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and System of Bengal

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(Lecture delivered at the Indian Institute of Economics)

r. NARES CHANDRA SEN GUPTA, M.A., D.L., M.L.C

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LAND SYSTEM OF BENGAL

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Land System of Bengal *

The only test for assessing the value of a land system is to ask, does it lend itself to the utilisation of the land to the fullest advantage to the nation or in other words to the fullest development of agricultural wealth. It is by this test that I shall proceed to judge the land system of Bengal.

The total area under cultivation in Bengal is near about 28 million acres. The total value of the marketable crop—after deduction of what is consumed by the cultivators—was Rs. 72·62 crores on the average for decenium ending 1929-30 which included years when jute reached its peak prices. In later years it has approached to the neighbourhood of Rs. 30 crores.

Even taking the higher figure of Rs. 72·62 and deducting from it Rs. 12 crores paid by the cultivator as rent, this leaves an available surplus of Rs. 60 crores per annum to the entire agricultural population of Bengal after providing for food for man and beast on an extremely tenuous scale. Roughly that gives less than Rs. 30 per annum per head of the population dependant for their livelihood on agriculture.

This is bad enough. But when we remember

* Substance of a lecture delivered at the Indian Institute of Economics.

that the agricultural debt which was estimated by the Banking Enquiry Committee at Rs. 100 crores and by the Bengal Board of Economic Enquiry at a slightly lower figure, is charged on this annual net profit of 60 crores, we can see that the position is far worse. The interest on this loan would not be less than Rs. 25 crores at a very conservative estimate, leaving not more than 35 crores for payment of the principal in part and for providing for necessities.

No wonder, therefore, that the debt of the agriculturist continues to sit on his shoulders like the Old Man of Sea. On a per capita income of Rs. 14 to Rs. 30/- per year plus food the agricultural population can barely live. They can't pay their debts, and far less improve agriculture.

The value of the agricultural produce of 28 million acres of land is unconscionably low, in comparison with the value per acre in other countries. It can be raised several times over by the introduction of improved methods of cultivation, by crop planning with reference to market values, by organised marketing so as to secure the best value for the crops and in other ways.

The income of the agriculturist can likewise be increased by industrial development which will, by providing profitable employment, withdraw a portion of the population which is unprofitably employed on the land, by an organised scheme for the utilisation of the surplus labour of the agriculturists on subsidiary

industries, by debt redemption schemes and by providing cheap credit.

Each one of these schemes requires a large initial outlay. Even such a simple thing as an improved plough and better draught-cattle to draw them is beyond the resources of the cultivator to provide.

If therefore improvement of agriculture is left to the cultivator, who is the only person who has a direct interest in such improvement, it will never come.

IMPROVEMENT OF AGRICULTURE IN THE PAST

It would not be quite true to say that there has been no improvement in the position of cultivators. For about three quarters of a century now, the position of cultivators has been improved in some measure, by extension of cultivation, by the increased value of agricultural produce, particularly of jute, and by legislative limitation of the exactions of landlords. These have enabled an increasing population to get their bare sustenance from land, and a small proportion of them have been able to extend their holdings to such an extent as to be able to rise to the status of employers of labour from that of working cultivators.

This improvement has been set off very largely by a phenomenal increase in the price of agricultural land, though that may sound paradoxical. A boom in prices of commodities led to a

corresponding boom in land values and an inordinate craving for more land in all solvent cultivators. They bought land at fancy prices with borrowed money. When the slump came they found themselves burdened with the debt without the means to pay even by the sale of the land.

All this improvement which was due to adventitious circumstances never made agriculture a really profitable industry. But it enabled people to live and to pay their monetary obligations to such an extent as just to take the edge off their want. The past six years have however made their condition miserable.

Beyond bringing more land under cultivation practically nothing, however, has been done within a century for improving the agriculture of the province.

REASON FOR STAGNATION

One of the principal reasons for the stagnation in agriculture has been the land system of Bengal. For making improvements except by Government enterprise, two things are primarily necessary. Firstly there must be interest in making improvements and secondly there must be resources in the hands of the person having such interest. In addition there must be a knowledge of the means by which the improvement can be effected.

The land system of Bengal is very largely responsible for the absence of the necessary interest and resources.

OUTLINE OF HISTORY

I cannot go into a complete historical retrospect. But I must frankly acknowledge that when this system was given shape, towards the end of the eighteenth century, it was not only advantageous to the state but practically the only possible way for them. It was not immediately of any advantage to the landlords, but became so and continued to be so down to somewhere about the third quarter of the nineteenth century. To the tenants who were on the lands at the time of the Permanent Settlement, the system was disastrous. They were either expropriated or subjected to a terrible amount of rack-renting. The Act of 1859 tried to stem the tide of exactions of landlords, but it was not until the passing of the Bengal Tenancy Act in 1885 that a proper machinery was created for assuring to the cultivating raiyats a really effective status of qualified peasant proprietorship.

The subsequent history is interesting. The passing of the Tenancy Act did not immediately terminate the sorrows of tenants, for it took an unconscionably long time for the benefits of the measure to percolate down to the ignorant peasantry. Roughly speaking it was about the beginning of this century when sur-

vey and settlement operations were carried through on a large scale that the tenants got full advantage of the Act, and the power of the landlords was curbed.

But about that time began a movement the result of which has been that at the present moment a very large percentage of the raiyati right in lands is held by non-cultivating tenants. The cultivator is an under raiyat, burgador or a labourer in a vast number of cases. This has been the result of a double process. When raiyati interests became valuable on account of the effective curtailment of landlord's demands, Mahajans, Zemindars, Talukdars and middlemen became active purchasers of raiyati rights—covertly and by subterfuges mostly before the recent amendment of the B. T. Act—and openly since then. On the other hand the improved position of the raiyat and the adventitious prosperity due to increases of price of crops enabled the cultivators to grow richer and buy more land with the result that every well-to-do cultivator ceased to cultivate and became an employer of labour. The result is that the actual cultivator has been practically deprived of the benefit which the legislature intended for him and in far too many cases the word raiyat has become a misnomer.

The present position is as follows :—

SUMMARY OF THE PRESENT POSITION

1. The Zemindars and independent Talukdars of permanently settled estates pay land revenue to the

extent of Rs. 2,15,00,000 odd and are proprietors of the bulk of the agricultural land of Bengal. Their proprietary right is however greatly limited, both as to the user of the lands and in respect of their claims to rent, by the rights of several grades of permanent tenure-holders and by the qualified proprietorship of raiyats.

2. The raiyats of these estates pay in rent about Rs. 8,50,00,000. So that between the Zemindars and middlemen they appropriate as much as at least 6 crores and 35 thousand rupees. Or, in other words, about 300 per cent of the land revenue of the land is appropriated by those whose present position is nothing better than that of rent collectors. In contrast to this the cost of collection in Government estates is only 8·5 per cent of the land revenue realised.

3. The raiyats are, in a vast number cases, not actual cultivators of the land but exploiters of the labours of others, who work either for wages or for rent in cash or kind. It may be said that the bulk of the raiyati holdings which are not uneconomic is held by this class, so that the bulk of the profitable land of Bengal is cultivated by men who hold on a precarious tenure or are mere labourers.

4. The ownership of agricultural land is divided. The landlord has the legal ownership, but he cannot dictate how the lands should be utilised. The raiyat has the user of the land, but if his income is improved, the landlord comes in to share it. Where there is an

unearned increment due to fluvial action or rise in price of food crops, the tenant shares the benefit with the landlord. The result of this is that the landlord has no interest in improving the land except in a limited measure. He has no interest whatsoever in improving methods of cultivation or providing better marketing facilities for crops, for the benefit of it would go to the cultivator.

5. Lastly, few people have resources for making improvement in the cultivation and marketing of crops. The cultivator owing the fragmented small holdings has not the money to invest in improvement. The landlord has not the interest, and on the top of that he has not the means to do anything either.

INCAPACITIES OF THE CULTIVATORS

The cultivating raiyat has an interest in improving the outturn of his fields and their value, but in the first place his interest is divided, because the landlord has in most cases a right to share in the increased profit; secondly he has not the necessary knowledge for making the improvement. But far more important than these factors is the fact that he has neither the power nor the resources for carrying out any large improvements.

This incapacity is two-fold, legal and financial. Take such a simple thing as consolidation of holdings. Even if the cultivators between them agreed to do it by mutual exchange, they could not do it in the pa

without the consent of the landlord, and now under the amended Tenancy Act they cannot carry out their scheme without paying five per cent of the value of the land to the landlord. In large areas in the province, the thing is further complicated by the fragmentation of proprietary rights with the result that a huge number of different proprietors would be concerned in any such scheme of exchange.

Other difficulties similarly follow from the fact that the raiyat is not the full owner of his land. He cannot deviate from the established mode of user of his lands without risking ejectment. If the cultivators agree to have collective cultivation, they would probably have to introduce vast changes in the mode of user of the lands. They will dig tanks and canals, set up irrigation plants and probably utilise some of the agricultural land for dairy farming, for rice mills and other machinery. In spite of the expansion of their capacity for making such improvements in the Bengal Tenancy Act, many of these projected improvements would make them liable to ejectment by the landlord. In a recent case in Midnapore the Government brought a suit for ejectment against a raiyat because on his *bastu* land he had erected a rice mill. If an irrigation tank was dug covering a whole holding, for the benefit of other lands of the village, it would be a clear case for ejectment as the tank would not be an improvement of *that holding*.

These are some of the legal impediments to improve-

ment by the raiyat. But, as I have already observed, his financial incapacity is absolutely formidable. He has not the means to make even small improvements.

INCAPACITIES OF THE LANDLORD

As regards landlords their interest in the improvement of cultivation is more limited. There are only a limited class of works which can be deemed to be improvements which the landlord may have registered and for which, upon such registration he is entitled to sue for enhancement of rent (at the discretion of the Court) which may or may not compensate him adequately for improvements. If a land lord improves the profits of cultivation by introducing new and more profitable money crops, by organising collective cultivation on improved methods, or by starting a bank for providing cheap money, he has nothing to expect as a result of the increased profits of the tenantry, beyond perhaps an increased security for the due realisation of his fixed rent.

RESOURCES OF LANDLORDS

As regards resources, the landlord has hardly any more than his tenants. Between 9 and 10 crores of Rupees is retained by the system of landlords of permanently settled and non-permanent settlement lands, out of the rent paid by tenants, and possibly 2 to 3 crores more are realised on other accounts by

them. With all that, the average landlord is not flush of cash.

Even at the time of the Permanent Settlement by the side of big Zemindaris there was a vast number of independent Talukdars and Lakhirajdars who were pre-eminently small owners. Since that time there has been a tremendous amount of fragmentation of the estates, big and small, by reason of the laws of inheritance prevailing in Bengal as well as by partial sales. The result of this is that with the exception of a handful of landlords the rest are small proprietors who just make a living out of their estates. Another process has led to division of profits and that is subinfeudation. In some districts like Backergunge and Noakhali the passion for subinfeudation runs so high that sometimes as many as ten or twelve grades of intermediate tenure-holders intervene between the Zemindar and the cultivating raiyat.

The result is that with the exception of a handful of rich Zemindars the bulk of the landlords are not very well off. With further subdivision of their estates by reason of the law of inheritance their number will daily increase.

The financial condition of landlords is indicated by the fact that every year a large number of the estates default in the payment of land revenue. Out of a total of about one lakh revenue paying estates as many as 30,646 were defaulters in 1934-35, and 31,169 in 1933-34, which is nearly one third of the total number

of estates. In pre-depression days also the number of defaulters every year ranged near about 19,000 or nearly one-fifth of the total number of estates, though actual sales for default were much smaller.

No dependable statistics are available for the sales of revenue paying estates by Civil Courts. Our experience tells us that they are many.

These defaults in the payment of the light land revenue and sales of revenue paying estates on a large scale show that the position of the landlord class is anything but prosperous. It is a well-known fact that most Zemindaris and other estates tend to get mortgaged to the hilt in three generations on an average.

INHERENT DEFECT OF THE LAND SYSTEM

I insist that this deplorable position of the landlords as a class, excluding a few very fortunate ones, is very largely due to the inherent defect of the land system. There are extremely few landholders who are direct descendants of those with whom the settlement of 1793 was made. The bulk of the present landholders are subsequent purchasers and, in most cases, the estates have passed through a large number of hands during the years since the Permanent Settlement.

This was inevitable. The profits of the Zemindar have all along been unproductively consumed. The man who took a Zemindari did so in order that he

might live in comfort on a secured income without doing any productive work. So long as he had plenty of money he lived well and got used to living well. Investment, except by way of buying more Zemindari or lending money to tenants was practically unknown to the Zemindar.

Fragmentation by the operation of the law of inheritance reduced the income to decreasing fractions. But the descendants of the one-time rich Zemindar neither reduced their style of living nor sought other ways of earning money. Hereditary indolence, attachment to the land and aversion to go abroad and numerous other psychological factors held them to their post so long as the value of their lands gave them sufficient credit. This process working for three or four generations led inevitably to expropriation.

NON-PERMANENCE OF PERMANENT ESTATES

Lord Cornwallis by his Permanent Settlement Regulation sought to create a class of great landowners who would devote themselves to the welfare of their estates and form a stable aristocracy of the land. He overlooked the law of inheritance. A big owner of an entailed estate might reasonably fulfil that expectation of Lord Cornwallis but not men governed by Hindu or Mahomedan Law whose big estates had an inevitable tendency to dwindle in the hands of successors to nothingness.

This want of permanency of the permanently

settled estates has been one of the saddest features of the economic life of the province.

LAND DRAWS ALL THE WEALTH

In 1793 the Zemindaris were not very profitable but they carried a large amount of power, prestige and dignity. By the middle of the Nineteenth century Zemindaris became very profitable and though the power of Zemindars had been largely shorn by the extension of centralised administration, the prestige and dignity of the Zemindar remained as high as ever. For these reasons Zemindaris and Talukdaris came to be prized above every thing else as forms of investment. From that time on there has been a great flow of the nation's capital into this channel.

In the forties and fifties of the last century Bengalees took kindly to trade and established large business houses of all sorts. Export and import, mining, plantation, indigo factory, water transport and numerous other forms of business, besides inland trade, were largely manned by Bengalees some of whom made huge fortunes therein. Government services furnished another source of wealth. The legal profession overflowed with wealth. All the huge earnings of the giants as well as the dwarfs of these vocations went to the purchase of Zemindaris and Talukdaris. Crores upon crores of rupees of the nation's capital were so invested with the object of securing a safe income upon which one might live

without working. The result was a starving of trade and business which rapidly went into other hands.

THE GREAT SINK FOR NATIONAL WEALTH

Meanwhile the incessant flow of wealth into land inevitably ran to waste in a few generations. When an estate purchased for a lakh of rupees is sold in forty years for arrears of revenue or in execution of a mortgage decree, what does it mean but this that the entire lakh of rupees has been unproductively consumed in all these years. In this way crores upon crores of rupees of national capital which, otherwise invested, might have brought prosperity, have been utterly wasted.

Where the estate has not been sold but is under a mortgage, the amount of the mortgage represents the value of the capital unproductively consumed.

Several crores of rupees are at the present moment invested on a mortgage of Zemindaris, Talukdaris and intermediate rights. It means so much national capital locked up in land, because land has so long been such a good investment. The Bengalee capitalist would as a rule fight shy of lending money on a business, however solvent, but he would not think thrice before he forked out the money for a Zemindari.

Land—I mean Zemindari land—has been the great sink which has drawn to itself in an incessant flow all the surplus wealth of the country from all sources.

NOT A GOOD INVESTMENT

Financially the Zemindari is not a good investment. Many of the Zemindaris of to-day have been purchased by the predecessors of the present proprietors in the days of the boom when prices ranged from forty to sixty years' purchase. The profits which were rising then have now fallen, and it is doubtful if any Zemindari now yields a net profit of two per cent on the original cost.

ENDOWMENT OF IDLENESS

Besides, it is an endowment of idleness and breeds its usual accompaniment of parasites. It does not tend to create the active habits of mind, that perpetual wide-awakeness to environments which is a *sine qua non* of success in trade or profession. As a training of national character it is terribly depressing.

NO GOOD TO ANY PARTY

At the present moment it is doing good to nobody.

It is doing no good to the Government which is losing to the tune of crores of rupees in land revenue which it might easily have raised otherwise.

To the cultivator it has not succeeded in providing a profitable industry. The tenancy laws which have assured a definite status to the raiyat have not always benefitted the actual cultivator. And, what

with the endless sub-divisions and with the perpetual indebtedness of cultivators, uneconomic holdings are growing, where they are not passing out and accumulating in the hands of non-cultivating raiyats.

To the landlords it has done no good. The original Permanent Settlement holders have mostly been long washed out. The present-day holders are mostly subsequent purchasers who have purchased the estates at prices which give them less than 2 per cent return on that outlay and a precarious one at that. They are daily being sold out, not necessarily because of any inherent vice in the men but because of the inevitable tendency of the system. A pathetic clinging to bad investments till you are sold out is a feature of landownership in every form. Besides landownership ties you more or less to a locality and cramps your capacity for development. And the occupation of a rent-receiver has a toxic quality all its own—which promotes indolence and incapacity for active work. In all these ways landownership has done no good to the landlords.

It has been the prime source of economic stagnation and degeneration of the province.

WHAT IS THE REMEDY ?

What is the remedy ?

The answer which is glibly given, often without thought is, abolish the Permanent Settlement. If that means the abolition of the mere permanency of the

settlement it will do no good to any one, beyond bringing a little more money into the hands of the Government.

The root of the mischief is the Zemindari system and not the Permanent Settlement. The abolition of the Zemindari system and a re-distribution of the land among cultivating proprietors each of whom would have an economic holding and pay reasonable taxes assessed on their income as a basis for the future economic structure of society would be an ideal arrangement, and any programme which will lead to the realisation of that ideal would be deserving of every consideration.

With regard to any such programme we have to bear in mind the fact that under the Government of India Act of 1935 no Indian legislature can take away the rights of Zemindars and middlemen without compensation.

PURCHASE OF ZEMINDARIS—PRACTICABILITY

Compensation must therefore be paid to the Zemindars and middlemen before such a programme can be worked out. At 15 years purchase the value that would have to be paid to the Zemindars and middlemen together would be roughly 150 crores of rupees.

To enable the country to pay the interest and contribute to the sinking fund for such a heavy loan the profits from agriculture has to be very largely

increased. At present, as we have seen, the total value of the marketable crop of Bengal cannot be calculated on an average at beyond 50 crores of rupees, though in prosperous years it has gone to the neighbourhood of 80 crores. Out of this you have to provide for roughly $2\frac{1}{2}$ crores of the agricultural population. The total value of the crop hardly suffices to keep this population in comfort and is not likely to yield such a surplus as would suffice to provide the interest and sinking fund for the loan.

The buying up of Zemindaris and intermediate interests in order to be of any use must therefore follow and not precede a programme for increasing the agricultural wealth by an aggressive economic policy.

INCREASE OF AGRICULTURAL WEALTH THE PRIMARY PROBLEM

Whether you seek to buy up Zemindaris or you leave them there, the primary problem therefore is to increase the agricultural wealth so as to make agriculture a profitable industry. If you can succeed in multiplying the wealth, the purchase of Zemindaris would cease to be an urgent problem and might be worked out at leisure.

PLANNED PRODUCTION AND MARKETING

I am very definitely of opinion that it is possible substantially to increase the agricultural wealth of

the province by a great programme of improved methods of planned production and co-operative marketing of agricultural produce, of development of industries, notably subsidiary industries, in several areas, and of a rural banking system to finance the programme.

Elsewhere I have given an outline of such a scheme and I have repeatedly requested the Government to start a few experimental stations where the scheme may be tried at a low cost. I have not yet succeeded in getting the Government interested in the project. But I am confident that if experiments are made on those lines they will succeed, and if success is achieved in these experiments the economic problem of Bengal will be solved.

The effect of the organisation which I visualise as the end of that programme would be that the resources of the province with its rich land and teeming labour would be put to the fullest use under the guidance and control of expert agencies which will be in a position to deal with the economic resources of the entire province as one whole and under whom the labour of each man will supplement that of every body else in the province and jointly build up a rich fabric of prosperity for the province. That economic structure will solve every problem and find work and wages for all, Zemindar and peasant, Bhodralok and labourer, and make them all prosper.

THE
PERMANENT SETTLEMENT
VINDICATED.

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(Regulation. I of 1793.)

NARENDRA NATH SANYAL

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PREFACE.

The Statesman in its leading article, dated 8th April, 1937, devoted a full column under the heading "Land Reform" and therein raised many political and economical hypotheses, regarding Permanent Settlement and in its wisdom stated as follows:—

"The Permanent Settlement made by Lord Cornwallis in 1793 was probably a moderately good settlement when it was made. It has now lasted for one hundred and forty four years, which in a world that changes whether we like it or not, is far too long. When a hairdresser advertises a permanent wave or a Railway Company lays down a permanent way they do not interpret permanent as meaning eternal. Long ago the Permanent Settlement became a foul thing."

Just eight days before the writing of the above article, that is on the 1st April the Provinces of India got Self Government and The Friend of India could not tolerate further delay for the abolition of the "foul thing" and concluded by saying:—

"The Provinces of India have now got self-government. At last land reform is possible, and there can be no real all-round economic progress for the masses without it. Where are the reforms to come from? If the Congress will do nothing are there no others? The future lies with the men who are in earnest. Time will soon show whether there is reality in the Proja Party or not."

The Proja Party entered the political arena, no doubt, with a promise to start a crusade against the Permanent Settlement. The congress creed also sanctions such action. Both Proja Party and Congress Party leaders are enthusiasts to support the abolition of Permanent Settlement with a high hope to bring about all round economic progress for the masses which fact will appear from their respective manifestoes that were published by them during the last election campaign.

The other day (on 3rd May 1937), Pandit Jaharlal Neheru while addressing a meeting in Albert Hall, Calcutta, in connection with recent Jute Mill strike, broadly hinted that in near future there might be the larger agrarian problem of Bengal than the Jute Mill strike. He said:—

"To day it was the problem of jute workers. To-morrow it might be the larger agrarian problem of Bengal" (vide *Statesman* dated 4-5-37 page 9).

He also with a pious wish, it is reported, interrogated the Ministers, who came into office hardly a month ago, as to what was the good of their continuing in office if they felt that they had not the power to deal with the matter; *i.e.*, Labour and Agrarian problems.

What power does Pandit Nehru mean? Does he mean the power of the "Samson" to root-out capitalists or Landholders, or both as a class? "Ay, There's the rub, for in that sleep of death what dreams may come"—he might pause and say like Prince Hamlet.

The land holders are no doubt capitalists, because very many persons have invested their hard earned capital in land, as others did in gilt edged securities. It is a very stiff problem and that has been puzzling the brains of many idealists, who are "all in imagination compact" and "have such seething brains such shaping fantasies, that apprehend more than cool reason ever comprehend." This is what can be said in the language of the great poet Shakespeare. (A Midsummer Night's Dream)

It was further reported that Pandit Nehru asked a question point blank to the Premier, in the course of his address, "whether he (Mr. Huq) still adhered to the agrarian programme which he and his Proja Party had placed before the people of the province and because of which he succeeded in being returned in the Assembly." The President of the Congress, it was reported, enjoined as follows:—

"The Congress did not want a situation in which the Ministers would go to the people and say that they were helpless and powerless and could only sympathise."

He then reported to have said—"It might be that Mr. Huq or the other Ministers, were helpless and powerless to do anything big for Bengal; then what reason had they to continue as Ministers?"

Please mark the sentence—"any big thing for Bengal"—that big thing, the writer is convinced, means socialism, out and out.

On the question of capitalism and socialism. Mr. G. D. Birla while presiding this year at the annual session of the All India Organisation of Industrial Employees, it is reported to have urged that Capitalism and Socialism should grow and flow along healthy channels meeting at same end. Mr. Birla deplored, it is reported, the tendency of socialists to run down the Capitalists personally and to call him a blood sucker and exploiter and other names.

Mr. Birla continued that happily Pandit Jawaharlal Nehru, leader of this school of thought, who perhaps thought more on the subject than his followers, always made a distinction between the system and the person.

" We capitalists " said Mr. Birla, " are no more saints or devils than ordinary socialists. In intelligence we are perhaps a little dull, verging on stupidity, in vision a little short sighted, but in heart quite sound " (vide *Statesman*—report dated 8-4-37, New Delhi).

Having regard to the propaganda of the congress and the Proja Party, indicated above, the undersigned craves leave to request the readers particularly to consider the opinions of so many learned men of international reputation, which have been compiled in this book.

The above mentioned activities are being applauded by many without applying proper thought on the problem, as to who would have to suffer for the consequences. The writer honestly believes that it will lead the country to adopt the cult of socialism or communism. It was said by many that the Permanent Settlement Regulation was a boon for all classes of people. In support of such contention conscientious opinions of distinguished personages have been compiled and placed before the reader to consider the problem from that stand point of view.

In part I of this book the problem has been dealt with generally. In Part II a short report of a meeting of the former Legislative Council held on 20-2-33, is also set out to indicate in what way the wind blows. One well educated and experienced member said in the course of the debate that " the tiller of the soil was the real proprietor." Another member having good education and long official experience at his credit said " that the land lords' income was of unearned variety " and he also asked during the discussion, " which come first—the Zeminders or the tenants?" All these facts are the causes of grave anxiety.

Under the circumstances an endeavour has been made to approach the problem categorically to prove that the Permanent Settlement Regulation was not a bitter pill.

In one or two places short statements of particular fact had to be repeated, in order to meet the point with reference to the context. Some portions might be thought redundant but it was introduced to help the reader to form an opinion, before he would be ready to support the abolition of a statute, the effect of which is interwoven with the economic fabric of the society and judicial practice—sanctioned by laps of years.

In the University of Calcutta how students of Civics and Economics are taught to get an idea of " Land Revenue System " and also about the nature and character of the land lords—who are also called Zeminders, will be found from a verbatim reproduction of a few lines from a widely read note book under the title of " Elements of Civics," by Prof. M. K. Sen, M.A. (Gold Medalist), Professor of Civics and Economics, Vidyasagar College, Calcutta. The passage runs as follows :—

Criticism of the Permanent Settlement.

“ The fixity and the security of the revenue have been obtained at too high a price. For instance, an acre of land in Calcutta pays only 4 annas, the fixed contract sum, as revenue although the annual income of the Zeminder from it has risen to several thousand rupees. Several crores are thus lost to, the Government and to the community. And this sacrifice of the people has not met with a satisfactory response from the Zeminders.

“ We have a narrow, selfish and often unsympathetic class of absentee landlords in the province. Land has not been improved nor have the tenants been well cared for by them.

“ The multiplication of intermediaries and the existence of unhappy relations between the landlords and the tenants have compelled the state to introduce protective legislation for safe-guarding the interests of the raiyots.

“ The question has now been seriously engaging the public attention as to whether the Permanent Settlement, in view of its record, should not be revoked.” (vide page 149 Chapter VI.)

In the same book at page 1, Prof. Sen writes, (in the introduction-Edition 1930) :—

“ Our scope, as defined by the University Syllabus, will be limited. We shall restrict ourselves to a study of Municipal and National Citizenship in its political and economic aspects.”

One might say on the other hand that the University Syllabus did not restrict that the study should be devoid of intellectual, social and religious aspects. Although Prof. Sen admitted that according to White—Citizenship is to be studied in all its aspects, such as, social, intellectual, political, economical and even religious. One may therefore think that Prof. Sen omitted in his book 3 aspects of the study of citizenship—namely social, intellectual and religious. It would be therefore no wonder that students, who got their lessons in the study of citizenship without social, intellectual and religious aspect of the thing, in conformity with the so defined University Syllabus; would try, when they are citizens, to introduce laws without sanction of the aforesaid three essential instincts of human mind.

In part III short notes of all important enactments relating to Permanent Settlement Regulation that had been passed up-to-date are chronologically mentioned.

Babu Sarat Chandra Chatterji, the novelist, also like Prof. Sen blackened the Zemindars in his imagination in his book ‘Mahesh.’ The story has found its place in the “Bengali Selections” published

by the Calcutta University. The students are bound to bear in mind from the abovementioned literatures that Zemindars, as a class, were bad-adjuncts to the society. In this connection it would not be out of place to mention the observation of Prof. Benoy Kumar Sarker—Post-Graduate Department in Economics and Commerce, Calcutta University, in his book, "The Sociology of Population." He writes:—

“ The landowning or landholding, i. e., Zemindar class constitutes perhaps the oldest community in modern Bengali society because it can be traced back to the close of the eighteenth century. During the first half of the nineteenth century the Zemindars were the “ natural leaders ” and virtually the only leaders of the Bengali people, of the religion, literature, culture etc. of Bengal. * * * ”
 “ The financing of Bengali culture in all its phases has been done during the last century mostly by the landholding classes (vide page 98) ”

Prof. Sen's indictment against Zemindars as a class can be disproved from the facts that the Zemindars, throughout the country, made princely donations for education, culture and sanitation etc. They established many schools and colleges, opened hospitals and libraries. Some of them made donations of large amount to the University for the advancement of learning and to help the deserving students to get their education abroad. They also contributed large sums of money for waterworks as well as to excavate ponds and tanks in many places. With their help Sanskrit, Persian and Arabic education was maintained. It is not desirable to create hatred against one class of men, who have got many good works at their credit. Jean Jacques Rousseau and Voltaire (Francois Marie Aronet de) brought about the French Revolution. They gave to France a new field of thought and laid down principles of Government and conduct which bore fruit in the French Revolution. By their philosophy the masses acquired a particular frenzy to eliminate blue blood from the society, the result of which is known to the world. Edmond Burke's " The Reflections on French Revolution " should be recalled to mind.

May, 1937.

99, Upper Circular Road,
 Calcutta,

NARENDRA NATH SANYAL,

THE
PERMANENT SETTLEMENT
VINDICATED.

PART I.

The object of writing this booklet, is merely to place before the critics, who adversely criticise the justification of the Regulation I of 1793 (Permanent Settlement) by Lord Cornwallis, certain facts and arguments for their favourable consideration. From the tenor of writings of a few of them, it might be concluded that they would feel delighted to see the above-mentioned Regulation repealed. There are many Indian, Anglo-Indian and British, who are not inclined to collect facts and figures to weigh things properly before they pass their opinions adversely on the subject. Quite a good number of highly educated citizens of Bengal and her sister provinces are unmindful of their own interests when they level charges against the land-holders as a class and decry the Permanent Settlement and they totally forget how vitally it affects the interests of each and every resident of the provinces concerned. The Permanent Settlement Regulations should be very carefully examined before an adverse opinion is formed against the same as the said Regulations were said to be a boon by many great men, both Indian and European. In part III of this booklet some historical facts relating to the Permanent Settlement, and its subsequent developments are chronologically set out for such consideration. On the 12th December, 1931 the British Indian Association presented in Calcutta, an address of welcome to His Excellency Lord Willingdon, the Viceroy of India, which contained inter-alia the following :

“ With considerable hesitation we beg to draw Your Excellency’s attention to the tendencies, gradually gaining in proportion and threatening the interests of the Zeminders of Bengal as a class with special reference to the much misconstrued Permanent Settlement. While we look up to your Excellency to safe-guard our legitimate claims and our just rights and interests, we respectfully submit that of the many considerations which govern land problems, custom and tradition are of utmost importance and any attempt to override or supplant them to meet the exigencies of political requirements is calculated to result in grave consequences to the social fabric ; any measure, we venture to submit, that is likely to disturb the relation in which the landholders and all the interests subordinate to them stand

will be striking at the very root of the whole system of land tenure. Apart from its political considerations the Sanads of the Permanent Settlements should be respected as sacred treaties." In reply to the above-mentioned point His Excellency was pleased to assure the Association by saying :

" I have noted what you have had to say in regard to the Permanent Settlement. This, as you are well aware, is a matter which mainly concerns the Government of Bengal, with whose attitude on the subject I am in complete accord namely, that so long as Land Revenue remains a Reserved subject and so long as the Permanent Settlement is not shown to be contrary to the best interests of the State, I would disapprove most strongly any interference with a Statutory arrangement of such long-standing."

On the 15th December, 1931 the Bengal Land-holders' Association similarly presented an address of welcome to His Excellency, Lord Willingdon, who in reply reiterated the assurance given by him to the British Indian Association mentioned above.

His Excellency was pleased to say :

" Although this is a matter which primarily concerns the local Government the Permanent Settlement Regulation cannot be repealed without my sanction. I am informed that the attitude of the Government of Bengal is that, so long as land revenue remains a reserved subject and the Permanent Settlement is not proved to be inimical to the best interests of the State, the Government should not regard with approval any attempt to interfere with a statutory arrangement sanctioned by the lapse of years and inextricably bound up with economical conditions and judicial practice. The attitude adopted by the Government of Bengal on this subject appears to be justified."

" I am also informed that it is very doubtful whether the abolition of the Permanent Settlement would be of any great advantage even financially to any Government unless it, at the same time introduced changes affecting not merely the Zeminders but the interests of many other landlords and tenants in Bengal whose rights are protected by legislation which is based on the Permanent Settlement."

" I can assure you that any measures entailing consequences of such a far-reaching and even revolutionary nature would not meet with my approval."

The spirit of the above assurance of His Excellency apparently indicates that it is for the best interest of every one in Bengal and her sister provinces, from the Cottager to the Zeminder and that it is not to be conjectured that the residents of the City of palaces and other towns are not to be benefited by such an assurance. If the Permanent Settlement of Bengal is tampered with in any way the Permanent Character of the lands in all parts of the provinces concerned including cities and towns, will be equally affected ; because the Regulation

No. I of 1793 gave a permanent character to the settlements of all lands in the provinces. Hence any interference or change would be of a "revolutionary nature" as His Excellency was pleased to say and each and every person is, more or less, bound to be affected by it. The respect for the Right of private property has evolved with the civilisation and that the sanctity of contract, made by statute, or otherwise, is to be respected by all, who claim to be God-fearing and civilised. It may be a different matter with the communists who do not admit the right of private property and the divine dispensation and who are claiming that they are determined to do away with all time-honoured laws and custom of the civilised world. They are trying to introduce a mechanical civilisation which condition of society is considered by many great men to be most undesirable for men who love freedom as opposed to serfdom. It may be taken for granted that every reader knows the meaning of the word communism. Shortly it stands for the condition of things according to which private property should be abolished and all things held in common. Therefore the very idea of taking any action to interfere with the Permanent Settlement or to get the Regulation No. I of 1793 repealed, would be the first steps to communism. We have heard many things for and against communism and there is reason to believe that the malady is spreading even to the minds of the God-fearing people of India, although Mohatma Gandhi assures us otherwise. We have it from the Press Reports that Mahatma Gandhi when went to England to attend the Round Table Conference in 1931 is said to have expressed in Europe during his return journey from England that :—

" Meantime the idea must be dismissed that there could be germinated in India any movements inspired or coloured by Communists. In India there was no trace of it and there could be None."

" Every country had its own conditions and rules of life. India was against a mechanical civilisation—the machine which made a man more a slave than he was before, instead of freeing him."

Similar illuminating passage which occurred when the House of Lords continued its economy debate in June, 1932.

" Lord Marley : There is no unemployment in Russia.

Viscount Snowden : Nor is there in Dartmoor, and for the same reason."

He further observed " May God save England from such socialism as they have in Russia to-day" (vide *Statesman* dated 1-7-1932, page 1, Calcutta Edition).

All—civilised people must have respect, for the right of private property and for the sanctity of contract, without which the society would be no better than in a state of anarchy. Then comes the question of the State. If on careful investigation it is found that in the interest of the general public the Regulation I of 1793 should be

repealed, obviously the State must acquire all the rights derived under the aforesaid Regulation on payment of proper and adequate prices, as is done in Land Acquisition Cases. This method was adopted in Ireland when the country was made a Free State but the British Treasury guaranteed the Irish land stock. The British Treasury is to provide money enabling the Bank of England to pay the holders of such stock, their usual dividends or annuities. Many people in Bengal have invested their capital in lands by purchasing permanently settled estates, as others have in Gilt-edged securities and in shares of various trading concerns including Railways. Therefore there cannot be any real distinction between the two classes of investments. There are however in Bengal including Behar and Orissa a very few families, who still hold estates which were originally permanently settled by the Company with their ancestors. It will be shown below by documentary evidences that at the time of the Permanent Settlement the margin of profit for the settlement holders, was not very great. It became rather a burden for them to pay the Revenue and many failed to pay. It has become a heavier burden for many. Certain facts, gathered from the Resolution issued by the Governor-General in Council on the 10th January, 1902, being the Land Revenue Policy of the Indian Government, are shortly stated thus.

In the course of 1900 Mr. R. C. Dutta, C.I.E., formerly Acting Commissioner of Burdwan, addressed to His Excellency the Viceroy a series of letters (subsequently published in the form of a book) concerning the Land Revenue System of the different Provinces, and he submitted certain recommendations as to future policy and action. At a little later date the Secretary of State transmitted to the Government of India a memorial which was submitted to him by certain retired officers of the Indian Civil Service, formulating a somewhat similar lists of suggestions. The Government of India welcomed the opportunity thus afforded to them of instituting renewed enquiries into a matter that had for more than a century, been the subject of anxious discussion. The permanently-settled districts as is well known, cover the greater part of Bengal including Behar and Orissa, parts of North Western Provinces now U. P. and Madras and a few other isolated tracts. At an earlier period the school of thought that is represented by the aforesaid critics of the Government of India, advocated the extension of the Permanent Settlement throughout India, and although this remedy might no longer seem to be fancied, the Government of India were invited by Mr. R. C. Dutta to believe that had such a policy been carried in to effect 40 years ago, "India would have been spared those more dreadful and desolating famines which we have witnessed in recent years." It was also stated by Mr. R. C. Dutta in his correspondence upon Land Settlements in Bengal that in consequence of the Permanent Settlement in that province the cultivators were more prosperous, more resourceful, and better able to help themselves in years of bad harvest, than cultivators in any other parts of India, that agricultural enterprise had been fostered, cultivation extended and private capital accumulated, which was devoted to useful industries, and to public works and institutions.

The Government of India did not accept the above mentioned suggestions and was pleased to issue the Resolution referred to above on the basis of a series of reports submitted by Local Governments, on the subject.

On the whole it may be said that a great man like Mr. R. C. Dutta, who studied the Land-Laws of India very carefully, expressed a desire in his old age that the Permanent Settlement be extended all over India. Now the question is whether the Zeminders as a class will be only affected if the Permanent Settlement is repealed. It does not require much legal knowledge to understand that in case of such a repeal, every blessed soul in Bengal together with her sister provinces will lose the immunity which he is now enjoying, viz. that he might breathe his last on his own land and he might leave his wife and children in his own homestead. After the enactment of Bengal Tenancy Act in 1885 with its subsequent amendments and modifications, together with the judge-made laws, there is hardly any difference between a Zeminder and a tenant. The tenants are made the masters of their lands subject to the payment of a fair and equitable rent. The Zeminders have been made liable to lose their zeminary and they were also made liable personally and the personal properties of the defaulter Zeminders were made liable to be attached in case they fail to pay the Revenue on the due date of payment which is called "Kist" (vide Section 44, Regulation XIV of 1793 and Section 23, Regulation VII of 1799). In a Revenue Sale the Permanently settled estates are sold free from all encumbrances but that does not affect the interests of the ordinary tenants. (vide Section 160 Bengal Tenancy Act—The protected interest and Section 37 of Act XI of 1859). The tenants may not pay their rent for several years and that would not entitle the Zeminders to forfeit the tenancy. Ordinarily and on an average computation the amount of rent realisable from an ordinary individual tenant varies from Re. 1 to Rs. 10. If the tenant is unable to pay or not inclined to meet the just dues of the Zeminder then the Zeminder has got to invoke the aid of law, which means that he would become loser of at least double the amount, even if the tenant does not contest the suit and the loss would decidedly be more, if the suit is contested by the tenant. This is the position between the tenant and the Zeminder. The tenants' rights and interests are protected by various other ways. If the history of the Permanent Settlement is traced then it can be found that the revenue which was fixed could not be said inadequate, rather it was very high in many cases. A quotation from the Tagore Law Lecture (pages 91 and 92) of 1895 on the Land Law of Bengal by late Mr. Justice Sarada Charan Mitter would be convincing :—

" The revenue fixed was so high that, within the course of fifteen years, the Rajas of Nadia, Rajshahi, Beshenpur, Dinajpur, Kasijora and many others almost submerged under its wave. The Birbhoom Zeminder was completely ruined. A host of smaller Zeminders shared the same fate. It is perhaps scarcely too much to say that in a few years a complete revolution took place in the constitution and ownership of the estates which formed the subject of the Settlement.

