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PEASANT-PROPRIETORSHIP IN INDIA.

BY

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BY

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Preface to the Second Edition.

While the average daily income per head is given as Rs 6/12 in England, Rs 14/8 in America, and Rs 4/11 in Japan, it is given as only six pice or a penny and a half per head in India. * The average Indian peasant may be said to be a "Rayat with an average holding of $2\frac{1}{4}$ acres or about 7 bighas. He has no capital to lay out. Yet he must lay out at least Rs 125 for initial capital per bigha in land, and live stock, &c, which he is bound to borrow from the village usurer paying interest at the rate of at least 36 per cent per annum. He also wants at least Rs 10 per bigha per annum for the recurring charges, as cost of cultivation. This he may make up by working himself and family at the starvation rate of six pice per day, and by exchange of labor. Profit in agriculture for the average Indian Rayat is thus out of the question ! Indeed the Indian Rayat as a class, is so ignorant that he has no clear idea of what profit and loss in his business means ! "Where ignorance is bliss, it is folly to be wise" ! He carries on agriculture, because he does not see any thing else he can turn his hands to, for a livelihood ? Yet all the fabulous "wealth of Ind." if traced to its source, will be found to have been produced

* To indicate the position of India in the scale of nations, it has been pointed out that as regards (1) literacy, (2) average longevity, (3) wealth PER capita, and (4) average daily income PER head, the figures are 94 per cent, 50 years, Rs 3500, and Rs 6/12 in England ; 95 per cent, 56 years, Rs 7640, and Rs 14/8 in America ; 98 per cent, 47 years, Rs 2860, and Rs 4/11 in Japan ; and 5 per cent, 23 years, Rs 278, and six pice per head in India (Patti-shri Sangha, Calcutta).

by the Indian peasantry fed on the starvation diet of a punny and a half! "Whatever wealth there is in India," says Sir Henry Cotton in his 'New India,' "is obtained from the soil," and is produced by the Rayat! Speaking of the Indian Peasantry, says the Census Report of 1921:— "Besides their own dependents, every hundred workers between them support three people who make no attempt to earn an honest living". Economically speaking, is not India then like an inverted cone bound to topple over some day?

Lord Irwin in reply to the Address presented by the Calcutta Zemindars on the 18th December, 1926, gave the land-lords, the following succinct account of the respective duties of the land-lords and tenants:— "All good land-lords know that their tenants are really in the nature of a trust..... A tenant's duty is done when he has paid his rent. A landlord's is not discharged until he has seen to it, that his tenants have adequate housing, decent conditions of life, and the opportunities for education, which will fit them to be useful members of their village and of the State". Surely this was nobly said, and should be seen to by all His Majesty's servants in India. His Excellency's words are fit to be engraved on tablets of gold, and kept hung up in the Council Chambers of all the Provinces of India.

But we ask, do His Majesty's servants in India take the Viceroy's statement of the landlord's duties as something serious, as any thing more than a church-sermon? Mere verbal tinkering will not do. The problem must be tackled with more seriously, and the sooner it is done, the better for all concerned.

Preface.

“The Rayat is India, and India is the Rayat, but in these stormy days the still small voice of the Rayat is drowned in the political whirlwind,” says Mr. Hamilton, speaking of the manufacture of “Souls of a good quality.” Ever since the sovereignty of India passed into the hands of the East India Company, “creating the astonishing position, that a few commercial agents were handling the revenue of a kingdom in the name of an emperor” (Montagu-Chelmsford Report), the Rayat who is really India, has been, and still is bled for the benefit of a handful of exploiters and speculators in revenue-farming, for the benefit of those who produce nothing but “wind and dust,” famine and pestilence. We have tried to place the case of the Rayat from the remotest antiquity to this day, both before the Public, and before the Legislature, and we presume, we have proved to the hilt, that justice to the Rayat has been long over-due. Have we not a right to hope that after the King Emperor’s message of the 9th February,

1921, promising to Indians "Swaraj within the Empire," and "progress to the liberty which the other Dominions enjoy," have we not the right to expect that justice shall at last, be done to the Rayat, to the Rayat who is India ? The Royal promise of "Swaraj within the Empire," is a promise to "the many millions of our fellow countrymen who are not yet qualified for a share in political life," to whose "first representatives" at Delhi, the Imperial Message was delivered by the Duke of Connaught Who are "the many millions" that His Imperial Majesty then held before His Majesty's eyes ? Who but the Rayat, who forms 85 per cent of the people ? And yet the Rayats are practically unrepresented in the Councils then opened under the new "Government of India Act" of 1919, which promises to the Indian Rayat, progress towards responsible self-Government, as in the other dominions of His Majesty Take for example, the out-going Bengal Council Out of a total of 139 members in the Bengal Council, there was not one who could with truth be called Rayat or "India," who could with truth be

said to represent the Rayat who is India, forming 85 per cent of the people. Babu Bhisma Dev Das, a member of the Committee for the Amendment of the Bengal Tenancy Act, justly complained saying, "I wish to make it clear that there is no real representative of the tenants on the Committee." The Tenancy Act was proposed to be amended by a Committee on which there was none to represent the "Tenancy,"—the Ramayana was to be acted with Rama left out ! Such has been the justice of the judgments of the so called "first representatives of the people in the new Councils" on which his Imperial Majesty reposes a "resolute faith." The fact is that out of the 139 members of the out-going Bengal Council, there was scarcely one whom we could look upon as a true representative of the people. Whose representatives then were those 139 members ? There were among them 19 Government officials, 17 non-official Europeans, 39 lawyers, and 35 Zemindars, each representing either himself, or his own section or class, with an axe of his own to grind. These make up 110 out of the 139. The rest are usurers,

Government pensioners, Doctors, &c. Where was there room for the true representatives of the Rayat who is India, forming 85 per cent of the people, whose number in the out-going Council, in the proportion of the population, might have been 118 out of the 139 ? Babu Bhisma Dev, a dummy member of the Amendment Committee, whom the Zemindar-landlords and their patrons in the Council, set up as a stalking horse or a *Sikhandi*, to wear the mask of a representative of the Rayat, had at least the candidness to admit that there is no real representative of the tenants on the Committee. There could not be any real representatives of the Rayat on the Amendment Committee, so long as there were no real representatives of the Rayat in the Councils themselves. How then is the 'upliftment' of the "many millions not yet qualified for a share in political life," to be effected ? Will the so-called representatives of the people, the Zemindars, Mahajans, officials, and lawyers, who directly or indirectly victimise the Rayat, or have their own sectional axe to grind, work for their "upliftment," cherishing the interests, of those unqualified millions

“as their own” ? Will the leopard change his spots ? Could you gather grapes of a bramble bush ? They scramble to get into the Councils by hook or crook, in their own personal or sectional interest. But are they likely even to raise their little finger for “the training and expansion of the electorate,” as the Duke of Connaught, the message-bearer of his Majesty in Parliament, told them, that it was their duty to do, when he opened the new Council for Bengal ?

How then is effect to be given to the wishes of the King-Emperor in Parliament, regarding the upliftment of those many millions ? Or how is their “progress to the liberty which the other Dominions enjoy” to be effected ? Is it too much to be hoped that the official members in the Councils, as the agents of His Majesty, will at least prove themselves worthy of the confidence and “resolute faith” reposed in them by his Imperial Majesty in Parliament, and loyally carry out the wishes of his Majesty in Parliament, “working for the upliftment of the many millions not yet qualified,” “cherishing the interests” of those many millions, “as their own,” and doing all

that they possibly can, for the training and expansion of the electorates ? They should not surely be men with an axe of their own to grind ! We therefore hope the official members will justify their presence in the Council of the "peoples," by espousing the cause of the unqualified and unrepresented millions of our fellow-countrymen, the Rayats of India. We know we hope against hope, but shall be glad to find that we are mistaken. We have proved, we presume, that the Rayats have been the absolute proprietors of their lands, from the remotest antiquity, until under the East India Company, "a few commercial agents came to handle the revenues of a kingdom." The Rayat who is India, expects that at least the ministers and agents of His Imperial Majesty of all ranks, will now unite to do all they can, to undo the act of gross injustice done to the Rayat in the beginning of British rule in India, and abolish Zemindaries and *Khas Mahals*, thereby restoring to the Rayat his time-honoured right of absolute property in his own lands, to bring India into line with the advanced countries of the world.

COMILLA,
The 22nd January,
1924.

} DVIJADAS DATTA.

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Peasant-proprietorship in India.



*"Akshair ma divyah kṛṣhmit kṛṣhasva vitte
ramasva vaku manyamanah | tatra gavah kitava tatra jaya
tanme vichaste savitayam ayak"*

Rigveda X—34—13,

"Do not gamble Carry on agriculture Rejoice in what you acquire thereby Have regard for what I tell you. That is the secret of making your cattle happy, and your wife happy. That has the Lord of all, the Creator himself, clearly revealed to me."

*Ya-ayuhallozina amanu anfeku min tayyibate
ma kasabtum va memmo akhrajna lakum minal arze"*

Suratul-Bakar—Ruku, 36.

"Oh ye who believe, spend what is sinless, out of the things you have earned, and out of the things I have brought forth for you from the earth"

SECTION 1

The peasantry, the backbone of the people.

From the above two texts,—the one taken from the Rigveda, and the other taken from the Koran,—it should be clear, that both for the Hindu, and for the Mahomedan, the best and

(most sinless path for earning one's livelihood is agriculture.)

What deep delight the ancient Rishis of India themselves took, in ploughing their own fields either themselves, or by hired labour, will be seen, from the rapturous utterances in regard to field-operations, of Vamadeva, one of the sacredest names in the Rigveda.—

"Sunam nah fala vikrishantu bhūmim sunom kinasa abhiyantu vahash"

(Rigveda IV—57—8) etc.*

"Merrily let our ploughshares plough the soil deep, merrily let our labourers follow after the plough-bullocks, etc; or of Rishi Budha :—
"Yunākta sira vi yuga tanudhvam krite yonau vapateha hijam | Gara cha srushtih sabhara asanno nediya it srinyah pakvameyat"—"Oh friend, bind the oxen to the plough, placing the yoke on their necks. Here, in the furrow made by the ploughshare, sow the seed. Let us sing the praises of God, that thereby our food may be plentiful, that our sickles may find near them plenty of ripe ears of grain to mow down" (X—101—3).
 How deeply the Rishis loved the lands they

*See Rigveda hymns IV—57 and X—101.

owned, the words of Rishi Matanga in the Ramayana, testify —

"Banesmin mamake nityam putravat parukshite"

(Kishkindhya, XI—57)—

(“These my woodlands I always protect as carefully as though they were my own sons.”)

Yet it is a fact that in these days, educated people, some very good people among both the Hindus as well as Mahomedans, supposed to be the leaders of our nation, do not care to look for their livelihood in the pursuit of agriculture, rather prefer to live parasite-like on the earnings of the agricultural classes, as middlemen, or as lawyers trading on the evil propensities of men, for a livelihood.

Surely there is something rotten somewhere, a screw loose somewhere, in our body politique, which alone can explain this anomaly. The explanation is to be sought for in the existing laws regarding land-tenure, which has rendered agriculture in India profitless, even disreputable for the respectable classes, which has reduced the cultivating tenants' our “bold peasantry, the country's pride”, who form nearly

eighty-five per cent of the people of India, to the condition of slaves sweating)“from morn to noon, from noon to dewy eve” merely for the wages of their manual labour,—not a living wage either. Yet we have, for the Hindus, the evidence of *Valmiki* to prove that as early as the days of the Ramayana, the cultivating tenants and cattle-breeders were a wealthy class— “*Dhanavantah surakshita serate vivritadvara krishi-goraksha jivnah*” (Ayodhya) ; and we have, for our Mahomedan brethren, the evidence of the Ayeen Akbery, which holds before them “the advancement of agriculture” as “the noblest employment” next only to “the reformation of the manners of the people” (Gladwin’s translation, page 2). In popular language, to be a “Gerastha”, or to have “Girasthi” still means with us ‘to have fields under our own cultivation’, or to be “a cultivating tenant.”

If you ask a villager to-day if he has *grihasti*, he will understand you to mean whether he keeps ploughs and plough-cattle and fields to be ploughed thereby. Sixty years ago, before the

canker of the Permanent Settlement in Bengal, had destroyed the blooming rose of our village-life, by making the work of food-production for the people disreputable in the eyes of middle-class gentlemen, creating in them an unnatural passion for the do-little life of a mere rent-grabber, we ourselves saw village-gentlemen taking pride in carrying on agriculture, with the assistance of their own hired labourers, using their own ploughs and plough-cattle, and vying with each other to bring into their fields, like the English farmers of to day, to bring into their cattle-shows, the best plough-cattle, each gentleman having a *khamar* or holding of 10 to 20 acres of Jand under cultivation, of which he was himself the proprietor.* If we were not blinded by the false glare of a one-sided education, which has been

* "Mr A D Campbell in his summary of the Evidence before the Select Committee of 1831, says :—In the Lower Provinces of Bengal the Permanent Settlement, enabled the Zemindars, by ousting the hereditary cultivators in favour of the inferior peasantry, to increase the cultivation by a levelling system, which tended to depress the hereditary yeomanry or middle ranks of the community, and to amalgamate them with the common labourers and slaves, from whom the highest judicial authorities in Bengal, are now unable to distinguish them.

(Field's Landholding page 570)

charged, not without reason, with inducing in us a slave-mentality, we should have no difficulty in realising that the freedom of spirit, and the health and vitality of the whole nation, stands or falls with the freedom of spirit, and the health and vitality of the productive classes, *par excellence*, in the case of India to-day,—the cultivating classes who form the back-bone of our body politique, from whom the other classes, of the nation derive support. We should deserve to be called blood-sucking leeches, if we cannot render to our food-producers an adequate return in some form of service useful to them. How truly does the *Ayeen Akbery* represent the position in society of the cultivating classes in relation to the other classes, when Abul Fazel says: "Husbandmen and labourers resemble earth, and and by their exertions the capital stock of life is completed" (Gladwin's translation—Preface (X).—How truly does the following words of Rishi Daksha, the great giver of law in ancient India, describe the relation subsisting between the cultivating tenant, and the other classes of the community :—

"The *grihastha* or cultivating house-holder, we are taught, is the daily food-giver of the *pitris*

(departed ancestors), the devas (angels), the men, and the insects and brutes ; therefore does the order of the cultivating house-holder occupy the highest place. Of all the other three *asramas* or orders of life, the cultivating house-holder (*grihasta*) is the source ; with his decay is involved the decay of the other three. The root of the tree maintains the life of its trunk, and so long as there is life in the trunk, the branches bear the foliage, and the moment the root dies, all the other parts perish. It should follow from this, that we should all unite in doing all we can, to protect the interests of the cultivating house-holder" * (2-42,43,44, 45). Any thing

* *Pitrideva manushyanam kitanam chopadisyate |*
Devaischaiva manushyaischa tiryagbhi schopajivvyate |
Grihasthak pratyaham yasmat tasmad jyeshtihavrami
grihi ||

Trayanam asamanantu grihasto yoniruchyate |
Tenaiva sidamanena sidanti hitare trayak ||
Mulaprano bhavet skandhak skanddhachchhakkhak
sapallavah ||

Mulenaiva vinashena sarvametat vinasyati ||
Tasmad sarvaprayatnena rakshitavyo grihasrami |

Dakshasanhita (2—42, 43,44, 46)

we do to-day to help the cultivating tenants, who are the back-bone of the whole nation, to recover for themselves their old healthy life and growth, spoken of both in the Vedas and the *Ramayana* on the one hand, and in the *Koran* and the *Ayeen Akbery* on the other, we do it for the benefit both of ourselves and of our whole nation. It is now settled that the Tenancy Laws are to be reconsidered and recast. It is our duty then to examine, and carefully sift the question of land-holding in India, and frankly admit and rectify past errors, restoring to the peasantry, the rights and privileges to which they are entitled under "the ancient law of the country" to which Lord Cornwallis appealed.

"Princes and lords may flourish or may fade,
A breath can make them, as a breath has made ;
But a bold peasantry their country's pride,
When once destroyed can never be supplied."

Goldsmith

SECTION II.

**“The laws and constitution of India”,—
the only legal basis of legislation
regarding land in India.**

Lord Cornwallis, in the opening words of Regulation XIX of 1793, appeals for authority to the “ancient law of the country”. That was evidently in conformity with the provisions of the law enacted in the reign of George III (24 George III* cap. 25), the 39th section of which, as Field in his *Land-holding* points out, required the Court of Directors to give orders “for settling and establishing upon principles of moderation and justice, according to the laws and Constitution of India,—the permanent rules by which the tributes, rents, and services—should in future be rendered and paid to the United Company (page 487).” In obedience to these provisions, orders were transmitted to the Government of India for

*We draw the attention of our readers to what we said in our ‘Landlordism in India’ (P 85,86) about ‘Pitt’s India Act’, our ‘Magna Carta,’ as we called it, never repealed,—taking our stand on what the East India Company’s own ‘Analysis of the Laws and Regulations for public officers in the Revenue Department’

the establishment of permanent rules for the settlement and collection of the revenue, and administration of justice, founded on the ancient laws and local usages of the country". (Field's Land-holding, page—487) This was in 1784, or about 20 years after the acquisition of the Diwani by the East India Company in 1765.

published in 1814, (Vol II, page 50) tells us — ' Now about the most important provision of Pitt's India Act : The " Analysis of the Laws and Regulations " of the Company (1814, II-50) tells us, what even the " Cambridge History ", for reasons best know to them, withhold from us :— " One of the principal objects of the 39th section of the Act, is to settle and establish, upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services shall be in future rendered by the ryots, Zemindars, polygars (subordinate chiefs in Madras), talukdars, and other native land-holders " (50) Notice that in Pitt's Act the ' ryots ' are given the first place as " native land-holders ", and as in the Ayeen Akbery, the word ' tribute ' is applied to what was due to the state from ' the ryot '. The expression " constitution of India " is on the face of it, a reminiscence of the expression " constitution of the Mogul Empire ", that Hastings himself in 1783 had applied to the Ayeen Akbery (Page V of the Translator's Preface of Gladwin's Ayeen Akbery), so that the Ayeen Akbery is clearly hinted at by Pitt's Act. Is not the " Cambridge History " open to the charges of *suppressio veri* and *suggestio falsi*, when it tells us " In 1784 Pitt's India Act was passed Section 39 of this act directs that the conditions governing the collection of land revenue shall be *forthwith* enquired into and fully investigated, and

It is clear from this that even the legislature of England in those early days of British rule, intended that "the ancient law of the country" should be the recognised basis for all subsequent legislation affecting land in India. Accordingly we find so late as 1905, that Lord Curzon in his "Land Revenue policy" (p 5), also appeals for authority to "the ancient law of the country," We are bound to assume that the legislatures of both England and India, of those days, and also Lord Curzon in our time, really meant what they said, and that in all questions regarding land-tenure, the legislators' guide should be the ancient law of India. "The ancient law of the country" should be the crucible in which to test the validity of the claim to be regarded as the proprietor of the arable land, whether put forward by the zeminder, or by the cultivating tenant. With regard to the Mahomedan rulers,

that "permanent rules for the future regulation of the payments and services due from Rajas, Zemindars, and other native landholders will be established". Notice the substitution of the word 'Rajas' in place of the word 'ryots' in the text of 'Pitt's India Act'. Who could thus tamper with the text of India's Magna Carta, 'Pitt's India Act,' substituting 'Rajas' for "Ryots"? Will the authorities be pleased to make a sifting enquiry?

it is enough to say that however despotic the practices of some of them might have been, they never interfered with, nor altered by legislation our old Hindu laws and customs, whether in regard to land-tenure, or in regard to the internal affairs of the old village-communities. (They never needed to, nor cared to assert their right of property in the people's lands. (With all their faults, they were above that degree of meanness) The determination of "ancient law" then, being of such paramount importance, let us all join hands in making an honest and earnest effort to know what the ancient law on the subject of land-holding was, on which the British legislators as well as the Government of India from their commencement to this day, lay so much stress, and in the balance of that law weigh the cultivating tenant, the zemindar, and also the Government of India itself, to find who is the true proprietor of the arable land of the people, to find whether the cultivating tenant who appeared on the scene "when Adam delved and Eve span" is the proprietor, or the mushroom Zeminder, of most

of whom Mr. Shore wrote thus in his famous Minute of 2nd April, 1788.—“Most of the considerable Zeminders in Bengal, may be traced to an origin within the last century and a half”
 (Field’s Land-holding, page 505),

SECTION 111

**Forest land in India *asvamika* or ownerless,
 as in Roman law,—Res nullius, or thing
 belonging to no-body.**

It is surprising however to think that while the Governments of both England and India, laid so much stress on “the ancient law of the country,” and the Court of Directors and the Governors General with breathless labour, ransacked the collection papers of the Zeminders of those days of anarchy, exaction, and oppression, for twenty-eight long years from 1765 to 1793, for reliable information regarding “the laws and constitution. of India (24 Geo III cap 25), that though, after all that wading

through the quag-mire with difficulty and labour the Court of Directors gave it as their opinion regarding the proprietorship of the zemindars in the land of the people :—"We felt the materials before us to be insufficient for forming a decisive opinion" (Letter of 19th September, 1792), that though the Government of India even realised that "the principle of the ruling power (e. g. Akbar, D. D.), dividing the produce with the cultivators, annihilates the idea of a proprietary inheritable right" (in the *Zeminder* (D. D.,—Field's *Landholding*, p. 508), yet they never cared to make a reference or appeal to those eminent Sanskrit Scholars then in their service, Sir William Jones, who in 1783, was appointed "Judge of the Supreme Court of Judicature at Calcutta", or to Henry Colebrooke, whom "in 1805, Lord Wellesley appointed professor of Hindu Law and Sanskrit at the College of Fort William", who in his 'Miscellaneous Essays' records as his honest verdict—"the ancient law of the country" to be that "the monarch has not property in the earth, nor the subordinate prince in the land". etc. (*Miscellaneous Essays*,

page, 320—21)—for a frank and free expression of their opinion.

But to proceed : “The earth” says the psalmist “is the Lord’s, and the fulness thereof ; the world and they that dwell therein” (24—1), which means that God has lent us his earth to produce from it, for the dweller’s on it, food and clothing ; so that he alone can have a just claim to property in land who reclaims it for growing crops there-on, and not the rent-grabbing middleman who, like the goldsmith stealing gold from his mother’s ear-rings, as the Bengali proverb goes, would profiteer even in food-production ! The ancient law and constitution of India also lays it down as the first principle regarding ownership in land, that forests and hills in India are without an owner :—

“Atavyah parvatah punyah tisthanyayatanani cha |

Etanyavamikanyakur na cha teskv parigrahah” ||

(Usanah Samhita, V—16) || “Forests, sacred hills, places of pilgrimage, and temples dedicated to Devas, are without an owner, say they who know. There can be no acceptance by gift in regard to them.” These utterances of Usanah are almost repeated word

for word in the Mahabharata, to show that they expressed a well-established law of India :—

*“Atavi parvataschaiva nadyastutithanyayatanani cha |
Savanyasvamikanyahur na cha tatra pangriahak”* †

(Anushasana parva, 69—35) †

In calling unreclaimed jungles (*ataviyah*) as “ownerless” (*asvamikani*), it was intended that monarchs, and princes, as much as any private individual whatever, could not claim the right of property in respect of unreclaimed jungles, because they were held as a sort of unappropriated reserved stock of land for food-production, which any man could avail of, and appropriate, if he cleared it, and rendered it arable for growing food-crops on it, as the necessity arose, with the increase of population. This is in full agreement with the Roman law which calls unreclaimed forests as “*res nullius*” or ‘a thing not belonging to any one’. It was so presumably in all countries where the Aryan races had settled. It seems to have been so in Great Britain before the Norman Conquest, when the rapacious Duke of Normandy, not contented with taking possession of the property of his opponent Edgar Atheling, compelled the Anglo-saxon

free men (ceorls) not only to admit that the land they owned was not really theirs, but the king's, but also that all land in England, owned or unowned, was the king's—"Terra regis." Be it said to the credit of our Mahomedan rulers, that notwithstanding their occasional freaks of absolute despotism, not one of them had the meanness to follow the example of William the Conqueror in England, and compel his Indian subjects "to take the oath of fealty and so become feudal tenants of the crown",—confiscating all the land of the country arable or jungle, owned or not. ✓

SECTION IV.

“Sthanucchadasya Kedaram”

or

“To the reclaiming cultivator belongs the arable field”.

The king then was not the owner under the old law of the country, of the unreclaimed jungle-land in his kingdom, which under the “law and constitution of India” to which the legislators both in England and in India appealed for authority, was *asvamika* or owner-less. Much less could the monarch be the owner of that land, after another has cleared the jungle, and made it into his own arable field. In such a case a middleman, such as a Zemindar of to-day, can have no leg to stand upon. Who then can be the proprietor, but the man who cleared the jungle, and made the land arable with intention to possess it for self and successors in interest? “*Sthanuchedasya kedaram ahuh salyavato mrigam*”, says Manu (9--44), and Kalluka, his commentator, thus explains the text

:—“*Yena sthanumutpatya kshetram kritam tasyaiva tat kshetram vadanti, tatha saradisalyam gena purram mriga kshiptam tasyaiva tom mrigam ahuk*” — “The field is the property of the man who uproots the stumps of trees, and cuts down raised banks, so as to make it arable, in the same way as the speared wild deer is said to belong to the man who first threw that spear” Any man was free to reclaim the jungle, as any man is free to spear a wild deer. To do the one, or the other, one need not wait for any man’s permission, for the jungle like the wild deer, is ownerless—“*asvamika*” On the other hand the monarch of the country, if he chose, might himself be the clearer of the jungle, doing it either himself or by hired labour, and in that case the monarch would be the owner of the land cleared by him. The mythical Indian King *Prithu* is said “to have milked from the earth seventeen kinds of crops” —“*teneyam prithivi dugdha sasryani dasa sapta cha*’ (Santiparva, LIX-112). *Prithu* was a teacher of agriculture to his subjects, as Kalidasa has put it, “*Prithupadishtam duduhurdharitrim.*” There is not the slightest evidence that “the laws and constitution of India” to which the Government

appealed for authority, allowed any sleeping rent-grabber to squat on the ground as proprietor, to hamper the natural growth of agriculture,—success in which depends on the outlay of both capital and labour,—to hamper cultivation as the Zemindars of to-day are doing, of whom Mr. Shore in his Minute of 18th September, 1789, said that “he did not consider them fitted for the responsible rights of property which it was proposed to confer upon them” (Field’s ‘Landholding,’ p. 490), whom Lord Cornwallis found it his interest to use as the cat’s paw of the East India Company for killing the middle-class yeomanry of the country, designating his Zeminders as the “actual proprietors of land”, which in truth they never were, probably taking shelter under the sophistry common in those days, “that a property in the soil must not be understood to convey the same rights in India as in England.” (Field, p. 511). A ‘spade’ is a ‘spade’ all the world over, and so is a ‘proprietor’ a proprietor.

Under “the ancient law of the country”, on which Lord Cornwallis professed to rely

for authority, but which he did not, in right earnest try to ascertain,—there is but one royal road for the acquisition of proprietary rights in arable land,—that road being the reclamation and cultivation with intention to possess it for self and successors in interest. That was the road to property in arable land for rulers and ruled alike, without any difference. Says Jaimini in his aphorisms of the "*Mimamsa darsanam*"—"sarvan pratyavisishtatvat" (6:--7--3)—"It being the same for all"—which the commentator *Savasvami* explains: "*Yavata bhogena sarva-bhaumo bhumerishte, tavata anyopt, na tatra kaschid viveshak*"—"By such enjoyment as the monarch exercises his right of property in the soil, by the same kind of enjoyment others also exercise their right of property in the soil; there is no difference so far as that goes."

Is not the sovereign, by his right of sovereignty, the proprietor of all the land of the country, arable or not? Not so,—by "the ancient law of the country." A well known *mantra* of the *Rigveda* which has always been recited at the coronation of the kings, runs thus:—

*A tvaharsham antaredhi dhruvastishthavichachalika
 Visastva sarva vacchhantu ma tad,ashtyam odhi bhiasat **

“We have chosen thee, make thyself at home with us, stand firm in your place, do not be moved. See that all the people desire thee for their king, that thy kingdom may not slip from thy hands” (X—173—1) What a lofty ideal of kingship have we here! “Sovereignty of the people” indeed! “See that all the people desire thee for their king”! Surely the *rishis* who held up this lofty ideal of king-ship before the people, who made the selection for the people, could not have been fools, like the frogs in the fable, to select a stork as their king, who would confiscate all their lands like the greedy Duke of Normandy.

Ages before the days of Manu, we find in the Taittiriya Brahmana of the Krishna Yajurveda, a distinction drawn between land that was the king's private property, which he was free to give away to whom he chose, and the land of the country over which he had no right of property. It was a distinction very similar to that between the crown lands of English kings, and

the commons of the English people in pre-Norman times "There can be hardly any doubt that the village lands, whether arable, meadow, or waste, were substantially the property of the villagers for the purposes of use and enjoyment. The idea that the common was the "lord's waste," and that he had power to do what he liked with it (much like the Indian Zeminders created by the Permanent Settlement, who will not allow a husbandman to excavate a tank or a well on his own land, for irrigation or drinking purposes, without extorting from him a heavy sum as *nazar*, D. D.) was, there is little doubt, the creation of the Norman lawyers." (Encyclopædia Brit.—Common) There was a *Yajna* or ceremony of worship called '*Visvajit*', in which the king gave away all his property,—such as we read of in the Kathopanishad, Nachiketa's father performed, "*sarvavedasam dadau*"—"giving away all his property." In connection with the *Visvajit* yagna or sacrifice, the question what land was the king's property, and what land was not the king's property, was fully discussed. The Taittiriya Brahmana says : "*Etavan khalu vai purushah yavadasya vittam* |

śarvavedasena yajeta—“A man is measured by his property. Therefore should he perform the ceremony of worship, giving away all his property” *Sayanacharya*,—commenting on the sacred text—“*Viśvajiti sarvasvam dadati*”—“At the *Viśvajit* ceremony, all that one has, is given away”,—observes: “Property alone is the object of gift. The bulk of the land of the country (*mahabhūmikā*), is it, or is it not to be given away? It is the king’s (as the opponent—*pūrvapakṣa*—may say—), therefore let the king give it away. We reply:—‘To be king’ meaning only ‘to protect’, the land of the country, is not the king’s property, it can not be given away. When a king of the whole country (the opponent may say) gives away all he has, at a *Viśvajit yagna*, he ought to give away the land of the country, including pastures, high roads, reservoirs of water, &c. Why? For the land is his property. To this plea we reply: The *Smritis* or law books in calling the king the ruler of the country, mean that his ruling power (*īkṣitritvam*) is in respect of giving lessons to the wicked, and protection to the good. (The land of the country is not the king’s property—“*na rajno bhūmir dhanam.*” But

it is the common property of all who work on that land, and enjoy there-from the fruits of their own labour,)—*hantu tasyam bhunaktu svakarmafalam bhunjananam sarvesham praninam sadhvanam dhanam.* Though a piece of land which one owns as his own, one may give away, the land of the country can not be given." The reader sees that the king is a ruler so far as he protects the good, and punishes the wicked,—*"dushta-siksha-shiksha-paripalanabhyam rajna ishtritvam."* This was also the Mohamedan ideal of a monarch, as described by Abul F^{azl} in his Preface to the Ayeen Akbery, including among "the four elements of monarchy," his being "the protector of the husbandman, and all the subjects of the state"—the protection of the husbandman being given the precedence, as carrying, in the eyes of our Mahomedan rulers, greater weight than the protection of the Zeminders or Talukdars, or any other class of their subjects. How different this from Lord Cornwallis's ideal of protecting his own creatures, the Zemindars, before protecting the husbandman, if not surrendering the husbandman to the tender

mercies of the Zemindars, like surrendering the lamb to the wolf for protection !*

*Speaking of the proclamation of the permanent Settlement, Justice Field says : "This Proclamation couched in the language of distinct declaration as regards the rights of the Zemindars, but in the language of trust and expectation as regards any definition of their duties towards the raiyats, was enacted into a Regulation" (p 516). "Sir Edward Colebrooke," says Field, "on the eve of finally quitting a country in which he had resided forty-two years, wrote as follows on the 12th July, 1890 :—"The errors of the Permanent Settlement in Bengal were two-fold , first in the sacrifice of what may be denominated the yeomanry, by merging all village-rights, whether of property or occupancy, in the all-devouring recognition of the Zamindar's paramount property in the soil ; and secondly, in the sacrifice of the peasantry, by one sweeping enactment, which left the Zeminder to make his settlement with them on such terms as he might choose to require Government, indeed, reserved to itself the power of legislating in favour of the tenants , but no such legislation has ever taken place ; and, on the contrary, every subsequent enactment has been founded on the declared object of strengthening the Zeminder's hands" (Land-holding p 525)

Was not this insidious way of proceeding more mischievous, we ask, than the policy of confiscation of the people's land, openly adopted by William the Conqueror in England ?

