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THE LAND-SYSTEM  
OF  
THE HOLKAR STATE

*A Commentary on  
The Indore Land-Revenue and Tenancy Act  
(I of 1931)*

BY  
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## PREFACE

**H**IS HIGHNESS THE MAHARAJA YESHWANT RAO HOLKAR recently invited me to assist his Government in codifying the law relating to the land-revenue and land-tenures of the Holkar State. In the Committee on the Bill (of which I was a member) it was not possible to maintain a full memorandum of our discussions. I have, therefore, thought it desirable to place on record, but of course without official authority for any of the views expressed, an exposition of the principles which underlie the first Land-revenue and Tenancy Act of the State. I have added some brief explanatory notes on individual sections.

I take this opportunity of expressing my personal acknowledgements to the other members of the Committee and, particularly, to Mr. K. G. Reshimwale, the Revenue Minister, and Rao Saheb Tilloo, the Settlement Officer and Director of Land Records, for their hearty co-operation in the task of framing the provisions of the new enactment.

C. U. WILLS

Beaconsfield  
28 August 1931

## CONTENTS

	PAGE
CHAPTER I. The Characteristics of the Holkar State Land-System	I
CHAPTER II. Restrictions on the Tenant's Right of Sale . . .	12
CHAPTER III. Restrictions on the Tenant's Right of Mortgage . . .	20
CHAPTER IV. The Problem of Subletting .	28
CHAPTER V. The Office of Patel . . .	36
CHAPTER VI. The Assessment of Agricultural Improvements . . .	45
CHAPTER VII. State Finance and Rural Administration . . .	52
CHAPTER VIII. Conclusion . . . .	57
APPENDIX I. The Indore Land-revenue and Tenancy Act (I of 1931) .	63
APPENDIX II. Explanatory Notes on Sections	105

## CHAPTER I

### THE CHARACTERISTICS OF THE HOLKAR STATE LAND-SYSTEM

THE Indore Land-revenue and Tenancy Act of 1931 is a contribution to Indian agrarian legislation on somewhat novel lines. Two circumstances lend a special interest to the scheme of land-administration which it incorporates. The Act is the first of its kind to be promulgated by the Holkar State, so that it has been possible to exercise a discretion less fettered by previous commitments than is usual nowadays in India in dealing with agricultural tenures. In the second place, in framing the land-policy of the State, it has been possible to draw freely upon the accumulated experience of neighbouring British Indian territories.

In British India, as distinct from the Indian States, two widely established land-systems have successfully stood the test of a century's experience. One of these is the *raiyatwari* system of the Deccan, in which the unit of assessment is the cultivator's holding; the other is the Northern India system, in which the normal unit of assessment is the village. Under the latter system, the primary right of proprietorship, transferable without restriction, is conferred upon a village landlord, who may be an individual but is, more commonly, a corporate body; this proprietorship extends over the entire village and includes, not only the land (if any) which the proprietary body may cultivate itself and that which it leases to tenants for

#### THE HOLKAR STATE LAND-SYSTEM

cultivation, but also the inhabited site of the village and the village-waste ; responsibility for the land-revenue of the village rests wholly, of course, upon the proprietors ; and they have considerable authority over their tenants, whether tenants-at-will or tenants 'protected' by some statutory provision. Even if 'protected', a tenant will still, under the conditions that prevail in an Indian village, be closely subordinated to the proprietary body, to whom he will pay rent for his holding in accordance with the terms of a contract, express or implied. Under the former, or *raiyatwari*, system, the primary right is conferred upon the individual cultivator, who becomes, for all practical purposes, a holding-proprietor with unrestricted rights of transfer ; the revenue responsibility is laid upon the raiyats severally, each paying the amount fixed for his holding, not by contract but as an assessment on the land ; while the village-site and the village-waste remain the property of the State, though the cultivator has certain communal rights of user over them. There is no middleman-proprietor ; but, in lieu thereof, there is, for administrative purposes, a well-recognized hereditary village-officer, usually known as the Patel, who helps in the village management and in realizing the Government demand, acts as a medium between the raiyats and the regular officials of the Government and is commonly remunerated by a grant of revenue-free land.

The *raiyatwari* principle was first officially approved for Madras in 1806 ; while settlement with village proprietors was first commonly accepted in the old 'North-Western Provinces' after 1822. In these widely separated areas local conditions favoured the introduction of fundamentally divergent systems. The fabric of agricultural society in the North-Western

### GENERAL CHARACTERISTICS

Provinces justified the recognition of a landlord class as village proprietors. In Madras an attempt made by the British to create a landlord class had proved unsuccessful; and a holding-proprietary system was deemed the only possible alternative. In introducing these systems, the British Government advanced no claim to any universal ownership of the land, although that right seems to have been put forward by some, at any rate, of the preceding Governments and was definitely asserted by the leading Maratha States. Mr. Baden-Powell, writing in 1899, went so far as to maintain that 'when land administration first came under the direct control of British officers in Bengal in the eighteenth century, it was a firmly-established doctrine that the State was the owner of all land'; and that 'long before the eighteenth century, *de facto* the right had been fully established and is asserted to this day by all the Native States.'<sup>2</sup> His contention, however, has been challenged; and I have no desire to raise a controversial question. It is sufficient for the purpose in view to observe that the British Government does not claim, and has never claimed, the universal proprietorship of the land within its Indian territories; whereas the Maharaja Holkar, in common with Gwalior

<sup>2</sup> *Village Communities in India*, 2nd ed., pp. 144-5. Mr. Baden-Powell continues: 'Lord Cornwallis simply desired to abandon it [the State right], substituting the Zamindar landlords, whom he found in managing possession of large estates in Central Bengal. These he hoped to see acting the part of benevolent owners, at once securing the State revenues and blessing the tenants by their liberality and kind dealing. When, in the North-Western Provinces (in the absence of such landlords), attention was turned to establishing the independent rights of the villages, it was still the policy to give up the State right. The "joint body", dealt with as the ideal landlord of the village, is not declared by the Regulation (of 1822), in so many words, to be actual proprietor; but this right is implied; and the whole body, as well as the several co-sharers, are treated in all respects as owners. Not only so, but when in Bombay and Madras the individual holding was separately dealt with (without the intervention of any middleman-proprietor or joint responsibility) and when the supreme ownership of the State was maintained, or at least not formally abrogated, still no restriction was placed on the power of alienating the permanent hereditary occupancy, which, for all practical purposes, was as good as ownership.'



#### THE HOLKAR STATE LAND-SYSTEM

<sup>4</sup> and other Princes in Central India, unquestionably asserts, and has long asserted, that right over the whole of his dominions.

The *raiyatwari* system was extended in the 'thirties of last century to the Bombay Presidency, while the Northern India system of settlement with village proprietors was extended in the 'sixties, under the name of *malguzari*, to the Central Provinces. The Holkar State, though it abuts upon the Khandesh district of the Bombay Presidency and the Nimar and Hoshangabad districts of the Central Provinces, remained, throughout the nineteenth century, wholly uninfluenced by either of the standard land-systems of British India. The universal ownership of the Ruler was emphatically declared. The cultivators were his *tenants*, though their customary title to continue in occupation of their lands and to transfer them by inheritance was commonly respected. The alienation of holdings was allowed only for a limited term, under special sanction and on payment of a fee, or *nazarana*, to the State. There was a Patel, a survivor of the old local village-organization, to be presently described, but his office had declined greatly in importance. The revenue was collected, for the most part, through 'revenue-farmers' or contractors, known as Ijaradars, who took up, for a term of years, responsibility for the revenue assessed on individual villages or small groups of villages. The essence of the arrangement was this contract of the revenue-farmer, who was not allowed to stabilize his position and whose presence, as a mere middleman, with no more than a transitory commercial interest in the village or villages he held, was subversive of any healthy village-organization. The primary consideration of the State was the collection of its revenue.

#### GENERAL CHARACTERISTICS

It is of interest to reflect that this *ijaradari* in Holkar's dominions was very similar to the arrangement, found in force in the territories of the Nagpur State at its escheat to the British in 1853, which led to the establishment of the *malguzari* system of the Central Provinces. When those provinces were first settled as part of British India, the British Government paid no heed to the position that had been assumed by the Maratha Princes of the country; and proprietary rights in villages were conferred on those who had previously engaged for their revenue assessment. In the Gwalior State also, under the influence of the British land-system in Northern India, a settlement with village proprietors has been generally accepted. Holkar's dominions have been more fortunate. At the beginning of the present century, attention was directed to the needs of the rural population by the disastrous famine of 1900; and a new land-settlement—supervised by Mr. H. J. Hoare, a Civil Servant from the United Provinces—was undertaken on regular lines, which resulted in the wholesale ejection of the Ijaradars or revenue-farmers. The removal of this middleman class offered many advantages to the State. The middleman's profit was saved; the danger of his developing into a permanent village landlord, as in Gwalior and the Central Provinces, and establishing an artificial village-proprietary system was forestalled; and, what was even more important, the ground was cleared for the revival of the old village-organization based on the traditions of the countryside.

The old local land-system of the Holkar State, of which we possess a full account in Sir John Malcolm's

<sup>1</sup> Sir Richard Jenkins, writing of Nagpur in 1816, observes, 'The Raja is considered to be the hereditary Patil of all the villages. . . . The Village Officers, so-called, are little more than subordinate collectors with the powers of a Patil.'

#### THE HOLKAR STATE LAND-SYSTEM

*Memoir of Central India*, published in 1824, was analogous to that out of which the *raiyatwari* system of the Deccan had developed. The village-site and the village-waste were at the disposal of the State; but the primary claim of each cultivator to his particular holding was recognized, and he was held directly responsible for the rent to which he was assessed by Government. The control of the village and the collection of the rents were entrusted to a hereditary Patel remunerated by a *watan*, that is, by customary rights and privileges, the chief of which was the right to enjoy, free of assessment, a certain area of cultivated land. This system, though analogous, as I have said, to the *raiyatwari* of British India, must, in one respect, be sharply distinguished from it. ( In British India the raiyat is recognized as, practically, the proprietor of his holding with unrestricted rights of transfer<sup>1</sup>; and the revenue is assessed upon the land and is not regarded as a rent based on a contract with a landlord. In the Holkar State, on the other hand, the Ruler is, and has always been, the universal landlord; the cultivators are his tenants; their rights of transfer are, therefore, liable to definite limitation and their assessment is the rent they pay to the State as tenants of the Maharaja.) This system cannot be called *raiyatwari*, for that epithet has a very definite technical connotation derived from British India. It can best be described (as Mr. Hoare described it) as the *khalsa* system.

This *khalsa* system was re-established in the Holkar State by the Settlement of 1908, after having remained in abeyance for more than half a century owing to the super-imposition of Ijaradars. It was, however, not fully understood or appreciated by local officers; and,

<sup>1</sup> I am aware that powers of alienation have been withheld from raiyats in the *raiyatwari* villages of the Central Provinces. I refer in the text to the standard *raiyatwari* system of the Deccan.

#### GENERAL CHARACTERISTICS

therefore, failed to function. After Mr. Hoare had left, it seems to have been mistakenly assumed that, since the Ijaradars had been removed, a *raiyatwari* system on the Bombay model had been introduced. The true tenant status of the cultivator was neglected ; he was described in the village papers as a raiyat ; and practically unrestricted rights of transfer (subject to the payment of a fee to the State) were gradually permitted him.

This tendency, to overlook the fundamental principle of the Ruler's universal ownership of the land and to relax those restrictions on the cultivator's rights of transfer which are a natural consequence of the acceptance of that principle, was fraught with danger to the welfare of the agricultural classes. The first quarter of a century, following the great famine of 1900, was a period of rapidly increasing agricultural profits, and particularly so in the Holkar State, owing to the spread of cotton cultivation and the high prices which that staple commanded. Regular Civil Courts were by now well established in the State ; and these increased the facilities of the money-lending class in dealing with an improvident peasantry. The latter found themselves endowed with practically unrestricted powers of alienation—they could sublet or mortgage their holdings as they pleased, and there was no real restriction upon outright sales, so long as the State received its fee. Their credit was inflated and their indebtedness rapidly increased. There is no doubt but that, had matters progressed much further in the direction towards which they were trending before the new Land-revenue and Tenancy Act was introduced, the status of the cultivating classes would have soon approximated to that of the raiyats of Bombay ; and the same agrarian unrest and expropriation of old holders, due to

#### THE HOLKAR STATE LAND-SYSTEM

agricultural indebtedness, which were noticed in the western Presidency after the middle of the nineteenth century, would have made themselves apparent in the Holkar State.

The primary principle, then, of the new Indore Land-revenue and Tenancy Act is the Ruler's universal landlordship. This has preserved an essential characteristic of the State and has, at the same time, made it possible to introduce very necessary restrictions on the tenant's rights of transfer. It is in this respect, in particular, that the Holkar State has been able to benefit from the experience of British India. To quote Mr. Baden-Powell once more, 'It may seem strange that, in the progress of ideas regarding the State's [i.e. the British Government's] dealing with the land in India, it never occurred to anyone to utilize, rather than abandon, the State ownership of the land. . . . It might have occurred to someone in authority to think that the State ownership should be formally retained for beneficial purposes, to prevent the ignorant agricultural classes from losing their lands. The State would, in fact, have retained the *nuda proprietas*—the bare ownership of the soil—while giving all the practical benefits to the village co-sharer or the raiyat cultivator ; and the effect would have been that the holder could not sell the land which was not his ; and, moreover, by express enactment it might have been provided that he should not sell (or charge beyond his own lifetime) the occupancy or cultivating right in the holding. As it is, the raiyat, no less than the co-sharing proprietor of the north, is free to lose his right by mortgaging and ultimately selling it. Thus many agriculturists have got into debt, and their lands have become hopelessly encumbered under either system.'<sup>1</sup> These words were

<sup>1</sup> *Village Communities in India*, 2nd ed., pp. 144, 146.

#### GENERAL CHARACTERISTICS

written of British India more than thirty years ago ; but they explain the purpose of the new Land Act for the Holkar State. (It is the first Indian enactment to utilize the principle of the Ruler's universal landlordship 'for beneficial purposes, to prevent the ignorant agricultural classes from losing their lands'.) The Holkar State offers this new legislative departure good prospects of success. Its territories are fairly compact, and contain some four thousand villages. The field for the utilization of the principle of State ownership is thus appropriately wide, and is yet not so extensive as to preclude that close official supervision which will, at any rate in the earlier stages, be necessary for the successful working of the *khalsa* system.

By virtue of the recognition of the Ruler as proprietor of all land within the State, the status of the cultivator under the *khalsa* system approximates to that of a tenant under a village proprietor, as in Northern India and the Central Provinces. The remoteness of the Ruler's proprietary interest, however, leaves room for a Village Officer or Patel, as in the Deccan, who is responsible for the management of the village and the collection of the rents. It has thus been possible in Holkar's dominions to revive the old village-organization under a hereditary Patel of standing, whose dignity is upheld by the State while his local prestige is secured by the traditions of his office. In many States of Central India (and, particularly, in Bundelkhand) the village type is amorphous. The headman, sometimes called Patel and sometimes Zamindar, is officially regarded as little more than a village servant, a mere agent for the collection of the tenants' rents. No consideration is paid to the traditional village-organization, as locally evolved. The whole State, except certain lands or villages

#### THE HOLKAR STATE LAND-SYSTEM

alienated in favour of privileged grantees, is treated as an administrative entity within which the villages have almost ceased to function as organic units. Such States provide a phenomenon similar to that exhibited by the great *zamindaris* of Bengal, to which Lord Cornwallis extended a permanent Settlement in 1793. There, 'all village rights have been generally obliterated'; . . . 'the village tenure is of comparatively little importance; it has become overshadowed by the tenure of great landlords'; and 'directly the village-system falls into abeyance . . . the Headman drops out of consideration.'<sup>2</sup> The deterioration in the status of the headman and the consequent atrophy of the village unit were hastened in the States of Central India by the pernicious system of revenue-farming. When the revenue-farmers were ousted, for reasons of financial expediency, the headman was employed once more for purposes of rent collection; but this is not enough. Active steps are needed to restore him to a position of dignity as well as responsibility, if a vigorous village-organization is to be revived. Here, once more, the new Indore Land-revenue and Tenancy Act embodies a definite policy. The Patel is recognized as a privileged landholder (Inamdar)—a Watandar of the State, secured in his position by his direct dependence, not on the officials of Government with whom he comes into immediate contact, but on the Maharaja himself. His prestige is secured by this arrangement, which involves the grant to him of certain revenue-free lands as the chief ingredient of his *watan*.

The principles set forth in the new Act, though they may seem a novelty to those acquainted only with land-administration in British India, represent the

<sup>2</sup> Baden-Powell, *Land-Systems of British India*, vol. I., pp. 148, 177, 677.

#### GENERAL CHARACTERISTICS

revival of an old system which is deeply rooted in the traditions of the countryside. (The name *khalsa*, given to the system, signifies a tract which pays revenue direct to Government, as distinct from one of which the revenue is, in whole or in part, intercepted by a class of holders intermediate between the cultivator and the State.) The term is thus, primarily, descriptive of a method of revenue collection; but the *khalsa* 'system' connotes much more than this. Just as the Northern India system of village proprietors now signifies, not only that the landlord pays the revenue, but also that he enjoys proprietary rights and holds the tenantry in subordination to him; and just as the *raiyatwari* system implies, not only the raiyats' several responsibility for the revenue, but also their independent status under a Patel; so too the *khalsa* system has a legitimate connotation of its own. It indicates that the cultivators are severally responsible to Government for the assessment on their holdings; but it also presupposes both the presence of a universal landlord, from whom the cultivators hold as tenants with restricted rights, and the existence of a definite village-organization under a hereditary Patel. That the *khalsa* system is not an artificial scheme of land-administration but has a tradition and a history behind it, is a fact which cannot be too strongly emphasized.



## CHAPTER II

### RESTRICTIONS ON THE TENANT'S RIGHT OF SALE

IN the preceding chapter a restriction on the transferability of tenants' rights in the Holkar State has been justified, in a general way, on the ground that the Maharaja is the universal landlord. In this and the two following chapters the restrictions imposed by the new Act are detailed ; and practical reasons, independent of any theory underlying the land-tenures, are given for their imposition.

Up to 1908 the alienation of their rights by cultivators was of comparatively rare occurrence. The position in that year, in respect of transfers by sale, with which the present chapter is concerned, was thus described by the Settlement Officer:—'At present, transfers of holdings are legal all over the State for the period of Settlement, on payment of certain mutation fees ; but such transfers are only common in the Nimar district. 'Transfer of Holdings Rules' have been passed by the Durbar and will control future transfers. By these, transfers of sale are allowed subject to the veto of the Amin,<sup>1</sup> who will receive instructions from the Revenue Department as to the way of using his veto. . . . It is the intention of the Durbar to stop transfers except between bona fide agriculturists.'<sup>2</sup> Clearly the authorities at

<sup>1</sup> The Revenue Officer in charge of a *mahal* or subdivision of a district.

<sup>2</sup> Old *Settlement Report* of 1908, p. 39.

#### RESTRICTIONS ON SALE

that time contemplated the very definite regulation of sales. During the next twenty years, however, there was, as already mentioned, rapid development both in the profits of agricultural land and in its commercial exploitation. While this development was in progress, the State, more perhaps by oversight than by design, drifted away from the restrictive policy, proper to the *khalsa* system, which had formed the basis of the Settlement of 1908, towards what was, for all practical purposes, the *laissez-faire* policy, proper to the *raiyatwari* system of the Deccan. No instructions regarding the Amin's exercise of a veto on sales were issued by the Revenue Department; and 'the intention of the Durbar to stop transfers except between bona fide agriculturists' was never declared. Accordingly at the next Settlement we read, 'These restrictions [in the *Transfer of Holdings Rules*] appear to have been imposed to prevent the passing of land to non-agriculturists. That object has not been gained; and the only conditions precedent to the grant of sanction for sale have been the consent of the vendor and the payment of the State *nazarana*.'<sup>1</sup> Again, 'The right of the raiyat [*sic*] in his holding . . . is not transferable, except by sale and with the written permission of a Revenue Officer duly empowered in this behalf. This power is vested in the Subha of the district. In exercising it, no effort is made to see that a tenant does not lose his land from which he earns his living, if it can be helped, or that the land does not pass into the hands of a person who is not a bona fide cultivator. There being no explicit provision of law on these points, the permission has become a formal matter and can be got for the asking.'<sup>2</sup>

<sup>1</sup> *New Settlement Report of 1929*, p. 111.

<sup>2</sup> *Rent Rate Report, on the Barwai Parganah (1927)*.

## THE HOLKAR STATE LAND-SYSTEM

In the new Act a return is made once more to the restrictive policy of 1908. By section 45 a protected (pattedar) tenant may, with the previous sanction of the District Officer and after payment to Government by the prospective transferee of a fee equal to one year's rent of the land, transfer his rights in his holding by sale—but to a bona fide agriculturist only. The previous official sanction and the payment of a fee, which form two of the conditions of the transfer, are established limitations found in other Indian States<sup>1</sup>; but the provision which specifically requires that the transferee shall be a bona fide agriculturist needs some elucidation.

The preliminary question arises whether the exercise of a right of sale in any form will be consistent with the welfare of the tenants of the Holkar State. Throughout the adjoining Central Provinces, where the common cultivator has the status of a tenant, the right of sale has been withheld. In Berar, on the other hand, the riyat can freely sell his rights. No definite conclusion, therefore, is likely to be reached on a question in regard to which divergent policies have been long maintained within the limits of a single administrative unit;<sup>2</sup> but two fairly obvious positions may be stated. It is clear, in the first place, that a wholly unrestricted right of sale, as in Berar under the Deccan *riyatwari* system,

<sup>1</sup> The Chamba, Kashmir and Simla Hill States, for example, 'respect occupancy rights of old cultivators . . . but do not allow of alienation without permission and payment of a fee or *nasarana* to the Chief.'—*Land-Systems of British India*, vol. I., p. 232.

<sup>2</sup> The Central Provinces and Berar were amalgamated for administrative purposes in 1902. The Wardha river was arbitrarily fixed by Wellington in 1803 as the boundary between Berar and the Nagpur State; and the Deccan *riyatwari* system of Berar now meets the *malguzari* system of the Central Provinces along this artificial political frontier. Old Berar always extended along *both* banks of the Wardha river—indeed, that is what the name Berar signifies—and the extreme artificiality of the river boundary makes it impossible to justify the vivid contrast between the land-systems on either side of it.

#### RESTRICTIONS ON SALE

is really incompatible with a policy which deliberately aims at preventing the commercial exploitation of the land by non-agriculturists. At the same time, the total prohibition of sales of tenant right, as in the Central Provinces, inevitably leads to evasion of the law. It is common knowledge that in the Central Provinces the sale of tenant right not infrequently takes place, with the connivance of the Malguzar, in the guise of a surrender. Sales of tenant right were permitted with the Malguzar's consent up to 1898; and their prohibition in the Tenancy Act of that year has undoubtedly brought difficulties in its train.

Suggestions have, in recent years, emanated both from the Central Provinces and from Berar for some modification of, in the one case, the rigid restriction and, in the other, the extreme *laissez-faire*, which characterize their respective land-systems. A 'Berar Agriculturists Protection Bill', presented to the local Legislative Council in 1929, proposed to limit permanent alienations by an agriculturist raiyat in Berar to transactions in which the alienee was also an agriculturist. On the other hand, a 'Central Provinces Tenancy Amendment Bill' was introduced in 1928 which would have authorized the Central Provinces tenant to transfer any of his rights in his holding for a period not exceeding five years. It was urged in the latter connexion that 'the disabilities and restrictions, imposed on occupancy tenants in respect of the right of transferring their holdings, have been the subject of public criticism since long. . . . They have diminished the credit which, but for these disabilities and restrictions, the tenants could use . . . for purposes of agricultural improvement. . . . In practice it is found impossible to stop transfers.' These and other similar proposals, though they have

#### THE HOLKAR STATE LAND-SYSTEM

failed to secure the approval of the legislature, illustrate the conflicting tendencies which have arisen in a Province where, for nearly thirty years, the two great rival land-systems of British India have been in operation side by side.

Looking to all the circumstances of the case, it has been thought inadvisable in the Indore Land-revenue and Tenancy Act to disturb the tenant's existing, long-established right of sale subject to the payment of a fee ; but, in view of the policy, now definitely accepted by the State, of restricting the possession of agricultural land, as far as possible, to agriculturists, it has been held necessary to insert a condition that such sales shall not, in future, be permitted except in favour of a bona fide cultivator.

This last-mentioned condition is one which finds no place either in the *malguzari* system of the Central Provinces or in the *raiyatwari* system of Bombay and Berar. There would be little point in such a restriction on transfers unless the allotment of unoccupied land could also be reserved for the agriculturist. There is, however, in the special *raiyatwari* system of the Central Provinces, a partial precedent for the position now taken up in the Holkar State. Under that special system, the raiyat, like the tenant in a *malguzari* village, is allowed no right of sale or mortgage ; and it has, in consequence, been practicable to reserve all unoccupied land for those who are genuine agriculturists. The rules, issued with the force of law under sections 211 and 227 (u) (i) of the Central Provinces Land-revenue Act, declare that 'land shall not ordinarily be allotted to persons other than agriculturists' and that, when holdings are auctioned, 'bids shall be restricted to agriculturists who have resided in the village for at least a year before the auction and,

#### RESTRICTIONS ON SALE

in the case of an uninhabited village, to the agriculturists of adjoining inhabited *raiyatwari* villages.<sup>1</sup> No attempt is made in the Holkar State to insist upon a residential qualification for new landholders ; but future allotments of unoccupied land will, under section 38 of the new Act, be made in favour of bona fide agriculturists only. This being so, it was not only logically appropriate, but clearly advisable, in the interests of the State, that the decision of 1908 to stop future transfers of tenant right, except as between bona fide agriculturists, should be once more revived and placed upon the statute book.

The policy of ' agricultural land for the agriculturist ', now adopted by the Holkar State and embodied in its first Land-revenue and Tenancy Act, is one that few persons acquainted with rural conditions in Central India are likely to quarrel with. (It is plainly desirable ✓ that agricultural land should be held by those who will, by taking a personal interest in its cultivation, make the most efficient use of it.) Seeing that agriculture is the State's ' basic industry ', on the prosperity of which the welfare of the whole community depends, every effort should be made by Government to enforce the new policy. (No one can reasonably expect to be ✓ allowed to hold agricultural land as an investment or speculation, simply appropriating the difference between the lenient assessment imposed by the State and the full commercial rent which can be extracted from subtenants. An arrangement of this kind must impede the improvement of the land and obstruct the policy of a Government anxious to establish a prosperous

<sup>1</sup> I had, when touring two years ago in the Holkar State along the Central Provinces border, occasion to discuss with the cultivators the relative merits of the different systems in force in the neighbourhood. They considered the C.P. *malguzari* system to be the least favourable of all, but would have preferred the C.P. *raiyatwari* to their own system (then unrevised).

#### THE HOLKAR STATE LAND-SYSTEM

and contented peasantry upon it.) This is a point which will be developed further in Chapter IV, in dealing with the problem of subletting. It needs to be mentioned here because the fundamental land-policy of an agricultural State and the proper exercise of his landlord rights by the Maharaja alike demand that none but the bona fide agriculturist should be permitted to secure permanent tenant rights in agricultural land in the Holkar territories.