The dismemberment was quick and the ruin subversive of its very principles. The revenue assessed on other estates did not include the then unknown item of waste land, and many estates situated at a distance from the metropolis escaped rather cheap. Only the Raja of Burdwan, heavily assessed as his estates were, escaped through an accident."

" Financiers in India now regret that there was this Permanent Settlement, as the Zeminders of the present day make large profits. That some of them do make profit is undoubted. A good many of them, however, derive title by purchase *i.e.*, outlay of large capitals. These Financiers think that it is the State, and not the Zeminders, who should have profited by the increase of the cultivated area in Bengal and the more manifold increase in the value of the produce. But they forget that the East India Company would have been reduced to bankruptcy, if they had not adopted the principle of permanent settlement; they forget that the vested rights of a large number of Zeminders required permanent settlement, and that, taking all things into consideration the State has not suffered, the ancient Rajas and the cultivators of the soil have suffered. In fact, notwithstanding the Permanent Settlement, the amount of revenue has increased from Rs. 2,85,87,722 in 1790-91 to Rs. 3,70,11,385 in 1892-93 exclusive, in the latter year, of a good many districts. The best authorities, I think, are now agreed that the adoption of the principle of the Permanent Settlement was not a mistake."

In Sunderban forest in the district of 24 Parganas, a vast tract of land were lying fallow and unremunerative for a very long time. At last the Government, agreed to lease out the same, part by part, for a good many years temporarily; on a gradual scale of rent which would be finally made permanent. Without which condition nobody was willing to risk his life and money to reclaim the aforesaid vast tract of productive forest soil. It might be said similarly to be a mistake 100 years after by many critics.

The present Land-holders of Bengal, Behar and Orissa are mere collectors of rent, but they are placed gradually at a very great disadvantage to collect the rent. There are many Zeminders in Bengal, Behar and Orissa who invested their money at a very low return. It can be ascertained from the Registered Documents and from the Records of Right that Zemindery properties were generally sold at 20 to 25 times the amount of the annual collection, excluding the outgoings such as Revenue, Cesses and Collection charges; which means a return of 4% to 5% per annum, if the collections were normal. But the normal collection cannot be expected every year. Therefore the Zeminders are not the blessed creatures that they are made out to be and that their position is in no way better than others who have invested their capital in house properties, in shares, and in Government Securities. On the other hand the fact that the State will not be benefitted if the Permanent Settlement is repealed, can be shown from certain materials collected from authenticated old documents stated hereinafter. The Rent Commissioners collected a very

large mass of evidences and informations before the enactment of the Bengal Tenancy Act of 1885 ; and the Act was so framed that it altogether changed the position of the Zeminders and the tenants and that has also materially altered the law of land-lord and tenant in the provinces concerned.

It can be said with authority that the Permanent Settlement was not an unknown thing in India before the British advent. It can conclusively be proved from very old documents if certain legal terms are properly interpreted. It may be found from Vernacular Documents of recent origin that such legal terms and phraseology are still in use. Only a few names are mentioned hereunder with a view to show what meaning they carry and how they are interpreted in British Courts of Law. The terms "Mukarari" "Mukarari Istamarari," "Mourasi Mukarari," were used in documents purporting to grant of lands before the Diwani of Bengal, Behar, and Orissa was obtained by the East India Company in 1765 A.D. The interpretation of British High Courts are set out hereunder. The word "Mukarari" was interpreted to be a perpetual lease and it implies that the same is permanent, heritable and transferable and that the rent is fixed in perpetuity (Mahanand Sahai V. Musummat Syedunissa Bibi 12 Calcutta Weekly Notes Page 154). A "Mukarari Istamarari" tenure is a permanent tenure (Monaranjan Singh V. Lilanand Singh 3 W. R. 84, Lakho Kaer V. Hari Krishna Rai 3 B.L. R., A. C. 226 : 12 W. R. 3). The use of the word "Istamarari" by itself shows an intention that a lease shall be perpetual and implies its hereditary character (Kuranakar Mahanti V. Niladro Chowdhuri 5 B. L. 652 14 W. R. 107). So it might be said that Lord Cornwallis did not commit any mistake by introducing Permanent Settlement in Bengal including Behar and Orissa. His intention was equally good for the Government, Zeminders and the tenants. There was a primitive state of society when lands belonged to persons who tilled the same and there was no obligation to pay rent or revenue. "A field" as described by Monu, "is his who clears it of jungle, game is his who has first pierced it. Also it was said in Arabic Scripture "Whoever cultivates waste lands does thereby acquire property in them." The Roman jurists held the same opinion as regards the origin of the proprietary right as will be seen "Wild beasts, birds, fish and all animals which live either in the sea, the air or on the earth, so soon as they are taken by any one, immediately becomes, by the law of nations, the property of the captor, for natural reason gives to the first occupant that which had no previous owner" (Sandars' Justinion P. 172—2nd Edition). These ideas cannot be entertained at this age. The idea was changed long long time ago with the advancement of civilisation. Mr. Justice Sarada Charan Mitter in his Tagore Law Lecture (page 6) said—"From the tenor of deeds of undoubted antiquity of sales and alienations of estates, to be found in the Mackenzie collections, and from the traces of individual proprietary right discovered in Canara, Tanjore, and other parts of the country, in which the Mussulman Government was never or only partially established, there is every reason to conclude that this right of the subject to the ownership of land was universally recognised by

ancient Hindu Kings (Ricard's India Vol. 1 Page 282). Private property in land seems to have been recognised as a sacred right, which even the hand of despotism would rarely violate."

It may be also found that both the Mohomedan Jurists and Hindu Jurists were of the same opinion as to the proprietary right of the land. "According to Abu Hanufa, the mere cultivation of waste land is not enough to create a real right in the cultivator; the permission of the Chief is necessary for the acquisition of proprietary right." So in the tenth Mandal of the Rig Veda it is enjoined—"May Indra ordain that your subjects pay only to you (Vali) tax.—(viii 8. 173)." Narada, apparently commenting on this text, defines "Vali" in his "Smriti"—"Both the other customary receipts of a king and what is called the sixth of the produce of the soil form the royal revenue, the reward (of a king) for the protection of his subjects"—(Narada Smriti Ch. XVIII.—V. 48 Sacred Books of the East Vol. XXXIII page 221.)

The above theory of the king's right to get taxes are unanimously supported by later Hindu Sages—such as:—

- (a) Manu—(Manu Ch. vii v, 130; Chap. X. V. 120 Chap. X. V. 118.)
- (b) Yajnavalkya—(Yajnavalkya Bombay Edition pages 98—99.)
- (c) Apastamba (Chap. XIX 26—27.)

The Vishnu Smriti, which no doubt, is an ancient Dharmasutra, enjoined that the king must take taxes from his subjects:—

"He must take from his subjects as tax a sixth part of every ear of the paddy. A sixth part of flesh, honey, clarified butter, herbs, perfumes, flowers, roots, fruits, liquids and condiments, wood, leaves (of palmyra tree and others), skins, earthen pots, stone vessels and anything made of split bamboo," (Vishnu Smriti V. 22 and V. 25). The more earlier Dharmasutra of Baudhayana also supports the very same theory—"Let the king protect his subjects, receiving a sixth part."

Now the king must find some means to realise his dues—so must there be some system of realisation of the same. Therefore it should be the honest duty of the critic to examine the work of Lord Cornwallis, who brought about the Permanent Settlement in Bengal. It should be considered with unbiased mind under what circumstances the British Parliament and the Court of Directors of the East India Company instructed Lord Cornwallis to make Permanent Settlement in Bengal, Behar and Orissa. Lord Cornwallis arrived in India with the aforesaid instructions in the year 1786 and on instituting careful enquiries for over six years His Excellency was pleased to grant the Permanent Settlement in 1793, by Regulation I of 1793. The afore-

said Regulation was passed after several years' deliberation and practical experience derived from the State of affairs then prevailing in the country. The British Parliament and the Court of Directors of the East India Company made careful enquiries and collected facts and figures for over 20 years, that is from 1765 to 1786 and then they decided to pass Permanent Rules for the settlement and collection of revenue. In the year 1772 Warren Hastings became the Governor and he made temporary settlements at the highest bid. As a result the condition of the Settlement Holders were nothing but complete ruin within a few years. It is better, not to repeat the facts over again. The state of affairs prevailing at the time cannot be compared with the present condition of the country. It is a recorded fact to what extent the realisation of the Government Revenue suffered during the Regime of Warren Hastings and Dewan Ganga Gobinda Sinnah. The measures they adopted for the realisation of Revenue were written in the books of history. It can be said that the Zeminders were given no preferential treatment but on the other hand all harsh measures were taken against them, even these proved abortive.

A passage from the Land Law of Bengal (vide page 87 and 88) will be more convincing. "When the Government of Mr. Hastings attempted to ignore their (Zeminders') right, made temporary settlements of land revenue, appointed managers of their estates, and ousted many of them, they complained loudly, and their complaint reached the House of Commons. Statute 24 Geo. III Cap. 25, known as Pitt's India Act, was passed in 1784, the 39th section of which required the Court of Directors 'to give orders for settling and establishing, upon principles of moderation and justice, according to the laws and constitution of India, the permanent rules by which the tributes, rents, and services of the rajahs, zeminders, polygars, taluqdars, and other native landholders should be in future rendered and paid to the United Company'." The claim of the zeminders to proprietary right was asserted, and denied, and discussed hotly even in those early days of the Company's government, and you will find the latest dissertation on the subject in Sir William Hunter's Bengal M. S. Records." The East India Company began the grant of temporary settlement of estates for a very short period. The said procedure was followed for a quarter of a century and it proved a complete failure in its efficacy to realise Revenue and woefully ruined most of the settlement-holders, that is the then zeminders. The tenants used to avoid and evade payments of rents, invariably some time before the termination of the period of the temporary settlement, with the malafide intention of causing ruin to the then settlement holders; so as to avoid the payment of the arrears of rent. Their apparent object being that the Government would never re-settle the estates with the Zeminders who would default to pay the Revenue. So a new man would step in and it would take some time to readjust the proper realisation of rents. The intention of Lord Cornwallis in fixing for ever the land-tax payable to the Government was found necessary and the despatch of the Court of Directors dated 29th September, 1792 endorsing the views of Lord

Cornwallis was in accordance with the spirit of the age and the views of the Parliament as contained in Pitt's India Act.

It is said by Mr. Justice Sarada Charan Mitter in his Tagore Law Lecture "The Tax was at the time so heavy and the rules adopted for realising were so paralysing, that most of the ancient Rajahs and Zeminders of Bengal, who had the good fortune of the Permanent Settlement being thrust upon them succumbed in the course of a few years." He observed also about the advantage of the Government in making the Permanent Settlement.—"The necessities of paying the great military and civil establishment of the Company and the dividends to the proprietors required the punctual realisation of the land-tax and the amount needed was large. To avoid fluctuation and ensure punctual realisation, some means was absolutely necessary to be adopted and the Government adopted not only the best, but the event shows, the most successful one." (Vide page 88).

In passing another matter should be placed before the critics and that is whether the lands which were in possession of different classes of people as Revenue-free, on account of various classes of grants, were assessed and permanently settled. Starting with the theory of the king's and the conquerer's absolute dominion over the soil, the East India Company might not have recognised so many classes of grants made by Hindu and Mahamedan kings for religious purposes such as Brahmotter, Devotter, Wuqfs and Pirotters. Besides the said religious grants there were also other grants made to different class of people such as Mahatron, Lakhiraj, Jaigirs and other classes of Badshahi and non-Badshahi grants. But principles of humanity prevailed and the East India Company recognised those grants and made distinct provision to assure the grantees or their heirs such of those grants as were hereditary and were made before the date of the Company's accession to the Diwani, provided the grantees or their heirs had obtained possession previous to that date" (Vide Preamble to Regulation of 1793). The framers of the Regulation Code of 1793 again observed "the lenity of the East India Company induced them to adopt it as a principle, that grants made previous to the date of the Diwani should be held valid" (Vide Preambles to Regulation XIX of 1793). The grants made by Hindu and Mahamedan kings were expressly revenue free. Therefore the Parmanent Settlement Regulations did not interfere with anybody's right of private property.

The critic may also consider the assurance, the Working Committee of the Indian National Congress, (1932) gave to the Zeminders. The Congress Working Committee which included Mahatma Gandhi, released a resolution to the Press on the 1st January, 1932 at Bombay, in which, *inter alia*, it is stated :—

" 4.—Assuring Zeminders that no-rent-campaign will not be directed against them and stating that the campaign has no design against the *legitimate interest acquired by them*" (Vide *Amrita Bazar Patrika*, Calcutta Edition, dated 2nd January, 1932 at page 6).

In order to convince the critics that the Permanent Settlement Regulation was a most benevolent act of Lord Cornwallis, a series of historical facts are chronologically mentioned, together with opinions and arguments of men whose learning and ability, experience and knowledge command highest respects. Before concluding this part of the brochure let us note the tribute paid to Lord Cornwallis by the great scholar and jurist Mr. Justice Sarada Charan Mitter in his "Land Law of Bengal" (vide page 87).

"The introduction of the Permanent Settlement by that nobleman whose moderation, love of justice and humanity no one ever doubted, and which indeed the very code of 1793 displays in almost every part of it."

Lord Dufferin in 1885, in putting the motion that the Bill, drafted for the Bengal Tenancy Act, should be passed; incidentally said—"Lord Cornwallis desired to relieve the Zeminders from the worry and ruin occasioned by the capricious and frequent enhancements exacted from them by former Governments and it is evident from his language that he expected they should show the same considerations to their raiyats."

Before placing the facts stated in Part III of this Booklet the attention of the critics, is invited to examine as to what the status of the Zeminders was in the country before the British advent in India and what was their condition subsequently. Mr. Justice Sarada Charan Mitter in his Tagore Law Lecture, had explained the matter very accurately, in conformity with Sir William Hunter's report in his Manuscript Records at page 13, and the case reported in 19 Weekly Report at page 8, Rajkishen Vs. Ramjay, which is reproduced hereunder :—

"The Zeminders were the only class of persons whom in the then existing state of things the Government could look to for punctual realisation of State-dues. There was at the time this important body who had widely different sources of origin, but known to the Mahomedan Governors by one name only. Some of them had long ancestries to tell, beginning at a period coeval, if not anterior, to the Mahomedan conquest of Bengal. Many of them were hereditary princes, owing only financial allegiance to the authority of the Great Moghul or his viceroys. Their law of succession was the law of principalities—primogeniture. Even those who were of recent origin were very influential and wielded power not much inferior to that wielded by the very ancient families. The more influential and the intelligent amongst these were, to borrow a modern expression, members of the viceregal council at Murshidabad. They were ministers of state, and the government of the country was practically, to a considerable extent, entrusted to their hands. If we classify them, the first class would represent the old Hindu Rajas of the country, whose ancestors had held independent principalities or principalities that owed only nominal allegiance to the imperial government, either Hindu or Mahomedan. The Rajas of Assam, Tipperah, Cooch-Behar,

Bishenpur, Birbhoom and Chota-Nagpur may be placed in this class. The second class consisted of the great land-holding families that came into existence during the Mahomedan Government through its sufferance or favour. The Rajas of Rajshahi, Dinajpur, Burdwan and Jessore with many others were de-facto-rulers in their own states or territories, and used to pay only fixed tribute or land-tax. They were like feudatory Chiefs. The third and the most numerous class consisted of persons whose families had held offices for collecting revenues for two or three generations and who thus claimed a prescriptive right to hold on. Then there were the revenue-farmers who, since the grant of the Diwani in 1765 had been placed in office and also happened to be called Zeminders. Thus all the persons or families known as Zeminders in 1790 were not merely collectors of land-revenue or tehsildars removable at pleasure. The office of Zeminder had, in fact, in most instances become hereditary, and they paid fixed sums of money to the Nabob's treasury, more as tribute than as land-revenue. The Nabob sometime extorted more money than the settled or customary amount, but that was not by right or law, but by might or violation of law. When the Government of India, that is to say, the power in England and the Governor General's Council in India, agreed in dealing with all these Zeminders in the same way as if they were feudal lords, some of them were no doubt raised in position and emoluments, but the status of many of them was lowered."

An idea of the Regulation I of 1793 (Permanent Settlement) may be obtained from the following Statement.

The Regulation I of 1793, passed on the 1st May, 1793 by His Excellency the Governor General in Council, contains the Proclamation making the Decennial Settlement of Bengal, Behar and Orissa permanent. Orissa at that time contained only a portion of the district of Hooghli and Midnapur—it included only the tract of country lying between the Rupnarayana and the Suvernakha. Orissa proper, which was conquered from the Mahrattas in 1803 is even now, subject to a temporary settlement. The Decennial Settlement was commenced in 1789 and completed in 1791. The temporary settlements made from time to time before that year had been found unsuccessful in a financial point of view, and the Proclamation was issued on the 22nd March, 1793, by which the Governor-General in Council declared, with the concurrence of the Court of Directors, that the Zeminders, independent taluqdars and other actual proprietors of land, with whom the Decennial Settlement had been concluded, would be allowed to hold their estates at the same assessment for ever, "and that the Jumma, which might be hereafter agreed to by the proprietors, whose lands had been held khas or let in firm, be fixed for ever" (Section 5 Regulation I of 1793). But "no claims for remission or suspension of rent was to be admitted on any account, and lands of proprietors were to be invariably sold for arrears" (Section 7 Regulation I of 1793). Proprietors were also declared to have the privilege of transferring their lands without the sanction of Government, and partition or division of estates was to be

freely allowed (Sections 9 and 10 Regulation I of 1793). These were the main provisions of the Regulation, which has sometimes been said to be the "Charter of the landed aristocracy of Bengal" (including her sister provinces.)

The *Amrita Bazar Patrika* very recently (in 1937 when the new constitution evolved) devoted several leading articles to eulogize Congress activities but could not tolerate Pandit Jaharlal Nehru's idealism and Mr. Huq's "Proja-Party Programme" to abolish Permanent Settlement. Its conclusion is very clear and candid; the relevant portion of which is reproduced hereunder.

"The extreme section of the Congress may, of course, preach revolution by abolishing the Permanent Settlement but that will only help the Hindu Minority Community to be crushed out of existence. *Will the Hindus of Bengal commit suicide for the sake of idealism?*"—(Amrita Bazar Patrika.)

In this connection the *Amrita Bazar Patrika* in a particular article tried its very best to impress that Bengal might escape such Congress programme and also that Mr. Huq would not attempt anything of the sort to abolish Permanent Settlement. Dealing with Pandit Nehru's proposals for attracting Moslems to the Congress banner it pointed out difficulties and dangers.

If the programme of Proja-Party, to abolish Permanent Settlement be properly explained to those, who are said to be its constituents, then they would surely themselves strike a death knell to such programme. The abolition of Permanent Settlement is sure to bring untold misery and poverty to both communities, Hindus and Moslems, without securing any benefit to the State.

This is the view entertained and explained by many a great man, which fact should not be ignored for the sake of idealism.

THE
PERMANENT SETTLEMENT
VINDICATED.

PART II.

It was reported by the press representatives in newspapers that a resolution was moved in the Bengal Legislative Council in the year 1933 (20-2-33) by a Member for the repeal of the provisions in the Bengal Tenancy Act, regarding landlord's transfer fee, pre-emption and enhancement of rent.

The report of the said proceeding is a key note as to in what way the wind blows. The head line of newspapers ran like this—"ATTACK ON BENGAL ZEMINDERS. Council criticism." It was an afternoon of much oratory and delving into the history of a subject that was discussed almost threadbare, at the last occasion of the Council, so the various accusations made from either side, that speakers were utilising old arguments without any new facts to light were probably justified. One may find further from the said report that turning the first heavy gun upon the Zeminders, the mover of the resolution, accused them of "Hypocrisy." He made an attack on the Bengal Tenancy Act which he said was a harsh law and the merciless operation of which was grinding down the tenants while the Zeminders pursed their lips—and the engine of exploitation steamed on as merrily as ever. The report added that a member from the opposite bench was quick to take up the challenge. He alleged that, far from being designed to benefit the tenants, the resolution was framed for the advantage of money-lenders and middle class people. Briefly, on one side, the resolution was championed as being relief to the sorely harassed tenantry, and at the same time giving the Zeminders a last chance voluntarily to put their house in order, while on the other side it was characterised as a sentimental piece of mock patriotism doing an injustice to the landlords without materially helping the raiyots.

It has been mentioned in Part III—Clause 20 of this work that a landlord may be either a proprietor, a tenure holder or a raiyot. A raiyot who sublets his holding or part of it to an under-raiyot is the

landlord of the under-raiyot. The reader's attention is invited to section 3 of the Bengal Tenancy Act on this point. The Bengal Tenancy Act was enacted with noble spirit to protect the interest of the tenants which fact can be ascertained from the report of the Select Committee and from the Act (Act VIII of 1885) itself. It was intended for the protection of the raiyots and the security of the landlord in realisation of their just demands. It has been already said that the Bengal Tenancy Act underwent complete changes in 1907 and 1929 and each change found the tenants placed in a far better position. If the legislators want to make the same more advantageous to the tenants then they must create some disadvantage to the landlords. The legislators should bear in mind that there are many other landlords in Bengal excepting Zeminders whose interests would be affected if the " Tillers of the Soil " are made the real proprietors. The supporters of the aforesaid resolution, it is reported, declared that " The tiller of the soil was the real proprietor." Therefore it is necessary to examine carefully the said theory. It has been clearly shown in Part I of this Booklet that in no period—Hindu, Budha, Mohammedan and British, this theory was accepted. The tillers of the soil had to pay rent in kind or coin in all ages. Then comes the question whether socialistic theory is involved in the said resolution. Apparently socialism does not support that " The tiller of the soil is the real proprietor." The socialistic theory introduces a state—which would take up a position like that of the real proprietor of the soil. In that case neither the Zeminders nor the " tiller of the soil " are the real proprietors of the soil. Any legislation which is to be introduced in the country must be very carefully and with an unbiased mind to be examined during the inception. The condition of the society should be scrutinised honestly before any drastic change of a revolutionary nature, is to be introduced by legislation. The interest of one class of people should not be ranked high in preference to others. Even the attempt to equalise the social condition by legislation was not supported by many distinguished authors of international reputation.

" Any legislation," says Bruce Smith, " which attempts the equalization of social conditions that is, such as involves interference by the state beyond the limits at which that interference is necessary to secure equal liberties or equal opportunities, is socialism " (See " Liberty and Liberalism " Page 618). Professor Ely said, " A socialist is one who looks to society organised in the state for aid in bringing about a more perfect distribution of economic goods and an elevation of humanity." Professor Garner says, " There are extreme socialists who advocate collective ownership and management of all industries, including land and capital, and the instrument of production and transportation. They would substitute state management, and joint ownership of the instruments of production in place of individual ownership, making of the state a vast compulsory co-operative commonwealth in which the means of production, distribution, and exchange are under the control of Government." For further reference the works mentioned below might be useful :

J. S. Mill " Fortnightly Review " April, 1879.

Ely " Socialism and social reform " Page 10.

Rae " Contemporary Socialism " Page 379 & 399.

Handley " Economics " Page 15.

Flint " Socialism " Page 16.

At this stage it may be mentioned that communism and socialism are not identical theories. " Socialists, however, refuse to identify socialism with communism." Professor Garner explains, " Communism, they maintain, stands for the holding of all things in common, while socialism emphasises community of industry, production and distribution only " (Introduction to Political science, page 300). It may be less shortly described as aiming at the progressive nationalization of industries with a view to progressive equalisation of incomes (Rae " Contemporary socialism " Page 399).

Now we shall have to find out in which cult, socialism or communism, we may classify the actions of the members of our society who would support resolution like that which was mentioned hereinbefore. The said resolution was moved in the Bengal Legislative Council on the 20th February, 1933 and the same was rejected by 45 to 36 votes. The margin by which the resolution was rejected was not very great and from the press report one may come to a conclusion that some members of the Legislative Council were not prepared to show any respect for the right of private property. One of the supporters of the resolution, it is reported, taunted the landlords or 99 per cent of them, with having no further interest in the tenantry than the rent derived from them. He further said like other opponents of permanent settlement that the landlord's income was of the unearned variety and there was no justification for the enhancement of rent. The mover of the resolution, it is reported, was offering the Zeminders a last chance to put the house in order by their own volition and he said that in two years the opportunities would be gone. He warned further that if the said resolution was not passed then the House would later deplore the action. It was reported that the then Hon'ble Revenue Member spoke for 45 minutes and finally endeavoured to show that the present was not a suitable time to amend any important section of the Tenancy Act and appealed to the mover to withdraw his resolution, which had no effect. It has been already said that the resolution was rejected by 45 to 36 votes. So it is clear that the tendency to strike at the very root of the permanent settlement Regulation, was germinating in the minds of the sufficiently large number of Members of the Legislative Council. Therefore one should consider very carefully whether the Permanent Settlement in Bengal is good or bad for the people, leaving the Zeminders' interest aside.

In three years' time the idea to abolish Permanent Settlement developed at a very rapid stride in the country. The Proja Party and the Congress Party are said to be championing the cause. More than one newspapers are also advocating for the same. If the

Permanent Settlement is repealed, let us assume, then the land reverts to the state is an irresistible conclusion. The State will have to resettle the lands with the cultivators and they would necessarily have to pay adequate rent to the State. The cultivators can never be the real proprietors of the soil on any account. Although it was contended by a member during the debate that the "Tillers of the soil were the real proprietors." The great prophet of Arabia once said "whoever cultivates waste lands does thereby acquire property in them." Mohamedan jurists differ in their interpretation of the text of the Koran. Abu Haneefa explained the text quite rationally and said that the mere cultivation of waste land is not enough to create a real right in the cultivator. Nor can the lands in Bengal be called waste lands. The cults of socialism and communism would not also support the aforesaid contention. In either case the state becomes the real proprietor. To make "the tillers of the soil the real proprietors" involves a question which would not stand test. The attempt was characterised as a sentimental piece of mock patriotism, doing an injustice to the land-lords (does not mean only Zeminders) without materially helping the Raiyots. Anyhow the tillers of the soil would have to pay adequate rent to the state.

The gospels of socialism, from which communism devolved, were very carefully examined by many thoughtful men and on the strength of Spencer's essay "The coming slavery" and Mill's "Political Economy." Professor James Wilford Garner, Ph.D. of Illinois University U.S.A. said, "Finally, socialism would involve, not an enlargement but a restriction of freedom, and a deterioration of the individual character. This point has been ably emphasized by Mill, Spencer and others. Under a socialistic regime society would have to be organised and controlled to some extent like an army. In absence of all self interest and incentive individuals would have to be disciplined and driven to the discharge of their duties and in place of freedom we should, according to some writers, have virtual salvery" (Introduction to Political Science page 307). This is also the opinion of W. H. Mallock, a well known English writer on Socialism. As to the ideals of the socialists Professor Ely said—"It is a glorious ideal, but it will never become a reality this side of the golden gates of paradise."

If the land-holders are divested from the ownership of the land and the "tillers of the soil" are substituted, then comes the question of equal distribution of lands amongst them (the cultivators). There must not be any inequality about the individual holding of land. The cultivator who is now holding 100 bighas of land may have to part with 80 bighas, for the equitable distribution. Besides the land will lose its marketable value. If no other person than the real cultivators are made owners of the soil then general public will refuse to take any interest for land. One can picture the condition of the cultivators during the year of a bad harvest or an unexpected failure of crops. The state will have to finance the cultivators in such years. The cultivators cannot get any loan from any private banking institution or private money lender, when any mem-

ber of their family is dying for want of medical help or he is unable to defend himself in the Court of law for want of lawyer's fee. He will be at his wit's end to feed and clothe himself and his family.

The opponents of socialism or state socialism expostulate that the socialistic theory starts with a false premises when it maintains that private property in land and the instrument of production is not only wrong morally but also economically. To substitute collective ownership for private ownership, even it were practicable, would tend to destroy one of the most powerful main springs of human endeavour and the chief incentive to individual effort and industry. It is further said that if the right of the individual to acquire property and to accumulate the product for his own use be taken away then it makes an end of all progress by destroying the incentive to labour.

The saying of Sir James F. Stephen that to try to make men equal, by altering social arrangement is like trying to make the cards of equal value by shuffling the pack, is hardly less true of all efforts to make men equal" in economic matters. "Socialism," says Laveleye "rests on the principle that the able, industrious, and provident should share with the stupid, the idle, the improvident, whatever may be obtained as the reward of their energy and virtue." This however, is stoutly denied by the advocates of Socialism.

It is now for the reader to think about the cult or the theory of the friends of the cultivators who often and on say that any one who derives income by letting out his land to cultivators should be ousted. If that be the conclusion of reader then all the land holders subordinate to Zeminders will have to be wiped out who are known as Pattnidars, Darpattnidars, Mourashders, Darmourashders, Jotedars. All the middle classes then will have no interest in land. On the above assumption there remain only the state and the "tillers of the soil." It was also reported that, a distinguished supporter of the said resolution had given a modern twist to an age-old problem during the discussion of the aforesaid resolution and he questioned "which come first, the Zeminders or the tenants?"

As he supported the above resolution it goes without saying that he puts the tenants first. The mentality of the majority of our people nowadays changed with the dissemination of socialistic idea which directed its attack on a particular problem that was most vital for all inhabitants of Bengal. The trend of thought is mainly focussed on the land reform by abolition of Permanent Settlement, as if there can be no real all-round economic progress for the masses without it. If socialism is to come then it must embrace all sections of the community. It would be against the principles of law, equity and good conscience to sacrifice the interest of so many classes of land-holders for the interest of one class.

It is honestly believed by many experienced English men that communistic creed cannot get foot-hold in India.

" On 13. 4. 37 said Sir Joseph Clay, Former Finance Member, United Provinces to a press representative on the eve of his departure from the coast of India after a long and responsible service to join the India Council as an adviser to the Secretary of State, "Love of property, even though a small piece of land is deeply ingrained in the Indian people; also, there is the religious aspect. Nothing can ever eradicate the sense of religion in India. Communism is opposed, therefore, to two fundamental deep-bred instincts of the Indian people and cannot get a foot-hold in India for these reasons. I do not believe that there is much scope for communism in India." He added further " Personally I believe that communism is a creed that could not possibly appeal either to the Hindus or the Moslems."

(vide *Statesman*, 14. 4. 37.)

Professor James Wilford Garner Ph.D. in his Introduction to Political Science at page 308 mentioned the names of certain states where socialism was tried and everywhere it resulted in failure.

He writes :—" The idea of socialism in the form in which it has been described above have never been realised in practice in any state. The Amana and Icarian communities in Iowa, the Shakers and Harmony society of Penn Silvenia, and various others represent attempts to realise in practice communistic principles; but they all resulted in failure and left behind only buried hopes and aspirations."

At page 312 he writes on the authority of Haltzendorff's conception and on the opinion of Bluntschli—" In considering the ends or purposes of the state we may distinguish between its end in general, and particular ends of a given state. We may also distinguish between the ultimate ends and the primary, immediate or proximate ends. The German writer Haltzendorff, in his " *Principien der Politik*," distinguished between the real ends of the state and the ideal ends. The real end of the state, he said are :—

" First, the development of the national power; second, the maintenance of individual liberty; third, the promotion of the social progress and civilization of the people. In short, national power, individual liberty, and the civilization of mankind, stated in the order of their importance, according to Haltzendorff are the real ends of the state. The first mentioned is the primary end; the last, the ultimate or secondary end. Neither conflicts with the other, but there exists harmony of purpose between them; and the great mission of the state can not be fully realised by neglecting one at the expense of the other."

Bluntschli followed Haltzendorff in rejecting as too narrow and fruitless the 'Justice' theory, which considers the end of the state to be merely the maintenance of justice among men, and the 'morality' theory, propounded and exploited by Hegel, which regards the mission of the state to be the realization of the moral law. Bluntschli, like Haltzendorff, attaches great importance to the 'General welfare

theory though he points out the mischief arising from the lack of an exact test for determining what constitutes the general welfare. He shows that "it has been the cloak for covering many political sins and justification for many arbitrary and despotic acts of the state." Many a distinguished authors refuted the theory of socialism by saying that socialism will never be practicable until there is a fundamental change in human nature, to some of whose deepest principles it runs counter. It is further said that "one error of the socialist is that he entirely over estimates the state's capacity and efficiency. He assumes that every business managed by a joint stock concern can be as well managed by the state and ought therefore be taken over and operated by it in the interest of the public. But experience and reason are against such a view. The more numerous and diverse the functions of Government, the greater the difficulties. Every thing would depend on the pleasures of the governors. A diminution of in the quantity and quality of production might be expected to result from the withdrawal of the stimulus of private incentive. Government Managers would be languid and without interest in the result, labourers would be without incentive and the state timid from which there would arise a diminished rate of progress, decreased production of wealth, with, finally, all probability a diffused poverty, which, besides being an evil itself, is one that threatens all the higher human interests. Finally, socialism would involve, not an enlargement, but a restriction of individual freedom and a deterioration of individual character. This point has been ably emphasized by Mill, Spencer and others."

The Proja Party in Bengal was formed to fight the election under the new reform of 1937, and it fought the election largely on promises of agrarian reform and created a stable party. The Proja party's main programme or at any rate one of it, is to abolish Permanent Settlement. On what principle they want to carry it out, is better known to the Party-Leaders. Besides the Proja Party there are many who are Lovers of the "tillers of the soil" and masses. The motive force of all of them is directed on one point, like the magnetic needle of a compass, that is, to plunge the country into drastic revolutionary change and to crush the landholders. They might have forgotten that they have got to consider other facts very carefully and humanely which vitally affects the interest of various classes of land holders, amongst whom Raiyots or Projas are included. It is human nature which makes the ardent lovers to forget other aspects of a problem in preference to one. The blind love is not safe guide. The great poet said:—

" Things base and vile, holding no quantity,
Love can transpose to form and dignity.

* * * * *

Nor hath Love's mind of any judgement taste ;
Wings, and no eyes, figure unheedy haste :

And therefore is Love said to be a child,
 Because in choice he is oft beguiled.
 As waggish boys in game themselves forswear,
 So the boy love is perjured everywhere : "

(*Shakespeare*—A midsummer Night's Dream).

The Proja Party and Congress party in their manifestos, during the last election campaign, made many promises to the voters like "Waggish boys."

The constitution which has been granted by the British Parliament by virtue of the Government of India Act, is born only on the 1st of April, 1937. So it might be called a new born constitution "mewling and puking in the nurse's arm"—an infant. Its next stage would be, as the poet said, "unwilling to school," to be schooled. The gentlemen who are entrusted by their constituents to cradle and nurse the new born constitution, should be very very careful ; so that they might not break its neck in forcing it to seek "the buble reputation, even in the cannon's mouth" at this stage. It is an old saying, attributed both to Sir James McIntosh and Sir Henry Maine that constitutions grow, instead of being made. The custodians of the infant Legislative Assembly should not "figure unheadly haste" to put on the legislative anvil an age old statute in order to hammer and break the same. Time and habit, said President Washington, in his farewell address, are at least as necessary to fix the true character of Governments as of the other human institutions. "Conditions must grow" observed Lord Browham "if they are of any value ; they have roots, they ripen, they endure." "Those that are fashioned," he continued, "resemble painted sticks, planted in the ground, as I have seen in other countries what are called trees of liberty. They strike no root, bear no fruit, swiftly decay and ere long perish."

To improve the economic condition of the "Tillers of the Soil" by abolition of the Permanent Settlement Regulation, on the assumption that "the tiller of the soil is the real proprietor," is a method which is bound to make the situation worst—that is from frying pan to fire.

"The lamentable change is from the best ;
 The worst return to laughter."

(Act IV, Scene I—King Lear).

The noble Lord Cornwallis' benevolent act—The Permanent Settlement Regulation, has been burning just like a little candle in this "Naughty World" and one might say like Portia—

"How far that little Candle throws his beams !
 So shines a good deed in a naughty world"

(THE MERCHANT OF VENICE—Act V, Scene I)

Others with different mentality might Say like Malcolm—

“But I have none : The King becoming graces,
As justice, verity, temperance, stableness,
Bounty, perseverance, mercy, lowliness,
Devotion, patience, courage, fortitude,
I have no relish of them ; but abound
In the division of each several crime,
Acting in many ways, Nay, had I power
I should
Pour the sweet milk of concord into hell,
Uproar the universal peace, confound
All unity on earth.”

(MACBETH—Act IV, Scene III.)

THE
PERMANENT SETTLEMENT
VINDICATED.

PART III.

1. In 1765 the East India Company obtained Diwani of Bengal, Bihar and Orissa, and that the revenue system which was then in force, was found to be the system that had been introduced by Akbar. The assessment was that originally made under the guidance of Toder Mall, Akbar's Finance Minister in 1582 and subsequently modified by revisions carried out between 1685 and 1750. (vide Aini Akbari, Muzafferpur Settlement Report.)

2. In 1769 that is four years after the acquisition of the Diwani, Supervisors were appointed to superintend the collection of the revenue and who were also directed to obtain a history of the tracts under their charge with regard to their "Condition, Revenue, Abwab, Capabilities of the Soil &c."

3. In 1772, on the basis of the enquiry and on the informations so compiled a quinquennial settlement was concluded for a large part of the Province and this was continued with certain variations till 1790.

4. In 1786 Lord Cornwallis arrived in India with instructions from Parliament and the Court of Directors to establish "Permanent Rules for the Settlement and collection of Revenue." His first step was to issue a set of interrogatories to "the most experienced of the Civil Servants" who were required to report on the following points :—

- (a) The amount of assessment proposed for each estate,
- (b) The persons with whom settlement should be made
- (c) The measures necessary to prevent the raiyats being oppressed and to secure the land-lords in realisation of their just demands.

5. In 1790, on the basis of the aforesaid informations a decennial settlement was made. This was made permanent by Lord Cornwallis in 1793 by Regulation I of 1793. The settlement-holders, their heirs, successors and representatives were exempted from any additional demand of revenue. In the words of the Proclamation issued on the 22nd March, 1793, "the assessment was irrevocable and unalterable. They were on the other hand, to pay in to the exchequer the assessed amount without any abatement."

6. That Lord Cornwallis safe-guarded the interest of every one. By Section 7 of the Permanent Settlement Regulation I of 1793, the Zeminders were required "to conduct themselves with good faith and moderation towards the dependant Taluqders and Raiyats." In Section 8 of the same Regulation, it was declared as follows :—

"It being the duty of the ruling power to protect all classes of people, and more particularly those who from their situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependant Taluqders and Raiyats and other cultivators of the Soil."

7. Marquis of Cornwallis, while recommending concession of proprietary right to the Zeminders did not forget to keep uppermost in his mind the interests of the cultivators and how those could be likewise protected. His Lordship expressed his views in his Report to the British Parliament and the Court of Directors which is obvious from the following quotations (vide Appendix to the Fifth Report No. 5).

"The privilege which the raiyats in many parts of Bengal enjoy, of holding possession of the spots of land which they cultivate, so long as they pay the revenue assessed upon them, is not by any means incompatible with the proprietary rights of the Zeminders. Whoever cultivates the land, the Zeminder can receive no more than the established rent, which, in most places is fully equal to what the cultivator can afford to pay. To permit him to dispossess one cultivator for the sole purpose of giving the land to another, would be vesting him with a power to commit a wanton act of oppression, from which he could derive no benefit." His Lordship added :—"With the fixity of the demand of the Government a spirit of improvement would be diffused throughout the country and the raiyats would find further security ;" and he hoped that, "without any further and detailed rules of law regulating the rights and obligations of the parties, the relations between the Zeminders and the actual occupiers of land would be smooth and that things would adjust themselves as of necessity with the fixity of Government demand."

