop-cutting experiments made by Settlement Officers are not incorporated in the quinquennial crop-cutting reports. (Paragraph 161.)

52. Revenue Officers in charge of rent suits should be in charge of as many other administrative functions as possible. (Paragraph 318.)

53. The revenue laws should be codified. (Paragraph 320.)

(Signed) F. L. C. FLOUD.

(Signed) *B. C. MAHTAB, *Maharaja of Burdwan.*

(Signed) *M. O. CARTER.

(Signed) *SAIYED MUAZZAMUDDIN HOSAIN.

(Signed) HASHEM ALI KHAN.

(Signed) M. A. MOMIN.

(Signed) *RADHA KUMUD MOOKERJI.

(Signed) *BROJENDRA KISHORE ROY CHOWDHURY.

(Signed) *F. A. SACHSE.

(Signed) ABUL QUASEM.

(Signed) NURUDDIN AHMED.

(Signed) ANUKUL CHANDRA DAS.

Dated the 21st March, 1940.

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*Signed subject to minutes of dissent appended.

Note of Dissent

By

Sir Bijay Chand Mahtab, G.C.I.E., K.C.S.I., I.O.M.,
Maharajadhiraja Bahadur of Burdwan,

and

Mr. Brajendra Kishore Roy Chowdhury,
Members, Bengal Land Revenue Commission.

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NOTE OF DISSENT.

Introductory.

1. **Observation on the personnel.**—The Bengal Land Revenue Commission was brought into being to examine the complicated land problems of Bengal and to suggest remedies for their solution within the given terms of reference. We note that since the Permanent Settlement there has been no Commission of Enquiry with such wide terms of reference. The questions placed in front of them were so grave and vital for the country that the Commission ought to have been constituted of revenue experts, experienced judicial officers, economists and statisticians who would have been qualified by their specialised knowledge to discuss impartially the problems in all their complications. The Commission, as appointed, included however, revenue experts, historians and judicial officers, but the absence of economists and statisticians was keenly felt. It was, indeed, a matter of regret that the Commission could not get the benefit of the services of two of the judicial experts, Sir Manmatha Nath Mookerjee and Mr. S. N. Mashi, Barrister-at-Law, who were appointed members thereof. However, with the remaining members of the Commission the work was being carried on as efficiently as possible. But without improving the composition of the Commission in any way, it was practically at the discussion stage of the Report and Recommendations that, on the 17th of November 1939, three additional members were appointed by Government. It was quite clear that these appointments were primarily made on political grounds resulting in an undue weightage which was, to a great extent, responsible for the so-called Majority Report. Without any knowledge as to what these gentlemen were like or without casting any reflection on any of them we had to record our protest on principle, in which we may say without fear of contradiction the Commission as a body were united.

2. **Nature of the main Report.**—What has struck us most forcibly is the absence of emphasis in the main Report on the evidence placed by different persons and organisations whose written memoranda and oral evidence have been of great value. The Commission devoted a considerable portion of their time

to recording written and oral representations, but in the course of discussions, it was found that the members relied more upon personal convictions and preconceived notions rather than on the evidence before them. In consequence, it seems that the Commission's elaborate procedure of receiving memoranda and recording evidence was a sheer waste. Important decisions were taken by the weight of votes without reference to the evidence collated and placed before us; definite historical statements were made in defence of a particular line of reasoning without giving due importance to all the points of view. All this has been very unfortunate, especially when it was expected of the Commission to consider the problems without bias and suggest remedies without favour in the collective interest of the country.

3. **The need for Note of Dissent.**—Whilst we do not wish to cast aspersions on any of our colleagues, we cannot help feeling strongly that the decisions and recommendations, embodied in the main Report, have not received the *imprimatur* of a dispassionate study of the problems. We submit that in the Report history has been read and facts interpreted in a particular way to establish certain postulates which are highly of a controversial character and of doubtful validity. Moreover, in many matters the accepted Indian interpretations have been ignored and different meanings put forth without reference to Indian contexts. This has necessitated the writing out of a Note of Dissent by us.

4. **Scope of the Note of Dissent.**—In this Note, we do not propose to advocate a given set of conclusions issuing out of *a priori* convictions; we have also no desire to present what is called "the other side of the picture". Herein, we shall try to read history in the light of established facts on the main points touched on in the Report and make our submissions on the recommendations which we deem unwholesome for the given basis of society and class relations. We are not writing this Report mainly as landlords, although we belong to the order of zamindars; we are primarily basing our observations and recommendations on the facts brought to light in the course of investigations and on the evidence placed before us by competent persons, Government experts and recognised Associations of the Province. In our search for remedies we have not hesitated in subordinating our personal predilections in the ultimate interest of the country as a whole.

CHAPTER I.

The Historical Background.

5. **Historical diversities.**—The tenure of land in India is a subject of considerable difficulty which is traceable to the fact that "sufficient account is not taken of the diverse circumstances of the different parts of the country". Facts which are true of particular tracts cannot be applied to all parts of the country[1]. This has been responsible for giving rise to earnest discussions about the property in the soil, "conducted not without a degree of asperity by persons holding different, and sometimes contrary, opinions, each of whom produced probable arguments in support of the correctness of his particular views". If this is recognised, as it has not been done in the Report, it will be found that the conflicting views on the relative position and rights of zamindars and raiyats can be reduced to a minimum.

6. **Peculiarities of Bengal.**—Bengal, it should be remembered, developed on her own peculiar lines. Observations applicable to other parts of India cannot be applicable to Bengal proper. "Our mistake arises from customs or beliefs of particular parts being falsely predicated of the whole, and from isolated facts being magnified into general conclusions." In what was called Bengal proper in the early period, the village tenure was of comparatively little importance; it had become overshadowed by the tenure of great landlords[2]. In the references in the Sena records (the Sena dynasty rising in power in Bengal in the early part of the twelfth century), there is a remarkable testimony to the wholesale substitution of cash assessments for the payments in kind prevailing in other parts of Northern India[3]. It should also be remembered that the Muhammadan conquest of lower Bengal was never perfectly accomplished and many of its princes were tributaries rather than subjects. These distinctive features of Bengal which followed her in the growth of land tenure can hardly be ignored, and the contentions applicable

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[1]Elphinstone's History of India, page 73. To quote Sir Henry Maine, "no general assertions are likely to be true without large qualifications of a country so vast as India."

[2]Baden Powell's Land Systems of British India, Volume I, page 177.

[3]Dr. U. N. Ghoshal's the Agrarian System in Ancient India, page 72.

to other parts of India should not be given undue importance in the evaluation of the land system of the Province.

7. **Germs of Landlordism in Bengal.**—The private property right in soil in ancient Bengal naturally culminated in zamindari right, and the references to the "gramapati" (the village headman) and the "kshetrapati" (the lord of the fields) and to "dasagramika" (the officer in charge of 10 villages) which were found in the Pala records[1] contained also the germs of landlordism in Bengal. The growth of zamindars in the Bengal soil was so natural and quick that Shore had to admit in his Minutes (2nd April 1788, and 18th June 1789) that in Akbar's time the zamindars of Bengal were numerous, rich and powerful, and that they were not of his creation and probably existed with some possible variation in their rights and privileges before the Muhammadan conquest in Hindusthan. But unfortunately the Report has tried to give a different connotation of zamindari right, and accordingly its growth and importance did not receive adequate recognition.

8. **Concept of zamindari right.**—In explaining the concept of zamindari right, the Report states—

> "It became a recognised tribute of the ruling power that as a matter of custom it had the combined right to the share of the produce, the right to the waste and the right to transit duties. This aggregate of rights from very early Muhammadan time was spoken of as the zamindari." (Paragraph 20.)

The King's right to the share of the produce, the right to the waste and the right to transit duties were connected with his sovereign authority and not with his proprietary right, and "whoever possessed a tract of land for which he paid revenue was, literally speaking, a zamindar[2]." By

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[1]During the period from the end of the eighth to that of the eleventh century, Bengal was ruled for the most part by Kings of the famous Pala dynasty, while towards its close minor dynasties such as the Chandras and the Varmans shared the possession of the country with the Palas.

[2]The literal meaning of "zamindar" is possessor or proprietor of land but by its general accepted meaning it implies a proprietor of land who pays rent to the Emperor or any other ruler and is equally applicable to every landholder, whether possessing a greater or a less number of villages, or only a portion of a village. This word is of Persian origin and it is most probable that the Persians, when they originally invaded Hindusthan and assumed the reins of Empire, introduced the term zamindar and applied it to the deposed Rajas from whom they exacted revenue. (*Vide* answers to questions 1 and 56 by Gholam Hosein Khan, an esteemed historian, whose evidence was greatly relied on by Shore in his Minute of 2nd April 1788.) A zamindar is a person possessing hereditarily on the condition of obedience to the ordinances of Government a tract of land under the denomination of a pergunnah or chucklah, subject to the payment of revenue; and a zamindari is that land registered in the records of Government in the name of such person. (*Vide* answers of the Roy royan, Appendix XVII to Shore's Minute of 2nd April 1788.)

"zamindar" and "zamindari", the "old state right of zamindari", as contended in the Report, had never been meant. Zamindar means a possessor or proprietor of land, and the proprietorship of land may be obtained by purchase, gift or by inheritance. In the circumstances, it cannot be maintained that "the old state right of zamindari had been magnified into a general superior ownership of the entire domain". (Paragraph 20.)

9. **Zamindars prevailed in Bengal.**—In this background of historical facts, the Hindu and Muhammadan systems of land tenure should be studied, and it shall have to be understood to what extent they are applicable to Bengal proper. The Report admits and agrees with the Indian Taxation Enquiry Committee (1924-25) that in India the Hindu Kings or Muhammadan Emperors did not claim greater interest in land than a certain portion of the produce[1], and as such the growth of zamindari right in Bengal cannot be held by them as a usurpation; it acquired stability by prescription, as Shore pointed out. This peculiarity of Bengal was emphasised by Phillips who maintained that "zamindars prevailed chiefly in Bengal[2]."

10. **Revenue and rent.**—It is true that there was no essential difference between "land revenue" and "rent" (Paragraph 14) in Hindu and Muhammadan times. But since the Permanent Settlement of 1793, the connotations of "revenue" and "rent" became distinct. Revenue became the share which the State as suzerain power received into its own exchequer from the proprietor-zamindars. The share which the State as landlord received into its own exchequer from tenants is not revenue but rent. Under the Bengal Tenancy Act, Government is a landlord with respect to the khas mahals and the amount payable to the State by a khas mahal tenant is rent[3]. This being so, the contention made in the Report that "technically, revenue is the share which the State receives into its own exchequer, whether from the tenant's holding directly under the Government, or in lump sum from the

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[1]The proprietary right of the Sovereign derives no warrant from the ancient laws or institutions of Hindus and is not recognised by modern Hindu lawyers as exclusive or incompatible with individual ownership. Professor H. H. Wilson after careful consideration supports this point of view and it is mentioned with approval in the Bombay High Court judgment in a case from Kanara in 1875. This is referred to by the Indian Taxation Enquiry Committee.

[2]"Land Tenures of Lower Bengal" (Tagore Law Lectures, 1874-75) pages 108-9. Justice Field points out that the Bengal zamindars were different from the village zamindars of the village community (Landholding, page 512). They were of a superior kind.

[3]Justice Sarada Charan Mitter's "Land Law of Bengal, Behar and Orissa" (page 190).

zamindars or landlords to whom has been conceded the right to collect it from the actual cultivators" (Paragraph 14) is not tenable in respect of conditions obtaining in Bengal.

11. **"Ownership" of cultivators.**—The ownership of the occupier which has been emphasised in the Report must be understood with reference to its contents.

The Report states—

> "In Bengal proper the land belonged without dispute to the original cultivators." (Paragraph 19.)

In the early Hindu period the emphasis was laid on reclamation. The first tiller became the owner in the sense that he had the necessary right for the purpose of cultivation. Manu who laid down the theory of "ownership" for the tiller of land also referred to the obligations of the cultivator. "The right was not to the soil but to the usufruct[1]." The cultivators could hold on and occupy lands for the purpose of cultivation as will be clear from the directions of Narada, Vyasa, Yajnavalkya and other Indian sages.

The extent of the "proprietary right" of the cultivator, as recognised by the Hindu Law and custom, did not go beyond "the ordinary use of land except for the purpose of cultivation[2]." Accordingly, the analogy of "bone right", residing in the raiyat, does not contemplate investing him with "claiming interests in land as to anything beyond the right to cultivate and to occupy for that purpose".

12. **Muhammadan conquest of Bengal.**—The Muhammadan conquest of India was a political one, and so far as the land revenue system was concerned it was "interfered with as little as possible" (Paragraph 21). During Muhammadan times an Indian peasant might find himself under a master of one of five different classes: a farmer of the revenue, a salaried official, a jagirdar in temporary possession, a private person or corporation with a longer and possibly a permanent tenure or finally, a zamindar. Bengal was peculiarly situate; she was imperfectly conquered. There were twelve traditional Bhuyans who held great sway. There were also half-subdued chiefs,

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[1] *Vide* Justice Sarada Charan Mitter's "The Land Law of Bengal", page 5. The authorities of other Indian sages are discussed by the author.

[2] "When we find that the occupant was bound by custom as well as by law to cultivate, and to cultivate in the customary manner, we are forced to conclude that the only purpose for which the soil could have been considered of value was for the purpose of cultivation .....Beyond the produce no value in the land, and consequently no rights in the land appear to have been contemplated in Hindu Times." (Phillips' Land Tenures of Lower Bengal, pages 222-23.)

sometimes of ancient standing, "who had not been brought under the administrative system of Moghul Government in Bengal, such as the Rajas of Tippera, Cooch Behar and Assam. There were others too powerful to be controlled and who had been exempted from full subjection like the frontier Rajas of Birbhum and Bishnupur, or who won for themselves a partial and intermittent exemption by armed resistance, like the Raja of Burdwan in the heart of the Province, and many smaller zamindars in its outlying and frontier districts[1]."

13. **The zamindari system undisturbed.**—By Akbar's time, Bengal was a land of zamindars who were "ancient, rich and powerful". Todar Mall did not introduce the system in Bengal usually associated with his name. The outlying provinces, Bengal, Berar, Khandesh and Sind, were left under the system prevailing at the time of their conquest[2]. It is to be noted that "the part of Bengal which passed under the Company's administration by the Diwani grant of 1765 had never been subject to the revenue system of the Moghul Empire". "Great Hindu landholders held estates which were, in fact, principalities, and their allegiance to a Moslem Ruler, like his to a Sultan of Delhi, depended on the ruler's personality[3]." The important Bengal zamindars had double title, by sanad and custom. By sanad they agreed to pay the revenue specified, and by custom they occupied "the position of hereditary territorial magnates". This "double title" explains, to quote Sir William Hunter, "the anomalies so puzzling to British legislators in the last century, and which lies at the root of much debate in the law courts of Bengal".

14. **The zamindari system preferred.**—Mr. Moreland points out that the zamindari system which was prevalent in Bengal during Muhammadan times was the best of all arrangements. "It appears to be probable that those peasants were best off

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[1]*Vide* Sir William Hunter's Bengal Records, Volume I, page 33.

[2]Moreland's "Akbar to Aurangzeb," page 247. "In the northern plains from Multan to Bihar, as well as in large parts of Rajputana, Malwa, and Gujrat, the revenue was assessed on the special system indentified with the names of Akbar and Todar Mal, and known technically as Zabit." Accordingly, the description of Todar Mal's system has no relevancy in appreciating the system prevailing in Bengal proper. Sir William Hunter points out that Bengal was "imperfectly conquered by the early Delhi power in 1203" and "its Governors threw off the northern yoke in 1340. During the next two hundred years Lower Bengal was ruled by a succession of twenty independent kings, who relied to some extent on the local rajas and zamindars to maintain them against external attack or reconquest. After its conquest by Akbar in 1576, it became an outlying province of the Moghul Empire, into which even the great Sovereign did not find it possible to carry out his detailed revenue settlement. Every territorial magnate became as independent as he could and every important zamindar tried to set up a territorial magnate." (Bengal Records, page 34.)

[3]*Vide* Cambridge Shorter History of India.

who held land from a zamindar of an old-established family. It must not be inferred that the life of such peasants was idyllic, but such evidence as that of Bernier[1] indicates that the average of oppression was lower under zamindars than under either officials or assignees."

15. **Peasants during the Moghul period.**—It is very difficult to concur with the statement that "the position of the cultivators during the Moghul time was substantially the same as in the Hindu period". (Paragraph 26.) It is evident that the statement was made in respect of Indian peasants. The change in the ordinary peasant's position may be stated in the following terms[2] :—

(1) His liability has risen from one-sixth to one-third and from one-third to one-half of his gross produce.

(2) He might be required to pay at this rate for more land than he could cultivate effectively, so that he would actually pay more than half his produce.

(3) He might have to contribute to the revenue of the more influential men, who distributed the burden on the village among the individual peasants.

(4) The probability of additional levies was substantially increased by the administrative changes.

16. **Nankar for dispossessed zamindars.**—It may be pointed out that Murshid Kuli Khan's "removal of zamindars" for increased revenue did not interfere with the proprietary right of zamindars because (1) there was no attempt to annul the zamindar's right of inheritance, (2) the dispossessed zamindars were given nankar which served as a token of their proprietary right. Moreover, Murshid Kuli Khan considered zamindars to have a property in the soil, and with a view to provide for his grandson Serfraz Khan, purchased the zamindari of the town of Murshidabad and Kismut Chunacolly from Mahomed

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[1]"Thus it happens that many of the peasantry, driven to despair by so execrable a tyranny, abandon the country, and seek a more tolerable mode of existence, either in the towns or camps. Sometimes they fly to the territories of a Raja, because there they find less oppression, and are allowed a greater degree of comfort."—Bernier's Letter to Colbert which was based on his experiences about the year 1656. Thus the tyranny of peasants prevalent in other parts of India was not, on the whole, applicable to Bengal.

[2]Moreland observes that in order to realise the deterioration in the position of the ordinary peasant, it is necessary to bear in mind that the revenue, though it was assessed on the gross produce, had in fact to be paid out of the net income. Under Akbar's Regulations, the distribution of the gross produce of the soil was nearly one-half for necessary expenses, one-third for the State, and a margin of one-sixth or a little more for the peasants' comforts and luxuries or for unfavourable seasons, under Shahjahan, nearly one-half was for necessaries, one-half, or more, for the State and intermediate claimants and practically nothing was left at the disposal of the peasant. *Vide* Moreland's "India at the Death of Akbar" and "From Akbar to Aurangzeb."

Aman, the talukdar, with the produce of his jagir and named it Assudnugar and had it enrolled in the royal registers and those of the kanungoes[1]. Therefore, the contention made in the Report that the attempts of Murshid Kuli Khan had anything to ignore the proprietary rights of zamindars is not true, nor is it true to say with reference to the quinquennial settlement of 1772 that "for the second time, the claims of the zamindars were completely ignored". (Paragraph 31.) It should be noted that under the quinquennial settlement of Warren Hastings, the older zamindars were not replaced by other farmers except in cases where they refused to contract for the sums demanded, and that the zamindars who refused to accept the high terms offered were given a subsistence allowance[2].

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[1]*Vide* Shore's Minute, 2nd April 1788, and the Appendix Nos. 8 and 14. Sir William Hunter in full agreement with Shore's point of view states that "a zamindari estate was *de facto* so important a possession that even Murshid Kuli Khan, the despotic Viceroy of Bengal from 1704 to 1726 deemed it wise to acquire one as a provision for his family."

[2]This has been accepted by all distinguished authorities such as Baden-Powell, Sir William Hunter, Indian Taxation Enquiry Committee and others. The impression which is shared in the Report that settlements were made by auction to the highest bidders without reference to the zamindars and in supersession of their rights has hardly any historical basis. The allowance cannot but be a token of the recognition of the proprietary right of zamindars.

CHAPTER II.

The Permanent Settlement.

17. **Settlement with actual proprietors.**—The Report states in paragraph 34 that there were four classes of revenue-payers before the Permanent Settlement, viz., (1) original independent chiefs, (2) old established landholding families, (3) collectors of revenue whose office had become hereditary, and (4) farmers of revenue (who came into existence after 1765). The effect of the Permanent Settlement was to level all classes. In this recital, there is an erroneous impression that the Permanent Settlement was made with persons, all of whom were not actual proprietors of the soil. But the fact was that the persons having the best proprietary right were settled with. To quote Sir George Campbell[1], "the settlement was by no means made with the great zamindars exclusively; when holders of smaller degree were thought to have stronger claims, it was made with them. There were many such small holders; and in one or two of the eastern districts of Bengal the mere cultivators were found to have the best claim, and the settlement is, for the most part, to all intents and purposes, raiyatwar". This should be recognised that settlements were made with the proprietors of land; persons having the best proprietary claim had not been set aside under any plea whatsoever.

18. **Relevant sections of Regulation VIII of 1793.**—The original rules and orders relative to the decennial settlements of Bihar, Orissa and Bengal, passed for these provinces respectively on the 18th September 1789, 25th November 1789, and 10th February 1790 were considerably modified and enlarged by the Governor-General in Council on the 23rd November 1791, and the amended Code of Regulations after certain modifications found place in Regulation VIII of 1793. Section 29 of the Regulation reads thus:

> "If, after due inquiries and reference to the Mufassal Records the proprietors of any land cannot be ascertained, the lands are to be held khas *pro-tempore*, and the same mode is to be adopted with regard to absentees. In both cases an advertisement is to be issued, requiring the proprietors, or absentees to attend within a period of six months; and if they

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[1]*Vide* the Cobden Club Paper, page 236.

> should not be forthcoming at the expiration of that period, a settlement is to be made with a farmer for ten years, allowing a preference to the zamindar nearest in situation on his agreeing to the jumma and terms that may be prescribed by the Collectors."

This section will amply show that there was no case of levelling "all classes of revenue payers", but the governing idea was to settle with the actual proprietors of land. Persons having the best right were preferred. Section 30 states that where the property of the lands is disputed, the settlement is to be made with the proprietor in possession under an express declaration that he is nevertheless liable to the claims upon the estate which is transferable to any other to whom the property may be subsequently adjudged. Section 44 provides that if the landholders having the best claim decline to engage for the jumma preferred, they are to receive malikana, an allowance in consideration of their proprietary rights[1]. All this clearly proves that the Company found an agency in zamindars because they were "the actual proprietors of land".

19. **Proprietorship, Limited versus Absolute.**—In the Report there is an undue emphasis on the point that the zamindars in Bengal had never absolute right of property in the soil (Paragraph 33). Their impatience in proving this central point was so pronounced that they placed Shore as advocating limited but not absolute proprietary rights of the zamindars (Paragraph 33). Shore, however, did not lay importance on the differentiation of limited right from absolute right; rather he suggested that "this interference", the need of which was felt both by him and Lord Cornwallis, was inconsistent with proprietary right and an encroachment upon it. • Thus, Shore sincerely believed that under the Permanent Settlement arrangements, "absolute proprietary right" was being granted to the zamindars.

20. **"Ownership" of land explained.**—The Report states: "the zamindars in Bengal never had an absolute right of

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[1]Section 44 of Regulation VIII of 1793 reads as follows:—

> "Proprietors who may finally decline engaging for the jumma proposed to them, and whose lands may consequently be let in farm, or held khas, are to receive malikana (an allowance in consideration of their proprietary rights) at the rate of ten per cent. on the Suddar jamma of their lands, if let in farm, or at the same rate on the neat collections from their lands, if held khas, viz., on the neat amount realised by Government after defraying the malikana, as well as all other charges. Out of this allowance, however, a provision is to be made for such persons belonging to the families of the proprietors as may be entitled thereto."

property in the soil; nor was it intended to give them such rights by the Permanent Settlement. Their rights have always been limited by the rights of raiyats". (Paragraph 42.)

It is a well known principle of jurisprudence that no one ever did or can own land in any country in the sense of absolute ownership—such ownership as a man may have in movable property. To appreciate the subject of property in land, one has to get rid of the idea of absolute ownership. "Such an idea is quite unknown to the English Law. No man is, in law, the absolute owner of lands. He can only hold an estate in them[1]." This fact should be accepted that no man could be the absolute owner of land and that no man was so in England[2]. It is no derogation from the proprietary right of landlord, if he enjoys it subject to the rights of raiyats. The word "estate" in legal phraseology means "the interest in reality owned by an individual, the aggregate of the rights over land vested in a particular person". The extent of this interest may vary considerably, e.g., an estate for life, an estate-tail, an estate in fee simple, none of which phrases carries the idea of owning the land itself[3]. In this view of the case, the observation in the Report that "in Bengal the rights of the zamindars have always been limited by the rights of the raiyats" does not establish the point, which has been hinted at, that the zamindars were not "proprietors of the soil"; moreover, this is an admission accepted in the Report that the zamindars were the dominant, and raiyats subordinate, partners in land.

21. **Rule of construction.**—In interpreting the Permanent Settlement Regulations the rule of construction is that "whatever the raiyat has, the zamindar has all the rest which is necessary to complete ownership of the land[4]." When the rights of raiyats are ascertained from a study of the Regulations of 1793, there must remain to the zamindar all rights and privileges of ownership which are not inconsistent with or

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[1]William on the Law of Real Property, quoted by Field in "Landholding," page 509.

[2]An English landowner does also enjoy the right of proprietorship, limited by the rights of raiyats. Although in England rights of tenants are generally based on contract and not on customs recognised by law, the Agricultural Holdings Act teems with provisions in respect of compensation for improvements, compensation for damage by game, compensation for disturbance and other matters. Penal rents are abolished and the tenant has full freedom of cropping and full right to dispose of any produce of the holding. Raiyats at the time of the Permanent Settlement in 1793 enjoyed hardly greater rights than the tenants in England.

[3]Field's Landholding, pages 509-10.

[4]Judgment of Mr. Justice Phear in Narendra Narayan Roy Chowdhury *versus* Ishan Chandra Sen, 13, B. L. R., 274, at page 288. Quoted by Phillips in "Land Tenures," pages 362-63.

obstructive of them. This point of view has been accepted in the Great Rent Case (1865) and other important judicial decisions[1].

22. **The ten per cent. for landlords.**—The Report makes the following interesting observations:—

> "It fixed the revenue at ten-elevenths of the assets which left to the zamindars one-tenth of the revenue which they paid." (Paragraph 44.)
>
> "The property that it gave to the zamindars consisted of one-tenth of the State's share." (Paragraph 44.)

The specific provisions of Regulation VIII of 1793 clearly stated that the governing idea of assessment was not to leave ten per cent. for landlords; the assessment was rather in excess of the prevailing raiyati rental.

(*a*) *The Bengal Special Orders.*—It is well-known that "in fixing the amount of assessment, the jumma of the preceding years was the standard" (*vide* section LXVIII of Regulation VIII of 1793). It was not determined if the zamindars had one-tenth or not. "No abatement from the jumma of the preceding year is to be allowed without the special sanction of the Governor-General in Council" (Section LXX). Section LXXII states: "The settlement is to be made, as far as possible in one neat sum, free from any charges of moshaira, zamindaree amlah, poolbundy, cutchery charges, or others of a similar nature; it being intended that all charges incidental to the receipt of the rents of the lands, and independent of the allowances of the officers of Government, and expenses attending the collection of the public revenue, shall be defrayed by the proprietors from the produce of their lands." Section LXXV states that "in all such instances (where the actual produce of lands may have been ascertained) and in all separated taluks (which have not heretofore paid any jumma immediately to Government) the jumma of which shall clearly appear to have been fixed below the general rate of assessment of the pargana wherein they are situated, the assessment is to be regulated so as to leave to the proprietors a provision for themselves and families equal to about ten per cent. on the amount of their contributions to Government". These were the statutory directions for Bengal.

(*b*) *The Bihar Orders.*—With respect to Bihar the position was this: settlement is to be concluded with actual proprietors

[1]The Lord Chancellor stated in Freeman *versus* Fairlie (1828): "Considering with the best attention in my power these papers, they confirm most strongly the opinion I should have derived from the Permanent Regulations, namely, that the proprietor of the soil had a permanent interest in it at the time when the English established themselves in that settlement." (Moore's Indian Appeal Cases, Volume I.)

of all lands heretofore paying revenue immediately to Government which may have been held at a fixed jumma during the last twelve years at the jumma hitherto paid by them, subject to such deduction as may be found equitable on account of sayer, resumed or abolished (Section LXXXIV). With regard to other lands, the Collectors are to adopt in all practicable instances the following general rule; that the average product of the land in common years (assuming three or four for the calculation) be taken as the basis of the settlement, and from this, deductions be made equal to the malikana and khurcha, leaving the remainder as the jumma of Government (Section LXXXIII). No abatement from the Suddar jumma of 1196 (Bengali year) is to be confirmed without the special sanction of the Governor-General in Council.

(*c*) *The Midnapore Orders.*—With regard to Midnapore it is said that "the Collector is authorised to make alteration in the jumma of 1196, when from good information and his own experience, it may appear necessary to render the jumma of the respective zamindars, independent talukdars, and other actual proprietors of land, more equal and proportioned to the resources of their lands" (*vide* section LXXXVIII). In order to ascertain the necessity of granting remissions upon the jumma of 1196, the Collector is to examine the gross receipts and expenditures. To obviate unnecessary and studied delays by the zamindars and talukdars in giving the accounts required, he can impose fines. In case of uncertainty, he can measure lands, make mufassal investigations into the produce of them. All these salutary provisions which were applicable to Midnapore did not refer to Bengal and Bihar.

(*d*) *The standard assessment enhanced.*—We have recited the above provisions of Regulation VIII of 1793 (which stand repealed by the Repealing Act, 1874) to disprove the popular contention, supported in the Report, that the Permanent Settlement left one-tenth for the zamindars. Even the rule that the basis of the settlement at the time of the Permanent Settlement was that of the previous year was not strictly followed and the situation was made more unfavourable to zamindars, as pointed out by J. Westland in his report on the District of Jessore, 1874[1].

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[1]Westland observes: "Isafpur was settled at Rs. 3,02,372, about Rs. 5,000 more than the demand of the previous year (taking sayer deductions into account). The Saydpur estate was made to pay Rs. 90,583 or Rs. 2,000 more than the previous year. Muhammad Sahi, four-fifths share, an estate which had been almost ruined, had its revenue increased from Rs. 1,34,665 to Rs. 1,37,697 and further increase of Rs. 12,634 in five yearly additions was to accrue to this demand.....The zamindars in accepting the settlement set seal to their own ruin."

(*e*) *Cossim Ali's assessment.*—The claim made in the Report with regard to "one-tenth of the State's share" for the zamindars can also be refuted by an examination of the highly excessive assessment of the settlement of 1793. According to Grant, the assessment of Bengal at the close of Cossim Ali's administration (that is, in 1763) was Rs. 256 lakhs (for Dewanny and ceded lands of Bengal), the highest assessment ever claimed during the Moghul period. Shore[1] described the assessment as "pillage and rack-rent" as Cossim Ali "attempted to realise for the State nearly all that the raiyats paid" and "endeavoured in some instances to deprive the raiyats of what was allotted for their subsistence and emolument". Shore further maintained that "this amount was ever realised by Cossim Ali or by any Nazim, no proof has yet been exhibited; nor would the collection of it for one or two years establish the practicability of fixing this sum as a permanent realisable revenue".

(*f*) *Assessment and collections.*—If we examine the assessment and collections of the Dewanny lands of Bengal for four successive years (from 1762 to 1766), we can have an idea of the capacity of the country:—

Settlement.	Gross Settlement.	Collection.	Balance.
	Rs.	Rs.	Rs.
1762-63 (Cossim Ali) ..	2,41,18,912	64,56,198[2]	1,76,62,713
1763-64 (Nund Coomar) ..	1,77,04,766	76,18,407	1,00,86,358
1764-65 (Nund Coomar) ..	1,76,97,678	81,75,533	95,22,144
1765-66 (Mohd. Reza Khan)	1,60,29,011	1,47,04,878	13,24,135

The above figures have been drawn by Shore from the records of the Khalsa and Kanungoes and they confirm that Cossim Ali's assessment was a paper assessment only and the highest collection recorded was Rs. 147 lakhs. Shore after making detailed studies into the figures of assessment observed that "the revenues of the Dewanny lands of Bengal, forthcoming to the State (in 1786-87) were actually more than in 1765-66[3]."

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[1]*Vide* Shore's Minute of 18th June 1789. Shore observed: "So far from admitting his assessment as any evidence of the capacity of the country, I consider it as a proof of violence and extortion, which rendered subsequent decay inevitable."

[2]This collection refers to the first nine and a half months, and the full year's receipts (on the basis of the receipts of Dinajpur which were complete) may amount to Rs. 1,31,21,903. Shore describes the conjecture as unimportant.

[3]Mr. Shore says that the gross settlement of Dewanny lands in 1765-66 was Rs. 1,60,78,268 whereas the gross settlement in 1786-87 was Rs. 1,49,54,808. The assessment of 1765-66 comprehended all that was publicly demanded from the Dewanny lands under every denomination. That is, it included the rents of salt lands and duties of all kinds. But the gross assessment of 1786-87 was independent of customs and salt duties. Accordingly, the assessment of 1786-87 was in reality higher than that imposed in 1765-66.

(*g*) *Shore's calculations.*—According to Shore, the assessment of Bengal, Bihar and Orissa in 1786-87 was the following:—

	Rs.
Dewanny lands	1,49,54,808
Ceded lands (including Midnapur)	67,71,782
Tana Behar (acquired since Dewanny, that is in 1773-74) ..	73,071
Subah Behar	49,87,194
	2,67,86,855

(*h*) *Grant's calculations.*—According to Grant, the gross rent, mehal and sayer, actually realised to the Company in 1784 was this:—

Bengal—	Rs.
Dewanny lands	1,37,20,683
Ceded lands	62,86,955
Bihar	53,33,492
Orissa—	
Midnapur	8,73,355
	2,62,14,485

According to Shore, the customs duty in 1786-87 was Rs. 13 lakhs. Hence, land revenue for Bengal, Bihar and Orissa, as actually realised in 1784, was Rs. 249 lakhs.

(*i*) *Increase of assessment per every settlement.*—Thus the effective increase of assessment per every settlement from 1765-66 to 1786-87 went on in spite of the following deterrent conditions:—

(1) In the famine of 1770, caused by the general failure of the December harvest in 1769 and intensified by a partial failure of the crops of the previous year and the following spring, "thirty-five per cent. of the whole population and fifty per cent. of cultivators perished" and "a whole generation of once rich families had been reduced to indigence". "In a country whose inhabitants live entirely by agriculture, depopulation is always followed by a proportionate area of the land falling out of tillage. Bengal had lost one-third of its people and one-third of its surface speedily became waste" and "for the first fifteen years after the famine, depopulation steadily increased", and "until 1785 the old generation died off without there being any rising generation to step into their places[1]."

[1]Hunter's "The Annals of Rural Bengal," Chapter II.

Shore records another famine in 1784, though in a much less degree, and inundations in Eastern Provinces in 1787 and partial scarcity in 1786.

(2) "Since the Company's acquisition of the country, the current specie of the country has been greatly diminished in quantity; the old channels of importation, by which the drains were formerly replenished, are now in a great measure closed; the necessity of supplying China, Madras, and Bombay with money, as well as the exportation of it by Europeans to England will contribute still further to exhaust the country of its silver[1]." The total amount of drain to England during the period from 1757 to 1780 appears to have been something like 38 million pounds sterling[2]. The total amount of "investment" during 1766 to 1780 was 12,360,264[3].

(3) The monopolistic trading policy of the Company in compelling raiyats to sell their products at an arbitrarily low price and to buy their goods at an enhanced price and the decline of the weaving and salt industries providing a supplementary income impaired the raiyat's power of producing wealth. The extortionate revenue demand and the policy of farming to the highest bidders struck the landlords low.

(*j*) *Computation of the raiyati assets.*—Grant maintained that annual net malguzary in 1763 (during the period of Cossim Ali's administration) was the following :—

	Rs. (Lakhs).
Bengal—Dewanny lands and ceded lands ..	256
Bihar	65
Orissa—Midnapur	11
Total ..	332

[1]*Vide* Shore's Minute of June, 1789. "The great quantity of specie which has of late been exported from this country and the large investments annually sent home to England for which no returns are made, have also had a considerable influence in producing a decay of the revenue." Letter of M. Dacres, dated 10th February 1775, quoted by Professor R. Ramsbotham in his "Studies in the Land Revenue History of Bengal, 1769-1787", page 68.

[2]Dr. J. C. Sinha's "Economic Annals of Bengal", pages 51-52.

[3]A certain portion of the territorial revenue of Bengal was set apart every year to be employed in the purchase of goods for exportation to England. This was called investment. The figures of the annual investment of Bengal, year by year, from 1760 to 1780 are given by Dr. P. N. Banerjee in his "Finance in the days of the Company" from the Ninth Report of the Select Committee, 1783.

Grant never errs on the side of under-estimation. In a single famine of 1770, one-third of land went out of cultivation; since the famine, depopulation increased, accelerated by further famines, extortionate demands from raiyats and the unfair trading policy of the Company. If we take the assessment of 1763 as the standard which was rejected by Shore on good grounds, we may calculate that the assessment ought to have gone down by at least half or by one-third at the modest computation. That is, land revenue demand before the Decennial Settlement would have stood at Rs. 166 lakhs in the case of one-half of land going out of cultivation or at Rs. 220 lakhs in the case of one-third. But in 1786, the gross land revenue of Rs. 250 lakhs, according to Grant, was realised. All this shows that the coercive rate of Moghul assessment was maintained in full and augmented by the Company, although the resources declined through the effects of famines, scarcity and calamities and the diminution of the specie and other reasons recited above.

In the face of these statistical information collected from contemporary records by contemporary authorities, it is extremely difficult to maintain that the revenue demand of Rs. 268 lakhs of sicca rupees left to zamindars "one-tenth of the State's share[1]".