SECTION V

Jaimini on ownership in regard to the arable land of the country.

On the question of ownership in regard to the arable land of the country, the view expressed by the great philosopher, Jaimini, in his *Mīmāṃsā Sūtra*, written about 400 years before Christ, '*sarvan pratyavishishatvat*' (6-7-3), "all stand on the same level", and as interpreted by his commentator *Savarasvami*, who lived probably about the beginning of the Christian era, —*Khetranam ishitaro Manushya drishyante*— —"Men are seen to be the lords of their fields,"— ought to be taken as final. *Savarasvami* thus discusses the question of the king's right to the arable land of the country. —"He who is the sole monarch of the country may give away (the arable lands of the country). Not he also, we say. Why ? The kind of enjoyment by which the monarch is the owner of his land, by the same kind of enjoyment others also (are the owners of

their land) There is no difference so far as that goes. But from his being the sole monarch of the country, this is his special privilege that by his protecting paddy, &c , which grow on the earth, he is the owner of a fixed share of the produce. He is not the owner of the land," Mr. T. H. Colebrooke, the eminent English Sanskrit scholar was in India from 1782 to 1814, so that the Permanent Settlement of Bengal took place under his very eyes. Of all men, his opinion about "the laws and constitution of India," ought to carry weight. Eight years ago our attention was drawn to the following remarks of Colebrooke on Jaimini's aphorisms in his *Miscellaneous Essays* (P. 320-21), to which I would draw the special attention of both the public, and the framers of law, both in India and England :—

"A question of considerable interest as involving the important one concerning property in the soil in India," says Colebrooke, "is discussed in the sixth lecture. At certain sacrifices such as that which is called *Visvajit*, the votary for whose benefit the ceremony is performed, is enjoined to bestow all his property on

the officiating priests. It is asked whether a paramount sovereign shall give all his land including pasture-ground, highways, and the sites of lakes and ponds, and an universal monarch, the whole earth, and a subordinate prince, the entire province over which he rules. To that question the answer is :—
“The monarch has not property in the earth, nor the subordinate prince in the land. By conquest kingly power is obtained, and property in house and field, which belonged to the enemy. The maxim of the law that “the king is the lord of all excepting sacerdotal wealth”—concerns his authority for correction of the wicked, and protection of the good. His kingly power is for government of the realm, and extirpation of wrong, for that purpose he receives taxes from husbandmen, and levies fines from offenders. But right of property is not thereby vested in him; else he would have property in house and land appertaining to the subjects abiding in his dominion. The earth is not the king’s, but is common to all beings enjoying the fruit of their own labour. It belongs, says Jaimini, to all alike; therefore

although the gift of a piece of ground to an individual, does take place, the whole land cannot be given by a monarch, nor a province by a subordinate prince, but house and field acquired by purchase and similar means, are liable to gift". To this I should also add the following remarks made in connection with the Mimansa philosophy, by Mr R. C Dutt, C. I. E. of whose scholarship, Bengal is justly proud :—"At certain sacrifices, the votary is told to bestow all his property on the officiating priests. The question is raised, whether a king should give up all lands, including pasture-lands, high-ways, and the sites of lakes and ponds. The answer is that a king has no property in the land, and cannot bestow it. His kingly power is for the government of the realm, but the right of property is not thereby vested in him, else he would have property in house and lands appertaining to his subjects. The lands of a kingdom cannot be given away by a king ; but a house or field acquired by purchase, etc, may be given away". It should be clear to all honest enquirers, on the authority of Jaimini, as interpreted by

that eminent Sanskrit scholar of England, Mr H. T Colebrooke, and that equally eminent scholar of Bengal, Mr. R. C. Dutt, C. I. E, that ("the earth is not the king's", that "a king has no property in the land" of the people "It belongs to all alike") "It belongs to all beings enjoying the fruit of their own labour." The finding of two such scholars coming from such distant quarters, and remote times, on the authority of so great a philosopher as Jaimini, ought to be final and set at rest all doubt once for all. Peasant-proprietorship then is the form of land-tenure established in India from time immemorial, and meant by the expression "according to the laws and constitution of India" in Pitt's India Act (24 Geo III, cap 25, sect 39), and that Lord Cornwallis in calling "all Zemindars and Independent Talukdars" "actual proprietors of land", made a great mistake, inflicting the greatest wrong he could, upon the peasantry of India, the dumb millions who form eighty-five per cent of the population, for the benefit of a handful of his own creatures. The proclamation of 22nd March, 1793, which declared the Decennial Settlement

permanent, was practically a 'confiscation' of the property in land of the entire population, in open violation of the law of both England (24 Geo. III cap 26, Section 39), and India. That Proclamation however had this one redeeming feature that it reserved to "the ruling power" the power to rectify mistakes, and "protect all classes of the people, and particularly those who from their situation are most help-less"—the voiceless millions of the peasantry, the victims of the mistake. If the wrong inflicted by that mistake is not to be perpetuated for time without end, that power should now be exercised, and the wrong of the past now rectified. "It being the duty" runs the Proclamation of 22d March, 1793, "of the ruling power to protect all classes of people, particularly those who from their situation are most helpless, the Governor General in council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats. and other cultivators of the soil" (Field's Land-holding, p. 503). If the Government means seriously to do that duty of "protecting the most helpless" raiyats or

“cultivators of the soil,”—maintaining intact “the law and constitution of India”,— (and what reason can there be to doubt that the Government mean to do their duty ?)—it is just and proper, that it being now proved beyond dispute, that under the Hindu law “men are the proprietors of their fields”—“*Kshetranam isitaro manushyah drishyante*,” and that by the Ayeen Akbery also the monarch is “the protector of the husbandman” (Abul Fazl’s Preface, Gladwin, XII), the Permanent Settlement of 1793 made by mistake, and that mistake openly admitted afterwards when the settlement of the “Ceded and Conquered Provinces” (N. W. P, etc) was made (1812), as we shall see as we proceed, should now be set aside, and peasant-proprietorship in the form approved by the ancient law of the country, formally declared as the only form of land-tenure for India, approved by the legislatures of both England and India.

With regard to ‘Pitts India Act’ of 1784 (24 George III, cap 25, Section 39), we have to observe that the East India Company, the party actually interested, themselves in their “Analysis

of the Laws and Regulations for Public officers in the Revenue Department", printed and published in 1814, Vol II, give the text of Pitt's Act as follows :—"One of the principal objects of the 39th section of the Act passed in the year 1784, is to settle and establish upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services shall be in future rendered and paid to the Company by the ryots, Zemindars, polygars (a class of Madras Chiefs), talookdars, and other native land-holders" (p. 50). "The Ryots," in Pitt's Act, are given the first place as "native land-holders," and as in the Ayeen Akbery (238), the name 'tribute' (vali) is given to what was due to the state from them. The substitution of the word 'Rajas' for 'ryots,' (Field's Land-holding, p. 487, and Combridge History of India, V, p. 430) is a clear case of forgery. And about six years after the creation of Zemindaries in 1793, that is, in about 1799, Lord Cornwallis, abolished the offices of Kanangoes and Patwaris, thereby destroying all evidence of the rights of 'the Ryots' of Pitts

Act. What were the Patwaris and Kanoongoes ? Says the Ayeen Akbery :—“The Putwary is employed on the part of the husbandman to keep an account of his receipts and disbursements, and no village is without one of these. The Canoongoo is the protector of the husbandman, and there is one in every Pergunnah.” “And these officers are paid by the government according to their rank” (p 347). They were the lawful custodians of all information regarding the rights of ‘the Ryots’ of Pitts India Act, then in existence. “Lord Cornwallis” says Field, “by way of reform abolished the Kanongoes and Patwaris, and did away with their offices ; and with them disappeared the only evidence of the rights of the Cultivators of the soil” (Field’s Land-holding p. 592, 679). Let the reader judge what this abolition of kanoongoes and Patwaris, so soon after the Permenent Settlement, signified !

The ‘Zeminders’ mentioned in Pitt’s India Act of 1784, it should also be noted here, are not the Zemindars or hereditary Revenue Contractors created by Lord Cornwallis’s Permanent settlement of 1793, but only—“A collector of the royal

or jageer lands' (Ayeen Akbery p. 257) As being the name for the Collectors appointed for the collection of rents of the royal lands, their dues are called 'rents.' In the Glossary to the Fifth Report of the East India Company (1813,—that is, 20 years after the Permanent Settlement), as the 'Servant of India' of August, 1924, in reviewing our 'Peasant-Proprietorship in India', points out, it is said ---

“Zemindar—Laud-holder, land-keeper. An officer who under the Mahomedan government, was charged with the superintendence of the lands of a district, financially considered, the protection of the cultivators, and the realization of the government's share of its produce, either in money or in kind, out of which he was allowed a commission, amounting to about ten per cent, and occasionally a special grant of the government's share of the produce of a certain number of villages for his subsistence, called Nauncar The appointment was occasionally renewed, and as it was generally continued in the same person so long as he conducted himself to the satisfaction of the ruling power, and even continued to his heirs ; so in process of time and

through the decay of power, and the confusion which ensued, hereditary right (at best prescriptive) was claimed and tacitly acknowledged ; till, at length the Zemindars of Bengal in particular, *from being the mere superintendents of the land, have been declared the hereditary proprietors of the soil*, and the before fluctuating dues of the government have under a permanent settlement, been unalterably fixed in perpetuity".

"The above quotation is given", says the editor, "to prove the utter hollowness of the claim put forward by the Zeminders to proprietary right in the land. It is quoted to show what responsible officers of the Company thought of the 'right' of the Zemindars, the same Company which created these proprietors of the soil".

Section VI.

Not 'rent' in the sense of 'unearned increment' in India, but *vali* or contribution for services rendered.

If the cultivating tenant himself is the proprietor of the arable land in India, as we have shewn he is, and not the monarch, as we have shown he is not, and far less the monarch's "hereditary revenue-contractor",—the Zemindar, why, it will be asked, has the cultivating tenant been paying rent from the remotest times, to the monarch, either direct or through that revenue-contractor or Zemindar. True indeed, as Lord Cornwallis said in the preamble of Regulation xix of 1796,—“By the ancient law of the country, the ruling power is entitled to a certain proportion of the produce of every acre of land.” Lord Cornwallis knew well enough of the ancient law of the country, only so far as it was the East India company's interest that he should know ; but he did not care to know more ? It was expected that Lord Cornwallis would put to himself the question, why was

it so ? Why was the ruling power in India entitled to a certain proportion of the produce, which is always liable to rise and fall with the actual yield of the soil, and not a fixed quantity of the produce, or its equivalent, a fixed sum of money. The reply to that question should have been sought-for from the framers of "the ancient law of the country" to which Lord Cornwallis appealed for his authority for laying claim "to a certain proportion of the produce of every acre of land." It is curious that from Lord Cornwallis in 1793, down to Lord Curzon in 1905, not one of our Viceroys cared to put that question to themselves, or referred to the framers of the ancient law on which they took their stand. The monarch obtained a 'proportion' only, and not a fixed quantity of the produce, so that he might never forget that it was as much his interest as that of the cultivator himself, to secure from the soil its maximum yield, that the monarch would get nothing, if there was no yield, that he would get more or less, according as the yield was more or less, that the monarch and the cultivating tenant had a joint interest in maintaining the productiveness of the soil,

that while it was the interest of the cultivator to give the soil the finest tilth he could, to secure the largest yield, it was equally the interest of the monarch, for securing the same end, to lay out capital in providing facilities for irrigation, drainage, and manuring, and also providing pastures for the plough-cattle, and doing anything else that required a large out-lay of capital, which it was impossible for the cultivating tenant to do himself under his circumstances. Says MANU, that the proportion of the produce to which the ruling power is entitled is "an eighth, a sixth, or a twelfth for paddy" "*dhanyanamashtamo bhagah shashtho dvadasa eva va*" (Manu 7-130), in consideration, as Kulluka explains, of the quality of the land whether superior or inferior, requiring more or less labour in cultivation. *Why should the ruling power get any proportion of the produce at all? MANU answers:—The king should always fix the taxes in his kingdom having due regard to

* *Bhumiylkarshapakarshapekshaya karshanadikleshalaghavagauravapekshoyam bahvalpagrahana-vikalpak.*" (Manu—7-133) ।

the fact that the king and the operator both receive the fruits of their labour,—“*yatha falenta yujyeta raja karta cha karmanam, tathavekshyaha nriporashtre kalpayet satatam karam*” (7-128). Kulluka commenting on it, says :—“The king is to receive the fruits of his supervision, &c, and the cultivator and the trader, the fruits of their cultivation, and selling, and buying”, &c. * The reader sees that, by the ancient law, the king and the peasant both stand on the same level as regards the produce, as “joint owners,” * each having to earn the share of the produce he is entitled to, by rendering service in proportion. The king gets his share not as king, and not also as being the proprietor of the land, but as the remuneration for his “supervision, &c” (*avekshanadi*). That also was the ground on which Akbar in the Ayeen Akbery, exacted the “annual tribute of ten seers of grain from every Bigha of

* “*Yatha raja avekshanadikarmanah falena yatha cha karshika-vanigadayah kishu-vanijyadikarmanam falena samvadyante.*” 7-128.

*See Revenue Dispatch No 14 of 9th July 1862, published at Page 2889 of the Calcutta Gazette of 16th August 1862 (Field, P: 69v).

cultivated land throughout the empire," (Gladwin's translation, p 189)—"in return for the cares of royalty," and not because he was the ruling power, as Lord Cornwallis seems to have claimed for the Company, or as "actual proprietors" of the land, as Lord Cornwallis claimed for his creatures, the Zemindars. The "certain proportion of the produce of every acre of land," which Lord Cornwallis claimed, and which the Indian husbandmen always gladly paid, from the remotest antiquity, was not what English people call 'rent', in the sense of an "unearned increment" demanded and paid for the use of land not one's own, but another's, or the king's. By "the ancient law of the country" to which our rulers from Cornwallis to Curzon appealed, the king or prince had to "earn" "that proportion of the produce" by rendering the services of supervision and protection (*avekshanadi*) of the crops, as Kulluka has said, or as Savarswami, the commentator of Jaimini's Mimamsa Philosophy, to whom we drew the reader's attention before, has said :—"Being the monarch of all the land (*sarvabharamatve*) this alone is his special privilege, that because he protects paddy, &c,

which grow on the land (*Puthuyam sambhulavam vrithyadinam rakshanena*), he owns a fixed proportion (*nirvishhtasya kasyachit bhagasya ishte, na bhumeh*) of the produce, but does not own the land." The reader sees that this implies an unwritten primitive contract between the king and his subjects. It has been said that the very principle of the ruling power dividing the produce with the cultivators, annihilates the idea of a "proprietary inheritable right" in the Zemindar. Far less is there any room for a claim to the proprietorship of the arable land on the part of any "unnecessary middle man", without the consent, express or implied, of both the parties contracting. It ought then to be clear that the "Zemindars and Independent Taluqdars" whom Lord Cornwallis dubbed as the "actual proprietors of land," are really interlopers who crept-in during a time of anarchy and chaos, and have no place in India, under a settled Government. It is remarkable that Colebrooke in his *Miscellaneous Essays*, speaking of Jaimini's verdict on the subject, says:—"The monarch has not property in the earth"; and Mr. R. C. Dutt, C. I. E., dealing with Jaimini in his *History of Civilization*

in ancient India, confirms Colebrooke's opinion, saying "A king has no property in the land." Two such scholars coming from such remote quarters, giving the same opinion ought surely, as we said before, to clear all doubt once for all. The king then has no right of property in the people's lands, yet has a right to a share of the produce, for services rendered, under an unwritten primitive contract. We referred to a hymn of the Rigveda recited at the coronation of the king "*a tvakarsham, &c*" (X--173-1), "We have chosen thee", &c, in which occur the words "*Visastva sarva vanchhantu*," &c, "See that all the people desire thee for their king, that thy kingdom may not slip from thy hands".* That implies a primitive contract older even than the days of the Rigveda. The words "*uisastva sarva vanchhantu*", "See that the people all desire

*Chanakya of the time of Chandra Gupta of the fourth Century B. C, reproduces the idea in the Rigveda in his 'Sutrani' saying : "Prakritikopassarvakopeblyo gariyan" (Kautliyam Arthashastram, Sutra 13), "Of all angers, the anger of the subject-people is the most serious."

thee for their king", are also repeated in the Atharva Veda (4—8—4), showing that the idea of universal popular choice, based upon a primitive contract, always underlay the selection and coronation of the king. Indeed the idea of a primitive contract between the king and his subjects is even more clearly expressed in the Atharva Veda than the Rigveda "The king, enjoying prosperity himself (*bhuta*), fills the prosperous villages (*bhuteshu*) with things enjoyable (*payah a dadhati*). He becomes the lord of creatures (*bhutanam*). The Lord of death (*mrityuh*), who presides over *dharma* or right conduct, performs his coronation ceremony (*rajasuyam*). Let that king promise (*anumanyatam*) to observe the conditions of sovereignty (*rajyamidam*) * Sayanacharya comments thus :— "The Lord of *dharma*, Death, performs the ceremony of his coronation that he may make him, by distinguishing between right and wrong, punish the wicked, and protect the good.* Let the king thus crowned, promise to perform the work of the king, to punish the wicked and protect the good.* As a part of that primitive contract

* *Bhuto bhuteshu paya a dadhati sa bhutanamadhipati babhuva | tasya mrityusehatati rajasyuam sa raja rajyam anumanyatamidam |*

* " *Mrityuh dharmarajah dharmadharmaprovibhagena*

between the king and his subjects, it was settled, it was arranged from time immemorial, that the king should protect the crops grown on the land by the husbandman, and in return therefor, or as compensation therefor, be the owner of a fixed proportion of the produce, without having any right of property in the husbandman's land,—“*kasyachid bhagasya ishte na bhumeh*” (Savarasvami) The ancients realised full well that there are certain very onerous duties, which from their very nature, it was impossible for the individual husbandman to perform for himself, and on the due performance of which the success of food-production for the people, or agriculture, and the prevention of that “series of unprecedented calamities, which”, says Lord Curzon, “have in recent years, assailed the agricultural population” (Resolution issued by the Governor General in Council on

*dushtanigraha shishtapalanam karayitum tasya rajnah-
 rajasuyam charati—idam karma anutishthati, sa krita-
 bhishkeko raja rajyam—rajnah karma dushtanigraha
 vishhtaparipalanadikam rajyam—tad anumanyetam
 angikarotu” ॥*

the 16th January, 1902) depend". Such are, for example, the provision of water-supply during continued drought, for want of which, Lucknow, in spite of the otherwise richness of the soil, was, as we saw, in great part, a barren waste, and the provision of drainage channels to prevent flood, for want of which crops are destroyed in Bengal, producing famines every year, over extensive areas. It was to obviate such climatic disasters, and also for the prevention of theft, and wide-spread attacks of locusts, &c,—the people sought for protection at the hands of their kings, which the kings, in their turn, readily gave, receiving in return "a certain proportion of the produce of every acre of land", to which Lord Cornwallis laid claim. The reader, we expect, will now see that the claim of the ruling power in India was not, under the ancient law of the country, a claim for rent in the sense of "an unearned increment" demanded by the king, and paid by the husbandman, for the use of land not the husbandman's own, but another's, or the king's, but is a sort of fee or remuneration paid for services rendered, under a primitive

contract, express or implied, between the king himself on the one hand and his Indian subjects on the other.✓

SECTION VII.

The evil effect of the substitution of money-rent for a variable proportion of the produce as revenue.

The rent, or more truly speaking, the contribution of the husbandman to the ruling power, called *vali*, in return for the protection of the crops (*vrihyadinam*), was in Hindu times, as the reader has seen, an "eighth, a sixth, or a twelfth part" (Manu), or "a tenth, or an eighth, or a sixth part" (Gautama). What about the Mahomedan times? From the Appendix No 16 to Mr. Shore's Minute of 2nd April 1788, we learn "that the Institutes of Akbar continued in use until the time of Bahadur Shah" (1707 to 1712 A. D.—Field, p. 439),

that is, till about 50 years before the East India Company's acquisition of the Dewani of Bengal, Behar, and Orissa (1765).

The Ayeen Akbery then was in force till 50 years before the grant of the Dewani in 1765, by which the East India Company became the ruling power. Those fifty years that intervened were times of chaos and anarchy, the titular emperors being mere puppets in the hands of designing adventurers. What have we in 'the institutes of Akber' as the Ayeen Akbery is called? In the Ayeen Akbery we read that "His Majesty divided the lands into different kinds :-- (1) "*Poolej* or land which is cultivated for every harvest (or what we call *Dofasli*,) being never allowed to lie fallow" (2) *Perowty*, which is "kept out of cultivation for a short time, in order that the soil may recover its strength." (3) "*Cheechar* or land which had lain fallow three or four years." And (4) "*Bunjer*" or that which has not been cultivated for five years, and upwards. 'Both of the two first mentioned kinds of land, namely *Poolej* and *Perowty*, are of three sorts, viz. best, middling, and bad, *awal*, *duyam*, *saiyam*, as we now call them. They

add together the produce of a Beegah of each sort, and a third of that aggregate sum is the medium produce of one Beegah of Poolej land one third part of which is the revenue settled by His Majesty.' (Gladwin's translation—P. 244)* How was it realized? "The husbandman has his choice to pay the revenue, either in ready money, or by *kunkoot* (appraisement), or by *Behawely* (actual division of the produce) (P. 251.) The Viceroy is told that ("he must constantly keep in view the happiness of the people.") The instructions to the Collector of the revenues run thus :— "He must assist the needy husbandman with loans of money, and receive payment at distant and convenient periods. Let him (the *AMilguzzar* or Collector of the Revenues) not be covetous of receiving money only, but likewise take grain. The manner of receiving is after four ways :—first *Kunkoot* (*kun* = grain ; *koot* = conjecture or estimate). The land is measured with the crops standing,

*We also read in a Government report of 1807 as follows :—"The assessment of Akbar is estimated by Abul Fazl at one third, and by other authorities at one-fourth of the gross produce."

which (ie, the crops) are estimated by inspection. If any doubt arise, they weigh the produce of a given quantity of land. Second, *Buttrey* (*Bhawely*) which is after the following manner:— They reap the harvest, and collecting the grain into barns, there divide it according to agreement. Third, *kheytt Buttrey*, when they divide the field as soon as it is sown. Fourth *Lang Buttrey*—“They form the grain into heaps, of which they make a division. Whenever it will not be oppressive to the subject, let the value of the grain be taken in ready money at the market price” (Ayeen Akbery, Gladwin, p. 262, 263). “In Akbar’s time and long after,” said Mr. Shore, “the rents were paid in kind” (Appendix No 16 to Mr. Shore’s minute of 2nd April, 1788, quoted by Field, p. 433). It does not matter much whether the rent is paid to the ruling power in kind or in cash, so long as its value is only that of a proportion of the actual produce, i.e., its equivalent in money, so that there would always be present an inducement for the ruling power to perform duly and efficiently the duty of protecting the crops, et cetera, upon the due performance of which the

right to demand rent accrues. Two things are here clear — (1) Both under the Hindu and the Mahomedan rulers, there is no place here for any middle-man, or any other interloper to come in, as actual proprietor of land, no place here for any Zemindar or Talukdar to intervene between the *protecting* ruling power on the one hand, and the protected husbandman on the other. (2) The actual value of the share of the produce received by the ruling power, would, in that case, vary from year to year, rising or falling, according as the quantity actually yielded in any year by the lands, rose or fell. If the land was left fallow for recuperation, or for any other reason, or if the crop produced was destroyed by drought or by flood, or by a flight of locusts, or lost by theft or robbery, the share of the protecting ruling power would be *nil*. What does this come to? It comes to this, that unlike our days, as we have pointed out, it was the common interest of both the cultivating husbandman, and of the ruling power, that the land should actually yield the maximum it was capable of yielding; it comes to this, that in his own

interest the cultivating tenant on his part would give unsparingly all the labour required for securing that maximum yield, and the ruling power too, in its own interest, would provide unsparingly all the facilities required for the protection of the crops, et cetera, as tanks, wells, or other reservoirs of water for irrigation, as protection against drought, and also provide suitable drainage channels for the free escape of water, for protection against floods, in addition to protection against occasional wide-spread attacks of insect pests, or fungoid diseases, and against theft or robbery. What a happy union that was, of the interests of both the rulers' and the ruled, for the production of the maximum quantity of food for the people ! It was a union of gold with borax "*Sonay Sohaga*," as we say in Bengali, so long as the so-called rent or *vali* contributed by the husbandman was demanded and paid as a "proportion of the produce," either in kind, or in its equivalent of money, varying in value from year to year. But that golden union was dissolved from 1765, when that puppet, now in the hands of the East India Company, and

now in the hands of the Maharattas, the titular Emperor of Delhi, Shah Alam, by his *farman* or patent, invested that body of traders, the East India Company, with a perpetual grant of the "Diwan of the provinces of Bengal, Behar, and Orissa." The East India Company was a company of foreign merchants, and as such their one engrossing interest lay in the dividends they could pay to their shareholders. They would never come out to India themselves, to administer justice, or to govern the country, so that as a body of administrators, or Governors, they were like fish out of water, in every way. Up to 1765, the East India Company were "occupied solely in the pursuit of trade," or, at the most, were in the state of mere *pupa* as a Governing Power. From 1765 "the military Government of the three Provinces of Bengal, Behar, and Orissa, the right to Administering civil justice, and the complete control of the finances" passed into the hands of the East India Company, which henceforth, like dropping from the moon, without any direct knowledge of the country, and without any previous training whatever, became a fully equipped

butterfly or a ruling power of the country, free to "fly or run," as they pleased. They did make a formal declaration of "the undoubted sovereignty of the Crown over the territorial acquisitions of the East India Company", and the British Crown too had, in return for the compliment, thus paid, ordered "that the territories then in possession and under the Government of the Company, should continue under such Government in trust for Her Majesty, her heirs, and successors, until Parliament should otherwise provide" (Field, P. 632). It was all a mere formal exchange, of compliments, and against the ancient law of the country. After all, as a body of tradesmen, the sole interest of the East India Company was "to levy from the people the greatest possible revenue that could be exacted from the people" (Field, P. 481), 'ensuring to the company every possible advantage' (472.) What did it matter for them, if "in 1770 there was a great famine which was said to have destroyed a third of the inhabitants of Bengal?" What did it matter for them, if

the settlement, they made, "utterly ignored all rights of any kind in the rayats" (Field P 491), so long as it secured "the greatest possible revenue," so long as it "ensured to the Company every possible advantage." Lord Cornwallis found it to the interest of the East India Company to take notice only of that part of the primitive contract between the ruling power, and the people of ancient India, to which we referred before, whereby "the ruling power is entitled to a certain proportion of the produce of every acre of land"—'*nirvishtasya kasyachid bhagasya ishte*' (Jaimini, 6-7-3, Reg. XIX of 1793) But what about the other part of that contract by which the ruling power was in duty bound to protect the crops, *et cetera*, grown on "every acre of land"—"*prithivyam sambhutanam vrihyadinam rakshanena nirvishtasya kasyachid bhagasya ishte, na bhumeh*" (Jaimini. 6-7-3) ? The East India Company, like the cat of the adage, would have the fish, but will not wade to catch them ! "To levy the greatest possible revenue" within the shortest time, and with the least effort, Lord Cornwallis set up a class of profiteering middlemen, who had no

interest whatever in food-production, or in the protection of the husbandman's crops, &c., "*vrihyadinam rakshanena*",—the adventurous "revenue-contractors" eager to "exploit" the agricultural classes of the country,—whom His Lordship gratuitously styled—"the actual proprietors of land," without adducing any proof whatever. To these interlopers, His Lordship 'transferred the rights of the ruling power to a 'certain proportion of the produce", ignoring altogether their corresponding duties. We showed before that the ruling power had no proprietary right in the land—"*kasyachid bhagasya ishte, no bhumeh*,"—"the monarch has not property in the earth", as Colebrooke puts it. Sayana in his Commentary of the Taittiriya Brahmana says :— "To rule means to protect. The earth is not the king's own. It cannot be given....The earth is not the king's property."* As for the right to the "proportion of the produce" it did not, could not, accrue under "the ancient law of the country," as Lord Cornwallis claimed, unless the duty of

**Palanasyava rajyatvat na bhur svam diyate na sa na rajno bhur dhanam (1-4-7).*

protecting the crops was duly and efficiently performed. One cannot but wonder, what the people of those days were. Right or no right, the Zeminder came to squat on the land of the husbandman, as over a herd of goats, compelling "the raiyats to be the absolute slaves of the Zemindars" ? Thus runs the Proclamation of 1793 :—"The Governor General in Council expects that the Zemindars will regularly discharge the revenue in all seasons ; and he accordingly notifies to them that in future no claims or applications for suspension or remissions on account of drought, inundation, or other calamity of season, will be attended-to, but that in the event of any zemindar failing in the punctual discharge of the public revenue, a sale of the whole of the lands of the defaulters will positively and invariably take place." (Field, p 515). The Zemindars being the creatures of Lord Cornwallis's Permanent Settlement, His Lordship was, of course, at liberty to impose on them any terms he chose. But the husbandman, whom the Government afterwards admitted to be the true proprietors of their

lands, were not, in the same sense, the creatures of the Zemindars, so that the Zemindars had no right to impose on the husbandmen, as they actually did, any terms they chose. It was the duty of the ruling power to protect the people from such oppression by the Zeminder. But the East India company did nothing of the kind. A body of traders, whose sole aim was to secure the largest revenue, elevated by an accident of anarchy, to the exalted position of a ruling power, thus neglected the very first duty of a ruling power, on the due and efficient discharge of which, their right to receive any revenue, depended. The mushroom Zemindar too, with impunity, followed in the footsteps of the 'shop-keeping' ruling power, that brought him forth, so that the duty of the ruling power to protect the people, or their crops from "drought, inundation, or other calamity of season" was completely ignored. The idea that any duty was connected with the right to receive revenue, miscalled rent, was clean swept out of the slates of both the ruling power, and of the Zemindar, or other unproductive farmer of the revenue, to whom that

ruling power transferred its so-called right to a 'proportion of the produce' as revenue, which, as we had shown before, did not, and could not accrue, unless and until its corresponding duty was efficiently discharged. The court of Directors, as the agents of that body of mere traders, came to help the Zemindar by "positively prohibiting the making of minute scrutinies" (Field, p. 468) about "the rights of the cultivators." The cultivating tenants who form eighty-five per cent of the population, were thus handed over, Pitt's India Act* notwithstanding, to a handful of Zemindars, as their serfs or rather slaves, as in Russia, where before the Act of Emancipation of 1861, "the lord had an almost unlimited right over the person and property of his serf." Both the ruling power, and the revenue-farming Zemindars, henceforth ceased to have any direct interest in the success of food-production for the people, or of agriculture, for, henceforth they both regarded themselves as entitled to a

* Does not Pitt's India Act, so long as it remains unrepealed, invalidate these proceedings from top to bottom ?

fixed sum of money as *rent* (which would also give them a handle for their claim to property in the peasants' land), — at a rate per acre or bigha even though, on account of a drought or inundation or other climatic disaster, from which it was the duty of the ruling power, to protect the crop, the land did not produce even a single blade of a cereal or a millet. The Permanent Settlement thus became a Procrustean bed to which the cultivating tenant, which means eighty-five *per cent* of the whole population of Bengal, Behar, and Orissa, had to fit themselves. If he can not fit himself to that bed, let him be amputated. Shorn of his right to receive protection against drought or flood or other climatic disaster, if he cannot pay the revenue, miscalled rent, or meet the exorbitant demands of the Zemindar, let his holding be sold for arrears of revenue, perhaps to some earth-hungry rapacious money-lender, or worse still, to the money-lending zemindar himself, who, too often, turns a village-Shylock demanding his "pound of flesh" from his tenants, both as zemindar, and as Mahajan, with absolutely no interest in the

production of food or clothing for the people. What does he care, if the unhappy husbandman with his starving half-naked family be sent adrift, if need be, to swell the ranks of the "landless labourers, after the English type", too often unemployed, without the advantage of the English "pensioned unemployment", to die before his time, of famine or malaria. The zemindars, the Zemindar-Mahajans, or the Mahajans,—these Village Shylocks, provided they can "secure the honey of the season, they care not whether the bees live to make another supply." Indeed as agriculture stands to-day, not only is it immaterial for the Zemindar, or the Mahajan, whether the land produces any crop, or it does not, it is even more to their interest, as we shall see, as we proceed, that the land should not produce, than that it should produce a crop. It is most shocking to read that the Zemindars created by the Permanent Settlement, following the example of the Russian nobles before the Emancipation of the serfs in 1816, "utterly ignored all rights of any kind in the rayats" (Field, P 591), and that "the rayats were rendered liable to personal

arrest, and imprisonment before trial" (Field, P. 672) Regulation V of 1812 is said to have "left no rights to the raiyats" (654), "We hear of nothing" says justice Field, "we hear of nothing but arbitrary demands enforced by stocks, duress of sorts, and battery of their persons" (585). "Land-holders were empowered to distrain, without sending notice to any court of justice, or any public officer,—the crops and products of the earth of every description, the grain, cattle, and all other personal property whe-teer found in the house of the defaulter, or of any other person" (Field, P. 577). The Zemindars could even "delegate their power of distraint to all agents employed in the collection of rent" (Regulation VII of 1799) Even the courts held that "the right of the Zemindar to enhance rent is presumeble until the contrary is shown" (556). Such is the woeful tale that the Permanent Settlement brought in its train, so that it has been rightly called "the most extensive act of confiscation that ever was perpetrated in any country" (Field, 652). Remedy there could be none, for, as justice Field said, "Legal remedies are available only in the hands

of the rich, the poor are without the means of profiting by them" (674). What was the effect? People having any capital to lay out, would never think of laying it out in agriculture, and agriculture without capital cannot be worthy of that name. It became every body's ambition, as it is to this day, to become land-lords, or farmers of rent,—Zemindars, Taluqdars, Mustagirs, or Ijaradars. We ourselves saw gentlemen who had extensive *khamars* or holdings under their own cultivation, praeelling them out among their own day-labourers as cultivators. Cultivation became a most dishonorable profession, and the word '*chasa*' (i. e. cultivator) a word of "hissing", and abuse, as it is to this day. Thus was the class of "wealthy and well-protected class of professional cultivators and cattle-keepers" "*Dhanavantah surakshitah krishigorakshaajivmah*", of whom we read in the Ramayana, (the Indian peasant-proprietors of Hindu and Mahomedan times, corresponding to the yeomanry of Old England, quite wiped out of existence, under that chaos known as the rule of the East India Company.)