8. It will not be out of place to draw the attention of the critics to certain observation made in his Tagore Law Lecture (page 275) by late Hon'ble Mr. Justice Sarada Charan Mitter, one of the most distinguished judges of the Calcutta High Court who made a

special study on the Land Law of Bengal and who could express his opinion consistently with law, equity and good conscience about the good intention of Lord Cornwallis in making the Permanent Settlement in Bengal. He said :—

“ The enquiries made and the discussions evoked on the proposal to make the Decennial Settlement permanent are highly interesting, and they afford materials for defining, with sufficient accuracy, the rights and liabilities of all classes of the Indian people at the time, either as owners or occupiers of land. The interest of the dumb millions who cultivated the land, and whose labour without capital was in truth the proverbial gold of India, was uppermost in the mind of the generous and truly noble Marquis, the Governor General.”

9. By the year 1799, the Settlement holders or Zeminders were in very great difficulty in realising rents from the Cultivators and Raiyats. In order to safe-guard the realisation of Government Revenues and for securing the Zeminders or Settlement holders in realisation of their dues, Regulation VII of 1799 (known as Haftam) was passed which gave the land-lords power to distrain the crops, cattle and other personal property of the Raiyats and in certain cases to arrest their persons for arrears of rent without reference to Court. On the other hand it should be noted that on arrears of Revenue being due, the Collector, under the law as originally framed, was required to serve a notice on the Zeminder and on his failure to pay, notwithstanding the service of the notice, the Collector had the option of confining the Zeminder otherwise called the Proprietor (vide Reg. XIV of 1793 Section 4). Before the end of the year 1793 the law had to be modified ; restrictions were placed on the power of the Collector to direct confinement of proprietors, and sales of estates were directed to be advertised even without the sanction of the Governor General but no sale was to take place without such sanction (vide Reg. III of 1794). A material alteration was, however, made in the law by Regulation VII of 1799, the practical effect of which was that the confinement of the defaulters for non-payment of revenue was abolished, the personal properties of defaulters and their sureties were made liable to be attached (vide Reg. VII of 1799, Sec. 23) and the Board of Revenue was for the first time authorised to conduct sales (vide Reg. VII of 1799 Sec. 30).

10. By Regulation V of 1812 (the Panjam) the power to arrest tenants for arrears of rent without reference to Court was abolished but the right to distraint remained.

11. That distraint was unknown in India until it was introduced in connection with the Permanent Settlement Legislation. It was described by Rent Law Commission of 1880 as a mere “ Offset of English Law ” (vide Rent Law Commissioner's Report, para 4).

12. The land-lords were vested with the afore-said powers to realise their just dues from the tenants and these measures were justified at the time for securing the collection of the land Revenue.

The point being that as the Government had the right to sell up the estates of the Zeminders for failure to pay the land revenue, it was necessary to give the Zeminders corresponding powers as regards their Raiyats, in the event of the failure of the latter to pay their rents.

13. On above point Sir William Hunter in his Introduction to the Bengal MSS records wrote as follows :

“ The laws of 1799 and 1812 are so painfully associated in subsequent history with harshness to the cultivators, that it is necessary to emphasise the forgotten fact that they were at the time considered indispensable for the preservation of the landholders. I therefore quote a remarkable statement by a Bengal Administrator, whose authority on such questions is beyond dispute. “ It may not be generally known ” wrote the late Mr. Buckland, “ that the Regulation of 1799 was enacted in order to save the perpetual settlement, the existence of which was then imperilled by the excessive independence which the raiyats (cultivators) enjoyed. For although it is now the custom to say that the rights of the raiyats were not properly protected in the perpetual settlement, it turned out at the time that they could take such good care of their rights that the Zeminders could not collect their rents from them until the Government came to the rescue of the Zeminder, and made the raiyats liable to arrest for default of payment of rent.”

14. The Regulation VIII of 1793 was passed after the Regulation I of 1793 and by section 67 of the said Regulation, it was enacted that the proprietors should be bound by the restrictions in their “ Kabuliyats.” The provision for the exchange of “ Patta ” and “ Kabuliyat ” between the Zeminders and their tenants served the two-fold purpose of the protection of the raiyats and the security of the land-lords in the realisation of their just demands; as well as of showing the rent legally payable and the exact area leased out. The tenants at that time did not think it lucrative to take lease of lands at a fixed rate of rent. For many years the Zeminders could not let out their lands. In some districts vast tracts of lands were constantly being washed away by rivers; where the alluvian lands could not be let out until it becomes cultivatable by gradual deposit of silt, a process which takes a long time. The Zeminders have got to pay the Revenue in full to the Government without getting any remission for the diluviated lands. On the other hand the tenants could cease to pay the rent as soon as the diluviation occurs. On these heads the Zeminders have had to suffer losses right upto the present time. The tenants were then not agreeable to bind themselves to pay any considerable fixed rent. It will be found in Darbhanga Settlement Report para 70 that it was “ more the fault of the raiyat than of malik, the raiyat being adverse to bind himself to pay any considerable fixed rent.”

15. The Regulation VII of 1812 gave the Zeminders certain power to realise their just dues from the tenants without undergoing much expenditure in law suits and that might be said was the means to

avoid the law's delay. Furthermore as Mr. Buckland wrote the raiyats " could take such good care of their rights that the Zeminders could not collect their rents from them until the Government came to the rescue of the Zeminders." But subsequently the landlords were divested of the afore-said powers and they have now got to bear a heavy expenditure in realising their just dues with the help of law courts, the machinery of which is most complicated, often harassing and very costly. The raiyats nowadays have become much more competent to protect their interests and they know very well how to defer the realisation of rent. The truth of this may be ascertained from the number of rent suits that are being instituted annually by the landed proprietors against the tenants and the nature of defence that is usually being taken, viz., " denial of the relation of land-lord and tenant," by the tenants almost in all cases. It has become nowadays a very difficult job for the Zeminders to realise sufficient amount from the tenants to meet the payments of Government Revenue and the Road and Public Works Cesses. The smaller Zeminders are in much more difficulty. The investments were made in landed properties in Bengal after the Permanent Settlement by a class of people who made money by different avocations in life and they thought it wise to invest the same in lands, in many cases, with the idea, that no thief or dacoit could carry it away, eventhough the return of profit was small in comparison with other classes of investments. The margin of profits can be ascertained from the Records of Right prepared by the Government.

16. It is a hard lot for the land holders to reconcile their position with the idea which is gaining ground that they are enjoying an un-earned income, as if they are the only blessed creatures who are enjoying the fruits of the accumulated wealth. Highly educated men including Professors of Economics, Members of the Civil Service and Judges, are found to share the same view at the present time. The persons who have no vested interest in the soil of Bengal may draw a hasty conclusion against the noble spirit which guided the grant of Permanent Settlement of lands in Bengal and in several other parts of India. The critics should not make light of the fact that a man like Mr. R. C. Dutta, over a hundred years after the passing of the Permanent Settlement Regulations, advocated the extention of the Permanent Settlement to other parts of British India. There were many important facts and figures which, Mr. R. C. Dutta wrote in a series of letters which he addressed to Lord Curzon, in the course of the year 1900, that is, 107 years after Permanent Settlement Regulation was passed for the extention of the Permanent Settlement. From other sympathetic friends of India, who had devoted careful study to the subject of the Land Revenue Problem in India, a number of representations were also forwarded to the Government about the same time for a favourable consideration of the problem. Therefore the critics should consider the vital question of many a soul with due care and caution. Very recently in December, 1931 Lord Willingdon, the Viceroy of India, who is not a new-comer in India, was pleased to assure the Land Holders of Bengal in these terms—" I can assure you that any measures entailing consequences of such a

far-reaching and even revolutionary nature would not meet with my approval." Similarly lesson might be gathered from the words of the great poet—"Fools rush in where Angels fear to tread."

17. In 1854 Lord Dalhousie rejected the proposal of imposition of taxes in rural villages for the maintenance of improved Police and that he gave the matter a careful consideration which will be apparent from the fact that he consulted Sir Barnes Peacock, the eminent jurist and statesman (then Law Member of His Excellency's Council). The Law Member raised the question whether Government had a legal right under the Permanent Settlement Regulations to impose a tax on the land owners "for local purposes." The point was raised as follows :

" It has also occurred to me to ask as to whether the land holders might not be taxed for local purposes but I think this could not have been the intention at the time of Permanent Settlement. It is clear that the Zeminders were to have the benefit of all improvements.

The 1/11th of the clear rental which was allowed to Zeminders could not I think have been intended to be taxed even for purposes." His Lordship (Lord Dalhousie) considered the above opinion of his Law Member and made a statement to the effect " I am, therefore, the more bound to say that the clear reasoning by which he (Sir Barnes Peacock) has supported his opinion, adverse to the levy of the proposed rates on the holders of lands, has fully convinced me that this Act should not be extended to rural villages."

18. The exact wordings of sections of the Permanent Settlement Regulation, being Regulations I and VIII of 1793 ought to be the guiding spirit to ascertain the proper state of affairs under which the Government granted the Permanent Settlement. It is on these declarations which were made in connection with the Permanent Settlement, that all subsequent agrarian legislation in Bengal has been based.

19. All the important legislative measures, from Act X of 1859 and Act VIII of 1885 (Bengal Tenancy Act), together with all its modifications and amendments upto the year 1929 have dealt with the two objects, viz., the protection of the raiyats and the security of the land lords in realisation of their just demands. Those were the very intention of Lord Cornwallis and he mentioned them in his instructions of 1786. The Bengal Tenancy Act underwent complete changes in 1907 and in 1929 and each change found the tenant placed in a far better position. The raiyats can now mortgage, make a gift and transfer by sale their occupancy holdings and they can improve their homestead by erecting masonry buildings and they may excavate tanks and cut down trees under certain restrictions. Hence it follows that the interest of the poorest raiyat will be adversely affected if the Permanent Settlement is repealed.

20. Now may be placed before the critics the substantive meanings of the different classes of land lords and tenants in the words of late Mr. Justice Rampini (Sir Fulton) in conformity with Section 3 of Bengal Tenancy Act; in order to explain the expression, "Many other land lords and tenants in Bengal", used by Lord Willingdon in his reply to the Bengal Land-holders' Association, mentioned above.

"A land-lord may be either a proprietor, a tenure-holder or a *raiyat*. A proprietor is the owner of an estate or sharer of an estate. He may sublet his estate or a share of it to a tenure-holder, in which case he is the land-lord of the tenure-holder, or he may manage his estate himself, in which case he is the land-lord of the raiyats who hold the land directly under him. Similarly a tenure-holder may sublet his tenure to a subordinate tenure-holder in which case the former is the land-lord of the latter. Or, if a tenure-holder manages his tenure himself he is the land-lord of the raiyats who hold under him. A raiyat's interest is called a holding. A raiyat who sublets his holding or part of it to an under-raiyat is the land-lord of the under-raiyat."

Therefore it may be said that a raiyat may be a land-lord, so the word land-lord or Zeminder does not carry a special charm. "Zemin" means land and "Der" means holder. Similarly Patnider, Ijerdar, Borgader. There is nothing to be found special in the coinage of name Zeminder.

21. In the year 1883 Lord Ripon, who was said to be one of the best friends of India, introduced the Bengal Tenancy Bill in his Council. Perhaps the best account of the aims and objects of the framers of the Bengal Tenancy Act is to be found in the speech of Lord Ripon, the Viceroy, while introducing the Bill in Council.

Lord Ripon said,—“We have endeavoured to make a settlement which, while it will not deprive the landlord of any of their accumulated advantages, will restore to the raiyats something of the position which they occupied at the time of the Permanent Settlement, and which we believe to be urgently needed, in the words of that settlement, for the protection and welfare of the taluqdars, raiyats and other cultivators of the soil, whose interests we then undertook to guard, and have to our shame too long neglected. (Vide Selections from papers relating to the Bengal Tenancy Act, 1885, pages 140—41).

22. In the year 1885, Lord Dufferin, the successor of Lord Ripon, in putting the motion that the afore-said Bill should be passed, was pleased to say what he believed.—“It is a translation and reproduction in the language of the present day of the spirit and essence of Lord Cornwallis's settlement, that it is in harmony with his intentions, that it carries out his ideas, that it is calculated to ensure the results he aimed at, and that it is conceived in the same beneficent and generous spirit, which actuated the original framers of the Regulations of 1793. Lord Cornwallis desired to relieve the

Zeminders from the worry and ruin occasioned by the capricious and frequent enhancements exacted from them by former Governments, and it is evident from his language that he expected they would show the same consideration to their raiyats'. (Vide Selections from papers relating to Bengal Tenancy Act 1885 page 584).

23. It is in fact one of the most remarkable features of the discussion of the Bill which subsequently became the Bengal Tenancy Act, that the Permanent Settlement Regulations were treated as the final test by which all proposals were to be tried. And it is therefore, clear that for the comprehension of the principles of the Permanent Settlement Regulations and the Tenancy Act some familiar historical facts should be placed before the critics in the above chronological order.

24. Soon after the passing of the Act VIII of 1885 (Bengal Tenancy Act) practical working of it gradually revealed many defects, to remedy which a number of amending or supplementary Acts had to be enacted, although attempts were made by its framers to define more particularly the rights of the raiyats and how their interests could be safe-guarded. For easy reference a list of the amending Acts, is appended below :—

Amended Act VIII of 1886.

Ben. Act III of 1898

Ben. Act I of 1903.

Ben. Act III of 1913.

Ben. Act X of 1923.

Ben. Act I of 1925.

Repealed in (part) and amended :—

Beng. Act I of 1907,

E. B. & A. Act I of 1908.

Act XXXVIII of 1920.

Beng. Act IV of 1928.

Supplemented :—

Beng. Act III of 1895.

Modified—1928—29.

APPENDIX I.

When the printing of this book was almost completed, 14 answers of Pandit J. Nehru, the President of the Congress, in reply to 14 questions of the Chairman of the "Moulmein Nehru Reception Committee" was published in Amrita Bazar Patrika, dated 23rd May, 1937 (at page 10) which has got some bearing on the subject dealt with in this book, therefore this subsidiary addition is made. The full questionnaire with its reply is set out in appendix II of this book. The relevant questions and answers are dealt with hereunder.

QUESTION No. 3 .. Would it be possible to obtain Purna Swaraj (complete Independence) by working the Government of India Act?

ANSWER .. "Certainly not. Therefore the Congress rejects the Act utterly."

QUESTION No. 4 .. If it is not possible what is the object of the Congress Party entering the Legislative Councils?

ANSWER .. "To wreck the Government of India Act and work for a constituent Assembly."

QUESTION No. 9 .. You have heard that the House of Representatives in Burma refused the demand in Part I of the Budget by which the allowance of 18,000 pensioners were affected.

QUESTION No 10 .. If such a thing happens what would you suggest to remedy or rectify the error?

ANSWERS TO 9 AND 10 TOGETHER "I do not know anything about the particular matter. But given responsibility what the Legislature does must be presumed to be correct."

From answers 9 and 10 of Pandit Nehru we find that although the allowance of 18,000 pensioners were disallowed by the House of Representatives in Burma he, the President of the Congress, is pleased to declare to the world with his courage of conviction, "But given responsibility what the Legislature does must be presumed to be correct."

The answers to question Nos. 9 and 10 do not require any comment. It might not require enough intelligence to understand the reason of the British Parliament to provide safe-guard in the

Government of India Act. There is a saying in India that iron should not be given in the hands of children. The Constitution granted to India in 1937 is a child-constitution. Therefore the "safe-guard" was not an unnecessary adjunct to the Government of India Act, might be said according to the afore-said saying. The readers are perhaps aware as to how the Congress could capture seats in the Legislative Assemblies in India. The report of the special officer of the Behar Election was published recently. It gave a clue to the tremendous enthusiasm with which India's illiterate voters exercised their franchise, was reported by Mr. W. G. Lacy, Election Officer of Behar.

He says : " But of all forms of electioneering infinitely the most effective was the magic appeal of Mr. Gandhi's name which secured lakhs of illiterate voters who had no idea of the identity of the actual candidate." One favourable congress slogan was " If they feed you with Puris eat them, if they board you on motor cars get into them, but at the polling compartment be careful " (vide report Patna dated 17-5-37 appeared in the Statesman on 18-5-37 at page 10).

In case of literate voters, the majority of them exercised their franchise to support Congress candidates by the Magic name of the Congress, although the Congress openly declared its avowed policy to wreck the constitution, to be formed under the Government of India Act. Pandit Neheru admitted the fact that " the mandate was given by the Indian National Congress to Mahatma Gandhi to claim at the Round Table Conference Purna Swaraj, meaning complete independence, to give the nation control over the Army, external affairs, finance, fiscal and economic policy." (Vide question and answer No. 1 in Appendix II.)

When the Budget for the allowance of 18,000 pensioners were disallowed by the House of Representatives in Burma this year, taking the fact to be correct, the President of the Congress thinks that once responsibility is given " what the Legislator does must be presumed to be right." This prompting of equity and good conscience might have come from the fact that the pensioners had the misfortune to serve the king and the country faithfully so they should be made to starve with family.

When the Government of India Act was in the making, there was a particular deliberation in the Congress Camp to fix a quota of India's liability on the head of 'Public Debt,' in order to be able to pay interest of such loans which were obtained by the Government of India for the actual benefit of the country itself from time to time, by issuing Government securities, War bonds and War loans etc., Because the Congress leaders were of opinion that if Self-Government or Dominion Status was granted then the Indian Finances should not be saddled with the burden of loans, which were not actually obtained and spent for the benefit of India. This was a problem no financier could solve and decide to the satisfaction of an young person who wanted to repudiate the debt, incurred by his predecessor

but at the same time desired to inherit his property, free from encumbrances to such extent, as he thought, was not incurred by his predecessor for his personal benefit, according to his own calculation. In accordance with the same equity and spirit the Houses of Representatives of India, who might have secured seats under the tricolour flag of the Congress, would have disallowed from the budget the items showing payment of interests of several issues of Government of India loans. This act of the Legislature must have been presumed to be correct by the Congress or its President. The unfortunate subscribers to the Government of India loan would have been satisfied with their lots, because in the light of their folly they did not obtain opinion of authority like Prof. Barriedale Keith, whose name Pandit J. Neheru cited in his answer No. 8 Appendix No. II hereto, in connection with the demand of the Congress for obtaining undertaking from Provincial Governors for their non-interference with the policy of the majority of the House.

It has been pointed out in the preface already that Mr. G. D. Birla deplored in a meeting recently the tendency of socialists to run down capitalists personally and to call them blood suckers and exploiters. Capitalists and Landholders are in the same category. They are not in the good book of the Congress Socialist Party.

From the above fact one might draw a conclusion that the Congress Socialist Party would sanction if the Legislator rules that all land holders and Capitalist should be deprived of their lands and capitals and they also to be hanged or made to pitch the Congress Socialist Party's tents to hold their sitting, to arbiter the fate of the unfortunate creatures of the God's creation who are to be wiped out from the very face of the earth, according to the gospel of socialism and communism, whose prophet incarnate is the Leader of the Congress Socialist Party. With his mighty followers, who are working with him to revolutionise the culture of India, he might possibly aspire to bring about a state of thing which Mahatma Gandhi said could not germinate in India. Mahatma Gandhi said "Meantime the idea must be dismissed that there could be germinated in India any movements inspired or coloured by communism. In India there was no trace of it and there could be None." This he said in 1931.

In 1937 the above prediction is proved wrong which will appear from a circular letter issued to various Districts Parties in Behar by the Secretary of the Bihar Socialists Party. It is reported by the local correspondent of Amrita Bazar Patrika from Patna dated 21-5-37 and published in the paper on 23-5-37 at page 6 under the heading.—"Socialists and Future Struggle." A few lines are reproduced here under, for the reader to judge the tenor of the language. It runs as follows :—

Patna, May 21 "Every day that passes strengthens the conviction that the Congress Socialist Party has a great role to play in the political future of our imperialistically exploited country," says the

Secretary of the Bihar Socialist Party in course of a circular letter issued to the various Districts Parties in Behar. "The development of the anti-imperialist struggle in this country and the furtherance of the fight for freedom is largely dependent on the growth of party like Congress Socialist Party. A review of the incidents in connection with the Anti-constitution demonstration on the 1st April will convince anybody that the brunt of the struggle in the coming years will have to be borne by the Congress Socialists and the socialistically inclined sections of the Indian National movement. Let there be no mistake."

"It is time therefore we gave greater attention to the work of strengthening the party membership and the party cadre and organising the party in those districts where it does not exist in an organised form."

It will appear from the above circular letter that the Congress Socialist Party is apparently organising the propaganda in an organised form. Pandit Nehru himself said in answer to question No. 4 (appendix II hereto) that the congress wanted "to wreck the Government of India Act and work for a constituent Assembly."

Now one might find from the History of the French Revolution as to what was the result of the working of the constituent Assembly that was formed in France during the reign of Louis XVI (May 1789-September 1791).

"There was no expression of dissatisfaction either with monarchy itself or with the reigning dynasty, but there was a general demand for a 'Constitution' for improvements in prison and hospitals, and for reforms in economic, ecclesiastical, and political matters. Some quoted Cicero and some Rousseau. Some were essays on the liberty of the individual."

Voltair's Philosophical letters and his other writings added fuel to the fire.

Some say that writings of Rousseau bore fruit in French Revolution.

The action of Paris—July 11-14—The next scene of the Revolution was laid in Paris. The prisoners of the Bastille were ostentatiously set free and all sorts of Revolutionary acts were committed.

The cause of democracy was to suffer dearly for the comprehensiveness of its claims, and for this reason it was a mistaken measure of policy. The end of the Constituent Assembly was proclaimed by fire works and illuminations and tricoloured flags and the king, walking about among his people in the Tuileries gardens was greeted on all sides as *notre bon roi*.

The situation further described in the History. "It is easy to criticize the work of the Assembly. It left a heritage of problems at

home and abroad ; it had destroyed wholesale a system of administration ; it had opened the way to mob rule ; it had enunciated dangerous theories ; it had created a religious schism and defied international law ;”

II. The Legislative Assembly (October 1791 September 1792).

The description of the personnel of the Legislative Assembly might be quoted from the history to give an idea as to the probable cause of the second Revolution.

“ The Legislative Assembly, which met the day after its predecessor was dissolved, was full of untried men, with plenty of ideas and an abundance of eloquence, but new to experience and new to glory. There was a preponderance of lawyers, many of whom had won a local reputation for revolutionary ardour and were ambitious to play a part on a larger stage. It was a new generation of young revolutionaries dazzled by dreams of unprecedented opportunities, lured by the glamour of Paris, and not indifferent to the eighteen francs a day which they received as deputies.”

(*Vide page 66—A History of Modern Times, By Mr. D. M. Ketelbey M.A., Editor of “European History from the fall of Rome to the eve of the French Revolution.”*)

The Girondists and Jacobins—“both parties set themselves to stimulate the forces working against the Crown, to undermine its defences, to provoke assaults upon it, and foster disorder which best served their cause. They flattered the mob and gave servile homage to its panic.”

“ The outcry against profiteers and traitors they turned against the king ; bread riots and financial speculation were also laid at his door.”

Three outstanding events marked the progress of the policy of the Jacobins and Girondists—June 20—August 10 and September 2-6.

The Second Revolution

August 10 was the last day of the old monarchy and the crucial date of the period. The incidents of the day itself can not be told here. Amid many scenes the old French monarchy came to an end, amid treachery and brutality, pathos and heroism, the helplessness of the king, the blood-lust of his people. The triumph of the Jacobins and of the people was proclaimed to the world. The prisons were soon filled with aristocrates and suspects, friends of the king, friends of the enemy, priests etc., But the world will not forget the massacres of September 1792. The nature of the mock trial and execution of “Justice” upon about 1600 persons soils the pages of History.

The history of the French Revolution still proclaims of Vergniaud scorning of the guillotine prepared for him by his own countrymen:—of Mme. Roland's cry. "Oh, Liberty, what crimes are committed in thy name."

An insurrectionary Government, to be known in history as "commune" was set up. The Terror of July 1793 to July 1794. "In Paris heads fell like slates," during the time of Robespieri, apostle of Rausseau.

"There grow up, therefore, on the foundation of public safety one of the greatest tyrannies of history; democracy turned dictator and then persecutor and the Republic of '92 became the Terror of '93 and '94."

"Man's Freedom in Danger"—This was the headline of a press report appeared in the Statesman on the 20th May 1937, in connection with the address of Mr. Stanley Baldwin to a rally of Empire youth at the Albert Hall on the 18th May.

Premier's warning to the youth Rally was that "Europe stands at armed attention."

He said "The big problem of the world in the next quarter of a century will be the problem of Governments." He admitted that it sounded dull, but he exhorted his young audience to take an interest in the Government.

He also quoted a fine phrase which had been said by his friend General Smuts.

"Humanity has struck its tents and is once more on the march, but it is not certain whether it will march forward to the promised land or backward to the wilderness of suffering and sorrow."

The Primer further said—"Individual freedom, which was to have been the fruit of victory in the last war, is again in jeopardy because it has been taken from men in other lands."

The facts are assigned to the readers to draw their own conclusions as to whether Individual Freedom and Right of Private property are in jeopardy here in India.

None can predict the lights and shadows of history's Keleidescope.

APPENDIX II.

Amrita Bazar Patrika, dated 23rd May, 1937. Page 10.

PANDITJI EXPLAINS AGAIN.

14 QUESTIONS

PUT BY PROMINENT BURMAN AT MOULMEIN.

Rangoon (*By Air Mail*)

During his recent flying visit to Moulmein, Pandit Jawaharlal Nehru was requested by U Tun Win, Chairman of the Moulmein Nehru Reception Committee, to answer fourteen questions regarding Swaraj, Ministry and Congress and electoral position of Indians in Burma.

The following is the questionnaire with its reply :

No. 1. Is it a fact that the mandate was given by the Indian National Congress to Mahatma Gandhi to claim at the Round Table Conference Purna-Sawaraj, meaning "Complete Independence," to give the nation control over the army, external affairs, finance, fiscal and economic policy?

Answer, "Yes."

No. 2. Has this claim been granted by the Government of India Act?

Answer: "No. Very far from it."

No. 3. Would it be possible to attain Purna Swaraj by working the Government of India Act?

Answer: "Certainly not. Therefore the Congress rejects the Act utterly."

No. 4. If it is not possible what is the object of the Congress Party entering the Legislative Councils?

Answer: "To wreck the Government of India Act and work for a Constituent Assembly."

No. 5. Will a Governor allow a party to form a Ministry if its sole object is to wreck the Reforms?

Answer: "In several provinces Governors have actually invited Congress leaders to form Ministries in spite of the declared policy

of the Congress to wreck the Reforms. The Congress leaders refused to form Ministries because Governors did not give assurances not to interfere."

No. 6. Is it not a fact that a Ministry in a democratic country accepts office to work the constitution ?

Answer : " It is an undoubted fact in a democratic country. This however does not apply to India which under British rule is not a democratic country. The Act is not democratic."

No. 7. Is it not your candid opinion that the rejection of the Reforms and acceptance of office are inconsistent ?

Answer : " They are inconsistent. But the fundamental inconsistency lies in the Act itself. The Act talks of responsibility but does not give it. Therefore the Congress enters the Councils to destroy it, not to work it. A person may in theory accept office not to co-operate but to work for a revolutionary change as far as possible."

No. 8. Would it be possible under the Government of India Act for the Governor to give a pledge that he will not exercise his powers of veto and certification ?

Answer : " Yes, many eminent jurists, including Prof. Berriedale Keith, have declared that Governors may give the assurance demanded by the Congress."

No. 9. You have heard that the House of Representatives in Burma refused the Demand in Part I of the Budget by which the allowances of 18,000 pensioners were affected ?

No. 10. If such a thing happens what would you suggest to remedy or rectify the error ?

Answer to (9 and 10) together : " I do not know anything about the particular matter. But given responsibility what the Legislature does must be presumed to be right."

No. 11. Do you think that Communal representation in the legislative bodies is the greatest hindrance towards Home Rule ?

Answer : " It is bad and a hindrance but it may not be the greatest hinderance."

No. 12. You know in Burma the Burmese have no difference of castes or creed ?

Answer : " Yes."

No. 13. Do you not think that Indians in Burma should all join in the common electorate instead of claiming for a separate communal representation ?

No. 14. There are 13 Indians out of 132 members in the House of Representatives. Do you think they are able to protect their interests ?

Answer : " Certainly not if it means in the opposition to the great majority. But they may do so in co-operation with Burmans."—(A. P.)

APPENDIX III.

In 1937 Dr. Alum, M.L.A., wants Permanent Settlement in Punjab, as will appear from the Press report. Dr. Alum, M.L.A., of the Punjab Legislative Assembly, it is reported by Associated Press from Lahore, dated 29th May, 1927, had given a notice of motion in the Punjab Legislative Assembly for the appointment of a Committee, composed of some of the members of the Assembly, to draft a bill for the Permanent Settlement in Punjab (vide Ananda Bazar Patrika, dated 2-6-37 page 4).

The Statesman on the other hand is over zealous to abolish the same in Bengal and has been devoting its energy to write on the subject in its Editorial and Occasional Notes columns. One of such articles dated 8-4-37, from its editorial, is mentioned in the preface of this book and the other dated 31-5-37, from its occasional notes, is set out in this Appendix to show how it forestalled the course of events. The paper comprehended more things than a cool brain could apprehend ; this much can be said in the language of Shakespeare.

The Statesman, dated 31. 5. 37.

Occasional Notes.

"Some of our contemporaries seem to be labouring under a wrong impression regarding possible legislation on the Permanent Settlement. It was made clear in the Parliamentary debate on the Instrument of Instructions to Governors that there was no bar to the introduction of legislation on this subject. Previous sanction will not be withheld. A bill will go through all the usual stages. Although it will not be assented to without reference to high authority in this country and afterwards in England, the attitude of the legislature as a whole and also the strength of Provincial feeling will certainly be considered. Land law reform is a general demand ; there need be no apprehension of all land legislation being finally turned down merely because a procedure and a form of veto has been mentioned in this context."

The Statesman,

Brochure No. I

THE
Permanent Settlement in Bengal
(A study on its economic implications)

3

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P R E F A C E

The importance of a detailed study on the land questions of the province of Bengal need not be emphasised. Bengal is essentially an agricultural country and all of its problems are more or less bound up with the problems of the land. It was the unfortunate privilege of the writer to be in the field of journalism for a good number of years, and there I discerned, that land questions of the province were wrapped up in confused understanding; and necessarily, the veil of haziness in the discussion of public affairs thickens, far from being lifted. Since then I undertook the study of the land questions of our province. In the present pamphlet, I have only attempted to remove certain popular misconceptions about the Permanent Settlement in Bengal. In the series that would follow, of which the present is only a beginning, I would like to deal with the other aspects of the question.

My object has been to study the question without preconceived bias or prejudice. I would state. I would not advocate. I know that the mist of confusion can only be scattered away by the light of understanding.

My hearty gratitude is to those whose unstinted encouragement I received in the execution of my plan.

S. S.

Calcutta, 1st January, 1933

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THE PERMANENT SETTLEMENT IN BENGAL

Prejudice thrives best on ignorance. In season and out of season, Economists have criticised the Permanent Settlement as a hurtful institution. They aver that the institution is responsible for the concentration of wealth in the hands of zemindars and for the impoverishment of the cultivators; they further hold that the zemindars can and do act arbitrarily and the State because of the Permanent Settlement Regulations of 1793 loses considerably by being committed to a fixed land revenue. The ignorance of people has been fanned by the prejudice of economists. It is strange that an agitation against the Permanent Settlement has been cooked up in the country exploiting the economic helplessness of the ryots without giving any thought to its real source. Wilful misrepresentation will cause and is causing great harm to the country. People have been drugged into the belief that the Permanent Settlement is at the source of all troubles and naturally the popular venom is pouring on this old institution. We could not dismiss this as the passing blast of popular opinion because it is backed and supported by interested economists and so-called publicists. The atmosphere is thus charged with ill-will and distrust and the light of Truth is necessary to scatter it away.

Without unnecessary dogmatizing, I would place facts that can dispel popular ignorance. In this paper I propose to show that (1) the landlords do not intercept a large profit, (2) the cultivating class of Bengal is not worse off than that of other provinces and that is due to the

Permanent Settlement, (3) the landlords cannot act arbitrarily, (4) the Government do not stand to lose in the long run for the Cornwallis Regulations, (5) an attack on the fundamentals of the Permanent Settlement Regulations will be a blunder and an injustice.

1. The so-called affluence of rent-receivers

The province of Bengal (British Territory) consists of 76,843 sq. miles. Out of this area, 59,000 and odd sq. miles is the area under Permanent Settlement; 6,000 and odd sq. miles is the area of temporary settled estates and 5,000 and odd sq. miles is the area of the estates held direct by the Government. To get at the average income of the land-holding unit, we are to find out the total rent roll and the total number of estates.

Gross Rental * of Bengal as shown in Road- Cess Return (figures taken from Appendix of the Land-Revenue Administration Report of the year 1930-31)				15,98,71,387
Collection Charges at 10 p.c. ...	...	...	...	<u>1,49,87,138</u>
				14,48,84,249
Less Land Revenue ...	...	...	...	<u>3,01,76,036</u>
				11,47,08,213
Less Cess ...	...	...	...	<u>89,28,974</u>
				10,57,79,239

Thus we find that after deducting from the gross rental of Bengal the outgoings in the shape of land-revenue, cesses and collection charges, the net income intercepted by landlords of Bengal is Rs. 10,57,79,239. The figure

* Be it noted that this rental includes assessment on coal mines, tea plantations, summary valuations and the rental intercepted by under-ryots and burgadars (about 3 crores) and khas Mahals and accordingly in the above calculation, allowances for these factors would be taken into consideration. But there is another factor: the rental does not contemplate the loss in litigation and bad debts and that is not insignificant in the province.

indeed shows a large amount but if we come to averages, we would be able to find out the real position.

Total number of revenue paying estates	106,208
Total number of revenue free estates	30,859
Total number of rent free tenures	33,807
Total number of rent paying tenures	5,613,723
	<u>5,784,597</u>

(The figures taken from the Land Revenue Administration Report of Bengal for the year 1930-31).

Thus the total number of land-holding units in Bengal is 57 lakhs and odd. The average income of each land-holding unit comes therefore nearly to Rs. 19 a year. It is common knowledge that there are co-sharers to each unit. In Mahammedan families, the numbers of co-sharers are larger than those of Hindu families, the law of succession being responsible therefor. On a modest figure we might take that every unit carries at least 3 co-sharers in which case the average income of every land-lord is something like Rs. 6 per annum.

The comparative poverty of the zemindars may be gauged from other sources. The total number of voters in the landholders' electorate for returning a member to the Legislative Assembly is only about 700 in Bengal. The minimum income † of Rs. 12,000 a year entitles a landholder to be an elector to the Legislative Assembly. From the figures of revenue-paying estates and revenue free estates it will appear that there are about 1 lakh 36

† "A person is qualified as an elector for a landholders' constituency who has a place of residence in the constituency and who during the previous year—

(1) In the case of Burdwan Landholders' and the Presidency Landholders' Constituencies, paid, on his own account as a proprietor, land revenue amounting to not less than Rs. 6,000, or road and public works cesses amounting to not less than Rs. 1,500, or
 (2) In the case of the Dacca, the Rajshahi and the Chittagong landholders' constituencies, paid, on his own account as a proprietor, or a permanent tenure-holder, land revenue amounting to not less than Rs. 4,000, or road and public works cesses amounting to not less than Rs. 1,000."

thousand landholders, of whom 700 landholders only have an income of Rs. 12,000 a year. That means, that only '005 of the landlords have an income of Rs. 12,000 a year.

The following Table, compiled from the Dacca Settlement Report, would give an idea of the economic strength of the landholders :—

	Number	Area in Sq. mile	Average area in acres	Average of total income of the landlords per estate (a)
Land revenue less than Re. 1	939	10	7	14
Land revenue from Re. 1 to Rs. 5	4,076	93	15	30
Land revenue from Rs. 5 to Rs. 10	1,654	92	36	72
Land revenue from Rs. 10 to Rs. 50	2,671	400	96	192
Land revenue from Rs. 50 to 100	739	246	213	426
Land revenue from Rs. 100 to Rs. 500	501	424	542	1,080
Land revenue from Rs. 500 to Rs. 1,000	90	180	1,277	2,554
Land revenue from Rs. 1,000 to Rs. 10,000	108	759	4,497	8,994
Land revenue over Rs. 10,000	3	346	73,428	1,46,856

We have also found that out of Rs. 1,598 lakhs and odd which is the gross rental of Bengal, more than 500 lakhs go

(a) Including tenure-holders and undertenure-holders of all grades.

Note—In Dacca, the total population of rent-receivers is 91,8881.

Total number of estates (including revenue-free) is 16,085. Total number of tenures (including under-tenures) is 147,447. The first grade tenures cover a little over one-third of the total area, average area 6 acres.

out as the revenue, cesses and collection charges and only two-thirds remain for distribution. In view of this, unless one possesses large units, land becomes an uneconomic proposition. The following table, taken from the Census Report of 1921, shows that the size of the property of average rent-receiver is not big.

	Number of Cultivators per 100 rent receivers.	
Chittagong Hill tracts	...	17,111
Dinajpur	...	10,750
Rangpur	...	7,730
Darjeeling	...	6,077
Tippera	...	5,289
Bogra	...	5,074
Malda	...	4,870
Cooch Behar	...	4,193
Mymensing	...	4,045
Birbhum	...	3,725
Midnapore	...	3,618
Tripura State	...	3,519
Jalpaiguri	...	2,949
Noakhali	...	2,544
Bakarganj	...	2,420
Pabna	...	2,390
Dacca	...	2,068
Rajshahi	...	2,048
Murshidabad	...	1,915
24-Parganas	...	1,915
Bankura	...	1,710
Khulna	...	1,631
Burdwan	...	1,626
Hooghly	...	1,590
Faridpur	...	1,408
Jessore	...	1,268
Nadia	...	1,029
Chittagong	...	778
Howrah	...	752

The size of the property diminishes as time wears on because of the law of succession. In the absence of the law of primogeniture which is an ideal method for the conservation of vested interests, the properties dwindle at every stage of succession. It is also common knowledge that along with the dwindling of the property in size, the economic possibilities and capacities of the soil also diminish. A landlord having a lakh of Rupees as annual income may dwindle into insignificance in three generations—all the sons having equal rights in the property. The Dayabhad law of inheritance may be defended as a democratic institution but that contains seeds for the disintegration of landlordism. The Mohammadan law of succession is worse in so far as it splits up the property into innumerable divisions.

The impression that the landlords are rolling in wealth under the protecting wings of the Cornwallis Regulations stands torpedoed by hard statistics. The fact is that most of the landlords are heavily indebted.† The tenancy legislations have harshly dealt with the landlords as a class. The expensive and harassing methods of collecting rents through civil courts tell on the lean resources of the landlords. 54 per cent of the total number of civil suits instituted in Bengal are rent suits and 37 per cent are money suits and most of the money-suits are for kistibandi (bonds executed by the tenants for arrears of their rent). Rent-suits are generally instituted at the end of 3 years and 11 months. It would take another 3 years to realise rent by a suit. Thus the landlord has to wait for nearly 6 years for realisation

† The economic insolvency of the landlords can be gauged from the fact that in times of depressions the number of defaults in land-revenue increases and the sale-law operates in many cases. Defaults and sales, as the report on the Administration of Bengal (1930-31) states, numbered 16,122 and 1,422 respectively as against 14,205 and 1,342 respectively in the year 1929-30.

of rent. But the landlord has in the meantime to meet the land-revenue and other outgoings. Moreover, litigation takes away considerable portion of the rent-receivers' income. Arrears in rent have been acknowledged as inevitable features of land administration but the landlords incur the wrath of the agitationists for instituting suits for arrears, as if they are doing something inherently wrong. Since the introduction of tenancy legislations, litigation has increased *ad nauseum* which is not to the advantage of the landlords, involving them in wastages for realising their legitimate dues. Strengthened by tenancy legislations, § dilatoriness of law, and sympathy of the civil courts, the cultivating classes are not punctual in payment of their dues and arrears, causing unnecessary loss and harassment to the landlords and financial gain to the Government. If the tenancy legislations are harsh on the landlords, they also entangle the Ryots in the long run because arrears go on increasing which bind them hand and foot and make them a pawn in the agitator's game.