One further regulation regarding transfers by sale remains to be noticed. In 1908, as we have seen, the Revenue Department contemplated the issue of instructions to Amins, in regard to their exercise of a veto on sales, but did not issue them. This omission has now been supplied. Instructions have been prepared for the Subha of the district (the officer authorized to deal with applications from tenants for permission to sell their rights), from which the following extract may be quoted. 'On receipt of the case, the Subha of the district must carefully consider the proposal. It will be essential for him to satisfy himself that the transfer will be to a bona fide agriculturist; but that is not the only point for his consideration. He must also satisfy himself that the sale is in the best interests of the transferring tenant and his family. It may be that the tenant is transferring his rights simply in order to defeat the claims of a legitimate heir with whom he has a quarrel; or the tenant may have no near heir and may wish to capitalize the value of the holding for his own benefit; or he may be subject to undue influence or may be parting with his holding for inadequate consideration; or he may be selfishly neglecting his children's interests. In all these, and any other, circumstances in which the Subha thinks the transfer undesirable he is authorized to refuse sanction.'

#### RESTRICTIONS ON SALE

These instructions are intended to prevent needless transfers by voluntary sale. Compulsory sales of tenant right under a Civil Court decree are dealt with by a Revenue Officer in order to minimize the expropriation of the cultivating classes, which must always be a matter for regret. For the same reason some control of voluntary sales is desirable, even though in many cases the transfer of land from one agriculturist to another may be an unquestionable advantage. The parties to a voluntary sale have, in any case, to appear before a District Officer ; and he will only be required to exercise his veto where the transfer is manifestly to the disadvantage of the vendor or his family.



### CHAPTER III

## RESTRICTIONS ON THE TENANT'S RIGHT OF MORTGAGE

MORTGAGES of tenant right, like sales, were, at first, 'legal' all over the State for the period of Settlement', though they were 'only common in the Nimar district'. By the *Transfer of Holdings Rules* of 1908 they were to be discontinued everywhere. 'Mortgages', the Rules state, 'are not recognized; and the mortgagee in possession receives the status of a *shikmi* tenant (subtenant) only.' These Rules, however, never came into practical operation; with the result that, during the next twenty years, mortgages steadily increased in number and were freely foreclosed in execution of Civil Court decrees. Eventually this unauthorized practice received official recognition. In 1928 the Civil Courts were reminded by Government that the *Transfer of Holdings Rules* had the force of law. They, therefore, not only refused to enforce a mortgagee's claim by foreclosure but declared that the whole transaction, out of which the mortgage had arisen, was null and void as being contrary to the declared policy of Government.<sup>1</sup> This, of course, undermined the wide vested interests of the money-lending class; a vigorous protest was made; and new orders were issued, on the 24th of October 1929, authorizing the tenantry to mortgage their rights with the permission of the Subha. The Subha's permission would,

<sup>1</sup> Judgment of the Bench of the Indore High Court, dated the 30th of September 1929, in Civil Miscellaneous Application No. 31.

#### RESTRICTIONS ON MORTGAGE

no doubt, as in the case of transfers by sale, have soon become 'a formal matter' and would have been 'got for the asking'; so that, in addition to a practically unrestricted right of sale and of sublease, the tenant in the Holkar State was, by the close of 1929, in enjoyment of the right of mortgage, subject to a condition which was, in practice, unlikely to impede his creation of encumbrances.

The right of mortgage was conferred in 1929 'with a view to safeguard the interests of the creditor and also for the sake of maintaining the credit of the cultivator.' The question, however, whether the maintenance of the cultivator's credit by such means would be to his ultimate advantage or not, was insufficiently considered; and it is to the grave dangers that attend the exercise of mortgage rights by small cultivators, such as we find in the villages of the Holkar State, that attention may now be directed. To quote, first of all, the weighty opinion of the Royal Commission on Agriculture in India: 'The form of long-term credit which is most common throughout India is based on the mortgage of agricultural land. . . . The total sum advanced upon this form of security must now be very large. . . . Such further inquiries as have been made in the Punjab tend to show that a very small fraction of the mortgage debt was incurred in order to finance improvements. In no Province did we receive any evidence in conflict with this view; and it may be said with confidence that mortgage credit is rarely used to finance improvements on agricultural land. It is resorted to when the unsecured debt becomes larger than the lender considers safe and, in times of distress, for ordinary agricultural needs; it is too often an indication that a weak debtor has fallen into the hands of a strong creditor. The existence of a heavy burden

#### THE HOLKAR STATE LAND-SYSTEM

of debt of this character exercises a most detrimental influence on agricultural progress. This is due, not only to the fact that an important source of credit is drained for unproductive purposes and that the potential credit available for improvements is correspondingly curtailed, but also because it is found that, in the case of usufructuary mortgages, the mortgagor too often declines to the position of a permanent tenant under the mortgagee, paying not a fair rent, but the utmost that the lender can extract or extort.<sup>2</sup>

It was, under the terms of reference to the Royal Commission, not their business 'to make recommendations regarding the existing system of landownership and tenancy'; but, after observing that the borrower 'throughout recorded history appears to have existed and to have been in need of protection from the usurer', they add, 'The rapid development of commerce and trade, the introduction of established law and permanent Civil Courts and the enactment of such measures as the Contract Act have strengthened the position of the moneylender. . . . Throughout these developments the cultivator has continued in the main illiterate; he keeps no accounts and makes no distinction between sums expended on the needs of his industry and those expended on the requirements of himself and his family. For generations he has been accustomed to a ceaseless struggle to extort a bare livelihood from an insufficient holding and has been subject to disaster from drought, flood and epidemic. Causes which he seldom understands and cannot influence have endowed him with a credit which he did not formerly possess; and he has found it difficult to resist the temptation to relieve present necessities by mortgaging his future income and even his capital. . . . No one denies the

<sup>2</sup> *Report of 1928, para. 352.*

## RESTRICTIONS ON MORTGAGE

services rendered by the moneylender; the charge against him is that these services are rendered at too great a price and are accompanied by practices which result in great evils. The system is usurious; the ready lending for unproductive purposes leads to poverty and economic servitude.<sup>2</sup>

The experience of the Punjab confirms this point of view. In that Province 'the occupancy tenant is debarred from alienating his rights and yet he not only enjoys all the credit he needs but it is a matter of common observation that he is frequently more prosperous and less involved than the small proprietors among whom he lives and whose right of transfer is less fettered. . . . (Credit is notoriously double-edged; and the story of the Punjab fully corroborates Professor Gides' comments. "It has often been said that credit holds up the landowner as the rope holds up the hanged man. . . . It is only to usurers that the loan on mortgage is a profitable business. . . . In those countries where it is practised on an ignorant and improvident population, in Algeria, the countries of the Danube and in Russia, it does incalculable harm";) and we may agree with him that, if a calculation could be made of the number of landowners ruined, as compared with the number enriched, by it, its abolition would be called for; and, further, "the more easy mortgage-credit is made, the more dangerous will it become and the more surely will the small landowners be delivered into the hands of the usurer." . . . The Famine Commission Report of 1880 mentions that the classes which have the best security to offer are the most eligible customers of the moneylenders, and further, that a rigid elaborate legal system has too often proved an additional cause of ruin to the impoverished

<sup>2</sup> Report of 1928, para. 363.

### THE HOLKAR STATE LAND-SYSTEM

agriculturists. The Famine Commission of 1900 similarly reported of Bombay that the unrestricted right of the cultivators to transfer their holdings was an accentuating cause of indebtedness ; and, further, that it invariably happens that, when an ignorant and improvident peasantry can dispose, without restriction, of valuable rights in land, the cultivators sink deeper into debt and their property begins to pass out of their hands.<sup>1</sup>

A facile credit is, in itself, neither a good thing nor a bad. Whether the facility to borrow is beneficial or not, clearly depends on the use to which the borrower puts the money that he gets. The right of mortgage, officially conferred on the tenant of the Holkar State in 1929, no doubt strengthened his credit ; but the increment was unearned ; and the cultivator would, undoubtedly, have put to unproductive use this extension of credit which had come to him so easily. The State Settlement Officer wrote, in that very year, ' Extravagance on the part of the tenants is proverbial and is the root-cause of many evils. As in other parts of India, they are labouring under time-honoured social customs with a pertinacity which only legislation can remove. Large expenses have to be incurred on such occasions as births, marriages and deaths, involving the tenant in debt and placing him in the clutches of exacting moneylenders. Such expenses, which have no religious sanction, are undermining the economic structure of the people. . . . Borrowings in cash and kind from moneylenders come to as high a figure as Rs. 3,40,00,000. . . . Making reasonable deduction, the encumbrances may be estimated at Rs. 2,90,00,000, giving an average of Rs. 10 per occupied acre or Rs. 174 per tenant. . . . Since the last Settlement a

<sup>1</sup> Calvert, H. *The Wealth and Welfare of the Punjab*, pp. 125-7. .

## RESTRICTIONS ON MORTGAGE

number of sales and mortgages of land have taken place and holdings have passed into the hands of creditors.<sup>1</sup>

To quote the Royal Commission once more : ' Cheap credit is a blessing to a rural population only where the average cultivator is possessed of the knowledge and strength of character required to induce him, on the one hand, to limit his borrowing within the range of his capacity to repay and, on the other, to apply the greater part of the borrowed money to sound productive purposes. To lavish easy credit on those unaccustomed to its proper use is to condemn the borrower to certain financial destruction. The provision of facilities for cheap credit must, at the outset, bring new temptations as well as extended opportunities. Those only can hope to profit by its opportunities who have learned to resist its temptations.'<sup>2</sup> The tenantry of the Holkar State have not yet learned to resist the temptation of easy credit ; and the ability to mortgage their rights would certainly condemn many of them to ' financial destruction '. The Registrar of Co-operative Credit Societies writes, ' There is not a single village in the whole State where there is no *Sahukar* and where the cultivators have not to have recourse to him. There are various subtleties by which the usurer squeezes money out of them and leaves them dry. *Tip, manoti, savan, jod* are some of his stratagems for making as much money as possible out of the indebtedness of the poor peasant ; and the result is that, even when the harvest is good, the peasant finds himself penniless at the end of the season and has to borrow from the *Sahukar*. The usurer, in one or other of his many guises, reigns supreme ; and his authority and existence are unchallenged because of the dense ignorance that

<sup>1</sup> *New Settlement Report of 1929*, pp. 63-4.

<sup>2</sup> *Report*, p. 425.

#### THE HOLKAR STATE LAND-SYSTEM

envelops his victims. The cultivating classes are backward, conservative and illiterate.'

The Bombay precedent in favour of mortgage rights for the common cultivator is one that the Holkar State should follow with reserve. That Presidency is now prospering in spite of, not because of, the exercise of transferable rights by its peasantry. These rights were conferred in Bombay as far back as 1836; and we can infer from past agrarian disturbances and restrictive enactments in that Presidency what tribulation the cultivating classes suffered and what expropriation of old holders took place before the present equilibrium was established. 'For many years', we read, 'progress towards land improvement . . . was very meagre; indeed the development that attracted most attention in the middle of the last century was the tendency of the landholders to take advantage of the value that their land had acquired to effect land-mortgages and to live on their capital.'

Looking to the indebtedness of the rural population, their character and customary extravagance, and having regard to the traditional authority of the money-lender and his tendency in recent years to exploit the commercial value of agricultural land, it will hardly be matter for surprise that one of the chief features of the new Land Act for the Holkar State is the provision which withdraws from the tenant the right of mortgage he had previously enjoyed. Disturbance of vested interests was avoided by the fixation of a date (the 2nd of June, 1930) after which the prohibition of mortgages came into operation. Mortgages in favour of a Co-operative Credit Society will be permitted as a special case, for the creditor-society may be presumed to have an interest in the welfare of its members; but,

<sup>1</sup> Keatinge, G. *Agricultural Progress in Western India*, p. 180.

#### RESTRICTIONS ON MORTGAGE

with this single exception, all mortgages of tenant right will, for the future, be totally prohibited in the Holkar State.

—This withdrawal of the right of mortgage was not merely the logical outcome of an assertion of the Ruler's universal landownership and a measure of precaution to prevent the abuse of their credit by an improvident peasantry. It was also, as in the case of the restriction on the allotment and sale of tenant right, a regulation complementary to the scheme of land-administration set forth in the new Act. (Agricultural land must remain in the hands of those directly interested in its use as such, if the State and the people are to derive therefrom the full advantage to which they are entitled. In view of the declared policy of the State and the deliberate adoption of the *khalsa* land-system, there is no place for non-agriculturist intermediaries between the State and the actual cultivator.) Though the capitalist may be, it is a fact that ordinarily he is not, an agriculturist ; so that any system which permits of mortgages necessarily gives the non-agriculturist an increasing hold upon the land. The abolition of the right of mortgage was, therefore, not only theoretically sound and practically desirable in the interests of the cultivator, but was also called for in the interests of the State.



## CHAPTER IV

### THE PROBLEM OF SUBLETTING

NOT only were sales and mortgages of tenant right freely permitted in the Holkar State after the issue in 1908 of the *Transfer of Holdings Rules*, but another form of transfer also came into common use. The tenantry seem always to have enjoyed unrestricted freedom in subletting. The practice was still 'very rare' in 1908<sup>1</sup>; but at the new Settlement, we read, 'Subletting is not restricted. This well-intended freedom is undermining the very foundation of the [cultivator's] tenure by bringing in moneylenders who are speculating in land simply to earn high subrents, taking advantage of the keen demand for land. The *raiyatwari* system [*sic*] is considered to be best suited to the interests of the agricultural class; but such loopholes are admitting the unrequired middleman between the State and the bona fide cultivator. In the interests of the agricultural class it is very necessary to place subletting under some restriction.'<sup>2</sup>

In the matter of subletting, as in so many other respects, the Deccan *raiyatwari* presents a marked contrast to the village-proprietary system.<sup>3</sup> Under the former the statutory holder is entitled to sublet without restriction. Subletting, therefore, in *raiyatwari* areas

<sup>1</sup> *Old Settlement Report*, p. 35.

<sup>2</sup> *Rent Rate Report*, on the Barwai Parganah.

<sup>3</sup> Where the principal holder is a proprietor, the subordinate holder is a tenant or lessee. 'Subtenant', 'subletting' etc. indicate a second degree of subordination; but, in the present chapter, I treat these terms as applicable to any holder from a statutory principal, whether that principal be a tenant (as in the Central Provinces and the Holkar State) or practically a holding-proprietor (as in the Bombay Presidency and Berar).

#### THE PROBLEM OF SUBLETTING

which are agriculturally developed, may assume very serious proportions ; and in the rich cotton tract of Berar, which is settled on the Bombay system, the low Government assessment and the high value of land have given it a special stimulus. At the last Settlement (1924 to 1928) the total area sublet was found, in the Akola and Buldana districts of Berar, to cover 20 per cent of the total occupied area ; while the rents obtained for this sublet area were from seven to fourteen times ✓ the Government assessment. The area, held merely as a commercial investment and *habitually* sublet, was officially recorded as no less than 16 per cent of the total occupied area. In two subdivisions (taluqs), where Marwaris (Wanis) are numerous, as much as 21 and 19 per cent of the occupied area was, at the Settlement, 'held as an investment' and habitually subleased. The Commissioner of Berar recently observed, 'The Berar system undoubtedly encourages non-agriculturists to buy up land and then sublet at a handsome profit when prices are high. . . . My own impression is that, at the present moment, the evil of subletting is more widespread than was disclosed at the time of the last Settlement'—an impression which is undoubtedly correct. The figures I have quoted illustrate the growth, under the *raisyatwari* system, of a class of middleman-proprietor intermediate between the Government and the actual cultivator of the land ; and there is an obvious lesson to be drawn from them by those who would have introduced the Bombay land-revenue system into the Holkar State.

In strong contrast is the strict limitation of subletting in the Central Provinces. There, 'notwithstanding any contract to the contrary, a lease granted to a subtenant by an occupancy tenant shall not be valid for a period exceeding one year' (Tenancy Act,

#### THE HOLKAR STATE LAND-SYSTEM

section 36) ; while in certain notified areas, if land is habitually sublet, full rights of occupancy may be conferred upon the subtenant under the order of a Revenue Officer (*Ibid.* section 40). These restrictions in the Central Provinces are designed to keep the actual cultivator on the land and to prevent it from passing, as it has passed in Berar to a not inconsiderable extent, into the hands of middlemen merely concerned with their rental receipts. An official note, dealing with the embargo on habitual subletting in the Central Provinces, expressly states that it is intended 'to discourage the acquisition of tenantry rights by speculators, whether purchasers or mortgagees, whose sole object in investing in land is to obtain the highest possible return for their money by rack-renting the men who cultivate it.'

(Any régime which permits unrestricted subletting is liable, in practice, to offer violence to certain accepted principles underlying land-settlement in India) There are three ingredients in the tenure of the primary agriculturist admittedly necessary for his adequate protection and encouragement, namely, security from disturbance, leniency in assessment and fixity in the demand for a considerable period. In the Settlements of Berar the raiyat, and in those of the Central Provinces the tenant, has a permanent and heritable right in his holding which cannot be disturbed, so long as he pays the revenue or rent to which he is assessed by Government. This assessment is, invariably, lenient (For example, in Berar, the average annual demand is no more than Rs. 1/4/- per acre—the equivalent of Rs. 12/8/-, or eighteen shillings and ninepence, for ten acres) ; and it is almost everywhere fixed for a period of thirty years. Government is anxious that the cultivator should feel secure in the possession of his holding and should enjoy a lenient assessment fixed for

#### THE PROBLEM OF SUBLETTING

a long period, so that he may be encouraged to devote some portion, at least, of the profits of his cultivation to the development and improvement of the land. This object is frustrated as soon as possession passes from the holder, in whose favour these concessions have been given, to a mere subtenant. Subtenants, as a class, can have no security of tenure. In the Central Provinces they can hold land only from year to year ; in Berar they can retain it only for the period privately agreed upon. They are fully assessed, for their agreements rest upon bargains in the open market ; and the demand is fixed, at most, for the period of the subtenancy. They thus enjoy none of the conditions precedent to their improvement of the land. On the contrary, they must be tempted to apply any short-sighted methods of cultivation likely to yield them the maximum return during their term of occupation. (*Habitual* subletting is not only unfavourable to the proper treatment of the land and inimical to its improvement, but it represents an operation, on the part of the beneficiary, which defeats the purpose of Government in conceding him a benefit. The statutory holder who habitually sublets has received the same consideration from Government as have others ; but, instead of responding by an effort to improve his land, he prefers to market those concessions without regard for his reciprocal obligations to the State.)

Considering this aspect of the case, the legislative limitation on subletting in the Central Provinces is fully justified, while the Bombay-Berar system must appear defective. In Berar we find, as I have stated,

<sup>1</sup> It may be argued that the purchaser of land with a moderate assessment pays a higher price for it on that account and is, therefore, under no obligation to Government. This is true up to a point ; but the argument loses its force at the next re-settlement, for a newcomer can purchase the right to hold on a certain assessment only till then.

### THE HOLKAR STATE LAND-SYSTEM

a substantial proportion of the occupied area habitually held by unprotected subordinates who pay, for short-term leases, a full commercial rent, whose interest in the land is purely transitory and who can have no inducement whatever to improve it, but rather the reverse. The superior holder, in creating such a subordinate tenure, defeats the purpose underlying the Settlement and exploits for his own benefit concessions conferred on him with another end in view.

Assuming, however, that the Bombay-Berar system of *laissez-faire* is, in this respect, open to criticism, does it follow that the provision in the Central Provinces is the best alternative? The latter also has its disadvantages. In the first place, it is not effective. In spite of formal discouragement in the Tenancy Act, subletting is very common; it provides one of the few sources of information as to land-values in a Province where so little land is freely transferable. The more serious objection to an extreme restriction on subletting is that it challenges a justifiable practice. A sublease for a term of years is a normal incident of village agriculture. A man may die, leaving a widow or small children; or he may become impoverished by misfortune, or by successive crop failures, which deprive him of the capital needed for a large holding. In such cases the expedient of subletting for a term of years is not only unobjectionable but is positively desirable, if the cultivator or his family is to avoid the loss of the holding. A sublease for one year will not serve; and will, in any case, deny the subtenant security sufficient even to let him manure the land. These defects in the present system are well recognized; and, as recently as 1928, a Bill, to permit subletting up to five years, was privately introduced in the Central Provinces Legislative Council. The proposal, to judge

#### THE PROBLEM OF SUBLETTING

from the opinions expressed at the time both by officials and non-officials, found general acceptance ; but came to nothing as the member in charge of the Bill resigned in another connexion.

The Bill of 1928 confirms my condemnation of the one-year limit for subleases in the Central Provinces ; but would the extension of the period to five years meet the needs of the working agriculturist ? I think not. Five years is an arbitrary limit, and will prove inadequate in cases of widowhood or minority or prolonged disability of any other kind. Seeing that subletting for a term of years may be a normal incident of village agriculture, it ought, to that extent, to be permitted. It becomes open to objection only when it is not a part of an agriculturist's programme ; and the best solution of the problem of subletting is likely to be found in frankly admitting its propriety, (when it is used by a cultivator for a legitimate purpose, and in intervening to prevent it only when the practice is abused.) Such abuse is most common when the principal holder is not a genuine agriculturist but a speculator, who has taken up land as a commercial investment. In fact, the problem of subletting would be largely solved if the tenure of agricultural land were restricted to bona fide agriculturists. It is, as the Berar statistics show, when land passes into the hands of the moneylender, shopkeeper, pleader or townsman, whose profession is not that of an agriculturist, that we find subletting extensively abused. Instead, therefore, of placing an artificial embargo on a healthy and normal practice—for this is what subletting is, in its legitimate forms—it would seem wiser to go to the root of the trouble and to treat the disease and not a symptom. (Extensive and habitual subletting is simply an indication that land is passing out of the hands of bona fide

#### THE HOLKAR STATE LAND-SYSTEM

cultivators ; and the first requirement is that, wherever possible, some restriction should be placed on the allotment of land and on transfers.) There will remain the problem presented by those non-agriculturists who have already obtained rights in agricultural land, and by those agriculturists who combine genuine agriculture with habitual subletting of surplus land for profit. For these the remedy is the remedy already adopted in parts of the Central Provinces. Government must counter those who abuse their Settlement contract by forcing them to cultivate the land themselves or by transferring possession of it to someone else prepared to work it as a bona fide cultivator.

In the recent Indore Land-revenue and Tenancy Act both the expedients suggested in the preceding paragraph have been applied. Local conditions are particularly suitable for regulations of this kind. The tenant has always, in the Holkar State, exercised the right of sale subject to previous official approval. It was, therefore, easy, as well as logical, to enforce a condition that sales should be permitted in favour of bona fide agriculturists only (*vide* sections 45 & 46 of the Act), and that culturable land, when newly allotted, should be conferred in permanent tenant right only on those who come within that category (*vide* section 38). The door for future entrance into the field of agriculture in the State has thus been closed for all but bona fide cultivators. (For anyone who has already gained admission and who abuses the Settlement contract by subletting 'solely with a view to obtaining rent or merely so as to remain an intermediary between the person from whom he holds and the actual cultivator of the land', there is a special provision in section 48. He will be invited to cultivate the land himself or to sell it to a bona fide agriculturist ; and, on his failure

#### THE PROBLEM OF SUBLETTING

to adopt either alternative, Government will sell the land, keeping two years' revenue or rent as a fee and paying the rest of the sale-price to the expropriated tenant.)

The provisions of section 48 are permissive, not compulsory. The practice of habitual subletting for profit is widespread and must be dealt with gradually ; but the limited area of the State will facilitate the close official supervision needed to enforce a new provision of this kind ; and firm action should be taken. If Government will realize that, when they acquiesce in habitual subletting for profit, they are nullifying the effect of their own thirty-years' Settlement, and encouraging the exploitation of State property by irresponsible beneficiaries, they will not hesitate to make the effort. If this is done, the problem of subletting will be largely solved. The practice will be freely allowed whenever it is justified ; and the evasions so common under the Central Provinces Tenancy Law will not occur. The right of subletting will not be needlessly or artificially restricted ; and yet the middleman or intermediary, who has grown up in Berar because of Government's inability to defend its own interests and those of the bona fide agriculturist, will remain under adequate control.



## CHAPTER V

### THE OFFICE OF PATEL

THE office of Patel in central and western India is of immemorial antiquity ; and in every scheme of village administration the Village Headman still finds a place. His importance, however, has declined. As a writer from the Bombay Presidency observes, the Patel ' hardly occupies the same position now which he did in 1818. . . . He has been deprived of many of his powers and privileges. He can no longer collect his former dues ; he can no longer act as the village judge ; he can no longer pose as the village protector. . . . He is often illiterate. It is no wonder that his influence should have considerably diminished since the advent of British rule.'

Mr. Baden-Powell wrote approvingly in 1894 of ' the central authority, dignity and privilege of a Central Indian Patel ' ; but he was curiously misinformed as to the real position. The Patel's steady decline during the nineteenth century was accelerated in Central India by the farming out of villages to contractors. This practice, which the British soon checked in Bombay, found special favour in the States. In the Nagpur State it flourished to the last ; and finally produced the *malguzari* system of the Central Provinces. In Holkar's dominions, under the name of *ijaradari*, it continued until the Settlement of 1908 ; while in Bhopal, where it was known as *mustajiri*, it was abandoned as recently

<sup>1</sup> Altekar, A. S., *History of Village Communities in Western India*, p. 11.

<sup>2</sup> *Land-revenue in British India*, 2nd ed., 1907, p. 72.

#### THE OFFICE OF PATEL

as 1928. The super-imposition of a revenue-farmer naturally undermined the power and prestige of the Patel. Moreover, the dominating position of a great proprietor has often been found to have a debilitating effect upon the village as an institution. The classical instance is Bengal where, even before British rule began, the importance of villages had been 'thrown into the shade, and the influence of village officers much broken down', by the growth of great Estate holders.' So too in Central India the village unit has atrophied—more particularly in States (e.g. those of Bundelkhand), whose small territorial extent facilitates interference in village administration. For these reasons, the decline of the ancient office of Patel has been even more rapid and complete in the States of Central India than it has been in the neighbouring Presidency of Bombay.

In the Holkar State, the contrast between the present and the past position of the Patel can be readily perceived. Sir John Malcolm wrote in 1824, 'The Patel, or Headman of the village, is in almost every district deemed hereditary. There have been such frequent violent changes of rule in this country that it is surprising to find so many of this class who can support their claim to the rights and lands they enjoy for eight, nine and ten generations. . . . The quantity of land enjoyed by a Patel is proportionate to the size of the village, and varies from 10 to 200 *bighas*. The Patel has also a fee or due (generally in kind) from every field of grain. . . . He has also a small share on the sugar and opium produce of the lands of the village. He has other dues and fines. . . . The hereditary lands and dues belonging to the local, or rather native, officers are highly prized. . . . The attachment of the possessors to these rights is indescribable. A Hindu

<sup>1</sup> *Land-revenue in British India*, p. 71. See also p. 10 above.