SECTION VIII

Famines made legal grounds for the enhancement of rent,

The whole civilized world, as we shall see, has realised that, in the interest of the human race, all arable land should be held by the peasantry independantly of any superior, independently of any unproductive revenue-farmers —like our Zemindars, as superior,—that no one but the peasantry, should have any right of any kind in arable land,—not even the ruling power, or the Government, except so far as the success of agriculture depended on that right. “The general result of the emancipation of the land, and the creation of peasant-proprietors” in parts of Prussia, says Field (P, 82), “has been that the standard of cultivation has been immensely raised, that the land yields infinitely more than it did previously” Under the ancient law of India all arable land in India was held, as we have shewn, allodially, as in most countries of the civilized world to-day, such as the United States or France,—by the peasantry themselves, *sthanuchedasya kedaram*, and not feudally, like

the bulk of the arable land in land-lord-and-capitalist-ridden England — though even in England, sub-inefudation is disallowed by law. Under the ancient law of the country, on which Lord Cornwallis professed to rely in his Regulation XIX of 1793, the right of the ruling power to receive the *vali* or contribution of a “certain proportion of the produce of every acre of land” was conditonal, as we have shown, on the performance of certain specific duties” and was indissolubly linked to the duty or obligation of protecting the crops, &c, of “every acre of land” *“Prājñam eva bhūtyartham sa tebhya valiṃ agrahat”*, — “The King took rent or rather contribution (*vali*) from the people, only for the benefit of those people.” The so-called revenue, *vali*, not surely “rent”, was merely the method of payment by the husbandman, of the cost incurred by the ruling power, in supervising and protecting the crops, &c, of the husbandman. To use that *vali* or revenue for any other purpose, for example, for supporting a chain of “unnecessary middlemen”, was a misappropriation — criminal or not, — let the lawyers judge. There was a primitive, though unwritten, — contract as we

have shown, between the husbandman on the one hand, and the ruling power on the other, which could not, in common fairness, be altered, transferred, or broken, by either of the parties to that contract, without the consent of the other. By making the Permanent Settlement of the revenue, though not of the land, in open violation of section 39 of Pitts India Act (24 George III Cap. 25) and therefore invalid, with a body of "hereditary contractors of the revenue" who were really a class of officers of the Government, surreptitiously, without reference to the wishes of the cultivating tenants, and styling by a mistake, now admitted, those interlopers, as "the actual proprietors", was not the East India Company, we ask guilty of a breach of contract, and of faith ? Were not also those who, knowing it to be a mistake, submit to, and support the Permanent Settlement, without a protest, signifying acceptance by silence, — "*maanam sammtilakshanam*", guilty as abettors of that offence ? What becomes of the duty of the ruling power of "supervising and protecting the crops &c", "*vrihyadinam rakshana*", on the due performance of which alone the ruling power becomes "entitled to a certain

proportion of the produce" as revenue ; By Regulation VII of 1799. :— "the Raiyat was forced "to give up his rights at once, or in defence of them to enter upon an expensive litigation with a powerful, and too often, unscrupulous superior" (578), to his own certain ruin. Says Justice Field : "In the Lower provinces of Bengal those raiyats who had rights lost them, because they were too poor and too ignorant of our forms of procedure, to produce proof ; and the only records of their title were in the offices of the Patwaris who were abolished, and of the Zemindars who withheld them" (679). The yeomanry of the country, the land-lord peasantry of Bengal, were from time immemorial the co-partners of the Government, in the production of food for the people. By the Permanent Settlement the yeomanry were actually sold in their sleep, to be the slaves of a class of unproductive profiteering adventurous "contractors of the public revenue" called Zemindars. "As a natural consequence of the arbitrary power enjoyed by the Zemindars and its exercise, rents were in many parts of the country run up to the highest rates which the cultivators could pay, and retain a

bare subsistence for themselves, and their families" (Field p. 675). Now as regards this "ruining up" of the so called "rents,"— as early as 1840, we read of Sir J P Grant justifying it on the false ground of their "right to enhance *according to the present value of the land*"—pleaded by the Zemindar, and supported by the Government Under the "laws and constitution of India", the ruling power, we have shewn, was only concerned with a "proportion of the actual produce" The land and its present value, it was the proprietor husbandman's concern, not the Revenue-Contractor Zemindar's, nor of the ruling power. What had the Government to do with the "present value of the land" ? All that they had a right to claim was a fair price for the services they rendered to the crops, &c, if they really rendered any. For the Zeminder, whose revenue was fixed in perpetuity to claim a "right to enhance according to the present value of the land", was not only self-contradictory, but suicidal, for the Government could put forward a similar claim against them. For the agents of Government to support that claim may have

been full of a hidden meaning. Did it mean that the Zemindars were mere scape-goats or a mere cat's paw for the agents of the Government, to roast their own chestnuts with ? No Hindu or Mahomedan ruler put forward the claim, "to enhance rents according to the present value of the land." Not even on their own behalf, did they put forward such a claim, not to speak of those mushroom revenue-contractors, who had not yet come into existence, in those days. The land was never in India the king's property, never a *terra regis*, as we have shewn, both by an appeal to the Hindu *Shastras*, as understood by eminent scholars like Messrs Colebrooke and Dutt, and also by an appeal to the Ayeen Akbery, in which too we read that Akbar bases his claim, not on any supposed right of property in the land, but only as a "return for the cares of royalty." Indeed Pitt's India Act of 1784, stood, and so long as it is unrepealed, still stands, as a wall impenetrable, binding the present Government also to "the laws and constitution of India" (Analysis of the Laws and Regulations, II, p. 50.) Even the Royal Proclamation of

1919, refers to it with just pride, saying: "The Acts of seventeen hundred and seventy three, and seventeen hundred and eighty four, were designed to establish a regular system of administration and justice under the Honourable East India Company". When Lord William Bentinck spoke of "the rise of prices," and of the rights of the Government "to the increased rent," (His Lordship could only mean "increased revenue", and not 'rent' (in the sense of an unearned increment) "which would have accrued naturally from increased produce, enhanced prices, and the reclaiming of waste land" (676), is it not clear that His Lordship knew as little as his predecessor Lord Cornwallis, that under "the ancient law of the the country," or "the laws and constitution of India", to which the British Parliament bound down the East India Company, by section 39 of Pitt's India Act, the land as we have shown was the husbandman's absolute property, and that the right of the ruling power to any proportion of the actual produce, did not accrue unless that ruling power efficiently performed the duty of supervising and protecting the crops, &c

from droughts, floods, and theft, &c. It should be borne in mind that the Government themselves in their Revenue Despatch No 14 of 9th July 1862, published in the Calcutta Gazette of 16th August, 1862, after careful and prolonged enquiry, admit that "In India, the great bulk of the agricultural population are the proprietors" By making the Permanent Settlement of the Revenue with the Revenue-contractors, without asking for the consent of the true proprietors of the land, the peasantry of the country, and without making any provision for the due discharge of the duty of protection of the crops, &c, does not, we ask, the ruling power abandon their title to "the proportion of the produce," or to any benefit from "increased produce, enhanced prices, and the reclaiming of waste lands" ? Waste lands in India, we showed before, are without an owner, *res nullius*, or *asvamika* (Page 15 ante). The truth is that after the Permanent Settlement, the *vali* or contribution for services rendered, as of old, ceases as such, but becomes a mere land-tax, like the *contribution fonciere*

in France, levied on the income from land under a misnomer, and without fixing an assessable minimum,—the Zemindar standing as the collector of that land-tax,—though as a tax on the income from land, there should have been an “assessable minimum” to it. That assessable minimum of income in England is £s. 160, or Rs. 2400 per annum. In India it ought not to be less than at least half that amount, or Rs 1200 per annum,—in other words, the largest majority of our Raiyats would have no rent, in the sense of land-tax, to pay. As an income-tax, the so-called *rent* is to be assessed on the actual income of the husbandman, and should have nothing to do with the present value of the land,” or with “increased produce, increased prices, and the reclaiming of waste lands,”—all which, it is the business of the husbandman, the true proprietor of the land to look to. The principle of *Sthanuchhedasya Kedaram* has been admitted by the Government in their Revenue Dispatch No. 14 of 9th July, 1862, saying “the great bulk of the agricultural population are the proprietors”. It should always be

borne in mind that there never was any confiscation of the people's lands publicly declared, as in England after the Norman Conquest, not by the Hindu, or the Mahomedan, or the British rulers, and till that was done, the cultivating tenant, and not the ruling power, or the Revenue Contractor, must be presumed to be the lawful proprietor of his land, as he has been from time immemorial. The Zemindar was merely the owner of the Revenue, and not of the land. But as in the case of the Russian *Mir* or village community, "what was revenue when paid to the State, became *rent* when paid to a private individual, and the right to receive the rent gradually drew after it the proprietorship" of the land (Field, p. 167). In Bengal too, by the law of *might is right*, the Contractor of the Revenue, backed by the East India Company, usurped the proprietorship of the land, which Lord Cornwallis, in his ignorance, if not something worse, took for granted, calling the Zemindars, the actual Proprietors of land", and that under the cloak of 'the ancient law of the country', which we have proved to the hilt, they were not. The case, as it stands

to-day, is evidently a case between the giant and the dwarf, where all the justice is on the side of the dwarf, and all the might on the side of the giant. In such a case, a blow from the giant's club will, of course, silence all objection, by the irresistible logic of the sledge-hammer, or as our poet, D. L. Roy, has said, "*sera praman lathir guto*" Accordingly we find it laid down by the Bengal Tenancy Act, VIII of 1885, that "the landlord of a holding", meaning the Revenue-Contractor Zemindar, or Talukdar, may institute a suit to enhance the rent of the cultivating tenant, on the ground that there has been a rise in the average local prices of staple food crops,"—Secⁿ 30 (b). What follows from this ? The interest of the Zemindar Revenue-Contractor, to whom the ruling power has "transferred its (supposed) rights," which really did not accrue, as we have shewn, till the corresponding duties were performed,—is to make the 'prices of staple food-crops rise', in other words, to create famines. The Revenue Contractor would not care, as the ruling power might, as the ruling power actually

did in England, by making her corn-laws, at first "wholly directed towards lowering the prices of corn,—elastic, and adapted to the time and the season" (Eu Brit). The Revenue-Contractor, on the other hand, would not care if the prices of food-crops in India rose so high, that it went beyond the limits of the purchasing power of the poorer class of cultivating tenants, their landless labourers, and the landless unemployed *Bhadraloks*, which means 90 per cent of the people. Even Akber felt it to be his duty, as the ruling power, to direct the *Cootwal* to "see that the market prices are moderate" (Ayeen Akbery p. 259). All ruling powers are expected to follow Akber's example, at least till her industries are fully developed. In England itself, for example, before her industrial development was completed, the Government, to prevent scarcity of food-grain, passed "Corn Laws" which at first "appear to have been wholly directed towards lowering the price of corn," for, it is said, "as long as the rent of land was paid in kind, the sovereign, the barons, and other landholders had little interest in the price of corn,

different from that of other classes of people" (En. Brit.—Corn laws) But for a mere Contractor of the Revenue, hereditary or not, demanding money-rent at a rate per acre or bigha, what does it matter for him, if the masses suffer from scarcity, or even perish from the direst famine. For example,—what did it matter for them, if in 1770 (that is, five years after the Government passed into the hands of the East India Company), there was a terrible famine, which "is officially reported by have swept away one-third of the inhabitants" of Bengal (E. B.). What would that matter to-day for a mere Revenue-Contractor? "Middlemen have in all countries been found pernicious", says Justice Field. Provided middlemen secure the honey of the season they care not whether the bees live or die (F. 619) When a Zemindar finds it to his interest to cause the prices of food-crops to rise, so that he can make it a legal ground for claiming an enhancement of the rents of the peasantry, he will leave no stone unturned to make the prices rise, though a third of the people of Bengal should perish from famine, as in 1770. Prices may be made to rise very easily either by taking

care to see that the supply is reduced, the demand increasing or remaining constant, or that the demand in the market is increased, the supply remaining constant, or being reduced. The supply of food-grain in the market may be reduced by the middleman, without any detriment to his own interests, by denying that active supervision and protection to the cultivators' crops, "*vrihyadnam rakshanena*" from floods and droughts, &c, or the giving of "loans" to be repaid "at distant and convenient periods" (Ayeen Akbery), in return for which the so-called *rent*, rather more truly, *vali* or *tribute*, is really due. Has not that been hitherto done systematically by the Zemindars of Bengal, by refusing to the husbandman the advantages of wells, or tanks, or other facilities for the irrigation of *rabi* or dry season crops, even going the length of refusing the husbandman the right of cutting down trees on the land he pays rent for, which by their shade render the land useless for cultivation,—without a handsome *nazar*, or present? The *riayat* is not even allowed to excavate tanks or wells at his own cost, for irrigation, jute-steeping,

or even for drinking purposes, unless he pays a large sum as *abwab* or illegal fee, called *Nazarana*. Protection of the crops, is also equally systematically refused by the Zemindars, and other middle-men-landlords, by not providing drainage-channels for the free escape of water, to prevent inundation, and destruction of crops by floods. Worst of all, wholesale destruction of crops over extensive tracts by flood, now take place almost every year in Bengal, owing to the blocking of the natural drainage by rail-roads, now in Burdwan because of the E I R roads, now in Rajshahi because of the B. N. R. roads, and now in Tipperah because of the A. B. R. roads,—blocking the free escape of water. Almost every year the *Gumti* in Comilla causes a breach in the Gang-ail or so-called embankment, flooding the country around, and destroying the crops of the husbandmen to the value of several lakhs. The same is true about the Damodar floods in Burdwan. What does it matter for the revenue-contractor Zemindar, and (shall we ask ?) for the salaried agents of the Government, who may all comfortably “snore the sickman dead,”

having transferred the rights of the ruling power, to the revenue-contractor, to middlemen, though that right does not really accrue until protection from floods and droughts, has been given. Rather the destruction of the crops over wide areas, is a blessing in disguise to the Zemindar, for it will reduce the supply of food-crops in the market, the demand remaining constant, or perhaps increasing, so as to cause "a rise in the prices of staple food-crops," to justify an enhancement of the husbandman's rent, thus helping to fill the purses of our revenue-contractors. The deterioration of cattle due to starvation, for want of the public pastures of old, which have been misappropriated by the middlemen, has reduced the working-power of the plough-cattle, and reduced production, thereby also helping to raise prices, justifying enhancement of rent. Who is responsible? Who, but those salaried agents of the ruling power who shutting their eyes to Section 39 of Pitt's India Act of 1784, transferred to the Zemindars, the supposed right of the ruling power to demand from the cultivator, not a proportion of the actual produce,

but a baseless right to demand money-rent from them, at a rate per acre or bigha, whether there was any produce or not,—a right which the ruling power himself never had. Is it not then the interest of the Zamindar Revenue-contractor as well as that of the salaried agents of the ruling power, whose salaries vary directly as the amount of Revenue collected from the people's food-producers,—that rents are enhanced, and for that end, the prices of food-grain rise as high as they can make it ? What is it to them then, if the price of food-grain at any time exceeds the limits of the purchasing power of the laboring masses ? With the right hand they will raise rents, and with the left, they will organise and help relief-operations, and get a knight-hood or a Raja-Bahadurship in return ' Again the price of food-grain may also be made to rise by artificially increasing the demand for food-grain, the supply remaining constant. This is easily done by pushing on foreign exportation, and encouraging competition between the half-fed half-clad masses of India, and the millionaire merchants and capitalists of foreign countries. It should be borne in mind that famines in

India are never famines due to want of food-grains in India ; rather all our famines are due to want of money in the hands of the masses, sufficient to buy food-grains at the market prices current. It is the common cant among our profiteering middlemen, and the parasitic consuming classes generally, to speak of famines in India as "acts of God," as due to *the Failure of crops*, for which no man is responsible. That is very very far from the truth indeed,—for even in the worst year, there is food in India every year, more than double or treble the quantity of food that her population require for consumption in a year. While England does not produce in any year food-grain sufficient in quantity to support her population for three months of the year out of the twelve, and yet she never knows what a famine, or even a scarcity means, India, on the other hand, which produces even in her worst year double or treble the quantity of food-grain required by her people, is in the grip of perennial famine ! Surely the riddle ought to be solved. Our famines, he who runs may read, are really famines of money. Even granting, for the sake of argument, that the

Indian famine is the effect of the failure of crops, who we ask, is responsible under "the ancient law of the country" ? Who, but the ruling power whose duty it is to supervise and protect the crops, "*vrihyadinam rakshanena*," or the revenue-contractors to whom that ruling power has transferred his rights, and with his rights, his duties ? As matters stand to-day, however, it is the interest of both the highly paid agents of the ruling power, as well as the Revenue-contractors, the Zamindars, that the prices of food-grain should rise, and the yield of the soil should be reduced, to secure rise in prices justifying enhancement of Rayats' rents. This however could not be the case, so long as the ruling power, or even their mushroom revenue-contractor Zemindars, received rent as a proportion of the actual produce of the soil, as "under the ancient law of the country". Under the present arrangement, having no direct interest in the increase of production, the agents of the ruling power as well as the Zemindars,—to effect their object, now set up an unjust and unholy competition, under the cry of an abnormal free trade, between, on

the one hand, the foreign merchants whose purchasing power has no limit, and on the other, the poor Indian husbandman, or the ill-paid, and too often unemployed land-less gentry, the last relics of the old yeomanry of the country, whose purchasing power, speaking comparatively, is almost *nil*. At the same time the rent-receivers deny that protection to the crops, *et cetera*, of the peasant, from flood, or drought, or theft, &c, which they were bound to give under the ancient law of the country. So long as England was an agricultural country the Government passed corn-laws, ~~etc.~~ to import foreign corn so as to lower prices, and prevent scarcity, or to export English corn to foreign countries, so as to make agriculture more profitable by raising the prices of corn. (The people being their own masters, they freely regulated their own affairs, sanctioning "import of foreign grain, varying in quantity with the abundance or scarcity of the home-harvest," so as to make famines impossible.) By the elasticity of their corn-laws, before their industries were fully developed, and by their provision about *poor rates*, and

the grant of unemployment-pensions, and old-age-pensions, poor-houses, and infirmaries, famines are not heard-of in the advanced countries of the world, like England. But in India, where the people are not yet their own masters, and live upon agriculture alone,—their indigenous industries being practically dead,—the want of that elasticity for our corn-laws, and the absence of those poor rates, pensions, unemployment and old age, famines are become perennial in India. Enhancement of rent, under the present law, varies directly as “the rise in the prices of staple food-crops”, which varies directly in the proportion that floods, droughts, disease, *Kala-azar* among men, and rinder-pest among cattle, thefts inducing waste of time and money in litigation, cattle-trespass due to the misappropriation by the Zamindars, with impunity, of the public grazing grounds, are permitted to work havoc among the growing crops, and the gathered stock of grain, and the plough-cattle, which also varies directly in the proportion that the millionaire foreign merchants, offering competitive prices, are allowed to buy up and export our food-grain to foreign

countries beyond the sea, without restriction, thus allowing the prices of staple food-crops to rise up by leaps and bounds, beyond the purchasing power of the people, which even the Ayeen Akbery would not allow (A. Y 259), without leaving enough corn in the country that our poorer productive classes (which means 85 per cent of our people) with their small purchasing power, can avail of. Thus the failure of crops from such preventible causes as floods, and droughts, &c, and ill-regulated competitive prices, due to unrestricted foreign exportation, which spell death to the productive masses of India, are a blessing in disguise to the unproductive, parasitic few, to whom the ruling power has transferred by statute, not the time-honoured right of the ruling power to a proportion of the actual produce, as the ancient law of the country sanctions, but money-rent to be paid to the drones, at a rate per bigha or per acre, by the cultivating tenants, or the true "workers", whether there is any produce or not, which the "laws and constitution of India" (24 Geo III, cap 25. 39) do not sanction,—and are a blessing in disguise to the Zamindars

and Talukdars, though, as we have shewn before, the right of the ruling power or of the Zemindar-contractor of the revenue, does not accrue unless and until the duty of protecting "paddy, &c," from drought, flood, theft, &c, is efficiently discharged.

Famines then are as preventible in India as in England. Shall we say that they are artificially kept up as affording legal grounds for the enhancement of the cultivators' rents? Deny that protection to the crops from floods, droughts, and theft, &c, for which the rent is to be paid, create in the country an unequal and unholy competition in prices, in the name of free trade, between the millionaire capitalists of foreign countries, with unlimited purchasing power on the one hand, and the ill-paid, and too often unemployed landless labouring masses of India, who depend for their livelihood solely on farm-labour, and not on the Industries, as in England to-day (indigenous industries being practically *non est* in India to-day), and famines in India are bound to be perennial, affording very satisfactory grounds for our Nero-drones to fiddle, while our Rome burns,—very good grounds for

“the enhancement of the money-rent paid by the Raiyat”. You can not prevent such artificially created and artificially sustained famines, by doles of private charity, or by our so-called ‘famine-relief-operations’, any more than you can fill with water a bucket that has no bottom to it. Only restore to the husbandman his old pastures, his right to receive loans of working capital from the ruling power without interest to be repaid at “distant and convenient periods” (Ayeen Akbery), and give him justice for which he has to pay neither court-fees, process fees, nor lawyers’ fees, and give him that free protection from floods, droughts, thefts, &c. “*Vrihyadinam rakshanena,*” to which he has been justly entitled from time immemorial, in return for the *vali* or contribution of a fixed proportion of the actual produce, now mis-called *rent* instead of tax, “under the laws and constitution of India”, find employment, on a living wage, as all civilized states do, for the unemployed landless agricultural labourer, or if you can not do so, give him unemployment and old-age-pension, impose poor rates, open poor-houses, and infirmaries, or nursing homes, like other civilized States,—confine the rise in the

prices of staple food-crops due to an unequal and inequitable foreign competition, within fair and equitable limits, by suitable corn-laws, at least till her indigenous industries (not those which are the results of foreign exploitation), are sufficiently well-developed,—within the limits of the purchasing power of the masses of the Indian people, and famines are bound to be as impossible in India to-day, as they are impossible in Great Britain, or any other civilized country of the world. As for our so-called famine-relief operations by doles of private charity, do all you can, famines are bound to recur, though in the end you turn our whole nation into a nation of beggars. Rather take a lesson from the Ayeen Akbery :—“His Majesty in return for the cares of royalty exacts an annual tribute of ten *seers* of grain from every Beegha of cultivated land. Granaries are erected in different parts of the kingdom, from whence the cattle employed by the State, are provided with subsistence. They are also applied to the relief of indigent husbandmen, and in time of scarcity, the grain is sold at a low price, but the quantity is proportioned to the absolute necessities of the pur-

chaser. (Likewise throughout the empire a great quantity of food is dressed daily for the support of the poor and needy" (P. 189). Was not this an ideal form of 'poor rate' adapted to our Indian conditions ? And we to-day send the begging bowl round, in the name of the nation, almost every year, and to every body in the world, thereby stifling the flame of national self-respect in us, and yet never dream of taking the steps really necessary for eradicating famines altogether, by following in the foot-steps of the advanced countries of the world ? O, What a fall have we here !)

SECTION IX.

The right of the ruling power to receive *vali* or contribution, now mis-called rent, and the corresponding duties of the ruling power.

What are the sources of revenue for the ruling power, sanctioned by "the ancient law of the country," or "by the laws and constitution of India ?" Manu thus enumerates the principal heads of royal revenue :—(1) *Vali*, (2) *Kara*, (3) *Sulka*, (4) *Pratibhaga*, and (5) *Danda*.* "The king who accepts *Vali*, &c, but does not protect the people, goes at once to hell" (Manu, VIII--307). The commentator *Kulluka* thus explains the meaning of these terms :— (1) *Vali*, or the sixth or other proportion of paddy ; (2) *Kara*, or the monthly collections made from the occupants of homestead in villages and towns ; (3) *Shulka*, or the collection of customs-duty, varying in amount according to commodity, and realised from tradesmen who have no fixed

**Yo arakshan valimadatte karam shulkancha parthivah | Pratibhagancha dandanacha sa sadyo navakam vrajet, 8-307.*

abode, but move about by land or water ; (4) *Pratibhaga*, or the daily collections of presents of fruits, flowers, pot-herbs, or grasses, &c ; and (5) *Danda*, or legal fines. The Mahabharata speaks of the revenue from those sources as the salary of the king, due to him from the people on account of the services rendered by him. 'By realising the *vali* of a sixth part, the customs duties, and legal fines, and similar lawful salary, should the king desire to acquire wealth". "The king having made his subjects pay their lawful taxes according to rule, is to devote all his energies, whenever necessary, to supplying their wants, and to helping them to lay by provisions for future use" (Santi Parva, 71-10,). "The king is a king for upholding social order, and not for his personal gratification. *Mandhata* know that the king is the protector of the people" (Santi Prava). We are however here concerned with the *vali* or *dhanyadeh shadbhagadikam* (Kulluka, VIII—307), or the "contribution of the sixth part of paddy, &c, paid by the peasantry from the produce of their lands." The contribution of *vali* to the king, perhaps in a more general sense, is as old as the Rigveda, probably

including in those days, all kinds of contributions, paid to the king. "*Atho te Indrah kevalir viso balhritas k'rat*" (X-173 6), "May the Food-giver of the world (Indra) make the people thine, and thine only, bringing their offerings to thee (*valhritha*) alone." This is addressed to the king, after he has been told to "see that the whole population desire him for king", (the modern idea of the sovereignty of the nation in the embryo), that his kingdom may not slip from his hands. In the Satapatha Brahmana, the king, when he is crowned, is distinctly given to understand that the crown is given to him that he may develop agriculture, "*krishyasi tva nyam te rat*" [2-1-15]. What we call Land-Revenue to-day, is spoken of as *vali*, and as a *danam*, or gift to the king,—by the law-giver *Gautama*. "The gift of *vali* to the king by the husbandman is a tenth, an eighth, or a sixth portion of the produce." "*Rajne validanam karshakair dashamam ashtamam shashtham va*" (Chap X). Says Manu, "Through trustworthy agents, the king should cause to be collected from the kingdom, the annual *vali*, and in return therefor, the king is to stand

as a father to the people ; and to follow the injunctions of the *vedas* in all his dealings" * (Manu VII-80). Notice the word "aptah" or trust-worthy agents, very different indeed from that unscrupulous rack-renting class of farmers of land-revenue, like the Zemindar or Ijaradar of to-day, "and his myrmidons." Even as late as the days of *Kalidasa* who probably flourished in the sixth century after Christ, and may have been a contemporary of *Muhamad*, the *vali* is said to have been realised by the king "for the benefit of those subjects from whom it was realised, even as the sun sucks up moisture only to return a thousandfold" :—"*Prajanameva bhutyartham sa tebhyo valimagrahit sahasragunam utsrastum adatte hi rasam ravih*," (Raghuvansa, 1-18) Thus the idea that "the king is entitled to a fixed share of the produce of the land, because of his protecting paddy, &c, growing on the land", runs all along, without change or interruption from the earliest times, so that it should be clear

* *Samvatsarikam aptarscha rashtradaharayed valim | syachchamnayaparo loke varteta pitrvanvrishu, Manu VII—80*

to the reader, that this *vali* allowed to the king is very different from the rent or "unearned increment" due from the English farmer to an English land-lord, for the use of land admittedly not the farmer's own, but the land-lords',—that "limited class of proprietors who were all-powerful in the (English) Legislature, to regulate its measures with a view to their own interests above all others" (Field, P, 41) On the other hand, the king in India has always been styled the protector of the cultivating and cattle-keeping classes, "*vispatih pita* (R. V. X-135-1), "*visampatih*," the protector of the *Varshyas* of later times, whose special duty, says the Gita, is cultivation, cattle-rearing, and trade—"kṛishi-go-raksha-vanijyam vaishyakarma svabhavajam" (Gita, 18-44) The *vali* or contribution of a fixed proportion of the actual produce, much like the "*contribution fonciere*", or contribution from land, in France, was a contribution towards the cost, the king incurred in performing certain well-defined, and very onerous duties in regard to the agricultural land, on the due discharge of which by the king, "under the meteorological", if not "economic conditions"

of India, as Lord Curzon points out, "the success of agriculture in India," and the prevention of "dreadful and desolating famines" depend,—duties, for example, such as the counteracting of "the effects of climatic disaster" (Land Revenue Policy, P, 3, 4), duties which the ruling power must efficiently perform for the peasantry, until at least an up-to-date system of "co-operative association" for agricultural purposes, has been introduced among the peasantry of India, as in the United States of America, or in most of the advanced countries of Europe, if the Indian peasantry are to discharge the duty of food-production for the people, with efficiency. The unaided peasantry of India acting individually, 'each for himself', as they are doing now, and not 'each for all, and all for each' as in the advanced countries of the world, can not be expected to discharge the most onerous duty of food-production for the people, on the efficient discharge of which, the very life of the entire population of India, depends.