2. The economic condition of the cultivating class

Even on a fair estimate, no one would ever attempt to establish the economic solvency of the cultivating classes in Bengal. The contention is that the land system of the province has not condemned them in economic bondage. The demands of the landlords do not eat up all the resources of the ryots ; they rather leave sufficient

§ In Bengal we have to sue in civil courts for arrears in land revenue—and not in revenue courts. In Bengal there is no revisional settlement and the rights are in individuals from the time of the Permanent Settlement. So it is perhaps right that civil courts should deal with these matters as important interests are affected. If we are to have suits in revenue court, valuable rights might be seriously affected. This point of view was urged before the Taxation Enquiry Committee by Sir P. C. Mitter.

margin of profit and the cause of the economic distress of the ryots must be sought elsewhere.

The survey and settlement Reports for all the districts are not published but they give the average rent per acre (one acre being roughly 3 bighas) paid by the occupancy raiyats in some of the districts which are :—

			Rent per acre		
			Rs.	As.	P.
Dacca	...	...	2	13	0
Mymensingh	...	...	2	12	0
Tippera	...	...	3	2	2
Backerganj	...	...	4	8	10
Faridpur	...	...	2	9	2
Noakhali	...	...	4	4	5
Rajshahi	...	...	3	3	0
Jessore	...	...	2	7	5
Midnapore	...	...	3	15	5
Bankura	...	...	1	12	7

The average for the ten districts comes to Rs. 3-2-4.* The acreage per worker in agriculture is about 2½. Statistics show that more than 24 million acres are under cultivation and the number of actual workers in cultivation, ordinary cultivators, farm servants, field labourers and growers of special products in British Bengal

* The average rent in the United Provinces and Orissa is much higher than the average rent in Bengal. It should be clearly borne in mind that the scrapping of the Permanent Settlement Regulations would mean increased rental which the ryots would be asked and required to pay ; whether be it the Raitwari system or Talukdari system (meaning temporary settlement), increased rental and increased cost of collection are inevitable—a fact which is either neglected or not appreciated by the critics of the Permanent Settlement.

is a little more than 11 millions. That means 2'215 acres * per worker.

To find out the profits of cultivation per acre, we shall have to take into account the average cost of production, the normal yield per acre and the value of produce per acre. The following table† would show the average profits of cultivation :—

Name of crop	Average cost of crop production	Normal yield per acre in 1928-29		Harvest price per maund in 1928-29	Value of produce per acre		Profit
	Rs.	lbs.	Mds.	Rs. A.	Rs. A.	Rs.	
Rice (cleaned)	47	1,022	12.4	6 10	82 2	37	
Other food							
crops (Wheat)	33	721	9	*6 0	54 0	21	
Jute	92	1,331	16.2	9 0	145 12	54	
Oil seeds (rape							
and mustard)	33	483	5.8	8 12	50 12	18	
Cane sugar (gur)	276	3,054	37.2	8 9	318 8	42	
Tobacco	168	1,007	12.2	20 0	244 0	76	

It must be noted that the profits are shown on the assumption that all labour, human and cattle, is paid and hired. The ordinary peasant does not expend so much—the average cost of production would come down considerably.

To find out the average income of the cultivator, we must know the value of crops produced in the province and to know it is to know the area and yield of the principal

* Nearly 21 acres per worker in England.

† P. 27 of the Bengal Provincial Banking Enquiry Committee.

crops. The following are the statistical informations for Bengal in 1928-29 * :—

Crop	Area cropped in acres	Total yield in maunds	Harvest	Price of
			price per maund Rs. A.	produce Rs.
Rice	21,403,000	271,152,000	6 10	179,63,82,000
Wheat	123,000	896,000	6 0	53,76,000
Barley	82,000	728,000	9 9	25,93,500
Jowar	4,000	28,000	3 0	84,000
Bajra	2,000	28,000	3 0	84,000
Maize	94,000	868,000	3 0	26,04,000
Gram	143,000	1,176,009	5 8	64,68,000
Sugarcane	196,000	6,088,000	8 9	5,17,86,000
Cotton	79,000	90,003	33 0	29,70,000
Jute	2,917,000	43,300,000	9 0	38,98,00,000
Linseed	132,000	532,000	8 0	42,56,000
Rape and Mustard seeds	700,000	3,444,000	8 12	3,01,35,000
Sesamum	153,000	644,000	9 0	57,96,000
Tobacca	291,000	3,416,000	20 0	6,83,20,000
Other crops	2,383,700	at say Rs.	30 p. acre.	7,15,11,000
Total	28,702,700	...	...	243,80,65,500

If we divide the total value of crops produced (Rs. 2,438 millions) by the number of cultivating families (6 millions, each family consisting of 5 members), we get at the average income of the agricultural family which stands at Rs. 406 per family or Rs. 79 per head of the cultivating class. The Bengal Provincial Banking Enquiry Committee have calculated Rs. 44 as the average annual income of an agricultural family from subsidiary occupations.† Thus

* Taken from Estimates of Area and Yield of the Principal crops in India in 1928-29.

† Subsidiary occupations :—sale of cocoanuts, betelnuts and other fruits; sericulture and cultivation of lac in Malda, Rajshahi, Birbhum and Murshidabad; poultry farming and sale of eggs by Mahammadan cultivators nearly in every district but principally in Noakhali and Chittagong; sale of milk and vegetables; rearing of goats and sheep; working as a boatman in Northern and Eastern Bengal.

the income amounts to Rs. 450 a year. The Committee have also estimated the expenditure of an agricultural family to be Rs. 420 a year. This gives a surplus of Rs. 30 per family or Rs. 6 per head. The estimate of the average expenditure per family is at once interesting and instructive. It is estimated as follows :—

			Rs. A.	
Implements ...	...	...	3	10
Cattle ...	...	...	12	0
Seed ...	...	...	13	0
Manure ...	...	...	0	0
Labour ...	...	...	40	8
Total			...	69 2
 Rents, Cesses and Rates—				
Rent ...	...	...	25	0
Cesses ...	...	...	0	12
Commission ...	...	...	1	9
Rates ...	...	...	1	1
Total			...	28 6
Food ...	...	...	225	0
Clothing ...	...	...	35	0
 Miscellaneous—				
Lighting ...	...	...	5	12
Tobacco and Betel ...	...	...	7	12
Repairs and renewals ...	...	...	12	0
Social and religious ceremonies ...	...	...	15	0
Miscellaneous including education, amusements, entertainment of relations or visitors ...	...	...	22	0
Total			...	62 8
Grand Total			...	420 0

The rents, cesses and rates require some explanation. The average rent of agricultural land, as calculated by the said Committee, is Rs. 4-13 per acre. The average rent of a holding of 5·2 acres is Rs. 25. The cesses at half anna per rupee will be 12 annas. There is commission paid to the landlord's agent at 1 anna per rupee. The total amount of union rates realised is Rs. 42,50,273 from the Union Board population of 19,856,117. This works at Re. 1-1 for a family of five persons. The Choukidari tax approximates the union rate.

Thus we find that the profits of cultivation are not hopelessly disappointing which can also be gauged from the value of land in agricultural holdings. On enquiry it has been found that the average prices per acre of ordinary land bearing winter rice are Rs. 328 in Birbhum, Rs. 98 in Nadia, Rs. 369 in Bogra, Rs. 314 in Mymensingh, and Rs. 1,008 in Chandpur. The Bengal Provincial Banking Enquiry Committee estimated the average value of an acre of agricultural land in the province to be Rs. 300. We have also found that the rent is not very high, or at least sufficiently low to fetch some surplus, however poor, for the cultivator.

Circumstanced as the cultivators are, we find from the economics of land-system that the unearned increment from land entirely goes to the rayot. Paradoxical as it may seem, the flourishing of rayots on an unearned income is a common and natural phenomenon. Whenever there is a rise in the price of agricultural commodities, the benefits entirely go to the rayots. Prices increase with the increase of population or with the increase of export trade. The increase in the producer's surplus may be not simply in the form of money but in that of produce itself. That is the unearned increment from land. The increase of the money equivalent of the producer's surplus is brought about in two ways: there may be increase of prices which means that the same

amount of surplus represents a larger sum of money. In this case it may be urged that under section 30 of the Bengal Tenancy Act, the landlord is entitled to a share* but that is also hedged round with so many conditions which are extremely hard to prove, that the section is hardly availed of. The money equivalent of the producer's surplus does also increase when there is an increase in the volume of the surplus. In this latter case, the surplus is exclusively enjoyed by the ryots and the landlords cannot claim any portion thereof. In times of depression, the people come forward and throw fling at the landlord for the fancied crime of the realisation of their due and legitimate rents but no one remembers that in times of prosperity, the landlords do not gain a whit beyond their legitimate rents. Whenever there is an year of agricultural prosperity in the province, it must be understood that that is an year of prosperity for the ryots. And it is well-known that the prosperous years outnumber the depressing ones.

And now the question that naturally presents itself:— why is it then that agricultural indebtedness is increasing and the economic conditions of the ryots are growing from bad to worse. The economic insolvency of the cultivating class must be traced not to the land-system of the province but to other causes. The pressure of the population on the soil is intense and increasing; agricultural holdings are small and in process of excessive fragmentation; agricultural labour, equipment and

* "In the case of rise of prices, the increase in rent that is allowed by the Act (Bengal Tenancy) merely represents the increased money value of the same amount of produce rent. The landlord does not even obtain the full compensation that is necessary for the rise in prices, on account of the one-third deduction (which is intended to cover the rise in the cost of production) and in terms of produce, he receives actually less than what he did before the rise in prices."

organisation are defective ; the superstitions and ignorance of the ryots are colossal ; the influences of climate and traditions are devitalising. To appreciate that the land-system has not contributed in any way to the deterioration of agriculture in the province, we must know the corrosive germs which are responsible for bringing about unsatisfactory conditions in agriculture. The man behind the plough is smarting not under the wrongs of the land-system but of other conditions. Let us deal with them categorically.

(A) Density of Population

In Bengal the pressure of population on the soil is great. Bengal has the largest population but in area she occupies a very subordinate position. Necessarily, the density of population per sq. mile has been great. It is interesting to compare the density of population in Bengal with that of other provinces in India and in some western countries, as given below :—

Density of population per sq. mile—			
Bengal	579	U. P.	414
Madras	297	B. & O.	340
Bombay	143	Punjab	184
Great Britain	485	Germany	332
France	184	Italy	313
Netherlands	544	Belgium	654
Denmark	194	U. S. A.	32

It is well-known that a manufacturing country can support a much larger population than an agricultural country of an equal size because to produce the same amount of wealth, manufacture requires much less land than agriculture. Bengal is an agricultural country and the population supported by agriculture is nearly 36 millions, whereas the aggregate area under cultivation is 24 million acres. The total number of agricultural workers is 11 millions. Thus the area of land per worker in the

province comes to a little more than 2 acres of land. These facts emphasise that the pressure of the population on the soil is extremely great. Such a high density of population would inevitably result in the poverty of the agricultural class. The more people there are, the more would be heirs and dependants. The one would impoverish the other. All these conditions are not within the control of the land-system and however perfect the system may be, the pressure on the soil would remain insistent. The tragedy is that the pressure is on the increase. Every census records an increase in population. The progress of population in the province is given below :—

Years of census	Populations	Increase per cent.
1872	34·6 millions	...
1881	37·0 ..	6·7
1891	39·8 ..	7·5
1901	42·8 ..	7·7
1911	46·3 ..	8·0
1921	47·5 ..	2·8

The census report of 1931* has also recorded an increase of the population. The pressure on the soil should be removed and that can be done by extending and intensifying cultivation, by resort to emigration, by the diversion of population from agriculture to industries and by social reform movement (which would consist of higher education to women, late marriages and restriction of birth).

(B) Agricultural Holdings—Smallness and Fragmentation

The size of the raiyati holding in Bengal is extremely small. The following table, based on the figures from

*The population is 51 millions in an area of 82 thousand square miles. Vast population is always economically a deterrent factor.

the Settlement Reports, will show the size of the business unit in agriculture.*

District.	Size of the average raiyati holding.		
	Acres
Bankura	1'86
Midnapore	1'29
Jessore	1'78
Backerganj	2'51
Faridpur	1'39
Dacca	1'52
Mymensingh	2'67
Rajshahi	2'20
Noakhali	2'30
Tippera	1'90

The average for the 10 districts comes to 1'94 acres. On an average a rayat can have not more than two tenancies—thus he may have 3'88 acres. The census Report of Bengal (1921) says that there are 30'5 million cultivators including the dependants. If we take 5 persons constituting a family, the families of cultivators are 6'1 millions. The cultivated area is 24 million acres, 4 acres being the average unit per family.

Small holdings are unsuitable in Bengal from the standpoint of economics of production. Bengal is not a land fit for small holdings as Belgium is. In the production of corn, the large farm has decided advantages

* It is interesting to note the size of the average agricultural holding in foreign countries as given below :—

Country.	Average size of holding.		
...	Acres
England	62'0
Germany	21'5
France	20'25
Denmark	40'0
Belgium	14'5
Holland	26'0
U. S. A.	148'0
Japan	3'0
China	3'25

over the small. The staple crop in Bengal is rice. Out of the total net cultivated area of about 24 million acres, nearly 21 million acres are for rice. The other important crops are jute, sugar-cane, pulses etc. In the cultivation of these, large farming is economical and advantageous. Fruit and vegetable growing, stock breeding, dairying etc. need small farming but in Bengal they are of little significance. Small holdings also involve economic wastages. A pair of bullocks, it has been found, is ordinarily sufficient for the cultivation of about 5 acres of land, when the crop produced is mainly rice. It has further been found that the number of animals per acre, required for ploughing, diminishes upto a certain stage as the size of the compact holding increases. Small holdings are also unsuitable for labour-saving machineries.

The smallness of holdings is a curse in Bengal and it is facilitated by the growth of population and the law of inheritance. The more people there would be, the more would be heirs. And through the grace of the law of succession the process of sub-division goes about and the holdings diminish in size as time wears on.

Fragmentation of holdings is another vice. The holding in Bengal does not consist of a single compact block of land. † Sometimes a rayat holds different strips of land, even two or three miles apart from one another. Fragmentation of holdings perpetuates the vices of small holdings beyond redemption. The increase of population, lack of a corresponding expansion of industry, the dissolution of the joint family and the growth of the individualistic spirit—all these, assisted by the laws of

† Fragmentation has been brought about to such an extent that the Settlement Report of Dacca records the average size of plots as '55 acre, varying from '36 acre in the thana of Harirampur to '91 acre in Kapasia thana. Dr. R. K. Mukherjee in his Rural Economy of India says that in a certain Murshidabad village, the average plot of land is 10 cottas i. e., '20 acre, the smallest plot being 2 cottas i. e., '04 acre.

inheritance and succession, are the main causes of excessive sub-division and fragmentation.

The evils of fragmentation * are many : it involves a greater expenditure of capital and a smaller return than if the same area is in one compact block. "It is calculated that expenditure of cultivation increases by 5·3 per cent for every 500 metres of distance for manual labour and ploughing ; 32 p. c. to 35 p. c. for transport of manure ; and from 15 to 32 p. c. for transport of crops." It impedes cultivation ; it entails wastage of time and labour and cattle-power. "This destroys enterprise, results in an enormous wastage of labour, leads to a very large loss of land owing to boundaries, makes it impossible to cultivate holdings as intensively as would otherwise be possible and prevents the possibility of introducing outsiders, with more money, as tenant farmers or as purchasers of a good agricultural property."

All these evils bring forward the question—what is an economic holding. By economic holding, we mean "a holding which allows a man a chance of producing sufficient to support himself and his family in reasonable comfort after paying his necessary expenses." An economic holding will vary according to a number of factors, such as, elasticity of capital, nature of the methods of agricultural production, extensive or intensive cultivation, quality of the soil, presence or absence of irrigational

* Dr. Radha Kamal Mukherjee puts the case for fractionalisation in the following way :—"In many parts of India we find that two or more staple crops are grown in dispersed fields in different soil areas, so that, while a deficiency or an irregular distribution of rainfall may destroy one crop, there may be favourable returns from other fields. Indeed, the elaborate system of crop rotation which distinguished Indian from Western farming has been possible chiefly because the holdings are dispersed." But extenuating circumstances are absent in Bengal.

facilities, the crops raised etc. Moreover, it must be borne in mind that the unit of economic life in India is the family and not the individual. Whatever be an economic holding, a speculative question which does not concern us at this stage, Bengal rayat has scarcely 3·1 acres in his cultivation. But "the very rights which the cultivator has in his land and which have been secured for him by special tenancy legislation make the cultivator stick like a limpet to his petty holding and prevent him from going in search of work in industrial centres except in the last extremity." Thus the land-system of the province is not responsible for its agricultural backwardness.

(C) Defects in Agricultural Labour, Equipment and Organisation

The man behind the plough is the most important factor in the improvement of agriculture. The human factor is very important. "Defects in character can and will nullify the richest gifts of nature, while what may appear to be insuperable difficulties are apt to disappear before the sustained application of human energy, human intelligence and human knowledge." As things stand at present, it must be admitted that the cultivators in Bengal lack in originality and initiative and are wedded to traditional methods and practices, "many of which are wasteful and unscientific." They are illiterate, steeped upto the lips in superstitions and prejudices. The dead-weight of inertia, apathy and conservatism stand in the way of reform; the insanitary habits of living, bringing about avoidable physical sufferings, decimate their vitality and capacity; they are improvident and reckless; they waste substance and energy in needless litigation.

Malaria, a wasting but an avoidable disease, works havoc in Bengal villages. The insanitary and unscientific habits of living are responsible for other major diseases such as cholera. These diseases reduce the economic

power of the cultivating classes. They debilitate and incapacitate the worker. A weak, diseased man naturally becomes lethargic, listless and fatalistic.

As regards the technique and equipment, the Bengal agriculturist is extremely backward. The holdings are small but the method of cultivation adopted is extensive—that is unscientific. Intensive and thorough cultivation is more economical in Bengal. In Japan and China, the cultivation is intensive. Japan maintains normally a population of fifty-six millions on a cultivated area of seventeen millions of acre. In Bengal, 24 million acres cannot maintain a population of 30 millions, the reason being the absence of intensive method of cultivation.

But intensive method of cultivation involves more expenditure on permanent improvements and irrigation, more efficient cultivation, careful selection of seed, a better system of rotation of crops and adequate manuring. That means that the equipment must improve. Bengal is endowed with a rich nature. The province is mostly a level plain with fertile soil, yielding a fair return to the comparatively small amount of labour spent on it. The configuration of the country, the character of the soil, the river and the mountain systems, the amount and the distribution of rainfall—all these are favourable to the Province. The province has very good natural boundaries: the three sides having important systems of hills and mountains giving rise to streams which would flow over the extensive plains. The river system is splendid; the Ganges (including the Padma), the Brahmaputra (including the Jamuna) and the Meghna with other innumerable tributaries and distributaries act as natural fertilising agent for a considerable part of the province and they further serve as drainage and irrigation channels, supply fish and provide cheap and convenient water transport. The rainfall in the province is well-distributed. The annual

rainfall is above 75 inches. * Rainfall in Bengal in the different months of the year † :—

January	...	3	May	...	7.6	September	...	10.9
February	...	9	June	...	14.6	October	...	5.0
March	...	1.6	July	...	15.4	November	...	8
April	...	3.3	August	...	14.6	December	...	1

With all the liberality of Nature, the part played by Man is far from satisfactory. The equipment in the cultivation is extremely defective. There is no application of manure and fertilisers in increasing the yield of the soil. In absence of the use of manure, the law of diminishing return operates in the land much more quickly.

The use of cow-dung as a fuel is a wasteful practice ; it should be used as a manure and the possibilities of afforestation for increasing fuel supplies should be explored. Cattle urine should not be allowed to run to waste and the prejudice against human excreta as manure should be broken down. "In China there is no organic refuse of any kind which does not eventually find its way back to the land as manure." The village sweepings instead of being thrown away causing insanitation to all around should be conserved into pits and used for manurial treatment of the soil. Mr. Brayne suggests the use of pits for latrines for men and

* Annual rainfall in the districts of Bengal—

District.	Inches.	District.	Inches.
24-Parganas	... 63	Rangpur	... 81
Khulna	... 72	Midnapur	... 60
Backerganj	... 91	Bankura	... 53
Faridpur	... 73	Birbhum	... 56
Dacca	... 74	Howrah	... 60
Mymensingh	... 86	Hooghly	... 57
Tippera	... 82	Jessore	... 62
Noakhali	... 114	Nadia	... 54
Chittagong	... 113	Murshidabad	... 55
Darjeeling	... 122	Pabna	... 59
Jalpaiguri	... 143	Bogra	... 63
Dinajpur	... 72	Rajshahi	... 58
		Malda	... 56

† Calculated by Prof. K. B. Shah in "Economics of Rural Bengal."

women with hedges for privacy and planks across for convenience to ensure clean villages and heavy crops. The methods of employing leguminous crops for increasing soil fertility should be investigated. We find that our cultivators are extremely unmindful of manure, the absence of which reacts unfavourably on the fertility of the soil.

The implements that the cultivators use are primitive. The plough* consisting of a wooden frame with a pointed iron shave has grave defects: it is unsuitable for deep ploughing, stirring the soil upto a depth of 3 or 4 inches. The plough, as it is drawn over the land, makes V-shaped furrows and consequently leaves ridges of unploughed land between them; it does not eradicate the weeds, having no cutting parts. The primitive plough should be modernised. Dr. Clouston points out that the M. S. N. plough is only 34 lbs in weight and can be drawn by a pair of bullocks.

The implements are primitive and the cattle power in Bengal is extremely low. The province is maintaining an excessive number of cattle, deplorably poor and ill-fed. The total number of live-stock in the province is 32 millions 337 thousand, of which about 25½ millions are of the bovine class, but the total area under fodder crops is only about one hundred thousand acres. There are 108 cattle per 100 acres of net sown area in Bengal. Holland which possesses the largest number of cattle in relation to the size of the country has 38 cattle per 100 acres of cultivated land. Egypt where agriculture is supposed to be backward has 25 cattle per 100 acres of cultivated land. In other provinces of India, the number of cattle per 100 acres of sown area stands as such:—Madras 66, Bombay 34, U. P. 88, Punjab 57, B. & O. 82, C. P. & Berar 47, Assam 97, Burma 37.

* Other implements used are Yoke, Harrow, Rake, Spade, Niranis, Sickles and Hammer.

The Agricultural Commission rightly said:—"The number of cattle within a district depends upon and is regulated by the demand for the bullocks. The worse the conditions for rearing efficient cattle are, the greater the numbers kept tend to be. Cows become less fertile, and their calves become undersized and do not satisfy cultivators, who, in the attempt to secure useful bullocks, breed more and more cattle. As numbers increase, or as the increase of tillage encroaches on the better grazing land, the pressure on the available supply of food leads to further poverty in cows, and a stage is reached when oxen from other provinces or male buffaloes are brought in to assist cultivation as in Bengal." There is the quantity of cattle in the province but the quality is deteriorating because there is no adequate fodder supply.* The problem has grown acute because, in the first instance, the fodder supply is inadequate and secondly, the economical use of fodder supply implies the reduction in the number of useless cattle. The problem has a touch of tragedy when we find that there are no arrangements for efficient breeding of cattle. Every animal, however poor, is allowed to breed and perpetuate its poor qualities ; there is no selection.

The ryots suffer from another economic wastage. In 12 months, they work for a period of 3 months or 5 months at most. The rest of the time they idle away. That is a plague-spot in the life of the cultivating class of Bengal. It is commonly said that Bengal is a double-cropped country but only one-sixth of the area under cultivation

* There is scope for the increase of the production of fodder in the province. Of the total area of about 24 million acres under cultivation, only about 4½ million acres are double cropped. The remaining 19½ million acres produce one crop and remain fallow for a number of months during which period a second crop either of fodder or some kind of pulses can be easily grown. It is not possible to earmark certain lands for fodder supplies only, because the pressure of cultivation on lands is very strong in Bengal.

grows only two crops. Mr. J. C. Jack in "Economic life of a Bengal District" points out that "the time-table of the cultivator...when his land is unfit for jute shows three months' hard work and 9 months' idleness; if he grows jute as well as rice, he will have an additional six weeks' work in July and August." The ryots could improve their economic strength by taking to subsidiary occupations in their period of idleness. Some of them do take but the majority do not and they spend time in recreation, marriage and litigation. Instead of having a second string to the bow, they waste themselves in non-economic activities which bring vices in their turn. Such a long period of idleness for superstitious and ignorant people is always fraught with dangers; eugenically they become a nuisance because they breed irresponsibly: spiritually they become degenerate because they contract wasteful habits and incur reckless expenditure: socially they become depraved because they turn out lethergetic and lose energy, vitality, and adventurousness. In every country, the agriculturists have subsidiary occupations. In Japan, rearing of silk worms is an important supplementary rural industry. In France, Germany and Italy, all have rural industries, such as, diary-farming, pig-keeping, poultry-farming etc. The period of idleness for the Bengal Ryots should be more productively used and in that lies a great amount of their economic salvation.

There is another serious draw-back. The marketing organisation of the agricultural produce is not in hands of the cultivators. He produces and therein ends his duty. Naturally, the margin of profit is very small for him. "His interests have in the main been left to the free play of economic forces and they have suffered in the process. For he is an infinitely small unit as compared with distributors and consumers of his produce who in their respective fields become every year more highly organised and more strongly consolidated." In the chain of marketing

organisation,* a ryot has no place and that is a case of economic maladjustment in the body-politic of the society.

(D) Absence of Credit Agencies

It is a fact, which has been conclusively shown in the discussion of the profits of cultivation, that the Bengal ryot is not insolvent. The Bengal Provincial Banking Enquiry Committee definitely state—"If we assume that the whole of the cultivated land in Bengal viz., 23 million acres according to the return for 1928-29 valued at Rs. 300 an acre on an average belonged to agriculturists, their property was worth 690 crores of rupees. Thus even if a liberal allowance is made for intermediaries, the Bengal raiyot is far from insolvent." What the rayats suffer from is the absence of credit agencies. The rayats need money and they get at an exorbitantly high rate of interest. Thus, interest accumulates and grinds them in the mill of indebtedness. The total agricultural debt for Bengal has been estimated at Rs. 100 crores. The total requirement for the short and intermediate loans for the six million agriculturist families has been estimated at Rs. 96 crores. The credit facilities now existing are extremely inadequate. They are :—

Co-Operative Societies

The loans supplied by the Co-Operative Societies amount to Rs. 4 crores only. On the 30th of June 1929, there were 16,889 agricultural credit societies with a membership of 407,552 and a working capital of

* There is no organised market for any agricultural produce (excluding tea which is not a pure agricultural produce). The defects of the present system of marketing are :—existence of a variety of middlemen, diversity of weights and measures prevailing in different localities, absence of definite standards of quality. The remedy is the establishment of licensed warehouses, organised on co-operative lines, as suggested by the Bengal Provincial Banking Enquiry Committee.

Rs. 4,21,19,119. It touches only a small proportion of the rural population. It is found that the societies are established in only one out of 5 villages in the province, and the proportion of agriculturist families benefitted is only about one in fifteen. The movement has encouraged thrift; out of the total working capital of 421 lakhs, 40 lakhs represent the share capital, 16½ lakhs the deposit of members, while the reserve fund exceeds 65½ lakhs. All these sums of money may be considered to have been saved by the members. The movement has discouraged high rates of interest.

In spite of the marvellous progress of the movement, the needs of agricultural loans of the province are met only in an extremely limited way by the societies. The co-operative societies are sometimes not availed of for formality, publicity of loans and unlimited liability. The movement must be encouraged and the societies should be increased.

Loan Offices

The loans supplied by loan offices amount to 2 crores. The total number of loan offices at work in 1929 was 782. Out of 782 loan offices, there are 150 loan offices whose working fund exceeds Rs. 25,000 but does not exceed Rs. 50,000, and 250 loan offices whose working fund does not exceed Rs. 25,000. The total working fund of loan offices in Bengal is something like 9 crores of rupees. The majority of deposits in all loan offices is short (i.e., repayable at short notice) and intermediate (i.e., repayable within two years). The percentage of reserve fund to paid-up capital is low in majority of the loan offices. The paid-up capital is generally very small. Loan offices often offer tempting rate of interest to attract capital. If deposits fetch good interest, surely higher interests are to be charged while giving loans to the agriculturists. The usual rates for loans of some of the new loan offices are enumerated

by the Banking Enquiry Committee which reveal an interesting analysis—

Interest per cent. per annum charged on loans.

Name of loan office	Against Mortgage	On simple bond
Gossaibari Mahajan Bank, Ltd.	24 to 28½	28½ to 37½
Narundi Banking and Trading Co., Ltd.	39½ to 56½	32½ to 87
Gopalpur Bank Ltd.	18½ to 37½	18½ to 37½
Pallimangal Bank, Ltd.	12 to 15	15 to 30
Brahmanbaria Kamala Bank, Ltd.	15 to 48	12 to 48
Kundabari Reserve Bank, Ltd.	33	21 to 112

Unless loan offices are re-organised, the agriculturists can not expect loans on a fair rate of interest. The "touting" for attraction of capital in the loan offices must be stopped.

Village Money-Lenders

The professional money-lenders function as important credit agencies in the rural economy of Bengal. Their number is estimated at something like 45 thousand. In the richest districts of Eastern Bengal, the number of money-lenders is greater. The rate of interest charged by the money-lenders varies with the security and the amount of the loan. Loans to agriculturists, given on security of their holdings, generally bear interest from 18½ p.c. to 37½ p.c. Loans given without security often bear much higher rates, going upto 300 p.c.* Most of the loans bear compound interest. Usury is widely prevalent in Bengal, the reasons being (1) low credit of the borrower, (2) absence of financing agencies in the locality, (3) shortness of capital, (4) fear of formality and publicity, (5) illiteracy and ignorance, tradition and custom. Legislative interference† to cope with the evils of usury did find expression

* Vide Report of Provincial Banking Enquiry Committee, P. 198.

† Khan Bahadur Azizul Huqu's Bengal Money Lenders' Bill introduced in the Bengal Legislative Council (1932) is pending.

in the Usurious Loans Act of 1918 which is hardly availed of.

Banking Institutions

None of the organised banking institutions assists the agriculturists directly. "The Imperial Bank assists in the marketting of agricultural produce in Bengal. It also finances agriculture indirectly by granting cash credit to co-operative banks, though the amount of such finance is still very small." The amount of cash credit, allowed by the Imperial Bank on the 30th June, 1929, to some of the central and urban banks is this :—

Name	Amount of cash credit on the 30th June, 1929
The Bengal Provincial Co-operative Bank, Ltd.	30,50,702
The Chittagong Central Co-operative Bank, Ltd.	60,000
The Kishoreganj Central Co-operative Bank, Ltd.	25,000
The Jamalpore Central Co-operative Bank, Ltd.	72,000
The Narayanganj Central Co-operative Bank, Ltd.	75,000
The Chittagong Urban Co-operative Bank, Ltd.	1,50,000
The Chaumuhani Urban Co-operative Bank, Ltd.	20,000

Government's Part

Government can advance loans under the Land Improvement Loans Act of 1883 but under the Act no loans can be advanced by Government for the redemption of old debts and consolidation of holdings—the two essential pre-requisites for agricultural improvement.

Thus we find that the short-term loans are supplied by the co-operative societies, loan offices and village money-lenders, and the estimated requirement can be met if the resources of the co-operative societies are not diverted to long-term loans. But the problem is about long-term loan. Out of the total outstanding money debt of 93 crores in Bengal, about 62 crores (44 crores of mortgage debt and 18 crores of unsecured debt) represent long-term debts. The Provincial Banking Enquiry Committee state that the real

problem in Bengal is to set up an organisation through which the risks of agriculture as an enterprise may be so well distributed that long-term capital may flow into it. In their opinion, a state-owned and state-managed land-mortgage bank will be unsuitable for Bengal ; a joint stock land-mortgage bank providing loans on cheaper terms than those of existing institutions would not be an un-mixed blessing for the raiyat ; land-mortgage banks of the co-operative type would be suitable and their success can be assured by grafting them on to the existing co-operative central bank, and there was no need for a separate land-mortgage bank in Bengal.*

Thus, it is clear that the shoes of the ryots pinch not in the land-tenure system but elsewhere.

3. Landlords cannot act arbitrarily—legal restrictions.

The popular impression is that the landlords can and do act arbitrarily. This fancied arbitrariness on the part of landlords provokes people to go against landlordism and against the Permanent Settlement Regulations. But a student of law knows that valuable rights have been given to the cultivators for peaceful enjoyment of their holdings, unhampered by the whims of superior landlords. Sixty years after the conclusion of the Permanent Settlement, a serious attempt was made by Government to invest the ryots with certain rights, helping them to enjoy lands with a certain amount of freedom and independence. The Act X of 1859 contained provisions both of substantive

* A full-fledged land-mortgage bank may be unsuitable to cope with agricultural indebtedness but in the rural economy of Bengal, its necessity cannot be ignored. Referring to the necessity of commercial land mortgage banks, the Indian Central Banking Enquiry Committee state :—“The need for such mortgage institutions is particularly felt in the provinces where the permanent settlement prevails and where the estates (zemindaries) represent large investments of capital which are not employed in other directions owing to the security of yield obtained from investments in land under the permanent settlement and the absence of a similar security of return from investments in the fields of industry and commerce. (P. 178).

and adjective law. The following were the main lines of the Act* :

- I. The abolition of the Zemindar's power of compelling the attendance of their ryots :
- II. A small class of tenants to be entitled to hold at fixed rates of rent :
- III. A Right of Occupancy, entitling the ryot to hold his land as long as he pays his rent, to be acquired by 12 years' continuous cultivation or holding :
- IV. Provision for settling rent or enhanced rent by the agency of the Revenue Courts :
- V. A reformed attempt to bring about the interchange of pattas and Kabuliyats between landlords and tenants :
- VI. An attempt to compel the delivery of receipts for rent, and prevent exaction of excess rent :
- VII. The amendment of the Law of Dstraint :
- VIII. The transfer of original jurisdiction in suits between landlords and tenants from the Civil to the Revenue Courts. The chief civil court of the District retained a limited appellate jurisdiction :
- IX. Provision for the registration of transfers of permanent transferable interests in land intermediate between the zemindar and the cultivator.

The Act of 1859 provided for the rights of three classes of tenants : (1) certain tenure-holders declared entitled to hold at fixed rents, (2) certain ryots declared entitled to hold at fixed rates of rent, and (3) ryots entitled to a right of occupancy.

* Mr. Field's Landholding and the Relation of Landlord and Tenant—2nd Edition—P. 748.

The defects of the Act of 1859 were remedied by the B. T. Act of 1885 which was further improved by the B. T. (Amendment) Act of 1928.

The Bengal Tenancy Act of 1885 divided the tenants into tenure-holders, raiyats and under-raiyats.† Sections 20 and 21 provide that a tenant who has held for 12 years any land in a village, whether the same plot or not, should be entitled to occupancy right over all the plots of land held by him for the time being in that village. The Act further provides that if he is for any reason evicted by the landlord, he will have power to recover his outlay on land improvements. As regards the continuous holding of land for 12 years, the presumption should be in favour of the tenant, unless the contrary is proved by the landlord. Section 30 allows enhancement of the money rent of the occupancy ryot only on the following grounds,* viz:—

- (a) that the rent paid by the raiyat is below the prevailing rate paid by occupancy raiyats for land

† A tenureholder is a person who has acquired from a proprietor or another tenure-holder a right to hold land for the purpose of collecting rent, while a raiyat is a person who has acquired such a right for the purpose of cultivation. An under-raiyat is a person who holds land mediately or immediately under a raiyat. For definitions, vide sections 4 and 5 of the Bengal Tenancy Act.

* Sir P. C. Mitter in his evidence before the Taxation Enquiry Committee was asked:—Do you mean to say that the landlord is prevented from making even the two annas in the rupee enhancement? To that he replied as follows:—“Not exactly prevented by physical force. Take a holding paying a rent of Rs. 20 a year. An increase of 2 annas in the rupee means Rs. 2-8. The capitalised value of that is about Rs. 40; and if the landlord wants to get that increase through the law courts, he will have to spend about Rs. 1,000 and the raiyat has to spend about Rs. 300 in defending the action and no man out of Bedlam will do it. If there were a simpler process, perhaps certain executive officers being on the spot decided the question, if the landlord got his proper share for the money that he spent and the raiyat also got a larger share as his profits, then perhaps there would be some incentive. But now if he wants to have an increase, he has to file a suit in the Munsiff's Court; the matter will be heard after 3 years; he will have to bring his witness from any distance; the matter will again perhaps be taken up in appeal; they generally go even to the High Court; and before the litigation is complete, he will have to spend a lot of money.”

of a similar description with similar advantages in the same village and there is no sufficient reason for his holding it at so low a rate ;

- (b) that there has been a rise in the average local prices of staple food-crops* during the currency of the present rent ;
- (c) that the productive powers of the land held by the raiyat have been increased by an improvement effected by or at the expense of the landlord during the currency of the present rent ;
- (d) that the productive powers of the land held by the raiyat have been increased by fluvial action.

The Act protects the occupancy raiyat against frequent enhancement of rent by providing that once the rent is increased, a period of 15 years must elapse before it can be increased again. In the Act, there are provisions for the reduction of rent when the productive powers of the land have permanently deteriorated for no fault of the tenant or when there has been fall in the average prices of food crops. Sections 25 and 65 lay down that the occupancy raiyats and those holding at fixed rates cannot be directly ejected for the non-payment of rent, the landlord's remedy being to bring the holding to sale in execution of a decree for arrears of rent. The B. T. (Amendment) Act of 1928 confers on the occupancy raiyat the definite right of transferring his holding. The Section 26D of the Act, as amended in 1928, entitles a landlord to receive a transfer fee which will amount

- (a) "in the case of the sale of a holding or a portion or share of a holding, in respect of which produce rent is payable in whole or in part, to twenty per cent of the consideration money as set forth in the instrument of transfer ;

* Thus a rise in the prices of jute, a staple crop and a monopoly of Bengal having more than 2 million acres under cultivation, would benefit only the ryots and not the landholders.

- (b) "in the case of the sale of a holding or a portion or share of a holding, in respect of which money rent is payable, to twenty per cent of the consideration money as set forth in the instrument of transfer or to five times the annual rent of the holding or of share transferred, whichever is greater ;
- (c) "in the case of a transfer by exchange of a holding or of a portion or share of a holding to five per cent of the value thereof, as set forth in the instrument of transfer, or one and a quarter times the annual rent of the holding or of the portion or share transferred to each party to the transfer, whichever is greater, payable by each party.

Section 23A of the Act, as amended in 1928, confers on the occupancy raiyat the right to enjoy the fruits, flowers and other products of trees and to fell them and utilise their timber. He has also the right, under the amended Act, to erect dwelling houses of masonry, bricks and similar other materials.

To the non-occupancy raiyat, the amount of protection in respect of eviction and enhancement of rent is comparatively insignificant.