23. **Advance Assessment.**—Accordingly, Shore maintained that "in tracing the progress of the asesssment since the acquisition of the Dewanny, we find that its amount has generally been fixed by conjectural estimates only; and hence it has happened that the impositions at one time have been too heavy to be discharged". In the circumstances, it can be maintained that the Permanent Settlement revenue demand was unconscionably high as the rate of assessment adopted during Cossim Ali's administration which left nothing to zamindars and raiyats, was maintained and augmented by the Company's policy of farming and that the demand of 1793 was "an advance assessment" to the tune of nearly a crore or half a crore at least, and in reality it was more excessive if we take into account high rate of assessment and the low purchasing power of landlords and raiyats.

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[1]We have not taken into consideration alienated lands and the profits therefrom which, according to Shore, were "as little as the Government ought to leave them". Moreover, the profits of alienated lands were not wholly enjoyed by the zamindars. Shore observed: "I do not consider the nankar or chakran to be a fund of which Government can with propriety avail itself for increasing the revenue, as I believe the actual charge of collections to be fully equal to the produce of lands applicable to defray them, as far as these are ascertained" (Minute of June, 1789).

(*a*) The raiyati assets of the country did not even guarantee the revenue demand of 1793, far less did it ensure one-tenth to the zamindars. But the demand was made and realised with the utmost severity of the new "sunset law" and the justification was made on the ground that the assessment was not subject to "augmentation in consequence of the improvements of their (landlords') estates", that landlords "will enjoy exclusively the fruits of their own good management and industry" (*vide* Article VI of Regulation I of 1793) and that "no power will then exist in the country by which the rights vested in the landholders by the Regulations can be infringed or the value of landed property affected" (*vide* preamble to Regulation II of 1793).

(*b*) The demand of 1793 which was proportioned according to the Company's needs and not to the estimated resources of the country could not be justified and realised without detriment to the ultimate interests of the country under any other settlement. The Permanent Settlement was thus inevitable, as it was only under that settlement, the landlord will "employ every means in his power to render him capable of paying that sum, and as large a surplus as possible for his own use. His ability to raise money to make these exertions will be proportionately increased by the additional value which the limitation of the public demand will stamp upon his landed property; the reverse of this is to be expected, when the public assessment is subject to unlimited increase". This long and sound view was taken by Lord Cornwallis in his Minute, 3rd February, 1790[1].

24. **No case for temporary settlement.**—The temporary settlement of 30 or 40 years was rejected both by Shore and Cornwallis as that could not and would not give the desired incentive to promoting agriculture which was in distress. But the Report records the following opinion in disregard of the historical forces prevalent at the time of Permanent Settlement :—

> "It can be seen now that if the Government at that time had taken sufficiently long view, a temporary settlement not for 10 years, but for a longer period of 30

[1]Lord Cornwallis in this Minute argues the case for fixed assessment and supports it on financial and political grounds. In conclusion, he says: "A very material alteration in the principles of our system of management has therefore become indispensably necessary in order to restore this country to a state of prosperity, and to enable it to continue to be a solid support to the British interests and power, in this part of the world. We can only accomplish this desirable object by devising measures to rouse and increase the industry of the inhabitants; and it would be in vain to hope that any means but those of holding forth prospects of private advantage to themselves could possibly succeed to animate them to exertion." Shore wanted perpetual assessment "with more accurate information."

or 40 years would have been adopted." (Paragraph 47.)

Referring to the financiers and critics of the above kind, Justice Sarada Charan Mitter observed: "They forget that the East India Company would have been reduced to bankruptcy, if they had not adopted the principle of the Permanent Settlement; they forget that the vested rights of a large number of zamindars required Permanent Settlement, and that, taking all things into consideration, the State has not suffered[1]."

25. **Shore's plan of settlement.**—The Report states—

"The only practical alternatives were to collect the revenue either through the zamindars, who had hereditary connection with particular areas and who had carried out that duty for previous Governments or to appoint an entirely new set of professional tax collectors. The latter system had been tried between 1770 and 1775 and had failed disastrously.....Shore recommended temporary settlement for 10 years. (Paragraphs 45 and 47.)

We are glad to notice that the inexorable need for settlement with the zamindars is not disputed or under-estimated. But it is not true to say that Shore favoured a temporary settlement for 10 years so that in each renewal revenue might go on increasing. That is interpreting Shore's standpoint in a very unsympathetic way. Shore was not against the Permanent Settlement of revenue as he maintained in his Minute of 8th December 1789, that "our measures have a view to permanency", but before recommending it he desired the rights and payments of raiyats to be defined and adjusted, because in his opinion it would be inexpedient to go in for perpetual assessment without a "real knowledge of the resources of the country". He suggested that there were not sufficient materials for this definition and adjustment, and naturally he wanted the Decennial Settlement to run out, so that the information obtained and experience gained might be helpful to fix assessment in perpetuity and define the payment of raiyats. Shore, therefore, submitted: "Is it not better to introduce a new principle by degrees than establish it beyond the power of revocation?" Lord Cornwallis was not impressed

[1]Justice Mitter's Land Law of Bengal, page 105.

with Shore's arguments in the matter of obtaining further information. Shore in his propositions for the Bengal Settlement enunciated certain principles upon which the pattas should be granted to raiyats. Lord Cornwallis accepted Shore's plan in this matter but differed from him in the view that a ten years' lease would "equal in estimate to perpetuity".

The whole of the papers including the Minutes of Shore and Lord Cornwallis were submitted to the Directors who observed that "the difference of opinion between these two statesmen did not relate so much to general principles as to the local application of them". The Court of Directors fully agreed with Lord Cornwallis in the matter of fixing assessments on landlords in perpetuity and considered long leases which would continue "the evils of the former practice" impolitic and inexpedient[1].

26. **The Protection Clause analysed.**—The Report by implication admits that different tenancy legislations have transferred rights to raiyats—the rights which, in fact, belonged to zamindars and did not reside in raiyats. In paragraph 43, the Report states that the Permanent Settlement took away from the raiyats part of their rights. Proceeding further they say that through series of tenancy legislations there are "no elements of proprietorship of landlords for which it would be worth their (occupancy raiyats) while to pay anything". (Paragraph 43.)

This is a clear admission that the tenancy legislations have gone beyond their limits. Clause VII of Regulation I of 1793, on the basis of which the need for interference by Government under cover of tenancy legislations in the relations between landlords and tenants is justified, cannot and does not contemplate the extinguishment of the definite rights granted to landlords by the Permanent Settlement Regulations. The Protection Clause has been made to yield meaning which it did not, in reality, carry. As in history, so in law, contemporary evidence is essential to comprehending the significance of a particular statement. If we analyse Lord Cornwallis' Minute of the 3rd February 1790 and the letter of Court of Directors, dated the 19th September 1792, wherein the right of interference by Government was emphasised, we

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[1]The Court of Directors in sanctioning the proposals of Lord Cornwallis were very definite on this question: "No conviction is stronger upon our minds than that instability in the mode of administering our revenues has had the most prejudicial effects upon the welfare of the provinces; upon our affairs; and the character of our Government; and of all the generated evils of unsettled principles of administration none has been more baneful than frequent variation in the assessment."

can get at the scope of the Protection Clause which was evidently inserted to establish regulations for preventing landlords from imposing "abwabs and the like abuses" on raiyats and to prevent raiyats from being "improperly disturbed in their possession or loaded with unwarrantable exactions". This specific nature of protection, contemplated by the Reservation Clause, has not received proper appreciation in the main Report.

The scope of the Protection Clause was appreciated by the second Select Committee set up by the House of Commons in 1830 who did not favour interference between zamindars and raiyats, as in their opinion "this would amount to a breach of faith with the zamindars". (Paragraph 55.) It was only through the efforts of certain revenue officers that disturbing tenancy legislations were mooted and passed in scorn of the plighted pledge to zamindars.

27. **Expectations of the Settlement.**—The Fifth Report, 1812, stated that the intentions and expectations of the Government in the matter of the Permanent Settlement had been fulfilled. The Report of the Commission seeks to contest the view by referring to the views expressed by Colebrooke, Lord Moira and others (Paragraph 53). The intentions of the Permanent Settlement were great and far-reaching, and these officers did not challenge that the political, financial and administrative objects of the Settlement had been defeated but merely pointed out certain defects which went to impair the rights of raiyats in certain cases.

In recording complaints against the Permanent Settlement on one or two specific points which arose chiefly from uncertainty of ancient usages, it should not be forgotten that its fundamental objects (viz., promotion of agricultural prosperity, consolidation of British Rule, and stabilisation of the Company's finances) had been achieved. "The ground for subsequent complaint is to be found not so much in those principles (of the Permanent Settlement) as in the failure to carry them out and in the ideas which afterwards arose from a misinterpretation of them[1]."

28. **Enhancement of rent.**—With regard to the rents of the khudkasht raiyats, the following admissions are made in the Report:—

(*a*) Enhancements of revenue during the Moghul Period had the effect of enhancing the pargana rates. (Paragraph 36.)

[1]Sir George Campbell's Cobden Club Paper.

(*b*) The pargana rates differed from pargana to pargana and from village to village, and different rates were payable for different crops. (Paragraph 36.)

(*c*) No provision was made in the Permanent Settlement Regulation to fix rents in perpetuity. (Paragraph 37.)

In the cricumstances, the landlord's right to enhance rents in the period anterior and posterior to the Permanent Settlement can hardly be denied. At that time (that is, in 1793), the rents represented approximately half the value of the gross produce. The Report states: "Nobody thought it possible that rents should be further enhanced" (Paragraph 38). At no stage in history following the Permanent Settlement have the rents of Bengal gone beyond half of the value of gross produce. If the raiyati rent in Bengal in 1793 represented half of the gross produce (a statement which is true according to the statements of Shore and others), the present raiyati rental represents one-fifteenth of the value of produce—a position which does not support the theory of "rack-renting" by landlords, as hinted at in the Report (Paragraph 39).

29. **So-called defects of the Settlement.**—The Report goes further and says:—

> "It has deprived the Government of any share in the increment in the value of land due to the increase in population and the extension of cultivation; and it has perpetuated an assessment which has no relation to the productive quality of land which varies widely in its incidence from district to district, and which becomes more and more uneven as time goes on." (Paragraph 80.)

These observations are traceable to an imperfect understanding of the scope and terms of the Permanent Settlement Regulations. In proportion as agriculture improves, Governmental receipts under other heads will increase. Lord Cornwallis impressed this point of view very strongly in his Minute of 3rd February 1790 and stated: "By reserving the collection of the internal duties on commerce, Government may at all times appropriate to itself a share of the accumulating wealth of its subjects without their being sensible of it. The burden will also be more equally distributed; at present the whole weight rests upon the landholders and cultivators of

the soil " This is undoubtedly a sound view in public finance which has not been appreciated in the Report. Dominated by an extremely narrow view, the Report states: "There has been little inducement (on the part of Government) to spend public money on agricultural development when the benefit of the improvement goes into private hands. (Paragraph 84.)

It is interesting to observe that the Report criticises the "perpetual assessment" on the ground that it is losing its relationship to the productive quality of land, which varies from district to district. But the Report appreciates the fact that no effective enhancement of rent payable by raiyats can be made by landlords, and this has led to fixity of rent. This fixity of rent has led to unequal and varying incidences having no relation to the productive quality of land, and all this has been done by the tenancy legislation which introduced the principle of the prevailing rate of rent. The prevailing rate, defined by section 31A of the Bengal Tenancy Act as the highest of such rates at which and at rates higher than which the larger portion of land of a similar description and with similar advantages are held within any village or villages, involves a departure from the principle of the pargana rate, accepted by the Permanent Settlement Regulations.

30. **Extension of cultivation by landlords.**—The Report has endorsed the popular contention that the extension of cultivation has been the work of actual cultivators; zamindars as a class did not do anything (Paragraph 82). This unsupported statement has been made in disregard of historical facts. The country at the time of the Permanent Settlement was for the most part wholly uncultivated; there were extensive jungles; but there were not sufficient tillers. The Province, to quote Sir William Hunter, cannot be repeopled by an Act of Parliament. Agriculture being an industry of slow turn-over, raiyats cannot carry on the work of cultivation without financial aid from others Raiyats had no reserve fund; they were passing through years of scarcity and famine, and in such circumstances they could not extend cultivation unaided. An examination of the evidence placed before the Select Committee, 1830, Third Report, clearly shows that cultivation had extended beyond measure. Government did not and could not do anything; professional mahajans did not invest money for agriculture. It was the zamindars who courted peasants to undertake cultivation, enticed away tenants by offering lower terms, often stipulated that there would be no rent for a certain number of years necessary in clearing jungles, and provided for their maintenance during the period of cultivation.

There was no other agency than landlords; landlords did all this not because they had surplus money but because their very existence depended on promotion of cultivation. These historical facts which are undisputed have not been recognised in the Report, and naturally the condemnation of the zamindari system easily flowed from them.

In the evidence before the Select Committee of the House of Commons, 1830, many of the close critics of the zamindar could not ignore the historical fact that cultivation extended in Bengal under the zamindari system. Mr. Mill, a great radical thinker of England, and a close critic of the zamindari system, admitted the following contentions in his evidence:—

> (*a*) There has been a considerable increase of capital and extension of cultivation in Bengal, (*b*) the situation of raiyats has improved.

Many of the zamindaries that were settled in 1793 contained a considerable portion of waste lands. The cultivation of those waste lands has caused diversity in the value of estates since the Settlement. There is enough historical evidence to show that a great portion of the increase of wealth and prosperity of Bengal in the nineteenth century was due to the zamindars.

31. **Subinfeudation among landlords.**—The Report in condemnation of subinfeudation resulting from the Permanent Settlement remarks:—

> "The land is nobody's concern. The zamindar cannot obtain an enhancement of rent from any improvements which he makes, and feels that he is no longer responsible for improvements." (Paragraph 78.)

This is an indictment not against the Permanent Settlement but against the Tenancy Act. It is true that the Permanent Settlement Regulations encouraged subinfeudation among landlords. This had led to dispersion of wealth flowing from agricultural land amongst a vast body of tenure holders. It is thus a social question because the middle classes became interested in the land system. It did not and could not depress agriculture. The Report admits that the zamindar cannot obtain an enhancement of rent for any improvements and naturally he does not invest money for improvements when returns are not assured. This is bound to happen in every business undertaking.

32. **Subinfeudation among raiyats.**—The "rack-renting" of actual cultivators and the consequential decline of agriculture resulted directly from subinfeudation among raiyats which was encouraged by the Tenancy Act. The incentive to agricultural improvement by landlords has been asphyxiated by the Tenancy Act. In this wise, it can be seen that the evils complained of in the Report are due to factors which have not been encouraged by the Permanent Settlement. But all the same the Settlement has been criticised for evils coming from different directions and social forces. Much of the criticism has, therefore, resulted from a misunderstanding of the Settlement of 1793.

33. **The Permanent Settlement misjudged.**—Accordingly, the charge that "the Permanent Settlement has imposed on the Province an iron framework which had the effect of stifling the enterprise and initiative of all the classes concerned" (Paragraph 82), is misdirected and delivered on wrong data, and this has been responsible for the opinion held and endorsed in the Report that the Permanent Settlement of 1793 is "no longer suited to the conditions of the present time". The defects in the rural economy of Bengal that have grown from other distinct causes have been considered to be flowing from the Settlement of 1793, and this confused approach has vitiated many of the recommendations of the Report.

Some of the observations with regard to the results of the Permanent Settlement, made in the Report, are born of popular beliefs. They are given below:—

(1) "*Inelasticity*" *of revenue.*—The Report states:—

> "The land revenue, which is the chief source of Government in an agricultural country, has remained almost entirely inelastic for 150 years." (Paragraph 72.)

Land revenue is not the only form of direct taxation of agricultural income; there are cesses of various kinds such as the Public Works and Road Cesses, and the Primary Education Cess (imposed in many districts). In the matter of cesses, the following deterrent factors should also be taken into account:—

(*a*) landlords function as agencies for collection of cesses; they save Governmental expenses of collection but are not entitled to any remuneration therefor;

(*b*) landlords are to pay the quota of the cesses payable by raiyats and have to face the risks and losses consequent on non-realisation or on delayed realisations.

In the case of land revenue and cesses, the charge on land income has no reference to actual cash receipts or realisations, and the incidence of charges on agricultural income is high when we consider the fact that it pays its quota even if the income is not accrued. Therefore, the inelasticity of land revenue has been overcome by forcing landlords to pay cesses of various kinds and undergo the charges of collection for the same. It is, therefore, not correct to say that there has been "discrimination in favour of land" (Paragraph 80), especially when it is remembered that agricultural land pays also union rate, canal rate (if any), and municipal rate (if situated in municipal areas).

(2) *The benefit of higher prices.*—The Report makes the following critical statement:—

> "The benefit of more valuable crops and higher prices has partly gone to the landlords, when they could increase rents, and to the tenants, when they could not." (Paragraph 72.)

The average raiyati rental shows that landlords have not taken advantage of the rise in the prices of produce in the matter of enhancing rents[1]. The benefit of higher prices has gone to landlords in an extremely limited way even under Act X of 1859, as the following rule of proportion, laid down in the Great Rent Case (1865)[2] was adopted—"as the old value of produce is to the rent, so is the present value of produce to the rent which ought now to be paid". Thus the rise in the value of produce was shared both by landlords and tenants in cases where rents have been enhanced, and exclusively by tenants in cases where rents have not been increased. The Tenancy Act of 1885 limited the ground of enhancement in the event of rise in the value of produce to staple food crops only. Since then, the unearned increment due to the rise in the prices of jute, indigo, tobacco, sugar and other non-food crops has been exclusively shared by raiyats. It is well-known that non-food crops are more valuable in Bengal. In the circumstances, the above observation is far from truth.

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[1]Mr. R. Knight, Editor of the Calcutta *Statesman*, in his prefatory note to Mr. Colebrooke's "Husbandry of Bengal" (reprinted in 1884) commented: "With this essay of Mr. Colebrooke's in our hand the fact becomes as clear as the noonday sun, that the zamindar has so apathetically and carelessly, or else so timidly, asserted his rights, that he has allowed his rent to fall almost to nothing." The Commissioners' enquiries from District Judges also show that the increment of raiyati assets on the ground of enhancement of rent by landlords is only inconsiderable. (Paragraph 122.)

[2]The Great Rent Case overruled the decision made in Hills *versus* Ishwar Ghose by the Hon'ble Sir Barnes Peacock on the 24th of September 1862, who followed the Malthusian doctrine of rent.

(3) *Non-agricultural income.*—The increment of landlords' income due to the growth of towns and development of trade and coal industries has not affected the agricultural population. Such incomes of landlords are non-agricultural and subject to the same incidence of taxation in common with the incomes of other property owners and business people. To condemn landlords on that score is to condemn the capitalistic basis upon which the whole system, administrative and economic, is functioning.

(4) *Revenue from litigation.*—The Report comments—

> "It cannot be a good thing for the Province that so large a share of its revenue should be derived from litigation." (Paragraph 74.)

This complaint cannot be thrown against the Permanent Settlement; it is an indictment against the Tenancy Acts.

In connection with the famous suit of Hills *versus* Iswar Ghose case, the Hon'ble Sir Barnes Peacock said—

> "We think we may fairly point to this case as an example of the difficulties which have been created by some of the provisions of Act X of 1859, and of the vast amount of litigation, harassing both the landowners and raiyats, which must necessarily arise unless that Act be amended."

Since then different tenancy legislations have been passed providing for settlement of every matter of dispute between landlord and tenant in a Civil Court, the methods of which are proverbially dilatory. The increase of litigation has resulted directly from the Tenancy Act which does not favour quick decisions even on points with which no rights are concerned.

34. **Manifold advantages.**—The Report refers to the administrative advantage in "the security of revenue" (Paragraph 75) but remains silent on the political advantages gained by the Permanent Settlement in the task of consolidation of British rule in India[1]. The Report admits of the

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[1]Bengal with an increased, steady and unvarying income from the soil due to the Permanent Settlement paid the expenses of ambitious wars and annexations in Northern and Southern India from 1793 to 1837, R. C. Dutt remarked—"In India an Empire had been acquired, wars had been waged, and the Administration had been carried on at the cost of the Indian people; the British nation had not contributed a shilling" (Economic History of British India). In that period Bengal showed surplus and Bombay and Madras deficits. The Public Debt of India which increased owing to the wars was practically raised in Bengal (*vide* Dr. P. N. Banerjee's Indian Finance in the Days of the Company, Chapter III).

distribution of profits from land among a large body of non-agriculturists but doubts if this has intimate relation to higher income-tax or customs receipts in Bengal. They have not taken it into consideration that the increased purchasing power of the people is in itself a salutary gain and the end in view of sound public finance, as indirect and intangible returns therefrom will compensate for the so-called visible loss[1]. Hence, the remark that the Settlement has "stereotyped the land revenue at a figure which is far below the fair share" (Paragraph 80) of Government is unjustified.

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[1]The inelasticity of land revenue (counterbalanced by its certainty and security) has given elasticity to the stamp duty, income-tax and customs duty. It has increased the purchasing power of the people. No amount of direct and indirect land revenue could bear any proportion to the increased sources of revenue which were directly and indirectly gradually developed by the Permanent Settlement.

CHAPTER III.

Acquisition of Zamindaries and Tenures.

35. **The constitutional position.**—The Report states—

> "There is no legal or constitutional bar to the reconsideration of the Permanent Settlement or to its replacement by any other system which is better adapted to the conditions of the present time." (Paragraph 97.)

It is to be noted that in the matter of the Permanent Settlement, the constitutional checks that exist are referred to in paragraphs 97 and 99 of the Report.

An analysis of the constitutional checks does indicate that the Permanent Settlement Regulations are not treated exactly like other Indian enactments, and that "the Permanent Settlement", to quote the Joint Parliamentary Committee's Report (Paragraph 372), "is not a matter for which, as the result of the introduction of Provincial Autonomy, His Majesty's Government can properly disclaim all responsibility".

36. **Need for protection of property.**—The Joint Parliamentary Committee expressed themselves in the following manner as to the need for constitutional checks in protecting private property:—"We think that some general provision should be inserted in the Constitution Act safeguarding private property against expropriation in order to quiet doubts which have been aroused in recent years by certain Indian utterances." Accordingly, they made the following significant observations with regard to the Permanent Settlement:—"The alteration of the character of the land revenue settlement in Bengal, for instance, would involve directly or indirectly the interests of vast numbers of the population, in addition to those of the comparatively small number of zamindars proper and might indeed produce an economic revolution of a most far-reaching character. Consequently, no Ministry or Legislature in Bengal could, in fact embark upon, or at all events carry to a conclusion, legislative proposals which would have such results, unless they had behind them an overwhelming volume of public opinion."

37. **Need of public support.**—The "volume of public support" that has been forthcoming with regard to the repeal of the Permanent Settlement has been very negligible if we take into consideration all the memoranda and representations placed before the Bengal Land Revenue Commission.

The majority of opinions received by the Land Revenue Commission did not favour annulment of the Permanent Settlement or State-purchase of zamindaries.

The Landholders' Associations were unanimous in their view that they have played a great part in the economic development of the country and that landlords have not failed in any way to perform the functions expected of them by the Permanent Settlement. The tenancy legislations acted rather as handicaps. Most of the Bar Associations, the Hindu and Brahman Sabhas and revenue experts like Sir Nalini Ranjan Chatterjee, Mr. W. H. Nelson, Rai Bahadur M. N. Gupta, Rai Bahadur K. P. Maitra, Rai Bahadur J. N. Sircar supported the contention.

The Bar Associations, the Landholders' Associations, the Middle Class Association of Mymensingh, the Hindu Sabha, the People's Association of Dacca and experienced Revenue Officers were not in favour of the abolition of the Permanent Settlement. In the circumstances, "no Ministry or Legislature in Bengal" should consider or pass any Bill for the repeal of the Settlement of 1793, and even if it chooses to do so, it cannot be assented to by His Majesty in Council as the condition of "public support", contemplated by the Joint Parliamentary Committee, would be absent. This point of view should not be lost sight of, as has been done in the Report, in assessing the constitutional position in the matter of "alteration" of the character of the Permanent Settlement in Bengal.

38. **"Minority community".**—There is another aspect of the question that the landowning community belongs to a minority community, and as such the protection of its legitimate interests may fall within the "special responsibilities" of Governor (section 52 of the Government of India Act, 1937). The Constitution Act does not define "minorities". The Joint Parliamentary Committee in their paragraph 79 state:—"There are certainly other well-defined sections of the population who may from time to time require protection, and we see no justification for defining the expression for the purpose of excluding them." The Instruments of Instructions defined minorities in a very general way so that the Governor-General, or the Governor as the case may be, will have "latitude

in his interpretation of his responsibilities", and accordingly provided that "those classes who, whether on account of the smallness of their number or their lack of education or material advantages or from any other cause cannot as yet fully rely for their welfare on joint political action in the legislature, shall not suffer, or have reasonable cause to fear neglect or oppression". Landlords are given special representation and therein lay recognition of their separate entity; they represent an economic order; they are "small in number" in the legislature; they cannot "as yet fully rely for their welfare on joint political action in the legislature". Hence, their legitimate interests are entitled to protection under 52(1) (*b*) of the Constitution Act when there is "neglect or oppression". In this view of things, this also forms a constitutional check on tampering with private rights in agricultural land.

39. **Acquisition of zamindaries.**—The Report states—

> "We have considered the arguments on both sides, and think that the best course would be to carry through in the first instance the acquisition of all superior rights down to the lowest grade of cash paying under-raiyat" (Paragraph 114). We deal, in brief, with the criticisms of the above recommendation.

(1) *Bengal raiyats better situated.*—The recommendation does not follow from their findings. In the raiyatwari area of Madras, the Commission have found: (1) the assessment on the "wet" land[1] works out at between Rs. 7 and Rs. 8 per acre, (2) the sub-tenants in Madras pay higher rates of rent than the average paid by under-raiyats in Bengal, (3) considering the average area per family in relation to the yield of crops, Madras is worse off than Bengal, (4) the incidence of indebtedness is higher. In the Punjab where peasant proprietorship exists, they have found (1) the policy of the Government since 1928 has been to assess the proprietor at one-fourth of his net assets, (2) the great majority of the tenants are tenants-at-will, who pay half the crop and have no rights whatever, (3) the Punjab cultivator has to work harder for his living than the Bengal cultivator, (4) agricultural debt in the Punjab is extremely heavy. In the United Provinces where temporary settlement prevails, they have found that (1) no class of tenants in the temporarily settled area has transferable rights; (2) subletting by tenants is restricted to a period of five years; (3) the average

[1]If the Madras system were applied to Bengal, the rate for "wet" land would be generally applicable to the aman growing land and the higher land growing jute, tobacco, sugarcane, aus, and other crops and to the dofasli area. (Paragraph 175 of the Report of the Commission.)

rate of rent for all classes of tenant is Rs. 6 per acre; (4) canal irrigation is not extensive and where it is absent, the crops are watered from wells which have to be sunk at the expense or by the labour of the tenants. With regard to Bengal, the Commissioners have found (1) the rayati rental is low, representing one-fifteenth of the value of produce (that is, Rs. 3-5 per acre), (2) the Bengal raiyats have the greatest measure of rights, (3) the cultivators of Bengal are, as a whole, better off than those in Madras and the United Provinces, (4) the Bengal raiyats and even under-raiyats are better off than tenants under peasant proprietors of the Punjab in respect of rents and rights. Thus it is clear that no case has been made out for the abolition of the Permanent Settlement. The arguments advanced in the Report of the Commission militate completely against its proposal. The position of raiyats in other provinces does not compare favourably with the situation obtaining in Bengal. On the other hand, raiyats in other provinces are definitely in worse condition. The very fact that the Bengal raiyat can sublet his holding at a profit clearly demonstrates that he is not rack-rented by the landlord.

(2) *Khas mahal areas of Bengal.*—Though there is raiyatwari system in Madras, temporary settlement in United Provinces and peasant proprietorship in the Punjab, the condition of raiyats in none of these provinces is better than that of the raiyats in Bengal. In the Government khas mahal areas in Bengal, raiyats are not better situated than those of the permanently settled areas. On the other hand, the incidence of rent in the khas mahals is much higher than in the permanently settled areas. The enhancement of rent is more regular, and although the raiyat receives remission at times on the ground of failure of crops, etc., the realisation being more regular and strict, he can be said to be in worse position than the raiyat in the zamindari area where landlords remain satisfied with one year's rent allowing at least 3 years to be in arrears. In times of distress it is almost an invariable practice to allow arrear rents of some years to get time-barred which is better than remission.

The sanitary condition of the khas mahal areas and the economic condition of the tenants also are by no means better than those of tenants in the permanently settled areas. Government as landlord has not allowed greater educational facilities to their tenants than zamindars. Similar is the case with regard to communications, irrigation, and drainage also. The khas mahal areas can by no stretch of imagination be considered more advanced than the zamindari areas. It may

be mentioned that there are large and compact khas mahal areas in Bengal such as in Noakhali, Bakarganj, Chittagong and part of 24-Parganas and Khulna.

(3) *Financial implications.*—On financial grounds also the abolition of the Permanent Settlement cannot be justified. It is becoming clear that on political expediency it will not be possible to enhance the raiyati rent, and there is every risk of the reduction of rent being made a subject of electioneering propaganda. If reduction of rent is at all taken up, the rent in the Government khas mahal areas which has been enhanced during the last 15 years will have to be reduced first. Realisation is bound to be precarious. On political grounds large remissions will have to be granted and larger amount will have to be sanctioned for agricultural loans and gratuitous relief and their realisation will be by no means easy. In 1938-39 and 1939-40 Government had to sanction over 94 lakhs of rupees by way of agricultural loan of which amount not more than 6½ lakhs has been realised up till 31st of January 1940. In Madras large amounts had to be granted by way of remission. All these go to show that the tendency is for reduction of the raiyat's rent at the sacrifice of the State revenue. The Burdwan Canal rate movement in Bengal also supports this contention. Government had to reduce the rate of tax from Rs. 5-8 to Rs. 2-9. In fact, there has been a demand for rent reduction in the legislature and a Rent Reduction Enquiry Committee has been appointed at the instance of tenants' representatives to investigate the possibilities of reduction of rent in the country.

(4) *Doubtful prospect of gain.*—The calculation about additional income through State purchase is open to serious doubt and may not stand strict scrutiny. The additional income after meeting the interest charges on the loan and sinking fund charges is most unlikely and will not lead to the increase in the spending power of Government. Abolition of the Permanent Settlement may upset the most stable source of the Province, viz., the land revenue. Stamp revenue will decrease by one crore. The income now devoted to religious, charitable and educational endowments will not be available to general revenue (*Vide* Paragraph 105 of the Report). This might amount to at least 1/2 crore.

The income from fisheries is included in assets of the Province but the cost of acquiring them has been omitted as the income from fisheries is not known. All this will wash away the estimated gain. Assuming for the sake of argument that there will be a small margin, is it worth while to abolish

the Permanent Settlement for that small additional income which can never be sufficient for undertaking rural development works on a large scale? In the raiyatwari area of Madras and in the Punjab, the cost of Governmental collection involves greater expenditure, whereas in Bengal, the major portion is permanently settled and Government have not to undertake the expenses of collection. Considering the Government expenses of collection and the high incidence of rent in the other provinces of Madras and the Punjab and the low raiyati rental in Bengal, the land revenue demand in Bengal, which is assured and not liable to remissions, cannot be considered a financial loss. The so-called high figure of land revenue demand in other provinces has been built on greater areas cultivated and the high incidence of rent. The other economic advantages of the Permanent Settlement do not also exist there.

(5) *The economic effect.*—The recommendation of the majority of the Commission is for the State-purchase of the interests of all grades of rent-receiving classes. Apart from the fact that it will take many years before the scheme can be completed, the economic effect of the proposal on the Province should be seriously considered. The recommendation of State-purchase will not merely affect the rich zamindars or tenure-holders but practically all interests in land in the Province. The rate of compensation suggested by the Commission will, on their own admission (Paragraph 138), reduce the income of a person by 50 per cent. or more.

(6) *Extent of expropriation.*—The following examples are given to indicate the extent of expropriation involved in the scheme, adumbrated in the Report:—

(A) A zamindar has a gross rental of Rs. 10 lakhs.

If he pays land revenue and cesses to the tune of 5 lakhs, his income is reduced half. The cost of collection does not exceed 10 per cent. of his income. Thus his net income is Rs. 4 lakhs. Under the scheme of State-purchase recommended in the Report, his existing income will be considerably reduced.

Gross rental—Rs. 10 lakhs.

Revenue and cesses—Rs. 5 lakhs.

Cost of collection—18 per cent., that is, (Rs. 180 thousand).

The net income—Rs. 320 thousand.

Compensation being calculated at 10 times the net profit and at 4 per cent. bond as suggested the annual income of the

zamindar will be Rs. 128 thousand in place of his existing net income of Rs. 4 lakhs (with 10 per cent. as collection charges) or of Rs. 320 thousand (even if the cost of collection be taken at the unduly inflated rate of 18 per cent.). Thus there is a reduction of his net income by 75 per cent. or more.

If compensation is calculated at 12 times and at 4 per cent., the annual income will be Rs. 153·5 thousand; at 15 times, the annual income will be Rs. 192 thousand.

(B) A small tenure-holder has a gross rental of Rs. 1,000—

Rent and cesses—Rs. 300.

Cost of collection—Rs. 100 (at 10 per cent.).

Net income—Rs. 600.

Under the scheme of State-purchase—

Compensation at 10 times the net profit—Rs. 6,000.

4 per cent. Bond—Rs. 240.

Thus the annual income will be Rs. 240 in place of Rs. 600.

Compensation at 12 times the net profit—Rs. 7,200.

4 per cent. Bond—Rs. 288.

Thus the annual income will be Rs. 288 in place of Rs. 600.

Compensation at 15 times the net profit—Rs. 9,000.

4 per cent. Bond—Rs. 300.

Thus the annual income will be Rs. 360 in place of Rs. 600.

(C) An occupancy raiyat who has an income of Rs. 100 through subletting to under-raiyats.

Rent and cesses consume Rs. 40.

Normally his cost of collection does not exceed 2 per cent. But under the scheme of State-purchase, the cost of collection to be deducted is likely to be more than the real expenses. Suppose, it will be 10 per cent. The net income will be Rs. 50 (Rs. 100 gross rental *minus* Rs. 40 as rent and cesses *minus* Rs. 10 as cost of collection).

Compensation at 10 times—Rs. 500.

4 per cent. Bond—Rs. 20.

Thus he will have an annual income of Rs. 20 in place of his existing income of Rs. 50.

Compensation at 12 times—Rs. 600.

4 per cent. Bond—Rs. 24.

The annual income will be Rs. 24 in place of Rs. 50.

Compensation at 15 times—Rs. 750

4 per cent. Bond—Rs. 30.

The annual income will be Rs. 30 in place of Rs. 50. The examples cited above will go to show the extent of expropriation involved in the scheme of State-purchase recommended in the Report. The consequences of State-purchase will, therefore, be economically disastrous; it will affect the purchasing powers of the upper class, middle class and the lower middle class and this deterioration is bound to reflect on the customs and income-tax receipts.

(7) *The number of persons to be expropriated.*—The area in possession of all classes of raiyats in Bengal is 28 million acres and the portion sublet by them to under-raiyats is 3·1 million acres. The Census Report gives the following information—

Non-cultivating proprietors taking rent in money or kind—783 thousand.

Estate agents and managers of private owners—1 thousand.

Rent collectors, clerks, etc.—51 thousand.

It is well-known that the non-cultivating proprietors have a large number of working and non-working dependants. Every non-cultivating proprietor, as our experience goes, has ten to fifty dependants in proportion to the extent of his income, family tradition and instinct of patronage. The estate agents and managers and rent-collectors have also dependants. To strike out an average will be hazardous and speculative. But considering the fact that there are more than 1 lakh revenue paying estates and 27 lakh tenures, the number of rent-receivers and the persons dependant on them will easily exceed 1 crore. Under the scheme of State-purchase, as contemplated in the Report, the zamindars, tenure-holders, and the rent-receiving raiyats will be expropriated. Thus, it may be roughly estimated that the number of persons involved in the scheme of expropriation (as the State-purchase of the kind contemplated involves expropriation on the admission made in the Report, *vide* paragraph 138) will be more than 15 million, that is, nearly one-third of the entire population (which is recorded at 50 million).

(8) *Repercussions on society.*—The abolition of landlords will mean disintegration of social classes, and there will be a collapse in rural society, as the incentive of the landowning community (in which there is a vast number of people having varying degrees of social utility and economic strength) to reside in the countryside, where he has exercised in greater or less degree functions of leadership and control, will be gone.

If private landlordism is abolished and a strict raiyatwari system established, the institution of private mahajans will suffer a setback, and the loan needs of the agriculturists of Bengal, which are considerable, are to be met principally by agencies, controlled or subsidised by Government.

The disappearance of the landowning community will mean immediate withdrawal of recurring grants (for which they have no legal obligations) to all charitable, educational and other welfare institutions of the country. This will dislocate the existing order and increase manifold the responsibilities of Government. The State-purchase will take away the interest of the whole landowning community in the regeneration of the countryside, and in times of famine and distress this will involve greater responsibilities for Government whose resources will be inadequate to meet the necessary expenses.

Those who are conversant with the cultural history of Bengal know full well that art, literature and music have prospered under the ægis of the landowning community, and this patronage will disappear along with the abolition of private landlordism. The Permanent Settlement in Bengal is not merely a financial transaction; it has gone deep down in the economic and social structure of the country, and its replacement is fraught with grave consequences and will involve widespread repercussions in various spheres.