What are those well-defined onerous duties ?
What are those specific duties which the ruling

power in ancient India, was bound to perform, in return for the right to receive the *vali* or *contribution fonciere* of a sixth or other part of the produce of the land ? What particular duties are involved under the general name of "protection of paddy, &c." ? That the king had to protect the crops from meteorological disasters like droughts and floods, by providing tanks, drainage channels, and embankments, is clear enough, from the expression "*vihyadinam rakshana*" The Mahabharat and the Ramayana are full of interesting half-mythical, half-historical stories about the performance of *yagnas*, or sacrifices by kings, for protection against prolonged droughts, indicating the solicitude of the kings of ancient India, for giving protection to the people from the effects of droughts, &c. The silted up old tanks and *dighis* which we meet with every-where in the country, which to-day through our neglect, are become the breeding grounds for the notorious malaria-breeding *anopheles* mosquito, are standing monuments of the careful performance of the duty of protecting crops from drought, by the kings of ancient India. Lord Cornwallis, on the other hand,

as the agent of a body of dividend-grabbing company of merchants, by whom Bengal, Behar, and Orissa were ostensibly "held in trust for His Majesty," who were eager to have the fish without wading to catch them, in his anxiety to be relieved of this duty of giving protection to the crops from drought, & c, in his ignorance, makes that duty itself a ground for his Permanent Settlement. "The circumstance of the country" said Lord Cornwallis "being occasionally liable to drought and inundation, which Mr. Shore adduces as an argument against a permanent assessment, appears to me strongly in favour of it" &c, (Field, P. 493) He would have the *vali* of the "proportion of the produce" without protecting the produce from "drought and inundation", on which alone the *vali* became due. He would enjoy the right, without performing its corresponding duty "The cat would have the fish, but would not wade to catch them" Here in Comilla, for example, 'the city of tanks,' we have some of the finest *dighis*, the work of the forefathers of the present Raja of Hill Tipperah, now getting silted up, and likely very soon to become, if they have not already be-

come the breeding-grounds of malaria. The ruling power to-day does not realise, that it is unjust to the people, that they should pay the *vali* or land-revenue, but not get the necessary water-supply. The ruling power rather goes to levy additional cesses—Road-cess, and Public-works cess, or enhanced municipal cess, and embankment-cess, for that purpose. Well may the Raja of Hill Tippera, who realises the *vali*, snore, if not do some thing worse, never dreaming, that as a return for the *vali* he is receiving, he owes any duty to those that pay the *vali*.

Again no crop can be grown, and there can be no crop to protect, unless the husbandman has well-fed healthy and strong plough-cattle. Under the present, "economic condition of India," as we all know, as well as Lord Curzon, the artificial feeding of cattle by the half-fed husbandmen, with cakes and corn, bought from the market, is out of the question. Whether the peasantry in ancient India, were or were not as poor as now, the kings in Hindu times as well as in Mahomedan times, had to protect the husbandman's cattle by providing, free of charge, ample pasture-lands for

them We read in Manu —“A belt of grazing-ground round each village, of a breadth measuring 100 bows or 400 cubits, or of a breadth equal to three throws of a stick (*samyapatak*), should be reserved on all sides, and three times that breadth round each town There, if cattle injure any unenclosed paddy, the king shall not, in such cases, punish the cattle-keeper” (Manu, VIII—237, 238) “Grazing grounds as desired by the people, or ordered by the king, shall be reserved between the homestead and the fields,—a breadth of 100 bows shall be thus reserved,” says Yagnavalkya (II 169, 170). That the Mahomedan rulers also regarded themselves as bound in duty to supply grazing-grounds for the cattle, in return for the land-revenue they received, we learn from the Ayeen Akbery, which lays down that “for every plough there shall be allowed (i. e. “permitted to graze” free of charge) four oxen, two cows, and one buffalo, from whom likewise no duty shall be taken for pasturage” (Gladwin’s translation, P. 265) The Ayeen Akbery was in force in this country, as we have shewn, even till 50 years before the British came into power in 1765 * We could personally testify from

what we ourselves saw seventy years ago, that as a relic of the pasture-lands of old, every village we visited, had around it, a wide belt of grazing ground for the village-cattle, which also served as the play-grounds for the village-boys, as good as the Maidan or the Eden Garden of Calcutta. How stand we to-day ? The very cattle-tracks have been narrowed down in our life-time, from twelve feet to a minimum breadth of two or three feet, so that the cattle starve, and are degenerating for want of both food, and a run for exercise, over an ample pasture. "There are also abundance of fine oxen in Rengal," testifies the Ayeen Akbery. Where on earth are they now ? "A cow," says the Ayeen Akbery, "gives from one to fifteen quarts (= about 20 seers) of milk". What has caused the shrinkage, and drying up of the cows' udders to-day ? And yet Lord Curzon knew very well that "under the meteorological and the economical conditions of India," it is impossible that the half-fed, half-clad husbandmen of India should

* "The institutes of Akbar" says Shore, "continued in use until the time of Bahadur Shah (1707 to 1712 A. D)" Appendix No 16 to Mr. Shose's Minute of 2nd April 1788 (Field, P. 439).

purchase cake and corn from the market for the artificial feeding of their cattle, that they may be kept in health with their quality undeteriorated. We are sick of the hypocritical talk about cow-preservation, which is become the fashion to-day. Men who have their own axes to grind, but have not even the shadow of any direct interest in cow-keeping, in order to gain popularity and a more extensive legal practice, patronisingly indulge in hollow talk about the preservation of cows ! Our educated classes, our men of light and leading, what do they care, if the village-cattle perish ? Not a hair of their body would be lost ! Our ambition to-day is to be a full-fledged rack-renting Zaminder, or a Shylock of a money-lender, or both Zeminder and money-lender combined, or at least to be a well-fee'd and well-fed lawyer fattening on the disputes among their fellow-men ! We sweat from morning till evening driving the quill in the service of others, for a fixed salary. With us to-day, a gentleman or *Bhadralok* means a parasite, a drone, a mere consumer, who yields to the country no return for the wealth of the nation he consumes, who wastes away the wealth that others produce by

the sweat of their brow, and never dreams of making the smallest addition to the wealth of the nation. What interest have we in cattle-feeding, or cow-keeping, or cow-preservation? The production of 'the wealth of the nation', for which other nationalities exploit oceans and seas, and rake the bowels of mother Earth, with every aid that wealth and science can give, we leave to rude "unlettered hinds", to people, whom we brand as *chhotaloks*, though they earn their livelihood more honestly and honourably than ourselves, or our "legalised free-booters." All we care for is to prevent the husbandmen's cattle from trespassing into our ornamental gardens, or our compounds, or from otherwise disturbing our peace. This is very easily secured by multiplying the pounds, where cattle may be impounded, and starved, and at last sold for a fourth of their real value, to the highest bidder. For the last half a century, the misappropriation (criminal or not, let our lawyers settle,) of the public grazing-grounds, which were reserved from time immemorial, for the benefit of the voiceless eighty-five per cent of the people,—our food-producers,—has been carried

on systematically by rack-renting middlemen, sometimes perhaps in collusion with swindling individual cultivators, under the very nose of the highly-paid Revenue and Settlement Officers of the Government, without a voice of protest from any quarter ! It does not move the hearts of our patriotic Congress-leaders, who are themselves, but too often, the eggs of Zemindars and Talukdars, or money lenders in the hatchery !

This does not complete the list of duties that the ruling power in Hindu times had to perform in order to be entitled to a "certain proportion of the produce," which Lord Cornwallis claimed, unconditionally, and independently of the discharge of any duty to the husbandman by the ruling power under "the ancient law of the country". We also learn from the Appendix to Mr. Shore's Minute of the 2nd April, 1788, that "in Akbar's time and long after the rents were paid in kind" (Field, P. 433), and not in money, as now. The ruling power had, in return for the privilege of receiving "a certain proportion of the produce" in kind, not only to protect the crops from droughts and floods, and from the ravages of wild animals, and other pests, but also from

thieves and robbers, free of cost. As regards any loss arising from these causes, all that the husbandman had to do was to bring the fact to the notice of the monarch or his agent. It was the duty of the monarch to compensate the husbandman for his loss. In the case of theft, for example, the monarch had to find the stolen crops or cattle, and restore the whole of it to the owner, free of cost, or if it could not be found, to make good the loss of the husbandman, by paying him the full value of the stolen property, from the royal treasury. Says the law-giver *Vishnu* :—"The property stolen by a thief has to be found, and the whole of it restored to every caste, or if not found, its full value is to be paid from the king's own treasury" *(3-46). Says the law-giver *Gautama*, "What is stolen by a thief, should be recovered, and restored to its proper place ; otherwise its equivalent should be supplied from the treasury" (10) † Says

*"*Chaurahritam dhanamavapya sarvameva sarvavarnebhyo dadyat*" (3-46).

† "*Chaurahritamupajitya yathasthanam gamayet Kosad va dadyat*" (10),

the law-giver Manu, 'The king's duty is to give back to all the castes their stolen property' * (8-40). Arjuna's one year's exile as a penalty for entering Yudhishtira's bed-room for his bow (*gandiva*), to recover there-with the stolen cattle of a man, robbed of his cattle, is well-known. It was the king's duty, in return for what the people paid him as *vali* or *kasa*, to administer justice free of cost, and settle all disputes, either personally or by trust-worthy agents,—even settle complicated boundary disputes after careful local enquiry, and after sifting the three kinds of evidence,—“written, oral, and actual possession.” † Says Manu —“As the hunter traces the hiding-place of the hunted deer, so by the light of reasoning, does the king determine the path of right” (8-44). And all that was to be done free of cost ! Thus was justice, which may to-day be said to be sold to the highest bidder, equal justice was thus within reach

* “*Datavyam sarvavarnebhyo rajna chaurair hritam dhanam*” (8-40).

† “*Likhitam sakshino bhuktih pramanam tri-vidham smritam*” (*Vasishtha Sanhita XVI*).

of the poorest, equal justice to rich and poor alike, free of cost ! But to-day justice has to be paid for,—and paid for heavily too !—paid sometimes to the tune of a few thousands per day, to learned counsels, to be ultimately fleeced from the husbandman ! The ruling power to-day is not bound to recover, or compensate the husbandman for the loss of his crops or cattle by theft or robbery. On the country, the sufferer who brings cases of theft of crops or cattle to the notice of the authorities, is victimised in so many ways, that it is sickening to think or speak of. He often loses in bonuses, in stamp duties, and lawyer's fees, more than he loses by the theft, and too often the property stolen is not recovered, not at least in good condition. How different this from the old Hindu ideal of kingship ! Let the reader judge whether Lord Cornwallis's claim to "a proportion of the produce", without the performance of those duties, on the due performance of which that claim was justified, was a just claim.

For a more accurate knowledge of the rights and duties of Hindu kings, we refer the reader

to the provisions of the *Sanhitas* or Hindu laws, of which we place a short summary before him, for his information.

(1) *Manu, VIII.*

“The king is to restore to all the castes their wealth removed by thieves” (40)

“The king himself or his agent should not create causes of action (*vvadam*) or disputes. Nor should he appropriate wealth due to others (43). Just as the hunter (*Mrigayuh*) traces the path of the hunted deer by the drops of blood fallen on the ground, so should the king trace the path of justice and equity by inference” from circumstantial evidence (44).

“Increase due to accumulated interest shall not exceed twice the principal, if realised in one instalment. As for increase in paddy, fruits and cattle, it shall not exceed five times the principal” (151).

“Anything extracted under compulsion, enjoyed under compulsion, or written under compulsion, and all that is the result of force, shall be taken as not done, says *Manu*” (168).

“He who does not return mortgaged property, and he who without mortgaging property,

asks for its return, both should be punished like thieves" (191)

"Land should be reserved on all sides of a village, of a breadth of 100 bows" &c. "for pasturage" (237, 238, 239).

"When a dispute arises as to the boundary of two villages, the king shall determine the boundary in the month of jyēshtha, when all boundary-marks are clearly seen" (245), & c. to "If the boundary can not be determined by marks, the righteous king shall himself fix the boundary from a consideration of the greatest benefit to all the parties concerned" (265).

(2) *Yajñwalkya, I*

"The king is to protect the people from the oppressions of his own flatterers, from thieves, from the wicked, and the violent, specially from the Patwaries or scribes (*kayasthark*). The sins that people commit when unprotected, one-half of those sins, is the king's, who takes taxes from them." (336, 337).

II, "When there are no marks to indicate the boundaries, the king is to fix the boundaries", & c. (156 & c).

“Grazing grounds are to be fixed as desired by the village community, or as ordered by the king. Between the fields and the village sites, there shall be reserved a breadth of 100 bows, between the fields and large woody villages (*karkatasya*) two hundred bows, and between the fields and towns four hundred bows” (169, 170).

“When a person arrested on suspicion of theft, can not clear himself, the stolen property is to be restored to the owner, and the thief punished for theft” (272).

(3) *Vishnu*

“Property stolen by a thief should be recovered, and the whole of it restored to all the castes. If not recovered, its value should be paid from the king’s own treasury” (III-45, 46). “In all cases restore to the owner the value of the crop destroyed” (V-145). “The king should punish the destroyer of boundaries as a first class criminal, and compel him to restore the boundary-marks”. (167).

(4) *Gautama*

“The gift of *vali* (or “*contribution fonciere*”) to the king by husbandmen is a tenth, an eighth, or a sixth of the produce” (Ch X).

(5) *Vasishtha*

"The king's minister is to do the work of the council. When two parties quarrel, he is not to be partial to any one of them. If he does so, the guilt falls on the throne. If he does not, there is no guilt. He is to mete out equal treatment to all parties, otherwise the guilt will be on the throne. The king is to represent the interest of minors who can not act for themselves. Treat those who can act for themselves, as such" (Chap XVI)

Indeed the old Hindu ideal of kingship would seem to us to-day to be very strange. "A king even if he be a baby, is not to be neglected as being a mere man, he is a great divinity appearing in the human form" * (7-8) "*Na rajnam aghadosho'sti*",—"The king can do no wrong" is the Hindu version of the old English "Divine right of kings". On the other hand, the abuse of the royal power by the king is condemned in the strongest terms — "The king, who foolishly oppresses his own people, by not taking care of

* *Valopi navamanavayo manushya iti bhumi-pati* ;
Mahati devata hyesha nararupena tishthati ॥ 7-8 ॥

them, before long he is dethroned" ‡ (7-111)
 "The king who does not protect but forcibly extorts the sixth part of the produce, such a king is said to be the carrier of all the excreta of the world *" (8-308). The *Mahabharata* is still more out-spoken, and condemns such a king in somewhat intemperate language, like Milton justifying 'Regicide' — "The king who does not protect, but who extorts contribution, who destroys the kingdom, who is not a leader of the people, such a king is an incarnation of evil, who should be thrown into fetters by the people without any mercy, and The king who having promised, saying "I will be your protector," does not protect, against such a king the people should combine, and treat him like a rabid dog, quite out of his senses" † (Anushasana, --96—34, 35)

‡ *Mohad raja svasaktram yah kashayaty anavekshaya |*
So'chirad bhishyate rajya jivitchcha savandhava ||
 (7-111)

* *Akshitaram rajanam valshadbhagaharitam |*
Tamah savalokasya samagamalaharakam |
 (8-308)

‡ *Akshitaram hartaram viloptaram anayakam | tam*
va rajakalim .. prajah sannahya nirghnam ||
Aham va rakshitetyukta yo na rakshati bhumi-pah | sa
samhatya sveva sonmada aturah || (Anusoshana,
 96-34, 35).

SECTION X

“Kautilya Arthashastra,” and Land-holding in India in Per-Buddhistic * and Buddhistic times

The *Arthashastra*, or a “Manual of politics *cum* economics” by *Kautilya* or the *crafty* Chanakya, Minister of King Chandra Gupta of Magadha of the fourth century B. C., has since been published. Speaking generally this *Arthashastra* may be said to confirm the main features of the system of Land-holding in Hindu times as we have presented it,—laying even a greater stress on the king’s responsibility for protecting the people from meteorological and environmental visitations. It goes into details thus “*Daivanyashtau mahabhayani | Agnir udakam vyadhirdurbhiksham mushika vyalassarpa rakshamsiti |*

* Buddha is supposed to have died in 477 B. C. Alexander’s Invasion of India, took place in 350 B. C., when Chandra Gupta, king of Magadha, was a mere boy. His Prime Minister was Kautilya Chanakya or the crafty Chanakya. Chandra Gupta was the grand-father of the great Buddhist King Ashoka.

Tebhyo janapadam rakshet" † (Upanipatapraticarah, IV). Dr. ShamaSastry thus translate : "There are eight kinds of providential visitations : They are fire, floods, pestilential diseases, famine, rats, tigers (vyalah), serpents and demons" (p. 253). 'Fire' of course includes droughts ; and 'pestilential diseases' include cholera and small-prox among men, and rinderpest and anthrax among cattle. Rats include by implication, all farm pests affecting large areas. As regards providing pastures for the people's cattle the Arthashastra lays down very much the same provisions as Manu, Yajnavalkya, and others,—as we have shewn. lay down. Says the Arthashastra—"Akrishyayam bhumau pashubhyo vivitani prayacchet" (Bhumicchidraavidhanam, II—1), which Dr. Shama Sastry thus translates : "The king shall make provision for pasture grounds on uncultivable tracts" (p. 52) The directions of the Arthashastra for famine-relief-operations should serve as an eye-opener for us all. Says the Artha-Shastra :—"Durbhikshe raja vijabhaktopagraham kritvanugraham kuryat ; Durgasetukarma va bhaktanugrahena bhakta-samvibhagam va deshanikshepam va ;

Mitrani va vyapashrayeta | Karshanam vamanam va kuryat | Nishpannasasyamanyavishayam va sajanapado yayat | Samudrasarastatakani va samshrayeta | Dhanyashakamulaphalavapan setushu kurvita | Mriga-pashu-pakshi-vyalamatsyarambhan va" || Upanipatapraticarah, IV || Dr. Shamasstry thus translates : "During famine, the king shall show favor to his people by providing them with seeds and provision (bijbaktopagraham). He may either do such works as are usually resorted-to in calami-(1), he may show favor by distributing his own collection of provisions, or the hoarded income of the rich among the people, or seek for help from his friends among kings Or the policy of thinning the rich by exacting excessive revenue (karshanam), or causing them to vomit their accumulated wealth (vamanam), may be resorted-to. Or the King with his subjects may emigrate to another kingdom with abundant harvest. Or he may remove himself with his subjects to sea-shores or to the banks of rivers or lakes. He may cause his subjects to grow

(1) "Durgatasetukarma", 'repairs of ruined buildings'

grains, vegetables, roots, and fruits wherever water is available. He may, by hunting and fishing on a large scale, provide the people with wild beasts, birds, elephants, tigers or fish (p 254).

It may be noted here that when the Arthashastra was first published, it created a great sensation, and in the excitement of the moment, the text of a Sutra of the Artha-Shastra in the Chapter on Crown-lands, giving directions to the Super-intendant of the king's own farm (Sita-dhyaksha), was misread, misinterpreted, and misapplied. Mr. Anderson, M. A. of Balliol College, Oxford, formerly of the Bombay Civil Service, taking his stand on that misapplication and misinterpretation, says in his "Facts and Fallacies about the Bombay Land Revenue System" (p. 54) :— "In Chanakyas Kautiliya Arthashastra (Science of Political Economy) about 320 B. C, just when Alexander of Macedon was stirring things up a bit, he (Chanakya) observes that nearly all land is the property of the State, and is *let on half crop share*" (Art 84). Prof. Thomas of Oxford, formerly Librarian of the India office, going into

raptures over the publication of the Artha-Shastra (Cambridge History of India, Vol. I, p. 475), and calling it as “perhaps the most precious work in the whole of Sanskrit Literature”, also says —“Apart from the royal domains, which must have been considerable, the ultimate property in land appertained, in the sense in which it has since prevailed, to the king” (p. 475). For a scholar to speak of the Arthashastra of the ‘Crafty’ (Kautilya) Chanakya, the Macchiavelli of India,—a veritable Iago, “as deformed in body as he was depraved in mind” (B. I, p. 270), who destroyed by the most Satanic intrigues (“Mantra-yuddham” as he calls them, A, XII—2) and murders, the whole race of king Nanda of Magadha, in retaliation for a small personal insult unwittingly offered,—also the result of intrigue among courtiers (See Mudra-rakshasa),—for a scholar to speak of this work of Chanakya, as “the most precious work in the whole of Sanskrit Literature,”— shows what a poor idea that scholar has, of Sanskrit Literature. Both Mr Anderson and Prof. Thomas take their stand on a misread and misapplied text of the Artha-Shastra. Drs. Jolly

and Schmidt in their Introduction to the Panjab edition of the Artha-Shastra, thus point out the mistake :—“A Sloka quoted in the commentary on A. II, 24, makes the king owner of both land and water in his realm. A close examination of the whole chapter on the Sitadhyaksha (II. 24) shows, however, that the ownership of the king was confined to the crown land called Sita, and did not extend to the land owned by the ordinary peasant.” (p. 38)

The text of the Arthashastra (II-24) under reference, runs thus : “Sitadhyakshah... bijani yatha kalam grihniyat | Bahula-parikrishtayam svabhumau dasakarmakaradandapratikartribhivapayet | Karshanayantropakaranabali-wardaishchaishamasangam karayet | | Vapatiriktamardhasitikah kuryah | Svaviryopajivino va chaturthapanchabhagikah yatheshtamanavasitambhagam dadyuranyatra kricchrebhyah svasetubhyah”. Dr Shamasastri thus translates the text :—“The Superintendent of agriculture shall in time collect the seeds of all kinds of grains.....He shall employ slaves, labourers, and prisoners (dandapratikartr) to sow the seeds on crown lands which have been often

and satisfactorily ploughed. The work of the above men shall not suffer on account of any want in ploughs (karshanayantia), and other necessary instruments, or bullocks..... Fields that are left unsown (vapatirektam, i.e., owing to the inadequacy of hands) may be brought under cultivation by employing those who cultivate for half the share in the produce (*ardhasitika*); or those who live by their own physical exertion (svaviryopajivinah) may cultivate such fields for $\frac{1}{4}$ th or $\frac{1}{5}$ th of the produce grown; or they may pay (to the king) as much as they can without entailing any hardship upon themselves (*anavasitam bhagam*), with the exception of their own private lands that are difficult to cultivate." This text about "ardhasitika" or "those who cultivate for half the share in the produce grown", appearing in the chapter on Sitadhyaksha or Superintendent of the Royal farm, there can be no mistake, as Dr Jolly points out "that the ownership of the king was confined to the crown land called Sita, and did not extend to the land owned by the ordinary peasant." The expressions "Svabhunau," "Crown lands", "svasetubhyah" "own private

lands"—as Dr. Shamasastri translates them, are conclusive that there were the people's own lands, just as the king had his crown lands

In a foot-note to the aphorism "vapatiriktam ardhasatikah kuryuh" &c, "Fields that are left unsown may be brought under cultivation by employing those who cultivate for half the share in the produce" &c, Dr. Shamasastri gives the following translation of a quotation by the commentator :—"Those who are well-versed in the Sastras admit that the king is the owner of both land and water, and that the people can exercise their right of ownership over all other things excepting these two" (P. 140) If this quotation signifies any thing, it signifies this : "Palanasyaiva rajyatvat,"—"Dushtashikshashishta-pariplanancha", &c, as Sayana explains the true meaning of kingship (Taittiriya Brahmana Bhashya, 1-4-7-7),—"To be king means "to protect the people," The king's controlling power extends without limitation, so far as it relates to "the giving of lessons to the wicked, and the protection of the good". Kingship in the abstract, divested of its connection with the self-interest of any human

individual, however exalted,—against the interest of the people, is another name for pure justice and mercy or protection ; and in that sense there may be some meaning when the commentator says “that the king is the owner of both land and water” If anything else is meant, the commentator is a toady, a worthy disciple of the Crafty Chanakya

Indeed in the 13th Aphorism of the “Aphorisms of Chanakya”—“Chanakya Sutrani”—“Prakritikopassarvakopebhyo gariyan,”—Chanakya tells us in the plainest terms—“Of all angers, the anger of the subject people is the most formidable”. This is unmistakably a distant echo of the cardinal principle of politics set forth in the Rigveda,—“Vishastva sarva vanchantu, ma tadrashtram adhibhrashat” (10-173-1),—“See (O king) that all the population (Vishah) desire thee to remain their king, that thy kingdom may not slip from thy hands.” Peasant-proprietorship is a necessary corollary of this cardinal political principle, as true in the days of the Rigveda, as in the days “Chanakya’s Kautiliya Arthashastra, about 320 B. C”. That Peasant-proprietorship was the law of Land-holding in Pre-

Buddhistic and Buddhist India, will be clear from the following extract from the Cambridge History of India (V I, p. 198), which gives us the results of the researches of that eminent Buddhistic scholar, the late Dr Rhys Davids :—
“The rural economy of India at the coming of Buddhism was based chiefly on a system of village communities of land owners, or what in Europe is known as peasant proprietorship. The Jataka bears very clear testimony to this. In the monarchies, the king, though autocratic and actively governing, had a right to a tithe on raw produce, collected as a yearly tax ; and only to this extent could he be considered the ultimate owner of the soil. All abandoned, all forest-land, the king might dispose of ; and under this right was included the reversion to the crown of all property left intestate, or ownerless...The tithe on produce was levied in kind, measured out either by the village syndic or headman (gama bhojaka), or by an official (mahamatta) at the barn doors, or by survey of the crops. Some of the rice and other grain may presumably have been told off for the special granaries kept filled for urgency in war or famine. The

amount levied seems to have varied from $\frac{1}{8}$ or $\frac{1}{12}$ *according to the decision of the ruling power or other circumstances." (Does it not necessarily follow, that unlike the present day, to obtain the maximum yield from the soil, was the common interest of both the peasantry and the State, "by the ancient law of the country ?) "And the contributions raised at one or more *gamas* (villages) rural or suburban, could be made over by a monarch to any one he wished to endow. Again, the king could remit the tithe to any person or group" (p. 198, 199). "It is just possible that the old tradition, expressed in the Brahmanas † when a piece of land was given as a sacrificial fee—"And the Earth said: "Let no mortal give me away!"—may have survived in the villages as a communal anti-alienising feeling concerning any disintegration of the basis of their social and economic unity" (p. 200), "Adjoining or merged into these wilder tracts were supplementary grazing pastures of herds of cattle and goats,—herds belonging to king or

**Gautama X-24 ; Manu VII-130.*

† *Satap. Br. XIII-7-15.*

commoners" (p. 202) † "The peasant proprietors had a nominal head in the *bhojaka* or headman, who, as their representative at political headquarters and municipal head, was paid by certain dues and fines" (203). "There was among Indo-Aryans little of the feudal tie between land and lord with lordship over the land-tillers, which made broad acres a basis for nobility in the West" (p 204)

Special importance has been given to Chanakya-Chandra Gupa's time, i, e, "about 320 B. C". That was about 150 years after the Buddha's Ascension in 477 B. C. As regards Chanakya-Chandra Gupta's time, or about 320 B, C, or 150 years after the Buddha's Ascension, Dr Rhys Davids's "Buddhist India" gives us the most reliable history. What have we there ? "No doubt different villages, in different districts, varied one from another in the customs of land-tenure, and the rights of individual house-holders as against the community"....."In some respects they (the village arrangements) were all similar. We no where hear of isolated houses. The houses were all together in a group, separated only by narrow lanes. Immediately adjoining was the sacred grove of trees of the primeval

† *Jataka* 1-194, 388, *Rv* X-19-4, 5

forest, left standing when the forest-clearing had been made. Beyond this was the wide expanse of cultivated field, usually rice-field. And each village had grazing ground for the cattle, and a considerable stretch of jungle, where the villagers had common rights of waste and wood". "The cattle belonged severally to the householders of the village. No one had separate pasture. After the crop was cut the cattle roamed over the field. When the crops were growing, they were sent all together, under the charge of a herdsman, hired by the village collectively, to the village grazing grounds beyond the field." † "The fields were all cultivated at the same time, the irrigation channels being laid by the community, and the supply of water regulated by rule, under the supervision of the headman" (44 to 46).

Dr Rhys Davids proceeds : "There was no such proprietary right as against the community, as we are accustomed to in England." "No individual could acquire, either by purchase, or inheritance, any exclusive right in any portion of the common grass-land, or wood-land. Great importance was attached to these rights of

† Jat 1-194 ; 3-401 , 4-276 ; 4-167.

pasture and forestry." "It is often made a special point in describing the grant of a village to a priest, that it contained such common." * "What happened in such a case was that the king granted, not the land (he had no property in the land), but the tithe due by custom, to the government as yearly tax. The peasantry were ousted from no one of their rights" "The economic conditions in such villages were simple" "There were no landlords, and no paupers. There was little if any crime" (44 to 51)

*In the Dialogues of the Buddha, 1-108, etc. we read (Compare foot-note) —"The land revenue payable of course in kind, would be a tithe. If the king had full proprietary rights as well, his share would be one half. The grant would be of his own rights only. The rights of the peasants to the other half, and to the use of the common and waste and woods, would remain to them." Cp "Ardhasatika" (A. S. 2-24)

SECTION XI

The Mahomedan ideal of the rights and duties of the ruling power receiving *vali* or land-tax.

The Islamic ideal of land-holding may be said to be beautifully summarised in the following well-known couplets of the poet Sadi —“Rayat chu bekh and, wa Sultan darakht | Darakht aye pesar bashad az bekh sakht | Makun tatoani dele khalke resh | Wa gar mi kun, mi kani bekhe khesh” || “The peasant is the sap-supplying root of the living and growing tree, the king. O my darling (king), the tree stands firm because of its roots. Do not afflict the peasantry, for thereby you would lay the axe (O king) to dig out your own root ” *

* Rayat = Wealth-producing Peasantry | Chu = like | bekh = root | and = are | Wa = and | Sultan = King | Darakht = tree | aye = O | Pesar = Darling | bashad = is | az = from or by | Sakht = firm | makun = Don't do | tatoani = as far as you can | Dele = heart | Khalke = people who produce wealth (peasantry) | resh = wound | Gar = if | Mi kun = You do | Mi kani = You will dig | bekhe = root | Khesh = own.