As regards the under-raiyats, the following principal changes* are effected by the Amended Act of 1928 :—

Under-ryots who have by reason of custom acquired occupancy rights under the existing law will continue to enjoy such rights and the incidents of such rights have been clearly defined, namely, that these under-ryots will have, as against their immediate landlords, all the rights of occupancy ryots except the new right of transferability

* As summarised by Messrs. Mitter and Mukherjee in the "Bengal Tenancy Act"

but they will not be protected interest under clause (d) of S. 160 [S. 48G (3)].

The remaining under-ryots have been divided into two classes: (1) those who have held their land for 12 years or more or have a homestead thereon, also those who have been admitted in a document by their landlord to have a permanent and heritable right; and (2) all others. Both classes will be liable to ejection on the grounds on which an occupancy ryot is liable to ejection and also on one additional ground viz arrears of rent. The second class can also be ejected on the ground that their lease has expired or on 1 year's notice. This however can only be done if the landlord requires the land for his own cultivation. If within 4 years the landlord instead of cultivating it himself, sublets it, the under-ryot will be entitled to have the land restored to him.

The restriction on under-ryots' leases to 9 years has been removed. The restriction on the initial rent of under-ryots has also been removed but subsequent enhancements are limited to 4 as. in the rupee in case of contract, and to one-third of gross produce in case of enhancement by court. Usufructuary mortgage cannot, as in the case of ryots, exceed 15 years.

All under-ryots have now the right to abandon their holdings under the same conditions and with the same safeguards as in the case of ryots. They have got the right to deposit their landlords' rent and to prevent or set aside a sale by the court for the latter's arrears. The two superior classes of under-ryots have also got the right to claim recognition when their immediate landlord abandons his holding, on payment of "salami". Similarly, in case of surrender the under-ryot is protected under S. 86. No surrender will be valid unless made with the previous consent of the under-ryot. The provisions regarding surrender in S. 86 have been made applicable to under-ryots with occupancy rights.

The tenancy legislation in the province has conferred the right of occupancy on the great majority of raiyats. The following table gives the distribution of the area, held by raiyats, amongst the three classes :—

District	All Raiyats	Occupancy Raiyats	Non-occupancy Raiyats	Under- Raiyats
	Thousand	Thousand	Thousand	Thousand
	Acres	Acres	Acres	Acres
Backergang	1,389	1,346	42	81
Faridpore	1,297	921	55	133
Dacca	1,441	1,349	37	19
Tippera	1,178	1,103	35	68
Mymensingh	3,015	2,864	115	124
Jessore	1,577	1,370	6	493

From the foregoing analysis of the tenancy legislations, it may be said that the Permanent Settlement since the passing of the B. T. Act of 1885 is the "Charter of Rights" for the ryots.

4. The fancied loss of Government.

The critics of the Permanent Settlement Regulations complain of the inelasticity of land revenue. The land revenue being fixed, the loss to Government under this head may be apparent. But the pivotal point is that in calculating the loss or gain, the whole resources of the province should be taken into account. The stamp duty (which is Rs. 355 lakhs in 1928-29) which is the main source of income of the provincial Government yields such a figure because of the Permanent Settlement Regulations. The judicial statistics would show that out of the total number of civil suits, nearly 60 p. c. are rent suits and 90 p. c. of money suits are for "Kistibandi". In this wise, the landlords are responsible for the huge figure of stamp duty.

The economic necessities of the Permanent Settlement have led to sub-infeudations*. The development and promotion of agriculture, prompted by the requirements of managing a large and scattered estate, have brought about intermediate interests. Thus the profits of the landholders are being distributed among a number of middlemen. Sub-infeudation minimises the profits of the landholders and distributes the dividend among the community. The comparative affluence of middle-class in Bengal is reflected in income-tax and customs receipts. The taxes on income collected in Bengal in 1928-29 are more than 6 crores. An analysis of income-tax assessments made in 1920 at the instance of the Meston Committee showed that over 90 p. c. of the income-tax collected in the province came solely from Bengal. The income derived from ramifying businesses in several provinces with head offices in Calcutta or other places in Bengal is not even 9 p. c.

Because of the comparative wealth of her raiyats and middle-class, Bengal is in a position to pay more as customs duty. Nearly 24 crores are collected as customs from the ports within the territorial jurisdiction of Bengal. The consumption of Bengal is greater than that of other provinces and that shows the higher purchasing power of the Bengalees—higher than the people of other provinces. The consumption of Bengal in cotton manufactures, foreign liquor and tobacco, machinery, articles of food and drink, cutlery, hardware etc is comparatively higher.

* "The proportion of actual cultivators holding land directly under one proprietor of an estate is small, for there are innumerable intermediate tenures between the proprietor and the cultivator in almost every estate. These tenure-holders are generally of the middle-class. In one estate in Backerganj, there are as many as thirty such intermediate tenures, one under another. It is a common custom that when the owner of a tenure or holding is unable personally to cultivate the whole or any part of it, he gets it cultivated by an agriculturist called bargadar, bhagidar or adhiar and shares the produce equally with him. In Western Bengal, especially in Midnapore, rent, called "Sanja", is often paid in a fixed quantity of paddy, irrespective of the amount produced in any particular year."

If we note the income-tax receipts and customs receipts of other provinces, the high contributions of Bengal will be evident :

(In lakhs of Rupees)

		In 1928-29	
		Income tax	Customs
Bengal	...	615	1,850
Madras	...	131	469
Bombay	...	317	1,921
U. P.	...	90	...

If we calculate the total receipts by the Government of India from Provincial governments, we find Bengal contributing the highest. Bengal contributes in 1925-26 more than 26 crores to the Central Government under various heads such as Income-tax, Customs, Salt and Excise Opium, whereas Madras with a population of more than 42 millions (nearly as Bengal's) contributes 6 crores. Bombay contributes more than 23 crores and U. P. more than 1 crore only. If both provincial and central taxes are taken into consideration, we find that Bengal is the most heavily taxed province in India with the exception of Bombay which is a manufacturing province and not an agricultural one. If we examine the incidence of taxation per head of the population, we get at the following figures :

Provinces		Provincial		Central		Total	
		Rs.	As.	Rs.	As.	Rs.	As.
Bengal	...	2	5	5	3	7	8
U. P.	...	2	13	0	9	3	8
Madras	...	4	0	1	11	5	11
B. & O.	...	1	11	0	1	1	12
Punjab	...	5	8	0	14	6	6
Bombay	...	8	0	11	11	19	11
C. P.	...	4	0	0	7	4	7
Assam	...	3	5	0	8	3	13

All the facts stated above would go to show that the inelasticity of the land revenue in the province has been

amply compensated by the contributions of the Province under other heads. Paradoxical it may appear, but it is a fact that interference with the Permanent Settlement Regulations may increase the land revenue but would affect stamp, income-tax and customs receipts. An interference with the purchasing power of the people is an interference with the taxable capacity of the province. The abolition of the Permanent Settlement by revolutionising the fabric of the society would deteriorate the purchasing power of the people and the Governmental loss calculated under land revenue item would percolate through other sources, in which case Government would be losers in the long run. It must be borne in mind that the inelasticity of the land-revenue has given elasticity to the stamp duty, income tax, custom duty, and the shifting from one head to another head by interfering with an old institution which has given a shape to the economic structure of the society is economically unsound.

It is also to be noted that the Bengal landlords are responsible for two-thirds of the provincial revenues. Out of the provincial revenues of 10 crores, land revenue and stamp duty yield more than 7 crores. It cannot, therefore, be held that the landlords escape the provincial burdens or snatch any privilege under the protective wings of the Cornwallis Regulations. They pay their legitimate share to the provincial exchequer and decidedly more in proportion to other people's contributions.

Land-revenue may have lost elasticity but it has gained certainty. Government is assured of the amount of land-revenue, otherwise the rigid sun-set law would deprive the landholders of their estates. In times of depression, when other provincial Governments have to contemplate and even take recourse to exemption and remission of rents, the Bengal Government could count on their demand under land-revenue. The Land-revenue Administration report of the Presidency of Bengal for the year 1930-31,

which is an year of depression, records that Government as landlords could collect only 56·10 p.c. of the current demand, while the collection from the Zemindars in the permanently-settled estates was over 90 p.c. This certainty of collection is no small gain to Government.

Sir P. C. Mitter in his evidence before the Taxation Enquiry Committee held that collection expenses in the non-permanently settled estates were inordinately high. He said :—“We have 46,000 Sq. miles of cultivated area and on this we have a land-revenue, roughly of 3 crores of rupees. Take for instance, Madras. The area there is 123,541 Sq. miles and the land-revenue is 5 crores and 13 lakhs. If Bengal is paying 3 crores on 46,000 Sq. miles, it is not underassessed. You spend in Madras a large amount, perhaps a crore and a half, on collection, owing to the raitwari system.”

In Khasmahal estates in Bengal, we find that the expenses of management and collection are high with the attendant evils of the uncertainty of collection though the certificate procedure exists.

5. Abolition of the Permanent Settlement—a blunder and an injustice

In calculating the possibility of increasing the rental from the Bengal raiyat, which is the implied objective of the movement for scraping away the Permanent Settlement Regulations, the following factors are to be taken into consideration : the high pressure of population on agricultural land ; the insanitary condition of the province ; the enervating climate ; the shortness of average life ; incapacity of the Bengalee rayats for sustained labour owing to bad physical condition. The public and Government complain of the inelasticity of land-revenue and elasticity means the increase of the rental from the raiyats. It has been shown that the rayats are economically unsound not because of the Permanent Settlement, but

in spite of it. It has also been shown that Government by having a fixed land revenue do not stand to lose. The economic condition of the rayats admits of improvement in which case the land-system offers no obstacle. On the other hand, the system of land-tenure has brought about a hierarchy of social structures with zemindars at the top and the cultivating rayats at the bottom with successive grades of middlemen standing one upon another. Any disturbance of the land-system would disturb the structure of the society which has taken a firm basis on the rock of time, spreading out varied interests and harmonising conflicting claims. The tenancy legislation is weeding out the defects, found inherent in the land-system. So it is very hard to make out a case for interfering with the Permanent Settlement Regulations; the spirit of the Regulations must be allowed to work.

It must also be noted that more than 46 thousands of people are maintained under the system who work as landlords' agents, clerks and rent collectors. They are the limbs of the system, the removal of the one being the virtual extinction of the other.

A charge is made that whenever, in any country, the proprietor ceases to be the improver, political economy has nothing to say in defence of landed property as there established. No one disputes it. But the conditions of Bengal are different. The tenancy legislations have made the landlords mere rent-receivers, and thus the stimulus to the investment of capital on the part of landlords is chilled and killed. If the landlords invest capital in the improvement of the land, there is no certainty that the ryots would agree to pay a higher rent. The landlords in the case of the refusal of the ryots can only take recourse to law-courts, where the increase of the productive power of the land due to the landlords' investment shall have to be proved. That is at once difficult and uncertain. Human nature being what it

is, it would be expecting too much from landlords, as a matter of that from any body, to invest capital with the risk of uncertainty in the return.

Thus, we find that an attack on the fundamentals of the Permanent Settlement Regulations would be a blunder. It would also be an injustice. And to prove it, I do not propose to go into the historical dissertation of the Regulations of 1793. In assessing the comparative effects of the Bengal Settlement of 1793 and the Settlement in England of 1798 (when William Pitt made land tax perpetual in England), Mr. R. C. Dutt in the "Economic History of British India" sums up in the following epigrammatic way :—"There may be some doubt as to the wisdom of Pitt's Permanent Settlement of the land tax in England ; there can be no doubt as to that of Cornwallis's Permanent Settlement ; in England the settlement benefitted the landed classes only ; in Bengal the settlement has benefitted the whole agricultural community ; the entire peasant population shares the benefit and is more prosperous and resourceful on account of his measure. In England the settlement limited the tax on one out of the many sources of national income ; in Bengal it has afforded a protection to agriculture which is virtually the only means of the nation's subsistence. In England it precluded the State from drawing a large land tax to be spent in the country for the benefit of the nations ; in Bengal it has precluded from increasing the annual economic drain of wealth out of the country. In England it saved the landlord class from added taxation ; in Bengal it has saved the nation from fatal and disastrous famines".

It is to be noted that the land-tax of Bengal was fixed in 1793 at 90 p. c. of the rental. Now it bears a porportion of about 28 p. c. to the rental of landlords. The increase of the extent of cultivation and the productivity of the country by organisation of capital and labour is the work

of landlords. The state of affairs obtaining in the country when the Decennial Settlement was made was extremely unsatisfactory. The lands for the most part were uncultivated: there were jungles infested by wild beasts, the public roads and bridges were in dilapidated condition. Now the fallow lands have been brought under cultivation; the jungles have been cleared and the soil thus cleared is yielding much revenue. The landlords did also undertake construction of roads and bridges, excavation of tanks and establishment of schools, colleges and charitable dispensaries. Now that agriculture pays is the miracle that has been brought about by the landlords.

The State demand was fixed at nine-tenths of the actual rental and the zemindars by investing capital and labour have increased the scanty one-tenth left to them. Lands which were uneconomic in 1793 have yielded immense profits; this has been brought about not by a fluke but by judicious management and investment. There is another aspect of the question: when the State demand was fixed at 90 p. c. of the rental, many zemindars found it impossible and absurd for them to pay off the revenue in time. Thus many houses fell down; the properties changed hands as they were sold. At that period, it was a very bold step to buy zemindaries agreeing to pay the nine-tenths of the actual rental. However, speculative buyers hazarded themselves in the task and undertook all the attendant risks. If by their ingenuous investment and clever management, they could increase the extent of cultivation and productivity of the soil, the credit must go to them. To be fair to the landlords, it must be admitted that they have not inherited the zemindaries from the Cornwallis Regulations of 1793; they have built them up—the risk was theirs, the capital was theirs, the organisation was theirs. To rob the landlords of their well-earned profits would be administering a deep cut across the fundamental principles of equity and justice.

The evidence of Mr. Pattle, a former member of the Board of Revenue, corroborates the statement :—

“The country brought under the Decennial Settlement was for the most part wholly uncultivated. Indeed, such was the state of the country from the prevalence of jungle infested by wild beasts that to go with any tolerable degree of safety from Calcutta to any of the adjacent districts, a traveller was obliged to have at each stage four drums and as many torches : besides, at this conjuncture, public credit was at its lowest ebb, and the Government was threatened with hostilities from various powerful Native States. Lord Cornwallis’s great and comprehensive mind saw that the only resource within his reach in this critical emergency was to establish public credit and redeem the extensive jungles of the country. These important objects, he perceived, could only be effected by giving to the country a perpetual land assessment made on the gross rental with reference to existing productiveness and therefore promising to all those who would engage the encouragement of an immense profit from extending cultivation. Admitting the sacrifice was very great, I think it cannot be regretted when it is considered what difficulties it conquered, and what prosperity it has introduced and achieved. For my part, I am convinced that our continuance in the country depends on the adoption of that measure, and that our stability could not otherwise have been maintained unaltered.”

Thus we find that the country prospered under the aegis of the Zemindars and there is no reason to regret the settlement. On the 20th of October, 1883, only two years before the passing of the B. T. Act of 1885, the Commissioner of Burdwan Division reported to the Government of Bengal as follows :—“The Bengal of to-day offers a startling contrast to the Bengal of

1793 ; the wealth and prosperity of the country have marvellously increased—increased beyond all precedent under the Permanent Settlement.....a great portion of this increase is due to the Zemindary body as a whole, and they have been very active and powerful factors in the development of this prosperity.”

In calculating the advantages which the Government had reaped from the Permanent Settlement of Bengal, Mr. R. C. Dutt poignantly pointed out :—“All through the fifteen years, from 1795 to 1810, Bengal had showed a surplus (because of the certainty of land revenue), Madras and Bombay had showed deficits. It is not an exaggeration to state that Bengal, with its Permanent Settlement, yielding a steady and unvarying income from the soil, enabled the British nation to build up their Indian Empire. Bengal paid the expenses of ambitious wars and annexation in Northern and Southern India. Madras and Bombay never paid the total cost of their own administration during these years : Great Britain never contributed anything towards the acquisition of India.” That shows that the Permanent Settlement in Bengal was an economic gain and a political necessity with the Government. The canon of certainty subordinated all other considerations, and, in fact, certainty of revenue was and is a great boon to Government.

There is another standpoint from which the question of Permanent Settlement should be approached. Because of the Permanent Settlement Regulations, the people of the country have tried hard to increase the economic productivity of the soil ; they have also invested much capital on land. The Regulations of 1793 gave a sense of security and the people naturally clung to the soil and worked hard for the improvement thereof. It is because of the Permanent Settlement that the shy capital of the country was released for investment in the land ; the

capital and labour have not naturally travelled to trade and industries. The land-system has made Bengal essentially an agricultural country and has gone against the industrial growth of the province. If after 140 years, any attempt is made to change the land-system, that would be doing injustice to those who have made huge investments in the land. Looked at from this standpoint, any legislation tampering with the spirit of the Permanent Settlement Regulations of 1793 would be a piece of discriminating legislation which is the declared objective of every progressive State to avoid. Such an act of expropriation would not only be an injustice but would also revolutionise the entire social and economic structure of the country.

CONCLUSION

The word "landlord" here in Bengal is not to be confused with the "landlord", as understood in Britain. Here the "raiyat" of to-day becomes the "tenure-holder" (landlord) of to-morrow. "Attempts to protect by legislation the interest of the raiyat, although such attempts are theoretically very desirable, mean increase of litigation and the consequent impoverishment of the people, landlords and raiyats. Ideas of giving the actual cultivator of the soil safety of tenure and status often end in making the real raiyat a tenure-holder and help increase of sub-infeudation which produces such a baneful effect on the increase of agricultural wealth. The vicious circle thus continues. Poverty, litigation, and sub-infeudation go on increasing and the production of a most important branch of national wealth is sapped at its root. In the interest of the improvement of agriculture, it is desirable to decrease sub-infeudation and to make so far as possible the holding of the raiyat an economic holding".*

* Vide Sir P. C. Mitter's Memorandum before the Taxation Enquiry Committee.

In the foregoing pages, I have only attempted to show that the agricultural backwardness of the province calls not for the revision of the Permanent Settlement Regulations of 1793 but for other measures. Publicists are wallowing in the welter of confusion and attack the land-tenure of the Province, often ignorantly and sometimes wilfully. That does not improve the situation, and the hazy ideas that becloud their minds must not be allowed to envelop judgment. Those who think that a millennium could be set up by scraping the Permanent Settlement Regulations are living on false hopes, and they are, in their own way, merely hastening the dawn of class warfare, which a poor country like India can ill-afford to indulge in. The luxury of class-warfare is for organised labour and for a prospering and prosperous country; the country already knocked down under the chill of poverty should avoid it on any account. Things must be made to behave in a way which contributes to the harmonious improvement of all the units of the province. To nurture animosity based on crass ignorance is, to put it in the language of an eminent satirist, "psychopathic, contemptible and the most pernicious form of idiocy." The essential prerequisite to all-round national advancement is that the one part must not unnecessarily hit the other; the one should lean on the other. Such mutual interdependence requires mutual understanding which is befogged by ignorance.

His Excellency Sir John Anderson, at St. Andrews' Day Dinner on November 30, 1932, gave out his considered opinion on the Permanent Settlement which deserves the serious attention of our publicists and economists :—

"It is, I believe, often said that Bengal would be all right if it were not for the Permanent Settlement. Such a comment does not seem to me to be particularly relevant but let us examine the point. The Settlement (of 1793) was not the outcome of the

grasping and short-sighted policy of a parochially-minded provincial Government but was deliberately imposed by the highest authority in India. Incidentally, it was the same authority who announced that it was "fixed for ever." No doubt the provincial Government would have been able, had there been no Permanent Settlement, to derive a larger revenue from the land: but in that case it would have been impossible under conditions prevailing to-day to collect the full amount of the tax on Jute."

**THE
TENURE OF AGRICULTURAL LAND.**

THE TENURE OF AGRICULTURAL LAND

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PREFACE

It is very striking to find that the tenure of agricultural land is of late engaging the increasing attention of our publicists and politicians. Unscientific tenures are undoubtedly accelerating the swift pace of agricultural deterioration. The situation calls for a bold, new policy. Prejudice and bias which often envelope clear thinking on such a vital question block the way to solution; they add to the difficulties. This monograph seeks to throw light. If the thesis maintained in the present publication receive serious consideration from informed critics and discerning countrymen, I shall consider my labour amply rewarded. I have not advocated any particular system. It is true that I do dislike some of my conclusions, but they are irresistible to students of economics. I could not sacrifice consistency to any pet doctrine. The Politics Club endorses the publication but not necessarily the views contained therein. It is at the instance of the Club that I present the monograph to the public.

I convey my thanks to those who gave hearty encouragement in the preparation of my work.

S. S.

BALLYGUNGE,
April, 1937.

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THE TENURE OF AGRICULTURAL LAND

CHAPTER I

AGRICULTURE AND TENURE.

Land is a gift of nature. It is an exceptional form of wealth, it is limited in extent ; it cannot be multiplied by human labour nor can it be utilised except by human labour. It is immovable and as such the worker being attached to it through the chain of labour and vested interests cannot with profit leave it. The best form of land tenure is what gives the maximum amount of production from land. It should be clearly understood that land has no intrinsic value : "the value is consequent on its capacity to produce articles of real value." Land must have fertility, it must have favourable climate. Land must have economic capacity and economic efficiency which are the two dimensions of productivity. "The capacity of land is influenced by its topography, temperature, rainfall, texture and the kind of crops grown. The economic efficiency of land is measured in terms of the value of the product per unit of labour and capital expended upon it. The product is always equal to capacity multiplied by efficiency." All this forms the potential wealth of land but it requires to be extracted by labour and marketing. The value of land is conditional on the two factors, labour and market. Mere production of wealth is no good unless it is brought to the market where its value is to be realised. "The law of increasing costs and diminishing returns per unit of social economic energy put into agricultural production is almost sure to operate in agriculture." In the circumstances, "the hope for relief from the depressing effect of the law of diminishing returns lies in the improvements in men and equipment which will increase their efficiency." That means that "the part which labour, equipment, and skill in management will play in agricultural production will be more important, relatively, in the future than in the past." Land-

tenure is thus important, very important, because it is the basis of production, the basis which gives energy and incentive to labour, the basis of credit which is essential in agriculture and also the basis which gives sustenance to any scientific form of distribution which, in plain language, means marketing. The growth of population adds value to the produce of agriculture and the increase of the means of subsistence acts as a spur to the multiplication of the population. It is accepted by economists that the population is in the position of a spring under compression, the compressing force being the means of subsistence. It is urged by many that if the growth of population add value to the agricultural produce and necessarily to land, that is the unearned increment of land. If we take a liberal view of agricultural economics, we should find that landlord is entitled only to the return from the improvements effected by him, cultivator to living wages, and the State to the rest. However, in the development of the system of land-tenure, two important factors relating to the behaviour of the human race should be remembered: life has a material basis which cannot be ignored and the motive for human activity is to be found in the reward reaped.

It is said that land is the property of all men equally and cannot legitimately become the property of the individual to be used and to be disposed of as his own interests dictate. It comes to saying that there can be no absolute ownership of land. Technically, "land is not the subject of absolute ownership but of tenure." In England it is claimed that the ownership of land is never absolute, while the ownership of goods is never anything but absolute. "The ownership of goods is regarded purely as a right; ownership of land is still regarded as a duty as well as a right. Being a duty the law has been most careful to see that there is always someone in existence to discharge it." In the Laws of England by the Earl of Halsbury it is clearly stated: "there is no land in England in the hands of a subject but is held of some lord by some service or for some estate; and this tenure is either under the King directly or under some mesne lord or a succession of mesne lords who, or the last of whom, holds of the King. Thus the King is lord paramount. The tenure of land is based upon the assumption that it was originally granted as a feud

by the King to his immediate tenant on condition of certain services and where there has been sub-infeudation, that the immediate tenant in turn granted it." It is therefore claimed that the nationalisation of land is nothing but the re-assertion of the old historic principle of land-tenure. Those who make this claim are inwardly accepting that though feudalism is dead, the principle is alive.

However, this much is true that the institution of private property in land is limited by its duties; the rights are not unconditional. In the India of the Hindu period, private property grew naturally and was recognised, though insistence on its duties was always emphatic. As a form of possession property in land is always imperfect. For any sound system of land tenure this fact should be eloquently borne in mind. Mr. L. H. Haney was right when he observed: "we cannot think straight on the land problem if we are going to assume that there is anything morally wrong in owning land. This, that, or the other individual land-owner may abuse his power, but the general institution of private property in land is a question of expediency, not morals."

Land Tenures in the Hindu Period.

Before we go on discussing the principles of tenure it would be profitable if we make a running analysis of land tenures prevailing in the Hindu period of ancient India.

The Hindu system of land tenures forms an essential background for understanding the land-system in our country. Mahomedans did not introduce any new system of land-tenures; they rather adopted the system which they inherited and even left to Hindu officers for the execution of its details. Britishers came and endeavoured to model the system according to the practices prevailing and rooted in the country. It was clear that the influence of the Hindu system was never wholly obliterated, and whenever and wherever modification has taken place, it has always been a debatable point if that has all been to the good of the people concerned. Accordingly, a study of the Hindu system of Land Tenures is a useful guide to understanding the implications of the existing land-tenures in the country.

It is recognised that the materials for a description of the Hindu system are scanty: Dharmasastras, ancient records, remains of old institutions give meagre indications. My main reliance is on the antiquarian researches of scholars who have thrown some light, however dim, on the subject.

The institution of private property is recognised and its growth accelerated by the Hindu Law. The distinction and inter-connection between the conception of ownership (Svamitha) and property (Svatta) is also recognised by the Hindu Jurists: "ownership may be said to inhere in persons in relation to things in so far as they are objects of ownership and property may be said to characterise things in so far as they stand related to persons who are their owners."¹ The idea of property could easily crystallise into a share as the Hindu system is hereditary, as offering a contrast to the non-hereditary or anti-hereditary character of the Mahamedan system, "from the hereditary Rajah to the hereditary village dancing girl." Secondly, the institution of private property does not fall into abeyance on the outbreak of hostilities. According to the Roman Law the property of the enemy is regarded as 'res nullius', and it is the victorious party who will deal with it at their discretion. But the Hindu Law regards conquest as an independent source of acquisition of ownership: it does not sweep away all private rights. "A king bringing under his control a foreign territory becomes subject to the very same duties as are cast upon him in protecting his own state."² It is contended³ that if ownership arises from first occupation, it is probable that the Sovereign being the stronger party will trample down the rights of subjects who may be at most regarded as lessees and whose rights are permissive and terminable. This view is not supported by the Dharmasastras. Thirdly, the institution of private property found room and time for growth and gaining strength because the Hindu village communities lasted where nothing else lasted⁴ and they resisted and survived all shocks of conquest, civil strife and the fanaticism of proselytising rulers. Fourthly, the

¹ Dr. P. N. Sen's Principles of Hindu Jurisprudence.

² Yaynavalkya.

³ Jagonnath.

⁴ Description by Lord Metcalfe of the village communities.

lesson preached by Hindu Law-givers that "a fact cannot be altered by a hundred texts"¹ favours the growth of private property.

To claim that private property existed in the Hindu period is to assert that ownership in the soil was vested in the subject who cultivated it and not in the King who was entitled to a share of the produce therefrom. The earth is 'res nullius' as well as 'res communes' according to the ancient Hindu Law. The earth is the common property of all human beings² and as such it cannot be given away.³ Accordingly, Sir Henry Maine has maintained that separate property has grown out of collective property. There are some who pronounce in favour of the State-ownership of the soil and others in favour of the cultivator. The complex conditions of primitive communities naturally give rise to confusion. The King is proclaimed as "the Lord paramount of the soil" by Manu and the statement like the one, found in Satapath Brahmana that everyone here is fit to be eaten by the King except the Brahmana, lends countenance to the theory of the State ownership of the soil. Others believe that those statements refer to the taxable power of the King.

Manu says that sages pronounce cultivated land to be the property of him who cut away the wood or who cleared and tilled it. The owner of the field is advised not to let it fallow by sheer negligence and to keep up sufficient hedge; he is entitled to the produce of seed sown by another in his land without consent, to the produce of seed conveyed upon his land by wind or water and to a penalty in the event of a trespass upon his land. These statements of course do not inform us if "the owner had anything more than a right to cultivate and appropriate the produce."

The relation between the king and his subject was reciprocal. The king granted protection and received a share of the produce. The demand of the king was thus not rent or fee for the use and occupation of land but a tax for the granting of protection. It was agreed that "ownership over

¹ Jimutavahana.

² Savara Swami.

³ Jamini.

the taxable property is with the tax-payer and not with the king who is entitled to the tax only."

The emphasis was in those days laid on reclamation. Accordingly, the first tiller of the soil became its owner. Manu declares that arable land becomes the property of the man who cuts down the jungle for purposes of cultivation. The obligation to cultivate was insisted upon as it was necessary. "If land be injured by the fault of the farmer himself, he shall be fined ten times as much as the King's share of the crop that might otherwise have been raised but only five times as much if it was the fault of his servants without his knowledge."¹ "If a lessee of land does not exert himself and the land bears no crop in consequence, he is bound to pay the value of the crops that ought to have been grown on the land leased."² The cultivator was in great demand and had to be courted and it was therefore said that when a field was abandoned by the owner and the same was cultivated by another without opposition, the cultivator was entitled to the whole of the produce and the owner would not get back the land without paying the cost of clearance and cultivation.³ If a landowner is unable to cultivate his land, another might do so on a five years' lease.⁴ The cultivator or the owner paid "vali", a voluntary offering to the King in lieu of his protection and this voluntary offering came by custom to be compulsory.

As regards the rate of tax payable to the king there are conflicting directions. Gautama says that the cultivator must pay to the king a tax amounting to one-tenth, one-eighth or one-sixth of the produce. Baudhayana says that the king should protect his subjects receiving from them a sixth part of their incomes. Narada defines "Vali" as a sixth of the produce of the soil and mentions it as an item of the King's revenue. The Vishnu Smriti says that the king must take from his subjects as tax a sixth part every year of the paddy. Manu is more definite and scientific when he details the ratio of the

¹ Manu. "For damage caused to his field by negligent herdsmen in charge of cattle, the owner is entitled to compensation and fines are payable to the king."

² Apastamba.

³ Narada.

⁴ The Arthasastra. The theft of fields is a penal offence. According to the Smritis the theft of land is a great sin.

king as being of grain an eighth part, a sixth part or a twelfth part according to the nature of the soil and the labour necessary to cultivate it or more in cases of distress. The aphorisms of Apastamba merely contain that the king shall make his subordinate collect the lawful taxes. The standard rate was perhaps one-sixth but the rates varied.¹ The produce referred to was gross produce. In emergencies higher rates are levied. If it was cash charge, it was assessed at the low rate of one-fifty according to most authorities. "This differential scale of rates which was doubtless intended to apply to different classes of soils or crops evidently involved a more equitable principle of assessment than the rule of a uniform rate." The demand in kind was assessed according to the primitive method of actual division of the crops at the threshing-floor or according to the method of appraisement of the standing crops.

Manu and the Mahabharata declare that taxes should be constantly fixed in a way that the king himself and the cultivator may participate in the result. It was recognised that the substance of the king and of his subjects which was inter-related should not on any account be destroyed by excessive greed on the part of the king. The revenue of the State² is interwoven with the growing wealth of subjects and any diminution of the national wealth is bound to react upon the state-income. Hindu law-givers were perfectly acquainted with the sound canon of taxation that any tax should not form a large portion of the income of subjects and that taxes should be levied slowly, not in a lump, and at the time and place most suited for subjects. The two famous discourses upon "the

¹ Sir George Campbell says that the king took from one-tenth to one-eighth; Mr. Shore says one-sixth, Sir Thomas Munro puts it as high as from two-fifths to three-fifths. It is also said that the cultivator got half the paddy produce or grain in the husk and two-thirds of the dry grain crop watered by artificial means—this was after all deductions for village officers were made.

² According to the Arthashastra, land revenue branches into—Sita (the produce of the king's farm), bhaga (the king's share of the produce), bali (the king's receipts from begging), Kara (a general property tax). There are cesses such as "pindakara" (lump assessment upon villages), "senabhakta" (the king's dues payable at the time of marching of the army), "utsanga" (payments on some festive occasions), "anpayanika" (earnings from presents), "Kans theyaka" (earnings from the king's store house) and "parsva" (charge collected in excess of proper tax, therefore black wealth).

Duties of the King" in the Ramayana¹ and the Mahabharata² show that the conciliatory treatment of cultivators is inculcated and the advance of seeds and provisions, grant of agricultural loans and the construction of works are favoured.

Mere possession according to Hindu law does not constitute ownership. Possession acquires validity when it is accompanied by a clear title, so says Yagnavalkya.³ There are five elements of good possession—good title, should be of long standing, should be continuous, should be free from protest and should be enjoyed before the very eye of the defendant. Ownership which implies the quality in the object owned of being used by the owner according to his pleasure⁴ is a special capacity produced by purchase, acceptance and the like⁵ A person becomes owner by means of inheritance, purchase, partition, acceptance, finding, friendly donation, conquest, lending at interest, performance of work, gift, reward of valour, marriage, learning, mortgage, acquiring from kinsmen without issue etc.⁶

It must be admitted that private property in those days was imperfect. "No one could sell the property to a stranger without the consent of his associates who always had a right of preemption." This conception of primitive property, largely influenced by the village-community, found support in Kautilya who said that cultivator could only sell or mortgage among themselves, otherwise the seller was liable to fine. The entire land was not common property but "each family had the duty of submitting to the common rules of cultivation and pasturage and of abstaining from sale or alienation without the consent of co-villagers and (according to some authorities) of refraining from imposing a rack-rent upon the members of the brotherhood."⁸ In India individual ownership means a tenure by a family and the village community is an aggregation of families, each of which has its private land which it cultivates

¹ Questions by Rama to Bharata.

² Narada addressing Yudhisthira.

³ Possession becomes valid when it is coupled with legitimate title, so says Brihaspati.

⁴ Jimutvahana.

⁵ Nilkantha.

⁶ Manu, Gautama, Narada, Brihaspati and others.

⁷ Leveleye in "Primitive Property."

⁸ Henry Maine in Early History and Institutions.

for its own special benefit: waste lands, pasture grounds etc. are held in common. The village constitution makes room for a council of Elders and the headman is one of the twelve hereditary village officers.¹ These officers were paid by a share of the produce and occasionally by cash or by allotment of land free of revenue or at low rates of revenue. The scale of remuneration to officers in charge of the local administration was as follows: lord of ten villages receiving one kula of land (that is, as much as can be cultivated by 12 oxen), lord of twenty villages receiving five kulas of land, lord of 100 villages receiving one village and the lord of one thousand villages receiving one town. These grants of lands were chiefly in vogue in Bengal to officers serving the State and the village. "Lands so allotted were called *chakeran* or service lands in later times." The village also maintained a number of servile labourers receiving a share of grain from the threshing floor and they, though hereditary, could be dismissed by the community. The headman,² partly elective and partly hereditary, derived his right to the office through his descent from the founder of the village. As the representative of the village the approval of the village council was necessary and as an officer of the Government the State had a veto upon his appointment and could dismiss him. He was the adjuster and collector of the revenue of the village.³ He was also the village magistrate; the cultivator was assessed individually but the headman was responsible for payment. If the headman do not agree to the amount of assessment required by the officers of the Government the settlement was either made with cultivators or the revenue was farmed or leased to the *kadar* or *ijaradar*. "The position and emoluments of the *zemindar* seem

¹ Other officers were the village registrar, one inquiring into crimes and escorting travellers, one watching the crops, the distributor of water, the astrologer announcing the season for seed time and harvest and notifies lucky and unlucky days, the blacksmith, the carpenter, the potter, the washerman, the barber, the silversmith. The village was self-contained.

² In Bengal he was *Mundal* in Mahammodan times.

³ He arranged all the details of the assessment, ascertained the extent of each holding in the village, estimated the growing crop, saw the threshed corn heaps weighed and apportioned the revenue accordingly either by estimate or by actual outturn. He was to see that the village accountant made proper entries in his book.—See *Phillips' Land Tenures*.

to have been an extension of those of the headman: many of the headmen became zemindars and their rights as headmen were combined with and merged in their claims as Zemindars."¹

From a survey of the village constitution it is apparent that the village community was not a little republic in the same sense as the Russian Mir was found to be. The land there belonged to the commune or Mir which consisted of "Starosta" or Mayor or Elder elected by the heads of families. The Mir divided the land, fixed the time of commencing ploughing, decided the question of admitting new members, expelled the incorrigibly idle, prepared and executed all contracts, appointed the tax collector, watchman and cowherd, decreed the measures against defaulters and interfered, if found necessary, in the domestic affairs of its members who were entitled to a share of land.² In Hindu India the cultivator was assessed by the officers of the Government; the headman though elected by the village was subject to the sanction of the State, the officers of the State could lease out lands to thekadars and the land belonged not to the community but to the family which was the unit in India. It seemed that the village community, at least in Bengal, was never very strong and accordingly the multiplication of private interests in land grew very smoothly, especially when the hereditary system was one of the fundamental principles of Hindu jurisprudence.

Technically, the ownership of land was divided amongst the king, the family and the village community. The advance of royal power led some to believe that the king being the stronger party was really supreme in the matter of ownership of the soil. The Arthasastra mentioned the King's right over the unoccupied waste land including both the cultivable and barren portion, over waters, mines, forests and treasure-trove.

¹ See *Phillips' Land Tenures in Lower Bengal*. The emoluments of the headman were considerable: revenue-free lands or lands at reduced rates of revenue, fees and dues from non-agricultural villagers, services of servile labourers, fees from travellers, surplus of the village-fund, expenses for food and travelling when employed on the village affairs.

² See Field. The feeble infant, the aged, and those whom accident or disease has incapacitated from work receive equally with the able-bodied an allotment of arable land attended with burden which necessarily falls upon those members of the family who are capable of working. As the stake of all is alike, there is no social inequality. Such an institution prevents the creation of an agricultural proletariat.

The rise of aristocracy was traceable to the free grant of villages to the officers of the Government. Those grants did not show the proprietary right of the king: those were the grants of regalia. "Alike in the Arthashastra and in the historical record the king's private estates are sharply distinguished from the great mass of agricultural land which are charged with the burden of the land revenue and attendant cesses. The King's claim to supersede or fine negligent cultivators and to enforce the cultivation of a second crop in emergencies is to be connected with his sovereign authority and not with his proprietary right, for private ownership of land in its essential features is recognised by our authorities."¹ The village-community had ownership of irrigation-channels and grazing fields. In the period of the Rig-veda the king could deal with the public land only with the sanction of the tribal assembly. The village-community² being an assemblage of co-proprietors, unrestricted powers of alienation and sale could not be found in the family and in that sense an imperfect form of private property prevailed in the Hindu period amongst cultivators. "The village in fact was the key to the Hindu Land system."

The Hindu village grew out of the joint-family and nearly every villager had a common founder. In the struggle for existence strangers were absorbed into the village. The need for strangers was strong, as land was plenty and hands few. If strangers lived permanently, they became members of the village community. If they lived more than one generation, that showed their intention to live permanently. But there came a time when the tide of absorption of strangers was stemmed and tenants grew up. Thus there grew up three classes of cultivators: the original settlers and their descendants; the immigrants who were absorbed in the community; mere sojourners cultivating the land. The first two classes were permanent tenants, known as the Khudkasht rayats³ (that is,

¹ Dr. U. N. Ghosal in "the Agrarian system in Ancient India".

² The village community preserved their organisation in south India, in the Delhi territory, in the North-western provinces and in the Punjab. It fell into decay early in Bengal.