#### THE HOLKAR STATE LAND-SYSTEM

Zamindar,<sup>1</sup> in the presence of all his tribe, said to me that it preceded his sense of religion. "I would turn Mahomedan", he added, "twenty times, before I would sell my *watane*". . . . The rights of the native hereditary officers of a village are much respected in Central India ; and never did a country afford such proofs of the imperishable nature of this admirable institution. After the Pindari war . . . many of the villages had been waste for more than thirty years. . . . The families of each village, . . . when convinced that tranquillity was established, flocked to their roofless houses. Infant Patels (the second and third in descent from the emigrator) were, in many cases, carried at the head of these parties. . . . I gave during the year 1818, as a mark of encouragement, turbans to more than a hundred Patels who returned to their desolate villages.<sup>2</sup>

Such was the pivotal position of the Patel a hundred years ago. By the beginning of this century, as a result of the *ijaradari* system, the Patel in the Holkar State was, officially, a mere survival of a system that had ceased to be. He had no real powers of any kind, and such duties as he performed were formal and perfunctory. Over large areas and throughout the Nemawar district he had lost his revenue-free land ; and elsewhere so much of it as remained had been partitioned between him and his relations. With the disappearance of the Ijaradar in 1908 it became imperative to employ the Patel once more as local agent for the collection of the village rents ; but the only remuneration offered him was a small percentage,

<sup>1</sup> The term 'Zamindar' in Central India signifies an old hereditary official, intermediate between the Village Headman and the State, who formerly had charge of a *parganah* or group of villages for purposes of revenue administration.

<sup>2</sup> *A Memoir of Central India*, vol. II, pp. 14-21.

#### THE OFFICE OF PATEL

or rebate, on the cash collections which he made. Nothing was done to revive his ancient rights or *watan*. On the contrary, it was decided to impose a half-assessment on such revenue-free land (locally known as *khoti*) as still remained with him, and to maintain even this partial concession only for the period of the new twenty-years' Settlement. Cases were not unknown of Patels resigning office, where there was no *khoti*, because the emoluments were insufficiently attractive.

The treatment thus accorded the Patel in 1908 indicates that appreciation of 'this admirable institution', as Sir John Malcolm called it, had faded in the minds of those responsible for village administration in the State; and it is to recall its past history, and to emphasize the present value and future potentialities of this village office, whose origin is lost in the mists of antiquity but whose retention is still essential to the vitality of the village as an institution, that the present chapter has been written. In the true Maratha body politic there are two complementary organisms—the Maharaja and the Patel—whose proper functioning is essential to rural prosperity. The Ruler deals directly with his village units, eliminating, as far as possible, all those hereditary intermediaries—the Thakurs or the Zamindars (Deshmukh and Deshpande, Chaudhari and Qanungo)—who were characteristic of the earlier Hindu or Rajput systems of government and who were commonly retained under the Mogul. The great Maratha Chieftains steadily suppressed the local hereditary middlemen; and Sir Richard Jenkins, writing in 1816 of the Nagpur State, notes with satisfaction 'the general and direct authority of the Raja over every part of his dominions and the absence of the local influence of hereditary Zamindars.' Even the revenue-farmer is looked on with suspicion. 'As

#### THE HOLKAR STATE LAND-SYSTEM

to the Marathas . . . their revenue ideal never encouraged farming at all, if it could be helped ; and only *ex necessitate* the governors farmed single villages or small groups of land, as in the Nagpur State. . . . When their power was well established, they recognized the advantage of dealing direct with the villages through their hereditary headmen, and rarely employed middlemen and farmers who, they knew, would always manage to intercept a good part of the receipts.<sup>1</sup> This direct relationship between Government and the cultivating classes has been, perhaps, the most important of the legacies the British have received from the Maratha administrative system. In conformity with this principle of Maratha government we find that, in the Holkar State, the Zamindars soon lost their administrative importance, the Rulers dealing directly with the village ; but the authorities failed to recognize the value of administration of the village through a Patel. Their financial needs were pressing ; and it seemed, throughout the nineteenth century, the easiest and simplest means of meeting those needs to hand over individual villages or small groups of villages to revenue-farmers ; and this they did without regard for the old Village Headman's office.

There is, then, a genuine need for adequate recognition of the Patel in any scheme of rural economy likely to prosper in the Holkar State. The best Maratha tradition regards his position as complementary to that of the Maharaja. Intermediate between the Maharaja and the village are the paid official staff—Commissioners, Subhas and Amins ; but these have no hereditary or permanent interest in any one locality. It is the policy of the State to keep the official element free from

<sup>1</sup> Baden-Powell, B. H., *Land-Systems in British India* (1892), vol. I, pp. 186 and 193.

#### THE OFFICE OF PATEL

a hereditary territorial connexion. In the village, however, we are dealing still, in spite of modern changes, with an age-old institution—an organic unit. The village has its customs, prejudices, ways of life and habits of thought which are not those of the official class. The peasantry are illiterate and often inarticulate; sometimes their speech is not fully intelligible even to the Indian employees of the State. For such an entity there is need of what Sir John Malcolm called 'a medium between the officers of Government and the inhabitants of the village'; and there is as much need for him to-day as there was a hundred years ago. The Patel must interpret the orders of Government to his village and he must be the spokesman who explains the views of his village to Government. Before he can perform this dual function satisfactorily his position must be stabilized; he must carry prestige in the village among the cultivators; and he must be respected too by the official classes, as something more than a village servant at the beck and call of every touring officer.

To achieve this purpose of investing the Patel's office once more with dignity and stability, there is but one course open. Every Patel must have a substantial *watan*, a plot of revenue-free land, as part of his remuneration; he must be recognized as a hereditary officer of the State; and the personal tie must be revived which binds him to the Maharaja. Much has been accomplished in this direction by the following public announcement, made by His Highness the Maharaja, at his Investiture on the 9th of May, 1930: 'I am also ordering the grant of fifteen *bighas* of *khoti* land, free of assessment, to the Patel of every *khalsa* village, as a personal honour and a personal gift from me. The Patels will thus become *Watandars* of my State; and I trust that they will be inspired, by this

#### THE HOLKAR STATE LAND-SYSTEM

mark of my personal favour, ever to remain loyal to my house and to spare no effort to maintain and improve the prosperity of the villages entrusted to their charge.' This pledge has been fully implemented in the new Indore Land-revenue and Tenancy Act. By Chapter VI of that enactment the Khotidar Patel becomes an Inamdar, or assignee of proprietary rights in a revenue-free holding, which descends to his heirs by primogeniture, is inalienable and impartible, and cannot be attached or sold either by Revenue or Civil Court process. Section 124 makes it clear that the Patel's remuneration must, in part, consist of revenue-free land ; and section 128 lays down that a Patel can only be removed from office under the orders of the Maharaja or by a District Officer with the previous approval of the Maharaja ; and even after such removal, he will still, under section 68, be entitled to retain, as a pattedar tenant, his former *khoti* land.

The advantages which will accrue from this confirmation of the Patel's position should be many. His dwindling prestige in the village should be restored ; he should carry the authority which he will need to perform the duties assigned to him by section 125 of the new Act ; his status will once more be consistent with the position which ancient custom has created for the Patel as Head of the Village Community ; and, *vis-à-vis* the Government, his office should acquire a stability which will make him a useful local agent of the State. As in mechanics resistance connotes a power to support, so, with the Patel, the security of his position will be the measure of his ability to help the Government. Before long the State will, I trust, embark upon an active campaign of rural and agricultural development ; and, when this is attempted,

#### THE OFFICE OF PATEL

the value of a stable body of Village Headmen will be seen.

In conclusion, I would press one further point. The recent grant to all *khalsa* Patels of 15 *bighas* (about 10 acres) of *khoti* land, generous though it was in the circumstances, should be extended in all but the smallest villages. Many Patels hold *adhi jama khoti* (the old *khoti* assessed at half rates) for the currency of the present Settlement only. If half of their *adhi jama khoti* were given them permanently in full *khoti* right, it would perpetuate their present remuneration, which is none too high in relation to the demands, soon to be made, upon their powers of village leadership. In villages where the *adhi jama khoti* is small or non-existent, the extent of the *khoti* should be fixed with reference to the size and importance of the village. A suitable *watan* greatly enhances the social status of the Patel. 'The highest Maratha chiefs prized those they had inherited or obtained by purchase more, apparently, than much more high-sounding titles. We read of the Raja of Satara clinging to the *watans* he had received from Shivaji after he had lost his crown in all but the name; Sindhia was always termed "Patel" in the revenue accounts of the territory he acquired in Nimar; while Holkar and the Powar of Dhar fought obstinately, I believe, after the British conquest, to recover the patelship of Deccan villages which were their *watan*.' The *watan* in the eighteenth century was regarded as 'property of very high value and estimation'; and, by linking this tradition to the office of the Patel, a far more effective service will be obtained from him than could ever be secured, on a commercial basis, by a cash remuneration much in excess of the rental value of his *khoti* land. In these days of mass agitation and popular

<sup>1</sup> *Settlement Report, of the British District of Nimar (1870),* para. 133.



#### THE HOLKAR STATE LAND-SYSTEM

movements, frequently misdirected by unscrupulous agents, it will be invaluable if the State can retain in each inhabited village a reliable agent of good standing, bound by ties of tradition and personal interest to support the authority of the Maharaja. 'As the village system is the keystone to the arch, so to speak, on which the stability of the whole revenue administration of the country depends, its soundness, or, in other words, the efficiency of the village establishments, is a matter of supreme importance.'<sup>1</sup>

<sup>1</sup> *Land-Systems of British India*, vol. III, p. 88.

## CHAPTER VI

### THE ASSESSMENT OF AGRICULTURAL IMPROVEMENTS

(O.S.R. = *Old Settlement Report of 1908*)

(N.S.R. = *New Settlement Report of 1929*)

**T**HE policy of the Holkar State in regard to the assessment of agricultural improvements was thus defined in 1908: 'The view, theoretically accepted in some parts of British India, that the tenant is entitled to all the fruits of improvements in his land carried out with his own capital, does not find favour in Indian States. In Indore, the rules passed have been on the principle that the State is entitled to its share in the produce of the land, whether the tenant cultivates a large area under ordinary cultivation or a small area under intensive cultivation. Concessions on wells are given him to reimburse him for the capital he has expended. When he has been so reimbursed, the well, practically, becomes State property, just as if it had been built by the State, because land irrigated from it pays a full rent and the tenant's only right in the well is a right of transfer. It follows that the State should repair private wells on equal terms with State wells. In considering the equity of taxing improvements carried out by tenants it is, perhaps, as well to remember that ploughing and sowing land is as much an "improvement" as irrigating it; and, if the strictly equitable view be adhered to, the State is only entitled to the rental which the land would produce under grass.'

#### THE HOLKAR STATE LAND-SYSTEM

(O.S.R., p. 37.) Thus all improvements of every kind are regarded, in the Holkar State, as justifying an increase in the rental assessment. If I build a tank or dig a well for irrigation, if I grade or drain or even manure my fields, if I adopt a scientific rotation of crops, if I use improved implements or labour-saving machinery—in fact, whatever I do to increase the net profits of my agriculture—I thereby render myself theoretically liable to an enhanced rental assessment.

When we turn, however, to the assessment in practice of agricultural improvements, thus widely defined, they are seen to fall into two distinct classes. On the one hand, we have what may be called unobtrusive improvements, such as draining, grading, improvements in cultivating methods and appliances etc., which it is either difficult or impossible for the State to appraise and assess in detail. On the other hand, there are obtrusive improvements—visible structures such as embankments, wells and tanks—which provide an obvious basis for an extra assessment on particular fields. There is no essential difference between these two classes of improvements. ‘The long-continued labour and careful cultivation which have brought up what was once a desert to its present state—perhaps of garden-land paying the highest revenue-rate—is as much an “improvement” and an expenditure of private means as is the new well or embankment on which a richer proprietor has just spent Rs. 500 in a lump payment.’ Moreover, an obtrusive improvement not infrequently involves unobtrusive improvement also. It is, for example, not enough merely to dig a well and proceed to irrigate the adjoining fields. Those fields must be graded and manured, or else the watering will do little good and

<sup>1</sup> *Land-Revenue in British India*, p. 190.

#### ASSESSMENT OF IMPROVEMENTS

may do positive harm. Yet grading and manuring are unobtrusive improvements; the irrigation alone is obtrusive. It is thus manifest that, from the agriculturist's point of view, the two classes are essentially of the same character; but, from the State's point of view, they are very different, because the State is primarily concerned with the question of assessment. It is, in fact, the practical facility of imposing a special rate on land obtrusively improved that leads to its relatively high assessment. If I spend Rs. 500 on grading my fields, I am very likely to pocket the extra profit due to my enterprise and outlay of capital, at least until the next re-settlement; and even then I may continue to escape, unless the general standard of cultivation in the village is observed to have risen. If I spend Rs. 500 on improved plant and labour-saving appliances, I am almost certain to escape extra assessment on account of them; but, if I sink a well at the cost of Rs. 500, I can at once and easily be charged 'wet' rates on the area commanded by the well. Yet the net profit on my capital investment may be the same in all these three cases. The assessment of obtrusive improvements must, therefore, be carefully controlled, or else their construction will be relatively discouraged.

In the case of improvements which are unobtrusive only, the most the State can do is to adjust its assessment, in a general way, to a general rise in agricultural profits; and it must be content, in view of the practical difficulties involved in their assessment, to make such an adjustment at fairly long intervals. Thirty-year Settlements are the rule in the neighbouring provinces of British India; and the same period has been thought appropriate for the more highly assessed districts of the Holkar State (except Nemawar, which

### THE HOLKAR STATE LAND-SYSTEM

has been settled, somewhat illogically, for twenty years only). Thus the Indore Government have agreed to a period of twenty to thirty years, during which no rental enhancement will be imposed on account of unobtrusive improvements.

The treatment accorded at the recent re-settlement of the State to obtrusive improvements was unorthodox. Only some 32,000 acres were at that time actually irrigated (N.S.R., p. 84) ; but some 70,000 acres were assessed as such, on the basis of past irrigation statistics, at an average rate of Rs. 9/9/0 per acre (N.S.R., p. 123), as compared with an average rate of Rs. 2/1/0 only for dry cultivation. As some sort of compensation for this deliberate over-assessment, based not on actual but assumed assets, the Government agreed to remit, for the new Settlement period, the ' wet ' rates on any new irrigation which might develop outside the assumed area of 70,000 acres (Cabinet Order No. 2090, dated the 8th of March, 1927). This solution of the problem has the merit of simplicity. The new Settlement rents will stand for thirty years (in Nemawar for twenty years) ; and, throughout this period, there will be no harassing enquiries and no additional assessment when new irrigation sources are constructed. At the same time, the method employed is hardly one which can commend itself. The assessment of land on the basis of prospective assets is contrary to accepted principles ; ' wet ' rates, more than four times those imposed on dry cultivation and levied from more than double the area actually irrigated, are hardly likely to convince the cultivator that an outlay of capital on an irrigation work will be a wise investment ; the compensation offered in return for the over-assessment at Settlement will be very unevenly distributed ; and practical difficulties will arise in the latter half of the

#### ASSESSMENT OF IMPROVEMENTS

Settlement period, when the diminishing concession under the orders of 1927 will prove, at first, inadequate as an inducement, and, at last, a positive deterrent, to those who may contemplate the construction of new irrigation sources.

It would be hardly worth while attempting now to suggest what revised scale of concessions the State should offer, when the exemption of new irrigation from additional assessment for the period of the current Settlement begins to lose its attractiveness—as it will in ten or fifteen years' time ; but one thing is certain. The importance the State has attached in the past, and still seems to attach, to the imposition of a full assessment on irrigated land is a strategical mistake, as the trend of agricultural development discloses. It was all very well to heap assessment on to irrigated land when opium cultivation was widespread in the State and when the fancy prices commanded by this ' black silver of Malwa ', as it was called, enabled the holder of irrigated land to meet an inflated assessment with composure. Those days are gone ; and the growth of opium on a very limited area, for consumption within its borders, is the most the State can expect in future. In a fertile tract of deep black soil with a reliable monsoon and a moderate population, it is idle to hope that irrigation will ever assume very large proportions. Indeed, the natural inference from agricultural research seems to point the other way. Experiments at the Indore Institute of Plant Industry have shown that, for ordinary cotton cultivation, the rainfall is normally in excess rather than in defect. Improved methods, therefore, are likely to minimize the difference in profit between wet and dry cultivation ; and this circumstance will tend to discourage the spread of irrigation, except for special crops such as sugar-cane and garden produce.

#### THE HOLKAR STATE LAND-SYSTEM

This being so, the State would be well advised to avoid, in future, anything in the nature of a penal assessment on irrigated land, such as that imposed at the last re-settlement, and should be content with a moderate differentiation in its 'wet' rates.

It must be remembered that irrigated land yields high profits, and can support a relatively high assessment at present, not so much because it is irrigated as because it is also very carefully cultivated. Every irrigated field must be accurately graded and heavily manured. As soon as cultivators realize the substantial profits to be gained by grading and manuring their dry cultivation—and this without any serious risk of a special assessment being imposed—they will naturally concentrate attention upon the unobtrusive improvement of their holdings. This tendency is already to be noticed in the Nimar district. There the (till lately) increasing profits from dry cotton cultivation have, for many years, placed irrigation at a heavy discount; and thousands of wells are now lying idle.

What the State should visualize in the future is a steady, if slow, advance along a far wider agricultural front than that which irrigated lands present. The scientific and practical research work, carried on by Mr. A. Howard at the Indore Institute of Plant Industry, has demonstrated the wide variety of points at which the present system of local agriculture can be developed; and the key to the new position is not more water but agronomy—the scientific use to man's advantage of nature's inherent productivity. Any special concentration on the assessment of irrigated land, which covers no more than two per cent of the cultivated area, must defeat its own purpose. The distinction between obtrusive and unobtrusive improvements is, as I have shown, a

#### ASSESSMENT OF IMPROVEMENTS

wholly artificial one, depending simply on the relative facility with which the former can be assessed. General improvements in cultivating methods, raising the profits of both wet land and dry, must now be the objective—for these will bring far more benefit to the agricultural population as a whole than any specialized attempt to multiply irrigation sources with a view to their assessment. The average cultivator is quite shrewd enough to be able to weigh the 'pros' and 'cons' of an obtrusive improvement. He will at once fight shy of irrigation, if he knows that it will result in his improvement being heavily assessed. With, however, a sound Settlement system, a liberal policy of rural administration and some alleviation of the present burden of agricultural indebtedness, the prospects of the peasantry should rapidly improve. Government, therefore, should take the long view and should approach the problem of agricultural improvements in a broad spirit, so co-ordinating all their activities as to produce a general agricultural advance, which will conduce to the prosperity both of the cultivator and of the State itself. From this point of view it is imperative that obtrusive improvements should, in future, enjoy far more lenient treatment than they have hitherto received. The negative policy of a high assessment for irrigated lands should be abandoned; and a positive policy of encouraging agricultural development on the widest possible scale should take its place.



CHAPTER VII  
STATE FINANCE  
AND RURAL ADMINISTRATION

**A** GLANCE at the budget of the Holkar State is enough to show that the bulk of the revenue is derived from the rural population. In the Estimates for 1929-30, out of a total revenue of 136 lakhs, 64 lakhs came from Land-revenue, 17 from Excise, 16 from Customs, 8 from Forests and 7 from Stamps. Agriculturists pay, practically, the whole of the land-revenue, and they, with those other classes who are dependent on agriculture, contribute most of the revenue under the next four most important heads. Probably two-thirds to three-fourths of the total revenue is provided by inhabitants of the rural areas, while not more than one-fourth to one-third of it is spent for their benefit. No precise calculation can be made; but a tendency for the City to profit at the expense of the Country is apparent. State expenditure on tanks and wells in the *mosussil* has, for the past twenty years, almost ceased and only small additions have been made to the rural road-system, whereas money has been freely spent in Indore, where a water-supply and drainage scheme, estimated to cost over 60 lakhs of rupees, is now being financed from the general revenues. Again the rent of the cultivator has been recently enhanced, whereas there is no tax on the income of the trader. The export tax on food grains further illustrates the preferential treatment which the Capital receives. The State is, therefore, in arrears in

## FINANCE AND RURAL ADMINISTRATION

its obligations to its rural inhabitants and should make strenuous efforts to redress the balance by a steady campaign in favour of rural development and by an increasing outlay for the benefit of the agricultural classes.

It may be urged that the State's resources are already pledged for its existing commitments ; and that the rental assessments have been fixed for the period of Settlement, so that the State will derive no immediate return from any outlay on its rural areas. It is true that the return from any capital the State may sink in agriculture is likely to be slow ; but it will be sure ; and, in the end, a wise expenditure in the *mofussil* will prove the most remunerative investment that the State can make. A 'forward' rural policy will be the best for the State even from the narrowest financial viewpoint.

In the first place, if the State provides new irrigation sources at its own expense, it can, under section 40 of the new Act, impose 'wet' rates on any addition to the irrigated area which results from these improvements. There is scope for irrigation by State agency along the banks of rivers, such as the Nerbudda in the Nemawar district and the Chhoti Kali Sind in Mehidpur.

Secondly, an increase in the profits of agriculture will result in an extension of cultivation to land at present unoccupied. These areas are auctioned, when there is competition for them ; and this means not only an immediate addition to the land-revenue demand but also a capital contribution to the State. During the last twenty years' Settlement, the land-revenue demand rose, in spite of fixed rates and stagnant irrigation, from 37 to 52 lakhs of rupees. 'The amount of revenue (which at last Settlement amounted to Rs. 37,13,659) went on swelling from year to year, as more and more land was taken up at new cultivation rates, until it

#### THE HOLKAR STATE LAND-SYSTEM

reached the figure of Rs. 51,97,425 in the year of revision, thus giving an increase of Rs. 14,83,766, or about 40 per cent, which accrued during the term of the last Settlement.' (N.S.R., p. 118.) Such a high percentage increase cannot, of course, be maintained in the future, for much of the expansion in the demand between 1907 and 1927 was due to recovery from the abnormal depression which followed the famine of 1900 ; but a steady increase in the State's receipts from the land may be expected ; and this increase will be enhanced by a sustained campaign in favour of rural and agricultural development.

Thirdly, the imposition of cesses on the land-revenue is a possible new source of income which, as the Indian Taxation Enquiry Committee have recently pointed out, can legitimately be utilized. It should take the form of a local cess for local purposes. For instance, a road and education cess, amounting to  $6\frac{1}{4}$  per cent on the land-revenue and yielding nearly a lakh of rupees annually, might be levied without hardship in Nimar and devoted to the construction of new roads and new school buildings in the *mofussil* of that district. As improved agricultural methods spread to other parts of the State and lighten the burden of the new assessment, such a cess might be levied there also for the benefit of the *mofussil* areas. I emphasize the need for the application of such local cesses to local purposes because, as I have shown, the bulk of the revenue, though levied from the rural areas, is, at present, spent in Indore.

Fourthly, all agricultural improvements worth the name lead to greater production and thus tend to increase the surplus stock of raw produce available for export ; and increased production means increased purchasing power, more excise revenue and more

#### FINANCE AND RURAL ADMINISTRATION

imports. Such exports and imports are taxed, and will thus contribute an addition to the receipts under Customs. This fourth head I may call 'the indirect revenue' due to agricultural improvement. Though it is the least easy to define, it is likely to be the most important consequence of a general agricultural advance both from the agriculturist's point of view and also from that of the State. Agriculture is the basic industry; 'the prosperity of such a primary or basic industry is essential to the well-being of all the people; and there is no surer way of raising the standard of living of the people and increasing the general wealth of a country than by investing capital in the improvement of agricultural land and by adopting the well-known methods of better cultivation. Agriculture supplies the food of the people and the raw materials of the principal industries. If food be abundantly produced, it will be cheap and the people well fed; there may be a surplus which can be exported. If raw materials are abundant and cheap, industries will be attracted. . . . There is a reciprocal relation between industry and agriculture. The greater the surplus which the cultivators can produce above the food which they must consume, the greater is their demand for manufactured products. The industries of the town go to supply the needs of the cultivators for clothing, for household utensils and luxuries; and other industries eventually grow up to supply the machinery and implements required by modern methods of cultivation. With a large agricultural production new railways become profitable, which otherwise would not be; and an all-round economic advance takes place."<sup>1</sup>

Thus we reach a broader standpoint. What is

<sup>1</sup> Note on the economic condition of the Holkar State, by Professor Jevons.

#### THE HOLKAR STATE LAND-SYSTEM

needed in rural administration is faith in the future and acquiescence in a present moderate revenue return with a view to an ultimate gain. The wisest policy is to wait for the products of slow growth—as the Forester waits, sometimes for a hundred years. 'Forest finance', we read, 'consists of building up the capital invested in the land and in the crops thereon and in obtaining therefrom the highest possible annual return.' Yet 'more than half of the gross annual revenue of the forests in India is spent in forest management', and nearly one-tenth 'on roads and buildings, cultural operations, surveys, demarcations, none of these works being immediately productive of revenue.' We are told, 'after half a century of conservative working', that the value of the forests will only be known 'later on, when the immature crop now on the ground shall have become ripe for the harvest.' So too in rural administration, even though the State's objective were merely to secure 'the highest possible annual return', nevertheless a policy at least as self-restrained and far-sighted as that which the Forester regards as sound would be appropriate. Everything possible, therefore, should be done to foster the social and economic improvement of the rural areas. A present sacrifice will be more than recompensed later both by the ultimate revenue return and by the dignity with which such an enlightened policy will invest the State.

<sup>1</sup> *The Oxford Survey of the British Empire*, vol. II, p. 93.

## CHAPTER VIII

### CONCLUSION

IN the foregoing pages an attempt has been made to emphasize, and at the same time to justify, those special features of the land-system of the Holkar State which give it a distinctive character. It is easy to perceive that this distinctive character is derived argely from the circumstance that the State is not fettered, as Government is fettered in most parts of British India, by the extended grant in the past of some sort of proprietary right to one landed interest or another. The Holkar State, in its freedom from such previous commitments, resembles the newly developed *raiyatwari* areas of the Central Provinces. There the absence of past concessions, in favour of village-landlord or holding-proprietor, has made possible a simple land-system which provides for the reservation of all culturable land for those who are primarily agriculturists. So also the Indore Land-revenue and Tenancy Act propounds a system which aims at securing the maximum advantage for the actual cultivator of the soil. The policy of 'agricultural land for the agriculturist' provides a single premiss from which the main principles of the new Act can be logically derived. If it be assumed as fundamental that the culturable land of an agricultural State should be reserved for those whose interest lies in its development, all those restrictions on sale, mortgage and sublease which have been advocated in preceding chapters can readily be justified. An unrestricted right of transfer has been

#### THE HOLKAR STATE LAND-SYSTEM

found by practical experience to be dangerous to the common cultivator, prejudicial to agricultural progress and, therefore, contrary to the interest of the community.