It seems that our Mahomedan Emperors, as a rule, observed the old Hindu laws with or without modification, as they suited their purposes or their times, without caring to promulgate new laws. Akbar alone tried by his Ayeen Akbary to codify the Mahomedan law regarding land-occupation, and the rights and duties of the ruling power receiving, and of the husbandman, paying the land-tax, called *vali* in Hindu times. It should be borne in mind, as it appears from the translator's preface to the Ayeen Akbary, that the Governor General himself in his forwarding minute of the 2nd June, 1783, i. e., eighteen years after the Company obtained the Dewani, thus described the Ayeen Akbary :—"It comprehends the original constitution of the Mogul Empire." The Governor General who spoke of the Ayeen Akbary in these terms, could be no other than Warren Hastings himself who spent in India thirty-five years of his life (1750 to 1785), so that his opinion should be accepted without question. There could be no doubt that when the British Statute of 1787, 24 Geo III, cap 25, (See the East India Company's "Analysis of the Laws and Regulations" &c, Vol. II p, 50,

quoted at p. 34) in its section 39, bound down the Court of Directors, in their legislation in regard to land-holding in India, to "the laws and constitution of India," it referred to the Ayeen Akbary in particular, which Hastings himself had said,—“Comprehends the original constitution of the Mogul Empire”

The first and most remarkable point about “the original constitution of the Mogul Empire”, as presented by the Ayeen Akbary, is, that when a Mogul Emperor, like Akbar himself, claimed a contribution from the husbandmen, he claimed it, not on the ground that any confiscation of the husbandmen's land had taken place, when the Mahomedans conquered India, as in England, after the Norman Conquest,—not on the ground that the land in India was ever a *terra regis*, but only as a “return for the cares of royalty” (189). We have shewn that under the Hindu law—“the man who first breaks the fallow is the owner”—“*sthanuchedasya kedaram*,” that “men are seen to be the owners of their lands”—“*kshetranam isitaro manushya drisyante*” (*Mimansa Darshanam*, 6-7-3); “the land is not the property of the king”—“*na rajno bhurdhanam*” (*Taittiriya Brahmana*

Bhashya, 1-4-7-7) The Ayeen Akbary, simply follows in the foot-steps of the Hindu kings, by recording under the head of 'tributes and taxes', the husbandman's contribution of a portion of the actual produce of the land to the monarch. Thus we read in the section headed "Of tribute and taxes" (P 238) :—"In former times, the monarchs of Hindustan exacted the sixth of the produce of lands." How different this from "rent" in the sense of "unearned increment", now attempted to be thrust upon the Indian peasantry, after the example of England, where, says Justice Field :—"From the peculiar course of progress in England, the absolute ownership of the land, was, from the close of the seventeenth century, in the hands, not of the cultivators (as under both the Hindu and the Mahomedan Governments in India, D D.), but of a limited class of proprietors (who had no existence in India, D. D), who were all-powerful in the Legislature (of England) to regulate its measures with a view to their own interests above all others, there has been evolved a theory of Rent, * not at all

* "The basis of this theory is the application of Capital to land. It postulates the remuneration of the cultivator at no higher rate than the bare wages of unskilled labour

applicable to other countries" (P 41). Wherever the English nation", says Field, "has extended its sovereignty, it has directly or indirectly endeavoured to introduce its own system of land-holding (with the poison of unchecked subinfeudation superadded,—without the safeguard of a Statute of Quia Emptores, which, renders it something infinitely worse than even the English system. D D), and apply this (most ' mischievous, D D.) theory of rent to other and different conditions of rural economy" (45). This arbitrary thrusting of the English theory of 'rent' on the Indian peasantry, is ruinous to agriculture, and most galling, because it is attempted to be done under a false colour, in the name of "the ancient law of the country" which the reader should see, really lends no colour to it. Even Lord Curzon in his Resolution

The Capital employed must yield the ordinary rate of profit, not less than the average rate of profit derived from capital employed in other investments. The labourers who do the work of cultivation are paid the ordinary rate of wages, that too often means the barest sustenance. All the profit which the land yields, after discharging those two items (interest and wages), is Rent" (Field P 42).

of the 16th January, 1902, on the Land Revenue Policy of the Indian Government, appeals to "the ancient law" of the country, for his authority, which of course he is bound to do under Pitt's India Act, which has never been repealed. He says :—"By the ancient law of the country, to quote the opening words of Regulation XIX of 1793, by which the Permanent Settlement was created in Bengal, the ruling power is entitled to a certain proportion of the produce of every acre of land, unless it has transferred or limited its rights thereto." Their Lordships, from Lord Cornwallis in 1793 to Lord Curzon in 1902, rest the claim of the Indian Government, to a share "of the produce of every acre of land," on "the ancient law of the country", which they are bound to do under Pitt's India Act of 1784. Yet they do not cite, nor have they the patience or the time to discuss, what that "ancient law" was. They do not wish to admit the unpleasant fact, patent to all, that under the ancient law of the country, Hindu as well as Mahomedan, there was in India no 'rent' in the sense of 'unearned increment', but only in the sense of a "contribution for services rendered", or as the Ayeen

Akbary puts it, "in return for the cares of royalty" (189) Could it be conceived that whatever their Lordships did, they did under the name of "the ancient law" of the country, not caring to know whether they were really doing so or not,—but only as a sop to the Cerberus of the British Statute, never yet repealed, passed in 1784,—24 Geo III, cap 25,—almost shelved away to this day,—the 39th section of which bound down the Court of Directors to give orders "to settle and establish upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which tributes, rents, and services shall be in future rendered and paid to the Company by the ryots, Zemindars, polygars (subordinate chiefs in Madras), Talukdars, and other native landholders" (*Analysis of the Laws and Regulations for Public officers in the Revenue Department*, printed in 1814, Vol. II, page 50)

O for the tampering with the text of Pitt's India Act ! We have shewn that in the records of the East India Company themselves ("*Analysis of the Laws and Regulations*," & c, Vol. II p 50, see page 34),—the text of Pitt's India

Act gives the first place to "the ryots" as "native land-holders." In Field (p. 487) and in the Cambridge History (V-v, p. 480), the name "Ryot" is expunged, and 'Rajas', though irrelevant, substituted in its place. Field also says that "Lord Cornwallis by way of reform abolished the Kanungoes and Patwaris, and did away with their offices; and with them disappeared the only written evidence of the rights of the cultivators of the soil" (p. 592). Again he says, "In the Lower Provinces of Bengal those raiyats who had rights lost them, because they were too poor and too ignorant of our forms of procedure, and rules of evidence to produce proof of usage; and the only records of their title by occupation was in the offices of the *Patwaries* who were abolished, and of the *Zemindars* who withheld them" (p. 679). Is there not an intimate connection between the expunging of the word "ryot", and the substitution in its place of the irrelevant word "Rajas," and the abolition of the offices of the Patwari and the Kanungoo, of whose offices the Ayeen Akbary says:—"The Patwary is employed on the part of the husbandman to keep an account of his receipts and disburse-

ments, and no village is without one of these. The Canoongoo is the protector of the husbandman, and there is one in every Porgunnah. These officers are paid by Government according to their rank" (p 247) ? Not only was the name of "the Ryots" who were given the first place as "native land-holders" in Pitt's India Act, expunged, but "the only written evidence" of their rights, was done away with, by the abolition of the offices of Kanungoos and Patwaris, so as to completely nullify the provisions of section 39 of Pitt's India Act, in favor of "the ryots" ! Would not that be the way by a wholesale confiscation of the Proprietorship of the Indian peasantry in their lands, to obtain a clean slate for the creation of a *terra regis* in India, like England after the Norman Conquest ? Let those who can, unravel the mystery

"Mahomedan law", quotes Justice Field (p 798) from the Report of the Bengal Rent commission in 1879,— "recognized only two persons as having an interest in the soil, namely, the Government and the cultivator. The raiyats cultivated the land, and paid *kheraj* to Government. This *kheraj* was a share, a proportion of the produce

which was paid either in kind or in money which represented its commuted value, which the Government itself fixed . . . If it be asked— is *kheraj* rent, or does it include rent ? The answer must be in the negative, if by the term 'rent' is meant rent according to either of the theories of rent propounded by European Political Economists, * (which hold good, not in India, but only where 'capitalist farmers' exist, as in England D. D) It was no part of the Mahomedan system that any person should stand between the Government and the actual cultivators, and intercept a portion of the *kheraj* paid by the latter" (Field P 798) The reader sees that there was no room here for the existing "subinfeudation of rights in land". The Mahomedan ideal of the mutual rights and duties of the ruling power is seen clearly reflected in the pages of the Ayeen Akbery —

* (1) Ricardo's theory that 'rent is what land yields in excess of the ordinary profit of stock,' and (2) the theory of the modern school that "rent is the excess of profit after the repayment of the whole cost of production beyond the legitimate profit which belongs to the tenant as a manufacturer of agricultural produce."

(1) The instructions issued by His Majesty to the Collector of the Revenues—called the Amilguzzar, and to the collector of information, called the Tepukchy, are highly interesting and edifying, as throwing considerable light on the subject.

“He (the Amilguzzar or Collector of the Revenues) must consider himself the immediate friend of the husbandman, be diligent in business, and a strict observer of truth, being the representative of the chief magistrate. He must transact his business in a place where every one may find easy access, without requiring any mediator” (p 261). Does not this, we ask, exclude what we have to-day :— (1) Official secrecy, (2) the sharkish gangs of lawyers from the “learned counsels” to the meanest touts, who throng our courts of to-day, to devour the substances of our food-producing husbandmen, and (3) court-fees, process fees, stamps, and other paraphernalia of our law-courts? “He shall annually assist the husbandman with loans of money.” “He must assist the needy husbandman with loans of money, and receive payment at distant and convenient

periods" (p. 261, 262). * Does not this practically exclude those blood-hounds called Mahajans, some of whom combine in themselves the functions of money-lender and Zemindar or Talukdar, thirsting after the husbandman's ponnid of fiesh, in the form of interest at the rate of 75 or even at times 150 per cent per annum. "Let him (the Collector-Magistrate) learn the character of every husbandman, and be the immediate protector of that class of our subjects. (p 261)" Notice this 'immediate frienship,' of the Collector and Magistrate, which presents a striking contrast to the existing state of the relation between those officers and the husbandmen. To-day, if the Government proposes to do a bare act of justice to the husbandman, for example, to authorise a husbandman to excavate a tank on his own land for drinking purposes, without paying *Nazar*, which might go to curtail the illegal profits of the Zemindar, the doleful cry is heard, "With all these curtailments, the Zemindar can not live" ! The Government in such cases,

* The Government in England is not the land-lord, and yet the English Government propose to help English agriculturists with loans free of interest, repayable "in sixty years'.

suffers itself to be accused of even "thrusting the assassins' dagger."! "Let him (the Collector-Magistrate) not be covetous of receiving money only, but likewise take grain" (p 262)—i. e, "dividing the produce" by kunkoot, Buttiey, &c, (=appraisement). "Whenever it will not be oppressive to the subject, let the value of the grain be taken in ready money at the market price (p. 263)." Notice, the demand in all cases is for a share of the "grain", the actual yield of the land, and not a demand at a rate per Bigha of grain or money, whether there is any produce or not, like to-day "In every instance he must endeavour to act to the satisfaction of the husbandman (p. 263)." "If after sending the Nesukh or estimate of assets of revenue", says the Ayeen Akbery, "any calamity befalls the crops, the Aumil shall immediately investigate the circumstances, make an exact calculation of the loss, and transmit the same to the presence, in order that it may either be approved of, or an Aumeen sent to make further enquiry. Let him collect the revenues with kindness" (p. 264). In the light of this fact, were not, we ask, the terms of Lord Cornwallis's Procla-

mation of the Decennial Settlement of 1793, which ran thus :—“He (the Governor General) accordingly notifies to them (i. e. the Zemindar-contractors of the revenue), that in future no claims or applications for suspensions or remissions on account of drought, inundation, or other calamity of season. will be attended to” (Field, P. 515),—a demand which the East India Company enforced against the Zamindar-contractor, and the Zamindar-contractor enforced, and enforce to the letter, to this day, clearly against “the laws and constitution of India,” and therefore clearly *ultra vires*, under 24 Geo 111, cap 25, Sect 39,—the ruling power signifying its approval by silence. Again proceeds the Ayeen Akbery :—“If any one does not cultivate *kherajee* (i. e. revenue-paying) land, but keeps it for pasturage, let there be taken yearly from a buffalo 6 dams. and from an ox 3 Dams, but calves shall be permitted to graze without paying any duty” (1 Dam = one-fourtieth or $\frac{1}{40}$ of a Rupee, or $1\frac{1}{2}$ pice). Is not this a conclusive proof that even the Mogul emperors did not violate the old Hindu law of “*sthanuchedasya kedaram*,”—‘the arable soil is the property of the

man who first reclaimed it', that the Mogul Emperors recognised the peasantry as the proprietors of their lands, and free to cultivate or leave them fallow as they pleased, without being liable to pay the usual revenue (kheraj), when left fallow ? Add to this that the Ayeen Akbery says —“For every plough there shall be allowed four oxen, two cows, and one buffalo, from whom likewise no duty shall be taken for pasturage.” Evidently the Mogul Emperors also recognised the old Hindu principle, however modified, that the ruling power was bound to provide free pasturage :—“*Dhanuhsatam*” &c, for the husbandman's plough-cattle (*Manu*, 8-237, 238, 239, and *Yagnavalkya*, 2-169, 170). Again says the Ayeen Akbary “the charges attending travelling, feasting, or mourning’—or what goes to-day under the name of *Barbadari*, and is often exacted from the husbandman, “shall not furnish pretences for exactions”. While the “Report of the Committee (recently) appointed to consider the Amendment of the Bengal Tenancy Act, 1885, proposes to legalise Nazar or Salami, saying:—“The transferer shall tender payment to the land-lord (revenue-contractor) of a fee which shall amount

to 25 per cent of the consideration money,"—the Ayeen Akbary says:—"Neither is he permitted to receive Salamis of any kind" (Ayeen Akbary, P 261 to 265). Lastly the instructions to the Tepukchy or officer in charge of official information, are as follows:—"Whenever a husbandman comes to settle his account, let it be done immediately" The Ayeen Akbary would not tolerate that ruinous dancing of attendance, without compensation, on the part of the husbandman, in his working season, and out of it, before the court-officers, and the Myrmidons of the Zamindars, and the Settlement officers,—a sight so sickening, and yet so common in our days "If any place has been attacked and plundered, let a calculation be made of the loss sustained in cattle and effects, which is to be entered in the journal, and the circumstances represented to the presence." (A. A, p.268). The reader sees that the spirit, if not the letter, of the old Hindu laws, for the protection of the husbandman and his crops, runs unchanged through Mahomedan times

Now for the administration of equal justice, free of cost, for rich and poor alike,

which we found enforced under Hindu rule, * "*Rajamvntri sadah karyani kuryad samah sarveshu bhnteshu*" (*Vasishtha— XVI*), "The kings' minister shall do the work of the council (*sadh*), and be equally just to all'. How did it stand under Mahomedan rule ? Let us in this connection first bear in mind the memorable words of the great leader of the "common-wealth of Islam," Caliph Omar, describing in glowing words, the lofty ideal of Islam, with which he began his own rule :—"By Allah, he that is weakest among you, shall be in my sight, the strongest, until I have vindicated for him his rights ; but him that is strongest, will I treat as the weakest, until he complies with the law " (En. Brit., Caliphate). True, Omar's golden

*See Manu, VIII—40, 43, 44, 49, 151, 168, 170, 186, 187, 191, 199, 203, 230, 231, 238, 245, 250, 265, 304, 319.

Vishnu,—III—46 ; V—79, 145, 167.

Yagnavalkya, I—336, 337; II—153, 154,

I55, 156, 157, 158, 161, 162, 163, 169, 170, 171, 172, 173, 174, 175, 271, 272, 273.

Cautama, X.

Vasishtha, XVI.

ideal is too good to be always realised in practice, and among our Mahomedan rulers there were good, bad, very bad, and indifferent ones. But we are here discussing laws and ideals. The Ayeen Akbary, which no less an authority than Warren Hastings himself as "Governor General, "ventured to recommend to the patronage of the Board" in 1783, describing it as "comprehending the original constitution of the Mogul Empire," which, said Mr. Shore, in his famous Minute of the 2nd April, 1788, was "in use until the time of Bahadurshah (1707 to 1712)" i. e. until fifty years before the Administration of our country practically passed into the hands of the East India Company,—the Ayeen Akbary presents before us the standard held before the eyes of our Mahomedan rulers, as regards the administration of justice, free of cost, so as to make it equally accessible to rich and poor alike. We read in the Ayeen Akbary:—"Although it be the immediate duty of a monarch to receive complaints and administer justice (evidently no court-fees or stamps were charged, so as to make the administration of justice, a source of Government revenue D. D.), yet seeing that it is not possible

for one person to do every thing, it necessarily follows that he must delegate his power to another. This delegate must not be satisfied with witnesses and oaths (like the judges, high and low, of the Civil Court to-day, and too often also of the Criminal Courts D. D.), but make diligent investigation. Divesting himself of partiality and avarice, let him distinguish the oppressor; and when he has discovered the truth, act accordingly. He must examine each witness (without the aid of lawyers charging fees often at fabulous rates D. D.) separately upon the same point, and write down their respective evidences. The Cazy tries the cause; and the person who passes sentence, and orders punishment is called the Meer Abdul" (P. 258). "To receive complaints" was then admittedly "the immediate duty of a monarch." To make the filing of complaints and the settlement of disputes a source of revenue, by enforcing the payment of court-fees and stamp-duties, which means selling justice, by making it accessible to the rich, and inaccessible to the poor, was out of the question. The husbandman, beyond paying the royal share of the produce either in

kind, or if he chose, in its equivalent of money, had not to incur any expense of litigation, whether as court-fees or as lawyer's fees. That indeed was the most effective way of bringing equal justice within the reach of the poorest, whenever any cause of action had arisen, between the rich and the poor. Compare with this the Hindu ideal as described in the *Vasishtha Sanhita* :—"The king's minister shall perform the duties of the council. When two persons quarrel, he should not be partial to either. The guilt of partiality falls on the throne. If impartial, there is no guilt. He should mete out equal treatment to all creatures" *

The monarch also took steps to nip in the bud disputes and causes of complaint. The Mahomedan rulers appointed the "Cootwal", who, says the *Ayeen Akbary*, "must be particularly attentive to the nightly patrols, that from a confidence in his vigilance, the inhabitants of the city may sleep at ease, and every

* *Rajamantri sadah karyani kuryad, dvayorvi-vadamanayoratra pakshantaram na gachchet, yathasanamaparadho, hyante naparadhah, samah sarveshu bhuteshu* (XVI.

attempt of the wicked be prevented, or frustrated..... He shall cause the inhabitants to enter into engagements to aid and assist, and to be partakers in the joy and sorrow of each other." Might we not then to-day take a lesson in Co-operative Association, from our Mahomedan rulers ? Was not this the first attempt to sow in this country, the seeds of a true Co-operative Association, helped, but not controlled by the ruling power, which, if allowed to grow without impediment, might to-day have covered the country with a net-work of Co-operative Societies, which might have worked wonders, as it has done in all the advanced countries of the world to-day. Says the Ayeen Akbary "He (the Kotwal) must carefully attend to the income and expenses of every man..... The idle he shall oblige to learn some art." Was not this the best way to deal with the problem of unemployment ? Was not this the surest way to eradicate famine ? "He shall not permit any one forcibly to enter the house of another." Would not that forestall all cases of criminal trespass, and prevent the expenses of litigation,—no doubt causing a fall in

the Stamp-Revenue, and the fabulous income of our lawyer patriots ? “He shall discover the thief and the stolen goods, or be himself answerable for the loss.” This is the form which the old Hindu law :—“*Chaurakritam dhanamavapya sarvameva sarvavarnebhyo dadyat, anavapya cha svakoshadeva dadyat*”,—had taken under the Mahomedan rulers. The ruling power receiving the *vali* or *contribution fonciere*, was, if necessary, to compensate the husbandman for his loss by theft. How does the law stand to-day, as regards loss by theft ? We leave that question for the reader to answer from his own experiences, and those of his neighbours. “He (the Kotwal) shall see that the market prices are moderate.” This was like what led to the framing of the Corn-Laws in England. “The frequency of local dearths, and the diversity and fluctuation of prices, were extreme. It was out of this general situation that the first Corn-laws arose, and they appear to have been wholly directed towards lowering the price of corn” (En. Brit.). Nothing could be more effective towards famine-prevention, than keeping the prices of food-crops within the limits of the purchasing power of

even the poorest. "Neither shall he allow the rich to buy more than is necessary for their own consumption" Contrast this with the practice of to-day, of allowing the millionaires of foreign countries through their agents, in the name of free trade, to bid for, and buy up, and corner, or export to foreign countries, whatever quantity of food-grain they want, causing the prices of food-grain to go up far beyond the purchasing power of the masses of our people, causing wide-spread and desolating famines! At the same time, it gives a handful of Revenue-contractors, Zemindars and Talukdars, who have no direct interest in the success of agriculture, a legal ground for claiming enhancement of rent from the husbandmen, who form eighty-five per cent of the population. Again says the Ayeen Akbary. "He (the Kotwal) shall prohibit the making, selling, and buying of spirituous liquors; but need not take pains to discover what men do in secret" Let the reader compare with this, the Excise Policy of to-day, which is pursued more with the object of causing an increase of the revenue, than that of making the people more temperate, and is based on the

paradoxical plea of "securing a maximum of revenue with a minimum of consumption". Lastly "He (the Kotwal) must not allow private people to confine the person of any one, nor admit of people being sold for slaves. He shall not allow a woman to be burnt contrary to her inclination" (P. 258 to 260).

We showed before, from the Hindu law-givers Manu, Yajnavalkya, Vishnu, Gautama, and Vasishtha, the duties, the Hindu kings owed to the people, in return for the *vala* or contribution, now miscalled rent after the analogy of the *terra regis* of Norman England. We now show from the Ayeen Akbery, which, on the testimony of Warren Hastings himself, "comprehends the original constitution of the Mogul Empire", what duties the Mogul Emperors knew that they owed to the people in return for the "proportion of the produce of every acre of land" they were "entitled" to receive, which the East India Company also claimed. Thus we have before us a correct account of the duties of the ruling power "from the earliest times until the present" (Regulation I of 1793) "by the ancient law of the country" (Regulation XIX of 1793), on

which Lord Cornwallis professed to take his stand, on which he was really bound in duty to take his stand, under the British Statute, passed in 1784, 24 Geo III, cap. 25, Section 39, which bound down the Court of Directors "to settle and establish upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services shall be, in future, rendered, and paid to the Company by the ryots, Zemindars, polygars, talookdars, and other native land-holders" (See p 34). How were the orders of the British Crown, carried out by the Government of India ? Acting under the cloak of the mere name of "the ancient law of the country", without its substance, Lord Cornwallis really threw overboard the Hindu laws, given in our Sanhitas, as well as "the original constitution of the Mogul Empire", given in the Ayeen Akbery, and thereby also the provisions of 24. Geo. III, cap 25, Section 39, when he dubbed his creature, the Zemindar-Contractor, whom the Ayeen Akbery calls "a Collector of the royal or jageer lands" (i. e. the Crown lands), as "the actual proprietor of land", repeating that expression

more than a dozen times in that small Regulation I of 1793, as though believing that mere repetition, would serve for evidence and produce conviction in the mind of those beyond the seas, to whom he was responsible, and who could have no direct knowledge about our people or our conditions. We leave the reader to judge whether His Lordship's action was not *ultra vires*. If he had faithfully carried out the provisions of the British statute, and the orders passed under it by the Court of Directors, he would have followed the provisions of the Ayeen Akbary as regards the State demand, which lays down that "one-third part of the medium produce of one Beegha of *poolej* land (that is Dofasli, or land always cropped), is the revenue settled by His Majesty" (P. 244). Note the word *revenue* used here for the old Hindu *vali* or contribution, and not *rent* in the English sense of "unearned increment", due in England to the successors in interest of the barons of William the Conqueror, who after the battle of Hastings, declared himself, "as the supreme owner of the land", thus confiscating the land of the people, to reward his "Norman

followers" therewith. Here in India, there was no battle, no confiscation, so that the word *rent* in the English sense, is palpably a misnomer. "The revenue settled" being a fixed proportion of the actual 'produce', there could be no 'revenue' due, when there was no 'produce', and the 'revenue' would rise or fall, as the actual 'produce' rose or fell, with the harvest of the season, under "the laws and constitution" of the country. Lord Cornwallis thus threw overboard even the orders of his own superiors, when he enforced payment of rent in money at a rate per Bigha or per acre, even though the land should produce not a blade of grass. This then was a type of His Lordship's "administration of justice" ! Again so long as the revenue settled remains a proportion of the actual produce varying from season to season, or from year to year, there can be no room for any middlemen, like our Zemindars or Talukdars. Justice Field therefore says, with great truth, that the "Mahomedan law recognised only two persons as having an interest in the soil, namely the Government and the cultivator" (P. 798). By substituting money-rent irrespective of the actual produce of the season,

Lord Cornwallis also set the ball of English subinfeudation rolling in India, without the benefit of the English Statute of Quia Emptores, to check its fatal course, and we have in consequence, what is impossible in England to-day, an endless "chain of persons interested in the land both as rent-receivers and rent-payers", and an endless chain of these unproductive parasites, between the husbandman at one end, and "His Majesty" at the other, all sucking the life-blood of our poor food-producing husbandmen. In the Ayeen Akbary we read.—"The husbandman has his choice to pay in ready money, or by kunkoot" (= appraisement, p. 251). We read :—"Whenever it will not be oppressive to the subject, let the value of the grain be taken in ready money at the market price" (p 263) This share of the produce, the Mahomedan rulers received, not as 'rent', but as "tribute and taxes" as described in the Ayeen Akbary, P. 238). Notice also that this expression "tributes" is applied to what was due from "the ryots" in Pitt's India Act * of 1784 (See P. 34) In return for

*Notice also that the dues of a "Zemeendar", who, says the Ayeen Akbary, is "a collector of the royal or jageer lands" (P. 257),—is spoken of in Pitt's India Act of 1784 as "rents".

this share of the produce which the Mahomedan rulers received from the husbandmen, they also undertook to administer justice by settling all disputes, civil as well as criminal, free of cost, thereby making justice equally accessible to rich and poor alike. But Lord Cornwallis who came out to India as Governor General in 1789, had no previous knowledge about India. It was therefore clearly his duty to have given its full weight, to the opinion of his immediate predecessor, Mr Macpherson, who acted as Governor General from the retirement of Warren Hastings in 1785,—on “the ancient revenue system” of India, before thrusting upon the people of Bengal,—and through Bengal upon all India, as the *Combridge History of India* (V-440) puts it: “Bengal contained all the pieces that was to form the administrative mosaic of British India,”—the English theory of rent, and English land-lordism, together with “the system of land-law which grew up in England under the peculiar circumstances of an exceptional progress” (Field, P. 819). Wrote Mr. Macpherson :—“Nothing was more complete, more simple, correct, and

systematic than the ancient revenue system of this country. It was formed so as to protect the people who paid it, from oppression, and secure to the Sovereign his full and legal rights. We have reason to suppose that the Mahomedans (while they "continued the original system") improved it, by adopting some of the ancient Persian and Arabian revenue regulations" (Field, P. 443-4).

While under the Mahomedan rule, as under the Hindu, it was recognised to "be the immediate duty of a monarch to receive complaints, and administer justice" (Ayeen Akbary, P 258), free of charge, fully weighing the three kinds of evidence "written, oral, and actual possession"— (*likhitam sakshino bhuktih pramanam trividham smritam*", *Vasish'tha Sanhita, XVI*), how stand our husbandmen to-day, as regards the settlement of disputes, and the administration of equal justice to rich and poor alike ? From the filing of a complaint to the execution of a decree, every step in the settlement of disputes, whether Civil or Criminal, has to be paid-for. Whether in the form of fabulous sums paid as lawyer's fees, or as court and process-fees and stamps, every step

has to be paid-for, directly or indirectly, by our food-producing husbandmen,—at a rate quite beyond their power of endurance. Indeed disputes among the peasantry are become to-day the staple food-crop for the so-called educated class, whether as Court Officers, or as practising lawyers, who pose as the patriots of to-day, and one is tempted to enquire in surprise, whether there is a secret conspiracy between the Court Officers and our lawyer-patriots, to ply the saw between them, with the Officers at the top holding one end of the saw, and the practising lawyer at the bottom holding the other, to effect the ruin of the peasantry. To condemn it however is to condemn ourselves, and we leave that unpleasant duty alone. We also leave alone the bribery and corruption, open and secret, that dogs the steps of every suitor in a court of law, Civil or Criminal. We will only notice what we find in the report on the Administration of Bengal for 1919-20. We find there that out of a total revenue (Imperial and Provincial together) of thirty-three million Rupees, the Revenue from the sale of Court fees, and stamps (Imperial and Provincial

together), comes up to three hundred million fifty-eight thousand Rupees. Add to this another sum of not less than the same amount, for which no returns are available, which goes to fill the purses of the gangs of practising lawyers of all grades, who freely rove about the courts for booty, and whom, one of their own leaders, speaks of as "legalised free-booters" Every pice of this seven hundred millions, if traced to its source, comes from the peasantry. The peasantry pay another three hundred millions as land-revenue for the very land that has belonged to them from time immemorial, for which he can claim no appreciable return. In all probability, they pay another three hundred millions as the profits of the unproductive revenue-contractors in all their endless grades, the Zemindars and Talukdars. Lastly, while under the constitution of the Mogul Empire, the ruling power "assisted the needy husbandman with loans of money, receiving payment at distant and convenient periods" (P. 261). the husbandman to-day has to pay the village-Shylocks their pounds of flesh, probably as another three hundred millions. And shall we

ade that, while under both the Hindu and the Mahomedan rulers, it was "the immediate duty of a monarch" to "administer justice" free of cost, the husbandman to-day has to maintain gangs of lawyers in every town, and in every subdivision, probably paying another three hundred millions. What have we here? The class of people whose average income is far below the assessable minimum in England (i. e. £s 160 per annum), pay annually, directly or indirectly, not less than twelve hundred millions, for the maintenance of the unproductive classes, and support, like Atlas of old, the Indian world, on his own fainted shrunken shoulders! Our body politique is thus obviously an inverted cone, and bound to topple over some day! Our indigenous industries are practically dead. Our indigenous commerce is as good as *non est*. The husbandman may to-day be said to be the only producer of the wealth of our nation, one who, in his own feeble way, toils "from morn to noon, and from noon to dewy eve" like a father for his child, to feed our nation, without the aid of either wealth, or science to produce wealth, by converting, with ceaseless toil, the valueless

inorganic constituents of the soil and air, into invaluable food for us all ! And what is their reward at our hands ? What but the reward that king Lear received at the hands of his ungrateful daughters ! Death from Starvation and mal-nutrition ! Our food-producing peasantry are to-day the victims of perennial famine and pestilence ! Well may our Father-land exclaim in the words of king Lear :—

“Ingratitude ! thou marble-hearted fiend,
More hideous, when thou show’st thee in a child,
Than the sea-monster”

The cultivating house-holder represented by our husbandman of to-day, says Vasishtha, is as a mother to the other classes of Society—“*Yatha mataram ashritya sarve jivanti jantavah*” And Nemesis is bound to visit us some day, if he has not already visited us, for the universal passion among us, to be Zemindars and Talukdars,—squeezing from the Rayats money-rents, illegal *salamis* and *mathats*, which the law comes afterwards shamelessly to declare legal, with forced unpaid labor (*Begar*) superadded. All this comes from Lord Cornwallis’s reckless disregard of “the laws and constitution of India,” of “the

Section XIII

The Amendment of the Bengal Tenancy Act in 1929— a fatal blow to the success of true agriculture in India.

It has been said with truth :--“In 1786, Bengal contained all the pieces that were to form the administrative mosaic of British India”. (C H I, V-440) The Bengal Tenancy Act VIII of 1885 has been “modified up to the 22nd February, 1929”. The Mountain in labor--the Bengal Legislative Council, consisting of the so-called elected representatives of the people, after endless discussion and deliberation in Committee, has produced the proverbial mouse ! Heaven knows how far that will affect other parts of “British India” as hitherto..

We need here notice only three of the salient provisions of that modification : Section 26 D, 26 F, and Section 158 A,

Section 26 D, as modified in 1929, runs thus —

“The landlord’s transfer fee shall amount—
(a) in the case of the sale of a holding in respec

of which a produce rent is payable, to twenty per cent of the consideration money as set forth in the instrument of transfer : (b) in the case of a holding in respect of which a money rent is payable, to twenty per cent of the consideration money as set forth in the instrument of transfer". To this, is added the land-lord's right of 'pre-emption', 26 F, which runs thus : "The immediate land-lord of the holding may within two months of the service of notice, apply to the Court that the holding shall be transferred to himself," with "deposit in Court of the amount of the consideration money". The right of *pre-emption* of the land-lord in the cultivator's arable land ! Nothing could be more selfish, more ridiculous ! The arable land is for cultivation by a Raiyat for food-production for the people, and not for the land-lord to profiteer on it, killing true agriculture by "renting out the land, to live on the proceeds" as Dr. Voelcker points out. Legislators who are so callous to the true interest of the people, are unfit to be called the "elected representatives of the people" in any civilized country. As early as 1789 Sir John Shore had said in his Minute of 18th June :—"The rent of the land,

through whatever channels it passes into the public treasury, is paid originally by the raiyat or the immediate cultivators of the soil. Their situation not only on this account, but as being the most helpless, and exposed to oppression, ought naturally to attract the attention of the ruling power " (Field p. 489). But self-interest is blind As late as 1994 (Sir H. Cotton in his *New India* (p. 84) says (" Whatever wealth there is in India is obtained from the soil ") And the average daily income of the Raiyat has been pointed out to be six pice or a penny and a half !

These amendments of the Bengal Tenancy Act are a sop to the Cerberus of Lord Cornwallis's artfully concealed 'rebellion' against Section 39 of Pitt's India Act

Section 158 A, as modified in 1929, runs thus :— " Any land-lord whose land is situate in an area for which a record-of-rights has been prepared, may apply for the application of the procedure provided by the Bengal Public Demands Recovery Act, 1913, to the recovery of the arrears of rent which he alleges are, or may accrue, due to him for lands in such area. The Local Government shall specify the terms and

conditions, and allow any such application when such terms and conditions are specified", &c.

These amendments are made by an Amendment Committee for "the benefit of Rayats specially" as Babu Bhisimadeb Das points out,—though, as a matter of fact, even an Amendment Committee of storks legislating for the benefit of the frogs "specially", could not have done worse. The amendments speak for themselves. They are, on the face of it, 'specially' for the benefit of the land-lords of Lord-Cornwallis's creation. The crying want of Indian agriculturists is 'agricultural capital', as Dr. Voelcker points out—"The want of capital on the part of the Rayat is undoubtedly a main source of the difficulty" (p 89). These amendments are bound to multiply that "source of difficulty" a hundred-fold and spell death to true agriculture in India.