(9) *The political effect.*—The political effect of State-purchase is extremely important. It will make a large number of people landless without any stake in the country. People given inadequate compensation will become discontented and as such a source of menace to society. The number of people who will be affected will be very large. They are politically powerful, vocal and the backbone of the country. Land means not merely income but position, stake and responsibility. These annuitants losing touch with and interest in land and also in the stability of the societarian basis will tend to be irresponsible. This would accelerate the pace of communism in the country which is, let us hope, not the wish of the members of the Commission advocating the State-purchase of zamindaries.

(10) *Findings militate against proposal.*—The State-purchase presents another difficulty. Its manifest purpose is to bring Government into direct relation with the actual tiller.

Unless transferability of land can be stopped the actual tiller and Government can never be faced. The Report admits the difficulties and suggests State-purchase after every 30 or 40 years "if it were not possible to prevent the processes of subinfeudation and transfer to non-agriculturists". Similarly,

fragmentation of holdings due to sale, partition and law of succession cannot be prevented. It is admitted that the scheme of State-purchase cannot be effectively pursued and it will necessitate "expropriation" every 30 or 40 years—a contingency which is sufficient to condemn the scheme. Moreover, the scheme of State-purchase is recommended without any forward agricultural policy. The need for the extinction of the existing private landlords is not, therefore, well established. It is admitted in the Report that the unsatisfactory economic condition of the tenantry is due to social and economic causes and not to private landlordism. The remedy, therefore, lies elsewhere and not in the abolition of the Permanent Settlement. The conclusion arrived at by the Commission is not supported by facts and does not follow from their findings. The agrarian discontent of acute type amongst the tenantry in the United Provinces and Bihar (although the United Provinces is a temporarily settled area and there is much less subinfeudation in Bihar) shows that Bengal landlords have been able to maintain the land system at a more satisfactory level.

40. **Evidence against State-purchase.**—The evidence placed before the Commission has not been generally in favour of the nationalisation of zamindaries. Extracts from the evidence of a few representative witnesses will make the position clear.

(*a*) *Evidence of the Finance Department.*—The Finance Department of the Government of Bengal stated as follows:—

(*i*) "The Permanent Settlement and the consequences flowing from it are now the frame-work of the general economic life of the country, and in the considered opinion of the Government, no tampering with that frame-work could, in the long run, produce financial gain to the State."

(*ii*) "The Department holds the view that the abolition of the Permanent Settlement would throw the social system out of gear and may not be conducive to the financial welfare of the Province."

(*iii*) "The abolition of the Permanent Settlement would be a financial speculation which would probably result in little gain."

(*b*) *Khan Bahadur A. Rahman.*—"He doubted whether the change to state landlordism would not result in the tenants going from the frying pan to the fire.....He thought that to buy out the landlords and tenure-holders would create a disturbance in the present social order which he did not favour .....He apprehended, however, that if the landlords and

tenure-holders were bought out, the increased revenue might not be allowed to improvements in rural areas." (Evidence of Khan Bahadur Ataur Rahman.)

(*c*) *Mr. W. H. Nelson.*—Mr. W. H. Nelson, C.I.E., I.C.S., Member, Board of Revenue, Bengal, gave the following opinion on the question:—(1) the landlords have played an important part in the general development of Bengal since the Permanent Settlement, (2) the State-purchase is hazardous and it is impossible to obliterate the results of a system lasting for a century and a half, (3) no happier state of things would ensue and the State has no right to buy out a zamindar who is not willing to sell, (4) financially it would be a most inadvisable proposition and it would almost certainly result in a loss.

(*d*) *Mr. F. W. Robertson.*—Mr. F. W. Robertson, C.I.E., I.C.S., Chairman, Public Service Commission, gave the following opinion:—

(*i*) It is doubtful whether the raiyats would prefer to come under Government or that khas mahal raiyats enjoy any advantages over raiyats in private zamindaries, (*ii*) the abolition of landlords would have an unfortunate effect on the social structure of the Province.

(*e*) *Mr. A. E. Porter.*—Mr. A. E. Porter, I.C.S. (Collector, Tippera), opined as follows:—(*i*) the zamindars have made large contributions to charity; they have provided a great part of the money spent on education and on medical facilities in towns and in the country; they contribute liberally to appeals for charitable purposes and they have spent large sums in religious endowments; (*ii*) the State-purchase would for a long time yield no effective increase in revenue to the State and would allow very little scope for the reduction of raiyati rents where these are inequitably high.

(*f*) *Mr. M. M. Stuart.*—Mr. M. M. Stuart, I.C.S., pointed out as follows:—(*i*) it does not seem that even by expropriation the country is likely to be benefited, as it is a mistake to suppose that all the extra rent would then find its way into the Government coffers; (*ii*) if the State became the sole landlord, there was a danger that rent would become a question of politics, and if the rents were decreased, the surplus income from land revenue might disappear in the course of a few years.

(*g*) *Majority of opinions against State-purchase.*—We do not propose to burden our Report with extracts of the above kind which suspect the wisdom of State-purchase of zamindaries. The majority of the opinions received were in

favour of reforming the land system within the framework of the Permanent Settlement, although the majority of the members of the Commission thought otherwise in disregard of the evidence.

Mr. W. H. Nelson, Member, Board of Revenue, Bengal, was of opinion that the principal gainers from the Permanent Settlement were the raiyats and not the zamindars. Had there been no Permanent Settlement, raiyats would have been paying a higher average rent. In his opinion the raiyat appropriates about 80 per cent. of the unearned increment; out of the balance of 20 per cent., the zemindar gets about 70 and the State 30 per cent. Messrs. Nelson and F. W. Robertson were also of opinion that there has not been any great enhancement of raiyati rents. The Bar Associations were unanimously opposed to the proposal of State-purchase. Sir N. R. Chatterjee, Rai Bahadur B. B. Mukherjee, Rai Bahadur M. N. Gupta, Rai Bahadur K. P. Maitra, Rai Bahadur J. N. Sircar—all of them are experts in revenue matters and were against the nationalisation of agricultural lands.

All the Landholders' Associations were unanimous that the abolition of the zamindari system would involve a revolution in the social and economic life of the people. Sir N. R. Chatterjee, Mr. F. W. Robertson, Rai Bahadur B. B. Mukherjee, Rai Bahadur M. N. Gupta, Rai Bahadur K. P. Maitra, Rai Bahadur J. N. Sircar, the People's Association of Dacca, the Muslim Federation of Dacca, the Middle Class Association of Mymensingh, the Hindu and Brahman Sabhas, and all the Bar Associations (except the Pabna Bar) held the same view.

The members of the Commission might have arrived at a true reading of the situation if they had conducted some tours in Bengal instead of visiting other provinces having different and differing conditions, but they did not. They were guided by political considerations, and the interests of the country, as a whole, were neglected.

41. **State-purchase hazardous.**—Whilst one may agree theoretically to dogmas and political slogans in favour of the abolition of the Permanent Settlement, it is only meet and proper to consider what are likely to be the consequences of such a step. In Bengal we think it would be both impractical and hazardous for the following reasons:—

(*a*) *Financial strength of Province.*—The Province cannot afford it financially, especially as the deal must be a fair one and the compensation to be paid must be according to the laws

of equity and justice and not expropriatory. There is no reason to ignore in this matter the provisions of the Land Acquisition Act which needs careful study and examination. The Finance Department of the Government of Bengal has given us facts and figures which make the venture extremely hazardous. Without the guarantee of the Government of India, Bonds or any kind of paper money will be viewed with suspicion and not be acceptable unless they had the same effect and security as the Government of India Promissory Notes. That emphasises the need of purchase with cash-money.

(*b*) *Taxation Enquiry Committee's findings.*—Then again supposing it was financially feasible, there is a distinct risk in its resulting as a cause for rack-renting the actual tenant by fresh taxation to meet the liquidation of loans as may have to be raised for State-purchase and for future improvements of agriculture, possibilities of which were at the back of the minds of the members of the Indian Taxation Enquiry Committee when they made an adverse comment on State-purchase in paragraph 99 of their Report. The Indian Taxation Enquiry Committee clearly stated—

> "These schemes must fail if for no other reason, by reason of the enormous financial operations involved..... It would be impossible to recover even the interest charge on this loan without levying from the actual cultivators who would be left face to face with Government, something in the nature of a full rack-rent, so that as a result, neither the Government, nor the actual cultivator would be better off than at present."

(*c*) *Government management unpopular.*—Is the present system of Government khas mahal management in Bengal so popular that it would be universally acceptable to all political parties in the Province? If not, will Government becoming the only landlord be welcome?

Government management will entail frequenter survey and settlement operations as record-of-rights will have to be kept up more regularly and carefully than at present. Are the people likely to submit to this?

Government management is costly and will, therefore, mean a larger outlay in capital expenditure as well as a large increase of a recurring nature in the permanent establishment charges.

(*d*) *Certainty of land revenue disturbed.*—In years of famine and failure of crops the legislature will demand larger remissions of revenue than at present in consequence of which the receipts from land revenue will become so fluctuating that

the Province may run the risk of bankruptcy at Government not being able to realise, which it now does even in lean years, almost cent. per cent. of its land revenue demand from the landholders under the sunset law. It appears to us, therefore, that venturing on State-purchase would be economically unsound and politically undesirable.

(*e*) *Extinction of middle classes.*—To make extinct the great landholders in the Province may not be so difficult, although they might deserve greater consideration as they and their ancestors contributed in no small measure in the past to the establishment of many of the charitable and educational institutions to be found in the Province to-day. But with the disappearance of all intermediary landlords, who have formed the backbone of the Province, and the intelligentia and are the creators of modern social and political Bengal, we shall be running the definite risk of a social upheaval of a magnitude which requires very careful thought, for with an undeveloped Proja Party and Raiyats' Associations we might easily usher in communism which would become a menace to the State itself. The Province is not ready for such a revolutionary step and that is why we consider the proposal of State-purchase as unsound in practice, premature and inopportune.

42. **General observations.**—The scheme of State-purchase is, to our minds, at once rash and bad. Rash, because when there are many schemes by which agricultural improvements in the Province could be carried out by floating loans which could probably be at once over-subscribed, it is fantastic to suggest that the Government of Bengal should venture upon the very large and hazardous scheme of loans to buy up zamindaries, etc. Such a scheme is very doubtful of success or financial possibility. Bad, because land will continue to be as ever the most tempting investment and as such any attempt to get rid of the present class of landlords and to substitute them eventually by a new class who will have no traditions behind them would be, in our opinion, both unjustifiable and dangerous.

If any one has got any grievance against the working of the Permanent Settlement it is the zamindars, and it seems to us, therefore, that this desire to eliminate the landholding classes is only in the minds of a small minority in the Province who without due consideration of the consequences want to plunge Government into a large amount of financial embarrassment.

If we, however, study this idea of State-purchase in Bengal we cannot but come to the conclusion that it is an act of

highhanded expropriation, rather than a desire to improve the land revenue system prevalent in the Province. Individual zamindars might be accused of failing to live up to the full to their public duties and responsibilities as the extremist politicians in India generally charge them with, but they have done nothing to their tenantry to be victimised by a proposal which stands condemned in itself. To revolutionise the land system in Bengal is not only uncalled for but unwarrantable. It would only mean encouraging socialism and communism of a kind which is not salutary for the Province.

We vehemently oppose the proposal of State-purchase of all zamindaries in Bengal not only for the reasons which we have adduced elsewhere but also because apart from its impracticability it would mean a financial strain on, if not a financial debacle of, the resources of the Province which is anything but a prosperous one at the moment. Moreover, such a scheme is fantastic when a great European war is in progress.

43. **Principles of compensation followed.**—In the matter of assessing compensation, the Report has formulated the following principles:—

(1) The provision for extra compensation for the compulsory nature of the acquisition involved in the scheme of State-purchase should not be allowed.

(2) There should be a flat rate for all interests, and for all kinds of estates—large or small estates, permanent or temporary tenures, tenures at fixed rates or liable to enhancement.

(3) The compensation should be calculated on the net profit.

The rate of compensation has been pitched so low as to reduce the existing incomes of landlords. The above principles are neither fair nor sound; the principles of the valuation of agricultural land are completely ignored.

(*a*) *Professor Pigou's principles.*—Professor Pigou in his "Public Finance" advocates the following principles in the matter of compulsory acquisition of private property:—

(1) Equity asserts that "similar persons should be treated similarly".

(2) "We must content ourselves with such rough justice as is afforded by the payment of something, say 10 per cent., in excess of market value as compensation for disturbance."

The Report disregards both the principles advocated by Professor Pigou, the distinguished Economist of the Cambridge School. Even in recommending State-purchase of zamindaries and calculation of the probable incomes therefrom, the Report has evidently attached no value to expert knowledge.

(*b*) *Principles advocated by the Finance Department.*—The Finance Department of the Government of Bengal submitted before the Commission as follows regarding the award of compensation:—

(1) If a fair capitalisation basis of compensation be accepted, there cannot be any profit to the Government out of the purchase.

(2) Even if bonds were given as compensation and issued at the market price, it would be necessary to pay the full capitalised value of the net profit. The capitalised value at the present Reserve Bank rate of interest would be 33 times the net profit.

These observations were made with full knowledge and responsibility but they were not heeded by the majority of members as their object was to show increased receipts under land revenue demand in the event of the nationalisation of zamindaries. The repercussions in other spheres have not been fully taken note of. Their calculations naturally, therefore, suffer from incompleteness.

(*c*) *Majority opinions rejected.*—The Report records that "the majority of the witnesses were in favour of following the principles laid down in the Land Acquisition Manual" (Paragraph 101) but concludes that they have been unable to reach an agreement on the rate of compensation that would be equitable. This admitted indifference to the evidence of "the majority of witnesses" is, indeed, painful reading.

44. **Inadequate compensation.**—The adopted basis of compensation at 10 or 12 or 15 times the net profit is definitely less than the basis of compensation under the Land Acquisition Act. It is also less than the basis of compensation to be paid by holders of estate for redemption of land revenue which is 30 times the revenue to be paid. It is also less than the basis adopted by the majority members themselves for the public religious and charitable endowments which has been accepted at 25 times their income, if interest is taken at 4 per cent. It does not thus guarantee the existing incomes of landlords and we have illustrated this fully in paragraph 39 (6). That the

landlord's claim to full compensation is undoubtedly just is acknowledged by economists who have faith in the sanctity of private property.

(*a*) *Professor Sidgwick's principles.*—Professor Sidgwick accordingly urged that "the general security of property seems to be sufficiently maintained, if every landowner who is expropriated receives from Government in full what the value of his land would have amounted to apart from the special need that is the occasion of the expropriation. And in applying this principle we must of course treat the rights of temporary occupiers similarly to those of owners, and include along with the land any buildings or other 'immovable' products of labour that may be attached to the land".

As the "whole value of thing" can hardly be estimated and the subjective element of value (that is, the value derived from attachment or association or peculiar taste) is difficult to be measured, Professor Sidgwick was in favour of applying an average outside standard, and recommended that "some compensation should be given for the special subjective value of a thing to its expropriated owners".

(*b*) *Accepted principle of compensation.*—It is the difficulties of valuation that lead economists and statesmen to fix the rate of compensation at the rent charge multiplied by a number of years. The most accepted principle is that the compensation money granted to expropriated landlords should, at the present market rate of interest, represent the net rent receivable for the zamindari in question. This principle has been advocated in the Report of the Liberal Land Committee, England (1923-24). The Committee further said—

> "We have obtained a mass of information of farm sales effected in the years 1913, 1918, 1919, 1922 and 1924 in different countries of England and Wales. We find that the average for the five years taken together is in the case of different countries 21 years, 23, years, 22 years, etc. Be it observed these figures represent so many years' purchase not at actual income, but at gross rent. On the basis of the calculation, 25 years' gross rent is equivalent to $38\frac{1}{2}$ years' net rent."

Mr. Fawcett in his "Political Economy" writes: "Nothing in our opinion can be more unjust than for the State to take possession of land without paying the full market price to its owners." And he favoured the rate of compensation at 30 years' purchase. Mr. Mill, who was a radical thinker of England and advocated that "the claim of the landlords is

altogether subordinated to the general policy of the State", did agree that their (landlords') claim to compensation was "indefeasible", and that it was due to landowners and to owners of any property whatever, recognised as such by the State, and "that they should not be dispossessed of it without receiving its full pecuniary value or an annual income equal to what they derived from it". Thus the rate of compensation should be governed in a way so that the respective landlords may be assured of "the annual income equal to what they derived from it".

(*c*) *Examples from gross and net income.*—To arrive at a scientific, fair and approved rate of compensation, the following considerations should be taken into account, e.g.:—

A holding has a gross rental of Rs. 100.

If the market rate of interest is calculated at 4 per cent. the above holding should bring the landlord Rs. 2,500 (so that the rental of Rs. 100 may be assured to the landlord at the given rate of interest). That would be 25 years' purchase of the gross rent. In this case, the purchase-money wherever invested would be liable to the income-tax and other existing burdens of the State.

If the landlord is to be assured only of the net income, it may be calculated thus—

Rs. 100 as gross rental.

One-third as revenue (or rent) and cesses and other necessary expenses—Rs. $66\frac{1}{3}$. The purchase price (at the given rate of 4 per cent. interest) would also be 25 years' purchase of the net income. The annual income of the landlord should then in fairness be free from income-tax or other burdens of the State.

If the net income of landlords are to be ascertained, there would be variations in each particular estate. Accordingly, the basis generally taken in calculating the rate of compensation is the gross rental of the holding. The above fair principles are formulated so that landlords may not feel that they are being expropriated. The social injustice, born of such expropriation, is definitely prejudicial for the interests of the whole community.

45. **Example of Ireland.**—Ireland offers a recent example within the British Commonwealth of Nations where the nationalisation of agricultural lands has been completely carried out. This was done before the Irish Free State Treaty was proclaimed in 1922. Although the principle of State-purchase was accepted in Ireland in 1871, the Wyndham Act

of 1903 was the culmination of the land-purchase measures. The governing principles of the Wyndham Act were the following:—

(*a*) The landlord was obliged to sell an estate[1].

(*b*) The purchase-price of a holding with a first-term rent[2] would vary from 18½ to 24½ years' purchase of the rent and in the case of second-term rent, the price would vary from 21½ and 27½ years' purchase.

(*c*) The cash-bonus to be given to the landlord was 12 per cent. upon the sale-price.

(*d*) The rate of annuity was fixed at 3¼ per cent., of which 2¾ per cent. constituted the interest charge and ½ per cent. as sinking fund payment, the principal being wiped out in 68½ years.

In Ireland the principle was to make peasants proprietors of land and accordingly the State advanced money for the purchase of the holdings.

The Wyndham Act was slightly amended by the Birrell Act, 1909, whereunder the cash-bonus was graduated in accordance with the sale-price. We give below the arrangements contemplated under the Act of 1909:—

First-term rents.	Second-term rents.	Bonus (in per cent.).
26 years' purchase or more.	24 years' purchase or more.	No bonus.
Between 25 and 26	Between 23 and 24	3
„ 24 and 25	„ 22 and 23	4
„ 23 and 24	„ 21 and 22	6
„ 22 and 23	„ 20 and 21	8
„ 21 and 22	„ 19 and 20	10
„ 20 and 21	„ 18 and 19	12
„ 19 and 20	„ 17 and 18	14
„ 18 and 19	„ 16 and 17	16
Under 18	Under 16	18

We have recited all this to show that the rate of compensation suggested in the Report of the Bengal Land Revenue Commission is nothing short of confiscation; and in fact, they have accepted no scientific principle with regard to compensation of landlords. The tenor of the Report is that they would have been glad to "confiscate" in full landlords, if the Government of India Act, 1935, did not stand in the way.

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[1]Under the former purchase Acts, sales were carried out by individual holdings with the Land Commission acting as intermediary between the parties. If the estate is taken, the grave economic blemishes such as uneconomic holdings and others can be removed before handing over to the peasants.

[2]The variation in the purchase of first-term and second-term rents was fair because on the average second-term rents were about 20 per cent. less than first-term rents.

46. **Confiscatory nature of the scheme.**—That the scheme of compensation, contemplated in the Report, is nothing but confiscatory can be had from the enunciation of the following principles:—

(*a*) That the rate of compensation suggested is 10 times or 12 times or 15 times the net profit, the 10 times being preferred, and the existing net incomes of landlords being thus reduced by more than 50 per cent.

(*b*) That the net profit is to be calculated by deducting land revenue or rent and cesses and 18 per cent. as the cost of collection which is unduly inflated and even higher than the Governmental cost of management. (It may be noted that the Civil Courts do not allow more than 10 per cent. as cost of collection.)

(*c*) That the above rate of compensation should be a flat rate for all interests and for all kinds of estates.

(*d*) That there is no guarantee that the purchase price that would go to landlords should be free from any income-tax or other burdens of the State.

47. **Suggested lines of nationalisation.**—Should the scheme of nationalisation, however, be pursued at all, with which we are not in agreement from wide national considerations, the following should be adopted to ensure a sense of fairness to the parties concerned:—

(*a*) The scheme of nationalisation should be pursued with a view to bring and maintain "the actual cultivators into direct relation with Government", a proposition supported theoretically in the Report. The interests of zamindars and tenure-holders cannot be acquired unless it is proposed to remove rent-receiving raiyats.

(*b*) The rate of compensation should be such as to guarantee the existing net income of landlords, and it should therefore be at least 20 times the rental at 5 per cent. interest.

(*c*) Payment would be made in cash and not in bonds and the scheme should not be carried out simultaneously. (These are accepted by the Report.) If the payment be paid in bonds, they should be guaranteed by the Government of India and should carry interest at 5 per cent. free from income-tax.

(*d*) The arrear rents which constitute the reserve fund of landlords should be compensated for at least in two-thirds.

(*e*) The khas lands of proprietors and tenure-holders including those cultivated by bargadars should not be included in the scheme of State-purchase, if raiyats in respect of their barga lands remain unaffected. All rent-receivers should be equally treated.

(*f*) If bargadars are treated as tenants, as recommended in the Report, there is no logic in excluding them from the scheme of State-purchase. Accordingly, bargadars should be brought under Government at the same time as the lowest cash-paying under-raiyats. The scheme of State-purchase, if adopted, should not be pursued piecemeal.

48. **Fishery and mineral rights.**—The Land Revenue Commission has not thought fit to confine themselves to their terms of reference. The manifest scope of their enquiry was limited to agricultural lands. It is to be noted that incomes from fishery rights by zamindars are subject to the Indian Income-tax Act; the incomes are, therefore, non-agricultural. The Commission have gone beyond their terms of reference in considering the nationalisation of fishery rights; it is more so when the nationalisation of royalties from the lease-holders of mines has been recommended by them.

In assigning reasons for acquiring mineral rights, the Report states: "If Government decides to acquire all the superior interests in land down to the actual cultivators, the obvious policy is to acquire the whole property of the zamindars and middlemen and not a part" (Paragraph 119). They could have carried the logic further and included all urban lands, owned by private landlords, within their scheme of nationalisation. But they have excluded tea garden lands (although 60 per cent. of income from the tea industry are considered agricultural) and urban lands on the ground that they are outside their scope of enquiry but the fishery and mining rights (the incomes wherefrom are wholly non-agricultural) have been singled out for nationalisation, because "the advantages of acquiring minerals are more certain than the advantages of acquiring the right to collect rent" (Paragraph 119). But the announced purposes of the Commission were otherwise.

(*a*) *The Coal Mining Committee's Recommendation.*—The Report makes reference to the Report of the Coal Mining

Committee, 1937. The Coal Mining Committee observed: "The fact that except in Bengal and Bihar, the State already owns the royalty rights over coal deposits has not so far made much difference to wasteful dangerous methods of working." Accordingly, they recommended nationalisation of the industry. The majority members of the Land Revenue Commission were not evidently impressed with the above recommendation: they endorsed in part the suggestion of nationalisation of mines and minerals contained in the supplementary Note, signed by Messrs. H. K. Nag and M. S. Krishnan. Messrs. Nag and Krishnan suggested: "This (that is, State acquisition) should comprise, if not all the Bengal and Bihar fields, at least the Jharia and Raniganj fields in the first instance. The above two are the most important fields and contain the best coals in India. The major portion of the other important fields in the abovementioned provinces, viz., Giridih and Barakar, is already under State and Railway control."

The majority members of the Land Revenue Commission who relied on the Note of Messrs. Nag and Krishnan in the matter of nationalisation of royalty rights fought shy of the State acquisition of mines and remarked: "There is no proposal to acquire their rights" (Paragraph 119). They believed: "The position of the companies working the mines is parallel to that of the actual cultivators working the land" (Paragraph 119). With the implications of this observation very few people can agree and in fact, none of the members of the Coal Mining Committee, 1937, agreed.

(*b*) *Difficulties of the scheme.*—The best of the coalfields are in Bihar; the nationalisation of mines is distinct from the nationalisation of royalty rights. It is well-known that "most of the earlier leases have been given by the zamindars on receipt of a lump sum payment (premium or salami) for periods up to 99 years (long lease) or up to 999 years (perpetual lease). At the present day they receive only a comparatively small sum as rent or royalty. Probably 60 per cent. of the coal areas are on leases of this description". The more recent leases are for shorter periods with option of renewal and at higher rates of royalty. Between the zamindars and the actual operators there are intermediate lessees, each taking a share of the royalty. The nationalisation of royalty rights is advocated in the Minority Report of the Coal Mining Committee primarily on the ground that "the royalties can then be made uniform for each class of coal". But in view of the perpetual or long leases granted by zamindars at a nominal rent or royalty, the nationalisation of royalty rights

cannot yield the desired result unless and until the lease is disturbed and the rate modified. This will involve further compensation for the extinguishment of the rights granted in perpetual leases. All this has not been considered in the Land Revenue Commission's Report; in fact, no case has been made by them for purchase of royalty rights which should be considered when the bigger question of nationalisation of mines is taken up.

(*c*) *Analogy of England not suitable.*—The analogy of England is not suitable in view of peculiar conditions obtaining in Bengal; moreover, the Bengal Land Revenue Commission had no jurisdiction to consider the purchase of royalty rights from mines, especially from the mines situated in Bihar. The analogy of Great Britain in the matter of oil, if and when discovered, belonging to Government cannot be applicable to the permanently settled estates of Bengal and Bihar without stultifying the despatch of the Secretary of State for India, No. 35—Revenue (Mineral) of the 25th March, 1880. Even the Report admits: "The position, therefore, is that mineral rights in Bengal are held as an integral part of the estates" (Paragraph 118). Therefore, any legislation extinguishing the right of zamindars to minerals including oil cannot be passed without compensation so long as private rights in land are safeguarded by section 299 of the Government of India Act. We strongly disapprove of an expropriatory recommendation, as made in the Report, in the matter of State acquisition of right to minerals including oil, without any compensation.

49. **Conclusion.**—The majority of members have agreed that the decline of agriculture has been due to factors which have little relation to the land system. They also doubt if within the scheme of State-purchase there will be financial gain which might be pooled towards agricultural improvements; they frankly suggest that there could be no reduction of rent after the nationalisation of lands; they admit that social upheaval will ensue if many of the middle class lose their vested interests in land. After all these admissions it is extremely difficult to understand the reasoning that led the majority of members to conclude that there is no other way but to nationalise the agricultural land. Their findings do not support their recommendation of State-purchase, and their recommendations as to removal of defects in the tenancy law and agricultural economy of the Province do not justify the extinction of private landlord-tenant system.

CHAPTER IV.

Taxation of Agricultural Income.

50. **Implications of income-tax on agriculture.**—The Report admits that the Land Revenue Commission is "not primarily concerned with the financial arrangements which it might be necessary to adopt in order to carry out the measures which we may recommend for the improvement of economic conditions" (Paragraph 134). In fact, the question of taxation which has no direct relation to the improvement of the land system was outside the terms of reference of the Commission. But still they favoured income-tax on agricultural incomes, the implications whereof were not examined by them. Agricultural income-tax raises many important financial and constitutional questions, some of which are given below:—

(1) *"Agriculture" not defined.*—Under the Government of India Act, 1935, "Agricultural income-tax", if any, falls within provincial source of revenue and "agricultural income" means agricultural income as defined for the purposes of the enactment relating to Indian income-tax. Agriculture has not been defined in the Indian Income-tax Act and it should be interpreted in the light of what has been stated in the judgments of Courts.

(2) *Certain industries affected.*—In the case of income derived in part from agriculture and in part from business, there is a taxable and non-taxable percentage, e.g., 40 per cent. of the income from tea industry is taxed under the Indian Income-tax Act.

(3) *Discriminating taxation.*—Agricultural income-tax imposed will be in addition to the revenue or rent and cesses payable by landlords; that will discriminate against landlords and give a definite set back to the expected development of new agricultural enterprises by private persons.

(4) *Constitutional questions involved.*—Basing on the interpretation of accrual, as held in the Port Said Salt Association and Mohanpur Tea Company's case (1937) by the Calcutta High Court, tea being grown in Assam and sold in Calcutta, the income therefrom may be assessable in Calcutta.

This may also arise with regard to other incomes derived in part from agriculture and in part from business. This will be a matter of constitutional right of the respective provinces.

The Report has not considered the implications recited above. The scheme put forward seeks to tax agricultural incomes above Rs. 1,000 but it has not considered that the income-tax should be imposed on actual receipts, not on paper-profits.

51. **Paying capacity of landlords.**—The paying capacity of the zamindars has not been considered at all. In assessing the paying capacity of the landlords of agricultural lands, the following should be considered:—

Landlords' Receipts.	Landlords' Expenses.
(*a*) Raiyati Rental	(*a*) Land Revenue or rent as the case may be.
(*b*) Income from Khas Lands	(*b*) Public works and Road Cess (including the landlords and raiyats' share).
(*c*) The quota of cesses payable by raiyats	(*c*) Primary Education Cess, if any (including the landlords and raiyats' share).
	(*d*) Cost of collection of rents and cesses.
	(*e*) Union rate to every Union Board where zamindary is situated (irrespective of the residence of landlords).
	(*f*) Municipal rate (where agricultural lands are situated in any Municipal area).
	(*g*) Irrigation rate (if any) for the landlords' khas lands.
	(*h*) Any especial assessment (such as Punitive Tax) which zamindary property is made to bear without reference to the residence of landlords).

52. **Dispersion of incomes.**—In the matter of income-tax on agricultural incomes, it is not the total net profit that is valuable; it is the dispersion of income which is to be taken into account. It is well known that landlords having large incomes are extremely limited in number and this can be had by reference to the electoral roll of the Landholders' Constituencies for the Bengal Legislative Assembly. The franchise qualifications in the said constituency are: payment of not less than Rs. 3,000 by way of land revenue or rent or Rs. 700 by way of public works and road cesses in the Burdwan and Presidency Divisions; payment of not less than Rs. 2,000 by way of public works and road cesses in the Dacca, Rajshahi

and Chittagong Divisions. The number of voters in the whole Province is roughly one thousand. In Bengal there are 27 lakh tenures and 1 lakh revenue-paying estates. If the wide dispersion of incomes are taken into account, it will be clear that—

(*a*) the amount of money to be realised under the proposed tax will be inconsiderable;

(*b*) the greater number of landlords assessable under the said tax enjoy a low percentage of income.

53. **Principles of taxation of agricultural income.**—It is true that taxation may be governed by different principles. The principle of ability should be followed by the State but equal sacrifice by similar and similarly situated persons should be desired in the interest of the community, although individual tax-payers would look at it from the principle of benefit. If the principle of taxation is followed, it should be agreed that landlords in common with other property owners should be left with a definite portion of their income. Accordingly, the Taxation Enquiry Committee proposed that—

(*a*) with regard to land revenue, the standard rate of not more than 25 per cent. is desirable;

(*b*) the maximum for the ordinary local rates should be somewhere about 25 per cent. of the sum taken as land revenue.

54. **Difficulties of Bengal Landlords.**—The following difficulties of the landlords of Bengal have not been taken into consideration:—

(*a*) they pay revenue or rent irrespective of their realisations and the methods of realisation are ineffective and dilatory;

(*b*) they are to pay the cesses including the quota payable by raiyats irrespective of realisations and the agency of collection is the landlords who have not been given effective methods of realisation.

55. **Grounds of opposition.**—In the circumstances, we oppose the imposition of income-tax on agricultural income because—

(*a*) that will worsen the economic position of landlords who are functioning under the greatest of handicaps and in an adverse political atmosphere;

(*b*) that will burden landlords with discriminatory taxation impairing the principle of equal sacrifice by similar and similarly situated persons;

(*c*) that will give a definite set back to agricultural improvements by private persons and to industries which are partly agricultural;

(*d*) that will not yield a good amount of money which will answer to agricultural needs of the province.

56. **Lines of taxation indicated.**—Should, however, income-tax on agricultural income be imposed at all in disregard of all that has been stated above, a proposition with which we are not in agreement, the following principles should not on any account be departed from—

(*a*) Landlords or raiyats having incomes below two thousand should not be taxed.

(*b*) Every tauzi which is not left with 25 per cent. or any reasonable margin of income after payment of revenue or rent, existing cesses and other rates should be exempted from the scope of agricultural income-tax.

(*c*) Income-tax should accrue only to the actually realised net incomes. (In calculating net income, recurring grants by landlords under legal obligations should be taken into account, e.g., endowments.)

(*d*) Agricultural income should be earmarked as provincial revenue to be distributed in proportion to the agricultural needs of the different districts.

(*e*) The tax should be taken as a temporary measure and the limit of agricultural improvement being reached in particular areas, it should be discontinued.

57. **Agricultural cess.**—With regard to agricultural cess we are in entire accord with the observation of the Report that "we feel that under present conditions it should be useless to recommend the addition of a further cess" (Paragraph 136). We oppose the imposition of the agricultural cess on the following grounds:—

(*a*) It will affect the purchasing powers of both landlords and raiyats and thereby worsen the possibilities of realisation of rent from raiyats and payment of rent and revenue by landlords or zamindars.

(*b*) The agency of collection being the landlords, as in the case of other cesses, the imposition of a fresh cess will directly affect the landlords who have to make payments irrespective of realisations.

(*c*) It excludes other parties in the countryside who are neither landlords nor tenants.

(1) *Objections against agricultural cess.*—When we talk of agricultural cess, earmarked for definite agricultural improvements, it is to be treated as a betterment charge or assessment, and it is to be levied according to the principle of benefit. The principle of ability can be applied to a general tax. The agricultural cess being a special tax as opposed to general tax and the benefits therefrom being accrued to the raiyats wholly, as there could be no enhancement of rent on the ground of improvement made out of proceeds from the special assessment, there is hardly any principle of taxation followed if the landlords who are scrupulously shut out from enjoying directly any increments, arising from the outlay of expenses out of the proceeds of the said tax, are made liable to pay "agricultural cesses". The proposal that agricultural cesses may also be confined to the landlords only has no sanction in any principle of taxation. Thus the agricultural cess or the "tax" on agricultural income earmarked for agricultural improvements, which partakes definitely the nature of a special betterment assessment, should be governed according to the principle of benefit and not to the principle of ability. The canal rate in Bengal is an instance to the point as it embodies the principle of benefit. But the Public Works and Road Cesses and the Rural Primary Education Cess have made departures from the principles of local taxation.

(2) *Principles of local taxation.*—The following principle of local taxation is enunciated by Professor Seligman[1]. "If the Government performs some special service for us there is no reason why the public at large should pay for it. If it is wholly a matter of common interest, the community should pay all; if it is wholly a matter of individual benefit, the individual should pay all; if it is partly common and partly individual, the cost should be divided and the individual should pay up to the amount of his measurable special benefit." If this principle is followed, there is hardly any case to burden landlords with cesses or rates earmarked for agricultural improvements, unless they are assured of increments in the rate of rent.

[1] "Essays in Taxation," page 445.

CHAPTER V.

Tenancy Legislation.

58. **Rent Act of 1859.**—It is surprising to learn from the Report that finding the raiyats rack-rented, impoverished and oppressed, the Government of India intervened on their behalf in 1859 (Paragraph 58). The contention is puerile. The Rent Act of 1859 was originally a Bill "designed only to amend the law for the recovery of rent in the Bengal Presidency, or, as it was put at the time to provide for the revision and consolidation of the distraints and summary suit law which then comprised the law for the recovery of rents. It was not intended to be, in any complete sense, a codification of the law of landlord and tenant. The substantive portions of the Act were not designed to create or limit rights. They were meant to be merely declaratory of the law as it stood[1]." It was the Select Committee who made radical changes, especially the change that the holding of land for 12 years should be considered to give a right of occupancy. In the original Bill, the word "resident" was used. But "residence" being a condition of "occupancy right" was abandoned, and Act X of 1859 gave rise to the conception of occupancy raiyats, a conception alien to the Permanent Settlement Regulations.

The Report contains contradictory remarks with regard to the subject if the occupancy right created in 1859 is synonymous with the khudkasht right in 1793. At one place, the Report says that "in effect they (khudkasht raiyats) had the right which the subsequent tenancy legislation has called a right of occupancy" (Paragraph 27). At another place, the Report states: "It (Rent Act of 1859) thereby obliterated the older distinction between the khudkasht and paikast raiyats, and made length of possession the criterion of occupancy rights" (Paragraph 59). That the khudkasht right originated in the act of settlement and tillage is accepted by all important authorities. But by Act X of 1859, this concept of "residence and cultivation" on the part of occupancy raiyats was negatived; this led to a new state of things.

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[1]*Vide* Appendix I of the Report of the Government of Bengal on the proposed amendment of the law of landlords and tenant, Volume I, published in 1883. Appendix I dealt with the history of Rent Question in Bengal since the passing of Act X of 1859. The true object of the Bill, said the Mover (Mr. Currie) in Council on the 10th October in 1857, was to improve procedure, not to alter rights. In fact, there was no case for alteration of rights.