Holkar's dominions, however, have not altogether escaped the difficulties which result from past concessions to a favoured class. The State is, indeed, fortunate in that a comparatively small number of its villages has been 'assigned' to privileged grantees and in that, with few exceptions, these grants are of limited extent. Nevertheless a problem does exist in regard to the class of village holders known as Jahagirdars and Istmurardars.<sup>2</sup> The former hold permanently free of revenue, while the latter are subject to a quit-revenue fixed in perpetuity. Together they occupy some four hundred villages; and it has not been easy to define their position in relation to the State or to decide upon the degree and character of the regulation to which they should be subject in the internal management of their villages. The State is pledged to maintain the position and dignity of its Jahagirdars and Istmurardars. On the other hand, some members of this privileged class aspire to a position of independence which would involve the exclusion of many matters of importance to the residents of their villages from the jurisdiction of the ordinary officials of the State. Nothing, however, can impair the Maharaja's ultimate responsibility for the welfare of his subjects in every part of his dominions.

The attitude of the State towards its Jahagirdars and Istmurardars is a question of policy with which, in view of the limited number of this class, it is hardly necessary

<sup>2</sup> The more correct spelling of these terms is Jāgīrdār and Istimūrdār. I use the Marathi forms current in the State.

## CONCLUSION

to deal at length in a general description of the local land-system ; but, now that a standard of rural administration has been established, under the new Act, for *khalsa* villages, it is incumbent on those who are responsible, on the Maharaja's behalf, for non-*khalsa* villages to conform to the same standard. Regard for the social status of a *Jahagirdar* or *Istmurardar* should not operate so as to place the residents of his village at a disadvantage or make them dependent on the caprice of the local landlord, regardless of the rural policy of the State. To enable the Maharaja to perform his duty of safeguarding the welfare of every class of his subjects, there must be some general official organization which will keep him in touch with local conditions. District Officers have hitherto been discouraged from taking a direct interest in non-*khalsa* village affairs ; and the resulting independence of control has been regarded as part of the *jahagirdari* or *istmurardari* privilege. The new Act deliberately contemplates a change in Government's attitude in this respect. By section 79 (3) the State Settlement system can be made applicable to *jahagir* and *istmurar* grants, while section 96 (2) makes it possible also to compile the ordinary Annual Village Papers for these areas. Chapter X of the Act gives Government authority to appoint and control the village officials (Patels, Chaukidars and Balais) both in *khalsa* and non-*khalsa* villages ; while section 70 enables the State to confer protection, by means of a pattedar tenancy, on all tenants who hold from an 'assignee'. A certain uniformity in matters of this kind is an essential condition of sound rural administration, for the working not only of the Revenue, but of many other Departments also, rests upon a village basis. At the same time, the precaution has been taken to provide that



#### THE HOLKAR STATE LAND-SYSTEM

every consideration, consistent with the proper discharge by the State of its duty to the village, shall be paid to the village assignee. Jahagirdars are already to be found who are in sympathy with the policy of Government as formulated in the sections of the Act above referred to ; and, with some give and take on either side, it should be possible to find a compromise in consonance both with the rights of the assignee, as such, and with the obligation which rests on him, as a subject of the Maharaja, to co-operate in the enforcement of the policy of the State.

The *jahagir* or *istmumar* grant is, as I have said, a special case with which it is unnecessary to deal at length. It may suffice to say that the problem presented by the village assignee in the Holkar State bears some similarity to that which arose from the creation of a village-landlord class in the Central Provinces some sixty years ago ; and a long-drawn process of adjustment between the divergent interests of the village-landlord and his tenantry may safely be foretold, during which the State will have to hold the balance evenly between them. In nine-tenths of the State, however, the village-landlord does not exist ; and the present volume is concerned primarily with an exposition of the characteristic *khalsa* system, found in the great majority of villages. The growth of 'landlordism', of which Berar provides a clear example, must be checked. To maintain the *khalsa* system under modern conditions and to protect the small landholder, while he adapts himself slowly to the economic transition from 'status' to 'contract', from times when tenants were scarce and land was plentiful to those when the increasing pressure of the population on the land arouses competition to secure it, is the rural problem of the present day.

#### CONCLUSION

The enforcement of the provisions of the new Act, designed for the tenant's protection under the aegis of the Ruler's universal landownership, will place a heavy strain on the industry and integrity of the Revenue Staff; but that Staff has been strengthened by the appointment of Divisional Commissioners, on whose efficiency, as a controlling agency, will largely depend the extent to which the provisions of the Act will function. The principles which underlie these restrictions are unquestionably sound. In an agricultural State rural prosperity must be the primary objective; and only the State can be trusted to provide all the safeguards necessary for the peasant cultivator's welfare. There must, therefore, be a legislative enactment and an executive agency to enforce the special conditions which the circumstances require. The first of these it has been the object of the new Indore Land-revenue and Tenancy Act to provide.

His Highness the Maharaja has publicly announced that the welfare of the agricultural classes will be his special care—a happy augury, towards the fulfilment of which the present enactment is the first important step; but an Act is no more than a declaration of principle. What is as important as the Act itself is the manner in which its provisions are interpreted. 'That which is best administered is best.' The purpose of Government will be reflected day by day in its decisions and in the outlook and activities of the Staff whose work brings them into daily contact with the agricultural population. It is to assist those responsible for guiding the future revenue administration of the State, as well as those who may have to deal with the more detailed problems of district work, that this little book has been compiled. It emphasizes the special features of the new Act and shows how it embodies in legislative form

#### THE HOLKAR STATE LAND-SYSTEM

the best Maratha tradition in the field of rural economy. The State has had the stimulating experience of developing for itself a land-system of a distinctive character, adapted to local conditions and local needs. It remains for those responsible for the welfare of the rural population to further the State's constructive policy by the maintenance of a sound executive and administrative agency.

APPENDIX I  
THE INDORE LAND-REVENUE AND TENANCY ACT  
CONTENTS

Preamble

CHAPTER I—PRELIMINARY

Section

1. Title, extent and commencement
2. Restricted operation of Act in pending proceedings
3. Saving and repeal of rules
4. Definitions

CHAPTER II—THE CLASSES, POWERS AND PRO-  
CEDURE OF REVENUE OFFICERS

5. Appointment of Revenue Officers and formation of divisions, districts and mahals
6. Classes of Revenue Officers
7. Chief Revenue Authority
8. Commissioners, Subhas and Amins in charge of divisions, districts and mahals
9. Additional Commissioners, Subhas and Amins
10. Enhancement of powers of Amins and Naib Amins
11. Subordination of Revenue Officers
12. Power to enter upon land to carry out duties
13. Power to require attendance of persons and production of documents
14. Power to require erection and maintenance of boundary marks, etc.
15. Power to recover cost of work done when requisition not complied with
16. Penalty for damaging boundary marks
17. Power to requisition information for compiling records
18. Reference of cases
19. Transfer of cases
20. Appearances, applications, etc., by whom made
21. Power to make rules under chapter II

## THE HOLKAR STATE LAND-SYSTEM

### CHAPTER III—APPEAL, REVISION AND REVIEW

#### Section

22. Limitation of appeals
23. Appeals
24. Second appeals
25. Revision
26. Review

### CHAPTER IV—GENERAL CONDITIONS REGARDING LAND

27. Property in land
28. Property in minerals
29. All who hold from Maharaja liable to pay revenue
30. All trespassers to pay penalty equal to revenue or rent

### CHAPTER V—TENANCIES AND SUBTENANCIES

31. Tenant
32. Duties of a tenant
33. Improvements
34. Minerals
35. Grazing and *mistar*
36. Exemption from arrest and imprisonment
37. Pattedar tenant
38. Allotment of unoccupied land in *khalsa* villages
39. Pattedar tenant to have holding surveyed and assessed under Government orders
40. Fixation of pattedar tenant's rent for period of Settlement
41. Trees
42. House sites
43. Exchanges of land
44. Partition of holdings
45. Voluntary sale of holdings
46. Compulsory sale of holdings
47. Procedure in execution of Civil Court decree in satisfaction of which sale is applied for
48. Subleases
49. Penalty for repeated unlawful subletting, etc.
50. Bequest, gift or mortgage
51. Surrender
52. Abandonment
53. Dispossession of pattedar tenant

## LAND-REVENUE AND TENANCY ACT

### Section

54. Disposal of rights on death of patteddar tenant
55. Proclamation when heir not known
56. Ordinary tenant
57. Rights of ordinary tenant
58. Dispossession of ordinary tenant
59. Subtenant
60. Rights of subtenant
61. Dispossession of subtenant
62. Reinstatement of tenant or subtenant improperly dispossessed
63. Power to make rules under chapter V

### CHAPTER VI—SPECIAL TENURES

64. Assignee of proprietary rights
65. Rights and liabilities of assignee of proprietary rights
66. Succession
67. Partition and transfer
68. Cancellation of assignee's tenure
69. Suspension of assignee's tenure
70. Tenant holding from assignee may be declared patteddar tenant
71. Suspension and remission of rents payable to assignee
72. Assignee's land and income therefrom exempt from attachment. Restriction on civil jurisdiction
73. Adhi Jama Khotidar
74. Rights and liabilities of Adhi Jama Khotidar
75. Service holding
76. Rights and liabilities of holder of service holding
77. Lease for non-agricultural purposes
78. Power to make rules under chapter VI

### CHAPTER VII—SETTLEMENT

79. Notification of Settlement
80. Settlement and Assistant Settlement Officers
81. Preparation of Record of Rights
82. Dispute regarding entry in papers prepared for Record of Rights
83. Civil Court's jurisdiction regarding entry in final Record of Rights
84. Assessment and fixation of revenue and rent at Settlement

## THE HOLKAR STATE LAND-SYSTEM

### Section

85. Enquiry at Settlement into grants held free of revenue or on favoured assessment
86. Announcement of Settlement
87. Settlement Officer to determine the village site
88. Settlement Officer to ascertain and record village customs
89. Confirmation and term of Settlement
90. Saving of rights after expiry of term of Settlement
91. Transfer of pending Settlement cases
92. Commissioner to exercise certain powers of Settlement Officer when Settlement not in progress
93. Revision of revenue when Settlement not in progress
94. Power to make rules under chapter VII

### CHAPTER VIII—ANNUAL VILLAGE PAPERS

95. Annual Village Papers
96. Villages for which prepared
97. Patwaris' circles and appointment of Patwaris
98. Munsarims' circles and appointment of Munsarims
99. Sadar Munsarims
100. Director of Land Records
101. Disputes regarding entry in Annual Village Papers
102. Presumption as to entries in Annual Village Papers
103. Inspection of Annual Village Papers and grant of copies thereof
104. Procedure in regard to mutation of names
105. Power to make rules under chapter VIII

### CHAPTER IX—THE COLLECTION OF REVENUE

106. Revenue a first charge on land and its produce
107. Restriction on disposal of produce of land by Civil Courts
108. Power to prohibit removal of produce, if disposed of
109. Power to prohibit removal of produce in other cases
110. Disposal of produce after order under section 108 or 109
111. Penalty for disobedience of order under section 108 or 109
112. Instalments of revenue
113. Suspensions and remissions of revenue
114. Primary responsibility for revenue
115. Arrear ; defaulter
116. Secondary responsibility for revenue

## LAND-REVENUE AND TENANCY ACT

### Section

- 117. Amin's statement to be evidence of arrear
- 118. Processes for recovery of arrear
- 119. Notice of demand
- 120. Process enforceable outside district of default
- 121. Procedure in attachment and sale of property
- 122. Power to make rules under chapter IX

### CHAPTER X—VILLAGE OFFICERS AND VILLAGE MANAGEMENT

- 123. Appointment of Patel
- 124. Remuneration of Patel
- 125. Duties of Patel
- 126. Penalty for disobedience of Patel
- 127. Punishment of Patels
- 128. Suspension and removal of Patels
- 129. Chaukidars
- 130. Balais
- 131. Rights of way and other private easements
- 132. Penalty for obstruction to rights of way, etc.
- 133. Removal of obstruction
- 134. Village forests
- 135. Power to make rules under chapter X

### CHAPTER XI—MISCELLANEOUS

- 136. Exclusive jurisdiction of Revenue Authority
- 137. *Lis pendens*
- 138. Law of limitation to apply
- 139. Valuation of suits ; Court fees
- 140. Recovery of miscellaneous revenue and other money due to Government
- 141. Validation of existing official appointments



## THE HOLKAR STATE LAND-SYSTEM

ACT No. 1 OF 1931

*An Act to consolidate and declare the law relating to land-revenue, land tenures and other matters connected with land in the Holkar State*

Whereas it is expedient to consolidate and declare the law relating to land-revenue, land tenures and other matters connected with land in the Holkar State, it is hereby enacted as follows :—

### CHAPTER I

#### *Preliminary*

Title, extent and commencement

1. (1) This Act may be called the Indore Land-revenue and Tenancy Act, No. 1 of 1931.

(2) It extends to the whole of the Holkar State.

(3) It shall come into force on such date as Government, by notification in the *Holkar State Gazette*, may direct.

Restricted operation of Act in pending proceedings

2. (1) In any case pending before a Civil or Revenue Court when this Act comes into force, all decisions relating to matters connected with land shall be based, so far as may be, on the rules and circulars in force prior to the commencement of this Act.

(2) Any case pending before a Civil Court when this Act comes into force, which would, under this Act, be exclusively triable by a Revenue Court, shall be disposed of by such Civil Court, notwithstanding anything contained in the provisions of this Act.

Saving and repeal of rules

3. All rules relating to matters connected with land, made by, or with the authority of, Government before the passing of this Act, shall, so far as they are not inconsistent with this Act, be deemed to have been made under it, and shall remain in force until such time as rules superseding them shall have been made under this Act. And any such rules as are inconsistent with this Act are hereby repealed ; but not so as to invalidate any decision based on those rules which may be made under subsection (1) of section 2.

## LAND-REVENUE AND TENANCY ACT

4. In this Act, unless there be something repugnant in the subject or context, Definitions

(i) 'rent' means whatever is paid or payable in money or kind by a tenant or subtenant, on account of the use or occupation of land held by him ; Rent

(ii) 'revenue' means land-revenue ; that is to say, the annual demand directly payable to Government by any person on account of the use or occupation of land held by him, whether such demand is fixed for a term or fluctuates from year to year ; and includes all quit-revenues and tenants' rents or quit-rents which are directly payable to Government ; Revenue

(iii) 'village' means any tract of land which Government may, from time to time, by notification in the *Holkar State Gazette* declare to be a village for the purposes of this Act ; Village

(iv) '*khalsa* village' means a village other than a village held by a *Jahagirdar* or *Istmurardar* ; *Khalsa* village

(v) 'holding' means a parcel of land, forming part of a village, which is held under one lease or one set of conditions ; Holding

(vi) 'boundary' means a line of division between adjoining villages, holdings or fields, both of which are situated within the limits of the *Holkar State* ; Boundary

(vii) 'Patel' means the village headman appointed under this Act, for the management of a village ; Patel

(viii) 'Patwari' means the village officer appointed under this Act, to prepare the Annual Village Papers. Patwari

## CHAPTER II

### *The Classes, Powers and Procedure of Revenue Officers*

5. Government shall appoint officers, for the administration of the revenue and other matters connected with land in the *Holkar State*, to be called Revenue Officers ; and shall subdivide the State, for the same purpose, into divisions, districts and mahals, and may, from time to time, abolish, or alter the limits of, any such division, district or mahal. Appointment of Revenue Officers and formation of divisions, districts and mahala

## THE HOLKAR STATE LAND-SYSTEM

Classes of Revenue Officers

6. There shall be the following classes of Revenue Officers, namely :—

Chief Revenue Authority ;  
Commissioners ;  
Subhas ;  
Amins ;  
Naib Amins ;  
Director of Land Records ;  
Assistant Directors of Land Records ;  
Sadar Munsarims ;  
Munsarims ;  
Settlement Officer ; and  
Assistant Settlement Officers.

Chief Revenue Authority

7. (1) ' Chief Revenue Authority ' means the officer or officers, by whatever designation he or they may be known, charged by Government with the control of the revenue and other matters connected with land in the Holkar State.

(2) All powers conferred by this Act on the Chief Revenue Authority shall be exercised subject to the control of Government and to any directions which Government may, from time to time, issue for the guidance of the said Authority.

Commissioners, Subhas and Amins in charge of divisions, districts and mahals

8. (1) A Commissioner shall be placed in charge of each division, who shall exercise therein the powers conferred on a Commissioner by this Act.

(2) A Subha shall be placed in charge of each district, who shall exercise therein the powers conferred on a Subha by this Act.

(3) An Amin shall be placed in charge of each mahal, who shall exercise therein the powers conferred on an Amin by this Act.

Additional Commissioners, Subhas and Amins

9. An Additional Commissioner, an Additional Subha or an Additional Amin may, at the discretion of Government, be appointed to a division, district or mahal, respectively ; and shall exercise therein such powers under this Act, proper to his rank, as Government may, by notification in the *Holkar State Gazette*, confer on him.

Enhancement of powers of Amins and Naib Amins

10. Government may, by notification in the *Holkar State Gazette*, confer on an Amin such of the powers conferred by this Act on a Subha as the Amin may be considered fit to exercise, and on a Naib Amin such of the powers

## LAND-REVENUE AND TENANCY ACT

conferred by this Act on an Amin as the Naib Amin may be considered fit to exercise.

11. All Revenue Officers in the State shall be subordinate to the Chief Revenue Authority ; all Revenue Officers attached to a division shall be subordinate to the Commissioner of the division ; and all Revenue Officers attached to a district shall be subordinate to the Subha of the district ; *provided that*, when a Settlement is in progress, the subordination of Sadar Munsarims and Munsarims to Commissioners and Subhas may be transferred to the Settlement Officer and Assistant Settlement Officers.

Subordination of  
Revenue Officers

12. A Revenue Officer or a Patwari (and the servants and workmen employed under him, when duly authorized either verbally or in writing) may enter upon land in order to survey it or demarcate its boundaries or to do any other act connected with the duties of such Revenue Officer or Patwari under this or any other enactment for the time being in force ; but, in making such entry, due regard shall be paid to the social and religious sentiments of the holder or occupier.

Power to enter  
upon land to carry  
out duties

13. (1) Subject to the provisions of sections 132 and 133 of the Indore Code of Civil Procedure and to rules made under section 21 of this Act, a Revenue Officer shall have power to summon, for the purposes of any enquiry or case arising under this Act or any other enactment for the time being in force, any person whose attendance may be required for examination or for the production of a document.

Power to require  
attendance of  
persons and pro-  
duction of docu-  
ments

(2) If a person, on whom a summons under subsection (1) has been served, fails to comply with the summons, the Officer who issued the summons may issue a bailable warrant for the arrest of such person.

14. A Revenue Officer may, at any time, require a holder or occupier of land or other person interested therein,

Power to require  
erection and  
maintenance of  
boundary marks,  
etc.

(i) to erect on such land, free of charge, boundary marks of such form and material as may be prescribed by rules made under section 21 ;

(ii) to repair or renew, free of charge, the boundary marks on his land in such form and material as may be prescribed by rules made under section 21 ; and

(iii) to carry out, free of charge, any other field work necessary, in the Revenue Officer's opinion, for the

## THE HOLKAR STATE LAND-SYSTEM

survey or Settlement, or for the preparation of the Record of Rights or Annual Village Papers, of the village in which his land is situated.

Power to recover cost of work done when requisition not complied with

15. If a holder or occupier of land or other person interested therein fails to comply with a requisition made under the foregoing section, the Revenue Officer may cause the work to be done and may recover the cost of the work from the person who has failed to comply with such requisition.

Penalty for damaging boundary marks

16. An Amin may order any person found guilty before him, after a summary enquiry, of wilfully erasing, removing or damaging a boundary mark, to pay a penalty, which may extend to fifty rupees, for each such offence; and may utilize, in restoring the marks erased, removed or damaged, so much of the penalty realized as may be needed for the purpose.

Power to requisition information for compiling records

17. Any person whose rights, interests or liabilities are required, by this Act or any rule made thereunder, to be entered in any official record by a Revenue Officer or by a Patwari, shall be bound to furnish, on the requisition of such Revenue Officer or Patwari, all information necessary for the correct compilation thereof; and any person who fails, without reasonable cause, to comply with such requisition shall be liable, under the order of an Amin passed after a summary enquiry, to a fine which may extend to ten rupees.

Reference of cases

18. A Revenue Officer may refer any case to an officer subordinate to him for report or, if such officer has power to dispose of the case, for disposal. On receipt of the report he may dispose of the case, or may return it for further investigation, or may himself make further investigation before disposing of the case.

Transfer of cases

19. A Revenue Officer may withdraw any case pending before a Revenue Officer subordinate to him, in respect of which he has appellate jurisdiction under chapter III, and may dispose of it himself, or may transfer it to another officer subordinate to him for report or, if such other officer subordinate to him has power to dispose of it, for disposal, irrespective of the limits of that other officer's territorial jurisdiction.

Appearances, applications, etc. : by whom made

20. All appearances, applications and acts, to be made or done before a Revenue Officer under this Act, may be made or done :—

## LAND-REVENUE AND TENANCY ACT

(i) by the parties themselves ; or  
(ii) by their recognized agents ; or  
(iii) by legal practitioners duly authorized by the parties and competent to practise in the Court of such officer ;

*provided that* the Revenue Officer may require the personal attendance of any party to a proceeding, notwithstanding the employment of an agent or legal practitioner.

21. (1) With the previous sanction of Government, the Chief Revenue Authority may, from time to time, make rules for the purpose of carrying into effect the provisions of this chapter. Power to make rules under chapter II

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate :

(a) the enhanced powers to be exercised by Revenue Officers under section 10 ;

(b) the summoning of persons, to attend or to produce documents before a Revenue Officer, under section 13 ;

(c) the nature of the boundary marks to be erected and maintained under section 14 ; and

(d) the procedure to be followed by Revenue Officers in disposing of cases under this Act.

## CHAPTER III

### *Appeal Revision and Review*

22. (1) No appeal shall lie from any decision or order of a Revenue Officer, except as provided by this chapter. Limitation of appeals

(2) The period of limitation for appeals under this Act shall be sixty days from the date of the decision or order complained of.

23. An appeal shall lie, from every original decision or order under this Act, Appeals

(i) to the Subha of the district, where the decision or order has been passed by a Revenue Officer subordinate to him, other than an Amin in exercise of the powers of a Subha conferred under section 10 ;

(ii) to the Commissioner of the division, where the decision or order has been passed by a Subha, or by an Amin in exercise of the powers of a Subha conferred under section 10 ;

## THE HOLKAR STATE LAND-SYSTEM

(iii) to the Settlement Officer, where the decision or order has been passed by an Assistant Settlement Officer ;

(iv) to the Chief Revenue Authority, where the decision or order has been passed by a Commissioner, the Settlement Officer or the Director of Land Records ;

(v) to Government, where the decision or order has been passed by the Chief Revenue Authority.

### Second appeals

24. A second appeal shall lie to the Commissioner, from an appellate decision or order of a Subha ; to the Chief Revenue Authority, from an appellate decision or order of a Commissioner, the Settlement Officer or the Director of Land Records ; and to Government, from an appellate decision or order of the Chief Revenue Authority.

### Revision

25. Any Revenue Officer, having appellate jurisdiction in the case, may, at any time, for the purpose of satisfying himself as to the legality or propriety of any decision or order, or as to the regularity of any proceeding, of a Revenue Officer subordinate to him, call for and examine the record of any case disposed of by, or pending before, such subordinate Revenue Officer, and may pass such order thereon as he thinks fit ; *provided that* no order to the prejudice of any person shall be passed in revision unless such person has been given a reasonable opportunity of appearing and being heard in the matter.

### Review

26. (i) A Revenue Officer may, either on his own motion or on the application of any party interested, review an order passed by himself or by any of his predecessors in office, and may pass such order in reference thereto as he thinks fit ; *provided that*

(a) if a Commissioner, Settlement Officer or Subha thinks it necessary to review an order which he has not himself passed, and if any officer subordinate to a Settlement Officer or Subha proposes to review an order, whether passed by himself or by any predecessor, he shall first obtain the sanction of the officer to whom he is immediately subordinate ;

(b) no order shall be varied or reversed unless sufficient notice has been given to the parties interested to appear and be heard in the matter ;

(c) no order from which an appeal has been preferred or which is the subject of any revision proceedings shall, so long as such appeal or proceedings are pending, be reviewed ;

## LAND-REVENUE AND TENANCY ACT

(d) no order affecting any right between private persons shall be reviewed except on the application of a party to the proceedings; and no application for the review of such order shall be entertained unless it be made within ninety days from the passing of the order.

(2) No order which has been dealt with in appeal or on revision shall be reviewed by a Revenue Officer subordinate to the appellate or revisional authority.

### CHAPTER IV

#### *General Conditions regarding Land*

27. The entire land of the State and all water standing on, or flowing over, any part of it are the property of the Maharaja; and no person may occupy any portion of such land or water without lawful authority. Property in land

28. All mines, quarries and minerals are the property of the Maharaja; and they shall not be worked or used by any holder of land, whatever his tenure may be, except as authorized expressly by this Act or by the terms of a grant from, or order of, or contract with, Government. Property in minerals

29. Every person, whatever his tenure may be, who holds land from the Maharaja, shall be liable to pay, on account of that land, the revenue (if any) to which he has been duly assessed under the orders of Government. All who hold from Maharaja liable to pay revenue

30. Any person who occupies land without lawful authority shall be regarded as a trespasser, and may be dispossessed by an Amin at any time; but he shall be liable to pay, as penalty, for each year during the whole or part of which he has been in such occupation, a sum equal to the revenue or rent to which he would have been assessed had a Revenue Officer allotted him the land. All trespassers to pay penalty equal to revenue or rent

### CHAPTER V

#### *Tenancies and Subtenancies*

31. 'Tenant' means a person who holds land, for his agricultural purposes, from the Maharaja or from an assignee of the Maharaja's proprietary right, and who is, Tenant



## THE HOLKAR STATE LAND-SYSTEM

or but for a contract would be, liable to pay rent for his holding ; but does not include

- (i) an Adhi Jama Khotidar, as defined in section 73 ;
- (ii) the holder of a service holding, as defined in section 75 ; or
- (iii) a person to whom only the right to cut grass or graze cattle or sow *singhara* or propagate or collect lac has been granted.

**Duties of a tenant** 32. A tenant shall use his holding for agricultural purposes only ; that is to say, he shall bring in due course, and keep, a reasonable portion of his holding under crops ; he shall work the land in such a way as to prevent deterioration of its productive power ; and he shall use the land for any or all of the following, but for no other, purposes, namely :

- (i) the growth of any crops, except such as may, from time to time, be prohibited by Government ;
- (ii) the growth of grass or food for cattle ;
- (iii) the growth of trees ;
- (iv) the erection of a dwelling house for his domestic use ;

(v) the erection of such buildings or other structures as he may reasonably require for the purposes of his agriculture ; and

(vi) the construction and maintenance of any work of the kind described in section 33.

**Improvements** 33. A tenant shall have the right to construct and maintain such wells, tanks, embankments, drains, fences and other works as are required for the proper cultivation or protection of his holding ; *provided that* such works may not be constructed, and, if constructed, may be demolished under the order of a Subha, if they are liable to injure materially any other holding.

**Minerals** 34. Notwithstanding anything contained in section 28 above, a tenant shall have the right to remove, and to utilize for any work in connexion with his holding, stones or other material lying on the surface, or within two feet of the surface, of his holding.