Every man from his very nativity, has an innate right to the air he breathes, the water he drinks, or the sun-light he uses; *ceteris paribus*, he has an innate right to a small plot of land in his "Lord's" earth to live in, and to grow food on, for himself and for his neighbours, a right to own it *allodially* or without a superior, and not

feudally under a superior, even as he owns allodially or without a superior, the air he breathes, the light he uses, or the water he drinks. It is monstrous cruelty to deprive any man of any of these his innate rights. Was the Committee aware that even in land-lord-ridden England herself, the statute of *Quia Emptores* puts a "complete stop" to sub-infeudation, by disallowing a sub-tenant from sub-letting his land. Was the Amendment Committee aware of the provisions of the small Holdings Act of England, passed by Parliament in 1892? "The object of this measure," it has been said, "was to help the deserving labouring man to acquire a small holding, not less than one acre, or more than fifty acres in extent. The essence of the bargain was that a fifth of the purchase-money should be paid down, and the remainder in half-yearly instalments spread over a period not exceeding fifty years." "The County Council under these acts (Allotments Acts, 1887 to 1907) has compulsory powers of 'purchase or hire' (En Brit.)

The healthy growth of a people in prosperity and happiness is greatly helped or greatly

retarded by its system of land-occupation. Comparing England with France in this respect, Justice Field remarks :—“In England the power of the nobles coalesced with that of the Crown, to destroy the rights of the peasantry, for the benefit of the nobles, who thus became absolute owners of the land. In France, on the other hand, the Crown, seeking to diminish the power of the nobility, supported the cause of the peasantry. * What has been the net result in England, of that systematic destruction of peasant-rights, for the benefit of the nobles, in the past ? In one word “Land-bankruptcy” ! The result has been :—“The cry as to land going out of cultivation, became loud and general” (En. Brit.) ! Stock-breeding and

* “Mr. Morier,” notes Field, comparing England, France, and Germany, says—“Three great countries began their political life from a similar agricultural basis. In each of them the great conflict between *immunity* and *community*, between demesne land and tenant land, between the manor and the peasant, has had to be fought out. In England the manor won, the peasant lost. In France the peasant won, the manor lost. In Germany the game has been drawn, and the stakes have been divided” (Land-holding, P. 62).

milk-production have largely taken the place of cultivation of food-crops or agriculture proper ! England does not to-day produce food enough during the year, to last her people, for even three months of the year Thanks to the vigilance of the English Administrators, and the adaptability and elasticity of her Corn-laws, that while India always producing, every year, more than three times the quantity of food required by her people during the year, in every year, is in the deadly grip of the direst famine. What with England's timely importation of food-grain from foreign countries, her development of manufactures to find employment for her unemployed, the grant of unemployment-pensions, of old-age-pensions, her poor-houses, her Infirmaries, &c, death from starvation or neglect, is never heard of in England to-day ! Yet the English people are not slow to propose the remedy for the present Land-bankruptcy in England,—the remedy suggested being, “the gradual extinction of land-monopoly” by the nobles, the “Nationalisation of land,” and the re-creation of the old yeomanry or peasant-proprietors of England of the “days of auld lang syne”

Land-confiscation, in a form far more open and pronounced, was attempted in the United States, by the British Government, before the American War of Independence,—where the Feudal System of England was sought to be introduced,—all land in America being declared as *terra regis*, and the king as “the true and only source of title” in land. King Charles I in 1632, granted Letters Patent to an English Peer to hold of the Crown the American Province of Maryland in common socage (service), as part of the English manor of Windsor. That was surely very different from the proclamation by the agents of the East India Company, of the Permanent Settlement,—the revenue-farmers being spoken-of as the “actual proprietors of the land” of the peasantry, without any foundation in truth, in violation of Section 39 of Pitt’s India Act. But what did the Americans do? By “the New York Revised Statute” of 1830, they abolished all kinds of feudal tenure, declaring all land in the United States to be allodial or or without a superior, “the entire and absolute property” being “vested in the owners”.

To save the agriculture of this country, and the people from chronic famine, the Amendment Committee of the B. T. Act should have boldly faced the situation, and followed like true subjects of the British Crown, and not of the dividend-grabbing East India Company, the lines of the Act of *Quia Emptores* of England, or still better of "the New York Revised Statute" of the United States, and abolished Zemindaries and Khas Mahals, and declared all the people's arable land in India, as held allodially in absolute ownership, as in Hindu and Muslim times, and not feudally under any superior,—thus cutting by one single stroke the Gordian knot of "the extra-ordinarily complicated state of agrarian relations" in the country, which the Committee of Amendment make their ground for doing nothing, or nothing to the purpose. In doing so, they would be doing the one thing needful to render desolating famines, which are now become perennial, as impossible in India to-day, as they are impossible in the United States. Justice Field thus testifies to the marvellous results of the inauguration of Peasant-proprietorship in Prussia,—“The result of the emancipation of

the land and the creation of peasant-proprietors, has been that the standard of cultivation has been immensely raised, that the land yields infinitely more than it did previously, and that the peasant-population is not only much better fed, and much better clothed, but is much better educated, and much more proficient in the art of tillage, than it was a generation ago" (82-83). Speaking of England, of landlord-ridden England itself, he testifies :—"The introduction of a proper alternation of crops is said to have had the effect of doubling and occasionally trebling the productive powers of the land" (40)

What is the history of Land-occupation in British India ? The Royal Proclamation of 1919 with just pride declares before the public — "The Acts of seventeen hundred and seventy three (Lord North's Regulating Act) and seventeen hundred eighty four (Pitt's India Act) were designed to establish a regular system of administration and justice under the Honourable East India Company". *

*In the Royal Message of 1921, the public are told :—"For years, it may be for generations, patriotic and loyal Indians have dreamed of Svaraj for their mother-land. To-day you have beginnings of Svaraj within my Empire, and widest scope and ample opportunity for progress to the liberty which my other Dominions enjoy".

The history of Land-occupation in British India is briefly this —In 1765 Clive obtained from a throneless titular Emperor of Delhi, a deed granting to the East India Company the Dewanship, or the post of chief Financial officer, with judicial powers in civil and financial cases. On the strength of that deed, the Merchant Company whose sole object was to make money, began “to let the lands in farm annually to the highest bidder”, giving him a free hand in * fleecing the peasantry. With violence and wrong those farmers extorted money. Famine followed famine, “and the Ganges was sometimes choked with corpses,” “a third of the inhabitants of Bengal being carried away”.

*“The real object of the Committee of Circuit of 1772 (of which Mr Hastings was president) was to ascertain the value of the country by letting it in farm for a term of years to the highest bidder”—that being “the most simple and therefore the best adapted to a Government, consulted like that of the Company, which cannot enter into the detail and minutiae of the collections” (Field, p 478, 480), ignoring the proprietary rights of the peasantry, and their right to the protection of their crops from droughts and floods, and to the food-supply of their cattle by providing pastures for them, and handing the peasantry over, like sheep to the wolves, to the rack-renting revenue-farmers, the predecessors of our Zemindars

Burke and Sheridan took up our cause, and Lord North's Regulating Act was passed in 1773, Warren Hastings being made the first Governor General. Did that "establish a regular system of administration and justice" alluded-to in the Royal Proclamation of 1773 ? How did Hastings rule ? Burke on behalf of the House of Commons, publicly accuses Hastings of "rebellion"—"A rebellion broke out in consequence of his violence. This was the rebellion and the only rebellion ; a rebellion which arose from his own dreadful exaction , from his pride, from his malice and insatiable avarice , a rebellion which arose from his abominable tyranny; from his lust of arbitrary power, and from his determination to follow the examples of Sujah Dowla, Aliverdi Khan, and all the gang of rebels who are the objects of his imitation" (Burke's speeches II-17). That is also clear from the defence Hastings set up, when he was impeached .—"The people (of India) have no laws, no rights, no usages, no distinctions of rank, no sense of honour, no property ; in short, that they are nothing but a herd of slaves to be governed by the arbitrary will

of a master" (II-4). Burke's reply is also remarkable for its extra-ordinary internationalism. The world never witnessed the like of such broad internationalism in any foreigner, not even to-day. By a crushing reply Burke exposed the hollowness of Hastings's defence of his usurpation of arbitrary power :—"We assert that the direct contrary of this is true". And "to prove" his "assertion," he referred among others, to "the Mahomedan law, which is binding upon all, from the crowned head to the meanest subject ; a law interwoven with a system of the wisest, the most learned, and most enlightened jurisprudence that perhaps ever existed in the world." "Let me remind your lordships" Burke added "that these people lived under the laws to which I have referred you, and that these laws were formed whilst we, I may say, were in the forest." "The very condition upon which he (Hastings) received power in India was *to protect the people in their laws and known rights*". Did not Hastings's successors under the Company, also continue Hastings's policy of making "the gang of rebels" their "objects of imitation" ? To set at rest once for all, the claim

of the East India Company and the Governors General under them, to "sovereign power," and to limit the rights of the East India Company within "their charters" and "Acts of Parliament (7)," the King in Parliament passed "Pitt's India Act" in 1784, referred-to with just pride in the Royal Proclamation of 1919,—binding the East India Company down to "the laws and constitution of India" (24 Geo III, cap 25, sect 39), which came to the same thing, as "to protect the people in their laws and known rights," or to say that Hastings "received power in India to protect the people in their laws and known rights" (II-5), as Burke put it "In place of Acts of Parliament, Warren Hastings", says Burke, "substitutes his own arbitrary will," and we are prepared to prove that not he alone, but most of his successors under the E I C, followed neither 'Pitts India Act,' nor the Ayeen Akbary, which Hastings himself said "comprehends the original constitution of the Mogul Empire," but the examples of "the gangs of rebels," who usurped the 'sovereign's rights' which are only "to be exercised for the benefit of the people,"—on the

Dissolution of the Mogul Empire. * But what could the mere passing of an Act do? It could not change the heart of the Company, eviscerating it of that "traitorous and rebellious assumption" of "high sovereignty,"—nor make them repent and renounce any of the fruits of that forbidden tree, they had already reaped and tasted, such as that most baneful fruit of it, the Permanent Settlement, involving the confiscation of the allodial proprietorship of 80 per cent of the people, of their own lands,—thereby reducing the peasantry to almost the condition of perpetual slavery and insolvency. The Permanent Settlement has been called "a fraud in all its aspects" (Mr Anderson's 'Facts and Fallacies,' Art. 63). On the other hand, it should never be forgotten that Pitt's India Act has never been repealed. It was confirmed by the Queen's Proclamation of 1858, as by the Royal Proclamation of 1919,—saying: "We know, and respect, the feelings of attachment with which natives of India regard the lands inherited by them from their ancestors, and we desire to protect them in all rights

* See the "Analysis of the Laws and Regulations enacted by the Governor General in Council, printed at

connected therewith," i. e., "according to the laws and constitution of India" (24 Geo III, c. 25 s. 39). The first duty of the Government to-day is to give our Peasantry solvency or real 'agricultural credit,' restoring to them that solvency by abolishing the illegal Permanent Settlement, and indeed all farming settlements, Permanent or

the Honourable Company's press in 1814 and 1815. vol II, pages 351 to 359, for the atrocities committed by "the gang of rebels", whose "example," Burke said, Warren Hastings was 'determined to follow', who were "the objects of his imitation" (II-17), the rebels who exercising sovereign power, 'imprisoned, chastised with stripes,' etc. "with the view of forcing from the Zemindar the discovery of concealed property," "suspended the Zemindars by the heels," or "ducked" them in "infernal pits," called "Biekoont," etc. "to collect the revenues to the uttermost *dam*" (farthing). How could those wretches pay their dues in ready money, when the peasantry from whom they were to collect the revenues, were, from time immemorial, accustomed to pay, not in ready money, but only in kind, by Kankout or Bhawely ? The result was, the same atrocities that the Zemindars were subjected to, were perpetrated on the peasantry, by these Zemindars with redoubled brutality, because the peasantry could not pay ready money, though they had no objection

Temporary, for these settlements were originally a farming of the revenue, but ultimately became perverted into a farming of the land, and amounted to a surreptitious confiscation of the peasant's proprietary rights. As subjects of the British Crown, and not of the East India Company, we should never forget what we are assured in the

to pay in kind as usual. With a show of self-complacent magnanimity, it is added—"But such severities could not be suffered to exist under a British administration." And yet what may have been true even for "the gang of rebels", only for a year or two upon occasions the E. I. Company perpetuated it for ever, by their Permanent Settlement,—the duties of the ruling power, e. g., the protection of the peasants' crops and cattle, "*brhmadnam rakshanena*," being completely wiped off their slates for ever! With self-gratulatory modesty the Regulation runs—"The only modes of coercion, for the recovery of arrears of revenue, which could consistently be sanctioned by a British Authority were imprisonment of the defaulter's person, and the attachment and sale of his property"—of course without trial before any court of law, - a procedure altogether out of place in the Mogul Empire, for the Ayeen Akbary declares the peasant as free to pay his share of the produce as land-tax by appraisement or division. Under a Regulation of the Company (Reg. III. 1794) land-holders and

Queen's Proclamation of 1858.—“We have resolved to take upon ourselves the Government of the territories in India, heretofore administered in trust for us by the Honourable East India Company.” Does it not follow, as equally true, that the Honourable Company *administered in trust* in 1784 also, for Geo III, so that anything

farmers were declared bound to discharge, in the first instance, all sums regularly demanded from them by the collector on the part of Government, with liberty to sue the collector for any undue exaction in the Devany Adalat (Civil Court). See Regulations 7 of 1799 and 5 of 1812. There is nowhere a word of reference in the Regulations, to the Ayeen Akbery which lays down : “the revenue is received either in money or in kind,” and that “the husbandman has his choice to pay the revenue either in ready money, or by Kunkoot or by Bahawely,—in kind, by appraisement or actual division of the produce. Notice also that the revenue was paid by the husbandmen, direct to the officers of the sovereign, (the Revenue contractor Zemindars, the “White Elephants of our day” —not having come into existence before the days of the E. I. C). The Ayeen Akbery speaks of the Zemindar as “a collector of the royal or jageer lands” or an officer appointed for rent-collection in the crowa lands. Even Murshed Kuli Khan whose example is cited, sometimes “collected the produce of every harvest immediately from the husbandmen” (352).

they did contrary to the terms of Pitt's India Act, (24 GEO. III c. 25, s 39,) was *ultra vires*, for example, any thing that Warren Hastings, or Lord Cornwallis as the agents of the E. I. C did, that was not "according to the laws and constitution of India," by which they all understood "the ancient law of the country" to have been meant, in exercise of "the sovereign's rights," those "sacred rights which ought only to be exercised for the benefit of the people" (Burke, II-5), pre-eminently of the peasantry who form 85 per cent of the people,—merely to follow the example of "all the gang of rebels" (II-17), who usurped the sovereign's rights, on the Dissolution of the Moghul Empire,—should be declared null and void.

Of the orders of the Court of Directors" passed "in concurrence with the Board of Control, established by the Statute 24 Geo. III, chap. 25," we read in the "Analysis of the Laws and Regulations" etc, printed at the Hon'ble Company's press, 1814, 15, as follows .—"One of the principal objects of the 39th section of the act passed in the year 1784, is to settle and establish, upon principles of moderation and

justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services, shall be in future rendered and paid to the Company by the ryots, Zemindars, polygars, talookdars, and other native land-holders," etc. Notice that the "ryots" are given the first place among "native land-holders" in 24 Geo. III, chap 25, section 39, and their dues are called "tributes" as in Ayeen Akbary (p. 238). Who tampered with the text of section 39 of Pitt's India Act, removing the name of "the ryots", and substituting for it '*rajas*' ? Was not Lord Cornwallis privy to it ? How then does his order upon his subordinates completely ignore all reference to "the real rights and privileges" of "the ryots" who are given the first place as "native land-holders" in section 39 of Pitt's India Act ? Was this omission to enquire about the "rights and privileges" of "the ryots" on the part of Lord Cornwallis intentional or unintentional ? And "Lord Cornwallis by way of reform abolished the Kanungoes and Patwaris (See Ayeen Akbary, p. 247), and did away with their offices ; and with them disappeared the only written

evidence of the rights of the cultivators of the soil" (Field p. 592). The Company's Laws and Regulations proceed—"We direct however, that you keep this object constantly in view; and as preparatory to it, you ascertain as correctly as the nature of the subject will admit, what are the real jurisdictions, rights, and privileges of Zemindars, talookdars, etc, under the constitution and customs of the Mahomedan and Hindu Governments, and what were the tributes, rents and services which they were bound to render or perform to the sovereign power" (p 48 to 50). Notice also that in Section 39 of Pitt's India Act the dues of "the ryots" are called 'tributes' as in Ayeen Akbary (p. 238), and the dues of the Zemindars are called 'rents', as a Zemeendar in the Ayeen Akbary is an officer of the government—"a collector of the royal or Jageer lands" (p. 257). It is significant also how the E. I. Company ignoring "the rights and privileges" of "the ryots" of Pitt's Act, destroy the records of the ryots' rights by abolishing the offices of Kanangoes and Patwaris (Ayeen Akbary, 247), and wriggle eel-like about the expression "laws and constitution of India" in 24 Geo. III c 25,

s 39, though Hastings himself had said that the Ayeen Akbery "Comprehends the original constitution of the Mogul Empire" The truth is that if they really kept the Ayeen Akbery in view, they could not farm out the land for ready money, as they did, instead of a share of the produce, paid either in kind or in ready money at the option of the cultivator, not as *rent*, as it is miscalled to-day, but as "tribute and tax" (*Kheraj*), as it is called in the Ayeen Akbery (p. 238)

And thus runs the Analysis of the Company's Laws and Regulations, ignoring the rights of the Ryots of Pitt's India Act altogether :— "The idea of a reform, seems to be founded on the 39th clause of the last Regulating Act of Parliament, referring the determination of the rights of the Zemindars, etc, ("the ryots" being completely ignored) to "the laws and constitution of India ; from which it is supposed that there have been considerable deviations in the practical rules or forms of the Company's administration since *the acquisition of the Dewany*, as set forth in the pretended grievances of the land-holders (though the "Ryot", unlike to-day, was given

the first place among "landholders" in Pitt's Act) and now required to be redressed according to the established custom, or civil institution of the Mogul empire" (Analysis of Laws and Regulations, II-263)

In the above extracts placed before our readers, one can not fail to notice the vexation of spirit, and ill-disguised contempt for the 39th section of the Act of Parliament "referring the determination of the rights of the Zeminders, etc, to THE LAWS AND CONSTITUTION OF INDIA ; from which it is supposed that there have been CONSIDERABLE DEVIATIONS," etc, "as set forth in the PRETENDED GRIEVANCES of THE LAND-HOLDERS, and now required to be redressed according to the established custom or civil institution of the Mogul Empire" (262). What ! Contempt for the provision (39) of an Act of Parliament, on the part of a ruler ruling "in trust for the Crown" ! Is it not *lese majeste* ? Is it not treason ? The E I. Company is chafing and fretting, because their hope of ruling India according to their "own arbitrary will", "treating the people like a "herd of slaves" was frustrated ?

Does not the E. I. C. herein stand in the eye of that Act of Parliament, like veritable "rebels" ? What should be the right attitude of the Government of the British Crown of to-day, in regard to what the E. I. Company did, in violation of the "laws and constitution of India" ? Should we persist in that treasonous policy of the E. I. Company, of farming out the arable land of the country for ready money, "the net collections of revenue" being "violently kept up", confiscating the peasant land-holders' proprietorship of their lands, on a scale that would seem to stagger the world,—as the consequence of which Lord Clive had to complain in Parliament, in reply to Lord North :—"I have been examined by the select committee more like a sheep-stealer than a member of this house," and committed suicide to avoid a worse fate ; and Warren Hastings came out a ruined man after a trial lasting nine years ? Or are we to wash our hands clean, and quash such farming settlements, Temporary or Permanent, restoring to the peasantry the proprietorship of their lands, and their solvency, and freeing the country from chronic famine ? "Fox's India Bill led to the down-fall of the

Coalition ministry in 1783. The Act which Pitt successfully carried in the following year introduced a new constitution in which Hastings felt that he had no place. In Feb, 1785, he finally sailed from Calcutta" (Encyc Brit). No sooner was Pitt's India Act passed in 1784, Hastings realising his "occupation gone," resigned his office, and returned to England in 1785, to be impeached by the House of Commons in 1786 for "high crimes and misdemeanours in his government of India". That impeachment lasted from 1786 to 1794. Was not Hastings's guilt proved to the hilt, though "the offender was in form acquitted" ? Hastings however left India only to make room for a wiler politician who might tamper with and twist the provisions of section 39 of the Act, to turn them into the very opposite of what they were intended to mean. Who could have thought that after having spoken of the Ayeen Akbery as he did, Hastings himself would in practice take no notice of it, but take to temporary farming settlements with profiteering adventurers in contravention of "the laws and constitution of India" (24 Geo. III, c 25, s 39), or "the ancient law of the country," the evil effect

of those temporary settlements being multiplied a hundredfold, when Lord Cornwallis made them permanent, in spite of the protests of Sir John Shore, even conferring on the settlement-holders the right of sub-infeudation of tenures *ad lib*, which the Statute of Quia Emptores disallows in England? But "the object of the East India Company was still to make money"—as Ransome says; and self-interest is always blind. Lord Cornwallis in his Regulation 19 of 1793, does indeed give a very garbled account of the ancient law of the country, when he says: "By the ancient law of the country the ruling power is entitled to a certain proportion of the produce of every bigha of land (demandable in money or kind according to local custom)" The Ayeen Akbery (p. 251) rather says . "The husbandman has his choice to pay the revenue either in ready money, or by Kunkoot, or by Behawely" (i e, in kind) And why is "the ruling power entitled to a certain proportion of the produce" ? Not surely because the ruling power is the proprietor, as Lord Cornwallis seems to insinuate, but because the ruling power protects the peasants' crops, cattle, and men,—“Brihyadi-

nam rakshanena kasyachit bhagasya ishte, na bhumeḥ" (Jaimini 6-7-3)—"the king is not the owner of the soil" We read that in 1787, after Hastings was gone, and "in conformity with the orders of the Court of Directors", the Governor General in Council (Lord Cornwallis, appointed Governor General in 1786, being in office then, Ed) issued a slipshod order on the Board of Revenue not to take any notice till "sufficient materials and information shall have been obtained" (50) Instead of an honest search for "materials and information", Lord Cornwallis abolishes the offices of Kanongoes and Patwaris, who were the only sources of "materials and information" regarding the rights of the peasantry Says the Ayeen Akbery: "The Patwary is employed on the part of the husbandman to keep an account of his receipts and disbursements, and no village is without one of these The Canoongoo is the protector of the husbandman, and there is one in every Pergunah These officers are paid by Government according to their rank" (A A. p. 247). These two officers maintained the then existing records of peasants' rights. Is the abolition of these offices

consistent with a *bona fide* desire for "obtaining materials and information" ? Did it not amount to causing the "disappearance of the only written evidence of the rights of the cultivators of the soil" (Field, Landholding, p. 592) ? With a stroke of his pen, Lord Cornwallis degraded the peasant-proprietors of the country as a body, into mere serfs or tenants-at-will of his creatures,—the Zemindars, killing agriculture itself and making famines chronic. Hastings however, less astute as a politician than many of his successors, had himself supplied all "the material and information" required, when he said that the Ayeen Akbary "Comprehends the original constitution of the Mogul Empire,"—so that "the constitution and customs of the Mahomedan and Hindu Governments" (50), or "the established custom of the Mahomedan and Hindu Governments" were clear to any honest enquirer as daylight, so far as the tributes &c. of the "Ryots", and other "native land-holders" are concerned. ✓

The amendments of 1929 of the Bengal Tenancy Act, VIII of 1885.--26 D allowing the landlord 20 per cent of the consideration money,

or 26 F, allowing the landlord the right of pre-emption on the raiyats' holdings, and 158 A which can hardly be called *bona fide*, as it allows the landlord, a private party, in "the recovery of the arrears of rent due to him", the benefit of the procedure provided by the Bengal Public Demands Recovery Act of 1913, meant for public demands only, thereby ousting the jurisdiction of the Courts of Justice, which no civilized country would allow,—are the baneful fruit of that forbidden tree of Warren Hastings's open "Rebellion," as Burke called it,—against Lord North's 'Regulating Act' of 1773, and Lord Cornwallis's artfully concealed rebellion against Pitt's 'India Act' of 1784,—"rebellions" that could go on unchecked for centuries after,—for by the time Burke's Impeachment of Warren Hastings was closed, and "the thanks of the House of Commons to the managers of the Impeachment been voted," the French Revolution broke out convulsing and "changing the face of Europe," absorbing the whole attention of Burke and other leaders of thought, so that the agents of the East India Company could pursue in India without impediment, their

old treasonous policy of the confiscation of the peasants' lands, against the "laws and constitution of India" (24 Geo III, cap 25, section 39) with impunity. In the blindness of self-interest, the agents of that money-making Company of English merchants, though they ruled in "trust for the Crown" brazenfacedly asserted in their "Analysis of Laws and Regulations", 1814.— (V. II. p. 15) what no ruler with a grain of the sense of responsibility in him, would dare to assert in any civilized country :—"Letting the lands in farm is in every respect the most eligible" Yes, most eligible for a body of dividend-grabbing merchants, but not for a responsible ruler who ruled "according to the laws and constitution of India" in "trust for the Crown",—adding :—"It is the most simple, and therefore the best adapted to a Government constituted like that of the Company, which can not enter into the detail and minutiae of the collections,"—thus shelving Pitt's India Act completely aside. Like the cat in the adage the Company's Government must have the fish, but can not wade to catch them,—as if they had a *carte blanche* in India ? Will English statesmen who long for the "Nationalisation of

land" in their own country to-day, sift the question to the bottom, and redress the wrong, unprecedented in the world's history, under which 85 per cent of the Indian people, have been groaning as serfs, for more than a century and half!

The reader sees how Lord Cornwallis in the teeth of Pitt's India Act, made out all the land of India to be *terra regis*, and "the ryots" of Pitts Act who are given the first place in that Act as "native land-holders," to be mere tenants-at-will. He established in India an imitation of the feudalism in England, without anything in the place of the Statute of Quia Emptores to prevent subinfeudation,—by his Permanent Settlement which was a surreptitious confiscation of the allodial proprietary rights which the ryots enjoyed in Hindu and Muslim times, driving them away, like shorn lambs to the cold wind, "forcing them to give up their rights at once, or in defence of them to enter upon an expensive litigation with a powerful and too often unscrupulous superior" (Field, p 578), which was impossible. Was that like a ruler ruling "according to the laws and constitutions of India" in

trust for the crown ? But what did a merchant Company care ? "There is scarcely a country in the civilized world" says Field, "in which a landlord is allowed to evict his tenant without having recourse to the regular tribunals ; but the Bengal Zemindar was deliberately told by the Legislature that he was at liberty to oust his tenants, if the rents claimed by him were in arrear at the end of the year, leaving them to recover their rights, if infringed, by having recourse to those new and untried Courts of Justice, the failure in which might be punished with fine or imprisonment" (Field, p 581). And after having destroyed "all written evidence of the rights of the cultivators of the soil" by the abolition of the offices of Kanongoes and Patwaris, Lord Cornwallis told the peasant dwarf to establish his rights by litigation with the Zemindar giant, whom he had dubbed as "proprietors", in defiance of Pitt's India Act. And all this huge superstructure of a false feudalism without the benefit of a Statute of *Quia Emptores* as in England, to prevent subinfeudation, was reared on the air-bubble of "the Dewany" obtained by Lord Clive for the

East India Company. Says Lord Cornwallis in the Company's "Analysis of Laws and Regulations" (II-263) .—"It is supposed that there have been considerable deviations in the practical rules or forms of the Company's administration since the acquisition of the Dewany". And what was the 'Dewany' ?

In 1765, the then titular Emperor of Delhi, Shah Alum, who, says Mr R. C. Dutt, "was an exile in Bengal, and was never virtually Emperor," by a *farman* or patent invested the East India Company with the Dewany of Bengal, Behar, and Orissa. Thus runs the *Farman* :—"As the said Company are obliged to keep up a large army for the protection of the Provinces of Bengal, &c, we have granted to them (E I. C) whatsoever may remain out of the revenues of the said Provinces,—after remitting the sum of twenty-six lakhs to the royal Sarker," &c. The twenty-six lakhs reserved in the grant of the Dewany, were withdrawn, when Shah Alum put himself in the hands of the Marattas (Field, p 632). Thus was "the astonishing", if not iniquitous "position, created, that a few commercial agents were handling

the revenues of a kingdom in the name of an Emperor" (Montagu-Chelmsford Report)

There is however not a word in that *Farman* about the right of property in the soil. There is no possible ground then for the East India Company to confiscate the people's lands, as was done in England after the Norman Conquest, where "the Conqueror confiscated the lands of all those who opposed him, and granted these lands to his followers, upon feudal conditions". "The grant of the Dewany," says Justice Field, "was a grant of the right to collect the revenue of Bengal, Behar, and Orissa, and to exercise judicial powers in all civil and financial cases." The *farman* was "a perpetual grant to the Company of the revenue when collected", after making certain deductions. It had nothing whatever to do with the proprietorship of the people's lands. Shah Alum himself claimed no right of property in the lands of the peasantry, and could give none to the East India Company, which, the Company in their turn could confer on the Zemindar Revenue-farmers by the Permanent Settlement of 1793, as the Zemindars claim to-day. Says a historian of England :—

"In 1765 Clive returned to India, and he made the East India Company rulers of an extensive territory taking over by a deed granted by the Great Mogul, the districts of Bengal, Orissa, and Behar. The Nabab was not deposed, he was only pensioned, and the Government was still conducted in his name, but the English Company were the real rulers" Though the East India Company had thus, accidentally, as it were, become rulers, the object of the East India Company was still to make money" (Ransome's History of England, p 869). What did the "commercial agents" of that English Company of traders, care about "proprietary rights" in the land of the peasantry of India ? "They let the country or rather the royal revenues in farm for a term of years in 1772, to the highest bidder" (Field 480), no doubt "for the purpose of levying the greatest possible revenue that could be exacted from the people" (481). "With such an object", says the English historian, "as the end of Government, it is no wonder that corruption and oppression every-where prevailed, and the new rule became a curse to the natives. Famine followed famine, and the Ganges was sometimee

choked with corpses". (It was a state of no-mau's rule, a condition that Clive himself called "anarchy, confusion, and general corruption"—a condition that Valmiki deploras in the *Ramayana* :—*Narajake janapade svakam bhavati kasyachit, matsya va jana nityam bhakshayanti parasparam*' (Rm-Ay-31-67),—"When a kingdom is without a king, no man has anything that he can call his own. Every day the men devour each other like fish." When the "stories of these deeds reached England", we "found a strong advocate in Edmund Burke". The East India Company had to make over the sovereignty of India to the Crown of England "The Statute 53 Geo III Cap 155, S. 25 declared the undoubted sovereignty of the Crown over the territorial acquisitions of the East India Company. The 16 and 17 Vict. Cap 95, S. 1. afterwards provided that the territories then in the possession and under the Government of the Company, should continue under such Government in trust for Her Majesty, her heirs and successors, until Parliament should otherwise provide'. We presume, it was in 1773 in the reign of George III, when "Lord North

passed his Regulating Act", the "undoubted sovereignty of the Crown" over India, was declared. In 1783 Mr. Gladwin's translation of the *Ayeen Akbary* was published, which the then Governor General forwarded to the Board of Trade with the Minute of 2nd June, 1783, with the recommendation that "it comprehends the original constitution of the Mogul Empire" As a result, we find that in the following year, the Crown of England in Pitts' time, laid the people of India "under a debt immense of endless gratitude," by binding down the East India Company by a Statute, to "the laws and constitution of India" In 1784 was passed 24 Geo III, Cap 25, the 39th section of which required the Court of Directors to give orders "to settle and establish upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which their tributes, rents, and services shall be in future rendered and paid to the Company by the ryots, Zeminders, polygars (a class of Madras chiefs), and other native land-holders" ("Analysis of the Laws and Regulations for Public officers in the Revenue Department",

p. 50) Surely the spirit that this statute breathed was the very reverse of that order for the confiscation of the peoples' lands, which William the Conqueror passed in England, after his Conquest ! The provisions of Statute 24 Geo. III did not suit Hastings, who has been openly accused of "financial immorality", and he retired in 1785. Although the East India Company might from motives of self-interest, have spoken of "letting the country in farm to the highest bidder" in 1772 (Field p, 480), they could only mean "letting the revenue in farm", for after the passing of 24 Geo III, in 1784, they could do nothing in regard to the land of the peasantry without the sanction of the "laws and constitution of India", such as Manu, Jaimini, or the Taittiriya Brahmana on the one hand, and the Ayeen Akbary on the other, or if there was any oppressive or unjust provision in these, they were to be guided by "principles of moderation and justice". How different this from William the Conqueror's order for the confiscation of "the lands of those who opposed him, and his granting them to his followers on feudal conditions".