The position was this: the original Bill wanted to codify the then existing law of landlord and tenant for the sake of administrative convenience but not for limiting the rights of landlords or correcting abuses, and that the Bill became an Act with many new changes in the substantive law. This point of view and consequential deductions therefrom have been completely ignored in the Report. In the circumstances, it is an extremely hasty statement, unsupported by historical facts, that "agrarian disorders forced the situation on Government's attention and led to the passing of Act X of 1859". (Paragraph 76.)

59. **Transferability.**—The Report states that "the authorities are far from unanimous whether before and after the Permanent Settlement raiyati holdings were transferable" (Paragraph 150). It has, however, taken care not to refer to any authorities. The decision of the Full Bench in the Great Rent Case of 1865 to the effect that occupancy raiyats could not legally sell or mortgage any of their lands is doubted without any proof to the contrary. There are other legal decisions to establish that the raiyati holdings were not transferable. All contemporary authorities such as Shore, Harrington and others clearly declared that the holdings of khudkasht raiyats at the time of the Settlement of 1793 were non-transferable. All this is ignored.

In the latter part of the nineteenth century, transferability grew up by custom. In 1885, transferability was sought to be recognised in law subject to the conditions that transfer should be restricted to agriculturists and that landlords should have the right of pre-emption. But it was not done. In 1928 the landlords' transfer fee, which was customary, was recognised in law, and the proposal of pre-emption also received statutory recognition. In 1938 both the fee and the pre-emptive right of landlords were taken away. The Report has laid stress on the central point that the customs and usages which are effective should be respected. But they are indifferent to, and suspicious of, the customary, and even statutory rights of landlords, even when those rights derive justification from the principles of a scientific land system.

60. **Subinfeudation recognised.**—The Report states—

> "Subinfeudation below the raiyat was not created by tenancy legislation; legislation has merely recognised existing facts, belatedly and reluctantly" (Paragraph 140.)

Act X of 1859 provided that the holding of the same land for twelve years should be considered to give a right of occupancy[1] without any reference to "residence" and "cultivation". Since then, subletting which did not involve forfeiture of occupancy rights became common and non-cultivating raiyats grew up in course of time. Thus subinfeudation below the raiyat which was not provided for in the Regulations of 1793 was definitely encouraged by the tenancy legislation. It was not a case of "belated and reluctant recognition" by the tenancy legislation.

61. **Evils of subletting.**—It is interesting to find that on the plea of "elasticity in the land system," they have supported subletting and advocated that there should be "future admissions" in the task of cultivation (Paragraph 140). They did not consider that the "elasticity" may be obtained by providing for "surrender", and that the creation of series of under-raiyats involves a strain on actual cultivators which is not healthy for efficient cultivation. If bargadars and under-raiyats are brought within "protected interests", there is no knowing when the chain of subinfeudation below the legal raiyat will stop, and it is clearly a case of letting things to "drift towards proletarianisation".

62. **Criticisms of Tenancy Acts.**—The Report has arrived at certain conclusions without accepting the logical implications thereof. It has been claimed that tenancy legislations have been enacted for the welfare of raiyats. But the following criticisms were made in the Report itself:—

(1) The Tenancy Act of 1885 did not protect the actual tillers of the soil. (Paragraph 141.)

(2) The vital blunder was to attach occupancy rights not to the land, but to a particular class of tenants who might be non-agriculturists or might cease to cultivate.

(3) Free transferability of the occupancy right has tended and must tend to facilitate the transfer of raiyati lands into the hands of mahajans and non-agriculturists. It is as great a danger to the stability of the existing raiyats as their opportunities for subletting (Paragraph 150.)

(4) The tenancy legislation recognised subinfeudation below the raiyat without attempting to forbid it. (Paragraph 140.)

[1]The decision of the Great Rent Case (1865) was to following effect: "A holding for twelve years, whether wholly before or wholly after, or partly before and partly after, the passing of the Act, entitles a raiyat to a right of occupancy under Act X of 1859, Section 6."

The admissions, made in the above criticisms, are sufficient to condemn the policy embodied in the different Tenancy Acts. They have altered the incidents of raiyati rights, contemplated by the Permanent Settlement, and invited complications in the land system without any regard for the interests of agriculture.

To the above criticisms, the following defects, inherent in the tenancy legislation, may be added:—

(1) The Tenancy Act has not sought to maintain an economic unit of holding[1].

(2) It has encouraged defaulting regular payment of rent by raiyats, the period of limitation being three years. A raiyat holding at fixed rates or an occupancy raiyat shall not be liable to ejectment for arrears of rent but his holding is liable to sale in execution of a decree for the rent thereof[2]. The method of realisation of rent is neither speedy nor effective.

(3) The Bengal Tenancy Act intensifies the shortage of capital in agriculture. The Act stops landlords from obtaining unrestricted possession of a compact area from their own raiyats even for the purpose of development and also from securing any return from the proceeds of their outlay in their own zamindaries[3].

63. **Responsibilities of Tenancy Legislation.**—The Report admits that the worsening of the agricultural situation in Bengal is brought about by unscientific provisions in the Bengal Tenancy Act and that the growth of "a no-rent mentality among many of the cultivators which threatens the stability and security of the land system as a whole"

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[1]Section 88 of the Bengal Tenancy (Amendment) Act, 1928, provided that in the matter of subdivision of tenancy, the distribution of rent should not result in bringing the rent for any portion below Rs. 2-8 in the case of holdings. This may roundly mean that the holdings may not be reduced beyond 2 or 2½ bighas. The Amending Act of 1938 provided that no order for the distribution of rent might be made which would result in bringing the rent below one rupee in the case of holdings. This roughly makes for one-bigha holding. Thus the economic nature of the holding is impaired by the imperfect policy pursued in the different tenancy legislations.

[2]The sale of a holding in execution of the decree and the confirmation thereof take a lot of time. The defaulting raiyats continue enjoying all the privileges. In Madras, a landholder is entitled to recover any arrear of rent by a suit before the Collector, by distraint and sale of movable property or by sale of a raiyat's holding (section 77 of the Madras Estates Land Act of 1908, as amended by Act VI of 1909, VIII of 1934 and IV of 1936). Section 34 of the Agricultural Holding Act, 1923, applicable to agricultural holdings in England and Wales, shortens the period for making a distress for rent to one year.

[3]The Royal Commission of Agriculture in India criticised similar restrictions (paragraph 358).

(Paragraph 88) is facilitated by conditions brought about by tenancy legislations whereunder "a large and increasing proportion of the actual cultivators have no part of the elements of ownership, no protection against excessive rents and no security of tenure" (Paragraph 87). This was a state of things which was not inherited from the Permanent Settlement Regulations, nor created by the landowning class; it was the direct result of the creation of the rent-receiving raiyats whose opportunities for rack-renting under-raiyats and actual cultivators have been widened by the different tenancy legislations.

If this view of the case is accepted, as has been done in the Majority Report, a view with which the present signatories are in agreement, the case for condemnation of the Permanent Settlement and the landowning class becomes weak. But the Report has been impervious to the logic of their own conclusion and has, without good grounds, condemned the Permanent Settlement, and the zamindars with whom the Settlement was made and the state of things following therefrom.

64. **Interest of agriculture neglected.**—The Report breathes a keen desire to clothe raiyats with rights without any regard for the interests of agriculture. They have ignored the fundamental principle of land tenure that if the interests of farms conflict with those of farmers, the interests of the latter shall have to be subordinated—a principle scrupulously followed in all the progressive tenancy legislations of the western countries.

65. **The Barga System.**—As an evidence of concern for bargadars, the Report states: "The balance of opinion in all countries is that this (barga) system of cultivation is neither economic, nor in the interest of the community as a whole". (Paragraph 144.)

It is, indeed, surprising. The Report instituted by the French Farmers' Society in 1912 and published in 1913 states that "Metayage" (the system of sharing in between landlord and cultivator) possessed undoubted advantages and assured the best revenue from land. In Modern Italy Mezzadria or Terzieria (when the landlord takes two-thirds of the crops) covered more than one-third of all agricultural land. It is popular in America, Australia and other places[1]. Share-tenancy is suitable for tenants who have less capital and less

[1] *Vide* Dr. J. A. Venn's "The Foundations of Agricultural Economics" and E. G. Nourse's "Agricultural Economics."

skill and particularly fitted for the places where the system exists. Landlords and raiyats are joint partners in the business of agriculture and this is best assured in a barga system which has never failed to receive a good share of praise from agronomists. This is a very ideal system so far as our country is concerned. In a country of small holdings, cultivated by an army of indigent raiyats depending on private money-lenders and rainfall, the barga system is not only inevitable but also wholesome. Moreover, the barga system is "as old as the country itself" and should not be abolished.

66. **Recommendations regarding bargadars.**—The Report makes two recommendations in the case of bargadars:—

(1) bargadars may be declared as tenants; they need not have all the rights of occupancy. (Paragraphs 145 and 146.)

(2) The share of the crop legally recoverable from bargadars should be one-third, instead of half. (Paragraph 146.)

(*a*) *Bargadars need not be tenants.*—With regard to the first recommendation, there is an indirect admission that the incidents of occupancy right as recognised in the Bengal Tenancy Act do not make for efficient cultivator, but they do not provide that efficient cultivation on the part of bargadars is also necessary. They are eager to give rights but not to ensure performance of obligation. In a share-tenancy, mutual trust is the core of the system, and although bargadars have no written lease, they are little disturbed. A written lease which will be "the material for lawyers" tends to impair the trust on which the system is based.

In fact, the majority of opinions received by the Land Revenue Commission were against the proposal. The Landlords' Associations, the Bar Associations and almost all the individuals who submitted memoranda were unanimous in their opinion that the right of occupancy and other rights should not be extended to bargadars and that no protection was necessary for them. The purpose of the barga system may be defeated if bargadars are declared as tenants and allowed to sublet under any plea. The Report in paragraph 147 proposes to forbid "subletting in any form", but in paragraph 140 states that "we cannot entirely prevent subletting." The dangers of subletting in a share-tenancy should not be ignored. There is thus no case for declaring them as tenants, and such a declaration will prove prejudicial to agriculture.

(*b*) *The half-and-half system popular.*—With regard to the second recommendation, it may be noted that the Report has all along urged on a policy of non-interference with the customary rights in the matter of land tenures. The half-and-half system is popular not only in Bengal but also in other countries of the West where share-tenancy prevails. Under Section 48D of the Bengal Tenancy Act, the rate of rent of an under-raiyat is limited to one-third of the value of the average estimated produce of the land. This is in the case of an under-raiyat with whom the higher grade raiyat has little connection except the receipt of rent. In a share-tenancy, the supervision and constant vigilance from the landlords of the bargadars are essential, but under the recommendation they will be entitled to no better remuneration for the services rendered and the uncertainties and risks, inherent in share-produce, faced. Accordingly, we are not in favour of disturbing the customary arrangements with regard to bhagchasis.

67. **Objects of Tenancy Reform.**—Land is the basic element of production in Bengal, and agriculture is her national industry. The whole community is so harnessed to agriculture that its slightest decline induces stresses and contractions throughout every layer of society. The successive tenancy legislations from 1859 onward did not take into account the importance of agriculture in the national life of Bengal; they sought to invest raiyats with rights. The Tenancy Act should be framed in a way which will—

(*a*) create conditions of cultivating tenure corresponding to the old khudkasht tenure so as to give the cultivators of the soil the utmost freedom, encouragement and security for helping efficient production;

(*b*) preserve full opportunities of access to land for those who are best qualified to use it;

(*c*) protect agricultural land from misuse and exhaustion, either due to bad farming and fragmentation of holdings or to other factors;

(*d*) facilitate bringing into agricultural use any land capable of cultivation, and not at present cultivated;

(*e*) give agriculturists the full benefit of its national credit sources and rescue land from the plight of under-capitalisation;

(*f*) and root out the impediments to the performance of the functions of landlords and raiyats[1].

Tenancy laws are necessary to govern the conditions of tenure with an eye to the interest of agriculture. To put the matter more clearly, tenancy laws should aim at making provisions, (1) for better performance of the functions of landlords, (2) for faithful performance of the functions of raiyats, and (3) for safeguarding the interests of agriculture.

68. **Suggested lines of reform.**—Tenancy reforms within the given framework of the zamindari system should proceed on the following lines:—

(1) *"Landlord" and "tenant".*—In any tenancy the concept of landlord and tenant (or raiyat) should be made clear. In the Bengal Tenancy Act, the definitions of "landlord" and "tenant" are arbitrary. All rent-receivers are not included within one category. The expressions, "landlord" and "raiyat", should be defined in the following way:—

> "Landlord" should mean any person for the time being entitled to receive the rents and profits of any land. (*Vide* Section 57 of the Agricultural Holdings Act, 1923, applicable to agricultural holdings in England and Wales.)
>
> "Raiyat" should mean the holder of land under a contract of tenancy, express or implied, for the purpose of cultivation by his own family or hired labour. Under the Punjab Tenancy Act, a raiyat who collects rent from an under-raiyat is a landlord.

The above definition will put all rent-receivers on the grade of landlords and all cultivators on the grade of raiyats. It will simplify the land system by doing away with many artificial and arbitrary distinctions.

(2) *Rents in Bengal.*—Rents in Bengal were customary. At the time of the Permanent Settlement, the position was that the rents of village raiyats were not to exceed the Pargana rates. The ratio of rent to produce was recognised in the principle of the Pargana rate. Act X of 1859 introduced the provision that raiyats were to receive pattahs at "fair and equitable rates". The Act did not define "fair and equitable rates". The expression "prevailing rate" was also used by Act X of 1859 but not defined. The statutory definition of

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[1]The above principles were approved by the Liberal Land Committee, England (pages 23-25) in their Report.

the prevailing rate was given in section 31A, inserted by the Bengal Tenancy Amendment Act of 1898. The "prevailing rate" was defined as the highest of such rates at which and at rates higher than which the larger portion of land of a similar description and with similar advantages are held within any village or villages. The "prevailing rate" introduced a novel principle. But whatever might be the principles guiding rent-rates in Bengal, the present position is this: the average raiyati rent in Bengal is low (Rs. 3-5 per acre); the average under-raiyati rent is high (Rs. 6-3 per acre). In a country where the under-raiyati rent can be made to go as high as Rs. 6-3 per acre, the maintenance of the raiyati rental at Rs. 3-5 per acre speaks of the liberality of landlords. That the under-raiyati rent has been as high as Rs. 6-3 per acre is due to defective provisions of the Tenancy Act. That is not the blame of the zamindari system. The concept of the "prevailing rate" should, accordingly, be reformed.

Economists hold that low rent results in low-farming and subletting on a vast scale. Accordingly, rents should be kept at a level which ensures efficiency and prevents subletting. That principle was not set in play in Bengal, nor did the Tenancy Act try to stop subletting at a rack-renting rate. The rack-renting nature of occupancy-raiyats has spread discontent which has been exploited under cover of the tenancy legislation to transfer the rights and privileges of landlords to occupancy raiyats. The Bengal landlords have been curbed but the cause of discontent has remained all the same unattacked. The grievances have thus multiplied and have been as ever attributed to the zamindari system. This point of view has not been appreciated in the Report, and the fact that the under-raiyati rent which is intercepted by rent-receiving occupancy raiyats is high has not received any recognition therein.

The Report admits that the present raiyati rent in Bengal is low and forms only one-fifteenth of the value of produce. Thus there is no case for general reduction of raiyati rent, as has been pointed out in the Report, but with regard to under-raiyati rent the same point of view is not applicable.

(3) *Fixity of rent.*—Landlords have no mind to rack-rent or plunder raiyats. We do not seek to enhance rents ordinarily and stand for fixity of rent in normal circumstances. It is only in the case of improvements effected by landlords that a legitimate return of their investments should be assured. That will not disturb the principle of fixity of rent, but if this is not done, the landlords' incentive to making improvements will naturally go. This was strongly urged by the Royal

Commission of Agriculture in India (1928): "We would suggest that, where existing systems of tenure or tenancy laws operate in such a way as to deter landlords who are willing to do so from investing capital in the improvement of their land, the subject should receive careful consideration with a view to the enactment of such amendments as may be calculated to remove the difficulties." The proposal to restrict the landlord's right to raise rent in event of improvements effected by landlords at their expenses would lead to the shortage of capital in the improvement of agriculture. The Rural Report of the Liberal Land Committee, England, 1923-25, unhesitatingly recommended: "To the free working of the landlord-tenant system the landlord's right to raise the rent is essential. Refusal of that right removes his one economic incentive to improve his land." The United Provinces Tenancy Act of 1939 follows the Oudh Rent Act, 1886, as regards the right of a landholder to claim enhancement on account of an improvement effected by or at the expense of landlords.

(4) *Acquisition of lands for improvements.*—To make above recommendation more effective and productive there should be a provision in the Tenancy Act that landlords would be competent to acquire lands from their occupancy raiyats on payment of compensation for various purposes such as improved farming, for making roads, water-courses, for constructing hamlets or markets, for mills or factories, etc. (*vide* Agra Tenancy Act, 1926). Such a provision is helpful for rural improvement and would meet the fatal objection that landlords are restricted to make improvement, even when they like to.

There should be an ancillary and complimentary provision that raiyats, when asked to surrender or sell, would be duly compensated for all the improvements made by them at their own expenses which have added to the productive value of land. The procedure for determining compensation for improvements may be profitably taken from the English Agricultural Holdings Act, 1923, whereunder such compensation is measured by the value of the improvement to an incoming tenant, not by its cost to the outgoing tenant.

(5) "*Raiyati land*".—The absence of discouragement of subinfeudation among raiyats is the most lamentable feature of our tenancy legislation. It leads to rack-renting of under-raiyats and growth of a rent-receiving class of raiyats who enjoy all the privileges incidental to "a protected interest". The subinfeudation among raiyats can be definitely discouraged, if it is provided that the right of occupancy

should be attached to land. There should, therefore, be raiyati land. This was recommended in 1883 by Miss Florence Nightingale, a great friend of Bengal peasants.

(6) *Economic holding.*—The unit of the economic holding should be maintained. The present position in law is that no order for division of holding shall be made which would result in bringing the rent below one rupee. This one-rupee holding will roughly amount to one-bigha holding. The present law should be amended so that no order for division shall be made which would result in bringing the rent below 8 or 9 rupees. That would make room for maintaining the holding at the unit of nearly 3 acres which may be taken as forming an economic unit for the purpose of cultivation. The impairing of the economic unit of the holding leads to inefficiency in agriculture and indebtedness among raiyats. This is essential in the interest of the peasantry of Bengal. A raiyat burdened with uneconomic holding is a powerful instrument for generating social disequilibrium.

Restrictions on subletting are necessary in the interest of raiyats themselves. They are accepted in all progressive tenancy legislations. A true peasant is he who wants to remain a peasant. The tendency of helping rent-receiving raiyats or of helping raiyats to cease to be cultivators on the specious plea of the protection and welfare of raiyats, discernible in the tenancy legislations of Bengal, should be discouraged.

(7) *Realisation of rents.*—In any tenancy legislation, the most vital question is that raiyats can and should enjoy rights so long as they pay rents regularly. This was the *sine qua non* of the old khudkasht tenure. The present tenancy law in Bengal encouraged a raiyat to default in so far as he is not debarred from enjoying his rights in the event of allowing arrears to heap up. It is a common experience for landlords to find that raiyats go on enjoying their rights without making payment of rents for a good number of years through the dilatory methods of Civil Courts. Such an arrangement is evidently unscientific; it is more so, when it is remembered that arrears once allowed to accumulate depress the raiyat and can hardly be liquidated. Many of the recognised advocates of the cause of raiyats, such as Arthur Young, Miss Florence Nightingale, have impressed upon land reformers the necessity of securing a regular payment of rent. That is all to the good of the peasants themselves, and engenders forces for better functioning of the land system. This aspect of the question

should be clearly borne in mind in the matter of devising speedy, inexpensive and effective methods for realisation of rents. In this matter, the tenancy law of Madras is of particular interest to us and can be profitably followed.

We are glad to note that the Report has criticised the existing procedure for realisation of rents, and we are in general agreement with their criticisms. Accordingly, we endorse generally their recommendations in paragraphs 314, 315, 316 and 319 of the Report. The realisation of the arrears of rents by the sale of movables, ejectment, or distraint in a limited way should be duly considered. Judgment-debtors remaining in adverse possession after being given a reasonable time to vacate should not be leniently dealt with. The central and governing fact must not be lost sight of that no landlord-tenant system can function efficiently under the handicap of a dilatory procedure in the matter of realisation of rents; the more so, when zamindars are asked to pay revenue punctually on pain of sale of the defaulter's estates without any commiseration. But we strongly oppose the proposal that if landlords do not accept the money-orders (regarding payment of rent), they should forfeit the claim to the amount of the money tendered by money orders. This a flimsy proposal, especially when the refusal of the money orders can possibly be arranged by collusion between the remitter and the peon concerned. Accordingly, postal receipts for money orders should not be accepted as conclusive evidence by the Courts.

(8) *No-rent mentality to be guarded against.*—The United Provinces Tenancy Act, 1939, has retained the provision in the Agra Tenancy Amendment Act of 1931 that in case of any refusal on the part of tenants of any local area to pay arrears of rent due by them to their landlords, Government may declare that such arrears may be recovered as arrears of land revenue. Such a provision should be made in the Bengal Tenancy Act.

CHAPTER VI.

Economic Conditions in Bengal.

69. **Causes of agricultural decline.**—It is to be observed that the Report has condemned the Permanent Settlement for reasons which are attributable to other factors; it has criticised landlords for defects which have come from other directions. In fact, the Report has contradicted the criticisms made in its earlier part by the observations made in its later part. The Report admits without reservation that the economic position of agricultural Bengal has worsened for the following reasons:—

(*a*) ever-increasing pressure of population on land (paragraph 153);

(*b*) the subdivision of holdings, accelerated by the laws of inheritance and the free right of transfer (paragraph 154);

(*c*) the growth of uneconomic holdings (paragraph 156);

(*d*) fall in agricultural prices since 1929 (paragraph 158);

(*e*) inadequate yield of rice in Bengal (paragraph 166);

(*f*) the general absence of practice to grow a second crop (paragraph 213);

(*g*) absence of improved methods of cultivation (paragraph 214);

(*h*) the deterioration of the rivers in Western and Central Bengal (paragraph 216);

(*i*) unscientific embankments (paragraph 218);

(*j*) absence of proper marketing organisation for agricultural and industrial products (paragraph 237);

(*k*) the unimproved breed of cattle (paragraph 238);

(*l*) unsatisfactory credit facilities of agriculturists (paragraph 278);

(*m*) the restriction of rural credit by the Bengal Agricultural Debtors Act, 1935 (paragraph 158).

The recital of the causes of the economic deterioration of agricultural Bengal indicates that the chief potent factors are: (*a*) natural causes, (*b*) imperfect legislations, (*c*) Governmental negligence. It has little to do with the Permanent Settlement, less with the landowning community. On the other hand, that

agricultural Bengal progressed economically in spite of the handicaps mentioned was a distinct tribute to the land system. At a time when there was no other agency for rural welfare, it was the landlords who functioned as such, and even now they play an important role in the economic regeneration of rural Bengal. This historical perspective and objective approach to the problems of agricultural Bengal, which have been absent in the Report, should not be lost sight of in evaluating the land system created by the Permanent Settlement of 1793.

70. **Condition of Bengal cultivators.**—With regard to the position of the Bengal cultivators, the Report makes the following admissions:—

(1) The incidence of rent has little effect on the general economic conditions. Rent is one of the least important items in the cultivator's budget. (Paragraph 174.)

(2) Bengal has a more fertile soil and greater climatic advantages than the other Provinces. (Paragraph 201.)

(3) The cultivators of Bengal are, as a whole, better off than those in Madras and the United Provinces. (Paragraph 202.)

(4) Both in Madras and the United Provinces the cultivators have to work harder for crops which are less valuable than those grown in Bengal (Paragraph 202). The value of the crops which the Punjab tenant grows is roughly half the average value of crops in Bengal (Paragraph 201).

(5) Considering the level of rents obtaining in the provinces visited (that is, Madras, the United Provinces and the Punjab), the value of produce, and the prevailing economic conditions, there would be justification for enhancements, rather than reductions of rent in Bengal. (Paragraph 204.)

These admissions, however, do not establish the case for a fundamental change in the land system of the Province; they emphasise the need for a planned agricultural policy by Government within the given framework of the land system. The logic of their findings has been lost upon the majority of the members of the Commission.

71. **Impoverishment of Bengal.**—It is well known that the economic deterioration of Bengal resulted from other factors which have not been touched on in the Report, viz., decline of

her own industries, and the exploitation of Bengal's money for other provinces. When the Britishers came and assumed administration of Bengal, she had cotton, silk and salt industries on a large scale. The Company's trading policy depressed those industries. Since the Permanent Settlement, it was Bengal's surplus which met the expenses of wars for the consolidation of British rule in India. Even at a later period when the Central Administration was well established, Bengal's contributions to the Centre which were always higher could not be profitably used for Bengal's welfare. The result has been that the *per capita* expenditure in the nation-building activities of the Government of Bengal has been extremely low. This story of Bengal's ruin of industries and sacrifice for the other provinces and for the Centre explains, to a great extent, the handicaps experienced in the matter of economic reconstruction of Bengal and disapproves the contention that the Permanent Settlement could be linked up with the cause of the economic backwardness of the Province.

72. **No agricultural policy planned.**—The Report has discussed elaborately the economic handicaps facing the Bengal cultivators in the matter of production and distribution of their agricultural products. In this task, it has exceeded the bounds of the terms of reference and acted more as an Agricultural Commission. In fact, it has drawn largely on the recommendations of the Royal Commission of Agriculture in India (1928). We desist from discussing those recommendations at length partly because we have not been asked to record specifically our opinions on agricultural improvements, and partly because they have been put in a very general way so as to disarm any criticism. No agricultural policy has been planned and recommended; merely some of the text-book maxims with regard to the methods of cultivation, marketing of produce, controlling of indebtedness and others of similar nature have been catalogued. The Report hardly makes any constructive suggestions which may be developed into an agricultural policy. The approach to the problem does not bear the impress of any scientific outlook.

73. **Criticisms.**—Let us illustrate our criticisms.

(1) The Report finds that two-fifths of the agricultural families hold an area of 2 acres or less, which is insufficient for their maintenance (Paragraph 173). This is a very grave situation which needs immediate tackling, but no constructive remedies are put forward to remove the existing defects. The Report merely suggests that the subdivision of holdings cannot be effectively checked and that the fragmentation of holdings

where subinfeudation exists can hardly be improved by consolidation.

(2) In paragraph 158, the Report says that the Bengal Agricultural Debtors Act, 1935, has resulted in restriction of credit and at present rural credit is almost non-existent. In paragraph 295, the Report states: "We are not prepared to say that the defects of the Act are such that it should be repealed." Thus the Report at one place admits that rural credit is almost non-existent principally through the operation of the Agricultural Debtors Act; it recommends in another place that the defects of the Act are not so vital as to justify its repeal. In paragraph 298 the Report says that the proposal to establish Government-controlled Agricultural Banks in every thana is not desirable or practicable. In paragraph 299, the Report recognises that the reorganisation of the Co-operative Department may take time. But there is no indication, far less any scheme, how the existing credit needs of agriculturists will be satisfied, especially in a country where the majority of credit-money flows from private money-lenders.

(3) The Report notes that there has been a fall in the prices of agricultural products (Paragraph 158) since 1929, but there has been no discussion, far less any suggestion, as to how fair prices could be maintained.

(4) The Report points out that the marketing organisation both for agricultural and industrial products is unsatisfactory but there is no plan envisaged on which marketing organisation should run.

(5) The Report feels the need for improved yield, better manuring, better sires, better seeds, double cropping, etc., but there is no constructive scheme wherefrom raiyats will have the necessary money and requisites. The Report finds its task completed by emphasising the need for rural organisation (Paragraph 209).

We are sorry to find that the Report hardly makes any constructive suggestion to the solution of our grave economic problems. The remedies recommended are extremely in the nature of a patch-work; they do not answer to the needs of the situation. They have been "radical" in recommending a change in the land system but extremely "conservative" in devising measures of reform in the economic field. All this indicates that they do not propose to rescue agriculture out of its pit which is essential, but they merely want to strike landlords low for some "fancied" privileges to raiyats who form generally a "legal personality" in the task of cultivation without being cultivators themselves.

74. **Constructive schemes suggested.**—Some of our constructive suggestions for the amelioration of the economic malaise of agricultural Bengal are very briefly given below and the details thereof are left out:—

(1) *Central Development Board.*—There should be a Central Development Board constituted of landlords' representatives, tenants' representatives, and Government experts. This Board will co-ordinate the activities of the Agricultural and Industries Department, Irrigation Department and Co-operative Department. The functions of the Board may be as follows:—(*a*) agricultural improvements by the introduction of improved seeds, good manure, new money-crops, rotation of crops, improved method of agriculture, etc., (*b*) irrigation and drainage improvements, (*c*) marketing schemes, (*d*) revival of cottage industries, (*e*) better credit arrangements.

The proceeds from agricultural income-tax, if any, and other levies earmarked for agricultural improvements supplemented by grants from general revenues of the Provincial Government and other additional receipts in the shape of jute duty, might form the nucleus of the funds, as most of the work of the different nation-building departments will be performed and co-ordinated under the ægis of the Central Board. The allocation of the funds will be made by the Board.

(2) *Improvement of the human unit.*—In agricultural economy, tenure and credit are the two most important factors. In the matter of tenure, we have already put forth our recommendations (*vide* Chapter V). With regard to credit the most vital thing is to increase the "credit-worthiness" of agriculturists. The credit-worthiness of raiyats may be increased by (1) making them honest and efficient, (2) making agriculture a paying proposition, (3) pooling the products to serve as credit-fund for loans. Raiyats should come under a regional organisation, started or subsidised by Government, for the purpose of improving their production and distribution. But in a country where the population is dense, and agricultural holdings numerous, the principles of co-operative or collective farming are not suitable; individual farming on small holdings, as is being encouraged in England by the Small Holdings Act, is most suitable in Bengal. The main Report is silent on emphasising the need for improving the human unit, involved in the task of cultivation.

A cultivator should have health and strength, skill in his task, industrious habit, clear vision, good judgment, knowledge of his crops and live-stock, ability to give and receive

instructions, self-control to keep his wasteful habits under control, ability to work with neighbours, faithfulness to the interests of farms, and habits of frugality. The agricultural policy should be so framed as to encourage the above virtues.

The complaint of competent observers has been that agricultural prosperity has "added little to the peasant's wealth but greatly to his debt and alarmingly to his numbers", and that "every economic advantage gained by raiyat has been the signal for relaxation of effort". The "unwholesome effects" of prosperity on raiyats, which are and can be found, should be guarded against to stabilise the good effects flowing from agricultural prosperity.

(3) *How to improve credit system.*—In Bengal the existing agencies except indigenous money-lenders are inadequate to serve the credit-needs of raiyats. The co-operative societies touch on only a fringe of the problem, and even if they are extended, they can hardly meet the growing needs. Accordingly, the agency of private money-lenders cannot be altogether ignored; their operations and rates of interest may be regulated. The policy of the Government of Bengal has been the antithesis of accommodating private money-lenders, and accordingly, agriculture is thirsting for loans whereas credit-money is dried up. This imperfect policy should be broadened by liberal vision. If the agricultural products could be pooled by an organisation, the difficulties of commercial Banks lending money for agricultural needs will be considerably overcome. In this wise, the credit agency may be improved. The extension of co-operative society under true co-operative principles in every thana is still a far cry. Moreover, the spread of co-operative movement requires literacy, training in citizenship, team work in common weal and woe, and a state of efficiency which is at present non-existent. We favour the extension of co-operative principles in credit and other societies, but situated as we are, the other credit agencies (such as private money-lenders) should be maintained in high efficiency to keep agriculture going.

(4) *Marketing scheme.*—Those who produce should not be brought out to market products, and some organisation should be planned to do the work on behalf of producers in conjunction with the interest of consumers.

Marketing should be on the commodity basis and the organisation should control the movement of the product from the field to the market.

Marketing organisation is taken over by Government primarily to ensure remunerative prices for agricultural

commodities. By subsidy, by quota restriction, by market organisation and by tariffs, the quality, quantity and price of agricultural produce are maintained and improved.

In the matter of marketing agricultural products (especially the money-crops and not the food-crops), we favour the principles followed in the English Marketing Acts of 1931 and 1933. In England the Agricultural Marketing Act of 1931 conferred powers upon proved majority of growers to coerce the minority into a specified course of action. The Marketing Board is empowered to fix prices of the commodity selected, divert products to factory or other purposes, to deflect supplies into particular channels, to refuse recognition to certain qualities of goods and to select selling agencies. The Marketing Act of 1933 empowered the Board of Trade to restrict imports of any agricultural products subject to the provisions of the 1931 Act, the primary object being the attainment of a remunerative level of prices. The policy has thus led to the establishment of monopolistic marketing organisations, subject to Government control. Raiyats are to be protected by the Marketing Acts, quota and tariff regulations to ensure fair prices of their produce.

(5) *Fertility of land.*—The task of improvement of agriculture is bound up with the question of increasing the capacity of land. It is well known that "under the hot conditions prevailing bacterial activity proceeds at a rate unknown in temperate climates, and the visible sign of that activity is loss of humus. Deficiency of organic matter is the outstanding feature of the soils of India[1]." The agricultural lands of Bengal have been under cultivation for so long a period and it is questionable whether a return commensurate with their cost would be obtained so long as the humus problem remains unsolved. In such circumstances, the use of artificial fertilisers, as suggested, will be governed with caution and circumspection. The Report is indifferent to the "problem of humus", and accordingly it has not been able to judge the methods of improving the deterioration of the soil. It is difficult to maintain that "no further deterioration is likely to take place under existing conditions of cultivation" (Paragraph 165). Our planned agricultural economy should take note of how to make up deficiency in humus and mineral food requirements of the crops and to keep the soil-air, soil-water, soil-temperature and soil-micro-organism in a balanced state.

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[1]"Encyclopædia of Scientific Agriculture," edited by H. Hunter, Volume I, page 71.

Given such land, its productivity may be, furthermore, increased by growing more productive crops and by more intensive cultivation.

The questions of improved plough, deeper cultivation, rotation of crops are all related to the primary problem of raising the fertility of the soil.

Aus lands and high jute lands can easily be cropped more than once. Potato, tobacco and other crops may be had during the winter time by liberal application of cow-dung and overcoming water-famine. If these lands become double-cropped, the problem of cultivators remaining idle for the greater part of the year is considerably reduced. The main problem is of making water available during winter time in respect of aus and high jute lands. This emphasises the question of canalising silt-laden water in the moribund portions of the delta and of making tube-well water available for agricultural purposes.

In Bengal there are areas (principally in Western and Central Bengal) which are eroded or damaged by deterioration of rivers and of drainage; there are areas in the Sunderbans which are rendered unfit by salt deposits. All this has been referred to in paragraph 165 of the Report, but no programme of reconstruction has been discussed. By experimental research it shall have to be found out what are the requirements for making the soil of the decadent areas fit for good cultivation or what crops suit salt-deposited lands best. It is no good recommending artificial fertilisers for those exhausted and unresponsive areas; that may make the situation worse.

(6) *Resuscitation of rivers.*—In Bengal, the resuscitation of the rivers which have already deteriorated and the adoption of measures for the conservancy of others form the most important item in the rural reconstruction programme. In West Bengal, Central Bengal and North Bengal which have now become mostly malarious, irrigation projects supplemented by storage works are urgently needed. It is only in East Bengal (with the exception of the area served by the old Brahmaputra river) the problems of declining rivers, deteriorating channels and of malarious infection do not arise. The rivers silt up by the railway and other high embankments, and there is consequential decline in agriculture and sanitation. This is a very grave and menacing problem in Bengal, and it will be seen that many of the fertile areas have been turned into infertile regions through unscientific embankments constructed either by Government or by the

Railways. This raises a very important question if the landlords whose areas were once productive and who accepted the Permanent Settlement on the basis of the prevailing assets could claim compensation from Government or the Railways through whose embankments their estates have been permanently injured. The Government of India in their letter No. 1143, dated the 25th July 1856, admitted that there was a case for reduction of revenue payable by certain estates if they should be permanently injured, although they did not support the claim of compensation[1]. As for instance, a great portion of the Burdwan Division is considerably injured by the embankment policy, the Grand Trunk Road, the Rail-Road, etc., and there is thus a good and unanswerable case for reduction of the revenue of the affected areas, as admitted, or in the alternative of the restoration of irrigation facilities at Government cost.

(7) *Economic size of holding to be maintained.*—The Report in its paragraph 122 has attempted to define an economic size of holding. By economic holding they have meant the subsistence holding. But in a planned agricultural economy, the subsistence unit needs to be differentiated from an economic unit. An economic unit is to be determined by the play of the factors of production, and a subsistence unit will be ascertained after taking into consideration many monetary and non-monetary factors. Accordingly, both the units are bound to differ in area. This differentiation is essential because in our agriculture, our first aim will be to see that the labours of the human and cattle units do not run to waste. The effective economic unit may or may not be the subsistence unit. The main Report has indifferently treated this problem.

(8) *Subsidiary occupations.*—The subsidiary occupations of our agriculturists are generally the following:—sale of cocoanuts, betelnuts and other fruits; sericulture and cultivation of lac in Malda, Rajshahi, Birbhum and Murshidabad; poultry farming and sale of eggs; sale of milk and vegetables; rearing of goats and sheep; working as a boatman in Northern and Eastern Bengal.

The contention that agriculturists could be employed to build up and improve local cottage industries should be examined with caution. The primary aim is to employ agriculturists in the task of agriculture, and if there are economic holdings, cropped more than once and farmed with

[1] "The Canal and Flood Banks of Bengal" by W. A. Inglis, page 256.

wise selection of crops, the spare time could be profitably employed in the subsidiary occupations. It is mainly the surplus agricultural workers who should be absorbed in cottage and local industries. Women also can and do employ their time in helping cottage products. Cottage and rural industries are so important that they should be developed with the aid of full-time working people. The primary aim, so far as cultivators are concerned, should be to make agriculture remunerative and to employ their time, as far as possible, in their own work.