**Grazing and *nistar*** 35. Subject to rules made under section 63, a tenant shall have the right, free of charge, to graze his agricultural cattle in the waste land of the village in which his holding is situated and to collect from such waste land grass, dry wood, thorns and leaves, for his agricultural or domestic purposes.

## LAND-REVENUE AND TENANCY ACT

36. A tenant, whose main source of income is agriculture, shall, notwithstanding anything contained in the Indore Code of Civil Procedure, be exempt from arrest and imprisonment in execution of a decree, passed either by a Civil or by a Revenue Court.

Exemption from  
arrest and impri-  
sonment

37. 'Pattadar tenant' means a tenant who has been, or whose predecessor in interest had been, declared, under the orders of Government, to have the rights of a pattadar tenant in his holding; and shall include any person lawfully recorded, in respect of his holding, as a 'raiyyat pattadar' when this Act comes into force.

Pattadar tenant

38. Unless Government by general or special order otherwise direct, unoccupied land in a *khalsa* village of the Holkar State, when given out for agricultural purposes, shall be allotted, under the order of an Amin, to a bona fide agriculturist, as defined by rule made under section 63, who shall be declared to have the rights of a pattadar tenant in that land.

Allotment of un-  
occupied land in  
*khalsa* villages

39. A pattadar tenant shall have the right  
(i) to have his holding surveyed under the orders of Government; and  
(ii) to have his revenue or rent assessed under the orders of Government.

Pattadar tenant to  
have holding sur-  
veyed and assessed  
under Government  
orders

40. Except on the ground that the productivity of his holding has been increased, subsequent to the last assessment, by means of an improvement constructed at the cost of the State, the revenue or rent of a pattadar tenant shall not be enhanced before the termination of the Settlement period fixed under section 89, whether such holding or part thereof continues to be held by the pattadar tenant or passes to another person who succeeds to his interest.

Fixation of patto-  
dar tenant's rent  
for period of  
Settlement

41. A pattadar tenant shall have the right to possess, and to enjoy the produce of, all trees standing on his holding. He may cut down and utilize any tree standing on his holding (other than those trees of established growth the cutting of which is prohibited by an order of Government) if it interferes with the cultivation of his holding or is needed by him for his domestic or agricultural purposes. But in no case shall his right in the trees standing on the holding be separated from his right in the holding itself; nor shall he sell timber derived from any tree on his holding, except in so far as such sale may be permitted by rules made under section 63.

Trees

## THE HOLKAR STATE LAND-SYSTEM

### House sites

42. A pattedar tenant shall have the right, free of charge, to a suitable house site of reasonable dimensions within the village site of the village in which he holds land. If he holds land in more than one village, he may choose the village in which he wishes to enjoy the foregoing concession but shall not be entitled to the concession in more than one village.

### Exchanges of land

43. Pattedar tenants may exchange by mutual agreement the whole or any part of their holdings; and such exchange shall be recognized as valid from the date on which it is reported by either party to the Amin of the mahal. If the Amin is satisfied that the exchange has been made in good faith, with the object of securing greater convenience in cultivation, no fee shall be charged for the transfer. If the Amin is not so satisfied, he may require each party to pay, within two months from the date of his order, a fee equal to one year's revenue or rent of the land received in exchange.

### Partition of holdings

44. Partition of a pattedar tenant's holding shall be effected only :—

(i) under an order of the Amin of the mahal, passed with the consent of all the recorded co-tenants; or

(ii) in accordance with the decree of a competent Civil Court in a suit instituted by one or more of the co-sharers against the others.

### Voluntary sale of holdings

45. (1) A pattedar tenant may, with the previous sanction of the Subha of the district, and after payment to Government by the prospective transferee of a fee equal to one year's revenue or rent of the land, transfer his rights in the whole, or any part, of his holding by sale to a bona fide agriculturist, as defined by rule made under section 63.

(2) A transfer by sale effected without the Subha's sanction shall be null and void; *provided that* the transfer may be validated by the Subha on payment by the transferee of a penalty which may extend to three years' revenue or rent of the land transferred.

### Compulsory sale of holdings

46. (1) A pattedar tenant's rights in the whole, or any part, of his holding shall be liable to sale, under the order of the Subha of the district,

(a) in execution of a decree for money, passed by a competent Civil Court, which cannot otherwise be satisfied; or

## LAND-REVENUE AND TENANCY ACT

(b) in satisfaction of a claim for arrears of rent, duly established in the Court of an Amin, by an assignee of proprietary rights.

(2) No sale shall be effected under this section except in favour of a bona fide agriculturist, as defined by rule made under section 63; and no fee, on account of any sale under this section, shall be levied from the transferee.

47. (1) Notwithstanding anything contained in the Indore Code of Civil Procedure, a decree, in satisfaction of which the sale of a pattedar tenant's rights in the whole, or any part, of his holding is applied for in a competent Civil Court, shall be transferred to the Subha of the district for execution. Procedure in execution of Civil Court decree in satisfaction of which sale is applied for ✓

(2) The Subha, on receiving the decree, shall cause a notice to be served upon the tenant, stating the date of the decree, the amount due thereunder and the numbers borne in the *khassya* by the land his rights in which it is proposed to sell, and informing him that, if he does not pay the amount due into Court, within a month from the date of the service of the notice, his rights in that land will be sold.

(3) If the amount due is not paid within the period fixed under subsection (2), the Subha may sell the tenant's rights in the land, or in a part thereof, or may, after such enquiry as he deems necessary, postpone the sale, to allow such tenant time for payment, for a period not exceeding four months from the date of the service of the notice under subsection (2).

48. (1) A pattedar tenant may sublet the whole, or any part, of his holding for his agricultural purposes; but he shall not sublet solely with a view to obtaining rent or merely so as to remain an intermediary between the person from whom he holds and the actual cultivator of the land. Subleases ✓

(2) A pattedar tenant, who is found, when this Act comes into force, to have sublet, or who may hereafter sublet, any land in his holding in contravention of the provisions of the foregoing subsection, may be called upon by the Amin of the mahal to cultivate such land during the next agricultural year. On his failing to do so, his rights in such land may, unless Government otherwise direct, be sold by auction, under the written order of the Subha of the district, to a bona fide agriculturist, as defined

## THE HOLKAR STATE LAND-SYSTEM

by rule made under section 63 ; or, if no suitable purchaser can be found, the rights in the land may be resumed. In case of sale, the price realized shall be paid to the pattedar tenant whose rights have been sold after deducting a penalty, equal to two years' revenue or rent of the land, and such sum, to be paid as compensation to the subtenant, as the Subha may direct.

(3) The fact that proceedings are in progress under subsection (2) shall not be regarded as precluding the sale of his rights by the pattedar tenant to a bona fide agriculturist by private negotiation, in the ordinary way, with the Subha's sanction.

Penalty for repeated unlawful subletting, etc.

49. If a pattedar tenant is found, after this Act comes into force, habitually to contravene the provisions of subsection (1) of section 48, or to have contravened them a second time after proceedings have been started under subsection (2) of section 48, or to have contravened them after obtaining the land as a bona fide agriculturist under sections 38, 45, 46, or 48, the Subha of the district, in proceeding under section 48, need not give him the option of cultivating the land during the next agricultural year, but may forthwith sell or resume, as the case may be, his rights in the land.

Bequest, gift or mortgage

50. (1) A pattedar tenant shall not transfer by bequest, gift or mortgage his rights in the whole, or any part, of his holding. Any document purporting to effect such a bequest, gift or mortgage shall be null and void and shall be inadmissible for registration, notwithstanding anything contained in the Indore Registration Act, 1907.

(2) Nothing in this section shall affect the validity of a mortgage, properly executed prior to the 21st of August, 1928 or between the 25th of October, 1929 and the 2nd of June, 1930, both days excluded, which shall be regulated by rules made under section 63.

(3) Nothing in this section shall affect the validity of a mortgage in favour of a Co-operative Credit Society, properly executed, with the previous sanction of such officer as Government may empower in this behalf.

(4) Any person who, in contravention of the provisions of this section, obtains possession of any land by virtue of a bequest, gift or mortgage or of any agreement purporting to be a bequest, gift or mortgage, shall be

## LAND-REVENUE AND TENANCY ACT

deemed to be a trespasser and shall be subject to the operation of section 30.

51. (1) A pattadar tenant may surrender the whole of his holding by a written notice, which shall be delivered to the Amin of the mahal on, or before, the 31st of March in any year. He may, in like manner, surrender a portion of his holding (not being less than a plot recorded as a separate number in the Annual Village Papers), provided he obtains the previous sanction of the Amin to such partial surrender. Surrender

(2) Any land surrendered under the preceding subsection shall be at the disposal of Government from the beginning of the agricultural year next following.

52. If, during any one agricultural year, a pattadar tenant fails to pay the revenue, and makes no arrangement for the cultivation, of his holding, he may be presumed to have abandoned it; and the land shall be at the disposal of Government from the beginning of the agricultural year next following. Abandonment

53. A pattadar tenant may be dispossessed of the whole, or any part, of his holding, under the order of the Subha of the district, Dispossession of pattadar tenant

(i) if he does not agree to pay the revenue or rent to which he has been duly assessed on account of his holding under the orders of Government; or

(ii) if he has contravened, either directly or through a subtenant indirectly, any of the provisions of this chapter (other than those contained in section 48) which regulate his tenure; *provided that*, in any case under this clause where the Subha considers dispossession to be too severe a penalty, he may, in lieu thereof, impose on the pattadar tenant a fine which may extend to fifty rupees.

54. On the death of a pattadar tenant his rights in the holding shall pass by inheritance in accordance with his personal law, subject to such modification thereof as has been recognized in the Holkar State prior to the commencement of this Act. If, when the pattadar tenant dies, there is no one entitled to succeed, his rights in the holding shall revert to Government. Disposal of rights on death of pattadar tenant

55. When, on the death of a pattadar tenant, his rights in the holding are deemed to have reverted to Government under the foregoing section, an Amin shall issue proclamation calling upon any person, who claims to succeed to the Proclamation when heir not known

## THE HOLKAR STATE LAND-SYSTEM

deceased tenant's rights, to appear and present his claim within six months from the date of such proclamation; and, if no claim is presented within the prescribed period, the rights of the deceased tenant shall revert finally to Government, and no claim shall thereafter be admissible in any Civil or Revenue Court in respect of such rights.

Ordinary tenant

56. 'Ordinary tenant' means a tenant who is not a pattedar tenant.

Rights of ordinary tenant

57. An ordinary tenant is entitled to hold the land let to him in accordance with such terms as may be agreed upon with the person from whom he holds.

Dispossession of ordinary tenant

58. An ordinary tenant, who holds directly from the Maharaja, may be dispossessed of the whole, or any part, of his holding under the order of a Subha on the ground that he has, either directly or through a subtenant indirectly, contravened the terms on which he holds the land or infringed the general conditions of his tenancy as laid down in section 32. An ordinary tenant, who holds from an assignee of proprietary rights, may, on the like ground, be dispossessed by a suit for ejectment filed in a Civil Court.

Subtenant

59. 'Subtenant' means a person who holds land from a tenant or from an Adhi Jama Khotidar or from the holder of a service holding.

Rights of subtenant

60. A subtenant is entitled to hold the land let to him in accordance with such terms as may be agreed upon with the person from whom he holds, subject to his compliance with the general conditions of a tenancy as laid down in section 32; *provided that* he shall, in no circumstances, lease out the land to any person; and *provided also that* he shall in no case be entitled to retain possession of the land after the person from whom he holds has surrendered, abandoned, or been dispossessed of, it under this Act, or after the rights of the person from whom he holds have been resumed by, or have reverted to, Government.

Dispossession of subtenant

61. A subtenant's rights in the whole, or any part, of his holding may be cancelled, and he may be dispossessed of it, if necessary, under the order of a Subha, on the ground

(i) that he has infringed the general conditions of a tenancy as laid down in section 32;

(ii) that he has leased out his holding or any part of it; or

## LAND-REVENUE AND TENANCY ACT-

(iii) that the person from whom he holds has surrendered, abandoned, or been dispossessed of, the land under this Act; or that the rights of such person have been resumed by, or have reverted to, Government.

62. (1) A pattedar tenant, who has been dispossessed of the whole, or any part, of his holding, otherwise than under the order of a Revenue Officer or competent Civil Court, may, on application made within two years from the date of his dispossession, be reinstated in possession of such holding, or part thereof, under the order of a Subha.

Reinstatement of tenant or sub-tenant improperly dispossessed

(2) An ordinary tenant or subtenant, who has been dispossessed of the whole, or any part, of his holding otherwise than under the order of a Revenue Officer or competent Civil Court, may, on application made within two years from the date of his dispossession and on proof that his dispossession was in contravention of the terms on which he held, be reinstated in possession of such holding, or part thereof, under the order of a Subha.

(3) No order, passed under this section, shall preclude any person from establishing such rights as he may claim in the whole, or any part, of the holding and from obtaining possession of such holding, or part thereof, by means of a regular suit in a competent Civil Court.

63. (1) With the previous sanction of Government, the Chief Revenue Authority may make rules, consistent with this Act, for the purpose of carrying into effect the provisions of this chapter, and may attach to the breach of any such rule a penalty which may extend to fifty rupees.

Power to make rules under chapter V

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate :

(a) the definition of a bona fide agriculturist for the purposes of this chapter ;

(b) the exercise of rights of grazing and *mistar* under section 35 ;

(c) the use or disposal of trees under section 41 ;

(d) the procedure to be followed in conducting the sale of a pattedar tenant's rights in his holding under section 46 or 48 ;

(e) the operation of mortgages, properly executed, whose validity is saved by subsection (2) or (3) of section 50 ; and

(f) the date on which the agricultural year begins.



## THE HOLKAR STATE LAND-SYSTEM

### CHAPTER VI

#### *Special Tenures*

Assignee of proprietary rights

64. 'Assignee of proprietary rights' means a person who enjoys, free of revenue or on a favoured assessment, certain proprietary rights, by assignment from the Maharaja, over a specified area of land; and includes a Jahagirdar, an Istmurardar, an Inamdar, a Khotidar Patel and any other person hereafter declared by Government to be an assignee of proprietary rights.

#### EXPLANATION :—

(i) 'Jahagirdar' means a person who holds, free of revenue, an assignment from the Maharaja consisting of one or more whole villages.

(ii) 'Istmurardar' means a person who holds, on a favoured assessment, an assignment from the Maharaja consisting of one or more whole villages.

(iii) 'Inamdar' means a person whose assignment consists of a holding, granted by the Maharaja, free of revenue, for the holder's maintenance; or as a reward for some past service, secular or religious; or as remuneration for some continuing service, secular or religious, the performance of which is a condition of the grant.

(iv) 'Khotidar Patel' means the Patel of a village to whom, as Inamdar, land, called *khoti*, has been granted by the Maharaja as remuneration for his continuing service, and in recognition of his position, as Patel.

Rights and liabilities of assignee of proprietary rights

65. The rights and liabilities of an assignee of proprietary rights shall be such as may have been defined in the original grant or specified in a subsequent order.

Succession

66. (1) Except where the original grant or subsequent order regulating the tenure provides otherwise, the tenure of an assignee of proprietary rights shall, if it be heritable, descend by primogeniture, that is, to the eldest male heir in the eldest surviving male line of the last holder; *provided that*, if the person ordinarily entitled to succeed is disqualified, according to the personal law to which he is subject, or is found to be unsuitable by reason of disloyalty to the Maharaja or notorious profligacy or extravagance, he may be set aside, under the orders of Government, in favour of the next rightful heir free from such disqualification; and *provided also that* the right of members of the

## LAND-REVENUE AND TENANCY ACT

junior branches, claiming descent from the original grantee, to a share in the income arising from the assignment or to maintenance, in accordance with the custom of the family or the orders of Government, shall not be affected thereby.

(2) If there be a failure of heirs male of the body of an assignee of proprietary rights, he or his widow may, with the previous sanction of Government, adopt a successor in accordance with rules made under section 78. In case there is no one entitled to succeed, the grant may be cancelled, and possession of the land covered by the grant may be resumed, by Government.

(3) The person who succeeds to an assignment of proprietary rights under this section shall intimate the fact to Government in such manner, and shall pay to Government such mutation *nazarana*, as may be prescribed by rules made under section 78.

67. (1) Except where the original grant or subsequent order regulating the tenure provides otherwise, no assignee of proprietary rights shall, without the previous sanction of Government, either partition his rights in the whole, or any part, of the land covered by the grant, or transfer them by exchange, sale, gift, mortgage or otherwise. Partition and transfer

(2) Any document, purporting to effect a partition or transfer in contravention of the foregoing subsection, shall be null and void and inadmissible for registration, notwithstanding anything contained in the Indore Registration Act, 1907.

(3) If possession is transferred in pursuance of any agreement purporting to effect a partition or transfer in contravention of subsection (1), the grant regulating the tenure shall be liable to be cancelled, and possession of the land covered by the grant permanently resumed, by Government.

68. (1) The special tenure of an assignee of proprietary rights shall be liable to be cancelled, and possession of the land covered by the grant permanently resumed, by Government on proof that he has been guilty of :— Cancellation of assignee's tenure

(a) disloyalty towards the Maharaja or his Government or the British Government ; or

(b) a heinous offence, as defined by rule made under section 78, or an offence in respect of coinage or stamps under the Indore Penal Code.

## THE HOLKAR STATE LAND-SYSTEM

(2) The special tenure of an Inamdar, the continuance of whose grant is conditional on his performance of some service, shall also be liable to cancellation by Government if, and when, the service for which the grant is provided is no longer performed by him. But, in cases of cancellation under this subsection, possession of the land shall not be resumed by Government but shall be retained by the former Inamdar as a pattedar tenant; *provided that* if, prior to such cancellation, pattedar tenant's rights in any part of the land have been conferred on any other person under section 70, this circumstance shall be deemed to negative the former Inamdar's claim to pattedar tenant's rights in that part of the land.

Suspension of  
assignee's tenure

69. The special tenure of an assignee of proprietary rights shall be liable to be suspended, and possession temporarily resumed, by Government, in respect of the whole, or any part, of the land covered by the grant, on proof that he has been guilty of :—

(i) a breach of any of the provisions of this Act or of any rules made under this Act ; or

(ii) notorious profligacy or extravagance ; or

(iii) failure to pay any sum due from him to Government under this Act ;

*provided that* Government may, at their discretion, in a case of grave delinquency, instead of suspending the tenure and resuming possession of the land temporarily under this section, set aside the assignee of proprietary rights permanently in favour of any one having the right to succeed him.

Tenant holding  
from assignee may  
be declared patte-  
dar tenant

70. Except where the original grant or subsequent order regulating the tenure provides otherwise, Government shall have power to declare that any tenant holding from an assignee of proprietary rights land, other than land which may be recognized by Government as the assignee's home-farm, shall be a pattedar tenant. Such tenant shall, thereupon, have all the rights, and be subject to all the liabilities, of a pattedar tenant, as defined in this Act, and shall be entitled to pay the rent of his holding in such instalments as the Chief Revenue Authority may, from time to time, prescribe ; *provided that* all fees leviable on an exchange under section 43 or on a sale under section 45 shall be paid to the assignee of proprietary rights.

## LAND-REVENUE AND TENANCY ACT

71. On the occurrence of local or widespread famine or other calamity, Government may, by general or special order, suspend or remit, as the case may be, the whole, or part, of the rents which have become, or are about to become, due to an assignee of proprietary rights from his tenants. When any rents are suspended or remitted under this section, the assignee shall be entitled to a proportionate suspension or remission (as the case may be) of the revenue (if any) payable by him to Government.
72. The land included in an assignment of proprietary rights and any income arising from such an assignment shall be exempt from attachment under the decree or order of a Civil or Revenue Court; and no Civil Court shall have jurisdiction to adjudicate upon any question relating to succession or adoption in the family of an assignee of proprietary rights or to any other incident of his special tenure.
73. 'Adhi Jama Khotidar' means a person who holds land, called *adhi jama khoti*, in a *khalsa* village on a revenue equal to half that to which but for his special tenure he would have been assessed.
74. An Adhi Jama Khotidar shall, in respect of the land covered by the grant, have the rights, and be subject to the liabilities, of a pattedar tenant, as defined in this Act, except in so far as those rights and liabilities are modified in each case by the terms of the order under which the special tenure was conferred.
75. 'Service holding' means a holding granted by Government, free of revenue, as remuneration for the holder's performance of some service for Government or for the inhabitants either of the village in which the land is situated or of some other village or villages.
76. The holder of a service holding has the rights, and is subject to the liabilities, of a pattedar tenant, as defined in this Act, except that sections 43, 44, 45, 46, 47, and 54 shall not apply and that he may be dispossessed by the Subba of the district if, and when, the service for which the grant is provided is no longer performed by him.
77. The Chief Revenue Authority may, with the previous sanction of Government, grant leases of land to be used for other than agricultural purposes. The rights and liabilities of the lessee of such land shall be such as may be defined by the terms of his lease.

Suspension and remission of rents payable to assignee

Assignee's land and income therefrom exempt from attachment. Restriction on civil jurisdiction

Adhi Jama Khotidar

Rights and liabilities of adhi Jama Khotidar

Service holding

Rights and liabilities of holder of service holding

Lease for non-agricultural purposes

## THE HOLKAR STATE LAND-SYSTEM

Power to make rules under chapter VI

78. (1) With the previous sanction of Government, the Chief Revenue Authority may make rules, consistent with this Act, for the purpose of carrying into effect the provisions of this chapter, and may prescribe a penalty for any contravention of those rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate :—

(a) the exercise of the right of adoption by assignees of proprietary rights or by their widows under subsection (2) of section 66 ; and the rights of the adopted son in case of the birth of a son subsequent to the adoption ;

(b) the intimation to be given to Government by a person who succeeds to an assignment of proprietary rights under subsection (3) of section 66 ;

(c) the mutation *nazarana* to be paid on succession by an assignee of proprietary rights under subsection (3) of section 66 ;

(d) the definition of 'heinous offence' for the purposes of clause (b) of subsection (1) of section 68 ; and

(e) the suspension and remission of rents and revenue in accordance with the provisions of section 71.

## CHAPTER VII

### *Settlement*

Notification of Settlement

79. (1) When Government consider that a Settlement of any local area should be made, a notification to that effect shall be published in the *Holkar State Gazette*.

(2) The local area shall be held to be under Settlement from the date of such notification until a notification is published in the *Holkar State Gazette* declaring the Settlement operations to be closed.

(3) No assignment of proprietary rights or other grant made by Government shall operate to prevent the Settlement of any part of the local area included in a notification under subsection (1).

Settlement and Assistant Settlement Officers

80. Government may appoint an officer, called the Settlement Officer, to be in charge of the Settlement of the local area ; and may also appoint as many Assistant Settlement Officers as may be necessary, to work in subordination to him.

## LAND-REVENUE AND TENANCY ACT

81. (1) When any local area is brought under Settlement, a Record of Rights shall be prepared for each village within that area. Preparation of  
Record of Rights

(2) The Record of Rights shall comprise the following documents:—

(a) a field-map of the village ;

(b) a *khasra* or field-book, in which shall be entered the name of each person holding or occupying land in the village, the area of land held or occupied by him, the right in which it is held, any special conditions of the tenure and such other detail as may be prescribed by rules made under section 94 ;

(c) a *jamabandi* or list of persons holding or occupying land in the village, showing the area held or occupied by each and the rent or revenue (if any) to which he has been assessed by the Settlement Officer on account of that area ; and

(d) a *wajibularz* or village administration paper, recording village customs, village cesses and such other matters connected with the administration of the village as may be prescribed by rules made under section 94.

82. A dispute, regarding an entry in the village papers prepared for the purpose of compiling a Record of Rights, shall be decided by the Settlement Officer or an Assistant Settlement Officer, in accordance with the provisions of this Act contained in section 101, as if he were exercising the powers of an Amin. Dispute regarding  
entry in papers  
prepared for  
Record of Rights

83. Any person, aggrieved by an entry or order contained in the Record of Rights prepared under section 81 (other than an entry or order assessing rent or revenue), may, within twelve months from the date on which the new Settlement is announced under section 86, institute a suit in a Civil Court to have such order or entry modified or cancelled ; *provided that* no suit shall lie under this section against Government or its officers for a declaration of any right in land. Civil Court's  
jurisdiction regard-  
ing entry in final  
Record of Rights

84. When any local area is brought under Settlement, the Settlement Officer shall, within that area, Assessment and  
fixation of revenue  
and rent at  
Settlement

(i) assess the revenue (if any) separately for each person who holds on a special tenure ;

(ii) assess and fix the revenue separately for each pattedar tenant who holds from the Maharaja ; and

## THE HOLKAR STATE LAND-SYSTEM

(iii) assess and fix the rent separately for each pattedar tenant who holds from an assignee of proprietary rights.

Enquiry at Settlement into grants held free of revenue or on favoured assessment

85. When any local area is brought under Settlement, the Settlement Officer shall, within that area, enquire into the case of any land held free of revenue or on a favoured assessment, conditionally or for a term. If it appears that the conditions of the grant have been transgressed, the Settlement Officer shall refer the matter for the orders of Government. If it appears that the term of the grant has expired, the Settlement Officer shall proceed to assess any authorized holder of the land to revenue in the ordinary way.

Announcement of Settlement

86. (1) The revenue or rent, separately assessed by the Settlement Officer in respect of a village or holding, as the case may be, shall be announced :—

(a) in the case of an assignment of proprietary rights, to the assignee ;

(b) in the case of any other special tenure, to the authorized holder thereof ; and

(c) in the case of pattedar tenants' holdings, to the pattedar tenants assembled in a public place after due notice.

(2) If the person, to whom such an announcement of revenue or rent is made, does not, within three months from the date of that announcement, specifically reject the offer to hold the village or holding (as the case may be) on the revenue or rent assessed by the Settlement Officer, his acceptance shall be presumed.

(3) No assessment of revenue or rent shall be announced so as to operate with retrospective effect.

Settlement Officer to determine the village site

87. The Settlement Officer shall, in the case of every inhabited village, ascertain and determine the area to be reserved for the residence of the inhabitants or for purposes ancillary thereto ; and such area shall be deemed to be the *gaonthan*, or village site, of such village.

Settlement Officer to ascertain and record village customs

88. The Settlement Officer shall ascertain and record the custom in each village in regard to :—

(i) the rights, of persons resident, or holding land, in the village, in the common land and its produce and in the village site ;

(ii) rights of irrigation, rights of way and other easements ; and

## LAND-REVENUE AND TENANCY ACT

(iii) any other rights, the custom in regard to which Government may order to be recorded ;  
*provided that*, if the persons interested desire that any existing custom shall be modified, the Settlement Officer may, after due enquiry, record the fact ; and the custom so modified shall thenceforward be deemed to be the existing custom.