³ From Khud=own and Kasht=cultivation: sometimes erroneously interpreted "cultivating their own land" and so leading to the mistaken notion, that they had hereditary proprietary rights—see Elphinstone's History of India, quoted by Field.

raiyats cultivating the land of their own village). Their rights were regulated by custom: they had a right to occupy their holdings so long as they cultivated and paid the customary revenue. They acquired by long tenancy a kind of hereditary right of occupancy. They could not originally transfer their holdings without the consent of the community. Sir George Campbell remarked that their holdings were practically not transferable by sale and that there was not enough profit derived from them to lead to systematic underletting.¹ There was very little to sell and there were very few occasions for sale or transfer and "by the lapse of time the original condition of transfer, which required the consent of the village community, had ceased to be considered binding." They paid the customary rate which was liable to enhancement; they were bound to till to the full extent; they were also bound to cultivate in the customary way. They enjoyed higher privileges and necessarily paid higher rates than other cultivators. Their privileges were manifold²: they had a preference in the choice of land at the time of allotment; they could dig wells upon their land and let out the water; they received "russooms" or fees from the other cultivators; they had a right to the services of servile labourers, attached to the village community or to an allowance of one-eighth of the crop in lieu of such services; they had in some places allotments of revenue-free lands; they enjoyed the use of the productions of the waste for the construction and repair of their houses and implements of husbandry; they had the right of pasturing their cattle upon the unoccupied lands of the village." They had proprietary rights of a very complete kind, says Phillips.³ This is true if transferability was not reckoned as an incident of proprietary right in land. Lands were saleable or mortgageable only amongst cultivators. In case of sales lands were publicly put upto

¹ Mr. Shore and Mr. Harrington agreed that their holdings were not transferable. Justice Field was very critical of the rights of Khud Kashts and observed that custom being the sole legislative power, they acquired rights which originally they had not.

² See Phillips.

³ The conception of village community as advocated by Maine and others does further the growth of private property. Land belongs to the community and all the members are liable for the dues of Government and other public burdens in proportion to their respective shares but the community is responsible for payment.

auction and the heads of families acting in their behalf and interests could sell.

Subletting was originally unknown. But from indolence or from necessity or from abundance of sudra labourers subletting became common. The necessity arose when through the right of heredity lands passed into the hands of females or "of persons whose caste prevented them from personally performing the manual labour of cultivation." But "the love of ease so natural to the native of India, the desire to escape manual labour and to be supported by the labour of an inferior" furthered the growth of hired and temporary tenants.

The temporary tenants who comprised the sojourners were tenants-at-will, commonly known as "Pyekashts"¹. They were conditional occupants paying lower rents than "Khudkashts." Their fate turned prejudicially when the competition for land increased. They could be dispossessed for default in paying rent and for not keeping up the full extent of cultivation and "they could not reclaim their holdings as the Khudkashts could." Paykeshts had two classes—the one class acquiring hereditary right in course of time and the other class remaining as mere tenants-at-will, more usually from year to year but sometimes for fixed periods. "They had to be attracted by favourable terms: they had no proprietary right but could not be ousted between sowing and harvest." Their interest was of an uncertain and precarious description. "Such rights were left to be settled by contract and were hardly allowed to come under the higher protection of custom which regulated all the more important and permanent interests." The better class of paykeshts received 45 per cent of the crop as their share, whereas mere sojourners received 50 per cent. Mere sojourners from neighbouring villages had no voice in the government of the village community.

The rudiments of the Zemindar could be found in the fiscal machinery then prevailing. The headman, as we have noticed, was responsible for payment of revenue and he generally paid to the head of the pergunna (a division consisting of a number of villages), called "Chowdhry," who transmitted

¹ From Pai=living near, non-resident, and Kasht=cultivation. It is possible that the "Pai" in "pai Kasht" is also "pay", the foot, signifying a man who journeys to his work or cultivation, see Field.

the revenue to the treasury retaining ten per cent of the collections as his remuneration. He was often paid by an assignment of the revenue of a certain portion of land and Mr. Phillips agreed that the zemindars of Mahammadan times grew in many cases out of the Hindoo Chowdhries. In the fiscal machinery the village "GOPA" had an important place. His duties were to prepare various registers, to keep an account of the Government advances and remissions in respect of the villagers. Above the "GOPA" stood the "Sthanika" (circle-officer) who was expected to prepare similar registers and census-lists for the larger area comprised within his jurisdiction. At the top of all stood the "Samaharta" (Collector-General). This system practically ran through the Mahammedan period and was adopted as the basis by the Company which did not disturb the existing machinery of collection.

Forms of Tenure.

There are three forms of tenure: occupancy ownership, cash-tenancy and share-tenancy. There is an eternal tug of war if tenancy is good or bad for agriculture. If absolute ownership of land is not possible or if it is morally wrong and socially unscientific, that is equally applicable to landlords or to cultivators. The modern tendency is to put a curb on ownership. If ownership is limited on fundamental points, that can hardly be distinguished from tenancy. Those of us who are swayed by expressions, it is better to say that the best form of tenure is occupying ownership subject to the limits set by law. It has been found that if there is magic of property, there is also the demon of ownership. Accordingly, it would be rash to say that proprietorship of the occupier under all circumstances is the ideal to be aimed at.

In a tenancy the State or a County or an Association or a private person may act as a landlord. The chief defence of landlordism is that it supplies agriculture with capital at a cheap rate. "Landlord's position in agriculture is not of privilege but of utility." Landlords are to be real leaders of the rural population; they are to bring in science in agriculture, enlightenment in rural life. The mere expression, landlord, should not frighten our land-reformers. Cultivators must have

landlords: they are poor, they are scattered, unorganised, illiterate and wasteful. They require leadership, they require financial assistance, they require to be led at every step. It may be that the State is an ideal landlord, it may be that the county or district authorities or co-operative Associations are not worse, it may be that private persons are the worst. That is irrelevant to the issue. The main question is that the functions of landlordism must be performed: if the State do not, others must, because agriculture should not sink, should not be allowed to sink into a state of exhaustion, unnursed and uncared for.

It must be recognised that landlord's ownership is a form of national service; tenant's occupancy is also a form of service. Landlord has right which rests on the performance of his function: tenant has right which is conditional on the proper use of land and on the performance of his obligation. There are bad landlords who do not perform their functions but at the same time are eager to exercise their rights; there are inefficient tenants who love to continue occupying without performing their part. Indifference of landlords and slovenly work of tenants—both are not to be tolerated: both the idlers must be deprived. Landlord is to supply permanent capital, tenant is to provide working capital—either party can injure the other. Therefore, agricultural efficiency rests on conscientious landlords and efficient farmers. The responsibility of landlord is greater because his is the duty to select efficient farmers. It is not enough that farms are occupied; farms must be occupied by honest tenants. Landlord must earn his rent: tenant must go through his obligations. Negligence at any stage or in any form on either side is fatal to the efficiency of agriculture. Ownership without responsibility is bad.

The functions of the State or of an ideal landlord are to create conditions of land-tenure which will give actual workers on the soil the utmost freedom and encouragement, to preserve full opportunities of access to land for those who are best qualified to use it, to protect agricultural land from misuse and to conceive a policy for making full use of its land, to bring into agricultural use any land capable of cultivation, to extend to agriculture the benefit of credit resources at a cheap rate which the State or landlord commands, and to bring science and education to agriculture. The functions of cultivators are

to farm efficiently, to make payments regularly, to stop the deterioration of holdings brought about by reckless subletting, subdivision and transfer, to live in an atmosphere of mutual trust with the neighbours, and to receive enlightenment and guidance from the State or landlord with the utmost charity.

If farming is a business, there must be free action. Free action connotes the freedom of cropping and freedom of having full reward for labour. If the tiller is assured of a full return, a better output of the field is sure to follow. Tiller puts forth not only his labour, but also intelligence, judgment, risk etc. "Men never work at their best where there are others to take toll upon their production, possibly to skim the cream off." But at the same time, no impediments should be thrown to the earning of rents by landlords whose capital, credit resources and protection are most vital and essential to tillers. If full return of the labour of occupiers is assured, it is immaterial if there is occupying ownership or not. In fact, in any form of ownership the State is to assist and to limit the powers of ownership. That is at most limited ownership. Moreover, occupiers have more enthusiasm for security, less for ownership. The following arguments against occupying ownership are given in "the Land and the Nation" (a rural report of the Liberal Land Committee, England, 1923-25):

- (a) it would bolt the door of opportunity against those land workers who at present have no land to farm,
- (b) it would complicate measures for acquiring land for small holdings,
- (c) it would burden the occupier with a load of debt,
- (d) it would absorb capital urgently required for farming development,
- (e) it would perpetuate the present size of holding,
- (f) and it would not provide inducements to good cultivation.

Grievances generally gather strength when land falls into private owners who are divorced from agricultural practice, that is, private landlords. If property is lumped into a few hands, naturally the owners can not be actively engaged in practical agriculture. "Too many lordly estates have become

mere imposing shop windows with poverty at the back of them." For the proper functioning of the private landlord-tenant system, the following conditions are necessary: landlords must supply capital and credit, they must not shirk making permanent improvements on lands, they must not be put under restrictions for making improvements and earning their rents; and tenants must do their part efficiently. There should not grow any middlemen so that landlords or tenants may be left in the position of rent-receiving sinecurists. The partnership of private landlords and cultivating tenants "implies an equitable distribution of responsibility, risk and profit, and a fair balance of the first two against the third." To the free working of the landlord-tenant system the landlord's right to raise rent is essential because, human nature being what it is, improvements would not naturally be forthcoming if any return of them is not assured. Either party must not feel grieved: fair dealing is essential. Accordingly, it is said that private landlords should not own more properties than they have capital for making improvements. Inability of the proprietor for making improvement contributes to the neglect of the estate and its cultivators. Large properties should be reduced, so that owners may become interested in the management of estates. In that event, they would become active, valuable localised workers for the nation, "laying up like bees a treasure far more precious than honey." Unwieldy large estates in the hands of one private owner do always invite bungling for which the nation suffers in the long run. Similarly, a tenant should not occupy land in excess of the measure for which his means suffice. All this lays emphasis on medium-sized properties and small holdings and perhaps they are essential for the proper functioning of the given landlord-tenant system. It is undoubted that "if we reckon up the loss caused to the Nation, on the one hand caused by the selection of inferior tenants, on the other by the landlord's inability or unwillingness to make called-for improvements, the reckoning would mount to a huge sum." Private landlords were and are preferred because it would be a disaster if the nation's land were transferred to a class, insufficiently equipped with the means to develop or maintain it. Land demands a certain amount of nursing and labour; cultivator requires a

certain amount of protection throughout the year ; and if the cultivator cheat land, and landlord deceive cultivator, land will punish both of them and the nation at large. The functions of land are to produce the economic maximum of food for the nation and to give employment to the largest number of people, and they can be frustrated if there is negligence from either side. Mill was therefore careful to point out that "the reasons which form the justification of property in land are valid only in so far as the proprietor of land is its improver. In no sound theory of private property was it ever contemplated that the proprietor of land should merely be a sinecurist quartered on it."

We thus find that the question of tenure is very important. It has important reflex bearings on production. Agricultural production is the winning of wealth from the land by means of labour. Farmers may be deprived of security, economic holding may be turned into uneconomic, fertility of soil may be lowered, supply of land may be restricted, difficulties of acquiring capital may be increased—all this may be brought about by bad land tenure. And all this will affect production. But a sound system of land tenure must be flexible, "capable of securing the equitable distribution under the changed conditions that must inevitably arise in the future." Moreover, a general programme of land tenure cannot be laid. Every country must adopt a policy calculated to suit its own conditions. There cannot be a rigid, general programme of land tenure applicable to all countries and for all times to come.

In any sound system it is not legislation that is most important but it is the character : the sanctity of rent can only be appreciated by those having character and vision. The accumulation of arrears of rent is a very serious crime with those occupying lands. If arrears of rent accumulate, the occupier is slowly but surely driven to a desperate situation, out of which he cannot escape. That situation breeds irresponsibility and creates a consciousness that no amount of skill, industry or economy can improve his position. This consciousness fosters idleness and prodigality and turns the occupier into dishonest and insolvent tenant. "A man is often not industrious even when he knows that the produce of his industry will be his own ; how much less will his industry be when he has good reason to fear that another will seize the

fruits." Arthur Young, a great advocate of the cause of peasants, in the interest of tenantry strongly recommended the enforcement of punctual payment of rent in his advice to Irish landlords: "The first object is a settled determination, never to be departed from, to let his farms only to the immediate occupiers of the land, and to avoid deceit; not to let a cotter, herdsman, or steward, have more than three or four acres on any of his farms. By no means to reject the little occupier of a few acres from being a tenant to himself, rather than annex his land to a larger spot. Having by this previous step eased these inferior tenantry of the burden of the intermediate man, let him give out, and steadily adhere to it, that he shall insist on the regular and punctual payment of his rent, but shall take no personal service whatever. There will arise, in spite of his tenderness, a necessity of securing a regular payment of rent. I would advise him to distrain without favour or affection at a certain period of deficiency. This will appear harsh only upon a superficial consideration. The object is to establish the system; but it will fall before it is on its legs if it is founded on a landlord forgiving arrears or permitting them to increase. Such a steady regular conduct would infallibly have its effect in animating all the tenantry on the estate to exert every nerve to be punctual whereas favour, shown now and then, would make everyone, the least inclined to remissness, hope for its exertion towards himself; and every partial good would be attended with a diffusive evil; exceptions, however, to be made for very great and unavoidable misfortunes, clearly and undoubtedly proved."

"Low rent, low farming", it is an accepted slogan. Low rent does not drive a cultivator to be industrious and frugal; it promotes wastefulness and idleness. Rent, on the other hand, should not be extortionately high to affect production, nor should it be extremely low as to foster light work. The peasant should cultivate his land more with the passion of an artist than in the plodding spirit of a mere bread-winner and he should try to bring forth the maximum of production from the earth.

Subletting and sub-division may not necessarily be connected with each other but they proceed from the same causes and produce the same effects. A farm may be sublet without

being sub-divided. But that would encourage middlemen who are real parasites and work the greatest mischief. The modern tendency of land legislation is to produce economic unit and to see that it is neither sublet nor sub-divided nor transferred ; it may be sold. Thus economic units do not deteriorate and middlemen cannot grow. All this affects ownership of occupiers but this limited ownership is essential in agriculture. Land must not be starved : that is a grand principle in agriculture.

Primogeniture is a feudal institution but it has a direct tendency to prevent the dispersion of land. It is true that sub-division to a certain extent conduces to political and social order, because "the greater the number of the proprietors, the greater is the guarantee for respect of the property and the less likely are the masses to nourish revolutionary and subversive designs." But there is a limit and that limit is set not by the acceptance of primogeniture but by the creation of the preferred heir system. Even from the standpoint of large estates, primogeniture is condemned. The statement of the Hon'ble George C. Brodrick is interesting : "Primogeniture must be condemned, politically, as aggravating the perilous dualism of town and country ; as affording the very minimum of constitutional stability to be derived from the conservative instincts of proprietorship ; as giving a very limited body of landlords a preponderance in the State. It must be condemned, socially, because it helps to stereotype the caste-like organisation of English classes in horizontal layers. It must be condemned, economically, because it cramps the free play of economical laws in dealings with land, multiplies the difficulties and cost of transfer, and discourages a farsighted application of capital to agriculture. It must be condemned morally, because it holds out to almost every eldest son in what must still be regarded as the governing class the assurance of wealth and power, whether he be worthy of it or not, and subject to no condition but of surviving his father. It must be condemned, in the interest of family government, because it fatally weakens the authority of parents over eldest sons and introduces a degree of inequality into the relations of children brought up together, which often mars the cordiality of their intercourse in after-life."

Share-Tenancy.

Share tenancy, though a mediæval institution, has not relaxed its grip upon the modern land-system. In the beginning payment was in kind: that was not strictly share-tenancy. Share tenancy, which is known as *Metayage* in France or *Mazzadria* in Italy, is "the result of an agreement or a contract by which the lessor, the landholder, the usufructuary or tenant farmer of a farm gives the metayer or partial metayer (who gives his labour) the temporary enjoyment under his own direction and supervision of the land, buildings and all or part of the livestock and farm requisites and shares with him the eventual produce in kind and money, whether equally or in some other proportion." In South and West France, Italy, Spain and Portugal this form of tenancy is popular. It is a form of partnership between landlord and tiller, landlord supplying capital, livestock, seed and other necessaries, and tiller giving his labour. The direction of the field operations is left to the metayer as the landlord has to and does "trust to the good sense, prudence and experience of his partner who has a more intimate acquaintance with the farm he works and the livestock he tends." The landlord supervises the work and may with his superior knowledge determine the course of action. But he will have to take the metayer into confidence, as he will advance the money relying on the honesty and industry of the tiller. Fields where grain crops spring are fit for cash tenancy but where costly produce or skilled husbandry is necessary, the risk and profits of farming should better be shared by the capitalist and the labourer. Thus the landlord can never be a sleeping partner. For the proper functioning of the landlord-tenant system produce-sharing tenancy is a very wholesome method which keeps both the partners interested in the process of production and the division of produce reduces the whimsical repercussions of price-mechanism on the relations subsisting between the partners. In a cash-rent a tenant may be paying a usurious rate of rent; he may have miscalculation in fixing the amount of rent; he may be depressed by a feeling of insecurity as his payment will be dependent on better price realised for the produce. There are no such uncertainties in a share-tenancy and as such in times of depression it acts as a blessing and in times of

prosperity neither of the parties will be labouring under a sense of injustice.

Until modern times metayers had rarely had written agreements. "A written title is the material for lawyers." In a share-tenancy it is mutual trust which is the core of the system and tenants know that a written agreement can be far more easily thrown up than a purely customary title. The frequent form of tenancy granted to the metayer is for a single year but it is little disturbed. It is generally renewed from year to year and it is often found that the metayers of France, Italy, Spain and Portugal have held their small farms for more generations than their landlords. "The metayer is attached not only to his land but to the things which grow on it." But of late the metayers are demanding security of tenure and their demand should be satisfied to ensure improved husbandry from their side.

We have noted that mezzadria is a popular type of share-tenancy in Italy which covers more than one-third of agricultural land in the country. There is "terziera" where the landlord takes two-thirds of the crops. There is also "tirare avanti" where the owner gets into partnership with a "contadino" and after reserving 25 per cent. of the produce to himself as rent, he halves the remainder with the partner and becomes responsible for the provision of machinery, drainage and of loan of money without interest needed for the year's working.

In Australia share-farming is found on a considerable scale. In share-tenancy forms may vary but the principle remains, the principle of active participation of both the partners in the process of production, the one providing fixed capital and the other working capital.

"Share tenancy is more common than cash tenancy in the United States." The forms of share tenancy vary with respect to the proportion of the product received by each party, the equipment and supplies furnished by each party and the degree of control exercised by each party. In the one-fourth system (that is when one-fourth of the product is the landlord's share) the tenant usually furnishes all the equipment and seeds. In the one-third system the landlord usually controls in detail the

kind of crops to be grown on each field and "beyond this he leaves the tenant to do as much as he pleases." Under the two-fifths system the landlord is asked to do the same work. There is also a half-and-half system. The land-and-stock share system which is a form of the half-and-half system is peculiar to America in which the landlord furnishes a part of the live-stock or owns a half interest in all or a part of the live-stock. Under the two-thirds system "the landlord furnishes everything but the labour." In America "cash rented farms are not, as a rule, so well kept up as farms which are let on shares."

Share-tenancy is getting popular everywhere because it is more profitable for landlords and they "render more service, take more risk and furnish more of the capital." It is suitable for tenants who have less capital and less skill; there is less risk for the tenant; the collection of rent becomes an easier matter; "the share rent adjusts itself to changes in the value of the products without any change in the contract." In a share-tenancy the landlord is a joint manager with the tenant.

In Germany.

Mr. Morier comparing England, France and Germany said: "three great countries began their political life from a similar agricultural basis. In each of them the great conflict between immunity and community, between demesne land and tenant land, between the manor and the peasant, has had to be fought out. In England the manor won, the peasant lost. In France the peasant won, the manor lost. In Germany the game has been drawn and the stakes have been divided. Each system can be defended and passionately pleaded for. Each has much to be said for and against it." This was a statement made towards the latter part of the nineteenth century. Since then the movement for the creation of occupancy ownership on small holdings has been going on. To strengthen the peasant class, the preferred heir system was introduced. An Act of 1896 imposed on "all holdings to be created in future under the Act of 1891 the rule of "Anerbenrecht" (preferential succession in case of intestacy) and also prohibited their division, or their combination with other properties, without the sanction of the authorities. A holder can sell his property but the State has a right of preemption if there is any danger that the holding

will be diverted from its original purpose—the maintenance of the peasant family.”

In the eighteenth and nineteenth centuries the State extended utmost co-operation for the maintenance of large estates. The *Landschaft*, a German institution for credit, was created for preserving encumbered estates. “A *landschaft* is an association of landowners supervised and controlled by the Government, and empowered to issue debentures on the joint and several liability of the members and to give them to members only in exchange, however, for their several obligations, secured by mortgages, to make stipulated payments into its treasury at stated intervals; it is further empowered to receive, invest and finally apply these payments for the redemption of the debentures as they mature.” But this patronage was frankly withdrawn as the post-war German policy in respect of land-system definitely indicated.

The features of the Land settlement of 1919 in Germany are interesting. Public utility companies were called into existence; the necessary land was to be obtained by them. State domains will be acquired on the expiry of existing leases. They were competent to take hold of moor land insufficiently utilised. They had the right of preemption in all sales of land of 75 acres and upwards or portions of such land. Land Transfer Unions were brought about to curb the growth of large estates and they will put at the disposal of the utility companies one-third of the cultivated area of large estates of 250 acres or upwards at a suitable price. The unions were for this purpose given powers of preemption and of expropriation. The estates subject to preemption or expropriation in the first instance were those inefficiently cultivated, recently cultivated by peasants and those excessively large. Estates less than 250 acres must not be expropriated. In new settlements members are not only small holders but usually small owners.

In France.

The French Revolution of 1789 played its part in strengthening the position of the peasants in Europe. “From 1500 to 1850 the great social question of the day in Europe was the peasant question.” The French Revolution offered a solution and it is accordingly said that “from her (France’s)

revolutionary land settlement, through peasant emancipation in Prussia, to the emancipation of Russian Serfs (in 1861) and even to the modern land question for Ireland, there is a continuous historic chain." The Revolution of 1789 abolished feudalism: peasant became proprietor. Before the Revolution Government regulated from sowing to market. But after the Revolution, the proprietor was free to cultivate, to share up his crops and to sell them. The pre-revolutionary doctrine was that all commons belonged to the lord and that all rights over them were enjoyed by his grace. The post-revolutionary doctrine was that commons belonged to the commune. The Revolution swept away serfdom but did little for landless and propertyless labourer. It did not touch the principle of metayage, though some feudal adjuncts were stripped off. "Emancipation in Germany was long drawn out, not a thing done once for all, with the burning of chateaux and wholesale abolition of feudal dues, as in France." The danger of "morcellement" of the French holdings became very acute as the Code of Napoleon endorsed equal division of property among all sons. But the danger was overcome by controlled birth-rate. "It could in fact be said with almost absolute truth that the population has not grown in order that the holdings might not be subdivided." This controlled fecundity has saved French agriculture which is flourishing behind the stout wall of protection.

In England.

In England the landlord-tenant system prevails. Through series of Agricultural Holdings Acts the position of the tenant has been considerably improved. Dr. Venn sums up the position of the tenant in England: "he is no longer called upon to meet the demands of the tithe-collector; he cannot be evicted except for the gravest dereliction of the basic principles of husbandry; he is assured of compensation upon the highest scale for any improvements he has himself effected; finally, if absolute security of tenure has not been granted him, freedom of cultivation and liberty of action,—both of these are his for as long or as short a time as he cares to stipulate. The tenant can demand arbitration in regard to the amount of rent and if dissatisfied with the result, can on quitting claim for disturbance.

Allotment holders and the occupants of cottage gardens are now included in the compensatory clauses." It is significant that during the last few years of falling prices, "the majority of arable farmers have preferred a year to year occupation, with the opportunities for cutting losses thus provided to any tenancy secured in advance for a period of years." The lease becoming yearly, the payment of rent is assured and in case of default, six month's notice is enough and distraint to a limited extent exists. No tenant in England or elsewhere in Europe can conceive of enjoying his right without performing his obligations, good husbandry and punctual payment of rent. The demand for the extension of the Evesham custom to all types of farms in all parts of England exists. The Evesham custom is a kind of tenant right peculiar to the fruit growing district, the vale of Evesham. "By the custom in question the tenant's fruit trees are his own property and he has the privilege of selecting a successor who will take them over at a price agreed upon by the two parties. The landowner, provided he accepts the incomer, has no financial or other responsibility to bear; should he, however, refuse to endorse the outgoer's selection, then payment of compensation devolves upon himself."

In the United States.

In America we find restrictions in cash leases but it may be urged with good reasons that restrictive leases are conducive to improved farming but at the same time it should be seen that the freedom of cultivation should not be restricted in a way to injure the interests of farms. Mr. Taylor recites the following restrictive clauses found in Wisconsin: specified parts of the farm shall be kept in permanent pasture; a specified number of acres shall be kept in meadow; no flax shall be grown; only . . . acres of tobacco may be grown; only . . . acres of cabbage may be grown; no straw or fodder shall be sold from the place; live-stock shall not be allowed in the field while the frost is going out of the ground etc. These restrictions are all conceived to the good of the tenantry. It is recognised that "farm tenancy is an institution which provides for getting the land into the hands of those who are in a position to cultivate it, but who are unable to buy farms." In 1920 nearly 38.1 per cent of the farmers of the United States

were tenants who owned none of the land they farmed and 8·7 per cent of the farmers leased part of the land they cultivated. Thus nearly half of the farmers were using "tenancy as a means of securing the use of the land they felt capable of operating, but which they were not yet able to own," "Taking the United States as a whole the large estate made up of rented farms is the exception and the landowner with one or two farms to rent is the rule." In the North Central States of America the landlord has a lien for his rent upon all crops grown upon the leased premises ensuring punctual payment of rent. In places where there are no laws, it is common to have a "lien clause" in the lease. In some cases "the tenant is authorised to market the products in sufficient quantity to pay the rent, after which he may dispose of the produce as he pleases." The tenant is also found giving a chattel mortgage to secure the payment of rent. In this wise, inefficient tenants receive training in efficiency.

In Denmark.

Denmark is marked out as an ideal agricultural country. It is a country of peasant proprietors and her agricultural produce, qualitatively high, enjoys great reputation abroad. It is a little country and a sparsely populated country. Peasant proprietorship was not brought into existence by heroic measures of the Government. Sir William Ashley observed: "wherever in Europe peasant proprietorship exists to-day as a large element in the agrarian system, it is but the persistence on the soil, though often in a greatly improved economic and legal position, of the class of cultivators who were settled upon it in the Middle Ages. And this is very clearly the case with Denmark." However, in the Middle Ages the land system of Denmark had little difference with that of England. That was feudalism. In Europe the legislative movement known as "the Liberation of the Peasants" took place between 1760 and 1860 and it "transformed the peasants, cultivating the soil, from tenants into owners, on terms sometimes relatively liberal, sometimes relatively harsh." England was left untouched by the movement. The Danish Revolution of 1860 established an autocratic Government which stepped in effectively. In 1882 it was

enacted that "no villages or peasant farms shall be laid waste for the improvement of the farming of the manor." The prohibition was repeated in 1725 and landed proprietors were warned to lay waste peasant farms and join the lands of the said farms to their demesnes for their enjoyment and farming under penalty of forfeiture of all his other lands. In 1790-2 it enacted that a peasant holding could only be leased either for the life-time of a peasant and his wife or for two or more lives or for a fixed period of not less than fifty years. Then came the redemption with the help of state credit of the lord's rights over peasant land. The undue subdivision of holdings is restricted. "The farm is generally transferred to one of the children after a family council which comes to an agreement as to how much the preferred heir shall pay to the other heirs and how much to the parents, in addition to their board and exclusive use of some of the rooms in the farmhouse."

In Denmark the lords and their customary tenants were encouraged by a law of 1791 to come to an agreement in the matter of redemption of lord's rights over peasants' land. State commissions were appointed to arbitrate in cases of failure to agree. The owners of manors realised that unwilling service was uneconomical and they voluntarily agreed for redemption by voluntary purchase and sale. In 1848 Denmark entered upon parliamentary Government where the peasants were given preponderating influence. The transformation was protracted. In 1861 a measure was passed which "rewarded the possessor of an estate who had sold his rights over nine peasant farms to the actual tenants or their children, by allowing him to absorb into the demesne farm an area equivalent to one-ninth of the area so sold, out of the rest of the peasant land on his estate so soon as the current leases expired." In 1850 four credit unions, under public control and audit, were established to advance money to purchasers on mortgage of manorial rights. The Danish peasants had to buy off the rights of the manorial lords with their own money; and though they could borrow the money, they had to repay it. But it was the traditional policy of the State which kept them on the soil and so limited the exercise of their lords' rights that the latter were willing to dispose of them.

In Italy.

The usual forms of land tenure in modern Italy are leaseholds of various descriptions, metayer holdings (called *Mazzadri* in Italy) and *Latifondi*. In the days of the Roman Empire we met with interesting tenures, called "publicani" (*Zeminders*) to whom the collection of revenue was farmed; "Coloni" who were attached to the soil, acquired hereditary interest in the soil and had their yearly rents fixed by custom, the rate of which varied according to the nature of the crop or the fertility of the soil; and the "emphyteuta" who paid a fixed rent and whose right was heritable and transferable but the contract was terminated by the destruction of land, by merger, by the expiration of the term (if any), by the death of the emphyteuta without heirs, by prescription and renunciation, by penalty upon the emphyteuta for allowing the land to deteriorate or by non-payment of the rent for three years. The emphyteusis was adopted in many countries in Europe after the fall of the Roman Empire.

In various parts of modern Italy there are leaseholds, payment being made either in kind or in money. The leaseholds may take the form of "emphyteusis" which means that the lessee is practically the proprietor. Peasant proprietorship sprung up in certain parts where "the farmer had been able to liquidate permanently the quit-rent by the payment of an equivalent capital sum." The movement in favour of peasant proprietorship is on the decline as co-operative proprietorship and communal farming are becoming popular in Italy.

We have already explained *Mazzadria*. The general characteristics of the system of "*Latifondi*" are "large tracts of land belonging to one proprietor let out to one or more middlemen at a fixed price and finally cultivated by the peasant under an arrangement by which he receives a portion of the produce or its equivalent in money." The abuses with *Latifondi* are the creation of middlemen through a number of sublettings and it only "obtains in those parts of the country where no other form of tenure has hitherto been found possible." "The system has survived where the soil bears only one sort of cultivation and where owing to malaria the peasants are unable to live on

the land but have to dwell on the nearest hills where the climate is healthier. They go many hours march daily to and from their work in the fields. Attempts at modification of this system of land tenure have always made matters worse than they were before, owing to the fact that the peasant for health reasons cannot live on his land in cases of division into small holdings, while the poverty of the soil renders leaseholding and peasant proprietorship an impossibility. "Mazzadria" are practically and economically impossible, because they require a number of different crops to be successful. Lease-holding is equally impossible, as it requires capital and agricultural training, neither of which the poorer peasantry possess."

The reclamation of land is done in Italy either by the State undertaking the whole work and expense or by Co-operative or private enterprise with State loans under guarantee. The State never fails to subsidise any work of public utility. Large tracts of land reclaimed are often farmed collectively. But where large estates are broken up and the small tenant system is found suitable, the collectivist system is not resorted to. In a co-operative farm, pay is drawn partly in cash, partly in kind, and sometimes partly in orders on the Federation's co-operative stores. In places where the metayer system prevails, the functions of the co-operative society are "generally limited to the collective buying of seeds and manures and selling produce. The society also secures credit and technical advice from the co-operative Federation." "Big works of draining and development and a good deal of actual farming are taken on by the Federation itself and in this way work is found for those members of the Societies who are not needed on the farms." The wage paid by the co-operative Societies is practically the standard wage. The agricultural Co-operative Societies borrowing from funds of the National Credit Institute have to pay the ordinary commercial rate of interest but they "do not have to deposit the usual commercial guarantees for fulfilment of contracts." The "consorzi agrari" which are co-operative associations of small agriculturists are the local organisations through which the credit system is applied. "One consortium at least exists in each province, and at the proper time it ascertains from each farmer what he

requires, and then proceeds to purchase the same, adding a percentage, which does not usually exceed 5 per cent., to cover expenses of management."

In Ireland.

In Ireland the land-system was equally rotten. The peasants were catholics and Irishmen: the landlords were protestants and Englishmen. Absenteesm was inevitable. In the 17th and 18th centuries middlemen appeared in large numbers. The grantees under the Cromwellian settlement gave leases: no less than six lettings intervened between the landlords of the first grade and the cultivators. "No class of landlords is so hard and unfeeling as petty landlords, no men so merciless in oppressions as persons of the same social position with the tenants, over whose heads they have raised themselves by superior cunning, penurious thrift or rapacity in inferior office. Middlemen were the most energetic and effective exactors of rack-rents. They were creators of cottierism and authors of a large portion of the oppression which the miserable peasantry laid at the doors of the landlords." The Irish Land League carried on agitation and laws were passed to remedy the situation with an eye to the purchase of lands by the State. There were series of Acts, such as the 1881 Act, 1888 Act, 1891 Act, which provided for carrying out sales of individual holdings with land commission as intermediary between parties. This procedure was costly, slow and unsuitable to huge-purchase operation. But the idea of the sale of lands caught the landlords. In 1902, at the instance of the landlords, a Conference, called Peace Conference, was called and the representative landlords and the representatives of tenants attended and brought out a unanimous report which formed the basis of the Wyndham Act of 1903 whereunder the landlord was obliged to sell an estate. There were also indirect sales. Estates Commissioners purchased from landlords and resold to tenants. They were empowered to rid the estate of uneconomic holdings. The subdivision of holdings was prohibited so long as any part of the purchase money remained unpaid. The State freely made advances to make the land a country of peasant proprietors. The following table will illustrate the schemes adopted by the

Government in the matter of purchase of lands from landlords and making peasants proprietors of the holdings :

Act.	Rate of Annuity.	Rate of Interest.	Sinking Fund.	Number of years payable.
1881	... 5%	3½%	1½%	35
1885-88	... 4%	3⅛%	⅞%	49
1891	... 4%	2¾%	1¼%	43
1903	... 3¾%	2¾%	½%	68½
1909	... 3½%	3%	½%	65½

Before 1903, £24,000,000 had been advanced to occupiers by the State for the purchase of 1,500,000 acres of land. From 1903 to 1909 £28,000,000 had been advanced. By 1909, £33,000,000 worth of land stock had been issued. When the Free State Treaty was proclaimed in 1922, Ireland was converted into a country of peasant proprietors.

Reorganised States of Europe.

In Czecho Slovakia owners of large estates exceeding 150 hectares of arable land are not allowed to sell, divide, let or mortgage them without the sanction of the Government Land Office. Such land can be distrained upon only through the sequestration authorities. Land office has the right to take over this property into its own management in return for compensation. In 1919 a decree was issued that an estate which was mismanaged might be placed under compulsory administration by the Department of Agriculture. The land expropriated was divided up among the peasants according to set rules. Preference was given to ex-soldiers and to those with agricultural training and experience. The amount of land given to individuals was defined as being "enough to support a family and not more than a family can cultivate without steady outside help." Compensation is to be fixed in accordance with the average prices obtained by the free sale of large estates exceeding 100 hectares. The State is to pay interest at the rate of 3 p.c. per annum and to amortise the sum at not less than ½ p.c. per annum. The applicants for lands are provided with an advance of 90 p.c. of the prices of the land and upto 50 p.c. of the price of the building. These credit grants are advanced through compensatory Banks who collect the interest

and the amortisation payments from persons to whom land has been granted and hand over the appropriate amounts to the former owners.

It is interesting to find that in all the newly formed or reorganised States of Central Europe, "expropriation pure and simple ran its course after 1918." In Poland the Diet in 1920 ordered the expropriation and sub-division of church lands, state lands, and the lands of public and semi-public bodies, and also of all private properties badly managed or divided into plots without authorisation. After this, privately owned land would be expropriated. A maximum limit of holdings was prescribed. Private owners were to obtain on compulsory purchase half the average value of land in the districts.

In Portugal, in 1920, public bodies were authorised to take over all uncultivated lands, to subdivide them and then either to dispose of them by auction or by contracts of emphyteusis subject to redemption by purchase.

In Roumania a limited system of small holdings was set up in 1864. After the peasant revolt of 1907, the private ownership of land exceeding 10,000 acres in area was forbidden and a movement towards setting up small holdings of between 10 and 20 acres in area took place. In 1917 the special Constituent Assembly amended the constitution and a definite scheme of expropriating large estates and dividing the land among the peasantry was laid down. Individual ownership of land above certain limits in area was made illegal. These limits were fixed at 100 hectares in mountain districts and 200 elsewhere. All land acquired by the State was valued on a pre-war basis and bonds yielding a very meagre rate of interest were presented to the former owners.

Since obtaining their independence the people of Latvia have expropriated landlords and have divided the cultivable land into small privately owned farms. The Esthonian Government seized a great portion of the properties of all great landowners and compensated them on the 1914 basis.

After the Spanish revolution 1931 all the land was declared to be the national property and taken over by the new Government which gave compensation based upon the taxation value with certain familiar exceptions. "The Spanish peasants are the

latest recruits to the rural democracy of Europe." "Crowns may fall and rise but corns will spring up."

In all these expropriation measures it was found that compensation was granted; cultivators were given small holdings and provided with capital; preference was given to soldiers returned from the war and next to former agricultural labourers; insistence was made on good cultivation; subdivision and subletting were prohibited. "Untrammelled access to the soil for the most humble citizen and the establishment for him of State small holdings on land taken from private or from church ownership have everywhere from Denmark to Roumania, and from Portugal to Greece, been the objectives of land reformers."

Size of Holdings.

With the increase of population and the need for social security it is generally accepted that the greater the number of people will be dependant on land, it is better. "From the point of view of the national balance of the population and from the standpoint of general social economics, the case for small holdings has received a wide provisional acceptance." It is undoubted that small holdings support a large number of persons per acre and naturally they act as a palliative for rural depopulation. It is also felt that "while every man has a right to such land as he can properly use, no man has a right to any more." The primary object in the disposal of land should be to give everyone an opportunity of employing his own labour and to give no opportunity to anyone to appropriate the labour of others.

When we talk of small and large farms, their area is instinctively meant. But the mere area is no measure of the relative importance of large and small farms. The situation in respect of markets, the fertility of the soil, the form of cultivation or the nature of crops sown—all this should be taken into consideration. Thus the determination of the size of a small holding is a source of income and a field of activity for its occupier. If it is so, the limit of the size of holding must be sufficient to keep its occupier fully employed and to provide him and his family with the means of subsistence. In agriculture the unit is not the individual but the family. The

size will vary from country to country, and also from region to region. The regional drawbacks or otherwise will have a bearing on the economic size of the holding. There is a maximum and minimum limit between which the economical unit of production lies. "While there is no proper size for farms in general, there is always a proper size of a farm for a given man at a given stage of his own development on a given type of soil in a given line of production with given labour and market conditions."

In a small holding the underfeeding of land by farmers like those attempting too large an area is not a likely eventuality. It compels a more intensive system of cultivation which results in greater product per acre. A small holder is meticulous in attending to all the needs of cultivation, he is always watchful, alert and he can devote minute care. He has more interest in those apparent trifles. He can care his farming continually at all moments and in every detail and this is very important in agriculture. He works harder as he has to, and necessarily it fosters self-reliance, independence and initiative. "A small holder takes advantage of every hour, every minute, of sunshine or rain. He steps out when occasion requires, during his time of rest, to perform such or such little act which, trivial as it seems in itself, is of decisive importance for saving or increasing of his produce, making the very most of his land." It is, therefore, contended that small holdings owned make not only the happier and more prosperous but also the more intelligent husbandmen.

If we look upon farming as a business, we should see that the greatest value per acre is realised and it is possible in a small holding. It does give employment to many. In times of depression a small holder who hires no labour can manage to pull through and the remarkable "weathering capacity" of small holders is highly appreciated.