Main Conclusions and Recommendations.

1. The zamindari system is indigenous to the soil of Bengal; it remained undisturbed and it was preferred to other arrangements. The "ownership" of cultivators was limited to the purpose of cultivation and the proprietary right of zamindars was never ignored. (Paragraphs 5 to 16.)

2. The Permanent Settlement was made with actual proprietors of the soil. (Paragraphs 17 and 18.)

3. The rights of raiyats are no derogation from the proprietary right of landlords. (Paragraphs 19 to 21.)

4. The Permanent Settlement Demand did not leave one-tenth for zamindars; it was "an advance assessment". (Paragraphs 22 and 23.)

5. The Protection Clause in Regulation I of 1793 does not guarantee the vital changes effected by the subsequent tenancy legislations. (Paragraph 26.)

6. The main objects of the Permanent Settlement have been achieved. (Paragraphs 27 to 34.)

7. The volume of public support with regard to the abolition of the Permanent Settlement has been negligible. (Paragraph 37.)

8. The landowning community belongs to a "minority" community. (Paragraph 38.)

9. The condition of Bengal cultivators is better off under the zamindari system. Hence, there is no need for its abolition. The prejudicial effects of the State-purchase are pronounced; moreover, the State-purchase scheme is confiscatory in nature and will lead to revolutionary changes. The case for State-purchase is not established. (Paragraphs 39 to 42.)

10. The principles of compensation adopted in the main Report involve expropriation on a considerable scale. Landlords in the event of nationalisation should be fully compensated. The rate of compensation should be such as to guarantee the existing income of landlords. Payment would preferably be made in cash; if in bonds, they should carry interest at 5 per cent., guaranteed by the Government of India, free from income-tax. The arrear rents should be compensated for in two-thirds. The khas lands of landlords—including those cultivated by bargadars—should not be nationalised, if

the barga lands of rent-receiving raiyats are not touched. If bargadars are treated as tenants, they should be brought under Government at the same time as lowest cash-paying under-raiyats. The scheme of State-purchase should not be pursued piecemeal. (Paragraphs 43 to 47.)

11. Fishery and Mineral rights should not be purchased. The right of zamindars to minerals including oil cannot be extinguished without compensation. (Paragraph 48.)

12. Income-tax on agricultural income will burden landlords, prejudicially affect certain industries such as tea industry and complicate inter-provincial issues. (Paragraphs 50 to 52.)

13. If income-tax is at all imposed, landlords or raiyats having incomes below two thousand rupees should be exempt; tauzis left with 25 per cent. or a reasonable margin of income after payment of revenue or rent and cesses shall also be exempt; income-tax should accrue only to the actually realised net incomes; agricultural income-tax should be earmarked for agricultural improvements. Income-tax should be discontinued when the limit of agricultural improvement is reached. (Paragraph 56.)

14. Agricultural cess is opposed. In the matter of local taxation the principle of benefit should be the guide. (Paragraph 57.)

15. The barga system is suited to the needs of the country; it is as old as the country itself and should not be abolished. Bargadars should not be declared tenants. The half-and-half system should be maintained. (Paragraphs 65 and 66.)

16. The object of tenancy reform should be to govern the conditions of tenure with an eye to the interests of agriculture. (Paragraph 67.)

17. Landlord should be defined to include all rent-receivers and raiyat to include cultivators. The raiyati rent is low and under-raiyati rent high. There is no case for general reduction of rent. The fixity of rent may be guaranteed but in case of improvements effected by and at the expense of landlords, legitimate return of investments should be permitted. Landlords should be permitted to acquire lands from their occupancy raiyats on payment of compensation for improved farming and other purposes helpful for the country. The occupancy right should be attached to land, not to raiyats. The unit of the economic holding should be maintained. The recommendations of the Report in paragraphs 312, 315, 316, and 319 of the Report with regard to realisation of rent are

generally supported. But the proposal that postal receipts for money orders (regarding payment of rent) should be accepted as conclusive evidence is strongly opposed. In case of general refusal to pay rent, such arrears may be recovered as arrears of land revenue. (Paragraph 68.)

18. The causes of agricultural decline are natural causes, imperfect legislations and governmental negligence. (Paragraph 69.)

19. The Bengal cultivators are economically better situated. (Paragraph 70.)

20. The impoverishment of Bengal has followed from the ruin of her own industries and the low *per capita* expenditure by the Provincial Government. (Paragraph 71.)

21. There is no agricultural policy planned in the main Report. (Paragraphs 72 and 73.)

22. There should be a Central Development Board for co-ordinating the activities of various nation-building departments and for carrying out schemes of rural improvement. The credit-worthiness of cultivators should be improved. Private money-lenders should be nursed, not discouraged. The extension of co-operative principles is desirable. Raiyats should be protected by subsidy, quota restriction, tariffs and Marketing Act. The principles followed in the English Marketing Act of 1931 and 1933 may be profitably adopted with regard to non-food crops. The capacity of the soil should be increased by solving the problem of humus. Improved plough, deeper cultivation and rotation of crops should also be resorted to. Artificial fertilisers for exhausted areas should be adopted with caution. The resuscitation of the rivers which have deteriorated and the adoption of measures for the conservancy of others should not be neglected. In areas which have been rendered infertile by the embankment policy and the high roads leading to the choking of rivers or a change in the course of rivers, there is a case for reduction of revenue of the affected estates, or, in the alternative, restoration of irrigation facilities at Government cost. The economic size of the holding should be distinguished from the subsistence holding. The primary aim is to employ cultivators in the task of agriculture and to make agriculture remunerative. It is the surplus agricultural workers who should be absorbed in cottage and local industries. If there are economic holdings cropped more than once and farmed with wise selection of crops, the spare time could be profitably employed in the subsidiary occupations. (Paragraph 74.)

Note of Dissent

by

Khan Bahadur Saiyed Muazzamuddin Hosain, M.L.C.

Although I have agreed with most of the findings in the main Report with regard to the major issues, I feel there are certain observations and findings with which I have to differ as they are not based on reliable data. I propose to deal with them one by one in this note.

1. **Status of raiyats.**—The status of raiyats has been traced in the Report from the early Hindu period, but it is found that some apparent inconsistences have crept in. In paragraph 17 it has been held that during Hindu period the King never had any right to the soil and his right was restricted to exact a share of crops from every cultivator as tax. The authority of Manu has been cited to show that the land belonged to the person who cleared the jungle and brought it under cultivation and he could sell, give, bequeath or otherwise alienate it at his individual discretion. In paragraph 26 it has been stated that the position of the cultivators during the Moghul time was the same as in the Hindu period but in the second sentence next following it is stated "The old residential cultivators who were called Khud-kasht raiyats had the right to remain in undisturbed possession subject to the payment of the dues" and it has been observed that they had the right which subsequent tenancy legislation has called a right of occupancy. These later observations are not to my mind quite consistent with the finding that during Hindu period the cultivators were the proprietors of the soil and their position had remained practically the same during Moghul time. The right of occupancy given to certain classes of cultivators by subsequent tenancy legislation was a much inferior right than that of the right of proprietorship originally held by the cultivators during Hindu period and recognised by the Moghuls. Then in paragraph 43, it is stated that the cultivators' right from early historical times was limited by those of the King, and his right was primarily a right to cultivate and he could be evicted for failing to cultivate properly which is inconsistent with and contradictory to what is stated to be the cultivators' right in paragraph 17. In the next sentence in paragraph 43 it is stated that "at the time of Permanent Settlement their holdings were heritable and perhaps transferable". I am definitely of

opinion that the cultivators continued to be the proprietors of the soil from the early Hindu period till before Permanent Settlement of 1793, subject to payment of a share of crops to the State for administrative purposes, as price for protection of their crops and security of their life and property, and this view is supported by Mr. Sarada Charan Mitter's "Introduction to Tagore lectures on Land laws of Bengal", pages 7, 24, and 30 from which the following extracts are quoted for ready reference:—

"He (the King) was entitled to a share of the usufruct of the lands in the occupation of his subjects not because he was the owner, but because a share was payable to him as the price for the protection afforded to life, liberty and property" (page 7). . . . . "The imposition of Kheraj (during Muslim time) did not deny the existence of property in land and take away the proprietorship of the cultivator. His right was alienable and the lands cultivated continued to be the property of the inhabitants who might lawfully sell or otherwise dispose of them" (page 24). . . . . "The English in India started with the assumption that 'all the soil belonged in absolute property to the Sovereign, and that all private property in land existed by his sufferance . . . . . The existence of private property in land which', is the fundamental doctrine of Hindu jurisprudence and which as we have seen even the Muhammadan Government in India did not put out of sight, was entirely ignored. With this idea the Government in 1793 transferred in perpetuity a vast and the unmeasured quantity of land to a class of men who were and are known as zamindars, and property in soil was formally declared to be vested in them" (page 30).

2. **Status of zamindars.**—In paragraph 20 of the Report the following observations regarding the origin of zamindari are quite misleading: "It became a recognised tribute of the ruling power that as a matter of custom it had the combined right to the share of the produce, the right to the waste and the right to transit dues. This aggregate of rights from very early Muhammadan time was spoken of as the zamindari". The rights described were those of ruling powers and chiefs who had practically sovereign rights and they are quite distinct from the generality of zamindars who were either Revenue officers of Moghul time, who had acquired some sort of prescriptive and hereditary right to collect revenue on receipt of a share of the collection as allowance, or mere farmers of revenue with whom farming settlement was

made during early British period as detailed in paragraph 34. The few chiefs and ruling powers with whom zamindari settlement was made in 1793 can be counted on fingers and most of them have been mentioned in paragraph 34. But even their rights were limited to the collection of a share of crops for administrative purposes, which was the right of the paramount power and so it is not at all understood how it could be observed at the end of paragraph 34 that they had lost some of the privileges they had previously enjoyed under the Central Government. In any case, it should have been made clear in paragraph 34, that the vast majority of the zamindars with whom Permanent Settlement was made in 1793 belonged to the third and fourth class who were mere agents for collection of revenue. It is worth while quoting here an extract from answer to question 24 of the questionnaire by the premier zamindari association of the Province, viz., the British Indian Association. The extract runs as follows:—

"Moreover hereditary Government officers being assigned responsibility for filling up the quota of land revenue, cultivators were removed from direct connection with the state and left with a subordinate position. The zamindars appeared in the scene and before them 'all rights sank'." The extract clearly supports the view that the zamindars were originally hereditary officers of Government who were entrusted later on with the collection of revenue and they had no right in the soil. The fact whether by their being entrusted with the collection of revenue, the rights which the raiyats possessed from time immemorial disappeared is a question of opinion and the Commission as a whole has given its verdict in the negative on the point when in paragraph 43 of its Report it has definitely come to the finding that the zamindars of Bengal never had an absolute right of property in soil, nor was it intended to give them such right by Permanent Settlement. Their rights have always been limited by the rights of the raiyats. The hereditary officers of Government were only given the responsibility of collecting revenue and this did not amount to their being invested with any proprietary right. That this was really so will be clear from the finding of the Court of Directors in their despatch of September 1792 sanctioning Permanent Settlement: "On the fullest consideration we are inclined to think that whatever doubts may exist with respect to their original character whether as proprietor of land or collector of revenue, or with respect to the changes which may in process of time have taken place in their situation, there can at least be little difference of opinion as to the actual condition

of the zamindars under the Moghul Government—custom generally gave them a certain species of hereditary occupancy, but the Sovereign nowhere appears to have bound himself by any law or contract not to deprive them of it; and the rents to be paid by them remained always to be fixed by his arbitrary will and pleasure which were constantly exercised upon this subject. If considered therefore as a right of property it was very imperfect and very precarious having not at all or but in a very small degree qualities that confer independence and value upon the landed property of Europe". Then again the fact that the profit of the zamindars during Moghul period and even during British rule comprised only one-tenth or one-eleventh of the assets is significant and goes to show that all their right consisted of only one-tenth or one-eleventh of the raiyati assets as commission for collection of revenue. They had no right to fix the raiyats' rent which used to be done by the Sovereign. They were entitled to only a percentage of the rents of raiyats; fixed by the Sovereign. Lord Cornwallis in his Minute of 1790 definitely draws attention to this fact when he states, "The question that has so much agitated in this country whether the zamindars and taluqdars are the actual proprietors of the soil or only officers of Government, has always appeared to me to be very uninteresting to them, whilst their claim to a certain percentage upon the rents of their lands has been admitted and the right of the Government to fix the amount of those rents at its own discretion has never been denied or disputed.

"Under the former practice of annual Settlement, zamindars who have either refused to agree to pay the rents that have been required or who have been thought unworthy of being entrusted with the management, have since our acquisition of the Dewany been dispossessed in numberless instances, and their lands held khas or let to a farmer and when it is recollected that pecuniary allowance have not always been given to dispossessed zamindars in Bengal, I conceive that a more nugatory or delusive species of property could hardly exist." Much is now being made of the fact that in some cases dispossessed zamindars were given allowance as malikana. But at best it was of the nature of a compassionate allowance paid for the maintenance of the family of a discharged officer who was supposed to have some hereditary right to his office. Such was the position of the zamindars till before Permanent Settlement.

3. **Effect of declaration that zamindars were proprietors of the soil.**—It was for the first time in the course of

Permanent Settlement that the zamindars were definitely declared to be proprietors of the soil, but the Commission has definitely given their view in paragraph 35 of the Report that "so far as the raiyats were concerned it was never the intention to take away any of their existing rights: on the contrary it was clear that the intention was to allow them to go on enjoying the rights which they had always possessed by custom". But though this was the intention of the framers of the Permanent Settlement the fact of conferment of proprietary right on zamindars by Permanent Settlement Regulation had seriously prejudiced the interest of the raiyats. The zamindars began to assert themselves as absolute proprietors and succeeded in getting laws enacted directly or indirectly recognising them as having the right of choosing their own tenants, the right of vetoing transfers, the right of cutting and taking away trees grown in tenants' homesteads by tenants themselves, the right of forbidding excavation of tanks or sinking of wells or erection of brick built house at their sweet will, the right of fixing rents of new lands at their sweet will up to any amount, right of enhancing rent on the ground of rise in prices, though their revenue payable in rupee was to remain fixed in spite of decrease in the value of silver. In fact the raiyats who were originally proprietors and who were meant to be co-partners in the benefit of Permanent Settlement were gradually relegated to the position of serfs or slaves, or still worse, and all this was directly or indirectly due to the declaration that the zamindars were proprietors. The report should have drawn pointed attention to these facts as our term of reference required us to set forth in details the effect of Permanent Settlement. It was only since 1928 that some of the grievances of the raiyats in these matters were removed, but the Act of 1928 again committed a blunder by recognising salami on transfer as a legal due, though it being a new impost since Permanent Settlement was abwab pure and simple under Regulation VIII of 1793. The Amending Act of 1938 has at last abolished the salami, but the raiyats are still labouring under certain disabilities, e.g., enhancement of rent, etc., which were not attached to their tenancies at the time of Permanent Setttlement.

4. **The State.**—In paragraph 41 of the Report it has been stated that the State, although still regarded theoretically in parts of India as the supreme owner of land, has never in practice claimed any actual proprietary rights in the soil. Its claim has been limited to a share of the produce. We do not agree that even theoretically the King had any right to

the soil. The idea that proprietorship of land vests in the Crown is foreign to India and has been imported to this country by the British rulers on the analogy of the land system prevailing in their own country. But whatever that may be, when it is admitted that State never claimed any proprietary right and its right was restricted to a share of the produce only, now the question arises whether a Sovereign State with such limitations in its own rights could confer proprietary right to the zamindars which the State itself did not possess. This point should perhaps have been discussed in the report. It is the accepted principle of law that a person cannot confer a right better than his own and if he does, it will be *ipso facto* void.

5. There is another legal implication in this connection which also need be considered. The East India Company having obtained the Dewany from the Moghul Emperor, were mere collecting agents of the sovereign power. Could they under the circumstances assume the capacity of sovereign power for conferring permanent proprietary rights in land? I merely mention this apparent anomaly and do not propose to discuss in detail.

6. **Rent of raiyats—Pre-Permanent Settlement rents.**—In paragraph 26 of the Report it is stated that during Hindu period one-sixth of the produce was the rent and it was increased to one-third during Akbar's time and generally to half during Aurangzeb's reign, and later on in paragraph 43, in the course of discussing the rights of raiyats, it has been stated that the raiyats' rights had become obscured during the latter part of the Moghul rule by an administration whose ever-increasing exactions of revenue was followed by rack-renting of raiyats. Facts and figures do not however justify that cash rents in Bengal proper were ever equivalent to the value of half the produce or that there was ever any substantial enhancement in the Revenue of Bengal during Aurangzeb's time. There are also reliable figures from which it can be demonstratively proved that the rents of Bengal tenants were nothing like rack-rents during the Moghul Emperors of latter period.

In paragraph 24 of the Report it is definitely stated that Akbar's system of assessment (which was one-third of produce) was never applied to Bengal and the revenue was fixed not after any measurement, but on the basis of rough estimate of cultivated area and assets. If that was so, the probability is that the assets were much underestimated and, the revenue of

Bengal during Akbar's time was not anything like one-third of the total produce. In paragraph 25 it is stated that the revenue of whole of Bengal including Bihar was fixed at 107 lakhs during Akbar's time, some 76 years after it was increased to 131 lakhs by Shah Shuja in 1658. The increase included additional revenue for extension of cultivation, and including such additional revenue the increase worked out at 22·4 per cent. only. There was no further increase in revenue until Murshid Kuli Khan's time in 1725 when the revenue was increased from 131 to 142 lakhs (an increase of 8·4 per cent. only after a lapse of 67 years). How in the face of these figures it can be held that the rents of Bengal were enhanced from one-third of the produce to half during Aurangzeb's time —Aurangzeb being contemporary and a brother of Shah Shuja. If the revenue and consequently the rents had really been enhanced at that rate, the increase would have worked out at 50 per cent., but the total increase in revenue including additional rent for new lands from the time of Todar Mal till the enhancement of Murshid Kuli Khan amounted to only 30·8 per cent. (22·4 + 8·4) and how can this 30 per cent. increase gradually made in the course of 143 years including additional rent for new lands be said to have been extortionate is beyond our comprehension. Even taking the enhancement of Aliverdi Khan made between 1740 to 1756, including Marhatta Chouth which was necessitated by exigencies of the time, and abwabs, the increase from the time of Akbar to 1756 (during a period of 174 years) works out at 139 per cent. and if allowance be made for additional rent for new lands it will probably be found that the real [illegible]te enhancement during 174 years was not even cent. per cent. Side by side we may consider the figures of khas mahal revenue in Bengal which has doubled itself within 25 years even according to the note circulated to us. When it is considered that for rise in prices alone Government could enhance the revenue probably by more than 400 per cent. within 174 years, it will be seen how very incorrect is the observation in paragraph 44 that during the latter part of Moghul rule ever-increasing exactions of revenue were followed by rack-renting of raiyats.

7. **Rent at Permanent Settlement.**—At the time of Permanent Settlement although nominally half to nine-sixteenths was the rent of produce paying raiyats, the aggregate raiyati rent was calculated by Colebrooke and estimated to be one-eighth of the produce (*vide* Knight's introduction to Colebrooke's Husbandry and internal Commerce of Bengal). In Chapter VI of the Commission's report stray cases of rates

of rent of various villages or parganas have been cited to prove that the rates of rent at Permanent Settlement were very varying, and many of them were as high or higher than the existing average rate of rent of raiyats in Bengal. The rates cited are mostly for bighas of which there was no standard uniformity at that time. According to Grant a bigha was equivalent to :42 acre, whereas according to Colebrooke a Shahi Bigha was equivalent to ·63 acre. Besides that it will be absurd to believe that the local standard of measurement during Permanent Settlement was only bigha of either of the two descriptions throughout Bengal, when in the course of District Settlement operations it has been found that hundred and one different standards of local measurement are prevalent even in a single district. Of all the cases cited, it is only Harrington's report about rates which was on the basis of acre which can be safely relied upon. According to him, in the course of enquiries made in two parganas of Rangpur district, he found the raiyats paying a flat rate of 15 annas per acre (*vide* paragraph 242 of the Report). As regards price of paddy at Permanent Settlement it is stated, in paragraph 243 that the price was more like 6 annas than 8 annas a maund on the basis of some stray cases. Fortunately both the rate of rent and the price of paddy at Permanent Settlement are available from the invaluable book of Colebrooke (Husbandry and internal Commerce of Bengal), which was compiled in 1804. Mr. Knight of the "Statesman and Friend of India Office" appended an introduction to the book which was republished in 1884 and it is worth while quoting him to show how very valuable the book was. According to Knight, "It contains so far as was known the sole picture we possess of what Bengal and its agriculture actually were at the time of Settlement (Permanent Settlement) while its value is enhanced by the fact that as an author in the words of Max Muller he 'never allows one word to escape his pen for which he has not his authority'." From page xiii of Knight's introduction we get the following figures of Permanent Settlement period on the basis of Colebrooke's book :—

(1) Grain—8 to 12 annas per maund.
(2) Population—25,000,000 (of whole of Bengal including Bihar and Orissa).
(3) Area under tillage—31,000,000 acres.
(4) Gross rental of raiyats—40,000,000.
(5) Gross value of harvest—320,000,000.
(6) Proportion of rent to harvest—1/8th.

In page 15 of Colebrooke's Book it is definitely stated that "as a result of many enquiries in the course of which cheapest and dearest provinces have been compared" he adopted annas 12 as price per maund of rice, wheat and barley in calculating the total value of gross produce which was found to be 329,130,000 for 95,000,000 Bighas. In paragraph 243 of the Commission's Report however instead of quoting the final figures of Colebrooke, a stray remark made by him in one place has been quoted to show that prices of paddy were very uncertain being some time 8 maunds per rupee and at others 2 maunds per rupee. In the absence of any other book dealing comprehensively with the question of yield, rent and prices of Permanent Settlement period we do not see why the figures in Colebrooke's invaluable book which deals with the figures of Bengal as a whole should be rejected merely because individual collectors of a few districts reported figures which did not tally with Colebrooke's average for the whole Province. I am definitely of opinion therefore that the finding of the Commission regarding price of paddy and rent during Permanent Settlement period are incorrect and I hold on the authority of Colebrooke that price of rice was annas 12 (and consequently that of paddy annas 8) and that rent comprised one-eighth of the value of the gross produce. By dividing gross rental of raiyats (Rs. 40,00,000) by acreage under tillage (31,000,000) as given in Colebrooke's book we get Re. 1-5 as rent per acre.

8. **Fixity of rent.**—In paragraphs 37 and 38 of the Report the question of fixing the rent of raiyat in perpetuity at Permanent Settlement has been discussed. Quotation has been made from the despatch of the Court of Directors of September 1792 sanctioning Permanent Settlement in which they definitely expressed that "It is an object of perpetual Settlement that it should secure to the great body of the raiyat the same equity and certainty as to the amount of their rent and the same undisturbed enjoyment of the fruits of their industry which we mean to give to the zamindars themselves." But pointed attention has not been drawn to the phrase "same certainty as to the amount of rents" which leaves no room for doubt that the Court of Directors definitely wanted the rents of raiyat also to be fixed in perpetuity as the revenue of the zamindars. It is wrongly mentioned in paragraph 37 that "no provision to that effect was made in the Permanent Settlement Regulations which were enacted in 1793". In fact the Putni Regulation (VIII of 1793) definitely limited rents of Khudkasht to establish pargana rate. In Regulation IV of 1794 (the very

next year) it was provided for removing all doubts, that the rents of raiyats whose leases were cancelled owing to sale of the estate for arrear of revenue, should not pay rent at more than the pargana rate if they were allowed to hold on and rents of raiyats who took new lands should not also be fixed at more than pargana rate. It was thus made clear that as revenue would remain unaltered, though estates may change hands the rate of rent of raiyats should also remain unaltered though the lands may change hands. The wishes of the Court of Directors were thus fully given effect to. Beyond this nothing could possibly be done and the existing rents of all could not be declared as fixed in perpetuity because of the obvious reason that many lands at different stages of reclamation were being held at rates lower than the full pargana rate and the rent of such new tenancies were liable to enhancement up to the pargana rate. There might also be inaccuracies and errors requiring correction. That this was the reason of fixing the rates only to pargana rate, instead of fixing the existing rents in perpetuity will be apparent on reference to section 60 (*2*) of Regulation VIII of 1793 where it is definitely stated that the rents of resident raiyats could only be revised in the course of general revision of the pargana rate for equalising and correcting assessments. The only purpose of general measurement of the pargana was definitely laid down to be "For the purpose of equalising and correcting the assessment". "Equalising" evidently referred to making the unduly low rentals fixed during period of reclamation, equal to the prevailing pargana rate, sections 6 and 7 of Regulation IV of 1794, which was passed only a few months later extended this privilege of holding at the pargana rate to all classes of raiyat for all time to come.

It is worth while quoting section VII of Regulation IV of 1794 *in extenso* in this connection as this was really the Permanent Settlement Regulation of raiyat by which all rents then existing and all future rents were fixed in perpetuity on the basis of the pargana rates of 1793. The section reads as follows:—

> "The rules in the preceding section (i.e., the directions for settlement of all disputes regarding rent on the basis of established pargana rates) are to be considered applicable not only to the Pattas which raiyats are entitled to demand in the first instance under Regulation VIII of 1793 but also to the renewal of Pattas which may expire or become cancelled under Regulation XLIV, 1793. And to remove all doubts regarding the rates at which the

raiyats shall be entitled to have such Pattas renewed, it is declared, that no proprietor or farmer of land, or any other person shall require raiyats whose Pattas may expire or become cancelled under the last mentioned Regulation; to take out new Pattas at higher rates than established rates of the Parganas for lands of same quality and description, but that raiyats shall be entitled to have such Pattas renewed at the established rates, upon making application for that purpose to the person by whom their Pattas are to be granted, in the same manner as they are entitled to demand Pattas in the first instance by Regulation VIII of 1793."

The word in the phrase "They (raiyats) are entitled to demand in the first instance" is very significant and leaves no room for doubt that all future new tenants demanding Patta under section 59 of Regulation VIII of 1793 were also entitled to get Pattas at the established pargana rates and all future renewals were to be at the same rate. That this is the correct interpretation of Regulation IV of 1794 is admitted even by the British Indian Association in paragraph 2 of their answer to question 51 of the questionnaire, though they explain pargana rate in their own way.

It will be thus seen that the framer of the Permanent Settlement had taken sufficient care to give effect to the wishes of the Court of Directors that the rents of raiyats should be as certain as the revenue of zamindars.

9. **Cause of failure of protection from enhancement.**—The observations in paragraph 39 of the Report that the intention of the authors of Permanent Settlement with regard to protection of raiyats from enhancement of rental was defeated by the omission to make any definite provision regarding pargana rates is not therefore quite correct. It is true they relied on Courts for determination of pargana rate in every case of dispute. If the Courts had found any difficulty in determining pargana rates they could certainly decree the existing rents proved by landlords and in case of failure to prove existing rent the rent admitted by the raiyat could be decreed as is done by present-day Courts when they are not able to determine the prevailing rate or the landlords fail to prove the existing rent.

The real cause of failure is hinted at paragraph 51, though not clearly explained. Government's nervousness for the safety of the revenue permanently fixed and the strong desire for the success of the Permanent Settlement made Government

enact some anti-tenant legislations almost simultaneously with the Permanent Settlement. The chief among them were Regulation XLIV of 1793, and Regulation VII of 1799. The former gave powers to purchasers at revenue sales to cancel leases of raiyat though at the same time Regulation IV of 1794 definitely laid down if the raiyat was allowed to stay on or allowed fresh settlement, his rate of rent should not exceed the pargana rate. Regulation XLIV of 1793 was thus the first encroachment on raiyat's right to proprietorship. For the first time it was enacted that his lease would stand cancelled on sale of the Estate at revenue sale and the incoming zamindar might or might not grant him fresh lease. This arbitrary power given to zamindars must have been responsible for ejectment and dispossession of many tenants and also for general enhancement in the rent, though definitely forbidden by Regulation IV of 1794. But to crown all the anti-tenancy legislation in came Regulation VII of 1799—the notorious Haftum—which gave unlimited and arbitrary power of destraint to zamindars. This Regulation dealt the death blow to the raiyats' rights and handed over the raiyats to the complete mercy of the zamindars. This fact is admitted in paragraph 57 of the Report. The raiyats who were originally proprietors of the land and were meant to share the benefit of Permanent Settlement with the zamindars as co-partners were practically relegated to the position of serfs or slaves of zamindars. So it is not due to omission of defining pargana rates specifically but due to anti-tenant legislations that the intention of authors of Permanent Setlement to allow raiyats' right to hold at the fixed pargana rate was defeated. Since the enactment of Haftum in 1799 nothing appears in any enactment giving any protection to raiyats with regard to his amount of rent. The zamindars became all powerful and the sacred rights of raiyats were all trampled under foot and the worst apprehensions of the Court of Directors came to pass in spite of their detailed instructions in paragraphs 49 and 50 of their Despatch of September 1792, sanctioning Permanent Settlement, urging the necessity of vigilance of Government in the protection of the tenants who were weak and ignorant and hence likely to be oppressed by the zamindars under altered circumstances. Since 1799 the year of enactment of the notorious Haftum till 1859 no legislation was enacted for protection of raiyats though several select committees sat and reported regarding object and result of Permanent Settlement.

10. **No attempt to give protection against enhancement in subsequent legislation.**—Since 1859 to 1885 there was no honest attempt to restore the raiyats all the rights which belonged to

them or which were meant to be enjoyed by them by the framers of Permanent Settlement. Very grudgingly they were given protection against ejectment, but not against enhancement of rent. The fact that the customary pargana rates were the maximum that could be demanded and they could not be enhanced except by force and that the raiyats' legal status whatever it may have actually become after the Permanent Settlement owing to anti-tenancy legislation, was one of immunity from enhancement beyond the pargana rate prevailing at the time of Permanent Settlement plus the abwabs then current, were entirely ignored when the Bengal Tenancy Act of 1885 was enacted authorising the landlords legally for the first time to enhance rents of raiyats on the ground of rise in prices of crops, and other grounds. Two of the most eminent members of the Rent Law Commission of 1880 were definitely of opinion that zamindars had no right to enhance rents of raiyat and so they opposed the enhancement provisions in the Tenancy Bill. Mr. Mackenzie, the then Revenue Secretary, observed in his Note of Dissent as follows: "I hold that the recognition as a resident raiyat rendered such a settler liable to pay his share of the revenue assessed in his village according to the established local rates and not at any higher rates; I believe it was not the intention of the legislature of 1793 to alter this, as to confer on the zamindars a power to enhance individual or general rates. The ordinary landlord under our legislature held no legal powers of raising the customary rates at all."

Similarly another member of the Rent Law Commission, Mr. O'Kenealy observes: "I would ask the members of the Committee to consider how far it is advisable to give any further facilities for enhancement, without protecting the raiyats from the ejectment theory, which has developed within the last 7 or 8 years. The Government jama of the Permanent Settlement was about 2,85,87,772 or eight-tenth of the gross rental. One-third of the land was waste it is said. On these conditions if whole of Bengal had been under cultivation the gross rental would be 4,76,46,203. According to Board of Revenue it was in 1877 equal to 13,03,78,915. In other words the rates of rent which were intended to be fixed by Permanent Settlement have been trebled and the raiyats are now being compelled to pay an excessive exaction of 8,27,32,733 yearly. If this amount be valued at 20 years' purchase it appears that we have deprived the cultivators of the enormous sum of 16,51,00,000 sterling and given it to the zamindars who still cry for more." (*Vide* page 443 of Volume II of Report of Rent Law Commission.)

11. **Unfortunate legislation in 1885 authorising enhancement.**—Unfortunately the landlords had grown too powerful by 1885 and the then legislature was landlord-ridden and so in spite of opposition from the two most eminent European members of the Rent Law Commission (one an eminent Revenue officer and the other an eminent Judge) enhancement of raiyats' rent by zamindars was made legal and for the first time after Permanent Settlement was provided for in the Statute Book. The observations of Mr. O'Kenealy quoted above was strongly criticised by one Mr. Knight of "Statesman and Friend of India" in his Introduction to Colebrooke's "Husbandry and internal Commerce of Bengal" without understanding the significance of fixity of rent and without having any knowledge of the documents of Permanent Settlement period especially the Despatch sanctioning Permanent Settlement in which it was definitely laid down that the great body of raiyats should have the "same certainty about the amount of rent which was proposed to be given to the zamindars themselves". What will be the meaning of the phrase "same certainty" if in the case of zamindars their revenue is to remain unaltered in spite of decrease in the value of silver and the raiyat's rent is to increase with the rise in prices of crops? The framer of Permanent Settlement never intended nor could intend that the rent of raiyats would change with the rise and fall in the price of crops, because on the authority of Colebrooke we get that prices were sharply falling and rising at about the time of Permanent Settlement so much so that in one year 8 maunds of paddy could be purchased for one rupee and in the next year 2 maunds would be purchased eagerly for one rupee (*vide* paragraph 243 of the Report) and so if rents were allowed to be altered on the ground of rise or fall in prices, the whole scheme of Permanent Settlement would have failed at once. For obvious reasons therefore it was the intention of the authors of Permanent Settlement that both the revenue and the rent should remain unaffected by prices.

12. **Present rent compared with rents of Permanent Settlement period.**—In Chapter VI of the Report several pages have been devoted to discussing the rates of rent at Permanent Settlement period but no finding even about approximate ratio of rent to produce has been given. No attempt has been made to compare the average rates of rent of Permanent Settlement period with the average rate now prevailing, though in my opinion it is very necessary for finding out the average rate of enhancements made since the Permanent Settlement. According to the figures given in the Introduction to

Colebrooke's "Husbandry and internal trade of Bengal", it has been seen that taking whole of Bengal, including Bihar and Orissa, the average rate of rent at Permanent Settlement period was Re. 1-5 per acre of cultivated land. In the main book of Colebrooke however only the acreage of tilled area appears as about 95,000,000 bighas or about 31,000,000 acres but the gross rental of raiyat is not found. It is difficult to surmise wherefrom Mr. Knight who appended the Introduction got the gross rental of raiyats as 4,00,00,000. It is however a known fact that the aggregate revenue at which permanent settlement was concluded was 2,85,87,772 and this comprised eight-tenths of the gross raiyati rental (*vide* Mr. O'Kenealy's extract already quoted). Of the remaining two-tenths, two-twenty-fifths which represented one-tenth of revenue ($\frac{8}{10} \times \frac{1}{10} = \frac{2}{25}$) was zamindar's profit and the balance three-twenty-fifths was evidently cost of collection regarding which no mention has been made in the Report at all. On the basis of these figures the gross rental of raiyats at Permanent Settlement would work out at ($2,85,87,772 \times \frac{5}{4} =$) 3,57,34,715. But even taking the higher figure of 4 crores given by Mr. Knight on the authority of Colebrooke the average rate of rent per cultivated acre for whole of Bengal was Re. 1-5.

Making allowance for rent-free tenancies, included in the total cultivated area, the average rate of rent-paying tenants would probably be Re. 1-7 or so per acre. The average rate of rent of raiyats of permanently settled area as calculated by Land Revenue office and circulated to members as abstract statement IX, is Rs. 3 now. But this Rs. 3 is the incidence of raiyati lands including homesteads and uncultivated area. According to foot-note to Table VII of Appendix IX of the Report, 20 per cent. of the raiyati area comprise homestead and other uncultivated area. So the raiyati incidence of rent for cultivated area only will work out at $3 \times \frac{5}{4}$ = Rs. 3-12 per acre as against Re. 1-7 per cultivated acre at Permanent Settlement. The increase works out at 160 per cent. Thus from the most reliable record of the Permanent Settlement period (that is from the invaluable book of Colebrooke) we get that the rate of rents of raiyats of Bengal on an average has increased by about 160 per cent. The aggregate rent of 31 million acres of lands now held by Bengal raiyats (*vide* Table VIa) at the Permanent Settlement period rate of Re. 1-7 per acre would be 4,45,62,500 or 445·62 lakhs but in its place the raiyats are now paying 1,132·04 lakhs (*vide* column 3 of Table VII of Appendix IX of the Report). The raiyats are thus paying 686·42 lakhs in excess annually over what their rents should have been if the Permanent

Settlement pargana rates had been maintained as was intended by the authors of Permanent Settlement and originally provided for by Regulation VIII of 1793 and Regulation IV of 1794. This increase has of course taken place gradually in the course of 146 years. Even taking that the average amount realised in excess during these 146 years was only half of what is now found to be in excess, the aggregate realisation on this account would be half of 684·42 lakhs × 146 = 49,962·66 lakhs or very nearly 500 crores. The raiyats were poor and illiterate and so the declaration about the fixity of the rate of rent which was as unalterable as the revenue of the zamindars could be trodden under foot like this and no question of sanctity of the solemn declaration of the sovereign authority could be urged on their behalf nor any claim to compensation for the apparent expropriation.

13. **Actual effect of Permanent Settlement on zamindars and raiyats.**—It has been seen that the provisions of Regulation IV of 1794 protecting the raiyats' rent from enhancements for all times to come were made nugatory by the unlimited and arbitrary powers given to zamindars by Regulation XLIV of 1793 and Regulation VII of 1799. It has also been seen that the net results of this was that the rents of raiyats were enhanced and the increase on account of enhancement is estimated at 160 per cent. Raiyats' rents which according to Colebrooke was one-eighth of produce and should have been one-thirty-second or so now on account of rise in prices by four times, is now one-twelfth or so, and the area per head of raiyat has decreased by cent. per cent. since the Permanent Settlement, population having increased four times but, the cultivated area only two times (*vide* Colebrooke's area and population as compared with present cultivated area and population).