89. No Settlement, made under this chapter, shall be declared to be closed under subsection (2) of section 79 until it has been confirmed by Government and Government have fixed the term of the new Settlement. Confirmation and term of Settlement

90. A person, with whom, or with whose predecessor in interest, a Settlement has been made in respect of any land, shall, if he continues to hold the land after the term of such Settlement has expired, hold it on the conditions of the Settlement the term of which has expired until a new Settlement has been announced under section 86. Saving of rights after expiry of term of Settlement

91. When Settlement operations are declared to be closed by a notification under subsection (2) of section 79, all applications and proceedings, then pending before the Settlement Officer and Assistant Settlement Officers, shall be transferred to such other Revenue Officer or Officers as Government may direct, who shall have the powers of a Settlement Officer for their disposal. Transfer of pending Settlement cases

92. A Commissioner shall, when a Settlement is not in progress, exercise, within his division, the powers conferred by this chapter on a Settlement Officer for the following purposes :— Commissioner to exercise certain powers of Settlement Officer when Settlement not in progress

(i) assessing and fixing the rent of a pattadar tenant, in cases where the rights of a pattadar tenant have been conferred under section 70 ;

(ii) enquiring into cases of land, held free of revenue or on a favoured assessment, under section 85 ;

(iii) ascertaining and determining the area to be reserved as the village site under section 87 ; and

(iv) ascertaining, recording and modifying customs under section 88.

93. If, when a Settlement is not in progress, the cultivable area of any holding is substantially diminished by fluvial action or otherwise, or if its soil is permanently deteriorated, without fault of the holder, a Commissioner may, with the previous sanction of Government, direct that Revision of revenue when Settlement not in progress



## THE HOLKAR STATE LAND-SYSTEM

the revenue or rent of the holding be reduced in proportion to the reduction in its productivity.

Power to make rules under chapter VII

94. (1) With the previous sanction of Government, the Chief Revenue Authority may, from time to time, make rules for the purpose of carrying into effect the provision of this chapter.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for :—

(a) the preparation of forecast reports ;

(b) the formation of assessment circles ; and

(c) the specification of those matters, connected with village administration, which are to be recorded in the *wajibularz*.

## CHAPTER VIII

### *Annual Village Papers*

Annual Village Papers

95. (1) The Annual Village Papers shall consist of a village field-map, *khasra* and *jamabandi*, as described in section 81, and of such other village papers as Government may, from time to time, prescribe.

Villages for which prepared

96. (1) The Subha shall cause the Annual Village Papers to be prepared each year, in accordance with rules made under section 105, for each *khalsa* village in his district.

(2) The Subha shall also, when Government so order, cause the Annual Village Papers to be prepared each year, in like manner, for any village in his district held by a *Jahagirdar* or *Istmurardar* ; and no assignment of proprietary rights or other grant shall impede the operation of such an order of Government.

Patwaris' circles and appointment of Patwaris

97. (1) The Subha shall, from time to time, with the previous sanction of the Chief Revenue Authority, arrange the villages of his district in *Patwaris'* circles and may, with like sanction, alter the number and limits of such circles.

(2) Subject to rules made under section 105, the Subha of the district shall appoint a *Patwari* to each *Patwari's* circle, for the preparation and correction of the

## LAND-REVENUE AND TENANCY ACT

Annual Village Papers and for such other duties as the Chief Revenue Authority may prescribe.

98. (1) The Commissioner shall, with the previous sanction of the Chief Revenue Authority, arrange the Patwaris' circles of each district of his division in Munsarims' circles and may, with like sanction, alter the number and limits of such circles.

Munsarims' circles  
and appointment  
of Munsarims

(2) Subject to rules made under section 105, the Commissioner shall appoint a Munsarim to each Munsarim's circle in his division, to supervise the preparation and correction of the Annual Village Papers and to perform such other duties as the Chief Revenue Authority may prescribe.

99. Subject to rules made under section 105, the Chief Revenue Authority shall appoint, for each district, one or more Sadar Munsarims, to supervise the work of Munsarims and Patwaris and to perform such other duties as the Chief Revenue Authority may prescribe.

Sadar Munsarims

100. The Chief Revenue Authority may, with the previous sanction of Government, assign to an officer, called the Director of Land Records, such powers of supervision and control and such duties, in regard to the preparation and correction of the Annual Village Papers and in regard to the Land Record Staff, as he may think proper. Such powers and duties shall be exercised by the Director of Land Records subject to the general control of the Chief Revenue Authority.

Director of Land  
Records

101. (1) When a dispute arises regarding an entry in the Annual Village Papers, an Amin shall make a full enquiry into the respective claims of the parties to the dispute. After finally deciding the case, he shall, where necessary, modify the entry in the Village Papers and hand over possession to the party entitled to it, in accordance with the terms of his decision.

Dispute regarding  
entry in Annual  
Village Papers

(2) If the dispute relates to the possession of any land, the Amin shall, before proceeding to make the full enquiry prescribed by the foregoing subsection, pass, after summary enquiry, an *ad interim* order in favour of the party having actual possession, whose name shall be entered in the *khasra*; *provided that*, if the Amin cannot satisfy himself as to which party is in actual possession, or has reason to believe that actual possession has been obtained, within six months prior to the commencement of his

## THE HOLKAR STATE LAND-SYSTEM

summary enquiry, by wrongful dispossession of the party entitled to it, he shall pass an *ad interim* order in favour of the party *prima facie* best entitled to possession, whose name shall be entered in the *khasra*.

(3) When a dispute arises regarding an entry in the Annual Village Papers which would affect the boundary of a village held by a Jahagirdar or Istmurardar, the procedure shall be regulated by special rules made under section 105.

(4) No order passed under this section shall debar any person dissatisfied with that order from establishing such right in any land as he may claim by a regular suit in a competent Civil Court.

Presumption as to entries in Annual Village Papers

102. All entries made under this chapter in the Annual Village Papers shall be presumed to be correct until the contrary is proved.

Inspection of Annual Village Papers and grant of copies thereof

103. The Annual Village Papers shall be open to inspection by the public, free of charge; and copies thereof shall be furnished at such time and place, and on such conditions as to payment, as may be prescribed by rules made under section 105.

Procedure in regard to mutation of names

104. (1) When a holder of land, other than an assignee of proprietary rights, loses his rights in any land in a village by death, or by surrender or abandonment of the land, or by transfer of his rights to any other person, or by dispossession or otherwise, the Patwari of the village in which the land is situated shall forthwith report the fact to the Amin of the mahal, intimating the name of the new holder (if any) and the grounds on which the latter claims to succeed to the title of the former holder.

(2) The Amin, on receipt of the Patwari's report, shall make an enquiry; and, if there appears to be no doubt or dispute in the matter, shall direct the necessary changes to be made in the Annual Village Papers. If there appears to be a dispute in the matter, the Amin shall proceed under section 101 and shall pass orders on the case under that section.

Power to make rules under chapter VIII

105. (1) With the previous sanction of Government, the Chief Revenue Authority may, from time to time, make rules for the purpose of carrying into effect the provisions of this chapter, and may attach to the breach of any such rule a penalty which may extend to fifty rupees.

## LAND-REVENUE AND TENANCY ACT

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for :—

(a) the preparation of the Annual Village Papers, and the duties of Patwaris, Munsarims and Sadar Munsarims in connexion therewith ;

(b) the appointment, remuneration, control and dismissal of Patwaris ;

(c) the appointment, remuneration, control and dismissal of Munsarims and Sadar Munsarims ;

(d) the duties and powers of the Director of Land Records ;

(e) the procedure to be followed by Amins in dealing with the mutation of names under section 104 ; and

(f) the procedure to be followed, under section 101, in disposing of disputes affecting the boundary of a village held by a Jahagirdar or Istmurardar.

## CHAPTER IX

### *The Collection of Revenue*

106. The revenue, payable on account of any land in the Holkar State, shall be a first charge on that land and on the produce of that land ; and a claim for revenue shall have precedence, in any Civil or Revenue Court, over any other claim, debt or demand whatsoever, whether or not the Court has issued an order of attachment in respect of such other claim, debt or demand.

Revenue a first charge on land and its produce

EXPLANATION—In this section and in the four sections next following, 'produce' means the crops and other products grown on the land, so long as these are standing, or remain deposited, on that land or are on the cultivator's threshing floor or are otherwise in his keeping.

107. Except with the sanction of the Subha of the district, previously obtained in writing, no produce of any land shall be attached in satisfaction of a decree or order of a Civil Court until all sums, payable to Government under this Act on account of that land, have been paid.

Restriction on disposal of produce of land by Civil Courts

## THE HOLKAR STATE LAND-SYSTEM

Power to prohibit removal of produce, if disposed of

108. If the produce of any land has been sold, mortgaged or otherwise disposed of, whether by an order of a Civil Court or other public authority or by private agreement, and the revenue of that land for the current year has not been paid, an Amin may, without regard for the date fixed for the payment of the revenue, prohibit the removal of the produce from the land or from any place in which it may have been stored, for a period not exceeding two months.

Power to prohibit removal of produce in other cases

109. If, in any circumstances other than those mentioned in the foregoing section, an Amin considers that special steps are necessary to secure for the current year the revenue payable on account of any land, he may, without regard for the date fixed for the payment of the revenue, after recording the reasons for his order, prohibit the removal of the produce from that land or from any place in which it may have been stored, for a period not exceeding two months.

Disposal of produce after order under section 108 or 109

110. If, at any time before the expiry of the period for which the removal of produce has been prohibited by an order under section 108 or 109, the revenue and the cost (if any) of safeguarding the produce are paid, or security for the payment is furnished to the satisfaction of the Amin, the order shall forthwith be rescinded. If the revenue and cost are not so paid or adequate security not so furnished, such portion of the produce as may suffice to defray the revenue and cost aforesaid shall, on the expiry of the period for which the removal of the produce was prohibited, be sold and the remainder of the produce (if any) released.

Penalty for disobedience of order under section 108 or 109

111. Any person who disobeys any order duly passed under section 108 or 109 of this Act, or who abets, within the meaning of section 107 of the Indore Penal Code, the disobedience of any such order, shall be liable, under the order of an Amin passed after a summary enquiry, to a fine which may extend to double the amount of the revenue to ensure the recovery of which the order was issued.

Instalments of revenue

112. (1) Notwithstanding anything contained in any Record of Rights, the Chief Revenue Authority may, by rules made under section 122, fix the number, and proportionate amount, of the instalments of any revenue payable under this Act and the time when, the manner in which, and the place where, they are payable.

## LAND-REVENUE AND TENANCY ACT

(2) Unless, and until, the Chief Revenue Authority otherwise directs, all revenue shall be payable on the dates, in the instalments, in the manner, and at the places, which have sanction when this Act comes into force.

113. On the occurrence of local or widespread famine or other calamity, the Chief Revenue Authority may, with the previous sanction of Government, suspend or remit, as the case may be, the whole, or a part, of any instalment of revenue which has become, or is about to become, due in respect of any holding, group of holdings, village, group of villages or larger area ; and such order of suspension or remission of revenue shall modify, to the extent and in the manner provided by that order, the liability of all persons responsible for the payment of such revenue.

Suspensions and remissions of revenue

114. Where proprietary rights have been assigned, the assignee, and, in all other cases, the holder under a special tenure or the pattedar or ordinary tenant who is entitled to hold the land, shall be primarily responsible to Government for the payment of the revenue of that land by the due date, according to the instalments fixed under section 112.

Primary responsibility for revenue

115. When any instalment of revenue is not fully paid by the due date, the balance outstanding becomes an arrear of revenue ; the person primarily responsible for its payment becomes a defaulter ; and the arrear of revenue may be recovered from him as provided by this Act.

Arrear ; defaulter

116. (1) If an arrear of revenue cannot be recovered from the person primarily responsible for its payment, it may be realized from any co-sharer of such person, or from any subordinate holder to the extent to which such subordinate holder is liable to make payment for his interest in the land to the person primarily responsible, or from any other person in occupation of the land.

Secondary responsibility for revenue

(2) Any sum, collected from a subordinate holder under subsection (1), shall be credited to the payer's account with the person on whose behalf the payment was made and to the latter's account with the State.

117. A statement of account, certified by the Amin of the mahal, shall, for the purposes of this chapter, be held to be presumptive evidence of the existence of an arrear, the amount of an arrear and the person who is

Amin's statement to be evidence of arrear

## THE HOLKAR STATE LAND-SYSTEM

	the defaulter, in respect of any revenue payable in that mahal.
Processes for recovery of arrear	118. (1) An arrear of revenue may be recovered by any one or more of the following processes :— (a) by the attachment and sale of the moveable property of the defaulter ; (b) by the attachment and sale of immoveable property belonging to the defaulter, other than the land in respect of which the arrear has accrued ; or (c) by the attachment and sale of the defaulter's rights in the land in respect of which the arrear has accrued, or by their resumption in case the defaulter's rights cannot be sold ; <i>provided that :—</i> (i) the process specified in (a) shall not permit the attachment or sale of the necessary wearing apparel, cooking utensils, beds or bedding of the defaulter and his wife and children ; of the tools of an artisan ; or of the implements of husbandry, seed grain or plough cattle of a cultivator, unless his rights in respect of all agricultural land in the Holkar State have been lost or have been ordered to be sold ; (ii) the process specified in (c) shall not be issued against an assignee of proprietary rights, in whose case the procedure for recovery shall be regulated by the provisions of section 69 ; (iii) when, by the process specified in (c), the defaulter's rights in the land in respect of which the arrear has accrued have been sold, all arrears outstanding against the defaulter in respect of that land shall be deemed to have been satisfied. (2) A fee shall be charged for each process, in accordance with rules made under section 122.
Notice of demand	119. An Amin may, if he thinks fit, cause a notice of demand to be served on a defaulter before the issue of process under section 118 for the recovery of an arrear.
Process enforceable outside district of default	120. The process specified in clause (a) or (b) of subsection (1) of section 118 may be enforced in the district in which the default has been made or in any other district.
Procedure in attachment and sale of property	121. The attachment and sale of moveable and immoveable property under this Act, and the entertainment of objections thereto, shall be conducted, so far as may be,

## LAND-REVENUE AND TENANCY ACT

in accordance with the procedure prescribed in that behalf by the Indore Code of Civil Procedure.

122. (1) With the previous sanction of Government, the Chief Revenue Authority may, from time to time, make rules for the purpose of carrying into effect the provisions of this chapter, and may attach to the breach of any such rule a penalty which may extend to one hundred rupees. Power to make rules under chapter IX

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may provide for:—

(a) the number, and proportionate amount, of the revenue instalments; and the time when, the manner in which, and the place where, they shall be payable under section 112;

(b) the suspension and remission of revenue under section 113; and

(c) a scale of process fees under subsection (2) of section 118, and the collection of such fees.

## CHAPTER X

### *Village Officers and Village Management*

123. (1) Subject to rules made under section 135, there shall be appointed one or more Patels for each village, to perform the duties assigned to a Patel under this Act. Appointment of Patel

(2) The appointment of the Patel of a village held by a Jahagirdar or Istmurardar shall be made after consultation with the Jahagirdar or Istmurardar, as the case may be.

124. (1) The remuneration of the Patel of a *khalsa* village shall consist of so much *khosi* land as the Maharaja may confer on him as Inamdar, together with such percentage of the revenue the Patel collects from other persons holding land in the village as may be prescribed by rules made under section 135. Remuneration of Patel

(2) The remuneration of the Patel of a village held by a Jahagirdar or Istmurardar shall consist of so much rent-free land as Government may sanction in each case after consultation with the Jahagirdar or Istmurardar, as the case may be.



## THE HOLKAR STATE LAND-SYSTEM

### Duties of Patel

125. (1) Subject to rules made under section 135, it shall be the duty of every Patel

(a) to control and superintend the village Chaukidars and Balais, and to support them in the discharge of their duties ;

(b) to safeguard any State property in the village, such as wells, tanks, dharmashalas, etc. ;

(c) to report, and, if possible, prevent, encroachments on the recognized roads and paths and common lands of the village, and to keep such areas available for the purpose they are intended to serve ;

(d) to report, and, if possible, prevent, encroachments on village boundaries ;

(e) to keep the village in a reasonably sanitary condition ; and

(f) to perform such other duties as may be assigned to him from time to time.

(2) It shall also be the duty of the Patel of a *khalsa* village, subject to rules as aforesaid,

(a) to collect, and aid in the collection of, all payments due to Government from persons residing, or holding land, in the village, and to credit into a Government Treasury all payments which he may collect ;

(b) to allot house sites within the village site ; and

(c) to regulate the use of the village waste.

(3) Wherever Government may so direct, and in the performance of such of the above duties as Government may indicate, the Patel shall be assisted by a Gaonthi Panchayat, over which he shall preside and the constitution and working of which shall be regulated by rules made under section 135.

(4) Nothing in this section shall operate so as to modify the constitution or the working of a Village Panchayat, duly established under the Indore Village Panchayat Act. The provisions of that Act shall override the provisions of this section wherever there is conflict between them.

### Penalty for disobedience of Patel

126. Any person who neglects or disobeys a reasonable order, made by a Patel in pursuance of a duty assigned to him by section 125, shall be liable, under the order of an Amin, to a fine which may extend to twenty rupees. The Amin's order shall be in writing and shall state the facts and circumstances of the case.

## LAND-REVENUE AND TENANCY ACT

127. A Patel, who is found guilty of any disregard of the duties assigned to him under section 125, shall be liable, under the order of a Subha, to a fine which may extend to twenty rupees. Punishment of Patels

128. (1) Subject to rules made under section 135, the Subha of the district may suspend or remove from office any Patel who Suspension and removal of Patel

(a) is unwilling to work as such ;

(b) is disqualified for the post by definite physical or mental incapacity ; or

(c) has been guilty of gross misconduct or of continued and glaring neglect of his duties ; *provided that* :—

(i) no Patel shall be suspended or removed from office until he has been given, by notice in writing, a reasonable opportunity of showing cause against his suspension or removal, as the case may be ;

(ii) no Patel of a village held by a Jahagirdar or Istmurardar shall be suspended or removed from office except after consultation with the Jahagirdar or Istmurardar, as the case may be ; and

(iii) no Patel shall be removed from office by the Subha except with the previous sanction of the Maharaja.

(2) A Patel may be suspended or removed from office by an order of the Maharaja for any sufficient reason.

129. For each village, whether *Ahals* or held by a Jahagirdar or Istmurardar, there shall be appointed, in accordance with rules made under section 135, one or more Chaukidars or village watchmen. Such rules may also prescribe the remuneration and duties, and provide for the punishment, suspension and removal, of a Chaukidar.

130. For each village, whether *Ahals* or held by a Jahagirdar or Istmurardar, there shall be appointed, in accordance with rules made under section 135, one or more Balais or village servants. Such rules may also prescribe the remuneration and duties, and provide for the punishment and removal, of a Balai. Balais

131. In the event of a dispute arising as to the route by which a holder of land shall have access to his fields or to the waste or pasture lands of the village, otherwise than by the recognized roads, paths or common land, or as to the course by which he may avail himself of water, to Rights of way and other private easements

## THE HOLKAR STATE LAND-SYSTEM

which he is entitled, from a tank, well or other source, an Amin may, after local enquiry, decide the matter with reference to the previous custom in each case and with due regard for the convenience of all the parties concerned.

Penalty for obstruction to rights of way, etc.

132. Any person who encroaches upon, or causes any obstruction to the use of, a recognized road, path or common land of a village, or who disregards the decision of an Amin passed under the foregoing section, shall be liable, under the written order of an Amin stating the facts and circumstances of the case, to a fine which may extend to twenty rupees.

Removal of obstruction

133. If an Amin finds that any obstacle has been erected, impeding the free use of a recognized road, path or common land of a village or obstructing a route or water-course which has been the subject of a decision under section 131, he may order the person responsible for erecting the obstacle to remove it; and, if such person fails to comply with the order, may cause the obstacle to be removed and may recover from such person the cost of removing it.

Village forests

134. Government may, by rules made under section 135, regulate the protection and management of any forest growth in a village, whether *khalsa* or held by a Jahagirdar or Istmurardar, and the exercise of any right of user over such forest growth.

Power to make rules under chapter X

135. (1) With the previous sanction of Government, the Chief Revenue Authority may, from time to time, make rules for the purpose of carrying into effect the provisions of this chapter, and may attach to the breach of any such rule a penalty which may extend to fifty rupees.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may regulate:

(a) the appointment, remuneration, duties, suspension and removal of Patels;

(b) the constitution and working of Gaonthi Panchayats;

(c) the appointment, remuneration, duties and punishment of Chaukidars;

(d) the appointment, remuneration, duties and punishment of Balais; and

(e) the use, protection and management of village forests.

## LAND-REVENUE AND TENANCY ACT

### CHAPTER XI

#### *Miscellaneous*

136. (1) Except as otherwise provided in this Act, no Civil Court shall entertain any suit instituted, or application made, to obtain a decision or order on any matter which Government are, or a Revenue Officer is, by this Act, empowered to determine, decide or dispose of.

Exclusive jurisdiction of Revenue Authority

(2) In particular, and without prejudice to the generality of the foregoing provision, no Civil Court shall exercise jurisdiction over any of the following matters :—

(a) the dispossession of a trespasser under section 30;

(b) the finding of a Revenue Officer regarding the use or purpose to which land is appropriated under section 32 ;

(c) the finding of a Revenue Officer regarding the occurrence of a breach of the conditions of his tenure, as laid down in chapter V or VI, by a pattedar or ordinary tenant or subtenant or by a holder of any special tenure ;

(d) the enforcement, as against Government, by an assignee of proprietary rights, Adhi Jama Khotidar, holder of a service holding, tenant or subtenant, of any right which he may claim under the provisions of this Act ;

(e) the amount of the revenue assessed under this Act in respect of any right in land ; or the principles on, or methods by, which such assessment is made ;

(f) the validity of any engagement with Government for the payment of revenue ;

(g) any claim against Government connected with, or arising out of, the collection of revenue or the recovery of any sum realizable as revenue under this Act ;

(h) any claim against Government to the right to enjoy the revenue or rent of any land or to receive any payment charged on, or payable out of, the revenue of any land ;

(j) the claim of any person to hold land free of revenue or on a favoured assessment ;

(k) the preparation of a Record of Rights or of the Annual Village Papers ;

(l) any question connected with the allotment of house sites in, or the determination of the area of, village sites under section 42 or 87 ;

## THE HOLKAR STATE LAND-SYSTEM

(m) any claim in connexion with the office or remuneration of a Patel, Patwari, Chaukidar or Balai, or in respect of any injury caused by the exclusion of any person from such office ;

(n) any claim to compel the performance of a duty imposed by this Act on any Revenue Officer ; or

(o) any claim against a Revenue Officer arising out of any act done, or ordered to be done, by him in good faith in pursuance of any law for the time being in force or of any rules made under such law.

### *Lis pendens*

137. No Civil or Revenue Court shall proceed with the trial of any suit in which the matter in issue is also directly and substantially in issue before any other competent Civil or Revenue Court in a previously instituted suit between the same parties.

### Law of limitation to apply

138. Except where it is otherwise specially provided, the law of limitation for the time being in force in the Holkar State shall apply to all claims made under this Act before a Revenue Officer.

### Valuation of suits ; Court fees

139. All claims before a Revenue Court under this Act shall be valued in accordance with the law, if any, for the time being in force in the Holkar State regarding the valuation of suits in Civil Courts ; and Court fees shall be paid according to the provisions of the Indore Court Fees Act.

### Recovery of miscellaneous revenue and other money due to Government

140. (1) Any fee, *nazarana*, penalty or other sum of money, payable under the order of a Revenue Officer in accordance with this Act, shall be recoverable as if it were an arrear of revenue.

(2) Any authorized cess, rent, fee or royalty, due to Government on account of the use or occupation of land or water, or on account of any product thereof, shall also be recoverable as if it were an arrear of revenue.

### Validation of existing official appointments

141. Every Revenue Officer, Patel, Patwari, Chaukidar and Balai, who is lawfully holding office when this Act comes into force, shall be deemed to be holding office as if he had been duly appointed in accordance with the provisions of this Act.

APPENDIX II  
EXPLANATORY NOTES ON SECTIONS

*Preamble*

Though it contains a number of new provisions, the Act is not an amending Act. The regulations, which have hitherto guided the administration of the land-revenue and defined the status of the various landholding classes, have consisted, merely, of rules having the force of law.

CHAPTER I

*Preliminary*

SECTION 1. The Act extends to the whole of the Holkar State ; but much of it will apply only to such areas as are notified as 'villages' under section 4 (iii). By this means Government can exempt, for example, urban or forest areas from the operation of inappropriate provisions. The Act came into force on the 20th of April, 1931.

SECTION 4 (i) and (ii). The definitions of rent and revenue are important. 'Rent' is the wider term ; and includes payments on account of his land made by a subtenant to a tenant and by a tenant to his landlord, whether the landlord be the Maharaja or an assignee of the Maharaja's proprietary right. 'Revenue' includes only such payments, on account of land, as are directly payable to Government. Thus the rent paid by a subtenant to a tenant or by a tenant to an assignee of proprietary rights is not revenue ; but the rent paid by the tenant of a holding in a *khalsa* village is revenue. The definition of 'revenue' is narrower than that previously in force—see note on section 140.

SECTION 4 (iii). See note on section 1.

SECTION 4 (iv). The term *khalsa*, as explained on page 11 above, signifies a tract which pays revenue direct to Government, as distinct from one of which the revenue is,

Title, extent and commencement

Definitions of 'rent' and 'revenue'

'Village'

'*Khalsa* village'

## THE HOLKAR STATE LAND-SYSTEM

in whole or in part, intercepted by a class of holders intermediate between the cultivator and the State. In the Holkar State, prior to 1908, the *khalsa* comprised the areas in which realizations were made direct by the State from the tenant, as distinct from those which were farmed to Ijaradars or held by privileged grantees (Jahagirdars, Istmurardars and Inamdars). Since 1908, when Ijaradars were ousted, it has comprised the areas under the Revenue Department held by those who are not privileged grantees. The term now receives a specific definition, being made applicable to *villages* under the direct management of the State and not held by a Jahagirdar or Istmurardar. This avoids the anomaly, heretofore presented by the small privileged holder (Inamdar) whose grant consists not of a whole village (as is the case with Jahagirdars and Istmurardars) but of a plot of land only. Such plots have hitherto been regarded as outside the *khalsa*. In future they will be included in it, unless they form part of a village held by a Jahagirdar or Istmurardar.

' Boundary '

SECTION 4 (vi). ' Boundary ' for the purposes of the Act, does not include any part of the external boundary of the State. Nor does it include the boundary between a village and an urban or forest area not notified as a village. Thus the boundary between a village and any ' demarcated area ' of forest adjoining it does not come within the scope of the definition of ' boundary '.

## CHAPTER II

### *The Classes, Powers and Procedure of Revenue Officers*

Classes of Revenue  
Officers

SECTION 6. There should be, at least, two Commissioners (a new class of Revenue Officer created by this section)—one for a Malwa division, consisting of the Indore, Mehidpur and Rampura-Bhanpura districts, and the other for a Nerbudda division, consisting of the Nimar and Nemawar districts. Both these officers should have their headquarters at Indore. They will be useful in (a) instructing subordinate Revenue Officers in the provisions of the new enactment ; (b) maintaining and improving the standard of work among Revenue Officers by frequent inspections ; and (c) keeping Government, by means of extensive tours in the interior, well acquainted with rural needs and

## NOTES ON SECTIONS

village conditions. The new posts will also provide promotion for the most deserving and experienced officers of the Revenue department. The Commissioners will be well suited for employment in the work of rural development, when this is taken up on a wider scale than is at present possible. They should submit annual reports on the areas in their charge, reviewing the crop outturns for the year and the economic condition of the cultivating classes ; and noting to what extent and for what consideration transfers of land have taken place ; what number of tenants have lost their holdings ; to what extent land is still mortgaged ; what difficulties have been experienced in working the new Act ; what suggestions they would offer for improving the condition of the cultivator ; and so forth. These reports will provide a valuable source of information when rural problems come up for consideration, and will enable Government to take stock of the situation year by year. It will, of course, be necessary for the Chief Revenue Authority to keep in close touch with the work of the Commissioners, so as to co-ordinate their activities and prevent any divergence of policy in the administration of different parts of the State.