A small holding is a great social question. A citizen learns to work for himself, to establish relations with his neighbours, and to build up a genuine racy village community. "If the attractions of the town life are to be counteracted and agricultural labourers lifted from apathy and hopelessness into contentedness and activity of interest, a reality, a purpose, a

meaning must be given to village life. And that can be provided by small holding because to the owning small holder, his holding is a workshop, a home, and a sure savings bank." It is an object of affection and devotion to him, like "a sweet-heart upon which he will readily lavish pains and labour without reckoning the cost." A small owner may be poor and in reality he cannot be rich but he is very happy respecting his mode of existence. Those who have passed through the continent of Europe have observed that unlike England, "village there stands by village, cottage by cottage and multitude of peasantry greet you with laughing eyes and cheerful countenances." In Europe the small-holdings movement is strong. But in our country fields teem with mankind but there is no small-holdings policy with the result that in our village one never hears a laughter.

In a small holding the access to capital, credit and marketing facilities is very limited and that can, to a considerable extent, be overcome by co-operation. A small holding movement yields the best results if it is fostered and, to a certain extent, nursed by the State, otherwise it is bound to deteriorate and to become wasteful, bunglesome and uneconomic.

The advantages of large farms, it is held, are identical with those possessed by large-scale productions in industry, namely, economy of materials, economy of skill, economy of machinery and economy in buying and selling. No portions of the holdings are wanted in the shape of boundaries. They provide for improved cultivation through machinery, and necessarily for division of labour or for the specialisation of capacity and skill. "In every branch of human enterprise maximum production at low cost in labour and capital has been synonymous with large-scale organisation." But the advocates of small holdings maintain that "the machine doctrine of most produce by less labour is, as applied to the soil, the doctrine of starvation to the labourer and dispossession to the small proprietor."

Levy points out in "Large and Small Holdings" that "large holding is absolutely superior in regard to corn growing and mixed husbandry and in the breeding of pedigree stock, in potato-growing it has the advantage, while in stock-feeding it is on an equality with the small holding. Small holdings excel

in fruit and vegetable growing, in poultry breeding and in stock farming generally with the exceptions mentioned above." Small holdings are adapted for qualitative production, intensity of cultivation and outlay of small capital (though more capital per acre). In produce-sharing tenancies small farms are inevitable but in cash tenancies the tendency is towards large farms. In a small farm the maximum production is per acre but in a large farm the maximum production is per person. From the economics of production large farm is more scientific but in social science other operative forces are not to be ignored. Be it noted that the kind of crops, topography, climate, the character of the farm work, the growth of the family—all determine the size of holdings.

Small holdings cannot be established anywhere and everywhere. The site should be accessible and have access to suitable markets and also to suitable settlers. For the sake of economy there may be collective buying and collective renting of the soil, and to ensure success small holders may adhere to co-operative methods in production and distribution. Thus disadvantages are eliminated and advantages better pooled. All this requires conscious efforts by the State. "You may admire a large farm, but cultivate a small one," this is a healthful precept, because "a small farm cultivated is more fruitful than a large farm neglected."

Small Holdings Movement.

The small holdings movement in Denmark sprang from motives of patriotism. Their chief concern was to strengthen the "Husmænd" element in the peasantry. In 1850 a law was passed which gave facilities to the Danish peasant with medium-sized or relatively large property to obtain loans from Co-operative Credit Associations. The plan was this: "the borrower obtains from the Association to which he belongs a loan in the form of a bond, bearing interest paid by the Association; and this bond he finds no difficulty in realising through a bank or broker. Such bonds are a favourite form of investment in Denmark. The ultimate security is the land owned by the borrower; on this he executes a mortgage in favour of the Association. It is evident that the fact of the

ownership of land by the peasant is the basis of the whole system." However, this plan gave little protection to the "Husmænd" as his property was too small to justify an Association in making an advance. In 1880 the State created two Credit Associations to make grants for their initial expenses and to guarantee the interest payments on the bonds they should issue, upto 4 per cent. To assist the small holders further a legislative measure was passed in 1899 whereunder the State lent to applicants who fulfilled the conditions for becoming state cottars nine-tenths of the total cost of the holding which was limited in size and value. The terms of repayment, as amended later, were that for the first five years only interest at 3 per cent. had to be paid and after that an additional payment of 1 per cent. was to be made to the sinking fund until the loan was paid off. An Act was passed in 1906 whereby Government loans were made available to Public Utility Companies "which bought large properties for the purpose of carving them up into small farms." The farms thus created are freehold and they will become the property of their occupiers when the loan is paid. The farms can be sold but cannot be subdivided. Difficulties are put in the way of enlarging the farm also. There is usually a preferred heir and the other heirs may be compensated by money raised on mortgage; "in no other case can mortgages be created."

In 1919 three laws were passed and they put more land at the disposal of the State for the formation of small holdings. The glebe was sold to the applicant who had a certificate from the communal authority of his sobriety, honesty and capacity to manage a small holding, and the possession of sufficient resources to establish himself and non-possession already of land sufficient for a small holding. The purchaser was to pay an annual charge ($4\frac{1}{2}$ per cent.) based on the valuation by the Valuation Commission. For buildings the small holder could obtain a loan from the State of nine-tenths of the cost and "on this the annual payment was to include a sinking fund charge to finally pay off the cost." The average size of the holding was five hectares ($12\frac{1}{2}$ acres). The law relating to the passage into free ownership of fiefs, family estates and family trust estates together with family trust capitals aroused controversy. "The law gave the possessor the right to break the entail,

provided he paid to the State one-fifth of its value and provided he put at the disposal of the State one-third of the land (in return for a proper indemnity) for the purpose of the establishment thereon by the State of small holdings." The occupant's rights over the land are restricted :

(a) "If the proprietor desires to transfer it to any person who is not his legitimate heir, the State has a right of pre-emption of the land and buildings, at the original price and at the value of the buildings, adding thereto the expenditure of the proprietor for the increase or improvement of the farm, as well as of the improvements arising from the labour and capital of the proprietor."

(b) "The land must be used for agricultural or market-gardening purposes."

(c) "It must always possess the necessary capital and equipment." That is, the ill-kept farms must be sold to some other competent persons.

(d) "The proprietor cannot engage in operation likely to injure the productivity of the soil."

(e) The farm cannot be let.

(f) The farm cannot be sub-divided.

(g) The farm cannot be joined to other farms.

Here the state commands larger rights over the farms it is creating : it is in fact a state tenancy with security of tenure, though the prejudice against tenancy was respected by allowing the occupier to acquire "ownership" within the limits fixed by law.

The Act of 1919 definitely laid down that "the land should, as far as possible, be divided into holdings sufficient to maintain a family without the help of outside labour." The ideal is the independent family farm and the total extent of the farm should not exceed 7 hectares (about 17½ acres).

In Germany the small holdings movement is equally strong and the German statisticians will make us believe that in small holding districts longevity is greater. Germany discovered the magic of small holding quite accidentally. In the nineteenth century Germany with the professed objective of depolonising the Polish districts adopted the policy of buying

up large Polish estates and settling them with the German peasantry. That was a policy of revenge. The estates were encumbered and as such the plan cost the Government much. From the political point of view, it was a failure as the Poles did not become Germans. From the immediate financial point of view, it was a failure because Government had to spend vast sums of money. But the small holdings created were converted into smiling and thriving villages with fruitful fields. Agriculture prospered: there were more taxes, more recruits, more ample crops, more happiness.

In England the largest number of holdings are between 5 and 20 acres. In France we find that the number of very small holdings under $2\frac{1}{2}$ acres in 1908 is 2,088,000 and between $2\frac{1}{2}$ and 25 acres 2,524,000. They are the majority of holdings. In Japan nearly half of the holdings of agricultural land is below 1.2 acres. Small holdings do not mean uneconomic units and the declared policy of small holdings legislation is to see that they do not and cannot degenerate into uneconomic holdings. Hence, we find restrictions of sub-letting, sub-division, mortgage, sale, etc.

In England the small holdings movement in spite of the functioning of the landlord-tenant system took a definite move when the Small Holdings and Allotments Act of 1908 was passed. Under the Act County Councils were empowered to take all the land which any individual owns in England and Wales in excess of 50 acres and to sell or lease it to a farmer or labourer. Allotments are plots not exceeding one acre and they are acquired for leasing to agricultural labourers. Small holdings are plots of more than one acre and not more than 50 acres and if exceeding 50 acres, the annual value for the purpose of income tax not exceeding £50. Two expert Small Holdings Commissioners were appointed to act under the Board of Agriculture. Draft schemes prepared by the County Councils could be approved or amended by the Board of Agriculture. If the acquisition of land by agreement with the owners fail, the desired or needed land may be compulsorily leased or sold by the County Council. The total cost of the acquisition and improvement of the tract must be so distributed that each small holding created out of it shall bear its propor-

tional share. But the safeguard lay in not raising the tax rate more than a penny in the pound. The holdings may be sold or leased to individuals or to groups of individuals working on a co-operative basis or to associations formed for the creation and development of small holdings and "so organised that profits are prohibited or restricted." The conditions of tenure are that the occupier "shall keep it in a good state of cultivation and will not allow intoxicating liquors to be sold or more than one dwelling house to be erected thereon." Sub-leases by County Councils are not to exceed 35 years. "The purchase prices or rents must be fixed sufficiently high to guard the County against loss. For each small holding sold outright by the county, the purchaser must pay not less than one-fifth of the price in cash ; one-fourth may be secured by a perpetual rent charge redeemable in the manner provided by the English laws ; and the balance may be secured by mortgage to be paid off half-yearly in instalments of principal and interest or by a terminable annuity. The longest credit which a county may allow on such a sale is 50 years. The borrower may discharge his debt in advance or he may be accorded a renewal not exceeding 5 years." County Councils will have committees to attend to all matters relating to small holdings and to promote the formation of co-operative associations among the occupiers of the holdings for banking, insurance and all agricultural purposes. The great majority of the small holders are sub-lessees with County Councils as landlords. Under the Act, 13, 112 small holdings were established and leased to tenants and 158 small holdings were sold within a period of 10 years (that is upto 1918) : and "186, 769 acres represented the total acreage of small holdings established and leased, which is equivalent to an average size of 14 acres per holding."

Under the Land Settlement (Facilities) Act, 1919, Public Works Loan Commissioners were empowered to lend money to County Councils on such terms and conditions as the Treasury might prescribe and £20,000,000 was authorised. County Councils were authorised to grant loans to prospective tenants for the purchase of stock and equipment and the Board of Agriculture was empowered for six years to pay to County Councils any loss incurred legitimately on small holdings. Under this Act and upto December 31, 1924, it is interesting

to find that 16,295 small holdings were established and leased to tenants and 255 small holdings were sold ; and 254,520 acres represented the total area of rented small holdings which is equivalent to an average size of 16 acres per holding.

The Small Holdings and Allotment Act, 1926, superseded the Land Settlement Act of 1919 and the Government under the new Act undertook financial responsibility for any losses on approved small holding schemes upto a maximum proportion of 75 per cent., instead of the full extent. County Councils were authorised to sell or let one or more small holdings to a number of persons working on a co-operative basis and they were also empowered to advance to the prospective buyer of a small holding an amount not exceeding nine-tenths of its value, repayable by a terminable annuity for a period not exceeding 60 years. The figure of £50, as specified in the 1908 Act, was increased to £100 as the annual value for the purpose of income tax in case of holdings exceeding 50 acres. Progress of small holdings between 1926 and 1932 was slow, because 744 fully equipped holdings were established and leased to tenants and 38 cottage holdings were established.

A small tenant under the Scottish law may be either a landholder or small holder. "A tenant is designated as a landholder if he or his predecessors in the same family erected the buildings and made the other improvements with their own money and labour, and as a small holder if the larger portion of the money and labour therefor were furnished by the landlord." A landholder has the right to perpetual occupancy of his holding and the right to be compensated for the buildings and improvements, should his tenure be cancelled. A small holder has the right of renewal of lease but no interest in buildings and improvements, and "if the landlord allows the improvements or buildings to get out of repair, the small holder may be declared a landholder." Land Court created in 1911 in Scotland determined all matters in dispute between landlords and landholders and small holders. The Land Court was composed of five members appointed by the crown and its decision was final as regards the facts and had exclusive jurisdiction over the enhancement or abatement of rents. The landlord must abide by the decisions and thus the relations between

small tenants and landlords were established by judicial proceedings instead of by private contract. The case for the tenants is looked after by the Scotch Board of Agriculture (created in 1911 and composed of a Chairman and two Commissioners appointed by the Crown). The Board can also enlarge small holdings and acquire estates for subdivision and allotment to small holders. It cannot entirely expropriate the owner as is permitted in England and Ireland but can compel the owner "to turn over his estate to be prepared and subdivided for small holdings and to accept as tenants those persons to whom it allots the holdings at the rents determined by the Land Court." "No small holding obtained through the intervention of the State in Scotland may be mortgaged or sold by the occupier." The Act of 1911 empowered the Board "to compensate the landlord or tenant of the area of operation at a figure to be determined, failing agreement, by the Land Court or by arbitration." The Board were provided with funds for the purpose of projecting schemes of land settlement. To fulfil Government promises to ex-service men, the Small Holdings Colonies Acts of 1916 and 1918 and the Sailors and Soldiers (Gifts for land settlement) Act of 1916 were passed. To improve the machinery of the Act of 1911 and to extend the powers of the Board with regard to the settlement of ex-service men, the Land Settlement (Scotland) Act, 1919, was passed. The Act authorised compulsory acquisition of land, extended the Board's powers under the Congested Districts (Scotland) Act of 1897 to land acquired under the Colonies Acts throughout Scotland, authorised purchases for cash, repealed the limitation that three-fourths of the land must be arable. Under the Act of 1919 the Board's powers were widened: the Board might preclude a landlord from re-letting the farm for a period of six months; the Board might in place of the Land Court issue a compulsory order constituting new holdings and enlargements; the Board might fix the initial fair rents of new holdings constituted. The compensation claims are to be determined by the Land Court, the alternative of appeal to arbitration being withdrawn. "The Act provides that the Treasury may issue from the consolidated Fund upto $2\frac{3}{4}$ million pounds. to the Public Works Loan Commissioners out of which the Commissioners may make loans to the Board on such conditions.

as the Treasury may prescribe." Loans for live stock, seeds, fertilisers and implements are authorised to be made to new holders and preference was to be given to ex-service men. The Land Settlement Amendment Act of 1921 provided for additional funds on account of the large number of applicants and the increased cost of equipment.

Mr. George Herbert in his book, "Can Land Settlement Solve Unemployment?" categorically mentions clauses which are essential for inclusion in scientific tenancy agreements of new small holdings constituted and they are given below :

(a) The holding shall be cultivated by the occupier in accordance with the rules of good husbandry, and shall not be used for any purpose other than agriculture or horticulture.

(b) The holding shall not be divided, subdivided, assigned, let, or sublet without the consent of the responsible authority.

(c) Any periodical payments shall be duly made.

(d) Loans to tenants shall not exceed the purchase value of original stock and equipment, plus any financial assistance for living and working expenses during the first year.

(e) Unless otherwise decided, all loans shall be repaid, with the necessary interest, within a maximum period of five years, and such security shall be provided by produce or other means as shall be decided upon by the responsible authority.

(f) Where the holding is the property of the responsible authority, the tenant shall have the option of purchasing his holding at the original costs involved, and over such period as may be agreed between the responsible authority and the tenant.

(g) In the event of the termination of a tenancy, the tenant or his family shall have the advantage of any increased value of the holding due to his or their labour, and such increased value shall be agreed with the responsible authority.

(h) In the event of the tenant wishing to terminate his tenancy, all outstanding liabilities must be discharged or security by produce or other means provided to the satisfaction of the responsible authority.

(i) The responsible authority may terminate the tenancy if the terms of letting or purchase are broken, after giving the tenant the opportunity of remedying the breach.

(j) In the event of a holding becoming vacant, the family of the holder shall have the option of continuing the tenancy, provided the responsible authority consider it possesses the necessary qualifications.

(k) Where a tenant is located on a group settlement, he shall use the co-operative production and marketing facilities provided by the Settlement, or obtain the sanction of the responsible authority if he does not wish to do so.

The term "responsible authority" in the above tenancy agreements means the Department, Association, or County Council acting as the landlord. To pursue a policy of small holdings the following things should be borne in mind: a competent partitioning authority is to be created for the purpose; suitable settlers should be selected; the interests of the holdings should be primarily guarded; "the state's interference in the province of finance must be limited to credit, made properly secure." "Once a man stakes his all upon the venture, he is not likely to play false" and the State should make the holding fit for cultivation.

Agricultural Labour.

Agricultural labourer is most neglected: he has no friend. He is helpless because he is landless; he is slave because he is dependant on employment; he is insolvent because he is without any stand-by to support him; he is mute because he is broken down by needs. Any treatment of him is possible, as he could not "form his battalions" to fight for. We have observed that in any good tenure there is no room for hired agricultural labourer. But no stereotyped system of land-tenure with dead uniformity is possible or desirable. So agricultural labourers appear in the field: they are treated like "instrumenta vocalia", implements of labour endowed with speech. "Labourers have come to be looked upon as a distinct, inferior caste, almost as made of different clay, born to a Gibeonite lot, called upon by Providence to toil, toil like horses walking their rounds in their gear, with nothing to look for beyond—no rise, no independence, no comfortable old age, doomed to pinch and toil on to the bitter end." It is said that there is wealth for honest labour but in their case there is only

illth. Agricultural labourer suffers as he is conservative in his habits and in his attachment to his native clod ; he cannot leave. We forget that in stinting labour we starve agriculture itself, "killing the goose for the sake of a poor addle egg." Reaping another man's harvest is a moral crime, a social disaster and an economic maladjustment. But in agriculture labour cannot be manufactured ; he is born. We may get skilled mechanics but not skilled sowers. In any intensive cultivation trained labour is essential. Agricultural labour, therefore, deserves better treatment. Agricultural labourers being scattered and dispersed, they cannot be regimented into a trade union. Rural society is generally obedient to custom ; rural society has a memory which cannot be easily wiped away ; rural society is hard to be organised into battalions for fighting for justice. Agricultural labourers have no fixity of hours in labour : their task does not stop at the closing whistle of the day. An industrial labourer does his work, goes out a year hence or at any time. Land is not a temporary workshop for cultivators. "They see in it an abiding home, to be protected and embellished bit by bit, by their labour, to become dear to their children and go down to those children ; and they also see in it a savings bank into which all spare efforts and spare pence at their disposal may be put, with a certainty of being repaid, with usury, but not at any time. Those deposits take a long time maturing and to abandon the holding before they have matured is likely to mean leaving them unrepaid." If we study the development of agricultural labourer's wages in Prussia we find the stand-point of the Pomeranian Land Union very fair and just. The Union says : "the labour question is above all a question of education of the employer. If the attempt is successful to bring the employer to the point that they are prepared, as regards the fixation of wages, to go to the limit of their capacity, and voluntarily to give the worker what they can without compulsion, then the worker in turn will be prepared to support the interests of the employer and to help him to carry on his business and make a suitable profit."

So they must be protected. The system of tenure which leaves them uncared for and unprotected is digging the grave for the nation. We, therefore, find in Europe that sincere efforts were put forth for strengthening the cottars of England

and Scotland, the "Heuslingen" of Germany and the "Husmaend" of Denmark. They must have freedom of cropping and their labour must be rewarded. The happy and cheerful physiognomy of our country is lost because agricultural labour is gravely neglected. Moreover, economic depression has exercised a remarkable emancipating effect upon labour and it is holding its head up and unless we do justice, it will remember the day. Accordingly, an eminent observer said: "the land question means hunger, thirst, nakedness, notice to quite, labour spent in vain, the toil of years seized upon, the breaking up of homes, the misery of parents, children and wives, the despair and wildness that springs up in the hearts of the poor when legal force, like a sharp arrow, goes over the most sensitive and vital rights of mankind. All this is concerned in the land question." It is said that the stomach has no ears but it has "a most sensitive lining and penetrating and resonant voice which will not be stifled."

The Nationalisation of Land.

The trend of modern legislation is not only to restrict the scope of the private landlord but to nationalise land. The nationalisation of land is the first step to the socialisation of land but both are different in intent and content. To put it in a general way, the nationalisation of land means ownership of land by State and the socialisation of land requires public ownership and the distribution of the agricultural produce, on orthodox principles, according to the mouths to be fed, or, on accepted principles, according to the quality of labouriousness. The movement of the world to-day is towards nationalisation. In the act of nationalisation, the first question that comes to the fore, should private landlords be expropriated without compensation? If the policy of nationalisation is followed in times of peace, the principle of compensation has been unquestionably accepted. The nationalisation of land does not seem to be a revolutionary doctrine, as it is felt (as we have shown in the beginning of the chapter) that land was given to private persons as a trust on behalf of the community and whenever the community would require it, the implied contract was to return it. Land may be a trust, perhaps it was a trust, but

it cannot be ignored that "the Government and nation had for generations given their sanction to the institution of private property in land and those then in enjoyment of it had acquired it with the connivance of the whole nation." Moreover, nationalisation will hit the landlord but "leave untouched those who have invested their money in other commodities." Accordingly, compensation is urged in the matter of the nationalisation of land. In the nineteenth century Henry George advocated the simple method of taxing landlords out of existence obviating the complexities of compensation. "Don't kick the landlords out, don't buy them out, but tax them out." He claimed that "the truth is and from this truth there can be no escape that there is no just title to an exclusive possession of the soil and that property in land is a bald, bare, enormous wrong like that of chattel slavery." In 1870 the Land Tenure Reform Association of which John Stuart Mill became President tried to remove the remains of feudalism. The objects of the Land Nationalisation Society founded in 1881 in England were to restore to all their natural right to use and enjoy their native land and to obtain for the nation the revenue derived from its labour. Moderate reformers say that private property in land is a mistake, not a crime.

A perusal of the following schemes for the purchase of land by the State will be interesting. The plan adopted in Prussia (1807-1816) was "to compensate the manorial lords for the loss of the services by handing over to them from a third to one-half of the land previously held by tenants. In return for the surrender, such peasants, as held a complete peasant holding, worked by at least one yoke of oxen, were made independent owners of what they retained." In 1850 the Prussian Legislation converted hereditary holdings into absolute property and Rent Banks were established. The State was a broker between nobles and peasants. The Bank "advanced to the landlord, in rent debentures paying four per cent. interest, a capital sum equivalent to the amount for which the rent charge was made redeemable. The peasant in addition to his ordinary rates and taxes pays to the District Tax Collector each month one-twelfth part of the annual interest on this sum, calculated at 5 or 4½ per cent. according as the redemption is to be made in 41½ or 56½ years."

The Redemption Act of 1848 in Bavaria advocated a simple procedure. The net annual value of the burdens was to be ascertained and determined by a Commission. The rent charge so fixed was to be redeemed in any one of the three following ways: (1) by paying in cash its money value at 18 years' purchase, (2) by undertaking to pay the ground landlord the full rent-charge so fixed annually for 34 years, or nine-tenths thereof annually for 43 years, the land being hypothecated as security for these payments, (3) by creating in favour of the State a four per cent. mortgage for a sum equal to 18 years' purchase of the rent charge. The third method was generally adopted and "the Government paid off the landlord with debentures bearing four per cent. interest, equal in amount to twenty years' purchase of the rent charge; and realised the amount of the mortgage loan with interest from the peasants in equal annual sums extended over a number of years."

The Emancipation Act of 1861 in Russia provided for the State aid or redemption by which the serf was enabled to purchase his allotment. The redemption advance was determined by multiplying the rental by $16\frac{2}{3}$, and "of this capitalised rental four-fifths were advanced by Government when the whole of the allotment specified in the deed of settlement was purchased; and three-fourths upon the purchase of any part less than the whole." The redemption advance was generally paid in five per cent. State Bank Bills. The redemption advance was repayable by the peasant in 49 years, his payments being equal to six per cent. on the total amount advanced. Before the 1917 Revolution in Russia, a good number of peasant proprietors were in existence.

We have seen what the other countries have done in the matter of creating peasant proprietors. We present some other proposals, all emanating from England where private property in land is still strong, though vastly affected by the small holdings legislations. The schemes of the Liberal Party, Labour Party and of Messrs Orwin and Peel may be profitably studied by land-reformers in our country.

Messrs. Orwin and Peel in an interesting book carrying the same title as the present publication advocates a system of state purchase of land which comes to this. The National Land

Stock would be issued to the landlord to the value of the property passing. The stock will bear interest at a rate comparable with the yield of other long-dated British Government Stocks at the time of issue and a Bond issue on equal term will be useful. Both stock and bond will be redeemable at a long date through the creation of a sinking fund. The scheme for the administration of land is a decentralised one. The local administration should be organised on the county basis. Each administrative county will be under the control of a qualified County Land Agent responsible to the Chief Administrator of Lands. The county will be sub-divided into administrative districts, each of them under the charge of a District Land Agent responsible to the county Land Agent. The work of District Agents will be similar to the agent of a large private estate and will consist among others of letting of farms, supervision of tenants, execution of repairs, question of land drainages, cottage building, collection of rents. Though the Chief Administrator of Lands will be appointed by the Ministry of Agriculture, there will be no interference from Whitehall in the details of the actual management. The County Land Agent would be an ex-officio member of the County Council Agricultural Committee and thus would be in touch with the work of agricultural instruction, advice, etc. But the County Council would have none of the powers of an owner which would be vested in the County Land Agent as Trustee for the State. Mr. Dampire in his book, "Politics and the Land," criticised the scheme as one of pure bureaucracy and was of opinion that the scheme, though friendly to landlords, was subject to all the objections against management by Government officials.

The scheme advocated in the report of the Liberal Land Committee, England, 1923-25, is this. The State shall transfer any cultivable land to any person competent to use it to the advantage of the community as a whole. There will be just compensation to the landowner in the form of an annuity equivalent to the present fair net rent of the land. All sales of cultivable land shall be prohibited. The right of the State to secure the proper use of the land for productive purposes shall remain supreme. The landlord's annuity shall be perpetual. But the State may make such arrangements as are equitable by sinking fund, drawings or other means, to redeem

the annuities at any time in any way equitable to all parties. Subject to good husbandry, tenure under cultivating tenant shall be for life with power to transmit to heirs. Rent generally should remain unaltered. He may surrender his holding; he will have compensations for improvements effected by him. The administrative body will not be the county council. It will be popularly elected under the widest possible franchise. Each administrative area should have its own representative body. Each county should be autonomous to the largest degree compatible with safeguarding the interest of the nation, as a whole. Rural areas must be rescued from urban preponderance. Half of the members will be nominated and half provided by rural districts and by those urban districts which contain a minimum of 500 agriculturists each. The members of the rural areas are to be elected directly on the county council franchise and those from the urban districts appointed by the Borough and District Councils. Of the nominated members, two-thirds are to be nominated by the county council and one-third by the Ministry of Agriculture but only, after consultation with the recognised agricultural organisations in the country.

Under the Liberal scheme, as modified by the Conference of the National Liberal Federation, the nation will take over land at a price fixed or to be fixed by the valuation Department, deductions being made for any monopoly value and for any adjustment of rent necessary to enable tenants to pay their men a living wage.

The Labour Pamphlet (of the English Labour Party) definitely advocates: "the dispossessed landlord would be compensated on the basis of schedule A, Annual value of the holding, diminished in the case of the inefficient landlord according as he had failed to maintain the proper condition of the holding. The most practical way to acquire the freehold would be to give Land Bonds to the owner which would be redeemable by a sinking fund provided from the economic rent of the land. In the course of time these Bonds would all be paid off and the land would be the clear property of the community." Thus in the Labour scheme there is expectation of the proceeds of the rents to pay a sinking fund to extinguish the Land Bonds and as well as to defray management expenses.

The Labour scheme of administration is roughly as follows. The present County Agricultural Committee would be reconstituted and each Committee is to consist of an equal number of representatives of farmers and farm workers, chosen by their respective organisations, and members appointed by the Ministry of Agriculture from a list including experienced persons suggested by the county council and other appropriate bodies, including small holders, this section constituting a majority of the Committee. All questions relating to agriculture in the county would come within the purview of the county committee. The Committee would be empowered to enforce good husbandry, to improve the existing methods of cultivation, to provide necessary works of maintenance. In the case of grossly mismanaged farms there should be power to dispossess the holders. The new body proposed is a new authority, independent of the county council, but the present County Agricultural Committees are Committees of the County Councils. The case for the creation of a separate special body is emphasised by the fact that land requires constant and watchful attention from specially constituted competent authorities: it is not the subject of amateur, spare attention. The county council has many things to attend to, small holdings being one of them, and naturally in all the schemes the administration of newly created holdings by the county council is voted down.

In the matter of purchase of lands by the State from private landlords annuity payment, perpetual or terminable, is preferred to a lump sum payment. The obvious reason is that "the need of agriculture is a sufficiency of capital; that the capital improvement of its land is the soundest investment that the State can make; and that the State's credit resources should therefore be used to assist the cultivator."

Agriculture looks to private landlords for capital and leadership. If land is nationalised, the State is under bounden duty to provide agriculture with capital and leadership. The nationalisation of land, therefore, invites the shifting of responsibilities from private landlords to the State and it is always a debatable point if leadership can be best undertaken by the State or by private individuals. In discussing land tenures

in various countries we have found that the State is stepping, if it has not already stepped, into the shoes of private landlords. Messrs. Orwin and Peel put the case for private landlords in a very effective way:

“As regards rural society generally, the disappearance of the landowner deprives it of its natural focus. With the dispersal of his property and the sale of his home nothing remains to tie the squire to the locality in which he has exercised for so long in greater or less degree functions of leadership and wise control. At the present time hundreds of country houses, once the centres of active social life, are in the market for disposal Many people do not realise the extent of the collapse in rural society which is the first result of their abandonment, bringing discomfort and even misery to many of their more humble neighbours. Indeed, there are some who think that it is not for the good of rural society that the landlord element should be eliminated from it by the uncontrolled operation of economic pressure. The greatest single cause of social unrest is the disintegration of classes. Where everything is understood, everything is forgiven, and people can only understand each other when they have opportunities of mixing freely one with another ; on the estate and the farm, at work and at play, all classes on the land are in almost daily contact.”

The Russian Experiment.

The experiment made in Russia makes a tremendous appeal to our country. In Central and Eastern Europe and elsewhere landlords were expropriated not without compensation. But in Russia landlords were liquidated without any compensation. But the liquidation of the landlord was not the work of the Bolsheviks, nor was it effected by the Government in obedience to the Marxian theory. The Revolution of February, 1917, which swept away the Tsarist regime was the bourgeois revolution and a liberal republican Government, wedded to Parliamentary democracy and to the maintenance of the rights of private property, came into power. Lenin and Trotsky were not even then in Russia. The news of the February Revolution encouraged the Russian peasants to loot the estates and burn the mansions. This was effectively done. “The Russian

peasant, whether poor or well-to-do, had never relinquished the conviction that the land, which he cultivated or from which he had been evicted, was rightfully his own property, subject only to the right and duty of the Mir periodically to rearrange its distribution among all the village households". The property destroyed involved considerable loss; holdings divided among numerous peasants brought about reduction of the aggregate yield. When the October Revolution brought the Bolsheviks into power, they found the peasants masters of the situation. What Lenin did was to issue a decree declaring all the land the property of the people as a whole; the estates, owned by the Tsar and his relatives, or by the Church and Monasteries, were thrown open for reallotment; the redistribution was placed in the hands of local Committees to be elected by the peasants. Land was nominally nationalised but left for a decade in usufruct in dispersed holdings in the hands of what had grown to be as many as twenty-five million peasant families. The period of 1918-1920 was the period of war communism. The New Economic Policy, introduced in 1921, enforced a "fixed graduated tax on each peasant proportionate to his holding of land, leaving to him the right freely to dispose of his produce, over and above the tax, in the open market at the highest prices he could obtain". The unlimited requisitioning of grain by the state was done away with, and the peasants "were under no obligation to supply any Government Department with their produce without payment". It was a retreat from the Bolshevik principles and it continued till 1927.

What the Bolsheviks really did was the liquidation of the Kulaks as a class. The first agrarian revolution in 1917-18 which saw to the liquidation of the landlord was the work of the peasants, principally of the Kulaks. The second agrarian revolution in 1928 which involved the liquidation of the Kulaks was the work of the Bolshevik Government. There were three recognised grades of peasants, the poor (Bedniaki), the middle (Seredniaki) and the well-to-do (Kulaki).¹ The

¹ The Kulaks managed to enlarge their holdings by renting land, often joining with the farming a little trading and a persistent money-lending. They had developed their cultivation with the aid of agricultural co-operative societies, by themselves acquiring a greater knowledge

Bolshevists foresaw that an uncertain proportion of the middle peasants and the whole community of the well-to-do peasants would offer hindrances to the carrying out of their programme of collectivisation in agriculture and that they should be liquidated as a class. The Bolshevists were faced with the shortage of food-stuffs and that could be improved only by the effective mechanisation of agriculture which necessitated the amalgamation of innumerable scattered strips and tiny holdings throughout the country. The programme of collectivisation emerged and "each collective farm needed a clear run of hundreds of acres, an area which might be irrespective of village or district boundaries, but inevitably involved the forcible removal of any holder who refused to merge his little farm in the new Kolkhos". Before the first five Year Plan which dated from 1928, various Kolkhosi were in existence and it was voluntary for peasants to join them. The collective farms were favoured with grants of credit and remissions of taxation but not more than one or two per cent. of the peasants voluntarily joined them. Accordingly, the first Five Year Plan provided that the Kulaks as a class would be liquidated and that each year 20 per cent. of the peasant holdings would be amalgamated. The objectors were forcibly removed and taxation was differentiated in a way to penalise the individual peasant holding. At the end of 1933, the liquidation of the Kulak was completed and the majority of the villages were collectivised. In 1931 and 1932, many peasants showed unwillingness in cultivating their holdings; they limited their sowing, neglected the weeding, and also limited their reaping. These recalcitrants were deported; they were torn away from their holdings to swell the labour force elsewhere, because in the Bolshevik scheme there was room only for honest, willing and industrious workers. I have recited these historical facts to help in the proper appreciation of the work of the Bolsheviks in the domain of agriculture, otherwise many things are attributed to them for which they are not responsible.

and through the employment of low-paid wage labour. The summary expropriation of the Kulaks was a tale of woes and sufferings. But the decision of the poor peasants was enough to turn them out and confiscate their properties.

In Russia the character of agriculture was extensive ; the lack of technical equipment was pronounced ; the failures of the harvest were frequent. The problem of shortage of food-stuffs compelled the Bolsheviks to speed up the mechanisation of agriculture in state or collective farms. The mechanisation of agriculture involved the rapid production of tractors and other agricultural machinery and expansion of transport facilities. It may be argued that the insistence on mechanisation of agriculture may maximise the quantitative output but minimise the pecuniary profits of agriculture. But the Communist Party were more concerned with the quantitative output. In Russia everything goes according to Plan. It determines the output, the amount of energy to be employed, the amount of work to be done. The purpose of the Gosplan is "to combine the maximum of production with the minimum of expenditure in the shortest possible time". The first Five Year Plan laid emphasis on speed and quantity ; the second looks to quality also. The distribution of crops is made according to soil and climate. The stimulus to economic efficiency is "the new form of property, social ownership". The position of collective farms is stated by Sydney and Beatrice Webb in the following manner :—

"Once admitted, the individual can leave only upon conditions which he may find inconvenient. He will probably not be able to find land to occupy individually anywhere in the neighbourhood ; and he will not be easily allowed to withdraw from the community the whole of the capital that he may have brought in. All the members of the Kolkhos collectively determine the conditions of their common self-employment ; and they dispose, at their will, of the whole of the crop that they combine to produce, after defraying expenses and making the stipulated payments to the Government. These Governmental dues are now all definitely fixed by regulation and agreement at the beginning of each agricultural year ; so much for the agricultural tax ; so much for the hire of the tractors ; so much for any other agricultural machinery supplied ; so much in payment for the seed, for fertilisers and for anything else provided by the authorities beyond advice, encouragement and special help in trouble. Thus, the collective farms in their self-employment now enjoy

the full incentive of retaining for themselves all that result from their additional labour and care. If they can bring more land under cultivation than in the previous year, or sow more hectares than had been arranged for, or do more weeding, or put more skill into gathering all the grain, or more care into the threshing or the storage of it, the payments exacted by the Government will not thereby be raised. It is at any rate the fixed intention of the Government that the Kolkhos members shall themselves jointly enjoy the whole advantage of the increase that they have effected”.

Over and above the collective farms (Kolkhosi) there are state farms (Sovkhosi). But collective farms are getting more popular. The Russian peasant was most unproductive, either as “a result of nature or of nurture, of climate or of race, of centuries of oppression and illiteracy, or of generations of virtual slavery and peonage”. But the collectivisation of farms is bringing about desired changes in the character of cultivation and of cultivators. There are three types of collective farms: (a) Association of members merely to the extent of combining their labour forces for joint tillage, for working in company in ploughing, sowing and harvesting and in sharing proceeds, (b) Association in which is united not merely the labour force but also the ownership of the capital employed in the production of cereals and other specified crops, (c) The Commune; not only the fields and buildings connected with cereal cultivation but all other rural enterprises were owned and administered in common and the whole proceeds shared together with dwelling houses and all the improvements and amenities for common employment.

In a collective farm there are periodical meetings. There is day-by-day discussion among all the members. All necessary decisions are taken in an atmosphere of mutual exchange of ideas; what crops are to be sown; when ploughing, sowing, weeding and harvesting are to be resorted to. They receive advice from members charged with the tasks of propagating Soviet ideology. They receive technical assistance from Machine and Tractor stations and each station undertakes to draw up agreement with nearby village communities or collectives on the basis of a share in the harvest in exchange for machines and for technical direction.

The incentive of personal gain is there. The distribution of produce is proportionate to the amount of work done by each working, "according to the record of the number of week days devoted to the Kolkhos service". The tasks are even graded for computation of work days, "partly according to their laboriousness or discomfort but partly also according to their social value in managerial or other skill". The principle of sharing the produce among the family members according to the number of mouths to be fed, which was adopted at the outset, was discarded. A member of the collective farm is allowed to possess a cow, "whatever is gained from the garden ground, the bee-hives, the poultry run, the piggery and the dairy by the spare-time labours of the member and his family is wholly at his own disposal". He may consume it or sell it to any other consumer or may supply the consumers' co-operative society. He cannot sell it to anyone who means to sell again, that is to say, to any speculator. There are patronage societies. If sowing is increased, production cost lowered, working oxen and milk cows increased, all this is rewarded. Thus the joyous, competitive, mutual work promotes solidarity.

Collectivisation eliminates a multitude of wastes, "wastes in seed, in labour, in human and animal energy". It can easily take to mechanised agriculture and raise fertility of the soil. The Bolsheviks were also prompted by political motives to take to collectivisation in agriculture; they wanted to deal a death-blow to private enterprise in agriculture, as they brought about the liquidation of the capitalist in towns much earlier; they wanted the control of the output of food-stuff to ensure supply to the armies of industrial workers and in collectivisation the peasants pooled their land and their implement and their animals and did their work jointly and as such Government could not be easily deceived. The salvation of Russian agriculture was possible through collectivisation. "The machine and science, once they conquer a region, never abandon it, whether in city and village". Maurice Hindus significantly states: "As long as the Soviets endure, there will be no return to individual farming. I have the feeling that, even if the Soviets were to collapse, Russian agriculture would remain collectivized with control in the

hands of the peasants instead of the Government. The advantages of collectivisation as a method of farming are indisputable. Collectivisation has within it the power to convert Russia from a backward to a progressive agricultural nation, as individual holding with its inevitable small acreages never can. The individual farmer in Russia never can love land enough to warrant the purchase of binders, tractors, mammoth grain-drills, disk-harrows, hay-loaders and even potato-diggers, unless of course Russia swings back to a system of free sale of land. Then the more powerful and the shrewder of the peasants would crowd the less energetic and less capable ones off the land, and come into possession of large acreages, at least large enough to justify the investment in new machines. But that would mean a return to landlordism and to chronic and widespread landlessness—the very condition that gave such violent impetus to the overthrow of the regime”.