On the other hand, the revenue of the zamindar has remained what it was at Permanent Settlement and his net income which for Bengal portion was only 20 lakhs (one-tenth of the revenue of 2 crores) is now 10·32 crores minus 2 crores of revenue, which is equivalent to 8·32 crores. Zamindar's income has thus increased from 20 lakhs to 832 lakhs. The increase works out at 4,160 per cent.

Such has been the actual effect of Permanent Settlement on the raiyat and the zamindar, that the zamindar not only appropriated all the benefits of Permanent Settlement to the exclusion of the raiyats who were meant to participate in the

benefit, but actually encroached on the rights of raiyats to such an enormous extent that they were practically reduced to the position of serfs or slaves.

14. **Present rent of Bengal raiyat compared with Punjab and Madras rents.**—There are remarks here and there especially in Chapters V and VI of the Report, which seem to indicate that the rate of rent of Bengal raiyat is quite low and that if Madras system of assessment were applied to Bengal the level of rents in Bengal would increase considerably (*vide* paragraphs 175 and 249, 203, 204). Taken abstractly we admit that the average rate of rent of Bengal is not high, though the rate has almost trebled itself without any justification since the time of Permanent Settlement. But it is a mistake to think that the rents of Bengal are appreciably lower than the rentals prevailing in other provinces. From paragraph 184 of the Report it will be found that 43 per cent. of land of the Punjab is owned by peasant proprietors and the incidence of revenue is Re. 1-9 per acre. So the peasants of Punjab holding directly under Government pay only Re. 1-9 per acre, as against Rs. 3-5 per acre paid by occupancy raiyat of Bengal. In paragraph 186 of the Report it is stated that in the Punjab the rate per acre including water rates, District Board rates and lambardar's collection fees work out at Rs. 3-2 per cultivated acre. In Bengal, the total of raiyati rentals together with valuation of khas cultivated area in possession of landlords at raiyati rate is 1,282 lakhs (*vide* Table VII). To this is to be added road cess which amounts to about 100 lakhs, and another 60 lakhs is to be added for chaukidari tax so the total comes to 1,442 lakhs. If this be divided by the total cultivated area 289 lakh acres (*vide* Table I) we get very nearly Rs. 5 per acre. If consideration be made for another 4 crores which is indirectly contributed by Bengal raiyats as jute tax annually to Central Government, the charge per acre of cultivated land of Bengal will go up to Rs. 6-5 as against Rs. 3-2 of the Punjab. It might be contended that jute tax, which is an export tax, is not paid by the raiyats but by the consumers of foreign countries, but it should not be forgotten that if the foreign exporters had not to pay this tax, this additional amount they could pay to raiyat as price of jute. In any case Government would not have got this tax at all if the raiyat had not spent his capital and labour over jute production. In fact the State gets this tax as the direct result of raiyats' labour and capital, without spending a farthing in helping him to grow the crop. Water tax which the Government realises is spent wholly in maintaining the

irrigational schemes and over and above that the Government has to contribute from its general revenue certain amount towards capital expenditure. Besides that water for irrigation is a necessity in the Punjab, without which very little crop would at all grow in the area now irrigated.

A raiyat who was getting only a nominal produce or nothing from an unirrigated area would gladly submit to a water tax of Rs. 3-8 per annum if he be sure of getting Rs. 35 per acre. A Bengal raiyat would not have grudged paying Rs. 5 per acre if areas not hitherto producing any crop could be really converted into crop-producing lands, and an income of even Rs. 25 per acre could be assured. These special taxes for special privileges should not to my mind therefore be taken into account in comparing the incidence of rent. The real incidence of rent is the rent proper which we have seen is only Re. 1-9 per acre in the Punjab as against Rs. 3-5 in Bengal. Even on the basis of average value of produce of the two provinces the rents would work out at Re. 1-9 (25 per cent.) and Rs. 3-5 (50 per cent.) respectively from the Punjab and Bengal. Bengal rent is thus slightly higher than that of the Punjab. Thus the remarks in paragraph 203 of the Report that expressed as a proportion of the value per acre of the gross produce, the average of the land charges paid in the Punjab is higher than the average rate of rent in Bengal is not quite justified.

Then as to Madras, we get from paragraph 175 of the Report that the incidence of Government assessment works out at Rs. 2-9 per cultivated acre. The incidence in Bengal is Rs. 3-5 taking cultivated and uncultivated together [*vide* Table VI(*a*)]. From foot-note of Table VII we get 20 per cent. of the raiyati area comprise homestead and other uncultivated lands. So the incidence per cultivated area of a Bengal raiyat will be $(3/5/ \times \frac{5}{4})$ very nearly Rs. 4-2. Assuming the average gross produce of Bengal as Rs. 50 per acre (though we do not admit it) and Rs. 34 of Madras as reported by the Revenue authorities of Madras, the proportion of rent to crops would work out at $\frac{2/9}{34}$ and $\frac{4/2}{50}$ or less than $\frac{1}{13}$ and very nearly $\frac{1}{12}$ for Madras and Bengal respectively. The observation in paragraph 175 of the Report to the effect that if Madras system were applied to Bengal the effect would certainly be to increase considerably the level of cash rents for most of Bengal is quite unwarranted. That the observation is hopelessly incorrect can be demonstratively proved from what is stated in the previous part of the same paragraph. It is stated that four-fifths of the land of raiyatawari area in

Madras is dry and that value of all the crops on "dry" land is estimated to be only one-third of the value of gross produce grown on irrigated land. So if x be the value of produce of irrigated land and if Rs. 34 per acre as reported by Revenue Department of Madras be the value of average produce per acre, $\frac{1}{5}x + \frac{4}{5}y = 34$ and $\frac{4}{5}y = \frac{1}{3} \times \frac{1}{5}x$. From the above two we get that $12y = x$ or $\frac{1}{12}x = y$. We then get the value of x as $127\frac{1}{2}$ rupees and that of y $10\frac{5}{8}$ rupees. Or in other words an acre of irrigated land produces crops worth Rs. $127\frac{1}{2}$ and an acre of unirrigated land produces crops worth Rs. $10\frac{5}{8}$ only.

So we get that the value of produce per acre of irrigated land is Rs. 127-8 and that of unirrigated land Rs. 10-10. The rent of Rs. 7 or Rs. 8 per acre for a land which grows crops to the value of Rs. 127-8 is not at all higher than the rent of Rs. 3-5 per acre for the land in Bengal, which at the most gives Rs. 50 as annual yield. That the value of yield of irrigated land in Madras is really so high is corroborated by the fact that the price of land per acre is substantially higher than in Bengal. Good lands fetched as much as Rs. 500 per acre during worst period of slump in Madras, though in Bengal the value was estimated at Rs. 300 before slump, which must have fallen to Rs. 100 or so during slump. This fact of substantially higher value of yield of irrigated lands of Madras explains how rents at Rs. 75 per acre could at all be paid by under-tenants of some parts of Madras (*vide* paragraph 176).

This comparison with Madras or the Punjab will not be fair unless we also take into account the land charges which Bengal tenants had been paying until recently in the shape of abwabs and salami which was also a kind of abwab, under section 55 of Regulation VIII of 1793, being a new imposition since Permanent Settlement. Even at the rate of 2 annas per rupee the annual aggregate abwab will be $1\frac{1}{2}$ crore and the annual amount of salami paid to landlords through Collector for transfer of lands even during depression amounted to about $\frac{1}{2}$ crore. So if these things be taken into account it will be seen that Bengal raiyats have been paying appreciably more as land charges than the direct raiyats of Madras and the peasant proprietors of the Punjab.

15. **Bengal stands on a different footing with regard to rent. Bengal raiyats can claim 160 per cent. rent reduction.**— Comparison of rents of Bengal with those of other provinces is hardly called for, inasmuch as Bengal stands on altogether a different footing as far as raiyats' rents are concerned. The Bengal raiyat was given the same assurances about certainty

of the amount of his rent as the zamindar was given about revenue and so any enhancement of the original rent would amount to a clear breach of faith. We have seen that the average rate of rent has increased by nearly 160 per cent. If the zamindari system continues the raiyats of Bengal can fairly and reasonably claim their rents to be reduced on an average by 160 per cent., irrespective of the fact as to how they compare with the rates of rent prevailing in other provinces.

16. **Rents, if raiyats come directly under the State.**—But of course it will be a different matter if the State becomes landlord. When the State becomes landlord it will be fair to compare rates of rent of raiyat in other provinces under the State and to come to a decision as to what should be the fair rent. But we have seen that the rates of rent of Bengal raiyat are not certainly lower than those of the Punjab and Madras. There are some cases of abnormally high rentals in some districts which have been recommended to be reduced under section 112. But if the raiyats become all direct raiyats of State it will be a mistake to allow any general reduction in rent as we think that the raiyats will be better benefited if the increase in revenue is spent in improving agriculture.

17. **Future enhancement.**—In paragraph 276 of the Report it has been held that in the opinion of the majority there could be no justification for enhancement so long as zamindari system continued. But in paragraph 262 it is mentioned that the provisions in the Tenancy Act for fixing fair and equitable rents should remain in force whether Government becomes the sole landlord or not. In the subsequent paragraphs the various provision for enhancements in the Tenancy Act have been discussed and almost all of them have been held as reasonable including that under section 29. But in view of the recommendation that there should be no enhancement so long as zamindari settlement continued, I think it should have been made clear that by legislation it should be enacted that the enhancement sections shall not apply to zamindari area except only the one on the ground of improvement effected by the landlord.

18. **Enhancement of rent of uneconomic holdings.**—I cannot agree with the recommendation in paragraph 268 with regard to rents of uneconomic holdings. Section 35 has been in existence since 1885, but it has never been used to protect poorer tenants from enhancements and so it will be futile to trust too much on the section. The rent of raiyats who have no surplus products to sell should on no account be enhanced on the ground of rise in prices even if the raiyat be

directly under the State. In fact according to theory of economic rent, he should pay no rent at all, but I would not go so far. It is however only fair that such a raiyat should have immunity from enhancement. In determining whether he should have such immunity, the entire area held by him under various rights should be considered and not each holding separately. There should be a definite provision in the law to that effect.

19. **District revisional operations.**—I do not agree with the observation in paragraph 263 that district revisional operations are no less desirable than resettlements in khas mahals and temporary settled estates, and should be carried out on the same terms. If there be no further interference of rents by zamindars, it is hardly necessary that district settlement operation should be periodically undertaken for merely bringing them up to date. We think there should be revisional district settlement operations only if a large number of tenants apply or if the landlord applies and agrees to bear the cost of settlement. It will not be proper to force such settlement on unwilling parties. Unless the cost can be enormously reduced such settlements cannot be justified specially when the cost is to be met from the general revenue of the Province.

20. **Rates of compensation.**—As regards rate of compensation for acquisition of the zamindari rights by the State, it is mentioned in paragraph 101 of the Report that the majority support 10 times of the net profit. In my opinion the zamindars cannot claim compensation on the basis of existing assets which include enhancements in rates which were never thought of when Permanent Settlement was made with their predecessors. In fact in accordance with the wishes of the Court of Directors sanctioning Permanent Settlement and the provisions of sections 6 and 7 of Regulation IV of 1794 they were definitely precluded from making any enhancement in the pargana rates. It was definitely made clear by the Regulation referred to that even if the raiyats' leases stood cancelled on the sale of the estate at revenue sale, the zamindar could not demand rent at more than the pargana rate from the new tenant if the land was leased out to a third person nor could he claim higher rental from the old tenant if he allowed him to stay on. Thus the same principle as was applicable to zamindaries on sale was applied—just as the revenue would not change with the change of zamindar, the rent also would not change, though the tenants might change. If the zamindar now takes his stand on the solemn declaration of Regulation I

of 1793, he must take it with all its contingencies and must not at the same time go behind the solemn declaration in Regulation IV of 1794. He has already perpetrated a great injustice and wrong to the raiyat by enhancing his rents and realising the enhancement for over 146 years. It will be nothing short of putting premium on exploitation if the zamindar is to be allowed compensation for the enhancements made in rent, against the spirit of Permanent Settlement and contemporaneous legislations. The expropriation already made by enhancing rents of raiyats can perhaps be condoned in view of the fact that most of the present-day zamindars got their estates by purchase on the basis of rents already enhanced, but to allow compensation for the enhanced portion of rent will make Government liable to the charge of encouraging and abetting exploitation and expropriation of raiyats. I am strongly of opinion therefore that all that the zamindar can justly claim is that he should be given such compensation as it may secure to him the net income which he would get from his zamindari if no enhancment in rents had been made. It has already been seen that the aggregate rent of raiyats on the basis of Permanent Settlement rate of rent would be 4·46 crores and from this about 2·15 crores is payable as revenue. So the net income of the zamindars would be only 2·31 crores. No deduction is made for road cess as it was not contemplated at Permanent Settlement. I would pay the zamindar 20 times of 2·31 crores as compensation on the analogy of compensation under the Land Acquisition Act. I would pay him another 5 crores for all his uncultivated lands and forest areas. So in all I would pay 51 crores instead of 77·9 crores on 10 year's basis as shown in paragraph 128. If 77·9 crores be the compensation on 10 time basis, 51 crores would be the capitalised value of very nearly 7 years' net profit according to present assets. In my opinion legally and fairly the zamindars cannot claim more than this.

21. **Acquisition of bargadars' superior interest.**—This is one of the most knotty problems which the Commission had to deal with. Paragraphs 111 to 114 of the Report deals with this subject. But I am not at all in agreement with the final decisions arrived at. In fact the Report merely discusses the various aspects of the problem, but does not give any decision. In one place it recommends that the bargadars should be given some right—though not all the rights of occupancy raiyats and his rent should be limited to one-third of the produce (*vide* paragraph 146). In another place (paragraph 114) suggestion is given for acquiring the superior interest of bargadars after commuting barga rent to cash rent. To my mind none of these

proposals are practical. Fixation of rent of barga to one-third of crops will be of no help to a bargadar, unless he is given full occupancy right. But if he is given full occupancy right and rent is fixed at one-third the produce, he will certainly be considered a rack-rented tenant. The proposal of acquiring superior right after cummuting barga rents is equally impractical. It will be inequitable and unjust to commute barga rents, as the bargadar was not at all a tenant so long and on that understanding the land was let out to him. Besides that many of the lands let out in barga comprise purchased lands—purchased privately or in rent sale on payment of full market price. It will be very harsh if they are now expropriated by the State on payment of a nominal compensation only. On the other hand if substantial compensation at 5 times the net profit is paid for barga lands it would cost 60 crores and the acquisition scheme will fail.

The best solution of this difficult problem seems to me to allow all people who enjoy lands by letting out in barga, some time—say 3 years or so, to have their lands converted to khas lands cultivated on hired labour system and to notify that after this period any land found in possession of any bargadar, will be forfeited to the superior interest for purpose of direct settlement with the bargadar at cash rent. If action is taken on these lines barga system will disappear within 3 years, without causing any hardship to anybody. I would however make exception in the case of widows, orphans, invalids and of people in jail or outside Bengal and permit them to let out lands in barga temporarily so long as they are under disability.

22. **Compensation not at a flat rate.**—Compensation is proposed to be given to all classes of landlords at a flat rate, but I think it will be most inequitable and unfair not to make any consideration for facts which go to raise or lower the prices of zamindari estates in the open market. Small taluks are much in demand and so their prices are at least double if not treble that of big zamindaries. Similarly revenue-free estates and rent-free taluks command much higher price than revenue paying and rent paying. Khareja taluqs fetch higher price than dependent taluqs. Margin of profit also plays some part in commanding price. All these various factors must be considered and proper consideration made for them in fixing compensation. It will be a lame excuse to say that calculation will be difficult and tedious if all these are to be taken into account. If for the purpose of acquisition a new set of record-of-rights can be prepared at an expense of several crores why

should not every effort be made to be as just and equitable as possible as between landlord and landlord. If no consideration be made for factors detailed above, it will operate very harshly on the poorer petty taluqdars. If it be found impossible to take all the various matters into consideration in fixing rate of compensation, at least a graded compensation on the basis of net income of each estate should be given. If 7 times or 10 times is finally decided upon as the capitalised value of compensation, I would recommend graded compensation as follows:—

	At 7 times Basis.	At 10 times Basis.
For estates with net profit of Rs. 2,000 or less	10	15
For estates with net profit of above Rs. 2,000 and less than Rs. 5,000 ..	8	12
For estates with net profit of Rs. 5,000 and above and less than Rs. 10,000	7	10
For estates with net profit of Rs. 10,000 and above and less than a lakh	6	8
For estates above a lakh ..	5	6

These rates will be more or less in accord with market rates.

23. In paragraph 267 of the Report, it is practically admitted that enhancement made for rise in prices caused hardship during slump but no suggestion for mitigating the hardship has been made. In Bihar they have abated all enhancements since 1918. Why should we not also allow such abatements in our Province? I am of opinion that abatement in the rent to the extent of enhancement be allowed in all the rents enhanced whether through Court or amicably since 1918.

24. In paragraph 86 of the Report it has been noticed that the tenants of permanently settled area do not generally get any remission in rent during agricultural calamities, but no remedy has been suggested. I strongly recommend that the Government should have powers to allow remission in rent to tenants with proportionate remission of revenue, without reference to zamindar.

25. **Economic condition.**—Chapter V of the Report which deals with economic condition in Bengal and the provinces visited does not give a correct and detailed picture of the economic condition of Bengal raiyats. No attempt has also been made to give comparative figures of income in different

provinces. I propose first to examine the aggregate annual value of gross produce of Bengal as set forth in the Report and then to compare it with that of other provinces.

26. **Yield of paddy per acre in Bengal.**—In my opinion both yield and value of produce in Bengal has been overestimated. On reference to Table IV of Appendix IX, it will be found that the average yield of paddy has been taken as 18·8 maunds per acre. Last 25 years' average of Government of India's statistics of estimate of yields shows an average of 15·9 maunds only and we are in favour of accepting this figure, firstly because there is no other more reliable figure on the strength of which this figure can be rejected, and secondly because the figures of actual consumption with which I will deal presently goes to indicate that the India Government figure of estimate is more correct than the figure of 18·8 arrived at more or less by guess, without any scientific data. The figures of import and export of paddy in Bengal very nearly balance each other. So all the paddy that is grown is entirely consumed by the people of Bengal. The total rice eating population of Bengal is 480 lakhs of whom 70 per cent. are agriculturists or agricultural labourers. The percentage of agricultural labourer in Bengal is 29 per cent. according to last Census (*vide* paragraph 180). Percentage of families holding less than 2 acres is 41·9 (*vide* paragraph 173) and their condition is no better than that of labourers. So in all 70·9 per cent. of the agriculturists or nearly 50 per cent. of the total population are in a desperate condition. From Table VIII (*d*) it will be found that the rate of wages of agricultural labourers is on an average 4 annas 3 pies per day during harvest season and 3 annas 3 pies during other season. But even if 4 annas be taken as their average wages, we have to make allowance for idle days during which they get no work. On an average the labourers get work at the most for 9 months in the year. So the average annual income of a labourer will be Rs. $7\text{-}8 \times 9 =$ Rs. 67-8. Expert agricultural labourers who are employed as whole-time agricultural servants are generally paid Rs. 5 per month or Rs. 60 per year plus food. The labourer has to support 5 members of his family including himself at Rs. 67-8 a year and the expert labourer has to support 4 members excluding himself at Rs. 60 a year. Even if another Rs. 12 be added as contributed by the boy-member who works as cow-boy, the total income of the family will be Rs. 79-8 or Rs. 72 with which 4 or 3 members are to be maintained. If 9 maunds of paddy be taken as average consumption as adopted in the Report and Rs. 2 as price of paddy per maund, Rs. 72 or Rs. 54

will be spent on paddy alone and the family will be left only with Rs. 7-8 or Rs. 18 per year for all its other expenses. For other articles of food (e.g., oil, condiments, vegetables, salt, fish, betel, tobacco, etc.) alone a family of 4 or 3 will require at least Rs. 30 or Rs. 25 per year. Besides that they will also require some Rs. 10 for clothes and kerosine oil. How can they find money for all these absolute necessaries of life without which they cannot do? They are perforce compelled to reduce their paddy consumption by one-third and have to be content with 6 maunds of paddy per head per annum on an average including womenfolk and children. For the reasons explained above and also for the fact that I know that more than 50 per cent. of people of Bengal live on half ration for more than six months, I am definitely of opinion that the average consumption of 60 per cent. of the population including richer upper class who can afford other substitute articles of diet also and do not take paddy as much as a labourer or an agriculturist does, cannot be more than 6 maunds per head per annum; 60 per cent. of 480 lakhs of rice eating population is 288 lakhs and they will consume 1,728 lakhs of maunds of paddy at 6 maunds per head and the remaining 40 per cent. comprising 190 lakhs will consume 1,710 lakhs maunds at 9 maunds per head. The total consumption will thus be 3,438 lakhs of maunds. To this may be added another 257 lakhs of maunds on account of seeds at the rate of 1 maund per acre. The total will then come to 3,695 lakhs of maunds. This being divided by 257 lakhs of acres which grow paddy we get 14·4 maunds per acre. Thus according to our calculation the average outturn of paddy cannot be more than 14·4 maunds per acre, but as this is only an indirect way of calculation for checking only, we are prepared to accept the Government of India figure of estimate of 15·9 maunds and nothing in excess of it.

27. **Yield of pulses and mustard.**—The yield and valuation of (*a*) other food crops including pulses and (*b*) rape and mustard have also been very much overestimated. All these are second crops of minor importance and their value per acre cannot be anything like Rs. 27 or Rs. 31 as shown in Table IV against Rs. 37, the value of paddy per acre. According to my estimate their value should be reduced to Rs. 12 and Rs. 16 per acre. I have also serious doubts if fruits and vegetables give as much as Rs. 60 per acre and miscellaneous Rs. 21-8 but in the absence of any definite data I would not disturb them. If my estimate of yield of paddy and value of "other food crops including pulses" and "rape and mustard" are accepted, the total figure of value of yield will decrease by $(25675 \times 2 \cdot 9 \times 2)$

for paddy, (2254 × 15) for pulses, (1013 × 15) for rape and mustard = 197,922 thousand rupees. The aggregate value of produce will then stand at (1433297 – 197922) = 1,23,53,75,000 rupees in place of 1,43,32,97,000 in Table IV. The total cultivated area being 28,940,000 acres, the value of gross produce per acre would then work out at Rs. 42-11 as against Rs. 50 shown in Table VIII (*a*).

28. **Gross produce per head of agriculturist.**—The figure of gross agricultural produce per head of agriculturist given in column 7 (*b*) of Table VIII (*a*) is entirely incorrect as the gross produce has been divided by agricultural population excluding rent-receivers, though the aggregate produce, includes produce of 4 million acres of khas land which is enjoyed by rent-receivers. If the aggregate value of gross produce as found by me be divided by the total agricultural population we get $\frac{1,235,375,000}{33,421,000}$ very nearly Rs. 37 per head as the average value of gross produce per head of agriculturist as against Rs. 46 shown in Table VIII (*a*).

29. **Economic condition of Bengal compared with that of other provinces.**—Let me now examine the economic condition in Bengal. There are observations here and there in the Report which seem to indicate that the economic condition in Bengal is not at all serious (*vide* paragraphs 180, 201, 202, 204) and is better off than Madras and the United Provinces. No attempt however has been made to record comparative figures of income of different provinces either in the Report or in the statistics, though materials for such comparison were collected and circulated among the members of the Commission. I give below a comparative statement showing value of gross produce for head of agriculturist in different provinces:—

	Name of province.	Total agricultural population.	Total value of produce.	Gross agricultural income per head of agriculturist.
			Rs.	Rs. a.
1.	Bengal ..	33,421,000	1,23,53,75,000	37 0*
2.	Bihar and Orissa ..	28,500,000	84,19,00,000	29 9
3.	Madras ..	20,900,000	1,15,86,00,000	55 7
4.	United Provinces ..	35,000,000	1,23,88,00,000	35 7
5.	Bombay ..	13,400,000	87,33,00,000	65 0
6.	Punjab ..	13,600,000	72,10,00,000	53 0

*Accord ng to Appendix IX it is Rs. 46 but we have seen this cannot be accepted.

It will be seen from the above comparative statement at a glance that only in Bihar the agriculturists are decidedly worse

off than the agriculturists of Bengal. United Provinces agriculturists seem slightly worse, but they more than make up their position by sheep and cattle rearing and dairy farming which they pursue extensively as subsidiary occupation. As regards Madras there is some difference of opinion as to agricultural population. In the statement above, Census figures have been taken as correct, but from a note of Census Commissioner it seems the agricultural population is not 46 per cent. but distinctly more than 50 per cent. Even if it is taken as 52 per cent. the average per head of Madras agriculturist will be more than that of Bengal. There is also one special feature of economic importance in Madras and it is the fuel wood which grow extensively in the jungles and waste lands and the agricultural labourers, whose number is very large in Madras being 44 per cent. of the total agricultural population, make a living by cutting the fuel wood and selling them in market. In Madras both the areas of culturable waste and the area of not culturable are more than double that of Bengal. It is not therefore at all correct to say that economically Bengal is better than Madras as mentioned in the Report. Bombay and the Punjab are of course decidedly better.

30. **Large number of uneconomic holdings in Bengal.**—In paragraph 173 of the Report the Commission draws attention to the disquieting feature that 41·9 per cent. of the agricultural families hold less than 2 acres and 20·6 per cent. between 2 and 4 acres, but looks upon the problem of these uneconomic holding of land with supreme indifference when it opines "It makes little practical difference if the rent of such holding is high or low, nor does it make any practical difference if the rent is reduced because the difference would be too small to have any appreciable effect on the cultivator's budget." But rent is not the only question, though it is absolutely wrong that it does not much matter whether the rent of such tenancies are high or low. According to principles of political economy such holdings should have no rent at all, but in any case it is the clear duty of the Revenue authorities not to be supremely indifferent to the economic condition of raiyats at the time of settling fair rents or allowing enhancements. Such mechanical settlement of rent without a touch of human feeling, has made the administration unpopular and I would draw the attention of Government and public to this fact. The Commission should have in my opinion grappled with the question of ever-increasing uneconomic holdings and should have tried to suggest some solution instead of shirking the problem by merely saying it is extremely difficult. The Punjab Land Revenue Committee made certain recommendations for creation of a special

development fund for improving the economic condition of the uneconomic holders of land. The Premier of the Punjab has thrown out an original suggestion of earmarking the rents realised from such tenants for improving their condition. In my opinion, if the proposal of State-purchase of zamindaries materialises, the Government should certainly create a fund for helping the uneconomic holders of land by purchasing lands for them or by diverting an appreciable number of them to other avenues of life.

31. **Average income of 70 per cent. of the agriculturists of Bengal.**—Now what is the average income of these uneconomic holders of land. The gross value of 2 acres is only Rs. 74 according to my calculation and Rs. 100 according to Appendix IX. One-third of this is the actual cost of cultivation for which the agriculturists have to pay (*vide* paragraph 168) and so the net income is only about Rs. 50 or Rs. 66 per annum and on this 5·2 persons have to live. Average income per head will therefore be less than Rs. 10 or Rs. 14. Just consider how a human being can subsist on Rs. 10 to Rs. 14 per head per annum and yet that is all with which 41·9 per cent. of agriculturists and the entire agricultural labour population of Bengal comprising 29 per cent. of total agricultural population (whose average income per family is also only Rs. 60 or so per month) have to be content with. More than 70 per cent. of total agricultural population of Bengal are thus such a miserable existence. To public men and economists the percentage of uneconomic holders of land was not so long available and so they hitherto dealt only with averages. The figure of percentage of uneconomic holders of land compiled by the Commission makes the startling revelation that more than 70 per cent. of agriculturists are in desperate condition.

32. **Precarious condition of raiyats indirectly due to Land Revenue policy and not merely to over-population.**—The Report has not pointedly drawn attention to this very important fact. On the contrary it has mentioned that this precarious condition of the uneconomic holders of land is due to over-population and not to any defect in the revenue system. But in my opinion the revenue system is indirectly responsible for this inasmuch as owing to inelasticity of land revenue due to Permanent Settlement, Government could not undertake any costly scheme for improving the economic condition of the raiyats; and the zamindars in their turn, never thought it was their duty at all to do anything for them. If the Punjab Government had not spent 38 crores as capital expenditure on irrigational schemes and had not thereby increased the cultivated area by 150 per

cent. the raiyats of Punjab today would have been worse than those of Bengal. It is interesting to quote here the reply of Rev. Victor J. White of Australian Baptist Mission to our question 7 of the questionnaire. His reply runs thus:—"Practically the whole increase in value has been created by the Community and it is this unearned increment collected in the form of rent that largely explains the large increase in value, from the time of the permanent settlement viz., 3 crores compared with present valuation which may prove even more than 16 crores as stated. One may quote the statement of Sir Michael O'Dwyer concerning the Punjab which may just as easily be said of Bengal:—'We took over the Punjab in 1840. It had an area of 80,000,000 acres of which 12,000,000 only were under cultivation. The average value was then Rs. 5 per acre. There were no roads, railways, and canals. In 1920 as the result of security, railways and canals 30,000,000 acres are under cultivation and 12,000,000 acres irrigated at an average of £25 per acre. Thus the capital value of land has risen in 70 years of British rule from £8,000,000 to £750,000,000.'

"It would be interesting to have a similar statement concerning the increase in land values in Bengal."

33. **Capital expenditure by Government in different provinces for increasing raiyats' income.**—The aggregate land values of Bengal have also considerably increased, but chiefly due to pressure of population and consequent demand for land, but except for railways and roads, very little was contributed either by the State or by the zamindars towards canal or any irrigational or other project for increasing the income of the raiyat by increasing the yield of crops. The statement below shows comparative figures of capital expenditure on irrigational projects of different provinces of India:—

Name of Province.	Government capital expenditure on irrigation or navigation in lakhs.
Madras	.. 2,016
Bombay	.. 1,075
Bengal	.. 351
United Provinces.. ..	.. 2,861
Punjab	.. 3,492
Sind	.. 2,975

These figures are taken from *The Bengal Weekly* of 9th October 1939.

Even for Sind with a total population of only 29 lakhs nearly 30 crores have been spent for helping the raiyat in increasing his income, as against 5 crores only for Bengal with 17 times as much population as in Sind. If big irrigational schemes like those of the Punjab and Sind might not be suitable for Bengal, smaller ones, and indigenous tank irrigational projects could be usefully financed if the Government had sufficient funds at its disposal. There are hundred and other ways of helping the agriculturists in improving their condition if sufficient money be forthcoming. Far from financing schemes for improving the lot of agriculturists, the Bengal Government could not spend sufficient money even for running their Agricultural Department efficiently. Whereas all the other major provinces where there is no Permanent Settlement, have been spending on an average 25 lakhs or so on Agricultural Department, Bengal could not see its way to provide more than 12 or 13 lakhs. Be it stated here to the shame and disgrace of Bengal that Bengal has not yet got an Agricultural College of its own. Agriculture which is the main industry of Bengal has been starved and this was due to paucity of funds on account of inelasticity of land revenue, in spite of cultivators paying their due share of rent at a rate not less than that of the Punjab and Madras. Is not therefore the revenue system of Bengal indirectly responsible for the present deplorable condition of its agriculturists?

34. **Subletting.**—In paragraph 149 of the Report it has been recommended that pending State acquisition of zamindaries subletting should only be discouraged by fixing the maximum rent at one-third in excess of raiyats rent, but it should not be altogether forbidden. I do not appreciate the logic behind it and do not agree with the proposal. Subletting in any form (including barga) should at once be forbidden for all future time to come and the penalty for disobedience should be forfeiture. When subinfeudation and subletting have been held to be evils, why again allow them at all for future?

35. **Transfer of raiyati right to non-agriculturists.**—I do not at all agree with the conclusions detailed in paragraph 152 of the Report. I am definitely of opinion that whether zamindari system goes or remains, passing away of land to non-agriculturists should be altogether stopped in the interest of the cultivators. I realise the difficulty in defining agriculturist, but even if the definition be not an ideal one,

our object will be achieved if in 90 per cent. of cases non-agriculturists are prevented from purchasing raiyati lands.

The suggestion that if sub-lessees of non-agriculturists are given sufficient security and protection against excessive rents, there seems to be no great objection to the lessor retaining the incidents of occupancy raiyats, is absurd. We will in that case be allowing subinfeudation again, and creating a worse type of overlords than zamindars, over the actual cultivator, though we have held such intermediate overlordship as not at all desirable.

For improving the lot of agriculturist, we should not only stop passing out of lands to non-agriculturists, but should also stop accumulation of large areas in the hand of particular agriculturists also, and both these restrictions should be effectively enforced whether the raiyats come directly under the state or remain under the zamindars.

From Table VIII (*f*) of Appendix IX it will appear that of the lands transferred, within last 12 years, about 62 per cent. is being enjoyed by purchasers through other persons and in only 38 per cent. of cases the purchasers themselves are cultivating the land. It should be an eye opener and should show how steadily lands are passing out to non-agriculturists. We cannot therefore lay too much stress on the necessity of immediate legislation both for stopping lands passing out to non-agriculturists and accumulation of too much lands in particular agriculturist's hands except for special reasons, e.g., scientific agriculture, etc.

36. **Agricultural credit.**—I am not at all satisfied with the recommendation regarding agricultural credit as set forth in paragraph 299 of the Report and do not see my way to agree with the half-hearted sympathy shown for the agriculturists in their present crisis. For various reasons agricultural credit has practically become extinct. With the passing of the Moneylenders Act, the creditors will generally prefer to be satisfied with 3½ per cent. interest by investing their money in promissory notes or other debentures. So if nothing be done immediately and in an extensive scale for supply of agricultural credit facilities the agriculturists will have to finance agriculture by selling portions of their land. They have already begun this perforce as the report of Registration Department shows that transfer deeds have doubled and bonds and mortgages have proportionately decreased. It is the sacred duty of Government to save the agriculturists from their

perilous position by providing facilities for short-term loans. For short-term loans it is not at all necessary nor desirable that they should be given through co-operative societies. In 35 years, the Co-operative Department has succeeded in enlisting only 6 per cent. of agricultural families as members of societies. If loans are given through societies, those will be confined only to members. It will take a long period to enlist all agriculturists requiring loans, as members. Besides that, the rate of interest if loan is given through societies cannot be less than 8 or 9 per cent. as the money will have to pass through depositors, Provincial Bank, Central Bank and rural society and each of these will keep some margin of profit. Further, knowing as we do of the office-bearers of societies, we apprehend that lion's share of loans will go to the relations of office-bearers. I think therefore it will be much better to arrange to give short-term and intermediate loan directly by Government through officers of Co-operative Department on joint bond system—one co-operative officer being placed in charge of each thana who besides distributing and realising the loans, will also look after marketing facilities of agriculturists and look after Government store houses, if any, started within his jurisdiction. If co-operative movement is now practically to be confined to short-term loans only, what is the necessity for all the hierarchy of banks and societies? It will be much better that the Government should finance agriculture through its own officers, by giving out agricultural loans, not only for relief of agricultural calamities only, but also for ordinary expenses of agricultural operations and for purchasing cattle when they are dead or disabled. I am strongly in favour of giving out direct loans to agriculturists at $6\frac{1}{4}$ per cent. interest. Government instead of fearing to undertake this agricultural finance business should rather feel encouraged to do so in view of the results of collection of agricultural loans. If no other province or country has taken any such responsibility, let Bengal take the lead in this matter and get the credit

Joint Note of Dissent

by

Sir F. A. Sachse, C.S.I., C.I.E.,

and

Mr. M. O. Carter, M.C., I.C.S.

Paragraph 101.—The report gives little indication of the reasons why compensation of 10 times the net income of each rent-receiver found the greatest measure of support among the members of the Commission. It may be assumed that the present market value of zamindari interests was the main consideration with the majority of the members. Few estates in Bengal change hands except as a result of forced sales, either in the Civil or Revenue Courts. Even if a sufficient number of voluntary transactions could be traced, on which to determine the market value of the estates and tenures in the Province, it might be unfair to attach too much importance to the prices paid during recent years, in view of the political conditions prevailing and the apprehensions that have been raised by recent tenancy and relief of agricultural indebtedness legislation passed in this and neighbouring provinces.

In the absence of a reliable market rate, it is difficult to specify any principle on which a particular number of times the net profit should be chosen as being the most equitable. In proceedings under the Land Acquisition Act, the number of years' purchase allowed is generally $16\frac{2}{3}$, 20, or 25 according to whether the interest that could be expected from reinvesting the money received as compensation in the same type of security is 6 per cent, 5 per cent. or 4 per cent. If the present rate of interest on safe investments is $3\frac{1}{2}$ per cent., the investment at this rate of compensation awarded at even 15 times the net income would give a return to each rent receiver of little more than half his present income.

It is quite clear that financial considerations make it impossible to pay compensation which invested at any reasonably safe rate of interest would ensure to each rent-receiver his present income. The majority of the Commission have stated in paragraph 101 that they are not proposing the abolition of the zamindari system for the sake of increasing the Government revenues; this is a subsidiary motive. Their main reason is to place Government in a stronger position to

develop agriculture, and to manage the material resources of the Province to the greater advantage of the community as a whole. We are inclined to think, therefore, that the recommendation of the Commission for State acquisition will obtain more impartial consideration on its merits, if it is divorced entirely from any suspicion of being an attempt to augment the public revenues at the expense of any particular class. We are in favour of that rate of compensation which after full consideration by financial experts, seems to offer the greatest prospect of leaving Government with no considerable loss and with no considerable gain, at least for the first 20 years, as a result of taking over the responsibilities of the landlords. From the estimates as prepared it appears that from this point of view 15 times the net income should be the basis of compensation. We are convinced that 10 times is not a fair rate of compensation.