“In Bengal the system” of land-law which grew up in England, “has been introduced, and maintained by the power of the rulers (if so, it was *Ultra Vires*, being contrary to the provisions of the Statute 24 Geo III), and it has done not less mischief than in Ireland”. It was done at a time of “anarchy, confusion, and general corruption”, as Clive called it, when no one can call anything his own, and it was done in the teeth of 24 Geo III, cap 25 Sec 39, and was therefore *ultra vires*, or beyond “the power of the rulers”, who only acted “*in trust* for the Crown”,—for which there can be no justification in these days of settled Government by the Crown, and should be set aside. From 1765 until 1858, the year in which the Crown of England undertook the Government of India into their own hands in right earnest,—the Indian administration was in a state of chaos and anarchy, culminating in the great Mutiny of 1858. The poison-tree of the Permanent Settlement reared in those days of anarchy, flourish even to this day, in undiminished vigour, with its unlimited “sub-division and sub-infeudation of rights in the land”, so fatal to agriculture,

and so prolific of devastating famines! The provisions of Statute 24 Geo III, cap 25, S 39 not being carried out, and the "laws and constitution of India" not observed, the Permanent Settlement was a violation of the "trust for the Crown" on the part of the rulers. "The first result of enquiries made in order to the settlement of the newly acquired Provinces", says Field, "was to create an impression that a mistake had been made in 1793, and that the Government had then acted prematurely and upon insufficient information. Subsequent experience still further confirmed this impression" (p 633) (When the mutiny of 1858 brought "to an end the long and great career of the East India Company") and its powers were "transferred to the Crown", we find that after an honest, careful, and prolonged enquiry, the Government in their "Revenue Dispatch, No. 14 of 9th July, 1862", declare, in clear and unmistakeable terms, as their deliberate conclusion — "It must be remembered that in India, and specially in the districts under raiyatwari settlement, the great bulk of the agricultural population are the proprietors" (Field, 693).

During the anarchy that followed the death of the Emperor Aurangzeb in 1707, Clive acquired the Dewani, for the East India Company. The imbeciles who disgraced the throne of Delhi after the death of Aurangzeb, sometimes "let the revenue of an estate or tract of country to a farmer, who agreed to pay a certain annual sum to his lessor, and was allowed in consideration thereof to collect from the cultivators, and make what profit he could, upon the transaction. This system of farming was adopted by the English in their first attempts to manage the revenues of the country. The farmers sublet to underfarmers (Field, 615). It must be carefully borne in mind that in these farming settlements, the farmers being allowed to sublet to underfarmers "what was assigned in all these cases was not the land itself, but the right to collect the Government revenue" (Field, 428). When the Company obtained the sovereignty of Bengal, under the name of Dewani in 1765, there was "in 1770 a great famine, which is officially reported to have carried away a third of the inhabitants of Bengal", but the revenue collections "exceeded those of previous years, in spite

of the mortality, and the consequent decrease of cultivation" (Field, 470) "The Directors had already prohibited the practice of minute local scrutinies" about "the rights of cultivators' to "ensure to the Company every possible advantage" (472). "Bengal and Orissa had up to 1771 been settled from year to year" (477) Could these annual settlement-holders of the revenue, we ask, claim the proprietorship of the lands ? In 1772 a quinquennial settlement was made "to the highest bidder" (480). Could these settlement-holders, we ask, claim proprietorship ? "Upon the expiry of the quinquennial settlement in 1777, annual settlements were made for several years, under the orders of the Court of Directors; but a preference was now given to the Zeminders (i e the old "Collectors of the royal or Jageer lands"—(Ayeen Akbery, 257) The object of all these settlements was to levy "the greatest possible revenue' (487) at a minimum of cost, and they had absolutely nothing to do with conferring proprietary rights in the land, on these Zemindars. In fact the *farman* of Dewany, did not confer on the East India Company any

proprietary rights in the land at all, and does not even show that the Moghal Emperor himself claimed a proprietary right in the cultivators' lands. Now came the statute 24 Geo III, Cap 25. Section 39, like a "bolt from the blue" in 1784, to put a stop to the "corruption and oppression that every-where prevailed", for henceforth the Company, whatever they did, were bound to observe the "laws and constitution of India," as given in Manu, Usansh, Jaimini, Taittiriya Brahmana, on the one hand, and the Ayeen Akbery on the other. After that Statute was passed, Hastings, who was well-known to have had a very elastic conscience, where finances were concerned, feeling his "occupation gone," almost in despair, left India, and "the Decennial Settlement was made," which was merely a declaration, that no alteration would be made in the assessment of the revenue, that "the assessment fixed by this settlement, would be continued and remain unalterable for ever, if the Court of Directors approved" (Field 498). "The Zemindars, Talukdars, or Chowdhrys, they and their heirs would be allowed to hold their states at such assessment for ever." It was only a promise of

fixity in the assessment of the revenue, pure and simple, and had no connection whatever with proprietary rights in the cultivators' lands. That Decennial Settlement was declared permanent by a proclamation on the 22nd March, 1793, the Governor General in Council reserving to himself the right,—a right that he never exercised, to “enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats, and other cultivators of the soil” (503), which he never did. The Permanent Settlement was not “undoubtedly,” a declaration of the confiscation of the land of the cultivators, like that in England after the Norman conquest. It was not a declaration that from 1793, the *sthanucheda* or reclaiming cultivator ceased to be the proprietor of his land. The only point that can be urged in favor of the Zemindar, is that in that Proclamation, and in the Regulations of the time, such as Regulation VIII of 1800, the expression “Zemindar, independent talukdar, or other actual proprietor of land” is used, being merely assumed in the description, not certainly declared as part of the promise”.

“The right to collect and appropriate the Government revenue”, says Field, speaking of the Mirs or Village Communities of Russia, “drew after it the proprietorship,—what was paid as revenue to the state, becoming rent when paid to a private individual, and the right to receive rent becoming interpreted as proprietorship of land”. That was also the explanation, the only possible explanation, when Lord Cornwallis, called the Zemindars as “the actual proprietors of the soil,” which we have shewn, by reference even to the Ayeen Akbery, they never were. That mistake, was afterwards admitted and rectified by the Government of India in 1862, and “the bulk of the agricultural population in India” declared the true proprietors. Indeed Lord Cornwallis could not confer a proprietary right on the Zemindars, for it was beyond his power. As the agent of the East India Company, who ruled “in trust for and on behalf of” the Crown of England, it was beyond his power to do anything of the kind, so long as the Statute 24 Geo III Cap 25. Sec, 39, stood un-repealed on the Statute-book of England, to bind him down to the “laws and constitution of

India.”

The Indian Administration was really in a state of chaos and anarchy from the death of the Emperor Aurangzeb in 1707, culminating in the great Mutiny of 1857, after which the Crown of England undertook the Government of India into their own hands from 1858. The rule of the East India Company, from their acquisition of the Dewany in 1765 to 1858 when the British Crown undertook the Government of India into their own hands, covers little less than a century of that period of chaos and anarchy. The Great Mutiny of 1857 brought to an end the long career of the East India Company, its powers being transferred to the British Crown. The period of chaos and anarchy came to an end, when after the Mutiny, the British Crown undertook the Government of India into their own hands, and it was then that the sky began to change, and the tide began to turn in favor of the peasantry, who began to acquire what is known as the “right of occupancy” thus beginning to cease to be mere tenants-at-will.) It may be said that Act X of 1859 marks the beginning of that new era, by providing as follows :—

A SUMMARY OF ACT X OF 1859

Sect 6 Every Raiyat who has cultivated or held land for a period of twelve years has a *right of occupancy* in the land so cultivated or held by him", etc.

S 11, "The power heretofore vested in Zemindars and other land-holders, of compelling the attendance of their tenants for the adjustment of their rents, or for any other purpose, is withdrawn", etc.

S 12. "If payment of rent, whether the same be legally due or not, is extorted from any under-tenant or raiyat by illegal confinement or other duress, such under-tenant or Raiyat shall be entitled to recover damages", etc.

S 17 "Rent of Raiyat having *right of occupancy* not to be enhanced unless rate paid by him is below that prevailing in adjacent places ; or value of land has increased independently of raiyat : or quantity of land held by raiyat is greater than he has paid rent for".

S. 21. "When an arrear of rent remains due from any raiyat at the end of the Bengal year, such raiyat shall be liable to be ejected from the land in respect of which the arrear is

due”.

S. 112 “The produce of the land is held to be hypothecated for the rent payable in respect thereof; and when an arrear of rent is due from any cultivator of land, the Zemindar, instead of bringing suit for the arrear, may recover the same by distraint and sale of the produce of the land on account of which the arrear is due”, etc.

S 120. “When any person empowered to distrain property, shall employ a servant to make the distress, he shall give to such servant a written authority for the same”, etc

Even such small concessions,—if concessious they may be called,—the peasantry obtained after the Sepoy Mutiny of 1857, and the right to a transfer-fee of 20 per cent of the consideration money, and the right of pre-emption now granted by sections 26 D and 26 F of the amended B T Act to the Zemindar, if it is allowed to stand, will neutralize, and tend to cause a reversion of the Rayat to the condition of tenants-at-will of the days of the East India Company.

Before the days of Act X of 1859, the Rayat was simply a tenant-at-will. Even Lord Bentinck

observed in Regulation V of 1812 that "the Raiyats are mere tenants-at-will", though their previous proprietorship established from time immemorial, and confirmed by the provisions of 24 George III, cap 25, sect 39, was never formally confiscated. Unrestricted rack-renting by middlemen interlopers vested with the arbitrary power of distraint of the property, and imprisonment before trial of the person of the Raiyat for arrears of rent, was the law before Act X of 1859 (For distraint, See Reg. XVII of 1793-II; Reg VII of 1799, and V of 1812). * Very slowly rose our food-producing Raiyats, enduring the most blood-curdling oppressions by the Zemindars,—from this condition of a mere tenant-at-will, or of what the Court of Directors themselves in their Dispatch of the 9th May,

* "Zemindars and farmers of land who hold their farms immediately of Government, are empowered to distrain, without sending notice to any court of justice or any public officer, the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of the defaulter or in the house or in the premises of any other person, for arrears of rent or revenue, and to

1821, held as "the most extensive act of confiscation that ever was perpetrated in any country" (Field, p. 652),—very slowly rose our raiyat to a dubious right of occupancy only on particular plots of land, after twelve years of continuous cultivation of it. Then the Revenue Despatch No 14 of 9th July, published at page 2889 of the Calcutta Gazette of 16th August, 1862, declared in the most emphatic terms.—"It must be remembered that in India, and specially in the districts under *rayatwari* settlement, the great bulk of the agricultural population are the proprietors"

cause the said property to be sold for the discharge of such arrears" (Reg. XVII of 1793) This power of distraint, the Zemindars could even delegate to their agents "The Zemindars etc. empowered to distrain the crops etc. for arrears of rent, are authorised to delegate to their Naibs, gomastahs, and other agents employed in the collection of their rents, the power of distraining in their behalf" (Reg VII of 1799-II) Even "apartments appropriated to women" and "the Zenana apartments" may be "forced open" and entered,—and "the immediate arrest of the defaulter caused" before trial. Sect X and XV of VII of 1799.

(Field, p 793). And it was only in 1885 the Bengal Tenancy Act at last came to recognise,— that every “settled” Raiyat is to have “a right of occupancy” in all land for the time being held by him as a raiyat in that village” (Sect. 21, (I), B. T Act), laying down : “Every person who for a period of twelve years has continuously held as a raiyat land situate in any village, shall be deemed to have become a “settled raiyat” of that village” (20-I), and giving him “a right of occupancy in all land held by him as a raiyat in that village” (21-1), who “shall not be ejected by his landlord except in execution of a decree for ejection” (25), and that “if a raiyat dies, his occupancy right shall descend in the same manner as other immovable property” (26), and that “the holding of an occupancy raiyat together with the right of occupancy therein, shall be capable of being transferred in the same manner as other immovable property” (26 B). It is surprising that the Bengal Legislative Council consisting of the so-called elected representatives of the people, should, for the benefit of the landlords, should, in 1929, start on a retrograde movement, cutting off three big

slices from the occupancy right the raiyats were enjoying,—in the forms of transfer-fee of 20 per cent of consideration money, the right of pre-emption, and the benefit for the land-lord, of the procedure under the Public Demands Recovery Act.

What the Bengal Tenancy Act VIII of 1885 gave to the Raiyats, fell far short of what truth and justice demanded, what was indispensable for successful agriculture, as all civilized Governments know, far short of that peasant-proprietorship which the Raiyats enjoyed from time immemorial, and without which any agriculture worth the name, is impossible, as in all civilised countries. Even that was a long step forward, though very slowly achieved, after endless suffering,—being all that was found—by a Government even to-day in the leading-strings of the Zemindars,—possible to do,—as a compromise with the hornets' nest of interlopers who, like an evil genius sit over both the Council and the Congress to-day, whom the Government will not disturb for the sake of reinstating the Raiyat in the proprietorship of his arable land, as confirmed by Pitt's

India Act. All the good work done by our predecessors in securing for the Raiyat this occupancy right, has been undone for the benefit of a handful of "economic parasites", and against "nine-tenths of the population", setting back, so far as in us lies, the hand on the dial of national progress for the time being. How! By thoughtlessly cutting off from the rayat's occupancy right three big slices for the benefit of the mushroom Zemindars, * in the forms of a transfer-fee of "twenty per cent of the consideration money" "in the case of the sale of a holding" (26 D), and the benefit of the procedure provided by the Public Demands Recovery Act (Section 158 A), and a right of pre-emption (26 F) on the occupancy land of the cultivator who in fact sat on that land, as proprietor from time immemorial,—thereby causing the occupancy right itself almost to cease to exist,—the cultivator almost reverting thereby to the condition of a tenant-at-will or serf, as in the days of the East India Company.

* Lord Cornwallis himself says in Reg 11 of 1793-1 "The property in the soil was never before formally declared to be vested in the land-holders".

Regulation XVII of 1793 says,—“Zemindars and farmers of land are empowered to distrain without sending notice to any court, the crops, the cattle, and all other personal property whether found in the house of the defaulter, or of any other person, for arrears of rent, and to cause the property to be sold for the discharge of such arrears.” Is not that power of the Zeminder revived by the amended section 158 A of the B T. Act, which gives the Zemindar the benefit of the Public Demands Recovery Act, laying down that Zemindars for whose lands “a record-of-rights has been prepared”, may, with the permission of Government, have the benefit of “the procedure provided by the Public Demands Recovery Act, 1913” in “the recovery of the arrears of rent which he alleges are or may accrue, due to him, for lands in such area” ? Does it not make the private demands of a Zeminder for “the recovery of the arrears of rent”, due to him, a Public Demand ? Is it *bona fide* ? Is it not ousting the jurisdiction of the courts of justice, as in the days of the East India Company ? Does it not entitle the Zemindar to realise his rent-demands by a forced sale, of all the defaulter’s

personal property movable or immovable, instead of by the sale of the holding for which the rent is due, as hitherto, by the decree of a Court of Justice. Is it not going back to, and giving a new life to Regulation XVII of 1793 of the East India Company ?

Under the Public Demands Recovery Act III of 1913, rents are realised from the rayats, not in the usual way, after a regular trial in the Civil Court, not by decrees of Civil Courts, as "justice, equity, and good conscience" requires, but by the *certificates* of ordinary revenue officers responsible for revenue-collection, called *certificate officers*. The certificates of these revenue collectors "have the force and effect of a decree of a civil court" ! "Such certificate", it is said, "shall bind all immovable property situated within the jurisdiction of the District Collector, in the same manner, and with like effect, as if such immovable property had been attached under the provisions of section 274 of the Code of Civil Procedure !" The only remedy against this forcible realisation, open to the half-fed Rayats, is "to bring a suit in the Civil Court to have the said certificate cancelled" ! For a

starving rayat to sue in the Civil Court, is, as good as to "say to a mountain, Remove hence !"
 The poor rayat is thus ordered to allow himself to be "fleeced by the new predatory bands of pleaders and writers"—for a remedy for his being fleeced by his landlord under the Public Demands Recovery Act. One can not but wonder, how Britishers themselves in their own country, or the people of any of the advanced countries of the world, would appreciate such a precious treasure as the Public Demands Recovery Act ! And this "certificate" Procedure, or execution of judgment before trial in a Court of Justice, is to be applicable in the case of private Zemindary Estates, though in such cases the rent demands can, in no sense, be called Public Demands Under the amended section 158 A of the B T Act private Zemindars under certain conditions may also enjoy the benefit of the Public Demands Recovery Act, in realising their rents from their Rayats ! *

* What wrong and injustice to the Rayat results from allowing a Zemindar the benefit of the Certificate procedure of the Public Demands Recovery Act, ousting the jurisdiction of the Courts of Justice, will be seen from the

The Public Demands Recovery Act then, so far as it represents the ousting of the jurisdiction of the Courts of Justice, in "the recovery of the arrears of rent", which a Zeminder "alleges are or may accrue due to him", for the lands held by a Rayat, as the amended Section, 158 A, provides, —is only a whittling away of the Regulations of the East India Company (XVII of 1893-II; VII of 1799, and V of 1812), wherever the interests of the Company or of their Zaminder Revenue Contractors were concerned. It only shows that the Bengal Legislative Council, though ostensibly composed of the so-called "elected representatives of the people", is Zemindar-ridden. There is nothing to wonder-at in this

following case in which we ourselves were one of the parties.—The Zemindar of the Sarail Estate in Tippera in Bengal, has been allowed the benefit of the amended section 158 A of the B. T. Act, and realises arrears of rent from his tenants by the Certificate Procedure of the Bengal Public Demands Recovery Act. In an uncontested case in which we were ourselves one of the parties, the total demand realised as arrears of rent was Rs 11-3-9, on which the amount realised from us as costs was Rs 4-15-6 (Collector's No 1702 G of the 14th May, 1931); in

retrograde movement of 1929, when we remember that at the Gauhati Congress of 1927 itself, it was proclaimed as from the housetop :—"The *Svaraj* party had many Zemindars in their camp, and it was with the help of the landlords that they succeeded in the last election" (Cries of "Shame", "Shame"). "They might cry "Shame", but the fact was there". Brethren of the peasantry, that being the attitude of the Indian National Congress itself, note well so long as only 2½ per cent of the people have votes, you can expect nothing better from your Councils and Assemblies. You must all have votes. Gird up your loins, one and

other words, the cost realised under the Public Demands Recovery Act, even in an uncontested case, amounted to nearly 50 per cent on the demand as arrears of rent. We moved the Secretary to the Board of Revenue in the matter. And he, in his letter No 8327 C, P. of 14th August, 1931, ordered "that arrangements should be made to refund the Vakalatnama fee realised from the applicant." But as between a dwarf and a giant no notice has been taken (though it is now over two years), nor is likely to be taken by the irresponsible Zemindar, even of that order for that small mercy, passed by the Board of Revenue. Is it not sheer plunder ?

all, for universal suffrage, free of a heavy prohibitive security deposit, if you mean to gain your end. Remember also that true democracy is based on "freedom, fraternity, and equality." Among a caste and untouchability-ridden people, to whom the masses, as taught by our sacred books, are created by God, to be the slaves of the Brahman-born, "Dasyayaiva hi sirishto sau Brahmanasya Svayambhuva" (Manu, 8-413), true democracy is well-nigh self-contradictory, and sheer hypocrisy !)

SECTION XIV.

**The search-light of the land-laws of
the advanced countries of the
world.**

(1) **Peasant-proprietorship in the United
States of America**

"Look here upon this picture and on this," on the performances of the Indian Legislators in Bengal, "tinkering" with the sham of "unprotec-

ted" occupancy rights, to be conferred on under-rayats and Bargadars, and on the achievements of the Legislators of the United States, who declare all land in the United States to be allodial or without a superior, "the entire and *absolute property*" being vested in the owners" (Field, p 359). Any American citizen intending to cultivate land, is supplied not only with land by the State, at a very moderate price, but is in addition supplied with working capital, on the security of that land, the State Department of Agriculture at the same time supplying, free of cost, every assistance that science and patriotism can render. The Colleges of the States provide free agricultural education to the peasantry, in the form of short winter courses of lectures for them to attend, when they have no field-work to do,—degrees being conferred on them by the Universities, when they have completed their course. The bureau of publication freely circulates among the peasantry their bulletins, communicating to them, free of cost, the results of agricultural experiments conducted by experts at the State Experimental Stations. How different this, from the *hortus siccus*, 'the

barren garden', so far as the production of national wealth is concerned, of an *University* or an *Agricultural Department*, we are keeping up, at an immense outlay of capital ! America can not afford to breed land-leviathans, like our Zamindars,—for they do not allow the earth-hunger of their citizens, to swell into a disease, fatal to the success of agriculture and to the healthy life of their fellow-citizens, as in Bengal. "Their public lands were divided into hundreds of ten miles square, of thirty-six mile-square plots of 640 acres each, called townships. The sections (plots) have been subdivided. The price is two dollars only, or Rs 9 per acre (= 3 Bighas), i e. Rs 2 per Bigha. One township in each thirty-six was reserved for educational purposes" (E B). The cost of obtaining a quarter section (or 160 acres) has come to be only about twenty-six dollars (or 88 Rs.), the interest on this, at six per cent per acre, making this as nearly as possible, the 'no-rent land' of the economists. No effort has been made to gain a revenue from it." One township (= 640 acres or one square mile) in each thirty-six, being reserved for educational

purposes, the excellent public-school-systems of the Western States have been founded on this provision." (En Brit) Is there no lesson in all this for our Indian legislators ?

Is there no lesson for them either in, what is called, an "Estate of home-stead" in the United States ? And what is that ? While the Amendment Committee of the Bengal Tenancy Act in their Report, with stolid indifference, speculate that "it is clearly not in the interests of the agricultural community that occupancy-holdings should be bought up by money-lenders and non-agriculturists, and settled on a rack-rent with cultivating tenants who would be mere tenants-at-will," but practically do nothing to prevent it, or do something much worse, by driving the peasantry from the frying pan to the fire, from the Mahajan money-lender to the Zamindar or Talukdar who is but too often both Zamindar or Talukdar, and money-lender, lending money at 75 per cent, so as to swallow their peasantry alive, getting their homesteads to be sold, or swallowed by themselves, and the peasants and their family sent adrift to swell the ranks of "the landless laborours after the English

type," too often unemployed, our industries being killed or stifled, and without the advantage of the English "unemployment pension" of an amount equal to a "living wage," to die before their time, of famine or malaria or *kala azar*. "Look here upon this picture, and on this" "Every householder in Massachusetts," says Field (370), "having a family, is entitled to," what is termed, an "Estate of homestead, to the value of 800 dollars (= 2400Rs), in the farm or lot of land and building thereon owned or rightly possessed by lease or otherwise, and occupied by him as a residence. Such homestead, and all right and title therein are exempt from attachment, levy, execution, or sale for the payment of debts, or other purposes", (I may add here also that the law in little Serbia too "forbids the alienation for debt, of a peasant's cottage, his garden or court-yard, his plough, his last *yutava* of land (i. e. the area that two oxen can plough in a day), and the cattle necessary for working his farm". With all this, there is no land-revenue in the United States,—indeed "direct taxes cannot be imposed" Nor is there also any land-revenue in land-lord-ridden England. In India,

however, three of the principal sources of revenue are .—

(1) Land Revenue to the amount of 3 crores,
 (2) Stamp revenue to the amount of 3 crores,
 and (3) Salt revenue to the amount of another 3 crores, now probably to be doubled, i, e nine to twelve crores out of a total of 33 crores (Administration of Bengal, 1919-20, p, 105), represent mediate or immediately that proportion of the life-blood of the half-tied half-land peasantry of Bengal. Indeed it has been observed with great truth, that "the rural classes" in India "have the greatest stake in the country, because they contribute most to its revenue" (Mont-Chelms Report). In the United States on the other hand, the chief sources of revenue are customs and excise which are said to have attained "a phenomenal growth" (E B), these and a general property-tax which is considered practically to be a sort of self-assessment, some of which touch the smaller peasantry In England too the minimum of income assessable for taxation is 160 £s or about Rs 2100 per annum. Speaking generally, tenancy as a system, does not exist in the United States, "the universally recognised rule" being "that of absolute

property in land" (E. B) "Every American desires to be a master of the soil, and is content to own, if nothing else, a small homestead, a mechanic's home, or a dwelling-house in a town with a lot of land, some 50 ft by 100 about it. This desire to be the owner of land is acknowledged and encouraged by the legislature" (Field, 374). Is there no lesson in this for the Indian legislature ? Should not also the Indian legislature acknowledge and encourage the similar desire on the part of every Indian citizen for "a dwelling-house in a town, with a lot of land 50 ft by 100 about it, of which he shall be the "master of the soil", instead of allowing, as now, a Zemindar-leviathan to swallow whole cities and towns ! Only eviscerate the indolent unproductive land-leviathans, of a little of their superfluities, and the thing is done

Though subtenancies are very unusual, the land is let in the United States, in most of the States, according to the convenience of the parties, but no lease of agricultural land can be for a longer term than ten years. A person renting land, generally takes the whole farm,

and usually for a single year. Rent is variously paid in money or in kind or a share of the produce. Rent in kind is preferred as 'saving the interest of the persons in whose favour rent is reserved, from sinking by the depreciation of money, owing to the augmentation of gold and silver and the accumulation of paper-credit. The landlords are now trying to induce the tenants to capitalise and purchase the rentals, thereby converting themselves into absolute proprietors" (Field, 380). O for the day when the revenue-farming non-agricultural landlords of Bengal, will follow that example!

We next turn to Europe, and we must be brief. "Allodial tenure," i. e., lands held as "the absolute property of their owner," without a superior, it has been said "seem to have been common throughout northern Europe. It exists in Orkney and Shetland, but is unknown in England, the feudal system having been made universal by William the Conqueror" (E. B.—Allodium). Taken in connection with Manu's "*sthanuchedasya kedaram*," and Usana's "*atavyah*" or forests, etc. as *asvamikanyahuh*," as *res nullius*, or ownerless, it would seem that

peasant-proprietorship was universal among our *Aryan* ancestors.

(2) **Peasant-proprietorship in Italy**
throwing light on our own.

We realize our own position, and to the best advantage, as we said before, by comparison with that of others, specially those more advanced than ourselves. India's indigenous industries and commerce being practically dead, she is to-day solely an agricultural country, while the advanced countries of Europe, with their industries and commerce in full bloom, are as much, if not more, industrial than agricultural. Under our existing conditions, our political goal should be the establishment of an 'agricultural democracy' "within the Empire," the goal in the advanced countries of Europe, like Italy, being the establishment of "industrial democracy,"—commerce, under healthy political conditions, being always but an offspring of the industries and agriculture. "The Government" of Italy, as Mr. Herron

puts it, in his 'Revival of Italy,' in order to realise that object "seeks a solution and synthesis of productive capital and labour that shall be an approach to industrial democracy, by "harmonising" individualism with socialism, or freedom with association,—the worker taking his place as an associate, and not as an enemy of the employer," thus leading to "industrial monism dissolvent of industrial and social dualism,—the advancing doom of industrial monarchialism," both the workers and their employers finding "freedom in association or association in freedom," "a synthesis of both unity and liberty, in which liberty finds, and fulfils itself in unity,"—"the quest whereof has been" to Italy, says Mr Herron, "her divine vocation and her Holy Grail." With regard to the use of violence as a means to that end, Mr. Herron, though he does not support Mahatma Gandhi's pledge of non-violence, yet observes—"In violence rests no permanent redemptive or preservative social force. Violence cannot really cure the evils which violence has created. Violence begets only violence in the end."

With regard to peasant-proprietorship in Italy which more directly concerns us here, Mr. Herron observes — “Because of the fact that Italy is an agricultural country, her people chiefly dependent upon the cultivation of the soil, the revolt of the agricultural workers is even more significant than the revolt begun by the workers in the factories; Industry depends in the last analysis upon the tenure and treatment of the land.” Every word of it is true for India. Let us in India never forget that India’s industries and commerce too, in the last analysis, depend upon the “tenure and treatment of the land,” and amend India’s tenancy laws accordingly.

Mr. Herron proceeds :—(“The Italian peasant, quite naively took the Government at its word, much as the little child takes the word of its mother.) (Has not that been equally true of the Indian peasantry !) Has not the Government promised to provide for the peasants ? To provide for the peasant meant to give them land,—there was no other way of providing for him. (The Government has not hindered the agrarian revolt, has perhaps

covertly guided it, with a view to securing in the peasantry a permanent stabilising force)." What should be the attitude of the Indian Government, if the Indian peasantry take a bold stand on the time-honoured law of "*Sthannchedasya kedaram*", that the land is the absolute property of the reclaiming peasant? "It is pretty certain too," says Mr Herron, "that on the ground of sheer social justice, Signor Giolatti desired to give the land to its users, and to rid Italy of the socially useless or parasitic class that has for ages fattened on the peasantry, thereby impoverishing the nation, and balking its normal developments." Is there not such a "socially useless or parasitic class" in India in the Zemindars, and their subordinate fry of Talukdars, &c? Are not the *khas mahals* a type of that useless parasitism on the part of the Government themselves? Are not the "licensed freebooters," with their fabulous incomes, in their superabundance, a class of socially useless parasites? How should we in India deal with these parasitic vested interests? "As an antidote to extreme socialist doctrine," says Mr. Herron, "the church

as well as the Government desires the stabilising social force inherent in peasant-proprietorship". (Would not that apply also to India ? if not, why not ?) ("The priests and friars who led the agrarian revolt in Sicily", says Mr. Herron, "were inspired by a genuine and passionate sympathy for the peasants.") (How stands it with the Mollahs among the Mahomedans, the Brahman priests among the Hindus, and the Padris among the Christians in India, so far as "a genuine and passionate sympathy for the peasants" is concerned ?) "The Italian peasant, whether he be peasant-proprietor or agricultural employee," observes Mr. Herron, "he must work in company. Individualist that he is in regard to the possession of himself and his land, as a worker, he is incorrigibly social." Will our Indian peasantry too learn to form *jots* or combinations, on an extensive scale, and 'work in company', following the lead of the advanced European countries like Italy, as regards Co-operative Association, whether as landed peasant-proprietor or as landless agricultural employee ? Who will enlighten them and give them the necessary

training in that line? Will our conceited intelligentsia, our self-complacent men of light and leading, or the Government themselves, do it? That way lies India's true salvation

Mr. Herron concludes :—“This synthesis of Peasant-proprietorship and Co-operative agricultural labor and barter (i e. sale and purchase),—the whole based upon the seizure of economic rent (i e. the land-tax reduced to the absolute minimum consistent with the welfare of both the individual and of the state) by the national community,—will become the ultimate land-system universal”) We too say *amen* to it, and invite the attention of the provincial Councils of India to this “synthesis of peasant-proprietorship and co-operative agricultural labor and barter,” as the only effective solution of the problem of perennial famine in India.)

(3) **Land-bankruptcy in England.**

Lastly we come to England, land-lord and capitalist-ridden England. The history of land-holding in England has been one of ceaseless struggle on the part of the people for the recovery of lost ground, for the abolition of the existing land-monopoly. It is admitted that peasant-proprietorship prevailed in England is Saxon times, and every freeman or ceorl had freehold property in land. There was also unappropriated land, or what Ushanah called *asvamikant*, as the common property of the entire community, called folk-land. In later times the folk-land became converted into the Crown lands, and the grazing commons. (The free development of the peasant-proprietory system in England however, received a rude shock, when after the Norman Conquest, William the Conqueror forced every one to admit that his land was the king's, and that whoever held any land, was bound to serve the king.) "Those who, in days before the Conquest, had been free, though they were the owners of very small estates, found themselves reduced to being serfs or *villains*, and were forced to

work 3 or 4 days in the week on their lord's estate." (Charles II in 1660 abolished all his feudal rights over the land, on receiving a grant of £s100,000 a year from general excise.) Like the United States, there is also no land-revenue in England, though the land of the country was at one time *terra regis*. In India where the land never was the property of the king,— "*na rajno bhur dhanam*" (Sayana on Taittiriya Brahmana), there is no place for land-revenue in the sense of rent, though there is, of course, place for tribute for "the cares of royalty." Accordingly we find the Ameen Akbery (p 238), while saying that "in former times, the monarchs of Hindustan exacted the sixth of the produce of the land," records the fact under "tribute and taxes," instead of under the head of rent. England once completely land-lord ridden, is now coming to her senses (A vigorous struggle on the part of the English peasantry, for the recovery of lost ground, for the recovery of their lost proprietorship of land, is now going on under the name and form of socialism). The leading English Statesmen are now trying to give relief to her agricultural classes by

exempting the small land-owners from taxation, and limiting taxation to the "unearned increment" derived from land by the larger land-owners. How different from this are the Indian land-revenue, stamp-revenue, and salt-tax all which directly or indirectly fall upon the starving peasantry, which England would not tolerate even for one day. Two-thirds of the land of England and Wales is now held by 10,207 owners, known as the "upper ten thousand," each holding 500 acres or more. The effect has been that agriculture is a failure in England, and, were it not for the vigorous growth of her industries, the consequence would have been serious, for already in England the proportion of land under crops to that under grass, is only as 53 to 47, and there is a growing tendency towards a decrease of the arable, and an increase of pasture land.