SECTIONS 9 AND 10. The normal arrangement of the Revenue Staff will be : a Commissioner in charge of each division ; a Subha in charge of each district ; an Amin in charge of each mahal ; and Naib Amins (without specific powers, as Naib Amins, but enjoying, as Revenue Officers, the general powers detailed in this chapter) working under the Amin. This staff, however, will need strengthening where work is heavy. For this purpose Naib Amins, when qualified, can be invested with the powers of an Amin under section 10 ; and Amins, when qualified, can be invested under the same section with the powers of a Subha. (For the distinction between 'a Subha' and 'the Subha of the district' and between 'an Amin' and 'the Amin of the mahal', see the note on section 44.) Authority is provided by section 9 for the appointment, in an emergency, of Additional Commissioners, Additional Subhas and Additional Amins.

Additional Commissioners, Subhas and Amins ; and enhancement of powers of Amins and Naib Amins

SECTIONS 14, 15 AND 16. These sections emphasize the importance of maintaining and repairing boundary-marks. The villages of the State have been surveyed by the plane-table and cardboard protractor or sight-rule. The survey

Erection and maintenance of boundary marks



## THE HOLKAR STATE LAND-SYSTEM

is, therefore, inaccurate in some places. Moreover, very few boundary-marks are at present maintained. It is to be hoped that, before long, Government will arrange for the perimeters of villages to be 'traversed' by expert surveyors working with the theodolite. This will give accuracy to the village maps and will minimize the number of boundary-marks to be maintained.

### CHAPTER III

#### *Appeal, Revision and Review*

Appeals

SECTION 23. The appointment of Commissioners will facilitate the disposal of appeals and will prevent the Chief Revenue Authority at headquarters (the Revenue Minister) from being over-burdened with case work of this character. Commissioners should be encouraged to take up appellate work, as far as possible, at district or mahal headquarters, so as to save litigants the inconvenience of travelling from outlying districts to Indore.

### CHAPTER IV

#### *General Conditions regarding Land*

Property in land

SECTION 27. This section emphasizes the fundamental principle on which the land-tenures rest. The Maharaja is the proprietor of all land in the State. This principle has been fully recognized in the past and constitutes, as explained in the opening pages of this book, the characteristic peculiarity which underlies the tenures of the State. In British India Government make no claim to be the universal landlord. It is for this reason that the epithet *raiyatwari*, as applied to tenures in the Holkar State, is misleading. It is commonly used in British India to indicate that the cultivator is, practically, the 'possessor of the proprietary right subject to the payment of revenue'. Since, in the Holkar State, the Ruler is the sole owner and landlord, those who hold from him must, unless they are assignees of his proprietary right, be regarded as his tenants. The position, therefore, of the common cultivator in the State is that, not of a raiyat, but of a tenant holding from the Maharaja in the *khalsa* or from the Maharaja's assignees in *jahagir* and *istmurar* villages.

## NOTES ON SECTIONS

SECTION 30. A trespasser will not be required to pay more for the land he occupies without authority than he would have paid had it been duly allotted to him. This, at first sight, may seem too lenient a treatment for trespass; but leniency is advisable when Government is anxious to encourage an extension of cultivation in the State. Cultivators are accustomed to a system under which no great penalty attaches to their taking up land in anticipation of orders from Government; and if, in any particular case, it is desired to show severity, this can easily be done by ejecting the trespasser before he reaps his crop. Penalty for  
trespass

## CHAPTER V

### *Tenancies and Subtenancies*

SECTION 31. This chapter deals with the tenant and subtenant. A tenant is 'a person who holds land for his agricultural purposes from the Maharaja or from an assignee of the Maharaja's proprietary right'. A subtenant, therefore, is not a tenant under this definition. It is the policy of Government to maintain the status of the tenant-cultivator, primarily responsible for the payment of revenue or rent. He should neither be reduced to the position of a subtenant, subordinate to an intermediary between him and the State, nor should he be able to set himself up as such an intermediary, leaving the business of cultivation to subtenants working under him. As far as possible, every cultivator should be a tenant with a personal interest in the development of his holding, a direct concern in its agriculture. If he sublets to others, this should be no more than an expedient (in most cases a temporary expedient) subordinate to his main interest as an agriculturist; and, for this reason, a tenant is defined as one who holds land for his agricultural purposes. On the other hand, it is not intended to restrict the tenant class to small men, each himself working his own small holding. There is room, under the definition, for the bigger tenant with a body of labourers in his employ; but behind this agency must be the tenant's personal interest, his purpose to develop the agricultural potentialities of the land. A special problem arises in those northern districts of the State which suffered most severely Tenant

## THE HOLKAR STATE LAND-SYSTEM

in the famine of 1900 and are still very thinly populated. The attempt has recently been made to solve this problem by the introduction of foreign capitalists, who are encouraged to take up large areas and to cultivate them by the agency of subtenants. I believe this policy to be a mistaken one. Mere speculators or capitalists are not wanted. I have seen a 'tenant', holding half a village in the Mehidpur district, who had not a single plough or bullock in his possession. Yet he had held this large area for many years without disturbance, appropriating the profits of the land while impeding its proper agricultural development. As a well-known Indian administrator has observed, 'There is no more fatal way of dealing with under-population in Central India than to give out large areas to speculators. The experiment has been often tried and has, as often, failed. There is only one sound method—namely, to get the right kind of man to work the land by offering him good terms and then to give him security of tenure and fair treatment to keep him there.' If, for example, in the Rampura-Bhanpura district, land were offered on an assessment, fluctuating from year to year and calculated, simply, at eight annas or so for each *bigha* of land from which a crop is actually taken, infinitely better results would follow in ten or twenty years than will ever be attained by the introduction of foreign capitalists.

### Duties of a tenant

SECTION 32. This section states the general conditions which are binding on all tenants. It defines what is signified by the phrase 'agricultural purposes', and declares that a tenant may use his holding for such purposes only. This section is made applicable to subtenants also by the terms of section 60.

### Improvements

SECTION 33. It is impossible to deal briefly with the question of improvements. There are some excellent 'Suggestions for an Irrigation Policy for the Indore State', written by Mr. W. H. Moreland in 1914. I have offered my own views in the chapter on the assessment of agricultural improvements. So far as private improvements are concerned, to which section 33 refers, the position is that, at the late Settlement, some 70,000 acres in the State were assessed as irrigated, whereas, in fact, at that time only 32,000 acres were actually irrigated. Even assuming that the gap between the actual and assumed area steadily diminishes by 4,000 acres yearly, it will be

## NOTES ON SECTIONS

ten years before the gap is wholly filled; and an additional assessment of some fourteen lakhs will, meanwhile, have been realized from dry cultivation on the assumption that it is irrigated. In compensation for this over-assessment, however, Government has agreed to forego, for the period of Settlement, the assessment at 'wet' rates of any new irrigation which may develop outside the assumed irrigated area of 70,000 acres. There are points in this arrangement which are defective, as I have shown in the chapter referred to above; but it has the merit of creating a simple and intelligible position. All new irrigation in the State will be exempt from additional assessment until 1947 in the Nemawar district and until 1957-60 elsewhere. As regards improvements effected by State agency, a reference may be made to the note on section 40.

SECTION 35. This section emphasizes the tenant's Grazing and *nistar* right to free grazing for his agricultural cattle and to free *nistar* (i.e. thorns, grass, etc.) from the waste land of the village in which he holds land. A liberal definition of 'agricultural cattle' should be provided in the rules under this section. At present the complications which result from the number of small 'demarcation areas' of reserved forest (to which reference is made in the note on section 134) militate against the operation of simple and adequate concessions. As the Forest Department is unable to guard its scattered boundaries, the common expedient is for the villagers to be compelled to pay a forest fee for grazing in a 'demarcation area', which is often really an integral part of their village. In some cases the 'demarcation area' is not forest at all; and its reservation by Government is a hardship to the villagers.

SECTION 36. This new provision is an important Exemption from  
arrest and  
imprisonment concession to the tenant class. The processes of arrest and imprisonment have, in the past, been but seldom enforced by the Revenue Staff against cultivators. They are, more commonly, the method by which creditors, working through the Civil Courts, bring pressure to bear upon their judgment-debtors. Such pressure is, sometimes, intentionally applied just at the time when the cultivator's presence in the field is essential to his agriculture. This is to the disadvantage of the State, as the cultivation may be neglected and the holder's ability to pay the revenue demand reduced. The exemption here

## THE HOLKAR STATE LAND-SYSTEM

authorized in favour of the tenant has been in force for some time in Bombay for the benefit of the agriculturists of that Presidency. It will, of course, only operate in favour of those tenants whose *main* source of income is agriculture.

Pattedar Tenant

SECTION 37. Tenants are of two classes only—the 'ordinary', or unprotected, tenant, who is dealt with in sections 56 to 58, and the pattedar, or protected, tenant, defined in this section, who takes the place of the former so-called raiyat pattedar. Practically all tenants in *khalsa* villages will be pattedar; and section 38 expressly provides that this is the status which shall ordinarily be conferred on persons in whose favour Government creates a tenancy.

Allotment of un-occupied land in *khalsa* villages

SECTION 38. In creating a tenancy it is essential that the person selected as tenant should be a bona fide agriculturist. By bona fide agriculturist is meant a person who may be expected to take a personal interest in the cultivation of his holding and to use it for his own agricultural purposes. A man who has not the means to cultivate the land cannot be regarded as a bona fide agriculturist; but he may have the means to cultivate it without the intention; and, where this intention is lacking or cannot be presumed, an applicant for land should not be regarded as a bona fide agriculturist. The need for restricting allotment to this special class is explained at pages 16 to 18 above. A precise definition of 'bona fide agriculturist' is included in the rules made under section 63.

Pattedar tenant's holding surveyed and assessed and rent fixed for Settlement period by Government

SECTIONS 39 AND 40. A tenant's rent in a *khalsa* village is 'revenue', because it is directly payable to Government. His rent in a village held by a Jahagirdar or Istmurardar is not 'revenue', because it is not directly payable to Government. A pattedar tenant is entitled to have his rent, whether revenue (if the village is *khalsa*) or not revenue (if the village is not *khalsa*), assessed under the orders of Government; and, for the purposes of such assessment, his holding must be surveyed. Once his revenue or rent has been assessed it cannot be enhanced until the end of the current Settlement period. A tenant's revenue or rent, however, is not, like the raiyat's revenue in a *raiya* Province, assessed upon his holding. It is here assessed in respect of his right or interest in the holding. The revenue or rent is, in fact, a payment

### NOTES ON SECTIONS

which the tenant contracts to make to the landlord for the use or occupation of the land. It is, in the technical sense, a 'rent' and not a 'tax'. The contract, therefore, stands just so long as the land is held by the tenant with whom the contract was made or by his successor in interest. A tenant, for example, may, under the law as it now stands, pass on his interest by inheritance, exchange or sale; and a lawful transferee takes over the transferring tenant's right to hold the land on the current assessment until the Settlement term expires. On the other hand, if the tenant dies without an heir or surrenders or abandons his holding, his right reverts to Government; and Government are at liberty to demand, if they wish, a higher or lower revenue or rent from the new tenant with whom the fresh contract of tenancy is made, regardless of the fact that the Settlement period has not expired. (But see note on sections 51 and 52.)

It may be noted here that the revenue or rent of a pattedar tenant may be assessed (a) by the Settlement Officer at Settlement under section 84; (b) by Commissioners, between Settlements, under section 92 (i), in the special case where Government confer pattedar rights on the ordinary tenant of an assignee; and (c) by an Amin, between Settlements, when creating new pattedar tenancies, by the allotment of unoccupied land under section 38. In the last case it will be advisable not to allow the Amin any discretionary power in fixing new pattedar tenants' assessments. If a definite rate for each class of soil in the new holding is not available from the Settlement record, the Amin should make a reference to higher authority for orders.

It will be noticed that an exception is provided by section 40 to the general rule that a pattedar tenant's rent shall not be enhanced during the currency of the Settlement. This exception has been inserted with the deliberate purpose of stimulating capital expenditure by the State on small village works. Many of these were constructed in the time of Maharaja Tukoji Rao II; but the greater number are now out of repair and many are out of use. Mr. Moreland's note of the 24th January 1914, referred to in the note on section 33, brings out very forcibly the opportunities that exist in the State for the construction of small tanks and what he calls

## THE HOLKAR STATE LAND-SYSTEM

'stop-dams'. More recent experience of the rural areas confirms this point of view and has disclosed the number of 'lapsed sources' of irrigation that exist. When a forward rural policy is adopted, there will be a large field for the investment of capital in these small village works; and it is to be hoped that the provision in this section, which enables Government to recover some interest on its capital investment, will lead to those improvements which are beyond the means of the individual cultivator being undertaken by the State.

Trees

SECTION 41. This section gives statutory form to the efforts, recently made by Government, to clarify the right of the so-called raiyat pattedar, now the pattedar tenant, in regard to trees standing on his holding. The trees being part of the holding, the tenant of the land has only a tenant right in them. He may enjoy their produce and may even sell his right in them along with his rights in his holding. Strictly speaking, he has no right to fell them; but, in view of the fact that the land is given him for cultivation, he is ordinarily allowed to cut down trees, other than those of certain prohibited varieties, if he needs them for his own use or if they hamper his cultivation. Even though he may be authorized to cut a tree down, the tenant may not sell any fuel or timber derived from it, except under special regulations designed to prevent the removal of forest produce stolen from the Government reserves. By timber is meant shaped or dressed beams, logs or poles. It does not include the trunk or branches of a dead tree.

House sites

SECTION 42. The grant of a house-site, free of charge, in the village-site is a new and welcome concession to the pattedar tenant. The concession is a liberal one seeing that, under section 32 (iv), he is also now authorized to build a dwelling-house for his domestic use on his holding.

Exchanges of land

SECTION 43. Bona fide exchanges of land between pattedar tenants are freely allowed; but such exchanges must not be used for the purpose of evading the provisions of section 45. If a sale or other transfer is effected in the guise of a mere exchange, it may be vetoed. If it is permitted, a fee will be charged.

Partition

SECTION 44. Partition by mutual consent among the recorded co-tenants of a pattedar tenant's holding can

## NOTES ON SECTIONS

be effected under the order of the Amin of the mahal. A difficulty will arise in cases in which a person, who is admittedly a co-sharer, has not had his name recorded in the Annual Village Papers, or in which a person claims a share which is not admitted by the recorded co-sharers. In such cases the Amin will be well advised to postpone partition until the claim of any person other than the recorded co-sharers is settled, either in a Revenue proceeding under section 101 or by the decision of a competent Civil Court.

Attention may be drawn at this point to the phrases 'the Amin of the mahal' (e.g. in sections 43 and 44) and 'the Subha of the district' (e.g. in section 45). When such a phrase is used, it indicates that power under the section is reserved to the particular officer who holds charge of the district or mahal, as the case may be. When the officer empowered under a section is referred to merely as 'a Subha' (e.g. in section 33) or as 'an Amin' (e.g. in section 38), it indicates that the power may be exercised, in the one case, either by the Subha in charge of the district or by an Additional Subha or by an Amin with the powers of a Subha; and, in the other case, either by the Amin of the mahal or by an Additional Amin or by a Naib Amin with the powers of an Amin.

SECTION 45. This section confirms in favour of the pattedar tenant the privilege, hitherto enjoyed by the so-called raiyat pattedar, of selling his rights in his holding with the previous sanction of the Subha of the district and after the payment of one year's revenue or rent by the transferee. A new condition is that the transferee must be a bona fide agriculturist. The restriction of purchases of tenant right to this class is important, both because it is necessary, on general grounds, to keep the agriculturist on the land, and also because it will tend to hinder the moneylender's exploitation of the tenant's right of sale. This subject has been dealt with more fully in chapter II of this volume.

Voluntary sale of rights in holding

SECTIONS 46 AND 47. When the decree-holder in a Civil suit applies for the sale of a judgment-debtor's holding and that judgment-debtor is a pattedar tenant, execution must be transferred to the Subha of the district, who can give the tenant time to raise the decretal amount. On his failure to do so, the Subha is required to sell his

Compulsory sale of rights in holding



## THE HOLKAR STATE LAND-SYSTEM

rights in the holding, or in so much of it as will satisfy the decree, to a bona fide agriculturist. Such a compulsory sale can also be effected by the Subha in satisfaction of arrears of rent due by a pattedar tenant to an assignee of proprietary rights. In a case of arrears of revenue due to Government, the Subha will proceed not under this section but under section 118 (1) (c). The only other case in which the compulsory sale of a pattedar tenant's rights in his holding can be effected is that provided by section 48.

Subleases

SECTION 48. The principle underlying the limitation of subleases in this section is the same as that underlying section 40 of the C. P. Tenancy Act, which was incorporated in the Tenancy Law of that Province after full discussion before the Imperial Legislative Council in 1898. When a tenant is found to use his holding, not for his agricultural purposes, but solely with a view to obtaining rents therefrom, thus constituting himself an intermediary between the landlord and the actual cultivator of the land, he may, if he persists in the practice, be ousted—his rights in the holding being sold to a bona fide agriculturist. The proceeds of the sale (if any) will be paid to the ex-tenant, after deducting two years' revenue or rent of the land for Government and suitable compensation for disturbance for the subtenant. The offending pattedar tenant may, while proceedings are in progress against him, negotiate a voluntary sale of his rights under section 45 to a bona fide agriculturist, which will involve a deduction of only one year's revenue or rent from the sale price. The provisions of this section are permissive; and its operation will be milder than the parallel provision in the C. P. Tenancy Act, which applies to the districts of Hoshangabad and Nimar adjoining the Holkar State. The problem of subletting is dealt with at length in chapter IV of this volume.

Bequest, Gift or Mortgage

SECTION 50. As the common cultivator in the State is a tenant, and not a proprietor, of his holding, his powers of transfer are necessarily restricted. The rights of bequest, of gift and of mortgage are denied him. Mortgages were prohibited from the 2nd of June, 1930; and this prohibition is now incorporated in the Act; but by subsection (3) an exception is made in the case of mortgages in favour of a Co-operative Credit Society, provided

## NOTES ON SECTIONS

previous official sanction is obtained. Mortgage credit, like other forms of credit, is a blessing or a curse according to the use which is made of it. It increases the tenant's borrowing power; but whether this enlargement of his credit is to his benefit or not, depends, of course, on the use to which he puts the money that he raises. Experience has shown that the majority of tenants in the Holkar State are already too prone to become heavily indebted. Custom demands that they should incur a considerable outlay, in most cases beyond their means, on domestic ceremonies (marriages, funerals, etc.). To give them mortgage rights is, therefore, likely to lead them to indulge still more freely in unproductive expenditure, which burdens them with debt without increasing in any way their capacity to repay it. Were the money, raised by mortgages, spent on improving the holdings, mortgages would be beneficial. As it is, they are a danger; and their employment by the tenant as a means of raising money has, therefore, been prohibited for the future. In the case of loans on mortgage by a Co-operative Credit Society there are special safeguards. The Society has itself an interest in the financial stability of the borrower; and the bonafides of the Society can be gauged by the officer of Government on whom the responsibility for sanctioning the loan is placed. Mortgage loans, in these circumstances, are likely to be used to the cultivator's ultimate advantage and, in most cases, for productive purposes; and an exception has, therefore, been made in their favour. I have dealt more fully with the subject of mortgage credit in chapter III of this volume.

SECTIONS 51 AND 52. In cases of surrender or abandonment of land the rights of the former pattadar tenant revert to Government. The land will, unless Government otherwise direct, be leased out again to a bona fide agriculturist in pattadar tenant right, under section 38. Government in such a case are not bound, in leasing to the new tenant, to adhere to the rent paid by the former holder, since the contract will be a new one. In most cases, however, it will probably be advisable in practice to retain the old rent, as any enhancement thereof may confuse the accounts and will, in any case, merely have the effect of lowering the auction price which bidders are prepared to offer.

Surrender and  
Abandonment

## THE HOLKAR STATE LAND-SYSTEM

Dispossession of  
pattedar tenant

SECTION 53. This section defines certain special circumstances in which a pattedar tenant can be dispossessed of his holding under the orders of the Subha of the district. These circumstances will arise on the rejection or breach by the pattedar tenant of his contract with his landlord. It may be noted here that a pattedar tenant can also be dispossessed, by the order of a competent Civil Court or of a Revenue Officer, when his rights in his holding are sold or resumed (under sections 45, 46 or 48) or are set aside as a result of Civil Court proceedings or of proceedings before an Amin under section 101. The loss of his rights by a pattedar tenant renders him a trespasser, occupying land without lawful authority and liable to be dispossessed at any time under section 30.

It is, of course, not intended that dispossession under clause (ii) of section 53 shall be imposed as a penalty for any but a very serious breach of the provisions of this chapter. In ordinary cases a fine will be appropriate.

Disposal of rights  
on death of patte-  
dar tenant

SECTION 54. This section endeavours, in general terms, to express the position at present existing in the State as regards inheritance. The personal law of a deceased tenant regulates the succession (personal law including, of course, the customary law of his family or community). Government, however, has interfered in the past to modify this personal and customary law. Preference, for example, is shown to heirs who were joint with the deceased in certain cases; and the fractional inheritance of Muham-madan law has been discouraged. The exact extent to which it is intended that the personal law is to be modified by the past practice of the State must, in fairness to the cultivators, be clearly defined and published for general information.

Ordinary tenants

SECTIONS 56 TO 58. These sections deal with the 'ordinary' tenant who is, practically, a tenant-at-will. There will be very few ordinary tenants in *khalsa* villages, in view of the provisions of section 38; but in special circumstances they may exist—as, for example, when temporary leases of land are given. The ordinary tenancy will, however, be, for the present at any rate, the common form of tenancy in villages held by a Jahagirdar or Ist-murardar. The reason for this is explained in the note on section 70. The present practice by which the Jaha-girdar or Istmurardar is required to go to the Civil Court

## NOTES ON SECTIONS

for the ejection of his ordinary tenants is maintained. When, however, such tenants are given pattadar right under section 70, the Jahagirdar or Istmurardar may apply to the Subha under section 46 (1) (b), for the sale of a pattadar tenant's rights in satisfaction of arrears of rent.

SECTIONS 59 TO 61. A subtenant, though he pays rent (see definition of 'rent' in section 4 (i)) is not a tenant. The term tenant is, by the definition in section 31, reserved for those who hold directly from a person with some proprietary right—either the Maharaja himself or one of his assignees. The subtenant is a person who holds from a tenant or from an Adhi Jama Khotidar or holder of a service holding—special tenure-holders whose status approximates to the status of a tenant. The subtenant, like the ordinary tenant, holds on such terms as he can secure; but he differs from the ordinary tenant in that (a) he may not sublease his holding to a third party and (b) he may not retain possession as a subtenant after the person from whom he holds has forfeited his rights in the land. The restriction involved in (a) is desirable, on general grounds, because there are obvious practical objections to a chain of subordinate tenures. It is also necessary to prevent a moneylender from becoming a subtenant of his debtor and then restoring the debtor to possession of the land as a sub-subtenant. Devices such as this have been employed in order to evade the prohibition of mortgages, and it is necessary to stop them. The restriction involved in (b) is needed to prevent a tenant from evading the consequences of a sale or resumption by the device of creating a long subtenancy in favour of a third party.

Subtenants

By sections 60 and 61 (i) a subtenant, though he is not a tenant, is bound by the same obligation, to use his land for agricultural purposes only, as is imposed on a tenant by section 32.

SECTION 62. This provides for the reinstatement of a pattadar tenant who is dispossessed by other than official agency. In such a case the propriety of the dispossession need not be discussed. It is sufficient, to justify the intervention of the Subha, if the dispossession was effected without official authority. In the case of the ordinary tenant and subtenant the section is less rigid. Here not only must the dispossession have been effected by

Reinstatement of  
tenant or sub-  
tenant

## THE HOLKAR STATE LAND-SYSTEM

non-official agency but the applicant must show that he has not contravened the terms on which he held. Then only will the Subha intervene on his behalf.

Power to make rules under chapter V

SECTION 63. In regard to this and the other rule-making sections included in the Act, it is only necessary to observe that the list of subject-matters given in subsection (2) is in no way intended to be exhaustive. Subsection (1) gives a wide general authority for the issue of any rule 'consistent with this Act, for the purpose of carrying into effect the provisions of this chapter'.

## CHAPTER VI

### *Special Tenures*

Assignee of proprietary rights

SECTION 64. This chapter deals with special tenures i.e. tenures other than those of a tenant and subtenant. The chief of these special tenures is that enjoyed by the class of landholders collectively described in the Act as 'assignees of proprietary rights'. In favour of these persons the Maharaja (whatever other rights he may also have assigned) has, at least, assigned the right of taking rent from the tenants of the land included in the assignment. This right is peculiarly a proprietary right; and those who enjoy it are, therefore, appropriately called assignees of proprietary right. This does not mean that *all* the Maharaja's proprietary rights in the land covered by the grant have been assigned. The extent of the assignment will vary widely in individual cases, according to the terms of the *sanad* (original grant) or subsequent order regulating it.

Assignees are of three main classes. Jahagirdars have a permanent assignment, consisting of one or more whole villages, in respect of which they pay no revenue, but usually a cess, known as *dami*, calculated each year at 7 per cent of the rental demand, after making certain deductions for village expenses, etc. Istmurardars have a permanent assignment, consisting of one or more whole villages, in respect of which they pay a sum of money, or *lanka*, fixed in perpetuity at a favourable rate. Inamdars have an assignment, consisting of a holding, in respect of which they pay no revenue; but they may pay

## NOTES ON SECTIONS

*dami*, calculated at 7 per cent of the Settlement valuation of their land. Some Inamdars hold without any condition of rendering service; others are still required to render some service, secular or religious, and are liable to lose the *inam* if they cease to perform that service. The chief of the service Inamdars are the Village Patels who are now, by the Maharaja's pronouncement referred to below, restored to their ancient status as Watandars.