Paragraph 123.—In estimating the net profit of landlords, the majority of the Commission have recommended that 18 per cent. of the raiyati assets of each estate should be deducted on account of management and collection costs. In view of the fact that only 9 per cent. of the gross assets is generally allowed for the cost of management of Government estates, this deduction seems to be excessive. It is true that it is not proposed to deduct 18 per cent. from the net income of each grade of rent-receiver in turn: it will be distributed among the various grades of landlords in proportion to their existing costs of collection. Thus in estates where a large amount of subinfeudation exists, it is possible that 18 per cent. would not come to more than the present management expenses of all the landlords added together. In those estates, however, where the raiyats are paying their rent direct to the zamindars, 18 per cent. seems too high a rate, even though it includes the cost of litigation and other expenses which Government may avoid as the sole landlord. The percentage deducted on account of collection charges in Land Acquisition proceedings is 10 per cent. We think that 12½ per cent. would be a more equitable figure than 18 per cent. In any case the figure should not be more than 14 per cent., which is the estimated cost of Government's management after acquisition..

Paragraph 147.—The Commission as a whole has committed itself to the opinion that the continuance of the barga system of cultivation is irreconcilable with the ideal system of landholding which it envisages, namely, peasant proprietors cultivating their own lands and paying revenue direct to the State. It is idle to expect that the barga system can be

extinguished by any form of legislation which puts a veto on subletting: there would be many loopholes for evasion. If it proves impossible to prevent subletting either on cash rents, or on a share of the produce, Government would either have to abandon the attempt to maintain direct relations with the actual cultivators, or undertake the acquisition of rent-receivers' interests at intervals of 30 or 40 years.

In any case the proposed veto on subletting would not help existing bargadars. The recommendations of the report on this point are not very definite. It is true that the Government is advised to amend the Tenancy Act so as to incorporate the provisions in the Bill of Sir John Kerr's Committee, which declared that those bargadars who provide the plough, cattle and agricultural implements should be raiyats or under-raiyats, as the case may be, and to limit their legal rent in all cases to one-third of the produce. But it is suggested in paragraph 114 that the interests of raiyats who are having their lands cultivated by bargadars should not be acquired until the interests of those who have sublet on cash rents have been acquired. This recommendation seems to contemplate a supplemental stage of acquisition proceedings, after the main proceedings have been completed, instead of after 30 or 40 years,—the alternative to leaving subletting and transfer unrestricted, which the Commission regarded as undesirable in paragraph 139.

We think that the acquisition of lands regularly cultivated by bargadars is a more pressing reform than the acquisition of lands let to under-raiyats on cash rents. If Rs. 6-3, the average rate of rent paid by under-raiyats, is held to be excessive, then the value of half the produce, which may average Rs. 25, must be an exorbitant rent for bargadars. As long as all classes of sub-tenants have adequate rights, we do not regard subletting, or even the passing of occupancy rights into the hands of non-agriculturists, as such serious evils that they must be stopped at all costs. We think that the best method of discouraging non-agriculturists from buying the rights of agriculturists is to give substantial rights to bargadars. If that is done there is no absolute necessity to veto subletting, or to restrict transfer, either before or after the zamindari system is abolished. The grant of adequate rights to bargadars, including the restriction of their maximum rent to one-third of the gross produce, will sufficiently discourage subletting during the period of transition. If it is decided to proceed with the plan of State acquisition, the same treatment should be accorded to lands sublet on cash rent and lands sublet on a share of the produce.

Paragraph 104.—It has been suggested by the Commission that superior landlords may have to realise the arrear rents due to them from subordinate tenure-holders by attaching their compensation through the Civil Courts.

The mortgagees of estates will also have to attach the compensation paid to the owners of encumbered estates and tenures. In many cases the compensation may not cover the balance of the debts outstanding. It is a question whether the staff which is appointed to assess the compensation and to pay it out should be empowered to scale down such debts by legislation on the lines of the Encumbered Estates Act of the United Provinces.

Note of Dissent

by

Dr. Radha Kumud Mookerji, M.L.C., M.A., PH.D., P.R.S.

This Note is to be considered along with my historical Note appearing in Volume II of our Report, and also in the light of the data collected by me by local investigations on the spot and brought together in the form of a Note appearing in the Volume on Evidence.

Grounds of difference.—I regret to have to differ from some of my colleagues on certain questions of both fact and principle and also on the methods of approach to some of the problems we had to investigate. My position is that I set more store by the need of agricultural reform than the need of overhauling the land system, since I find that the ills of the peasantry are due to causes and circumstances for which the existing land system is not responsible. My study of the facts of Agriculture makes me doubt whether any change in the present land system of the Province, however radical or even revolutionary, can effect a material change in the lot of the peasantry and make it better. In my opinion, the Report gives itself more to a discussion of the ways and means of abolishing the present land system as an end in itself than to a discussion of the ways and means of improving the condition of the peasantry.

Agricultural Conditions in Japan.—Before considering the facts of Bengal's agriculture and the factors depressing it, I should like to take a comparative view of the conditions of agriculture in a progressive country like Japan, which resembles Bengal in regard to her agricultural economics, so that conditions in Bengal may be seen in their proper perspective.

More than half of the total arable land of Japan is under rice.

Agriculture in Japan employs about half its population, although only 16 per cent. of its total area is cultivable. As a result, Japan's agriculture is even more severely handicapped by the pressure of population on the soil. The problem of Japan, as in Bengal, is due to "many men on little land", with the result that the size of the average farm unit is getting smaller and smaller (W. Ladajinsky in *Foreign Affairs* for January 1939); 69 per cent. of farm households cultivate less than 2½ acres per family, amounting to 33 per cent. of total

arable land of 15 million acres. Twenty-three per cent. of the total cropped area is held by 204,000 families, making up 4 per cent. of total agricultural families. It does not appear that the Government of Japan has attempted to check this unequal distribution of the land and wide prevalence of uneconomic holdings. The conditions of landholding are also not dissimilar. In 1936 farm households cultivating their own land constituted 31 per cent. of the total number of farm families; 27 per cent. rented all the land they cultivated; and 42 per cent. were part-tenants and part-owners. Absentee landownership is very extensive. The shortage of land and lack of alternative occupations has resulted in increasing and competitive rents.

The burden of rents on the Japanese peasant is much heavier than in Bengal. In Japan, rent is a *fixed* number of bushels of rice per unit of land, and is thus paid in kind. A poor harvest hits the tenant. The minimum rental for a one-crop field equals 55 per cent. of the crop and for a two-crop field 60 per cent.

Over and above this heavy burden depressing the Japanese cultivator, he has even to supply the capital for cultivation. This reduces his net share to a third of the crop.

Indeed, Agriculture is more heavily taxed than Industry. According to an investigation made in 1934 by the Imperial Agricultural Society, on an annual income of 300 yen, a farmer pays 35 per cent. in taxes, a merchant 12½ per cent., and a manufacturer only 1½ per cent.

Next to tax load is the debt load which amounts to 135 yen per household. Thirty-one per cent. of net annual (average) value of agricultural production is absorbed by interest on debt, although rate of interest is not higher than 15 per cent.

The limit of intensive cultivation has been reached and owing to the enormous sums spent on manure the cost of cultivation is barely below the selling price of the produce. The Law of Diminishing Returns has ruthlessly asserted itself. Industry does not directly help Agriculture, because its raw materials like cotton are imported. Government has tried to control the price of rice by restricting imports and has also taken measures to convert tenants into landed proprietors by buying up land and distributing it among cultivators with insufficient land, but neither of these measures has been attended with a large measure of success. It is stated that "with the single exception of 1913, agricultural receipts fell short of meeting household expenditures, i.e., cost of living, and forced farmers

to fall back upon non-agricultural income to make up the deficit." (Isobe: "Labour Conditions in Japanese Agriculture".)

The main drawback is the low price of rice not covering the cost of cultivation.

Up to 1936, only 3 per cent. of total agricultural debt has been redeemed by Government (*Ibid.*)

They are worse than in Bengal.—It will thus appear that the conditions of Japanese peasantry are hardly more favourable than those confronting the Bengal peasantry, although Japan is free to pursue schemes of scientific planning in all spheres of her national life, economic or political.

The Bengal peasant pays lowest Rent and has largest Rights.—The extant land system of the Province may be now judged in terms of its effects on the life of the peasantry and the conditions of cultivation. It is to be noted that the Commission as a body has agreed on two fundamental points, viz., (1) that the Bengal peasant pays the lowest rent of all the provinces in India, in terms of the proportion it bears to gross produce and (2) that he has been endowed with the largest measure of rights which, barring the obligation to pay a rent to his superior landlord, amount to the full rights of proprietorship, including unrestricted right of transfer of his holding.

Rent as related to Produce.—As to (1), some relevant facts may be pointed out in this connection. According to the accepted statistics of the Commission, the average value of the gross produce per acre is to be taken at Rs. 50 while the average rate of rent paid by the occupancy raiyat is Rs. 3-5 per acre. This means that the rent paid by the Bengal peasant amounts to as little as about one-sixteenth of gross produce. It may be noted in this connection that even the average rate of rent of Rs. 3-5 per acre will be reduced to about Rs. 2-10 per acre, if, as pointed out by Rai Bahadur M. N. Gupta, the higher rents charged for temporarily settled estates, Government Khas Mahals, and the old ceded districts of 24-Parganas, Burdwan and Midnapore, are excluded. It may also be noted that excluding these more highly assessed districts, the incidence of rent of mokarari raiyats amounts to Rs. 2-1-9 per acre, or one-twenty-fourth of gross produce.

Rent in the United Provinces.—As stated in the Report, "In the United Provinces, the average rate of rent for all classes of tenants is Rs. 6 an acre and represents approximately one-fifth of the value per acre of the produce.

The level of rent is nearly twice as high as the level in Bengal, and having regard to the value of the produce it is about three times as much."

Rent in Madras.—The Madras level of both assessment and rents is much higher than that of Bengal. Half the net profit is believed to be the highest land tax in the world. Payment of revenue in money adds to the hardship of the system. To add to this, though the assessment is not enhanced during the currency of the 30 years' Settlements, there is no limit to its enhancement in the form of water-rates, second crop charges and other miscellaneous items of land revenue during this period.

Rent in the Punjab.—The Commission's finding is: "Expressed as a proportion of the value per acre of the gross produce, the average of the land charges in the Punjab is higher than the average rate of rent in Bengal." I have personally worked out the details of assessment in the Punjab with the help of the Financial Commissioner, Mr. C. C. Garbett.

The Punjab is a province of small landowners or peasant proprietors, 20 per cent. of whom hold less than 1 acre, 18 per cent. about half an acre, 40 per cent. $2\frac{1}{4}$ acres, and 26 per cent. $8\frac{1}{2}$ acres (Darling L. R. C. Report).

The landowners themselves cultivate about 44 per cent. of the total cultivated area of the province; occupancy tenants only about 7 per cent.; while tenants-at-will cultivate 47 per cent.

The tenants-at-will pay rent in kind (batai) to the extent of half the gross produce, besides contributing their own plough and cattle.

"It is the practice in the Punjab to calculate net assets on the basis of these rents and to check them by the cash rents prevailing in the circle". (*Ibid.* page 7). "Under the Punjab system, net assets are based upon landlords' rentals and not upon owner-cultivators' profits. After working out his calculation of net assets, the Settlement Officer considers what proportion should be taken as the land revenue demand, subject to the statutory limit of 25 per cent." (*Ibid.* pages 8 and 9).

"Until 1928, however, the maximum permissible ratio was 50 per cent. This is the ratio still obtaining in Bombay, Central Provinces and Madras. In the United Provinces, it is 40 per cent., but less (subject to a limit of 25 per cent.) in the case of estates of small holders" (*Ibid.* page 63).

The charges which a cultivator of canal irrigated land in the Punjab has to meet from his crop before he can consider the remainder his own are described below. It may be noted at the outset that the total irrigated area of the province (under canals) amounts to 11·78 million acres or to more than one-third of the total cultivated area (31 million acres). The capital expenditure on these canals amounts to about 38 crores on which a return of about 9 per cent. is realised by Government. The return is derived from water-rates.

The following items make up the total burden of charges thrown on the Punjabi cultivator of irrigated land:—

(1) Land revenue at half of net assets equals 25 per cent. of gross produce.

(2) Water-rate at Rs. 3-8 per acre equals 15 per cent. of gross produce, taking the average value of crops per acre at Rs. 25 (as estimated by the Director of Land Records).

(3) Charges for menials (artisans, blacksmiths, cobblers, carpenters, etc., in the service of the village) amount to 10 per cent. of gross produce.

(4) District Board and other cesses of $12\frac{1}{2}$ per cent. and lambardar's fee of 5 per cent. on revenue come up to 4 per cent. of gross produce.

Thus the total burden of charges per acre amounts to about 54 per cent. of gross produce or more than half. It may be noted that recently item No. 1 on land revenue has been reduced to one-fourth of the net assets ($=12\frac{1}{2}$ per cent. of gross produce). But the previous rate is still in force in areas which are yet to come under Resettlement. Again, as the Commission's Report explains, "By net assets is meant the average surplus which the estate is expected to yield after deduction of the expenses of cultivation; and the expenses of cultivation are assumed to be half the gross produce, which is the amount generally paid to the peasant proprietors by their tenants-at-will."

Our unanimous finding on the subject is thus stated in the Report:

"Our conclusion, therefore, is that considering the level of rents obtaining in the provinces we have visited, the value of the produce, and the prevailing economic conditions, there would be justification for enhancements rather than reductions of rent in Bengal."

A source of increase of Land Revenue.—The consequence of the above conclusion is that there is a vast source of additional land revenue which may be tapped in Bengal. This can be done by levying an additional cess on the rents of raiyats at a rate which will bring them up to the level established in other Provinces. In fact, the proportion of Land Revenue to total Revenue is less in Bengal, mainly because the basic rents are much lower in Bengal, ranging, as they do, between half and one-fourth of the rents prevailing in other Provinces. The proposed cess, unlike the existing cesses (Road, Public Works or Education cesses), will not of course be charged to landlords, but only to raiyats, in view of the fact that the benefit of low rents is exclusively enjoyed by the raiyats. In my opinion, Government should fully explore this available avenue of increase of revenue for the Province.

Low rent due to Permanent Settlement.—The low level of rents in Bengal is traceable to the Permanent Settlement. This point has been mentioned in the evidence tendered by the leading Jurist of the Calcutta High Court, Mr. Atul Chandra Gupta, who states. "I do not think that the permanency of the revenue demand by the Government has led to enhancement of raiyati rents. It is difficult to see why the Permanent Settlement should lead to that effect. *Prima facie*, the effect would be in the contrary direction. The expectation, expressed in paragraph 6 of the Permanent Settlement Regulation as to the effect of 'the public assessment being fixed for ever' on the demands of the zamindars on the raiyats has to a certain extent been realised. In any event, I think that the pressure on the raiyats would have been far greater had the land revenue demands been not fixed as made by the Permanent Settlement."

This view was also taken much earlier by Robert Knight, the talented Editor of "The Statesman", in his Introduction to his edition of Colebrooke's valuable work called *Husbandry in Bengal*, in which he states: "The Zemindar has carelessly sublet to the Patnidar, and the Patnidar to men below him, until we have a mass of middlemen tenure-holders to deal with, who would never have come into existence at all, had the Zemindar wisely enhanced his rentals as money changed in value, as the acreage under tillage became wider by the growth of population. The Zemindar's sin has been his careless neglect of his own interests."

Tenants given all possible rights.—As regards item No. (2), it is undeniable that, as a result of the various Tenancy Acts passed since 1859, practically all rights of full proprietorship have been passed to the tenants, barring their obligation

to pay rent which also they are in no hurry to pay as it becomes due, and in this sense they are better off than their superior landlords whose punctual payment of the revenue due from them to Government is strictly enforced by the mechanical operation of the Sunset Law.

No scope for further improving their position.—In these circumstances, it is difficult to see what scope there is for any change in the land system to improve the condition of the peasantry when it is impossible to reduce further their rents or to invest them with more rights and greater protection. Their rents are already at their minimum, while there hardly remain any rights which can be transferred to them.

This point has been admitted unanimously by the Commission, who state: "But the incidence of rent has little effect on general economic conditions. Rent is one of the least important items in the cultivator's budget. We are not prepared to say that there is any difference between the economic condition of a rent-free, and a rent-paying cultivator. The fertility of the soil, the yield of crops and the price of agricultural produce are factors which have a far more important bearing on economic conditions than the level of rent. It is obvious that a bargadar who can produce 24 maunds of paddy on fertile land, and takes half the produce, is just as well off as a rent-free raiyat who can produce only 12 maunds on barren land. Rent materially affects economic conditions when it approaches the full economic rent, i.e., when it leaves practically no margin after the cost of cultivation and living expenses have been paid."

Causes of their distress.—Thus the fact of the matter is that the distress of the Bengal peasantry is due not to the land system but to causes and circumstances which are partly their own creation and partly beyond their control.

Over-population.—The first of these is increase of population and its too much pressure on the soil. The desperate consequence of this over-population is that Agriculture is in the grip or rather the stranglehold of uneconomic holdings and has become now a completely losing concern. The unanimous finding of the Commission is that "there is not enough land to go round. There is now slightly less than one acre of cultivated land per head of the agricultural population. As population increases, the available land per head of the population decreases. We consider that the pressure of population on the land is the ultimate cause of Bengal's

economic troubles. It is the most difficult problem which we have to face because it is virtually impossible under present conditions to suggest any remedy for it."

Uneconomic Holdings.—I do not see what future can there be for Agriculture on the basis of uneconomic holdings, and the further fragmentation of such holdings. The Commission has come to a unanimous finding that it is not possible to prevent subdivision of holdings either by an alteration in the laws of inheritance or a device like the system of the preferred heir and the Commission's view is supported by nearly all its witnesses. It is only to be noted that the evils of over-population are not the creation of Permanent Settlement, the abolition of which will not check it.

A scheme of State-purchase by which the State enters into direct relations with the tillers of the soil may be supported only on the condition that it will assure to the tillers that their toil will not be applied in vain to uneconomic holdings inherently incapable of being cultivated to profit. This can only be done if the entire cultivated area of the Province is redistributed among the tillers of the soil so as to secure for each an economic holding, of say at least 5 acres, where the available land for cultivation per head of Bengal's agricultural population is only ·87 acre, and per family only about 4·84 acres.

Even if it is possible to apply the extreme socialistic principles to land as the national key-industry of Bengal by the State buying up all landed property so as to nationalise the entire agricultural industry of the Province, and then to follow up this complete nationalisation of land by redistributing it among the actual tillers of the soil, and settling each such cultivator on an economic holding of a standardised size, such a sweeping reform cannot materialise against the conditions already created in the Province by its over-population. This point may be gone into more closely with reference to the population figures and statistics recorded by the last Census. According to the Census of 1931, Bengal's total population amounts to a little over 500 lakhs which bids fair to increase up to 550 lakhs in the coming Census of 1941. It would appear that of this total population of 500 lakhs, only about 137 lakhs are registered as "principal earners", whose "working dependants" number about 7 lakhs. On the other hand, the "non-working dependants" who are supported by the principal earners number as many as 357 lakhs. This means that 71 per cent. of Bengal's total population do not earn their livelihood and may be taken to be unemployed.

Further, it would appear that the total agricultural population of Bengal including its working and non-working dependants who pursue the vocation called "Ordinary cultivation" numbers 334 lakhs. The agricultural earners together with their working dependants number only about 92 lakhs who are distributed among the following classes:—

	Lakhs.
(1) Non-cultivating proprietors ...	6·3
(2) Cultivating owners ...	50·8
(3) Tenant-cultivators (including bargadars)	8·3
(4) Agricultural labourers ...	28·7

If the percentage of dependants to workers, or unemployed to employed, in the total population is taken for the agricultural population, then over 2 crores 25 lakhs will be returned as the dependants of agriculturists.

At the same time, the gross cultivated area of the Province amounts to 350 lakhs of acres and the net cultivated area to 289 lakhs of acres.

It is further calculated that the value of gross produce per net acre is Rs. 50, while the gross produce per head of the total agricultural population dwindles only to Rs. 46.

On the top of these distressing figures comes the climax that the available land which even our phenomenally fertile Province can offer to her agricultural population is the modest amount of ·87 acre per head. 46 per cent. of its families hold less than 2 acres each, 11 per cent. less than 3 acres, 9 per cent. less than 4 acres, and 8 per cent. less than 5, or an economic holding. Thus three-fourths of Bengal's agricultural families are without economic holdings, their average size being only less than 3 acres.

The irresistible conclusion to which all these facts and figures lead, and from which there is no escape, is that no amount of land reform can in any way better the lot of the overgrown peasantry. As one of our talented witnesses, Mr. Atul Chandra Gupta, puts it, "no mere change of the land laws giving the raiyats better security to their rights in their tenancies or relieving them from the excessive burden of the present or enhanced rents would to any appreciable extent better their present hopelessly uneconomic condition. Far greater effort on the part of the Government and the nation than mere passing of such legislation is necessary to better the

condition of the cultivators, which is, in one sense, bettering the economic condition of the whole country. I think that any attempt at short-cuts can only lead to futility and disillusion."

Want of Work for half the year.—Next to Overpopulation which has reduced the peasantry of Bengal to desperate straits is another equally distressing factor which is neither the creation of the peasantry nor is within his control. Even the cultivator who has got work, and land to cultivate, has to remain out of work for more than six months in the year. There can be no future for a country where its able-bodied adult population remains workless for more than half the year. The primary agricultural reform must, therefore, solve this basic problem of agricultural idleness. This problem is not at all due to the land system of the Province. As Mr. W. H. Thompson, a Settlement Officer, and the Census Superintendent for 1921, puts it, "it is in such figures as these that the explanation of the poverty of the cultivator lies. The cultivator works fairly hard for a few days when he ploughs his land and puts down his crops, and again when he harvests them, but for the most of year he has little or nothing to do."

Difficulties of Industrialisation.—The only solution of this colossal and desperate problem of agricultural idleness lies in introducing to rural areas such supplementary handicrafts and cottage industries as can be plied with profit by the cultivators remaining out of work in the off-seasons of agriculture. It is not feasible to transfer permanently or periodically the vast masses of workless agriculturists away from their homes, uprooting them from their villages to which they are bound by traditional ties, to remote urban areas of heavy industries. And even these heavy industries like Tea and Coal, Cotton and Cane, or Jute, are not overprosperous and can absorb only a small percentage of the proposed draft of agricultural labour.

Extension of cultivation not possible.—Nor is it possible to find a remedy to this desperate problem of the growing pressure of population on the progressively declining resources of the soil and the unavoidable unemployment of the agricultural population by bringing more land under cultivation. On this subject, the important evidence of one of our witnesses known for his experience of land revenue administration, Rai Bahadur M. N. Gupta, may be cited—

"There is little scope in this Province for provision by extension of cultivation in uncultivated areas. There may be some tracts in West Bengal and in North Bengal, which may be brought under cultivation by irrigation or embankment

arrangements; but generally, cultivation has extended in the villages to a dangerous limit, leaving little or no land for grazing cattle or even for a *bhagarh* where a carcass could be thrown; roads and pathways have been encroached upon. In some places, decadent river beds have been embanked, obstructing drainage, and bringing diseases in its trail and raising a different problem. There are reserved and protected forests; but they are serving a better purpose and their denudation is not free from the danger of many evil consequences. Colonisation in the Sundarbans is proceeding apace: and whether it should proceed faster is a question which may need particular investigation." Cultivable waste forms only 8 per cent. of the total area of the Province.

Cottage Industries as the only remedy.—I agree with Mr. Thompson that "the only amelioration of present conditions in Bengal that seems possible is by bringing work within reach of the cultivator near his own village". Mr. Thompson points to the possibilities of handloom as a cottage industry, and in our own Report there is mention of the various handicrafts which may be profitably introduced in rural areas. The Royal Agricultural Commission has also mentioned some of these such as rice-hulling, oil-crushing, sugar-refineries, cotton-ginneries, manufacture of agricultural implements, paper manufacture, manufacture of oil-cakes, bone-crushing, pottery, rope-making, cane and grass products (as mats, baskets, etc.), sericulture, poultry-rearing and lac.

Their past prosperity.—It is sometimes held that the land system of the Province is responsible for the decay of its village industries and rural handicrafts. This is a complete misreading of history. India through the ages, as has been indicated in my separate Historical Note, had been noted for her balanced development of both industry and agriculture. Professor Weber nicely puts the position in the following words:—

"The skill of the Indians in the production of delicate woven fabrics, in the mixing of colours, the working of metals and precious stones, the preparation of essences and in all manner of technical arts, has from early times enjoyed a world-wide celebrity."

It is also stated in the Imperial Gazetteer of India: "There was a very large consumption of Indian manufactures in Rome. This is confirmed by the elder Pliny, who complained that vast sums of money were annually absorbed by commerce with India. The muslins of Dacca were known to the Greeks under the name of *Gangetika*. Thus it may be safely concluded that in

India the arts of cotton spinning and cotton weaving were in a high state of proficiency two thousand years ago. Cotton weaving was only introduced into England in the seventeenth century."

But Indian craftsmanship was not confined merely to textiles. As admitted by Professor H. H. Wilson: "The Hindus have the art of smelting fire, of welding it, and of making steel, and have had these arts from time immemorial." As has been pointed out by that renowned scholar, Justice Ranade: "The iron industry not only supplied all local wants, but it also enabled India to export its finished products to foreign countries. The quality of the material turned out had also a world-wide fame. The famous Iron Pillar near Delhi, which is at least fifteen hundred years old, indicates an amount of skill in the manufacture of wrought iron, which has been the marvel of all who have endeavoured to account for it. Mr. Ball (late of the Geological Survey of India) admits that it is not many years since the production of such a pillar would have been an impossibility in the largest factories in the world, and, even now, there are comparatively very few factories where such a mass of metal could be turned out. Cannons were manufactured in Assam of the largest calibre, Indian *wootz* or steel furnished the materials out of which Damascus blades with a world-wide reputation were made; and it paid Persian merchants in those old times to travel all the way to India to obtain these materials and export them to Asia. The Indian steel found once considerable demand for cutlery even in England. This manufacture of steel and wrought iron had reached a high perfection at least two thousand years ago."

These industrial conditions continued through later times. Bernier marvels over the incredible quantity of the manufactured goods of India in the Moghul times such as "embroideries, streaked silks, tufts of gold turbans, silver and gold cloth, brocades, net-work of gold". Tavernier also gives a long description of the manufactured goods, and dwells with wonder on the "marvellous peacock-throne, with the natural colours of the peacock's tail worked out in jewels, of carpets of silk and gold, satins with streaks of gold and silver, endless lists of exquisite works, of minute carvings, and other choice objects of art".

How they were destroyed.—It was this time-honoured trade and prosperity that lured traders from Europe to India. As the historian Murray puts it: "Indian fabrics, the most beautiful that human art has anywhere produced, were sought

by merchants at the expense of the greatest toils and dangers." ("History of India", page 27.) The Indian trade was first captured by Venice and Genoa and later by the Portuguese and the Dutch. Their trade now attracted the envious attention of some English merchants who formed the East India Company and obtained a charter from Queen Elizabeth in 1600 to trade with the East Indies, "not to exchange as far as possible the manufactured goods of England for the products of India", but to carry the manufactures of India to Europe. The fate of this trade is thus described by the famous historian Lecky (in his "History of England in the Eighteenth Century"): "At the end of the seventeenth century, great quantities of cheap and graceful Indian calicoes, muslins and chintzes, were imported into England, and they found such favour that the woollen and silk manufacturers were seriously alarmed. Acts of Parliament were accordingly passed in 1700 and 1721 absolutely prohibiting, with a very few specified exceptions, the employment of printed or dyed calicoes in England, either in dress or in furniture, and the use of any printed or dyed goods, of which cotton formed any part."

The same tale of India's industrial woes is told by other authorities. Sir Henry Cotton wrote in 1890: "Less than a hundred years ago, the whole commerce of Dacca was estimated at one crore of rupees, and its population at 200,000 souls. In 1787, the exports of Dacca muslin to England amounted to 30 lakhs of rupees; in 1817 they had ceased altogether. The arts of spinning and weaving which, for ages, afforded employment to a numerous and industrial population, have now become extinct. Families which were formerly in a state of affluence have been driven to desert the towns and betake themselves to the villages for a livelihood. The present population of the town of Dacca is only 79,000. This decadence has occurred not in Dacca only, but in all districts. Not a year passes in which the Commissioners and District Officers do not bring to the notice of Government that the manufacturing classes in all parts of the country are becoming impoverished."

Mr. Romesh Chandra Dutta also states: "In the first four years of the nineteenth century, in spite of all prohibitions and restrictive duties, six to fifteen thousand bales of cotton piece-goods were annually shipped from Calcutta to the United Kingdom. The figure rapidly fell down in 1813. The opening of trade to private merchants in that year caused a sudden rise in 1815; but the increase was temporary. After 1820, the

manufacture and export of cotton piece-goods declined steadily, never to rise again" ("Economic History of British India", page 296).

The commencement of the Company's administration brought out a conflict between the industrial interests of England and India. British weavers became increasingly jealous of the Bengal weavers as they saw the silk fabrics which were imported to England from Bengal. And now, not only were Indian manufactures banned from entry into England but, as has been stated by Mr. Romesh Dutta, "a deliberate endeavour was now made to use the political power obtained by the East India Company to discourage the manufactures of India. In their letter to Bengal, dated 17th March 1769, the Company desired that the manufacture of raw silk should be encouraged in Bengal, and that of manufactured silk fabrics should be discouraged. And they also recommended that the silk winders should be forced to work in the Company's factories and prohibited from working in their own homes".

In a letter of the Court of Directors, quoted in Appendix 37 to the Ninth Report of the House of Commons Select Committee on the Administration of Justice in India, 1783, it was stated:

"This regulation seems to have been productive of very good effects, particularly in bringing over the winders, who were formerly so employed, to work in the factories. Should this practice (the winders working in their own homes), through inattention, have been suffered to take place again, it will be proper to put a stop to it, which may now be more effectually done by an absolute prohibition under severe penalties, by the authority of the Government."

"This letter", as the Select Committee justly remarked, "contains a perfect plan of policy, both of compulsion and encouragement which must in a very considerable degree operate destructively to the manufactures of Bengal. Its effects must be (so far as it could operate without being eluded) to change the whole face of the industrial country, in order to render it a field for the produce of crude materials subservient to the manufactures of Great Britain."

Further, according to Digby ("Prosperous British India", page 90), in 1813, the exports of Indian cotton manufactures were subjected to a variety of "burdensome charges which were subsequently removed, but only after the export trade in them had temporarily or permanently been destroyed". At the same

time, English goods entered India without any or a merely nominal import duty. For instance, while Indian cotton goods had to pay a duty of £81 per cent. in England, English cotton goods could enter India by paying a duty of only 2½ per cent. About this time, Indian textile handicrafts had to contend with the facilities conferred on English manufactures by the invention of the steam engine and the power loom. The effects of this new factor are well described by a Director of the East India Company, Henry St. George Tucker, who wrote in 1823:—

"The silk manufactures (of India), and its piece-goods made of silk and cotton intermixed, have long since been excluded altogether from our markets; and, of late, partly in consequence of the operation of a duty of 67 per cent., but chiefly from the effect of superior machinery, the cotton fabrics which heretofore constituted the staple of India, have not only been displaced in this country, but we actually export our cotton manufactures to supply a part of the consumption of our Asiatic possessions. India is thus reduced from the state of a manufacturing to that of an agricultural country."

H. H. Wilson, the historian, also wrote as follows:—

"It was stated in evidence (in 1813) that the cotton and silk goods of India up to the period could be sold for a profit in the British market at a price from 50 to 60 per cent. lower than those fabricated in England. It consequently became necessary to protect the latter by duties of 70 and 80 per cent. on their value, or by positive prohibition. Had this not been the case, had not such prohibitory duties and decrees existed, the mills of Paisley and Manchester would have stopped in their outset, and could scarcely have been again set in motion, even by the power of steam. They were created by the sacrifice of the Indian manufacture. Had India been independent, she would have retaliated, would have imposed prohibitive duties upon British goods, and would thus have preserved her own productive industry from annihilation. This act of self-defence was not permitted her; she was at the mercy of the stranger. British goods were forced upon her without paying any duty, and the manufacturer employed the arm of political injustice to keep down and ultimately strangle a competitor with whom he could not have contended on equal terms."

Difficulty of their revival.—All this history shows how the indigenous Indian handicrafts which had acquitted themselves so well through centuries had at last to succumb to politics.

The destruction of these village handicrafts was not the consequence of the Permanent Settlement. Nor can they now be revived with ease. There is considerable loose and tall talk about their revival, but mere planning or scheming is very remote from realities. I particularly asked the best witness on the subject, Mr. S. C. Mitter, the Director of Industries, for a list of cottage industries and rural handicrafts which could be plied with profit by agriculturists in the off-seasons of agriculture, but he did not seem to be quite ready with such a list. In the meanwhile, some of us find in the abolition of the Permanent Settlement the promise of an industrial millennium. I for myself am unable to share their optimism! I do not know how long it would take for Dacca muslin to regain its lost glory, even aided by all-India Congress patronage and propagation of khadi.

Thus the distresses of Bengal's peasantry are due to overpopulation, increase of population beyond the resources of the soil for supporting it, undersized holdings, want of work for the agriculturists for more than half the year, and decline of the indigenous village handicrafts which could employ cultivators out of work in the off-seasons of agriculture. All these factors have nothing to do with the land system of the Province. They are operative even where land is held rent-free.

Effect of low prices.—The agriculturist is further handicapped by a factor for which neither he nor the land system is responsible. It is due to agricultural prices having gone down more in proportion than the prices of the other commodities which the agriculturist is to buy as the necessaries of life with the price of what he grows in his fields. The question of agricultural prices is practically now an international question. It is also a question of currency. If it is possible to give fair wages to Industry, it should be possible to give fair "prices" to Agriculture. Some remedies may be explored such as (*a*) payment of rent in kind or cash according to the cultivator's convenience, (*b*) marketing of agricultural produce by private, co-operative or State organisation. Recently in Canada, the Government bought up the entire wheat stock of the country at a loss to save its peasantry. But after four years' waiting, the State effected a profitable deal.

Need of agricultural improvements.—It is also admitted on all hands that agriculture in Bengal is badly in need of certain immediate improvements by which the resources of the soil may be fully exploited. Such improvements will mainly comprise

(*a*) supply of seeds, (*b*) profitable rotation of crops so as to give employment to the agriculturist throughout the year, (*c*) supply of scientific manures suitable for different crops, (*d*) prevention of cattle epidemics and (*e*) facilities of irrigation. Our Report has already mentioned these, but I would make only a few supplementary observations, in view of the importance of the subject.

Low yield of rice.—It is to be noted that the yield of rice in India and in Bengal is the lowest in the world. The yield per acre is highest in Spain producing 5,542 lb. of rice per acre. Next come Italy with 4,743 lb., Egypt with 3,719 lb., and Japan 2,988 lb. India as a whole has a yield of only 828 lb. and Bengal 884 lb.

Need of improved seeds.—It is undeniable that the quality of the seed is the most important factor in determining the yield of the crop. Improved seeds will not only increase the quantity of the crop but also its quality. At present, the cultivators use their own seeds preserved for the purpose or obtain them from the village mahajans on loan on which they charge interest at a rate hardly less than 50 per cent. on the amount borrowed. These seeds are always impure, and even if they were originally pure, they soon get mixed up and deteriorate in course of a few years. Thus local seeds yield a poor crop both in quantity and quality. It is, therefore, urgently necessary that there should be provision for the supply of seeds of the best quality to the paddy-growers.

The Agricultural Department has already some valuable work to its credit in evolving improved strains of pedigreed seeds. But more work is called for in the establishment of "pure lines". In view of the enormous varieties of paddy grown in Bengal, a more effective isolation of "pure lines" is very necessary by the establishment of sub-sections representing areas which are homogeneous in point of soil and climatic conditions. Without such isolation, all investigations will be barren of results.

Again, for facilities of access of growers to seeds, there should be established a comprehensive seed-supply service with adequate staff and organisation to meet the seed-requirements of Bengal's 20 million acres of paddy land. The present number of only 450 seed farms attached to the Union Boards touches only the fringe of the problem. It is high time that the fruits of distant departmental researches be brought to the door of the peasant in the field.

Manures.—The problem of manures is a more difficult problem. The peasants do not believe in manures and do not find them paying. Propaganda and demonstration are necessary to make them use manures. Even the manure he has at hand, the dropping of cattle, he does not know how to conserve. The Royal Commission on Agriculture urges the instruction of the peasant in the preservation of available manure and preparation of cheap manures from leaves and farm-yard sweepings (*see* Paddy Committee's Report just published).

Irrigation facilities.—Cultivation in Bengal is severely handicapped by lack of irrigation facilities. The proportion of the area irrigated to the total area sown is only 7 per cent. in Bengal, as against 54 in Punjab, 30 in United Provinces, 28 in Madras, 21 in Bihar and Orissa, and 16 in Bombay. It may also be noted that adequate drainage facilities are also needed to remedy extensive water-logging all over the Province caused by rain and flood.