But England has come to her senses at last, and has passed "the Small Holdings Act," to re-create her old yeomanry by facilitating for every Englishman who so desires, the acquisition of small agricultural holdings, authorising the "County Council," corresponding to the Indian

District Board, to "acquire any suitable land with the object of allotting to persons who desire to buy, and would themselves cultivate the holding." In non-resident-land-lord-ridden Ireland too "the Land-purchasing Act" has helped in transferring the ownership of the land from the land-lords to the tenants. After the passing of the Ashbourne Act in 1885, the transfer of ownership to the occupying tenants began on an extended scale" (E. B.) In overcrowded England and Ireland, every man in the country who desires to live by cultivation, has no difficulty in securing two or three acres of land in a compact block, no difficulty in securing his "three acres and a cow," his *la petite culture*, unencumbered with any burdens whatever, for "the County Council has compulsory powers of purchase" of suitable land on suitable terms for all small cultivators ! The County Council of England has been vested with power to eviscerate an English land-leviathan of a little of his superfluities, for the benefit of the smaller fry of English peasants ! Why can not the District Boards in India be vested with similar power, for the benefit of the famine-stricken Indian

peasantry ? Are they not human beings born with "the rights of man" ? The object of "the Small Holdings Act passed by Parliament in 1892," which applies also to Scotland, "was to help the deserving laboring man to acquire a small holding not less than one acre, or more than fifty acres in extent.") "The essence of the bargain was that a fifth of the purchase-money should be paid down, and the remainder in half-yearly instalments spread over a period not exceeding fifty years." The powers of County Councils, and Borough Councils under the Act, are 'compulsory, whether for purchase or for hire,' (E B). Here in Bengal the Revenue farmers, like huge leviathans, have swallowed, not villages, but whole towns, whole parganas (counties), under an unfounded claim of proprietorship. Surely a little emesis of their superfluities would be greatly to their advantage, both morally and physiologically (We would request our Legislature to take a lesson from the Legislature of England, and cut the existing Gordian knot of "the extra-ordinarily complicated state of agrarian relations," fatal to agriculture, by putting a complete stop to the

present subinfeudation of tenures, by an express provision in the Tenancy Act, on the lines of the statute of 'Quia Emptores' of England; and also to vest our District Boards, and Local Boards, with compulsory powers of purchase or hire of land, to the extent of 3 to 20 bighas for the benefit of "the deserving laboring man"—"a fifth of the purchase money" being "paid down," and the remainder paid "in half-yearly instalments spread over a period not exceeding fifty years.")

(4) **The French system of *metayage*
compared with the *Barga*
system in India.**

We learn by comparison. France has a lesson for us in her system of *metayage* as Switzerland has a lesson for us in her system of pasturage in common.

(To the nations of the world, France is the Evangelist of the modern gospel of 'the rights of man,' and of 'the sovereignty of the people,'

the gospel which has been "accepted by all civilized nations as the gospel of modern times" (E B) In France it has been said, "in the great conflict between immunity (i e privilege) and community, the peasant won, the manor lost " Land in France is now mostly occupied by small proprietors under what they call "*la petite culture*," the great estates of old, with rare exceptions, being broken up. "About three million persons are proprietors of holdings under 25 acres (at 3 bighas per acre equal to about 5 drons) in extent About 80 per cent of the holdings (amounting to about 60 per cent of the cultivated area) are cultivated by the proprietors ; of the rest, approximately 13 per cent are let on lease (i. e. to under-rayats), and 7 per cent are worked on the system known as 'metayage' i. e Barga (E B) Would not the French people look aghast to hear of the proposal made by our Committee of Amendment, for vesting sub-leasees or tenants, to whom land is let for three, six, or nine years only, and metayers who cultivate land for a share of the produce, i e. under-rayats and bargadars—with the sham of an 'unprotected

occupancy right' ? (As in the United States or in England, so in France, there is no land-revenue, no indiscriminating blood-sucking of a famished and dying peasantry, with or without any assessable income, as in India.) In France however, unlike the United States where there are no direct taxes, a contribution (much like the Indian *vali* of Hindu times, or the 'tribute' of Mogul times) is levied directly on income from land, called *contribution foncière*, which is annually apportioned according to income.

What is of special interest to us in the French system of land-occupation, is the system called *metayage* in France and Italy, which comes very near to our Barga system. We have said that 7 p. c of the holdings in France are worked on the system of *metayage* or Barga, by which a tenant cultivates for the proprietor, for a proportion of the produce. The proportion received by the land-lord is sometimes two-third, sometimes one-third, varying with the fertility of the soil, and other conditions, the land-lord sometimes supplying all the stock, and sometimes only part, the cattle and seed

perhaps, while the farmer provides the implements. We should clearly understand what "supplying the stock"—living and dead, really means. It means supplying the cattle, the seed, the implements, and the manures, so that unlike India, the *Bargadar* has no capital whatever to lay out, being required to give his labor only. In France the metayers or *Bargadars* are generally "removeable at pleasure," and are "obliged to conform in all things to the will of their land-lord" The Bengal Tenancy Amendment Committee remark — "The majority of us are agreed that produce-rents are generally against the public interest, they encourage indifferent cultivation, and are against the best interests of agriculture," but they have not the boldness and independence of mind, or even the candidness to enquire, why it should be so. Why is it so? Because the land-lord of the *Bargadar* in Bengal reduces himself to the condition of a sleeping partner, taking no active part whatever, giving no help whatever to secure increased production. "Metayage (or Barga) in order to be in any measure, worthy of commendation, must be a

genuine partnership, one in which there is no sleeping partner, but in the affairs of which the land-lord as well as the tenant takes an active part. Wherever this applies, the result of metayage (*Barga*) appears to be as eminently satisfactory, as they are decidedly the reverse wherever the land-lord holds himself aloof" (E. B). Unproductive Zamindari rights are equally "against the public interest"; Zamindari rights too, "encourage indifferent cultivation, and are against the best interests of agriculture"; they too and to a more culpable extent, encourage indifferent cultivation, and are against the best interests of agriculture,—the object of which is to obtain from the soil its maximum yield. And this too happens to be the case for exactly the same reason, viz, because the Zamindar is a "sleeping partner" of the profits of the land, fattening on the produce of the soil, without being bound to do anything whatever for obtaining from the soil its maximum yield. Both Zamindari and Government Khas Mahals, should be abolished on the ground that they are both "against the public interest," or because they are both

“against the best interests of agriculture” ! In the days of Akbar, long before our present-day Zamindars who now claim proprietorship in land, were in the embryo, the Emperor directed the Amilguzzar, or the imperial Collector of the Revenues in these words :—“Let him endeavour to bring the waste lands into cultivation, and be careful that the arable lands are not neglected. He shall annually assist the husbandman with loans of money”. “He must assist the needy husbandman with loans of money (of course without interest), and receive payment at distant and convenient periods,” (A. A . 262). Surely the State in Mogul times was not then a sleeping partner of the produce like the State to-day ! (Could not our Legislature compel both the State authorities as well as the unproductive Zemindars to justify their demand for revenue, miscalled rent, by doing what Akbar himself did, at least by lending working-capital to the peasantry without interest, and thus have done once for all with money-lenders, instead of, as they now do, driving the husbandman to the village Shylocks, only to be swallowed flesh and bone.) Agriculture

is impossible without capital, and at the same time her resources are extremely elastic. Where the husbandman now gets ten maunds of paddy, he could with expert supervision, and the judicious outlay of capital, easily get thirty maunds. In France, to obviate the difficulty about capital, *metayers* or *bargadars* form associations, and work under the personal supervision of the land-lord (*metayage par groupes*—E. B.). (Nowhere in the civilized world is the poor cultivator driven for working capital to hungry Shylocks panting after his “pound of flesh,” as in India)

(5) **The Swiss system of pasturage is common, compared with the ancient Indian system.**

{ Switzerland has from a long time been looked upon as an ideal republic on account of the happiness and contentment of its

small peasant-proprietors. The land is cut up into a large number of small peasant-proprietary holdings, for which the proprietor-peasant has no rent to pay either to the State, or to any middleman.) "The quantity of land held by a single peasant-proprietor in the Swiss Canton of Geneva," says Field, "varies from six to twelve acres," i. e. one to two *drons*. We have shown in the case of England that there is in England a "continuously growing tendency towards a decrease of the arable, and an increase of pasture land" In England "where there has been many householders, and inhabitants, there is now but a shepherd and his dog", said Bishop Latimer, denouncing the English "inclosers and rent-raisers" of his time. "A time there was ere England's griefs began" sings the poet, "when every rood of ground maintained its man." But when "the bare-worn common" came to be denied to the peasantry, for free pasturage, because of the passing of the "Inclosures Acts," the small farmer could not work with profit. "Small tenancies" it has been observed "are not workable at a profit, when common rights ceased to go

with them" (E B), that is, when "the waste lands of the vill or township, ceased to supply feed for the cattle of the community." In Poland, even after the peasants were recognised as proprietors in 1864, there "right to pasture on, and take fuel from the land-lords' estates were maintained" (E B.) The small Swiss peasant-proprietors accordingly hold their forests (alps), and summer pastures in common, for they know very well, what our Legislators seem not to know, or perhaps do not wish or care to know, so long as their own pockets are untouched, that small peasant-proprietors holding only six to twelve acres of land, or one to two drons, could not work with profit, if they had either to feed their cattle with hay, silage, cakes, and corn, or bran, purchased from the market, or had to reserve even a small part of their small holding for pasturage, which the Swiss peasantry know would be, not only impossible, but positively injurious to the health of their cattle, if they had to be kept, like the generality of our cattle to-day, tethered or confined continuously in a small plot of grass. The Swiss Communes

therefore have provided from time immemorial common pastures for the peasantry, having maintained a well-organised and well-managed pasturage-system, which is, as it were, the pivot round which the pastoral lives of the inhabitants of Switzerland, turn. "A time there was ere India's griefs began," the Indian poet may sing to-day, before our upper classes degraded themselves into the condition of "licensed freebooters", and gilded leeches, who "do not contribute for the growth or development of national wealth, but only transfer wealth from one pocket to another," sleeping beside their nectar, careless whether the husbandman, who by the sweat of his brow, produces food and wealth for them, works his farm at a profit or at a loss, or for less than even the wages of labor, } we too in India had a well-organised and well-managed pasturage-system, when, in Hindu and in Mohamedan times, the Government, unlike to-day, was 'of first rate assistance' to the peasantry, and knowing full well that small holdings of two or three acres, much smaller than the Swiss peasants', the generality of our cultivators' holdings are not

workable with profit, unless loans of working capital are given without interest, and free pastures are provided for the cultivators' plough-cattle, such as both *Manu*, and the *Ayeen Akbery* provide, with infinite advantage to the small peasant-proprietors, and cattle-keepers of India of those days.

"A belt (of pasture-ground) shall be reserved" says *Manu*, having a breadth of 100 bows' length (350 cubits), or equal to three throws of the shepherds' stick, round each village, and a belt of three times that breadth shall be reserved round every township. If cattle damage any unenclosed paddy therein, the king shall not punish the keeper of those cattle. There shall be erected a fence (to mark off the boundary), so high, that a camel can not look over it, and all openings therein, of the size of the mouth of a pig, or of a dog, shall be closed" (VIII—237, 238, 239)*. And what have we in the *Ayeen Akbery*,—which the Governor General in 1783 said:—

* See Chanakya's "Kautilyam Arthashastram" "Akrishyayam bhuman pashubhyo vivitan prayachet" (II-1, See *ante* p. 114).

“Comprehends the original constitution of the Mogul Empire” ? Says the Ayeen Akbery — “If any one does not cultivate *Kherajee* land (i. e. arable land liable for “tribute and taxes”), but keeps it for pasturage, let there be taken yearly, from a buffalo 6 *dams*, and from an ox 3 *dams* (*dam* = “the 40th part of a Rupee” formerly called *pysah*), but calves shall be permitted to graze without paying any duty. For every plough there shall be allowed four oxen, two cows, and one buffalo, from whom likewise no duty shall be taken for pasturage” (265). O how our peasantry have been swindled out of those free pastures for their plough-cattle, “the enlightened principles of a British Government” notwithstanding (F. 512). We ourselves saw, sixty or seventy years ago, the last relics of the old pasture-lands, which formed the play-grounds of the village-boys, which, with the broad *gopats* or cattle-paths, now continuously diminishing in breadth by encroachment, formed the feeding-ground of the village cattle.) They have all been misappropriated by the Zamindars, often by collusion with traitors in the camp of the

peasantry, and (Shall we add ?) the Amin myrmidons of the Survey and Settlement Departments. "Small tenancies are not workable at a profit when common rights (or the rights of free pasturage) ceased to go with them" (E. B) That is the experience of all the advanced countries of the world And no-where in the world are the holdings of the generality of the peasants so small as in India, being only two or three acres ! How are they to be worked with profit without facilities for free pasturage ? We leave it to our Legislature to answer that question, if they think it worth their while to trouble their brains for an answer. The Indian peasantry who are, it is admitted, hardly able to find even one full meal a day for themselves and their children, are they expected to feed their cattle with hay, silage, cakes, corn, and bran purchased from the market ? In the Ayeen Akbery we read that in spite of the smallness of the holdings of the Indian peasantry — "Every part of the empire produces good oxen, but those of Guzrat are esteemed the best. These will travel thirty-six miles in the course of twenty-four hours, and they

are swifter than the generality of horses. There are also abundance of fine oxen in Bengal, and the Deccan Many cows at Delhi give daily twenty-quarts (= 25 seers) of milk each" (A. A., 127) Where on earth are those "fine oxen" of Bengal now? The generality of the Bengal cows to-day hardly yield two seers, or four founds of milk daily, even in the third month of their calving (This deterioration of our cattle is the outcome of that Satanic misappropriation of the pasture-lands of our old village communities,—criminal or not, we leave it to the Legislature to judge) It must be prevented, for it is "against the best interests of agriculture," about which our Legislature professes to be so keen) Pasture-land must be found for our peasantry. The ruling power claiming "a certain proportion of the produce of every acre of land" (Regulation XIX of 1793), is in duty bound to protect the plough-cattle from starvation by restoring to the peasantry their pastures Is not rent-demand down-right plunder without this provision? But our landlord-ridden Legislators have not a word to say about pastures.

Do they not feign an interest in agriculture, which they do not really take ? The fact is our Legislative Councils are composed of unproductive Zemindars who fatten on the spoliation of a famished peasantry, and a few lawyers who are licensed to rove about the Courts freely for booty, without "contributing to the growth or development of national wealth." What do they care about soil-recuperation or the deterioration of our cattle, or about the sufferings of our famished peasantry, so long as their own purses are full. Only prevent the starving cattle from trespassing into their ornamental gardens or compounds, to disturb their peace and comfort, and they want nothing more. For that purpose, all you need do, is to multiply the pounds, and they are satisfied. Is there a single member in our Legislature whose conscience is touched, if he has a conscience to be touched, on the score of the misappropriation of pasture lands, or who thinks that a substantial and lasting compensation is due to the peasantry for that misappropriation. We appeal to the conscience of the public to see that every village and every town be provided with a sufficiency

of free pastures for the plough-cattle, and to see that Indian agriculture, and the agricultural classes are saved from imminent ruin.

SECTION V.

The probable financial results of the restoration of peasant-proprietorship in India.

(1) The assessable minimum of land-tax miscalled rent

Whether in England or in the United States or in any of the advanced countries of the world, there is no land-revenue except as a tax on income above the assessable minimum. It should also be clear from what has been said, that the so-called *rent* in India is not rent for the use of land owned either by the State, or by the Zemindar. The section of the people most useful to the community, and at the same time the most helpless, and least able to bear

burdens, has been under the existing system of land-holding in India, needlessly saddled with a burden amounting to more than half their net income derived from the work of food-production for the nation. And for whose benefit? For the benefit of a microscopic minority far less useful, but wealthier and therefore better able to bear burdens. The rent paid by the husbandman in India, we have shown, is really a contribution by him for his own benefit, rendered necessary, as we have shown, by the exigencies of the climatic as well as the economic conditions of India. "Where mastership or ownership is absent," says *Savara Swami*, "there can be no giving"—*svamyabhavat danam nasti*" The state not being the owner of the husbandman's land, can not give it in settlement to a third party, no, not even the forest lands "*Atavyah*" which, as such, we have shown are *res nullius* "*asvamikani*," and therefore can not be the object of a State-gift, "*nahī teshu parigrahaḥ*" under the ancient law of the country. As a necessary corollary, the whole question of land-settlements by the State, whether periodical

or permanent, falls to the ground. True indeed, "the ruling power," so long as it renders the services prescribed "is entitled to a certain proportion of the produce of every acre of land," provided that land is cultivated, but not as rent in the sense intended by the capitalist-farmers of England, but as *vali* or contribution, or as the Ayeen Akbery speaks of it as tribute or tax. As a tax again, as under all civilized Governments, there should be an assessable minimum to the so-called rent. For incomes below that minimum no rent-tax should be charged. For England, the assessable minimum of income is £160 per annum or a little over Rs 2000. In India that assessable minimum of income should surely not exceed an eighth of the English, or £s20 or Rs. 250 per annum. Husbandmen in India whose income is below Rs 250 yearly, or Rs. 20 monthly, should not be made to pay the land-tax now mis-called rent.

(2) **No representation no taxation.**

Again we have shown conclusively that the *Vali* or land-tax mis-called rent, paid by

the husbandman, was intended for a particular purpose—"the protection of the crops &c." *Vrihyadinam rakshanena*", like the Chowkidari tax, or the Municipal tax. "He who pays the piper calls for the tune." The principle followed in all civilized countries "no representation no taxation" should also be applied in regard to this land-tax in India mis-called rent, like the Municipal tax, &c. in India (A Board of Representative husbandmen, like the Board of Agriculture in England, should direct and control the use of this *vali* or land-tax.) It should be then duty to see that what is taken from the peasantry by the State with one hand, is returned to the peasantry by the State, with the other, and in a form a thousand times more beneficial, so as thereby to augment the wealth of the nation, "*sahasragunamutsrasthum adatte hi rasam ravih*", either as loans of agricultural capital without interest as the Ayeen Akbery directs, or as irrigation facilities, or the supply of valuable manures, or as free and ampler pastures for the cattle, or the free restoration of the value of the husbandman's stolen property from the royal

treasury, if need be, and the free administration of justice generally, and the free and compulsory education of the peasantry.

As a necessary corollary from the fact that the husbandmen cultivate their own lands, the question of land-settlements and rack-renting assessments in Zemindaries or in *Khas mahals*, as we said before, does not arise. The question of the extension of the Permanent Settlement, for which the late Mr. R. C. Dutt, C. I. E., pleaded in his life-time, as well as that of temporary re-settlements which Lord Curzon defended against him, when he was Governor General, lose their reality, and like the headache of the headless "*ashvashka-shirobyatha*" become meaningless.

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- (3) Will not the restoration of Peasant-proprietorship in India, cause a fall in the Government revenue !**

Lastly in concluding our observations, we submit that peasant-proprietorship on the lines laid down in Manu, &c, for the Hindu

times, and in the Ayeen Akbery for the Mohammedan times, is the best form of land-holding for India, being best adapted to the economic and climatic conditions of India, in the same way as peasant-proprietorship has proved to be the best for all the advanced countries of the world to-day, in the form best adapted to their own climatic and economic environments. But it may be asked, would not the Government be a great loser, if peasant-proprietorship were re-established in India,—the *Zemindaries* as well as the *Khas mahals* being abolished? A loser or a very great gainer,—would solely depend upon how the Government performed their duty of “protecting the crops,” &c. “*brihyadinam rakshanam.*” If the Government remained a mere sleeping partner of the actual produce, with hands tied to the breast, allowing the usurer to victimise the peasantry with “his silver bullets,” instead of “thrashing him to the death,” and like the land-lords of the present *bargadars* (metayers), suffered the husbandmen’s crops to be destroyed by flood or drought, or from soil-exhaustion, and the want of necessary manures, or by

insect or fungus-pests, or allowed his cattle to starve and degenerate for want of pasture-land, or coldly allowed any other destructive agent, like the water hyacinth of Lower Bengal to-day, which it is beyond the power of the unaided husbandman to cope with, to work havoc among either the crops or the cattle, the Government would surely deserve to be a loser, for they ought not to forget that the case is really one of "joint ownership" with the husbandman, in the actual "produce of the land" (Revenue Dispatch No. 14 of 9th, July, 1862). If on the other hand, instead of remaining a mere sleeping partner, the Government took an active interest in the work of production, providing working capital without interest or at a nominal rate of interest, and providing facilities for drainage, irrigation, manuring, cattle-feeding, and the treatment of cattle-disease, which the husbandman could not provide for himself, the husbandman might,—“the Government,” as Mr Hamilton puts it, “manufacturing the money to set their labour in motion”,—by intensive cultivation, obtain from the same land two or three crops in the year, where he is now

able to grow only one, or grow valuable crops like sugarcane, tobacco, or potato, or other garden-vegetables ; thus increasing the profit tenfold, both for himself and for the "joint owner of the produce,"—the Government. Again the Government supplying the working capital, as provided in the Ayeen Akbery, instead of, as now, allowing the usurer to plunder the husbandman, the husbandman would improve the feeding-ground of the crops by judicious manuring, and obtain a much larger yield both for himself and the Government, than now. While the protection thus given by the Government to the crops, the cattle, and the field-labourers, would bring the Government a ten times larger revenue, the husbandman, who to-day can not but feel that he is taxed for nothing, would then feel grateful, knowing full well that he is more than amply repaid for what he pays as revenue to the Government. Sedition would thus be killed at the source. The average husbandman has to pay to-day twenty to thirty rupees a year to the village-Shylocks as interest for his agricultural capital.

If the Government gave loans without interest "to be repaid at distant and convenient periods," or at least supplied the funds for organising a banking system preferably of the Raiffeisen * type for the peasantry in every village, on the

* Speaking of Co-operative Banks of the Raiffeisen type, without shares and dividends and based on capitalised honesty, for giving small sums to the peasantry as loans at a nominal rate of interest, on the sole security of their honesty, Wolff says in his *People's Banks* — "When I explained the principles of Raiffeisen credit to Sir Arthur Cotton he almost bounded out of his chair with delight exclaiming — "That is the very thing for India, it must succeed; and whatever estimate you may have formed as to results, multiply it by twenty, and you will still find it exceeded." "You should go into the valley of the Rhine, where the Raiffeisen banks have been longest at work, and observe to what extent homes have been made habitable and comfortable, how the usurer once all-powerful, has been driven out of the field, and those once poor men, have become small capitalists,—a world of brotherhood, of brotherly love and mutual help, where every one is the protector and the assister of his neighbour, producing wealth as by a touch of Midas. It is co-operation which has created it all."

co-operative basis, much in the spirit of the Islamic *Zakat* or poor-rate—"Wa atuz Zakata" (Q, 2-43) "Pay the poor-rate," for the *Bait-ul-mal* or the public treasury,—the Government advancing money to the village banks, so that those village-banks could build up credit for themselves, the whole race of village-Shylocks would be extinct.) What a relief would it be to

In Italy, under the influence of Dr. Wollemborg's *Casse Rurali* — "Litigation has very sensibly diminished" "Where there used to be grudging and envying, ill-concealed delight in another's troubles, there is now fellow-feeling. People have learned that they are bound together by a common interest, that their neighbour's hurt is their own, their neighbour's good their profit. Freed from usury, the peasantry have regained courage and confidence. The peasant, who previously helpless, and had no choice for himself but between extreme misery and dishonesty, has now risen to a sense of human dignity." Wolff's 'Peoples' Banks'.

Sir Frederic Nicholson, whom the Government of India sent on deputation to study and report on the working of the *Raiffeisen Banks* of Europe, summed up his report in one short pithy expression, "Find Raiffeisen," as the sole cure for India's poverty. But no action has been taken by the Government in that line. ?

85 per cent of the population of India, to the section most useful to the whole human race. Mr Hamilton has pointed out that India's 700,000 villages could easily be provided with as many Peoples' Banks on co-operative lines, all linked together, by bonds of mutual trust, as well as unity of purpose, if only the Paper Currency, Gold Reserve, of 75 crores of India's money, now invested in British securities, were exchanged for silver, and made available to the Indian people for the development of India's resources

(Again, as we have said before, for want of water-supply in the dry season, from the want of suitable wells, tanks, &c, our husbandmen to-day can generally take only one crop in the year, from the bulk of the land, and that only one of the less valuable crops. They cannot take a crop of Sugarcane, or potato, or tobacco. (If Government provided the facilities for irrigation in the dry season, the husbandman could take two crops, and often three crops, including the more valuable garden vegetables. That alone would raise the income of the husbandman as well as

the revenue of the Government, to at least four times what it is now)

Again the comparatively more exhausted soils of to-day need recuperation more than the comparatively virgin soils of Hindu or Mahomedan times. The most important food-materials of plants that need to be replaced, are the phosphates, Nitrogen in available form, and potash. Artificial manures, such as the phosphatic manures, bone-meal, superphosphate, apatite, &c, or Nitrogenous manures, such as saltpetre, or sulphate of ammonia, or potash manures,—like Kaut, which, as a rule, are inaccessible to the unaided husbandman, could be easily supplied by Government in sufficient quantity. From this cause also the income of the husbandman as well as the Government-revenue, would be not less than four times as much as it is now,—a result which, it is impossible for the unaided husbandman to obtain for himself. It should be noticed in this connection, that the average result of fifty years of experiment at Rothamsted, is that while a wheat plot unmanured continuously gave only 13. 1 bushels of

wheat per acre, a wheat plot manured with farm yard manure yearly, gave 47.7 bushels per acre, i. e., nearly four times more. Similarly at the Woburn experimental farm a barley plot unmanured continuously for thirty years, gave 18.1 bushels of barley, and a plot manured yearly with farm yard manure gave 38.8 bushels, i. e., more than twice as much. "The exhaustion of the soil for want of manure, has been estimated as equivalent to a decline of one-sixth of a bushel from year to year, due to exhaustion" (Encyclopædia Britannica). With a little supervision by the Government experts, who to-day waste public money in the maintenance of white elephants in the name of model farms, and the pursuit of expensive fads, at the cost of the starving peasantry,—green manuring, the inoculation of the soil with nitrifying bacteria, the treatment of plant-diseases with insecticides and fungicides, could be made to raise the income of the husbandman as well as the Government revenue. The Government might also greatly increase the profit by reducing the cost of production, by the introduction of steam-power, or motor-power in field-

operations where suitable, as in the advanced countries of the world. Even a well-tested and judicious rotation of crops would have a similar effect. "The introduction of a proper alternation of crops," says Justice Field, "is said to have had the effect of doubling and occasionally trebling the productive power of the land" (14). Thus there can be no doubt, that peasant-proprietorship on the lines followed in ancient India, with the Government receiving for revenue a proportion of the actual produce, and adapted to the altered economic conditions of our times, would be of infinite advantage to both the Government and to the peasantry, so as to make desolating famines, which are now become the rule, as impossible in India, as they are impossible in any civilized country. "The general result of the emancipation of the land," says Field, in speaking of the results of the establishment of peasant-proprietorship in the Grand Duchy of Hesse in Prussia, and the creation of peasant-proprietors, "has been that the standard of cultivation has been immensely raised, that the land yields infinitely more than it did previously" (82)

The same result is bound to follow in India, if Zemindaries and Government Khasmahals are abolished, and peasant-proprietorship with joint ownership in the produce, re-established on the lines of the "ancient law of the country." Famines will be as impossible in India then, as they are impossible to-day in other civilized countries. It should never be forgotten that even in England, where the land was *terra regis*, there is no land-revenue. In India too there was no land-revenue, but only a contribution for the protection given to the crops and cattle, the amount of that contribution varying from year to year with the actual yield of the year "Under the meteorological and economic conditions of India," as Lord Curzon put it, the government alone can give proper protection to the crops, &c, from floods, droughts, &c, or effectively assist the peasantry, in establishing an efficient system of co-operative banking, that will fully meet the demands of the entire population, agricultural as well as manufacturing,—organised, managed, and controlled by the peasantry themselves, for their own benefit, as in the advanced countries

of the world. For giving such protection, the Government is surely entitled to receive as contribution or tax, a "certain proportion of the produce of every acre of land", as Lord Cornwallis claimed, provided it brings the peasantry an income above the assessable minimum. In the fitness of things too, the husbandman, the user of the land, should be the sole proprietor of the soil, or of that upper one-foot of the earth's crust, which is the feeding-ground of his crops, for by habit, disposition, and training, he alone is best able to maintain it in the highest state of efficiency, so as to obtain from it the maximum yield of food-grain for the human race, at a minimum of cost,—the Government only helping him, where he is unable to help himself, and "as a return for the cares of royalty", receiving from the husbandman a fair and equitable proportion of the increased yield. The soil is too sacred a trust to allow unproductive profiteering speculators, and land-grabbing usurers to trifle with it, in their own private interest. The whole civilized world is to-day moving towards peasant-proprietorship. Let us not in India lightly surrender our birth-right enjoyed from time

inmemorial for a mess of pottage, but rather see that peasant-proprietorship on the lines laid down by "the ancient law of the country," modified so as to suit our existing environments, is re-established in India, to the greatest advantage of both the husbandman and the Government, both doing their duty to the best of their power. If "The land" in Hesse in Prussia, as Field has said, "yields infinitely more than it did previously" after "the emancipation of the land, and the creation of peasant-proprietors," it only proves the general rule of the marvellous elasticity of the resources of agriculture? As the night follows the day, the same result is bound to follow in India, by intensive cultivation, to which the husbandman is bound to resort in his own interest, if he is given those facilities, that he is unable to secure for himself. Taking every thing together, the profits of the husbandman as well as the Government revenue, are then bound to be at least tenfold of what they are now, the labour of the one, and the supervision and outlay of capital by the other, being more than amply repaid, if they both faithfully

perform their respective duties, on the lines we have indicated Peasant-proprietorship in India, re-established on the lines of the "ancient law of the country," modified so as to suit existing environments, is thus bound to prove the salvation * of the country, blessing both the rulers and the ruled. It shall in that case, in no time, be realised that Peasant-proprietorship in India too, like —

* The following extract from the 'Bengalee' on the Census Report of 1921, speaks for itself - "The proportion supported by unproductive occupations in Bengal is 952 per 100,000; but it is much the same as in India as a whole. "It is remarkable," states the Census-Report, "that the proportion should be so great in so poor a country, that besides their own dependants, every 100 workers between them support 3 people who make no attempt to earn an honest living, and that in Bengal, the number engaged in unproductive occupations, should have increased rather than diminished, during the last 20 years, though the pressure of the population on the means of subsistence in the province has been very great. The figure was 396, 127 persons in 1901. It was 431, 669 in 1911, and 438, 274 in 1921' "The fact stated above ought to indicate why Bengal, which was at one time, one of the most healthy

"The quality of mercy, is not strained,
 It droppeth as the gentle rain from heaven
 Upon the place beneath It is twice bless'd ;
 It blesseth him that gives and him that takes,
 'Tis mightiest in the mightiest ; it becomes
 The throned monarch better than his crown".^v

provinces in India, is now in the grip of malaria and hundred other diseases, and why the death-rate is so high in this province". Dr Bentley following Malthus in the general proposition that the growth of population is limited by the extent of the means of subsistence, believes that malaria manifests itself in Bengal as the instrument of adjustment of such growth to economic conditions. He adds that in a large measure, malaria is not a root cause of depopulation, but appears in localities which suffer "adverse economic conditions, and keeps down the population by a less obvious, but essentially parallel of reactions to those by which starvation produces the same result, depopulation, in the acutest stress of economic conditions, famine." (The Report on the last Bengal Census of 1921, quoted by the Bengalee of 25th October 1923).

The End.