The Patel was originally remunerated by a *watan* (revenue-free land) and *haqq* (dues), as described in Malcolm's *Memoir of Central India*. This old customary remuneration was altered by Maharaja Tukoji Rao II, who ordered that each Patel should be given two *bighas* of land as *khosi*, free of assessment, for every hundred *bighas* of land in the village. That order was not carried out uniformly in every part of the State; and in certain areas (as, for example, in the Nemawar district) no *khosi* land was allotted to the Patel, and his *watan* disappeared. Villages were, as a rule, farmed out to Ijaradars, with the result that the functions of the Patel became, for the most part, of a merely formal character. In 1908, at the first regular Settlement, the *ijaradari* system was abolished; and the Patel was once more made responsible for the collection of the land-revenue. He was, however, remunerated for this work by a percentage on the collections. The importance of his *watan* was not realized. Part of the *khosi* (in those villages where it existed) had by now been appropriated by relatives of the Patel. So much of it as remained with the Patel was subjected in 1908 to half the ordinary assessment—this partial concession being conferred for the period of the Settlement only—and the same indefinite arrangement was renewed at the next Settlement of 1927-28. In 1930, on his assumption of powers, the present Maharaja made an important announcement, conferring fifteen *bighas* of *khosi* land, free of revenue, on every *khalsa* Patel. It is the *khosi* land conferred under this pronouncement which raises the Patel to the full rank of an Inamdar once more. The grant should have a far-reaching effect in stabilizing the village administration of the State.

SECTIONS 65 TO 68. The rights and liabilities of an assignee of proprietary rights are, in some measure, declared in the original *sanad* or subsequent order which

Rights and liabilities of assignee of proprietary rights

## THE HOLKAR STATE LAND-SYSTEM

regulates his tenure. These documents, however, are silent in regard to many matters which need to be defined if the assignee's position is to be clearly stated. As a rule, the older the *sanad* regulating the tenure the less precise are the terms of the original grant. A Jahagirdar's Manual was published in 1928; and, on the basis of that Manual, the general position of an assignee is now set forth in chapter VI of the new Act. The essential characteristics of the assignee's tenure are that it descends, not by the ordinary rule of inheritance, but by primogeniture, with special provision for adoption; that the grant is ordinarily impartible and inalienable; and that it is liable to permanent cancellation (where service is not a condition of the grant) only on account of disloyalty or the commission of some heinous offence. Where service is a condition of the grant, the cessation of service will result in the cancellation of the grant; but, in that event, the assignee is allowed to retain possession, as a pattedar tenant, of the land which composed his former grant. The position of an assignee is thus a particularly strong one—more especially as his land and income therefrom are exempt, under section 72, from attachment in the Civil Courts.

Suspension of  
assignee's tenure

SECTION 69. Government, however, can control an assignee by temporarily resuming the whole or a part of the grant. This penalty can be inflicted for a breach of the provisions of the Act or of the rules under it or for personal misconduct. Temporary resumption can also be employed for the purpose of realizing arrears of revenue—the grant being wholly or partially resumed for a period and leased out, under the orders of Government, until the arrears are discharged.

Tenant holding  
from assignee may  
be declared  
pattedar

SECTION 70. As stated in the note on sections 56 to 58 above, the whole body of tenants under an assignee have, for the present, been left in the unprotected or ordinary class. The reason for this needs to be explained. It might be argued, since those who hold from the Maharaja are given a permanent and heritable tenant right, that those subjects of His Highness who hold from assignees should enjoy, at least, the same measure of protection; and this is the position recently taken up in the adjoining Bhopal State in dealing with cultivators under a similar class of privileged grantees. It may be accepted, as

## NOTES ON SECTIONS

the proper objective of the tenure policy of the Holkar State, that a permanent heritable right should be enjoyed by all tenants both in *khalsa* and non-*khalsa* villages. Such a right, however, cannot fairly be conceded to all tenants in an assignment, without regard for the assignee's claim to enjoy some part of his assignment as home-farm. Enquiry is needed in each case to determine what area may reasonably be so reserved by the assignee; and over the remainder only should protection be extended to the assignee's tenants. The present section represents a temporary compromise. Government is authorized at any time to confer the pattedar status on tenants of an assignee; but, before this is done, the area of the assignee's home-farm (if any) should be defined.

SECTION 71. This section is complementary to section 113. Section 113 authorizes suspensions or remissions of revenue. This section authorizes suspensions or remissions of the rents payable to an assignee.

Suspension and remission of rents payable to assignee

SECTION 72. The exemption from attachment by a Civil or Revenue Court of the land enjoyed by an assignee and of the income arising therefrom is based on the exemption of this character at present provided by the Jahagirdars' Manual.

Assignee's land and income therefrom exempt from attachment

SECTION 73. In the note on section 64, which summarizes the past history of the Patel's *watan*, it is mentioned that some portion of the *khosi* land, granted under the orders of Maharaja Tukoji Rao II, had by 1908 been appropriated by relatives of the Patel. These persons have been described in the past as holders of *istmwar khosi*—an unfortunate expression which suggests that they enjoy some permanent concession whereas, in fact, they hold on half-revenue for their lifetime only. They are now included in the category of Adhi Jama Khotidars. Some of the land held by the Patels themselves is also classed as *adhi jama khosi*. The reason for this is that, when the present Maharaja raised the working Patels once more to the rank of Inamdar, he restricted their *inam* land, to be held wholly free of revenue, to fifteen *bighas* or approximately ten acres. Many working Patels were in enjoyment, as such, of more than fifteen *bighas* of land and had been promised that they and their heirs should hold it on half-revenue for the period of the current Settlement. This pledge cannot be ignored. The working

Adhi Jama Khotidar



## THE HOLKAR STATE LAND-SYSTEM

Patels are, therefore, recorded as Adhi Jama Khotidars in regard to so much of what was formerly *khoti* land as does not now come within the meaning of *khoti* under the new Act. *Khoti* in the Act, under explanation (IV) to section 64, includes only the land held wholly free of assessment by the Patel of the village as an Inamdar.

Rights and liabilities of Adhi Jama Khotidar

SECTION 74. The rights and liabilities of an Adhi Jama Khotidar approximate to those of a pattedar tenant, but may differ therefrom in important particulars. For instance, a relative of a Patel or former Patel can hold on half-revenue rates for his lifetime only. On his death the concession in regard to revenue will be withdrawn; and the land, bearing the full assessment, will pass, by the ordinary rule of inheritance under section 54, to his heir or heirs in pattedar tenant right. If, however, a Patel's relative in enjoyment of *adhi jama khoti* land sells or otherwise transfers it during his lifetime, the revenue concession will be immediately resumed.

In the case of working Patels the concession is not for their lifetime only, but for the period of Settlement. Here again the Adhi Jama Khotidar's right (i.e. the concession in respect of the revenue) will be immediately withdrawn if he sells or transfers his right to hold the land; but, on the Patel's death, so much of his *adhi jama khoti* as remains with an heir, who also succeeds to the post of Patel, will continue to be held by that heir and Patel as *adhi jama khoti* till the Settlement period expires.

The person who holds from an Adhi Jama Khotidar is a subtenant, not a tenant (see section 59).

Service holding

SECTION 75. The only other special tenure is that of the holder of a service holding. This tenure also approximates to that of a pattedar tenant; and persons who hold from such a holder are subtenants and not tenants. The essence of this tenure is that the land continues with the particular holder only so long as he performs the service, whether secular or religious, for which the holding was conferred on him. He has none of the privileges of the holder of an *inam*.

Leases for non-agricultural purposes

SECTION 77. This provides for leases of land for other than agricultural purposes. Leases of factories or sites for cotton presses, etc., will come under this section.

## NOTES ON SECTIONS

SECTION 78. It will be noticed that no limit is set to the penalty which may be prescribed, with the sanction of Government, for a breach of rule under this section. It was felt that, in view of the widely divergent status of the holders of special tenures, varying from that of a wealthy Jahagirdar to that of a poor Balai, a large discretion must vest in Government in the matter of the prescription of penalties under this section.

Power to make rules under chapter VI

## CHAPTER VII

### *Settlement*

SECTION 79. The State has recently been resettled for thirty years (Nemawar district for twenty years). No more, therefore, has been attempted in this chapter than an outline of the main principles on which future resettlements should be based. Provision is made for the extension of Settlement operations to villages held by Jahagirdars and Istmurardars—in accordance with the general policy of the State that the administration of such villages should be brought into line with that of *khaisa* villages. Wherever pattedar rights are conferred on tenants of a *jahagir* or *istmurar* village, the extension to that village of the operations of the next Settlement will be a necessity, as the Settlement Officer will be required to assess and fix each pattedar tenant's rent under section 84 (iii).

Notification of Settlement

SECTIONS 81 TO 83. Section 81 emphasizes the fact that the preparation of a Record of Rights, defining the status of individual landholders, is as essential a part of Settlement operations as the revision of the revenue and rental assessment. The Record of Rights is the basis of the Annual Village Papers, to be prepared year by year, under section 96, throughout the Settlement period. As it constitutes the foundation of the tenure-system of the State, provision is made, in sections 82 and 83, for full investigation by the Revenue and Civil Courts of any complaints of its inaccuracy.

Record of rights

SECTION 84. In the matter of assessment the Settlement Officer is really concerned only with the revenue or rent of pattedar tenants. He fixes their payments for the period of the new Settlement, intermediate enhancements

Assessment and fixation of revenue and rent at Settlement

## THE HOLKAR STATE LAND-SYSTEM

being prohibited by section 40. The Settlement Officer has no concern with the assessment of ordinary tenants' or subtenants' rents, which are regulated by the terms of the holder's contract. In the case of Jahagirdars, Inamdars and holders of service holdings there is no revenue to fix. In the case of Istmurardars the revenue is fixed in perpetuity. Adhi Jama Khotidars will disappear when the next Settlement takes place.

### Inam enquiry

SECTION 85. The Inam Enquiry, as it is usually called, is an important adjunct of Settlement work. There are some hundreds of villages held by Jahagirdars and Istmurardars and many thousands of holdings enjoyed by Inamdars and other special tenure holders.

### Announcement of Settlement

SECTION 86. In announcement, as in assessment, the Settlement Officer will be chiefly concerned with pattedar tenants, under clause (c) of subsection (1) of this section; but provision is also made for announcement to assignees and other special tenure holders. Subsection (3) is a provision which is necessary for the protection of the revenue payer in cases where announcement is unduly delayed.

### Record of Village customs at Settlement

SECTION 88. This section authorizes the Settlement Officer to ascertain and record village customs. The records so prepared will, of course, be incorporated in the *wajibularz* which, under section 81 (2) (d), forms an integral part of the Record of Rights.

### Term of Settlement

SECTION 89. This section provides for fixing the term of a new Settlement. The present term is fixed for twenty years in the Nemawar district and for thirty years in the rest of the State. This arrangement is likely to prove inconvenient. Settlement here is not, as in the British India Provinces, a continuous operation. When the Nemawar district Settlement expires, it will be difficult to find the trained staff needed to deal with this area. It will be more convenient if, at future Settlements, the term is so arranged as to expire in successive years in the different districts throughout the State.

### Disposal of Settlement business between Settlements

SECTIONS 91 TO 93. These sections make provision for the disposal of certain business, proper to Settlement operations, during the intermediate period when Settlement is not in progress.

## NOTES ON SECTIONS

### CHAPTER VIII

#### *Annual Village Papers*

SECTION 96. Subsection (1) makes the Subha responsible for the preparation each year of the Annual Village Papers. The object of this is to emphasize his responsibility for seeing that the Land Records Staff carry out their duties. Subsection (2) provides for the preparation of Annual Village Papers for villages held by Jahagirdars and Ist-murardars, just as section 79 (3) provides for the extension of Settlement operations to such villages. Villages for which prepared

SECTIONS 97 TO 100. These provide for the appointment of officials employed in the Land Records Department ; viz. : a Director, Sadar Munsarims, Munsarims and Patwaris. Assistant Directors of Land Records are not specifically mentioned here, though they appear in the enumeration of Revenue Officers in section 6. Hitherto the Land Records Staff has been solely under the executive control of the Director. These sections transfer the executive control to Commissioners and Subhas ; but the Director remains the chief authority in all technical matters and is responsible for the technical instruction and supervision of the Staff and for transfers of officers of the Land Records Department. The Director should also have disciplinary powers concurrent with those of Commissioners and Subhas. Appointment of Land Records Staff

SECTION 101. This section is important as it authorizes an Amin, when investigating a dispute regarding an entry in the Annual Village Papers, to make a decision on a question of right or title. Subsection (2) provides that, when a question of possession is involved, the Amin shall make a provisional order for possession pending his final order. The object of this provisional order is to prevent disputes which may lead to a breach of the peace. If no preliminary decision were made in regard to possession and the full enquiry into title were prolonged, it would be a temptation to the stronger party to assert himself by taking possession of the land in dispute. This section gives the subordinate Revenue Staff a wider authority than is usually accorded them in British India. There the Revenue Officer is primarily concerned to decide Disputes regarding entry in Annual Village Papers

## THE HOLKAR STATE LAND-SYSTEM

questions of possession only, leaving matters of title to be adjudicated upon in the Civil Courts. In the Holkar State, however, the Annual Village Papers are not a mere record of possession. They also, at present, constitute the only complete record of title in land which Government provide. No detailed record of individual cultivator's rights is separately maintained in the mahal office. The Annual Village Papers are documents, therefore, of unusual importance; and a column is reserved in the *khassra* for the names of those whose title in land has been recognized by Government. The entries in this column are varied only under the express authority of a Revenue Officer. There is practical simplicity in a system under which the Annual Village Papers constitute the final record of the cultivator's rights; but, of course, there must be close supervision of the entries in a document on which so much depends.

Procedure in regard  
to mutation of  
names

SECTION 104. This section authorizes a procedure, for notifying transfers of title in land, which also depends for its justification on the fact that the current record of rights is entrusted to the safe-keeping of the local Patwari. Were such a record maintained separately at the mahal headquarters, it might, in order to safeguard the cultivator, be necessary to insist that every new holder should himself apply at the mahal headquarters for mutation of names; but this is superfluous when the only complete official record remains with the local Patwari. The system previously in force, by which the Patwari has been held responsible for reporting all transfers of title, is, therefore, retained. The Amin will make such enquiry as he thinks fit, and will then authorize such modification of the entries in the Annual Village Papers as his enquiry justifies. It is important that the Amin's enquiry should not be delayed. A new holder who wishes to secure prompt and accurate record of his title may himself make application for the purpose to the Amin of the mahal. This voluntary check upon the reporting work of the Patwari is already not infrequently applied.

## NOTES ON SECTIONS

### CHAPTER IX

#### *Collection of Revenue*

This chapter follows closely the *Rules for the Recovery of State Demands* issued in 1928, with such modification as is needed to adapt them to the more limited field of land-revenue collections.

SECTION 106. This section lays down the fundamental principle that the land-revenue is a first charge upon the land and on the produce of the land and has precedence over all other claims.

Revenue, a first charge

SECTION 107. This section prohibits the attachment by a Civil Court of the produce of any land until the revenue in respect of that land has been paid. This is a new provision, designed to check any attempt by a decree-holder to forestall a Revenue Officer's collections from an indebted cultivator. At present, an anticipated difficulty in realizing the revenue sometimes impels an Amin to start collections before the tenants have had time to market their produce. This may compel the latter to borrow what is due from them to Government—a most undesirable practice. Under the old rules for the recovery of State demands, land-revenue was 'payable on, or at any time after, the first day of the agricultural year for which it is due'. This claim is abandoned in the new Act which merely provides, by section 112, that the Chief Revenue Authority may fix the time when the instalments of revenue are due. It is to be hoped that full use will be made of this modification of principle, so as to give the tenantry sufficient time to market their produce before the revenue demand arises.

Restriction on disposal of produce by Civil Courts

SECTIONS 108 TO 111. These are preliminary and precautionary sections which authorize an Amin, when he finds that the produce of any land is being removed or disposed of before payment of the *current* year's revenue, or when he has reason to regard the cultivator as a notorious and wilful defaulter, to prohibit the removal of produce from the land or from the cultivator's keeping until that revenue has been paid. These precautionary powers are already in force, and I am not prepared to suggest that they are unnecessary. Close supervision of their exercise

Precautionary measures to secure produce

## THE HOLKAR STATE LAND-SYSTEM

is, however, needed at the hands of Subhas and Commissioners. The intention of Government, as explained in the note on section 107, is that revenue due on account of any land should only be collected after the holder has had a reasonable opportunity of marketing the produce of that land. This is only fair to the cultivator; and is a necessity if he is to avoid those constant applications to the moneylender which cause half his financial difficulties. It is only in special circumstances that the Amin should invoke the assistance of these precautionary sections. At present, he has too frequent recourse to them. It is natural that this should be so, if his work is not closely supervised, as his efficiency is judged at headquarters by the success of his revenue collections. The main problem before the State is how to emancipate the mass of the peasantry from the bonds of their indebtedness. This is necessary not only in the interests of the cultivator but equally in the interests of the State. The sum which the tenantry pay from their gross annual income in interest on their debts is about equal to the whole amount of the land-revenue which they contribute. In other words, if the indebtedness of the tenantry could be reduced by half, the land-revenue could be raised by 50 per cent without any reduction of the surplus which the tenantry at present enjoy. Every possible facility, therefore, should be given to tenants to market their crops before the revenue is demanded and to secure a good price for their produce; and any tendency on the part of Amins to make excessive use of these precautionary sections should be firmly checked by their superior officers. A considerate attitude on the part of Government may, at first, be abused by the less reputable tenants; but, in the end, such a liberal policy will justify itself.

Instalments of  
revenue

SECTION 112. Under subsection (2) of this section the existing arrangements for the payment of revenue are saved, pending the issue of new rules by the Chief Revenue Authority under subsection (1). In fixing the instalments of revenue under this section the considerations put forward in the note on section 107 should receive attention.

Suspensions and  
remissions of  
revenue

SECTION 113. This section must be read with section 71. It provides for the remission and suspension of rents and revenue in times of famine and scarcity. The *State Gazetteer* records (page 151) that 'suspensions and

## NOTES ON SECTIONS

remissions are freely given, when necessary'; but no definite relief of this character was afforded to the cultivating classes in the famine year of 1917-18. The most that was then, and on the occurrence of subsequent local scarcities, conceded to the peasantry was an executive instruction to the Subhas to be lenient in collections. Heavy arrears are thus accumulated and burden the accounts, even though there is no hope of their recovery; and they are eventually written off, perhaps after the lapse of many years, by a formal pronouncement on some auspicious occasion. The object of suspensions and remissions is not merely to lighten the burden of assessment for those who are unable to pay, but to give the peasantry encouragement in times of scarcity. When crops fail, the problem of meeting the Government demand is only one of the cultivator's anxieties. His stocks of surplus grain, needed to finance him through the year, are depleted; and his supplies even of food and seed may prove inadequate. The moneylender drives a hard bargain with him for any help that he may give. It is at moments such as these that an order from Government, postponing or reducing the demand, is appreciated not merely for its immediate financial relief, but as a gesture of encouragement. An important point to remember in this connexion is that suspensions, once made, should not be kept hanging over the cultivators' heads. If suspensions are given, a definite order for their remission or collection should be passed within three years. In the same way, no revenue arrears should be allowed to stand for more than five years. If they cannot be collected within that time, they should be written off. If this is not done, the tenant class must inevitably lose any incentive towards thrift.

SECTIONS 114 TO 117. These sections allocate responsibility for the payment of revenue. They amplify the fundamental principle enunciated in section 29. Responsibility for revenue

SECTION 118. The processes for the recovery of arrears of revenue are here detailed in the order in which they may normally be applied. The first process is the attachment and sale of the defaulter's moveable property, other than the requisites of his husbandry. If this process is ineffective, the defaulter's immovable property, other than his agricultural land, may be attached and sold. Processes for recovery of arrears



## THE HOLKAR STATE LAND-SYSTEM

(It is not intended that a cultivator's sole dwelling-house should be sold before his holding; but, if he has more than one house, any which is not his normal place of residence may be so sold.) In the last resort his rights in his holding, if they are legally transferable, may be sold.

The provisos to this section need careful attention. The first indicates that, though the requisites of his husbandry are normally protected from attachment, this protection will cease, naturally enough, if the cultivator loses all his land or is in imminent danger of losing it, and so forfeits his right to consideration as a cultivator. If a tenant's holding is itself taken, or is to be taken, from him, there is little to be gained by saving his implements of husbandry. The second proviso prohibits the attachment and sale of a defaulter's land, if he is an assignee of proprietary rights. A special procedure is provided by section 69 for bringing pressure to bear on an assignee who falls into arrears (see the note on that section). The third proviso is a new feature. When a tenant's rights in land are sold, this will operate as a full acquittance in respect of all arrears outstanding against him on account of that land. It will be observed that this acquittance is only obtained by the *sale* of the tenant's rights. If the holding is merely abandoned or surrendered, the arrears will not be automatically discharged.

Notice of demand

SECTION 119. Notices of demand should be freely used in dealing with reputable revenue payers.

## CHAPTER X

### *Village Management*

Appointment of  
Patel

SECTION 123. This chapter indicates the policy of the State towards village administration. It renders Patels uniformly responsible to Government for the management of their villages. Patels of *khalsa* villages have, by their restoration to the rank of Inamdar, received permanent confirmation of their status and a definite minimum remuneration in land; and may, in future, be expected to take a more active part in the development of their villages. Provision is made in non-*khalsa* villages for the adequate remuneration of Patels whose appointment

## NOTES ON SECTIONS

and removal will also be regulated by Government. It is hoped that Patels will realize their responsibility for the welfare of their villages and that they will serve as an agency for maintaining, uniformly throughout the State, an appropriate standard of village administration.

SECTION 125. The duties of the Patel are here specified ; Duties of Patel  
and three methods of village control are indicated. In some villages the Patel will shoulder the whole burden himself. In others he will be assisted either by a *gaonthi panchayat*, or by a *gram panchayat* constituted under the Indore Village Panchayat Act. In the *gaonthi panchayat* the Patel will be *ex officio* President. In the *gram panchayat* there is no statutory provision which secures his predominant position. In fact, subsection (4) makes it clear that the provisions of the Village Panchayat Act will override those of this section. In my view, the distinction between the *gaonthi panchayat* and the *gram panchayat* is unnecessary. The Indore Village Panchayat Act is borrowed from an enactment framed in British India with a partly political purpose. From what I have seen of *gram panchayats* in the State I do not think that they will function to advantage. The State would be better advised to work out a village panchayat system of its own, paying careful attention to the needs and wishes of the local village communities and finding room in the scheme for the Patel. In short, I would recommend the abandonment of the *gram panchayat* and the development of the *gaonthi panchayat* on lines suited to local requirements. I anticipate the acceptance before long of a definite policy in favour of social and economic advance in the rural areas of the Holkar State. To make such a policy effective it will be necessary to build upon a firmer basis than that provided by a semi-political panchayat borrowed from British India.

It will, in the average village, be necessary to work up the position of the Patel gradually. Government should insist on the recognition, by all its servants and, particularly, by its subordinate Revenue Officers, of the local dignity which the Patel enjoys. If he is given personal encouragement, it is not too much to hope that the Patel will, in many villages, prove himself capable of shouldering adequately his new responsibilities, dealing with encroachments on public land, protecting State

## THE HOLKAR STATE LAND SYSTEM

property, allotting house-sites, controlling village sanitation, supporting the village Chaukidar and so on. Provision is made for imposing a penalty on a Patel for neglect of his duties; but the power is reserved to a Subha and should be sparingly employed.

### Removal of Patel

SECTION 128. The removal of a Patel is regulated by a very special provision. He must be given a fair opportunity of explaining any charges made against him; the case must be dealt with by the Subha of the district; and no Patel can be dismissed from office—an extreme measure which will involve, in the *khalsa*, the forfeiture of his status as an Inamdar—except with the previous concurrence of the Maharaja.

### Rights of way and other easements.

SECTIONS 131 TO 133. Encroachments on village-waste or common lands and disputes regarding private rights of way or water are of common occurrence in an agricultural village. Encroachments the Patel is required to prevent, if possible. Disputes of all kinds can be settled after local enquiry by an Amin, who is authorized to impose a penalty for encroachments or for disregard of his decision in any dispute as to private rights.

### Village forests

SECTION 134. The problem of village forests has yet to be faced. In certain districts there is a legacy from twenty years ago when an over-enthusiastic Conservator of Forests prevailed upon Government to demarcate and reserve, in addition to the main blocks of forest, a number of small patches of tree-growth and waste, which were really integral parts of the ordinary village areas. This faulty system found its fullest expression in the Nemawar district, where the villages are honeycombed with small patches of reserved forest. As the last Settlement Officer wrote, on page 63 of his final report, 'Forest demarcation . . . has proved a great disturbing factor. . . . It can hardly be denied that, if Nemawar district has not made any marked improvement, . . . the forest demarcation is, to a large extent, responsible for it.' An obvious solution would be to exclude from the Government reserves all small patches of forest which are now a source of inconvenience to the villagers, and to recognize them as village forests under the control of the Revenue Department. The treatment of village forests has been fully examined in a separate chapter of the Report of the Royal Commission on Agriculture. I would urge upon the State the

## NOTES ON SECTIONS

necessity for early action in this regard in the interests of its revenue administration, and would draw special attention to the powers taken by Government under this section for the settlement of this long-standing problem.

### CHAPTER XI

#### *Miscellaneous*

SECTION 136. This section confers exclusive jurisdiction in certain matters on the Revenue Courts. The first impression conveyed by the section (which has no counterpart in the old Revenue Circulars having the force of law) is that a considerable volume of case work is now to be transferred from the Civil to the Revenue Courts. This is not so. Subsection (1), which is the governing subsection, simply states that, where a Revenue Officer is, by this Act, empowered to make a decision, that decision cannot be called in question in the Civil Courts, unless the Act provides for such a reference. The Act has been drafted with this provision in view; and wherever it has been thought desirable, in the interests of equity or efficiency, that the Revenue Courts should have exclusive jurisdiction, a specific reference has been made in the section to the particular Revenue Officer empowered to deal with the matter. There are certain questions, such as encroachments or disputes as to easements, or rights of way or water, which it is obviously desirable that a Revenue Officer should settle on the spot. There are other matters, such as the assessment of revenue or rent, which are more administrative than legal and in which a decision by Government should not be called in question in a Civil Court. Where there is a dispute between private parties (e.g. under sections 44, 62 and 101) reference to the Civil Courts is allowed. Where, however, a decision is made by Government, defining the incidents of a special tenure or conferring rights or allotting waste-land, no such reference is permitted. Government is, in such cases, itself the authority behind the order of the Revenue Court; and full provision is made, on the Revenue side, for appeal, revision and review.

Exclusive jurisdiction of Revenue Courts

SECTION 137. This will prevent a conflict of jurisdiction between the Revenue and Civil Courts in cases where

*Lis pendens*

## THE HOLKAR STATE LAND-SYSTEM

jurisdiction is concurrent. A pending case must be settled in the Court in which it was first instituted.

Recovery of miscellaneous revenue etc., due to Government

SECTION 140. This section must be read with the definition of revenue in section 4 (ii). Under the rules formerly in force for the recovery of State demands, land-revenue was widely defined as including also 'quit-rent, *nazarana*, succession duties, transfer duties and forfeitures and all cesses leviable from landholders.' For the purposes of this Act a narrower definition of land-revenue has been necessary. It is, however, not intended thereby to hamper Government in the collection of its miscellaneous dues. It is clearly stated in section 140 that any sum, which a Revenue Officer is authorized to recover under this Act on any account, may be recovered as if it were an arrear of revenue; and the same facility is extended, under subsection (2), to the levy of cesses and fees assessed on account of the occupation of land (e.g. '*dami*' taken from a Jahagirdar or Inamdar), even though the levy of such cesses and fees is not specifically mentioned in, or authorized by, the Act.