Agricultural improvement is nobody's business now.—The chief defect of the existing land system is its indifference to agricultural improvements. The improvement of land is not the concern of any of the landed classes. Everybody's business is nobody's business. The zamindar says that he is no longer responsible for improvement of land when the law has destroyed the incentives to such improvements. He feels that he is out of the picture and has no longer any interest in the land except passively to receive its rent. This reply will be repeated by all the landholders making up the whole chain of subinfeudation. The State is unable to fix the responsibility for land on any particular link in the chain down to the underraiyat or the actual tiller of the soil. And yet the State cannot remain indifferent to what constitutes the very foundation, the primary source, of the nation's wealth. It cannot stand by and see the land of the country going to rack and ruin for want of proper care on the part of those who are drawing out of it all that it can yield without replenishing its decreasing resources and declining potentialities. The State has a supreme duty towards the land of the country. In some countries, Land is not trusted to individual proprietorship and is nationalised like some of the free gifts of Nature such as hydro-electric sources, machinery of transport, mines, etc. But these countries can write on a clean slate. It is not possible in Bengal. At the same time, the State has a responsibility for land which it cannot ignore. The State cannot drift in the

matter any longer. The primary fact is that neither the zamindar nor the tenant, neither the raiyat nor the under-raiyat, holds himself responsible for agricultural improvements by which the properties of the soil, instead of being exhausted, will be replenished and improved so as to show a better rate of yield as compared with other countries. The various ways and means of effective agricultural improvements are well known. The question is, what arrangement or provision can be made by the State by which a machinery for agricultural improvement can be set up to function daily and visibly like its Executive or Judicial Department which always makes its presence and its work felt every day in the whole country.

Proposal for an Agricultural Cess.—The best proposal, taking into account all the factors historical, economic, social, legal, and political, will be to levy an agricultural cess on every zamindari estate on condition (*i*) that it will be levied only on the basis of actual realisation for the year amounting to at least 95 per cent. of current demand (as is the standard of realisation attained in other Provinces); and (*ii*) that its proceeds which will be collected from the estate will be administered for the agricultural improvement of the locality. The details of the scheme will have to be worked out by administrative experts. The general idea is:

(*a*) to make it experimental for ten years, to make a survey of the agricultural needs of the whole province, and apportion expenditure accordingly among different local areas;

(*b*) to confine the agricultural cess only to the rent-receiving class and to exempt the cultivators at present from this burden;

(*c*) that the rate of the cess should be one-and-half annas in the rupee so as to yield an extra revenue of one crore of rupees to be available to Government for effecting agricultural improvement as an organic part of administration.

Agricultural Income-tax.—The agricultural cess is preferable on many grounds to agricultural income-tax, which will not be productive of as much revenue and will not be popular for the inequalities of financial burden it will involve.

There is another point mentioned by Sir Nalini Ranjan Chatterji against the agricultural income-tax. "It appears that the owners of land had to pay cesses, while all other

sections of the public had to pay income-tax. That being so, if land is made liable to income-tax, there will be burden (*a*) of revenue under the Permanent Settlement, (*b*) of road and public works cesses, and (*c*) of income-tax, which does not seem to be justifiable, unless other sections of the public are also made liable with cesses."

And if the Permanent Settlement is abolished, and the income-tax is levied on cultivators, "the elaborate enquiry which would be necessary every year", as Mr. Atul Chandra Gupta points out, "to find out the assessable income of each agriculturist, the majority of whom are illiterate and incapable of filing a proper Return, would make the whole scheme impracticable and oppressive, if sought to be introduced in the present state of the country".

Bargadar.—As to the bargadar, I have to make a few observations. There is some confusion of thought on the subject. There are cases where a person employs another to cultivate his land in return for a share of the produce. He does not contribute any capital in the shape of seeds, bullocks, or implements to cultivation. But he receives a share of the crops simply as the owner of the land or as landlord. Though this system is called barga, it is really subletting on rent paid in kind. In this case, the bargadar is in reality a tenant and should be given the rights of a tenant, such as right of occupancy and other rights. In my opinion, the barga system proper, where the conception of tenancy does not apply, is the system under which the owner of land contributes to cultivation by other means than the mere supply of land. He may contribute seeds, bullocks, plough, or other things, in whole or in part, and call in the aid of the cultivator in production. This is thus in reality a form of partnership between the owner of the land and the so-called bargadar for agricultural production. The respective rights of the parties should be regulated by the Law of Partnership. Such a system of agricultural partnership has its uses, because it makes agriculture the joint concern of a man of means and education and the uneducated and poor peasant. Agriculture will be doomed if it becomes the sole concern of the tillers of the soil in their present state of incompetence due to their illiteracy, want of scientific education, poverty, and want of capital. The barga system makes for scientific agriculture, is justifiable on economic principles, and should not be abolished. The other barga system which is really a tenancy should go and be recognised as a tenancy. At present, the same term barga is applied to two different systems. The distinction between

the two should be recognised and appropriate legislation passed for regulating the two different kinds of relations on which they rest. In the case of the barga system as a partnership, the profits of cultivation are to be divided according to the kind of partnership entered into, and its agreed terms and conditions.

State-purchase.—I now come to the vital point of the Report, the scheme of State-purchase, and abolition of Permanent Settlement. My position is that I am game for it, provided it materially improves the admittedly hard condition of the toiling tillers of the soil. But I have my doubts about it. As a Congress member of the Legislature, I have to consider the opinion of the Congress as it has been actually embodied in the different measures of land legislation already passed by the Congress Governments in Provinces having to deal with Permanent Settlement, the Governments of the United Provinces, Bihar, and Madras. In none of these Provinces has there been any proposal for the abolition of Permanent Settlement. In the United Provinces, where only a ten per cent. of the Province is under Permanent Settlement, and where it is easy of abolition, the proposal for its abolition has not even been mooted. The Bihar Government has confined its land legislation only to the agricultural income-tax.

All these Governments have been at one and busy in passing to the tenants some of the rights which have been already passed to them in Bengal in full measure. They have contented themselves with an improvement of the condition of the peasantry by an improvement of their legal status within the frame-work of the existing land system. In Bengal, however, the difficulties in the way of a radical reform like the abolition of Permanent Settlement and its replacement by State-landlordism are more formidable, because it would amount to a revolution in the social and economic system and structure of the Province, which have taken root and grown during the last 150 years since the Permanent Settlement, and even from earlier times. Our Report states the *pros* and *cons* of the case. Opinions have differed as to the degree of emphasis to be laid on them. I am here only making a few supplementary observations.

Is it possible to prevent Subletting.—If the ideal is to set up a system by which the State will deal directly with the actual cultivators of the soil without the intervention of any intermediaries, the inherent difficulty of the situation is that the system cannot assure that the cultivators will always themselves cultivate. I agree with some of our experienced witnesses like

Mr. F. W. Robertson, C.I.E., I.C.S., that it is impossible to abolish subletting in agriculture. Besides, the term "cultivator" is taken to include the cultivator who cultivates with the help of hired labourer. He may so arrange that the hired labourer may be construed as a bargadar receiving his wages in kind in the shape of a portion of the produce, food, clothing, or other ways. Thus the situation that will result from the abolition of the present system is that one class of rent-receivers will be replaced by another posing as cultivators under a subterfuge. As Mr. Robertson stated further in his examination, "there is little distinction between a raiyat who cultivates through bargadars and one who sublets on cash rent". And again: "If the middlemen are eliminated, it does not follow that all the raiyats will cultivate. Even now a proportion of them do not cultivate." Mr. W. H. Nelson, C.S.I., I.C.S., also gave evidence to the same effect: "No legislation can defeat an economic law. If a man can make profit by subletting he will certainly do so. Even if the law forbids it, he will find a way of evading the law. Occupancy rights have nothing to do with the tilling of the soil. Originally they were given to protect the raiyat who was presumed to be the tiller of the soil, but tenure-holders also have occupancy rights." Again: "If the zamindars and tenure-holders are bought out, they will either spend the money or invest it. If they invest, they will naturally invest in land. That means that they would become owners of raiyati land. The result would be that many middle-class people would become raiyats under Government, and the actual cultivators would be those who hold under them. If the whole Province became a Khas Mahal, the occupancy raiyat would become landlords and would be forced to sublet to under-tenants. Nothing would prevent subletting and if occupancy rights were given to all under-raiyats, the result would be the existing system on a lower grade. It is also impossible to limit the size of raiyati holdings." Sir Nalini Ranjan Chatterji also points out in his valuable evidence: "The abolition of the zamindari system means of course not only abolition of zamindars, but of the whole body of tenure-holders, under-tenure-holders, and (if by "actual cultivator" is meant only persons who cultivate lands with their own hands) the whole body of cultivators who cultivate with hired labourers, paying them a share of the produce as their remuneration."

Sir Nalini Ranjan further explains the position thus: "What exactly is meant by the expression 'actual cultivator' of the soil? Does it mean only the person who actually ploughs with his own hands (or with the aid of the members of his

family) or includes also persons who do not themselves plough with their own hands, but carry on cultivation through agricultural labourers?

"Leaving aside the case of the actual tiller of the soil who himself ploughs his land, cultivation is carried by a numerous body of persons, who provide the cattle, seeds, manure, plough and other implements of husbandry, in fact everything, but engage agricultural labourers, to actually plough the land." These agricultural labourers either work as whole-time servants on fixed pay (called Mahinder in Western Bengal) or are paid by a share of the produce, and called Krishans. "They have nothing to do with cattle, plough, implements of husbandry, manure or seeds, or anything whatsoever. They merely supply the labour. All the middle class of Bengal who carry on cultivation with their own plough, etc., do so with the aid of hired labourers, as described above. The Brahmins as a class are prohibited by their religion from ploughing lands with their own hands; and all the bhadralogs carry on cultivation in the above manner.

"But it is not merely the Brahmins or other 'bhadralogs' who carry on cultivation in the above manner. The actual tiller of the soil has to do the same, where he cannot plough all his lands himself. A tiller cannot properly cultivate more than 5 acres of land, which is sufficient for one plough, with his own hands. If he has got more than 5 acres of land, he must take help of hired labourers as described above to cultivate the rest of the land, unless he has got other adult male members capable of cultivating land. In case where he has a large quantity of land or land more than sufficient for a plough (and he has no other additional male member of his family capable of carrying on cultivation), he is in the same position as the Brahmin or other 'bhadralog' cultivator."

Sir Nalini Ranjan also thinks that between an agricultural labourer engaged on pay, and the other engaged on the basis of a share of the produce, the latter is preferable. The former "has no incentive to work for larger produce, because, whether the produce is small or large, he gets only his wages, whereas he who is paid by a share of the crop has an incentive to work. because he will get one-third of any increase in the produce. The mode of remunerating agricultural labourers by giving them a share of the produce has been prevalent in Bengal from ancient times and there is no doubt that it results in increase of production".

"Brahmins owing to religious prohibition, and other 'bhadralogs' in this country on social grounds, cannot plough with their own hands, and it is expensive to keep plough and cattle, etc., for cultivating a small quantity of land. There are minors or widows who cannot carry on cultivation. Then again, there are religious and charitable institutions and cultivation of lands which support them must necessarily be carried on through others. All these persons depend upon the produce of the land for their subsistence, and they have been maintaining themselves from the produce of land from generation to generation.

"There are some people who look upon the 'bhadralogs' as drones and idlers, but these 'drones' have built up the social structure in rural Bengal and have always lived upon the produce of land in this country. Many of them are holding lands from before the Permanent Settlement as raiyats or lakharajdars for generations, and getting the lands cultivated through Mahinders and Krishans, or Bhagchasis where it is not convenient for them to keep cattle and plough. One should not forget that Bengal is not Europe, that the habits and customs of the people are quite different from those of Europe, and that many people in this country cannot cultivate themselves on social or religious grounds. They cannot for the same reasons work as millhands in factories and mills. But they have to live and the mode in which cultivation is carried on is the result of the economic and social adjustment of ages. As stated above, the middle class people are living in the villages and supporting themselves from the produce in these ways from time immemorial, and one should not forget that the effect of driving away these people from villages would be to swell the number of unemployed in towns."

I have sometimes felt that the Commission as a body has not given due consideration to much valuable evidence tendered to it on invitation by important Associations' witnesses like Sir Nalini Ranjan Chatterjee who acted as the Chief Justice of Bengal, and others.

Need of Middle Class Educated Agriculturists.—And supposing that State-landlordism is set up with the tiller of the soil figuring alone in the picture, it will mean the abandonment of Agriculture to those who are the least fitted for carrying it on in accordance with up-to-date scientific methods which alone can make it a paying concern. The organisers of Agriculture as a scientific industry are not less important to it

than the actual agriculturists or tillers of the soil. Rent-receiving is not always a crime unless it is rack-renting. The middle classes have become rent-receivers in their zeal to exchange the plough for the pen, and have built themselves up on the basis of education financed by their income from their tenures or fields in the shape of rents.

Opinion of Sir John Russell.—In this connection, the most authoritative view of Sir John Russell, D.SC., F.R.S., may be quoted from his Report on the work of the Imperial Council of Agricultural Research (in applying Science to Crop Production in India): "Perhaps the most serious of all the difficulties confronting Indian agriculture is the lack of an agricultural aristocracy and of an educated agricultural middle class. Many of the great advances in western agriculture are due to men of this type: highly competent agriculturists, rooted in the soil, with a thorough knowledge of crops and livestock and a shrewd idea of how to get the most out of their land. It is quite certain that without them the West would have been in a far poorer position than it now holds. In Great Britain an improvement effected in the experiment stations can be at once put out into practice: some large farmer is prepared to try it at his own expense as soon as he is satisfied as to its value, and he almost invariably finds some simpler or better way of using it. But these good farmers also themselves devise improvements, which are sometimes better than those of the experiment stations. Indeed the experiment stations think themselves fortunate if they can obtain yields as good as those of the best farmers, and their best hopes of success are to overcome some special difficulty or to develop alternative methods of achieving some desired end. The staffs of the experiment stations are compelled to keep in touch with practical men or they would find themselves outclassed in the struggle for agricultural improvement."

"The existence of these educated classes gives a social attractiveness to life in the country."

"Equally important is the need for increasing the number of educated farmers. It is unfortunate that the colleges have been able to do so little in this direction. Perhaps the greatest difference between the agricultural colleges in India and those of the West is that most of the western students go back to the land to do practical farming while the Indian agricultural graduates seek some non-practical post, where their influence on practical farming is very small. An old Hindu proverb

states that Agriculture is the best life and service the worst: the modern tendency is to reverse this and to rank Government Service as the best life and Agriculture as the worst. This explains the relatively small effects exerted by the Indian colleges on the cultivator's practice. Until good students from the agricultural colleges settle on the land as farmers, the colleges cannot be expected to exert much influence on village life. At each centre I visited, I enquired how many college students were farming: occasionally figures were given to me and I enquired for names and addresses so that I might write for information, but my letters were mostly either returned or unanswered, and in all my journeys I met only two or three college trained farmers *Per contra*, the few young zamindars whom I found taking pains with their farming had in general not been to an agricultural college."

Destruction of the Middle class.—Indeed, State-landlordism in Bengal will have to base itself upon the destruction of the middle classes who have so long thriven on land. One of the objectives of the Permanent Settlement was frankly stated to be the creation of this middle class, and its abolition will necessarily mean its extinction. To quote the words of Lord Cornwallis (already cited in my Historical Note): "Permanent Settlement would give a real value to landed property and at the same time contribute directly to accumulation of wealth in individuals and thus to general prosperity." This point of view was first urged by Philip Francis who admittedly ranks as one of the originators of the scheme of Permanent Settlement. State-landlordism in his opinion "supposes the extinction of those successive ranks of subordination in society through which the operations of Government descend by regular and easy gradations from the summit to the base. When the simple and natural channels of authority are quitted or decomposed, the State itself loses that shape and proportion which constitute its strength and qualify it for duration." Here Francis mentions subinfeudation as a consequence of Permanent Settlement, and of the zamindari system, but not as necessarily an absolute evil. He only fears that by State-landlordism, Society in Bengal would once more be resolved into the original units or atoms out of which it was formed. The same view was expressed by Samuel Lang, Finance Member under Lord Canning, in 1857: "We do not exist as a Government merely to get the largest revenue we can out of the country, or even to keep the mass of the people in a state of uniform dead level, though it should be tolerably a

happy and contented one, as a peasant tenantry under a paternal Government. If we give a Permanent Settlement, we lay the foundation for a state of society, not perhaps so easily managed but far more varied and richer in elements of civilisation and progress. We shall have gradations of society, from the native nobleman of large territorial possessions down through the country gentleman of landed estate to the independent yeoman, the small peasant proprietor, the large tenant with skill and capital on a long lease, the small tenant on a lease, the tenant-at-will, and the day labourer."

Subinfeudation cannot be considered as an evil if it operates as an agency for the distribution of wealth derived from land among the different ranks and classes of society, and does not leave land as the monopoly of the few, but leaves it open to the many as the source of general prosperity. It is an evil and cannot be justified if the weight of its chain is increasingly felt in its downward course along its descending series of links, so as to throw the brunt of its weight on the lowest and the weakest link that is least able to bear it.

We have, however, found that the burden of rents is evenly distributed among the various classes concerned in the scheme of subinfeudation so as to leave the occupancy raiyat at the bottom of the structure with a reasonably low level of rent which gives him further scope for profit by subletting on terms of rack-renting. There is no rack-renting at any of the higher stages in the structure of subinfeudation that has arisen out of Permanent Settlement. As Sir Nalini Ranjan Chatterji in his evidence points out, "The evil of subinfeudation is due to the creation of under-raiyats by the raiyats themselves at a rack-rent in cash, encouraged by tenancy legislation."

Extent of its extermination.—We shall now examine the extent of extermination of Bengal's middle classes to result from the abolition of the Permanent Settlement. According to the Census Report, non-cultivating proprietors of land who receive rent in cash or kind number 7 lakhs 83 thousand. Each of these has to support a large number of working and non-working dependants, ranging from five to fifty in accordance with the size of his income. Considering that there are more than 1 lakh revenue-paying estates and 27 lakhs of tenures, the number of rent-receivers the zamindars, tenure-holders, and the rent-receiving raiyats, together with their dependants, may be estimated at more than 1 crore 50 lakhs of people, or a third of Bengal's total population. It

is interesting to note that the Government of Sir Stanley Jackson made a rough calculation as to the possible number of the rent-receiving classes of Bengal whom the Report proposes to abolish. It was pointed out that "out of the then 4,783,565 rent-paying cess-tenures, about 32 lakhs were tenure-holders in the sense of the then Bengal Tenancy Act, i.e., the proprietary landholders and the Bengal tenancy tenure-holders". It was also considered that "each land-holding was owned by five co-sharers on an average, and that the number of persons owning more than one landholding unit was rather rare". On this basis, the land-holders, large or small, would number more than 1 crore 50 lakhs. It is to be remembered that the Government then calculated on the basis of the franchise qualification of land-holders for election to the Central Legislative Assembly that there were then "not more than 707 landlords in Bengal with a minimum income of not more than Rs. 8 to 10 thousand a year". I for one am not so much concerned with the fate of this microscopic minority comprising the big landlords of the Province. I am more concerned with the fate of a crore and 50 thousand of population comprising the middle classes of Bengal who would be rendered landless and deprived of the ways of earning their livelihood to which they have been accustomed so long by a scheme of State-purchase which seeks to pension them off on a modest pittance far below the incomes they were earning. The serious consequences that would result from this revolutionary proposal were also envisaged by the Joint Parliamentary Committee who observed: "The alteration of the character of the land revenue settlement in Bengal, for instance, would involve directly or indirectly the interests of vast numbers of the population, in addition to those of the comparatively small number of zamindars proper and might indeed produce an economic revolution of a most far-reaching character."

The whole case is very forcibly put by Sir Nalini Ranjan Chatterji in his Evidence:

"The zamindari system is the pivot round which rural Bengal turns, and the State-purchase of zamindaris and tenures will effect a collapse in its social and economic structure. The educational, charitable and religious institutions maintained by big zamindars are not likely to be maintained by them. The number of big zamindars and tenure-holders is small, as would appear from the number of electors in the Land-holders' Constituencies in the Bengal

Legislative Assembly. There is, however, a very large class of small zamindars, and tenure-holders who form the middle class."

"One of the social results of Subinfeudation has been the impetus to the increase of a middle class in a country possessing little or no manufacturing industry. At one time the growth of intermediate tenure-holders was thought desirable. In a Despatch (No. 14 of 9th July 1862), the Secretary of State stated that 'it is most desirable that facilities should be given for the gradual growth of a middle class connected with the land, without dispossessing the peasant proprietors and occupiers. It is believed that among the latter may be found many men of great intelligence, public spirit, and social influence, although individually in comparative poverty. To give to the intelligent, the thrifty, and the enterprising, the means of improving their condition by opening to them the opportunity of exercising these qualities, can be best accomplished by limiting the public demand on their lands'."

"The proprietors, the tenure-holders, and other middle class people who stand between the zamindars and the cultivators have built up the social and economic structure of Bengal. It is they who have by their intelligence and resources taken the initiative in all social and economic matters in rural Bengal, and the cultivators have followed them, when the former have been able to induce the latter to do so."

"About 80 per cent. of the people of Bengal live in villages."

"The question of unemployment among the middle classes has become very acute, and while people are advised to 'go back to land,' it would be disastrous to the social and economic structure of rural Bengal to do anything which would have the effect of driving the middle class people to towns to swell the number of the unemployed, leaving the villages in the hands of only the tillers of the soil."

Its possible consequences to Revenue.—The destruction of the middle classes of Bengal as the necessary result of the scheme of State-purchase recommended in the Report will have other consequences to the financial position of the Province. In a note of Government on the financial position of Bengal and the Permanent Settlement, it is pointed out how "as a result of Permanent Settlement, Bengal, although not an industrial area like Bombay, still affords such a good market for merchandise and yields a high income in income-tax and customs". This is no doubt due to the growth of the middle

classes for which Bengal is noted and the high level of purchasing power attained by the Province as a whole. The sale of imported goods is much greater in Bengal than in most other provinces, together with the consumption of cotton manufactures, machinery, tobacco, articles of food and drink, cutlery, hardware, etc. For instance, in the year 1925-26, Bengal contributed more than 26 crores to the Central Government under various heads such as Income-tax, Customs, Salt, and Opium Excise, whereas Madras, with a population nearly the same as Bengal's, contributed 6 crores, and United Provinces just over a crore. Bengal's contribution to the Income-tax Receipts for the whole of India is the highest, amounting to over 6 crores of rupees or 36 per cent. of the total. A Note prepared by the Government of Sir John Anderson states: "It is true that a portion of the income on which the tax was levied was attributed to business in inland provinces. But even with a fair weightage the share of Bengal in Income-tax Receipts must have been very great as compared with that of the other Provinces. Moreover, the tax represents practically the whole benefit of the revenues derived from provincial industries." Indeed, the inelasticity of land revenue in Bengal has imparted elasticity to other sources of revenue.

As regards the revenue from Stamps, the following statement may be quoted from a Note of the Government of Sir Stanley Jackson (prepared by Sir P. C. Mitter, as the Member in charge of the subject): "If we examine the judicial statistics of the Province, we find that as much as 51 per cent. of the total civil litigation consist of rent suits; about 39 per cent. consist of money suits which in a large number of cases are based on *kistibandies* (instalment bonds) and are really deferred rent suits. Landlords are responsible for much of this stamp duty." No doubt, half of this revenue from Stamps is contributed by Calcutta, but these contributors are mostly the prosperous classes who have settled down as citizens of Calcutta under its many attractions but maintain close contact with the countryside, and their rural homes. Some of the revenue from Stamps is no doubt derived from litigation, a tainted source, which the State should not exploit. But much of this litigation is due to tenancy legislation, as pointed out by no less an authority than a Chief Justice of the Calcutta High Court of the eminence of Sir Barnes Peacock in connection with the case of Hills *vs.* Iswar Ghose: "We think we may fairly point to this case as an example of the difficulties which have been created by some of the provisions of Act X of 1859,

and of the vast amount of litigation, harassing to both the landowners and raiyats, which must necessarily arise, unless that Act be amended."

Other difficulties.—The Calcutta High Court Bar Association in its evidence envisages other difficulties of State-landlordism to the primordial units, the tillers of the soil. It states: "They are so illiterate, poor, and unorganised that direct settlement with the State, which could only be worked by innumerable petty Government officers, would lead to acts of oppression against which the cultivators would be more helpless than at present in their dealing with the officers of the zamindars."

Refund of public charities made under Permanent Settlement.—There is also a moral aspect of the matter on which a good deal of evidence has been tendered to the Commission on behalf of zamindars by Associations like the Jessore Landholders' Association, Midnapore District Landholders' Association, and the British India Association, who have submitted a vast volume of facts and figures to show what part has been taken in the advancement of the cultural interests of the Province by their benefactions in aid of schools, colleges, hospitals, alms-houses, temples and the like. On this subject, the evidence of an experienced administrator like Mr. A. E. Porter, I.C.S. (who was also the Census Superintendent for 1931) may be cited: "It has to be considered that the zamindars have made large contributions to charity. They have provided a great part of the money spent on education and on medical facilities in towns and in the country, they contribute liberally to appeals for charitable purposes, and they have spent large sums in religious endowments. If (in a scheme of State-purchase) Government deducted from the sums on which the calculation of compensation was based all amounts expended on furthering the common good, it would be morally bound to expend (as it presumably would) any additional revenue obtained on schemes of public utility, and would be justified in expropriation only if it were able to establish that its use of the surplus revenue which it would obtain would be more effective for the common good than the use hitherto made of it by the landlords."

The public benefactions to which the landlords have committed themselves raise another delicate question. These charities were ungrudgingly made by them under a system built up by the Permanent Settlement. If their donors are now

bought up and pensioned off as annuitants, will their charities be also refunded by the State? To cite some instances of phenomenal philanthrophy within my personal knowledge, the benefactions by which the Kasimbazar House has impoverished itself for the sake of the good of the country under Maharani Savarnamayi, and her illustrious successor, Maharaja Sir Manindra Chandra Nandy, of hallowed memory, in all fairness, should be refunded to it, when the system and all that it meant in financial security are to be abolished, while the State should also carry on the burden of these benefactions by maintaining institutions like the Krishnanath College and School, the magnificent hospital founded by the extensive charities of Lalgola Raj under Maharaja Rao Sir Jogendra Narain Ray, or the Berhampore Waterworks. The State is also ethically bound to refund the large charities made by the Rajas of Dighapatia, Dubalhati, and other landlords towards the establishment of the Rajshahi College and other institutions, in good faith in the Permanent Settlement. The records of all the districts are full of such charities to which they owe so much for their material and moral progress. A proper valuation and account of these charities is called for, so that the State may see the extent of its liability on that account by way of refunding, and continuing, those charities, when it buys up the donors on terms which will impoverish them by reducing their time-honoured incomes on which they had built in the faith that those incomes were guaranteed to them in perpetuity. Two of our own colleagues, the Maharajadhiraja Bahadur of Burdwan, and Mr. Brajendra Kishore Roy Chowdhury of Gouripur (Mymensingh), have made their names household words in the country by their unexampled charities in aid of all possible works of public utility, and institutions of learning, culture, and religion. The point that is raised here on these charities is that they were made by the donors in good faith, and with a long view of possibilities assured to them by the Permanent Settlement. At Uttarpara, the house of Joykissen Mukerji is noted for its large-hearted liberality which has been continued by his son, the late Raja Peary Mohon and his grandson, Kumar Bhupendra Nath Mukerji. Quite recently, the Hon'ble the Chief Minister, Mr. A. K. Fazlul Huq, in replying to an Address presented to him by the Uttarpara College, made a fine acknowledgment of the public-spirited philanthropy of this family of zamindars: "The benevolence, charity, and generosity of this family seem to have shown no limit, communal, social or otherwise...There is only one word which I cannot help saying. There is a feeling now all over

the country, some kind of misapprehension about zamindars as a class as being inimical to the people of the country at large. I wish any country could show such an example of liberality and generosity on the part of the landlords.''

Account of State-purchase.—As regards the account of State-purchase as a financial transaction, I have a few points to urge. It appears that Madras, with its Raiyatwari System operating over nearly two-thirds of the Province, collects a gross land revenue of about 4 crores 79 lakhs from 92,866 square miles as against 58,000 square miles under Permanent Settlement in Bengal, producing a net revenue of 2 crores 15 lakhs, while the cost of collection amounts to a crore and a half in Madras. Over and above this, the average of remissions in Madras during the last 5 years amounted to 10 per cent. of total land revenue demand. On this basis, it would appear that Bengal under Permanent Settlement gets a revenue of approximately Rs. 370 per square mile as against Rs. 300 in Madras under Raiyatwari System.

Its Terms.—My second point concerns the terms of the Purchase. In my opinion, ten years' purchase as proposed in the Report will hit hard the small landlords who number several millions, and are bound to consider the price as not at all an adequate compensation. Firstly, most of them believe more in the stability of land as a source of livelihood than even in the stability of the State, especially in the present supremely unstable conditions of world-politics, and are now clinging fast to land as to a sort of anchor in a vast ocean of change, with its surging waves and tides sweeping away all other kinds of property. Thus the acquisition of landed property to which a new value is being imparted by world-conditions will not carry the consent of its owners, and will have to be a compulsory acquisition which should consequently be carried out in accordance with the established law governing such compulsory acquisition. What is proposed, however, in the Report may be likened to a candle burning at both ends. A mere 10 years' purchase is to be coupled with the condition that the sale-price is to be paid not in cash but in bonds, and bonds carrying only 4 per cent. interest, which means that a small peasant proprietor, having an income of Rs. 100 from land, will have the satisfaction of being pensioned off by the State with a modest income of Rs. 40. Even such an attack on property can be justified if it is part of a general scheme for the abolition of private property and the refashioning of

the State on communistic principles after the model of the U.S.S.R. I do not know how far this country can be built up afresh on these new foundations.

In some cases, where the charges of collection are less than 18 per cent. as assumed in the Report, the extent of expropriation to be caused by 10 years' purchase will be greater than 60 per cent. A sample of such actual cases may be described to prove this. An estate has gross assets of Rs. 1,000 out of which it pays Rs. 700 to its superior landlord, and Rs. 50 as charge of collection, so as to realise a net income of Rs. 250. According to the Report, there is to be a deduction of 18 per cent. collection charges of which the share in the present case may amount, say, to 12 per cent. or Rs. 120. This will reduce the net income of the estate from Rs. 250 to only Rs. 72. The expropriation in such cases, which are common all over the country, and especially in Burdwan Division to my knowledge, will amount to 70 per cent. Calculation of collection charges at a uniform rate of 18 per cent. will thus produce anomalous results in many cases where, after meeting charges on account of revenue or rent, as the case may be, and cesses, the net profit will be less than 18 per cent.

Indeed, the Report estimates the cost rate of collection at the high rate of 18 per cent. of the gross rental without mentioning any grounds for it, and in an arbitrary manner. It should have considered that, in the estates under Khas Mahal management employing highly salaried staff, the cost rate of collection is on an average only 9 per cent. It is admitted in the Report that, in the estates under private management or zamindars, the staff are generally underpaid. There is, therefore, no reason why, in calculating the net profit of zamindari estates, the cost of collection should be taken at double the rate established for khas-managed estates. In any case, it will be unfair to take more than 10 per cent. on account of cost of collection (including cost of litigation which is ultimately paid by tenants).

A much better plan would be to allow 10 years' purchase on the basis of net assets that will remain after deducting from the gross assets only the charges due to revenue or rent, and cesses, without taking account of collection charges for the purpose.

One cannot help remarking that these estimates and calculations are so worked out in the Report as to ensure that

State-purchase turns out to be a profitable transaction as far as possible. Its terms are not objectively settled, but have been determined by preconceived notions and formed opinions. On the one hand, the Commission professes that it proposes State-purchase on absolute grounds as a measure of advancing the agricultural interests of the Province, and not on the ground of profit to the State, but the terms it proposes for the purchase betray a desire for such profit, and not any regard for the ideal professed.

I have also to comment on another important point in the account. One of the recommendations of the Commission is to ascertain the existing net income of debattar, wakf, and other religious endowments. No exact statistics are available as to the rental value of these estates. Their net assets, after making deductions due to revenue, rent, cess and collection charges, may be approximately estimated at Rs. 1 crore 50 lakhs, wakf estates alone being known to yield about Rs. 60 lakhs annual income.

At 10 years' purchase, the capitalised value of such estates would be Rs. 15 crores. At 25 years' purchase, as proposed in the Report, it would be Rs. 37 crores 50 lakhs. Thus an additional sum of Rs. 22 crores 50 lakhs will be required to maintain the incomes of these properties at their existing levels. This means an additional charge of 110 lakhs per annum, and a corresponding reduction of the net profit assumed on State-purchase account in the Report to 1 crore 13 lakhs on the basis of 10 years' purchase.

Conclusion: Inadequacy of Bengal's Revenue.—In conclusion, I wish to emphasise the vital point in the position of Bengal as a Province, the glaringly inadequate revenue assigned to the Province in proportion to the expanding needs of its vast population. Bengal has suffered grievously at the hands of the Central Government under a system of Federal Finance which has created inequalities of the burden of Federal Taxation among the different provinces in India. On Bengal has been placed the largest burden of this taxation. The extent of the inequality to which Bengal has been made a victim will be evident from the following facts and figures stated in a Memorandum issued by the Government of Sir John Anderson whose fight for financial justice to Bengal should be remembered with gratitude by the whole Province.

Meston Award.—The first blow delivered by the Centre or Federation to the financial strength of Bengal was the Meston Award.

In consequence of this Award, taking the figures for pre-reform days, for the year 1928-29, the residual revenue of Bengal which was assigned to her as a result of financial adjustment with the Centre is shown at Rs. 10 crores 97 lakhs to do duty for a population of 46·6 millions. At the same time, Madras Presidency was assigned a revenue of 17 crores 53 lakhs to cater for a population of 42 millions. The Bombay Presidency emerged out of the deal more successfully, having bagged a revenue of Rs. 15 crores 22 lakhs to do duty for a modest population of 19 millions.

How was this glaring financial inequality among the provinces created? It was created simply by the inequality of Central deductions from the revenues of different provinces. The Central deductions levied upon Bengal amount to as much as Rs. 26 crores 77 lakhs as against Rs. 7 crores 67 lakhs levied on Madras, Rs. 4 crores 22 lakhs on the United Provinces, and only Rs. 1 crore 1 lakh on the Punjab.

Federation has no concern for the consequences of these unequal deductions to the residuary provincial revenues. It has been only minding its own interest and looking to its own needs, exploring, from its own angle of vision, all possible avenues, ways and means, of raising its required Federal revenue, without any regard for the ordinary canons of taxation.

Taxation highest in Bengal.—Bengal has been simply bled by Federation. Intrinsically, she is nearly the richest province of India, with a gross revenue of Rs. 37 crores 74 lakhs, but she has been rendered the poorest province in India to-day by the arbitrary adjustments of Federal Finance. The Centre has forced Bengal to part with more than two-thirds of her revenue. Bengal today bears the heaviest load of taxation of all the provinces of India, except Bombay. This may be proved by the figures showing the incidence of taxation per head in the different provinces. Taxation in Bengal per head is Rs. 7-8, as against Rs. 5-11 in Madras, Rs. 3-6 in the United Provinces, and Re. 1-13 in Bihar. The Central taxation per head amounts to Rs. 5-3 in Bengal as against Re. 1-11 in Madras, annas 9 in the United Provinces, annas 14 in the Punjab, and only annas 2 in Bihar. Bengal, with double the population of Bombay, has a revenue which is only two-thirds of Bombay's revenue.

These figures prove the first point mentioned in the aforesaid Government Memorandum, viz., "Inequitable distribution of

revenues between the Centre and the Provinces", to which Bengal is the worst victim.

Deficits.—On the top of this injustice, a review of the Financial History of Bengal for a period of 12 years from 1921 to 1933 shows how even before the Meston Award, Bengal's revenue was hopelessly inadequate for her needs. As the Government Memorandum points out, the sources of revenue assigned to Bengal were almost entirely inelastic, and its amount "bore no relation to the growing demands of one of the most advanced and progressive provinces in India". All these 12 years were marked by several deficit Budgets, and the total of these deficits exceeded 9 crores of rupees. Bengal had to meet these huge deficits by taxing herself to the utmost, and also by enforcement of utmost economy. Taxes, which even the Meston Committee had regarded as "unthinkable", Bengal was forced to resort to, taxes on amusements and betting, and also increase in the fees on general and court-fees stamps. And all these years Bengal was only able to meet her establishment charges, to keep her administrative machinery going, maintain peace and order. It was functioning only as a statical administration, promoting Peace but not Progress, and not as a dynamic administration fostering the material and moral development of the Province.

Starving of Nation-building Departments.—The effects of this inadequacy of Bengal's revenue produced what the Government Memorandum calls "Crippling effects on the progress of the Province". These are writ large in the Budgets for Bengal's Nation-building Departments. Taking the figures for 1929-30, Bengal was able to spend per head for Education only about annas 4 where Bombay was spending more than a rupee, Madras about 12 annas and the Punjab about 14 annas. The Departments dealing with Public Health and Sanitation, Irrigation, and other nation-building activities have been similarly starved.

Bengal should get more Revenue from Centre.—There can be no future for the Province when its intrinsic revenue is so hopelessly inadequate. A revenue of only 13 crores (secured under Niemeyer Award) cannot possibly do duty for a population exceeding 5 crores, when Bombay requires the same revenue to serve its own population of a crore and a half (without Sind). On the standard of Bombay, Bengal should have at least three times her revenue, when her population is more than three times that of Bombay. The situation will be very much more aggravated when the Census of 1941 will show an increase of

Bengal's population from 51 to 55 millions. The only remedy to this desperate situation lies in Bengal's fight with Federation for more revenue and for payment of her just dues. For that, Bengal must fight with the united strength of a truly National Government, uniting all its communities, the Hindus and Moslems, in a common fight to secure the means of its national progress. Instead of this united front, Bengal is splitting up into communal divisions and factions, with a sort of civil war raging between the Hindus and Moslems in all spheres of her national life, legislative, administrative, and economic. Mere tinkering or piecemeal measures of reform, aiming at production of more revenue at the cost of the existing social and economic order, to be followed by increased strife of classes and communal bitterness, will not be able to cope with the very difficult and desperate situation created in the Province as a consequence of the initial inadequacy of the provincial revenue assigned to Bengal under Federal financial adjustments.

RADHA KUMUD MOOKERJI.

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