In Russia science has rescued agriculture. In 1933 there were no fewer than 1233 scientific stations for observations and experiments in farming, of which more than 1000 have been founded since 1930. There are 646 institutions working in the domain of plant-culture, 100 on fruits, 79 on oil-bearing plants, 76 on vegetables, 61 on cotton, 60 on maize and sorghum, 60 on potatoes, 52 on grain, 45 on new crops, 25 on flax. In the field of animal husbandry 254 scientific institutions are working. The demand for scientific workers in agriculture is great. There are thousands of “collective-farmer-inventors” creating new methods, trying them out, passing them on to scientific stations and applying the results of the stations to their own farms.

Conclusion.

It is well-known that man as an agent in agricultural production is very important. Human brawn and human brain are the best aids to agriculture. Good farmers in fields are the assets, because “there is a superior fertility of certain fields, a greater profit to be got in certain places, richer veins in certain mines and similarly there is a greater natural power in certain minds”. The improvement of the human unit is a sacred duty with the state. A good farmer should have

health and strength, skill in his tasks, industrious habit, clear vision, good judgment, knowledge of his crops, live-stock and machinery, ability to give and receive instructions, self-control to act in conformity with the surrounding economic forces, ability to find pleasure in his work without "allowing his mind to wander and his tongue to chatter", ability to work with neighbours, faithfulness to the interests of the farm, frugality, honesty, courage, and patience. "The differences in the abilities of men account largely for the differences in the profits secured by different farmers and in the wages secured by different workmen". Mr. Taylor maintains that "when the three factors of production (land, labour and capital) are compared, it will be noted that they are alike in that the individual units vary in economic productivity; they are unlike with respect to the rate at which they are increasing in quantity and with respect to the quality of the new increments of supply".

According to competent agronomists the following limitations upon the use of land should be specifically stated in the contract. The land to be retained in permanent pasture should be described, the crops which are not to be grown named, the uses for which trees may be cut stated. The corn fodder should be fed upon the farm; the manure made upon the farm should not be removed; noxious weeds before they mature their seeds should be removed. The amount of rent fixed should be paid. The lease should provide for enforcing the agreements or for terminating the tenancy by due notice. "While a change usually results in some loss, it is better than tolerating excessive negligence". A farmer should have no right to neglect cultivation, to deteriorate the economic nature of holdings. The rights of farmers should be subordinated to the interests of farms.

TENANCY REFORMS IN INDIA.

We have discussed the principles of land tenure and they will undoubtedly prove an invaluable guide to understanding the errors inherent in the land-systems prevailing in India. We have in our country permanent settlement, temporary settlement and raitwari settlement. The word "zeminder" has different meanings. It is a Persian word, signifying literally "landholder". During the Mahammadan period the term was originally applied to the "native" but in course of time it meant the "holders of tributary tenures not brought under complete subjection." "In the original Ayeen Akbery the zeminders are frequently called "Boome". They are either a Persian word implying "possessing the soil or earth, or a corruption of the Hindoo term, Bhoomis or Bhoomik, which may be interpreted Lord of the soil or earth. Whatever may be the origin of the word, Boome and Zeminder are the same". "Zemin" signifies land, "dar" signifies a possessor ; Zeminder is, therefore, one who possesses land, who pays some acknowledgment to the Emperor but who is notwithstanding the free lord of his inheritance. In Bengal the word came to apply to those great middle men "who rose to power in the decline of the Empire". After the Permanent Settlement Regulations of 1793 it came to mean only those proprietors of land who paid revenue to Government. In the Punjab the term is applied to anyone who owns land, to a village peasant. The term in popular use means the landholder with a cultivating tenant subordinate to it. The word "ryot" is Arabic. It means "protected one", "subject", or "commoner", as distinguished from "Raees" or "noble". The term is now popularly applied to the cultivator of land, proprietary or non-proprietary.

The growth of large zeminders in our country was in a sense inevitable. The Hindu system of Jurisprudence was favourable to the growth of zeminders, as the system was hereditary and favoured decentralisation of powers. The

Mahamadan system being antihereditary and much too centralised, it was not conducive to the growth of zeminders. But it was intriguing to observe that large, powerful and rich zeminders came into being during the Mahammadan rule, the staple reason being that the principles of Hindu Jurisprudence held their sway. The Hon'ble Sir George Campbell traces the larger modern zemindars to the following principal origins: old tributary Rajas who had never lost the management of their ancient territories; native leaders, sometimes leading men of Hindu clans and sometimes mere adventurers who rose to power as guerilla plunderers and eventually came to terms with the Government and established themselves in the control of tracts of country for which they paid a revenue or tribute; the officers whose business it was to collect and account for the revenue gained their footing as hereditary proprietors in disturbed times or in times of imbecile Government; enterprising bankers and other speculators in the decadence of the Mogul Empire took contracts of paying revenue and they exercised great authority as farmers-general and handed it down to their successors.

The Bengal System.

The Bengal system is the handmaid of the Permanent Settlement Regulations of 1793. It is to be noted that Bengal proper was the first considerable province which came under the British Administration. The part of Bengal which passed under the Company in 1765 was never strictly subjected to the revenue system of the Moghul Empire. It was imperfectly conquered by the early Delhi power in 1203 and its governors threw off the yoke in 1340. Then followed a succession of independent kings who relied on the local Rajas and Zeminders. After its conquest by Akbar in 1576 it became an outlying province of the Moghul Empire in which the revenue settlement of Todar Mull was not carried out in detail. The Ayeen Akbery informs us that the zeminders of Bengal were numerous, rich and powerful. In the 17th century every territorial magnate became independent and every important zeminder tried to establish himself as a territorial magnate. In the eighteenth century there were vigorous attempts to level down

the ancient zeminders whose hereditary character and proprietary rights were established beyond dispute. Murshid Kuli Khan (1704-1726) dispossessed many zeminders. The farming system adopted by the Company since 1765 was an indirect device to reduce the zeminders to mere agents for the collection of the land-tax. All this failed and Sir William Hunter accordingly observed: "Bengal zeminders at the Permanent Settlement represented the heterogenous results of two sets of influences: the long-continued weakness of the Provincial Government which made for their independence down to the end of the 17th century; and the stringent fiscal policy of Murshid Kuli Khan in the early part of the 18th century, followed by the farming system of the East India Company from 1769 to 1789 which tended to reduce the zeminders to mere agents for the collection of the land-tax. It was this composite body of zeminders that the Permanent Settlement resolved to deal with as a homogenous whole".

When the Permanent Settlement was introduced, all classes of landlords in the country were placed on a uniform legal basis. The first-class of Bengal zeminders represented the old and Mahammadan Rajas of the country previous to the Moghul conquest by the Emperor Akbar in 1576; the second class were Rajas or great landholders, most of whom dated from the 17th and 18th centuries and some of whom were de facto rulers in their own estates or territories, subject to a tribute or land-tax; the third class were persons whose families had held the office of collecting the revenue during one or two or more generations and who had established a prescriptive right; the fourth class was made up of revenue farmers who since the Diwani grant in 1765 had collected the land-tax for the Company under the system first of yearly leases, then of five years' leases and again of yearly leases. Thus we find that there were fundamental differences in the origin of various classes of landlords but they were all lumped into one grade by the Permanent Settlement Regulations. Conflicting and contradictory statements as to the claims and powers of Bengal landlords before the Permanent Settlement, indulged in by various historians with equal vehemence and passion, were all due to the fact that they had in their minds

certain classes of landlords to the exclusion of others. This fundamental fact should be borne in mind.

The Pitt's Act of 1784 in England was the starting point of the Permanent Settlement and it directed that permanent rules for the land rents and tributes should be made "according to the circumstances of the respective cases of the said Rajas, Zeminders, Polygars, Talukdars and other native-holders and according to the laws and constitution of India." It is not true to say that the Permanent Settlement was an imitation of the English system of landed property: the Despatch of the Court of Directors on the 12th April, 1786, ordered the settlement to be made according to the laws and constitution of India. The statutory title of landlords, established by the Permanent Settlement Regulations, "bore a superficial similarity to the land-system of England, a similarity which doctrinaire economists at home mistook for and a priori historians exaggerated into, an intended imitation". "It has been epigrammatically said that Lord Cornwallis designed to make English landlords in Bengal, and only succeeded in making Irish landlords". All this hardly expresses the truth. In the present publication I do not propose to go into the history of the Permanent Settlement, nor have I any mind to unravel the cupboard that covers the activities of Government with regard to the tenancy legislation in Bengal. They have been described in my earlier work, "Studies in the Land Economics of Bengal". It would be sufficient for our purpose to assess the ultimate effects of the Permanent Settlement and of the tenancy legislation in the country.

What is the Permanent Settlement? First, the Permanent Settlement Regulations of 1793 declared certain people proprietors of the soil. "In fact, the settlement was by no means made with the great zeminders exclusively; when holders of small degree were thought to have stronger claims, it was made with them. There were many such small holders; and in one or two of the eastern districts of Bengal the mere cultivators were found to have the best claim, and the settlement is, for the most part, to all intents and purposes, ryotwari." Secondly, the land-revenue demand was unalterably and irrevocably fixed and had to be paid on a fixed day which

would not and could not be relaxed on any account and "in future no claims or applications for suspensions or remissions on account of drought, inundation or other calamity of the season, will be attended to". The Government demand was fixed at ten-elevenths of the then rent-roll. Thirdly, "failing in the punctual discharge of the public revenue, a sale of the whole of the lands of the defaulter or such portion of them, as may be sufficient to make good the arrear will positively and invariably take place". This is what the Permanent Settlement ordinarily connotes. The principles introduced were new and harsh: all grades of landlords were placed on the same footing; punctual payment of revenue was insisted upon; a sale of the estate was contemplated in the event of defaulting payment of revenue. The zeminders were not used to such rigid principles of contract and there is abundant historical evidence to show that the Permanent Settlement was not sought by the zeminders; it was imposed upon them for historical and fiscal reasons. By virtue of the Settlement of 1793, the Governor-General-in-Council trusted that "the proprietors of land, sensible of the benefit, conferred upon them by the public assessment being fixed for ever, will exert themselves in the cultivation of their lands under the certainty that they will enjoy exclusively the fruits of their own good management and industry, and that no demand will ever be made upon them or their heirs or successors by the present or any future Government for an augmentation of the public assessment in consequence of the improvement of their respective estates". But there was no specific provision calling upon the proprietors to extend cultivation; it was left to their good sense while giving a solemn pledge for allowing unhampered and perfect enjoyment of "the fruits of their own good management and industry".

The Regulations of 1793 did not stop at declaring certain people proprietors of lands: they did not leave ryots at their mercy. Various rules were established in the matter of adjustment of rents and leases. Regulation VIII of 1793 was a step in that direction. Section 48 asked proprietors to enter into engagements with the several dependent talukdars continued under them and consequently paying revenue through them for the same period as the term of their own engagements with

Government, provided the talukdars would agree to such revenue, progressive or otherwise, as the zeminder might be entitled to demand from them ; proprietors were further required to deliver to the Collector within 3 months after the conclusion of the settlement with them a record of the engagements, entered, specifying their names, talooks and the jumma payable by each. Section 49 required that istimrardars or tenants holding at a fixed rent for more than 12 years are not liable to be assessed with any increase, either by Government or proprietors, but those istimrardars who have not held lands at a fixed rent for so long a period are to pay the rate of rent specified in any deed executed. The restriction placed by Section 49 is not to extend to public officers or farmers when the zemindary may be held khas or let in farm by Government (Section 50). Section 51 forbids an occupier from demanding an increase from dependent talukdars except on proof that he is entitled so to do either by special custom of the district or by the conditions of talukdary tenure or that the talukdar by receiving abatements from his juma has subjected himself to the payment of the increase demanded and that the lands are capable of affording it. If the zemindar exacts more than he has a right to, the Court shall adjudge him to pay a penalty of double the amount of such exaction with all costs of suit to the party injured.

Section 52 permits the proprietor of land to let the remaining lands of his zemindary under the prescribed restrictions in whatever manner he may think proper but every engagement shall be specific as to the amount and conditions of it and any sum paid more than the specified sum is to be repaid with a penalty of double the amount. The following are the restrictions: there must be an amilnamah or written commission signed by the proprietor ; the demands of proprietors are to be consolidated into a specific sum and no new abwab is to be imposed ; there must be a delivery of patta which is an agreement for a specific sum for a certain quantity of land leaving it to the option of the ryot to cultivate whatever species of produce may appear to him to yield the largest profit but variations of patta according to articles of produce in case of an established custom are admitted ; the exact amount of rent to be stated in the patta, and in cases where

the rate can only be specified and payments are to be in kind the rate and terms of payment and proportion of the crop to be delivered with every condition shall be specified ; pattas, prepared according to rules and adapted to the circumstances of an estate, be approved by the Collector and they are to be registered in the zilla Court but copies thereof be deposited in each of the principal cutcheries ; every raiyat is entitled to receive corresponding pattas and no pattas of any other form shall be hereafter valid ; ryots may demand pattas of proprietors and farmers who are required to grant them and refusal is to be attended with penalty ; all existing leases to under-farmers and ryots, unless proved to have been obtained by collusion or from unauthorised persons, are to remain in force until the period of their expiration ; pattas of khudkast raiyats, except upon proof that they have been obtained by collusion or that the rents paid by them within the last 3 years have been reduced below the perganna rate or that they have obtained collusive deductions or upon a general measurement of the perganna for the purpose of equalising and correcting the assessment, shall not be cancelled ; proprietors in Bengal are allowed until the end of the Bengal year 1198 and those in Behar and Orissa until the end of the Fussily and Willaity year 1198 to prepare and deliver pattas ; instalments of rents are to be adjusted according to the time of reaping and selling the produce.

Material alterations were made by Regulation 44 of 1793 which limited pattas to 10 years. In case of public sales of land for the discharge of arrears of revenue, it provided for rendering null and void all engagements. This engagement for ten years is to expire in the last year and it is renewable only on the expiry of it. This regulation was not meant to prohibit proprietors from disposing of dependent taluks, nor to affect the jumma of talookdars whose jumma is declared unalterable by Section 51 of Regulation 8 of 1793, nor even to prohibit grants or leases for any term for the erection of dwelling houses or buildings for carrying on manufactures or other purposes and for offices of such houses or buildings or for gardens except to British subjects and other Europeans.

The limitation of the patta to 10 years was prompted by the desire of Government not to allow proprietors to grant

pattas at a reduced rent for a long period or in perpetuity which was a likely eventuality, due to improvidence or ignorance of proprietors. In that case Government revenue would ultimately deteriorate. Moreover, it was essential that pattas of proprietors with the talukdars, under-farmers and raiyats should be held inviolable and should be given for a term sufficient to induce men to extend cultivation.

A further Regulation provided that in case of dispute regarding the rates of pattas it should be determined in the Civil Court of the district according to the rates established in the perganna for lands of the same description and quality as those respecting which the dispute had arisen and the ryots were entitled to have their pattas renewed at established rates.

It is clear that the land-system inaugurated by the Permanent Settlement Regulations of 1793, was not unscientific. But the noble Regulations, nobly conceived, failed in the long run. The system became overlaid with complications which were not mitigated but intensified by the tenancy legislation of the province. Since the Permanent Settlement complaints were audible from zeminders that there were no speedy methods of realisation of rents from tenants and as such they were put to the utmost difficulty. In the absence of effective methods for realisation of rents the great estates had to be split up by a system of sub-infeudation and the custom of giving sub-lease in perpetuity for a consideration was resorted to. "Perpetuities are always transferable and the inferior like the superior tenures can be summarily sold for arrears of rent". The Patni Regulation of 1819 was passed to validate certain perpetual tenures which grew up as a result of the necessities of the situation. The Government demand was high, realisation of rents was unsatisfactory, and perpetual, transferable tenures were created for the sake of secure realisation of rents by the zeminders. Thus the Burdwan estate was saved. The Patni Regulation was the first move in the matter of creation and recognition of middle tenures: the offence was not of those who took leases as they got them with valuable consideration and under high rate of rent; the offence was for the Government who by their hesitant, imperfect revenue policy allowed these middle tenures to grow; they should have helped the landlords in the realisation of rents. It is well-known that the severity

of the Government demand led to widespread defaults and numerous changes of zamindars under the sunset law of payment.

Apart from a vast system of sub-infeudation in every form and degree, there is a system of inheritance leading to a constant sub-division of rights without division of tenures. Under the Hindu laws and customs property is divided among all the sons and other agnates, and failing sons, a widow succeeds on a very limited tenure and in Bengal, daughters and other female relations also succeed after the widows, when there are no sons. "The tenure of Hindu widows is peculiar in the extreme. They have no power to administer for useful purposes, so as to give leases etc. beyond their own lives, but under Brahmin-made laws they can do many things in favour of Brahmins and for superstitious purposes. They are constantly in the hands of Brahmins and constantly trying to make away with the estates for the benefit of their own relations, or of their Brahmin friends, to the prejudice of the husband's heirs. Altogether the tenure is a most noxious one and gives rise to half the litigation in Bengal". Under the Mahammadan law of inheritance a great complication of shares is involved. "The result of the operation of these laws for several generations has been the creation of a very large number of interests, present and contingent, in almost every estate".

The technicalities of law worsened the situation. The realisation of rents through civil courts became a costly and dilatory procedure. Sir George Campbell aptly observed: "To any one who should follow any land suit, taken at random from the files of our courts, in its inception, origin, and progress through many appeals to a final decree, and then should observe how the attempt to carry out the decree breeds half a dozen new suits, the wonder must be how any people can tolerate such a state of things".

The Bengal Tenancy Act.

The Government intervened, enacted a comprehensive tenancy legislation but they were not intent on remedying the fundamental defects, inherent in the situation and in the land-system. That was indeed a tragedy. The intervention of

the Government in the relations between landlords and tenants was justified on the strength of the declaration of the Governor-General-in-Council in the proclamation of the Permanent Settlement which stated: "it being the duty of the ruling power to protect all classes of people and more particularly those who from their situation are most helpless, the Governor-General-in-Council will, whenever he may deem it proper, enact such Regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats and other cultivators of the soil". The Bengal Tenancy Act, as conceived and adopted, was not a measure for the welfare of agriculture; it only afforded legislative protection to ryots by amputating and transferring some of the rights of landlords. The Act was more prompted by political considerations; it had little economic justifications. The economic implications of the Tenancy Act have been devastating with regard to the interest of agriculture; it has comfortably created a situation which drives the nation to sink in the cauldron of despair and wastage. The unscientific nature of the Bengal Tenancy Act can be gleaned from the following provisions:—

(i) The Bengal Tenancy Act recognises three classes of tenants, *viz.*, tenure-holders including under-tenure holders, raiyats, and under-raiyats (tenants holding immediately or mediately under raiyats). It recognises also the following classes of raiyats *viz.*, raiyats holding at fixed rates, occupancy raiyats, and non-occupancy raiyats.

Permanent tenures are heritable and transferable. The rent cannot be enhanced unless upon proof of a right by local custom to enhance, or of a right depending upon the conditions of a grant, or that the tenure-holder by receiving abatement has subjected himself to increase and the lands are capable of affording it. The rent once enhanced may not be altered for 15 years. He cannot be ejected except in execution of a decree. Even non-payment of rent is not enough to forfeit his tenancy. Heritability or transferability of non-permanent tenures must depend upon the nature and terms of the particular grants by which they are created.

The Bengal Tenancy Act thus facilitated the growth of middle tenures. The quantum of revenue demand being high

and the penalty of default being harsh, the zeminders and independent talukdars naturally and conveniently leased out permanently portions of their estates on the basis of a specific sum which ensured a margin of profit, however meagre. The zeminders thus became rent-receivers and little interested in the improvement of the estates. A tenure-holder means primarily a person who has acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rents or bringing it under cultivation by establishing tenants on it and includes also the successors in interest of persons who have acquired such a right. Tenures of middlemen may be "istimrari" (perpetual leases which are hereditary and transferable) or "mukrari" (leases in perpetuity at a fixed rent which are hereditary and transferable) or "maurasi" (leases which are hereditary but not necessarily transferable or bearing a fixed rental). There may be under-tenures of these classes and in this wise a vast body of tenure-holders of various grades have sprung up in the fertile soil of Bengal.

This diffused ownership of land through the creation of middlemen was at first a necessity, and then a luxury. Historically the Patni Regulation of 1819 was inevitable, otherwise the estates, especially the Burdwan Raj Estate, would have been broken to pieces. The summary procedure for six-monthly sales for arrears of rent through the agency of the Collector of the District in which the patni taluk is situated is the chief peculiarity noticeable in the Patni Regulation and this feature mainly distinguishes it from a tenure created by the Bengal Tenancy Act. The Bengal Tenancy Act, however, does not touch the Patni Regulation. The patni tenures are saleable in execution of ordinary money decrees and transferable by sale, gift or mortgage. The patnidars have the right to create similar subordinate tenures. The Bengal Tenancy Act ought to have stopped the creation of middle tenures. This diffused ownership of land can be looked at from two different stand-points: (1) It can be held that this growth of middle-tenures broadened the basis of capitalism. The concentration of capital in the hands of large zeminders giving rise to a form of feudal aristocracy would have made for the complete and effective proletarianisation of the tenantry below them. By diffusing the ownership of property the entire

“bourgeoisie” developed a direct stake in the system: “it protects capitalism against the massing in hostility to it of all the remaining elements in society and provides it with a body-guard of retainers who feel their economic security and social status to be bound up with the continuance and prosperity of the existing system”. Bengal’s middle classes are directly bound up with land with the result that the number of landlord magnates are very few and will shrink. It is always wholesome to associate as many people as possible with the ownership of the means and sources of production. By getting the entire “bourgeoisie” interested in the system the basis becomes broad enough to disarm hostility for a great length of time. (2) On the other hand, it may be contended that the growth of middle-tenures, interested only in rents, saps the living personal tie of zeminders with the peasantry which is so very important in the business of agriculture. The whole body of landlords, except the last grade of tenure-holders, have no touch with the ryots: they cannot make any contributions to the welfare of agriculture. The one grade of landlord realises rents from a subordinate grade and the peasantry are not in the picture. Those landlords are, in economic phraseology, parasites, as they live on the receipt of “surplus value,” and are debarred from pulling their weight in the development of agriculture. But their rights are legally perfect and they were created in the interest of superior landlords. This comfortable growth of intermediate tenures is an evidence of the fertility of land, of the lack of mercantile spirit among the landholders, of the absence of the avenues of investment other than land, and also of the hunger and passion for ownership of lands denoting a rural bias in the behaviour of the Bengalee mind. If profits from land were not large, the growth of middle-tenures to such an incredible extent, as it exists in Bengal, would have been handicapped. If land could not provide “livings” for so many people, the creation of middlemen would have suffered an automatic check. The zeminders had little commercial spirit, so they were satisfied with a little margin of profit which accompanied the leases. They preferred a peaceful, assured existence taking little risks in the matter of their estates. Land provided a safe form of investment and the creation of permanent middle tenures with the rights of heritability,

transferability and the customary rate of rent, which was lower than the competitive rate, excited the cupidity of land speculators and attracted capital in a bewitching manner. This investment of capital led to the creation of separate tenures ; it was not pulled towards the improvement of agriculture. There were individual gains but this was tragic when the interest of the nation was concerned. Vast sums of money were invested in the purchases of estates ; valuable considerations were given for stepping into the shoes of tenure-holders ; much capital flowed to the tenure-holders by way of loan whose rights were well protected by the Bengal Tenancy Act—the nation's wealth was thus consumed with no reciprocal gain to agriculture. If one sinks large fortune in the purchase of zeminderies, that involves the transference of proprietary rights from one individual, presumably encumbered, to the purchaser, but the large fortune sunk serves no aid to the development of agriculture. In this wise, leases and sub-leases have taken place and *bona fide* lease-holders have sunk in money to get hold of rights provided by laws and customs : they have instead of improving agriculture accelerated the swift pace of agricultural deterioration, because the growth of the number of middlemen invites them to be mere rent-receivers and rent-collectors and not improvers of agricultural lands. From the stand-point of agricultural economics, the creation of middle tenures with perfect rights of ownership but no obligations attached thereto is a disaster.

Tenure-holders including under-tenure-holders are all within the category of landlords. The raiyats and under-raiyats form the peasantry of Bengal. Ryot means primarily a person who has acquired such a right to hold land for the purpose of cultivating it by himself or by the members of his family or by servant or labourers or with the aid of partners and includes also the successors in interest of persons who have acquired such a right. Where the area held by a tenant exceeds one hundred standard bighas, the tenant shall be presumed to be a tenure-holder until the contrary is shown. There are three classes of ryots. Rights of a fixed ryot are transferable and hereditary. A fixed ryot cannot be ejected unless he has broken a condition consistent with the provisions of the Tenancy Act. An occupancy ryot may use the land in

any manner which does not materially impair the value of the land or render it unfit for the purposes of tenancy. He shall not be ejected from his holding except in execution of a decree for ejection on the ground that he has rendered the land unfit for tenancy or that he has broken a condition consistent with the provisions of the Tenancy Act. An occupancy holding or a share or a portion of it is transferable. Transfer may take any of the following forms: sale (voluntary), gift, exchange, bequest, complete usufructuary mortgage, sale in execution of a decree; other kinds of transfer may be partition, lease or simple mortgage, usufructuary mortgage, mortgage by conditional sale until a decree or order absolute for foreclosure is made. Subject to the rent charge, the liability to an enhancement of rent under restricted conditions, and the premium payable on the transfer of his holding, an occupancy raiyat in Bengal is, for all practical purposes, the proprietor of his holding. A permanent tenure-holder or a ryot holding at fixed rates or an occupancy raiyat shall not be liable to ejection for arrears of rent but his tenure or holding shall be liable to sale in execution of a decree for the rent thereof and the rent shall be a first charge thereon.

A non-occupancy raiyat can be ejected if he has defaulted in payment of rent, or if he has rendered the land unfit for the purposes of his tenancy. The rent of a non-occupancy ryot shall not be enhanced except by registered agreement. There is no limit to enhancement (as in the case of an occupancy raiyat the limit is 2 annas in the rupee), nor is any period fixed within which no further enhancement can take place (as in the case of an occupancy raiyat the period is 15 years).

Under-raiyats are tenants holding either immediately or mediately under raiyats. Under-raiyats may acquire occupancy rights and in that event they will have as against their immediate landlords all the rights of occupancy-raiyats except the right of transferability. The money-rent of an under-ryot may be enhanced by a registered contract provided that it shall not exceed more than four annas in the rupee except for improvements or for specially low rates. Money-rent or produce-rent may be enhanced by the Court, the limit of enhancement in the case of money-rent being one-third of the average estimated produce of the land for the decennial period

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preceding the institution of the suit and in the case of produce-rent being one-half of such produce. When once enhanced, there shall be no further enhancement within 15 years. He can be ejected on certain grounds. The holding of an under-raiyat is hereditary but not transferable except with the consent of the landlord. But he will be competent to enter into a complete usufructuary mortgage in the same manner as an occupancy raiyat.

The majority of raiyats in Bengal are occupancy raiyats. They pay a very low rate of rent, the average rate of rent of occupancy raiyats being a little over Rs. 3 per acre. The under-raiyats pay higher rates and they make their payments to the superior raiyats. There are grades among under-raiyats, the lower grade paying more than the higher grade. It is striking to observe that raiyats having the highest of privileges pay the lowest rate of rent and raiyats having the least of privileges pay the highest rate of rent. It is also intriguing to find that the lower grades of ryots suffer at the hands of the higher grades. There is no community of interests even among raiyats and the conflict spreads.

Amongst the tenants' holdings there are lands cultivated by rent-paying tenants, known as "Jot-Jama"; there are lands cultivated rent-free, known as "Lakhiraj" (there are also lakhiraj lands held revenue-free but not rent free); there are service holdings given rent free known as "Chakran". There are rent-free tenures of religious nature; among the Hindus those tenures go by the names of Debottar, Brahmottar etc. and among the Muslims they go by the general name of "Wakf", all devoted to religious and charitable purposes. These rent-free lands, devoted to religious purposes, are neither liable for the debts of the testator nor alienable; they are transferable only temporarily for the preservation or benefit of the endowment.

There are also produce-sharing tenancies, "barga" and "karari". Under the "Barga" system the cultivator shares half the produce with his landlord; under the "Karari" system the rent is realised in the form of a fixed quantity of grain, independently of the season's outturn.

The rights of tenants in khas mahals (estates owned by Government) are less extensive than those in zemindary mahals. The Government dues in khas mahals are generally realised by the rigid certificate procedure laid down in the Public Demands Recovery Act. A civil court cannot interfere with a Certificate Officer's proceedings in execution except on the ground of fraud.

The Tenancy Act has permitted bifurcation of interests among the ryots with the result that those who pass for ryots in Bengal under the definition of the Bengal Tenancy Act are not necessarily actual tillers. An occupancy ryot in Bengal can easily turn himself into a landlord by letting out his holdings to under-ryots or can degenerate himself into an under-ryot by handing over his occupancy rights to a money-lender or a land-speculator. Agriculturists are thus in the grip of non-agriculturists through the unrestricted power of transferability and sub-letting or sub-division. A ryot is thus an easy victim to money-lenders; he can easily degenerate his holding into uneconomic unit; he can be a tool in the hands of non-agriculturists. The higher tenantry having unrestricted powers of alienation of their holdings even to non-agriculturists are always open to the dangers of cheap and easy credit. The ryots are protected in their rights, but they are not aided in the pursuit of their operations. Thus, agriculture instead of being mechanised and commercialised is nursed by private money-lenders. The only business in the countryside is money-lending and its profitableness has been a clog on our progress, agricultural and commercial.

There are gradations of wealth and social status amongst the various kinds of ryots in Bengal. There are ryots who have direct access to ownership; there are others who live on selling their labour only and are divorced from ownership. The "bourgeoisie", as we know, is essentially a class of owners of the means of production and the proletariat is essentially a class of employed persons and looked at from that standpoint, the ryots at fixed rates of rent and occupancy ryots form the class of "petite bourgeoisie". The higher grades of raiyats are the better-off groups and they align with any movement which stands for giving them more of what they want: they do not and cannot level up the really proletariat class, the

ryots who are actual tillers but factually landless and without tangible rights. The higher tenantry have desire for equality with the class above and are also fearful of the class below "towards which it stands commonly in the relation of employer". They do not stand for social and economic equality: they agitate for the maintenance and improvement of their position of economic privilege. They count on the help of the proletariat as both are moved by the common desire to clip the wings of the "grande bourgeoisie". This elementary truth should dawn upon those who are in the thick of the peasant movement.

(2) Though the original demand in the matter of tenancy legislation came from the landlords for being vested with the effective powers for realisation of rents, still the Bengal Tenancy Act was very negligent in granting their fair claim. It is well-known that no land-system can function if rents are not realised punctually and if arrears of rents are permitted to accumulate. Arrear rents always work revenge on and famish the lands. Under the Tenancy Act, if rent is not paid in due time, the amount payable becomes an arrear of rent and interest accrues thereon. The period of limitation for arrear is 3 years from the last day of the year in which the arrear fell due. Arrear rents are to be realised through Civil Courts and the procedure is dilatory and expensive. When defaulting is not strictly punished, one feels tempted to be a habitual defaulter. Enjoyment of rights rests on performance of obligations but through the subterfuge of the Tenancy Act a situation is invited when a tenant can have the use and occupation of land even without payment of rent. This procedure has corrosive repercussions on the whole system which is sinking under unscientific arrangements.

(3) The Tenancy Act does not make it obligatory for a ryot to conform to the rules of good husbandry. If a ryot neglect his cultivation, he cannot be forced to mend his way. The only restrictive provision is that he cannot render the land unfit for the purposes of tenancy. There is no provision to punish negligent or indifferent cultivators or to reward efficient farmers. Both the classes, efficient and inefficient, are treated with the same unconcern and indifference. This is a serious blot on the tenancy legislation in Bengal.

(4) The Tenancy Act does not profess to incorporate the general principles of the law of contract and the doctrines of equity and jurisprudence in so far as they may have to be applied in the determination of disputes between landlords and tenants. The Act clearly states that any custom, usage or customary right, not inconsistent or not expressly or by necessary implication modified or abolished by its provisions, shall not be affected. It is significant as making a distinct departure from any scientific system and irrational emphasis is laid on customary rights. It is of course well-known that a custom to be valid must be immemorial, reasonable, uninterrupted and certain in respect of its nature. The rate of rent and the rights of ryots are all customary. The rate of rent is the Pargana rate or the prevailing rate. It means the rate paid by the majority of ryots in the neighbourhood. The rent is not competitive: it has no relation to the prices of lands or of crops. There are dead lands fetching higher rent as in West Bengal and fertile lands fetching lower rent as in East Bengal. The economic capacity of the farm and the economic efficiency of the farmer are the factors not to be reckoned with in the granting of rights and privileges by the tenancy legislation. There is thus no room for letting in new ideas and efficient farmers. The Tenancy Act remains silent when land deteriorates and agriculture sinks, but it is active when the performance of obligations from tenants is insisted upon or emphasised. The Act thus encourages unscientific arrangements and inefficient farming by taking recourse to customs and customary rights at every step.

(5) The tenancy legislation has broken the rigorous conception of individualistic property. Lands are not now within the unrestricted control of owners. The relation between landlord and tenant is not one of personal dependence. That is all to the good of agriculture. But the tenancy laws are operating in such a way as "to deter landlords, who are willing to do so, from investing capital in the improvement of their land." Landlords can introduce no improved methods of farming on holdings occupied and used by occupancy ryots, because holdings hardly belong to landlords. They have lost the incentive of making improvements in their zeminderies as increased returns for improvements effected cannot generally

be secured. Any rise in the prices of agricultural products other than staple food crops such as jute in East Bengal and tobacco in North Bengal entirely goes to ryots. It is extremely difficult for landlords to prove the increased productivity of lands through their improvements which have to be registered. Land economists agree that any attempt to restrict the landlord's right to raise rent to a legitimate rate is bound to intensify the shortage of capital in agriculture. Human nature being what it is, landlords do not feel called upon to make improvements as their incentive is asphyxiated by the stiff provisions of the Tenancy Act. The Tenancy Act invites landlords to be sinecurists, not improvers of the soil, whereas there are no other agencies for the improvement of lands.

(6) The Tenancy Act is a recognition of the principle of state-intervention in the interest of agriculture. It prescribes that every matter between landlord and tenant will be decided in the Court and is thus an indirect means of screwing better revenue under the "stamps" at the cost of landlord and tenant. The Tenancy Act has thrown open the floodgate of litigation in the Courts; the judicial system has encouraged to the utmost the worst technicalities of law; and the habit of playing at law has been carried to the extreme under the cover of the Tenancy Act. It is true that judicial proceedings should not be abridged for the sake of convenience; it is equally true that judicial proceedings should not be costly and dilatory on adjustment of technical points. Arrear rents under the Tenancy Act cannot be realised quickly; there is no salutary rule that rent-suits should be disposed of within a specified time. They can be dragged on for a considerable number of years: it is often found in actual procedure that civil cases are postponed for criminal cases with prejudicial effects on the relationship between landlords and tenants. Accordingly, the Civil Justice Committee (1924-25) recommended that "there is no reason why more rent suits should not be tried and disposed of on the small cause side" where trial is quick and effective. Under Article 8 of the Provincial Small Causes Courts Act suits for the recovery of rent other than house rent are generally excluded. The authority should be given to the Judges of the Provincial Small Causes Courts to try rent suits upto a certain value. There may be rent courts on the

model of Scotland or revenue courts for disposal of rent suits affecting no fundamental rights. The Tenancy Act is grievously defective in so far as it does not ensure quick and effective possession of lands rendered khas. The obtaining of the sale certificate may be and is put off on flimsy grounds. Even when attempts are not made to put it off, undue delay is caused for no effective reasons. In the intervening period land is enjoyed without payment of rent as it belongs to none. That is detrimental to any sound tenancy. Moreover, the state has intervened and interfered with the intimate and cherished rights and privileges of landlords but it has not taken upon itself the responsibilities of protecting the farms and farmers. Landlord is relegated in the background and is handicapped at every stage for the performance of his functions but the Government have not improved the situation by agreeing to perform the functions of landlordism. The Government in enunciating their revenue policy, as embodied in the Tenancy Act, acted under the illusive belief that if landlords are restricted to deal unfairly with tenants, agriculture will go on improving. They misjudged the whole concept of the landlord-tenant system ; the functions of landlordism do not stop at the exercise or abuse of the powers, they begin with the performance of their obligations which consist of assisting agriculture with their better resources, better knowledge and better leadership.

(7) The Tenancy Act permits fragmentation of holdings to such an extent that they soon become uneconomic ; it easily allows the transference of holdings to the hands of non-agriculturists ; it encourages the wasteful and extravagant nature of ryots because they by their unrestricted powers of alienation and transferability command greater credit and smoothly fall into the clutches of money-lenders. The Tenancy Act recognises that the rights of landlords should be restricted in the interest of agriculture, but it has ignored the claim, far more founded on practical wisdom, that the rights of peasants to run astray or to be wasteful and unproductive should be equally restricted in the broader interest of land and agriculture. If the interests of ryots clash with those of lands or of agriculture, the interests of ryots must give way. But the Bengal Tenancy Act inculcates the contrary maxim.

A ryot should have the training and restrictive influence in remaining a wealth-producer. The Hon'ble Justice Field very significantly observed: "It must not be supposed that legislation which merely adjusts the relations between the zemindars and the raiyats will be a final solution of the difficulties which exist in these provinces. The Bengali or Behari raiyat is a very different individual from the enfranchised serf of modern Europe. He is inclined to sloth, wanting in thrift and self-reliance, careful only of the present and regardless of the future. Let no one indulge the delusion that an Act will convert him into a French, or Prussian, or Belgian peasant, industrious, frugal, provident. Even when the raiyat is protected from oppression, there is the danger that he will convert himself into a petty landlord and an oppressor of the worst kind. Let the raiyat be protected from oppression and exaction; let the demand of rent upon him be moderate, and above all things certain; let the enjoyment of any higher rights which he may acquire by his industry, be secured to him; but let him be made to understand that he may not convert his liberty into licence; that the protection and security, which are given to him, depend upon his faithful discharge of his liabilities, the punctual payment of rent; and that Government, while willing to maintain him safe in the enjoyment of the gains of honest labour, the profits of patient industry, has no intention that he shall become an idle middleman, a petty landlord, and narrow-minded oppressor of *kurfa* sub-tenants." The worst apprehensions of Field have come true. The lower tenantry suffer most at the hands of the higher tenantry, though zemindars are unwittingly held responsible for the hard lot of those who suffer most. The higher tenantry having rights, such as fixity of tenure, low rent, transferability, are more heavily indebted. It is an interesting feature of our agricultural economics that parties with more rights are more heavily indebted; landholders are more indebted than tenants with occupancy rights, and tenants with rights than tenants-at-will. Therefore, the problem of agricultural indebtedness in our country is a problem of the higher tenantry and by cancellation or liquidation of agricultural debts we do very little service to the peasantry of Bengal, actual tillers of the soil.

The uneconomic holdings are a serious menace to agricultural prosperity. A ryot, fastened round with the rope of uneconomic holdings, is a potential danger for the given structure of rural Bengal. Because one cannot and does not starve peacefully and quietly. Accordingly, a competent authority on the land-system observed: "One of the greatest dangers in an agricultural country like Bengal is the morcellement of the land. In these provinces this danger is peculiarly serious in consequence of early marriages, a rapidly increasing population, and the Hindu and Mahomedan laws of inheritance. When the land gets sub-divided into parcels, each of which will barely sustain an average family in a fairly good year, there is no margin of saving, and scarcity or famine inevitably bring their terrible results, which the people are powerless to avert. I have always thought that this is a question which should not be omitted from consideration in any general revision of the land-laws of these provinces". The land being fertile in Bengal, the population increases more rapidly. It may almost be said that "the fertility of land is a measure of the fertility of woman". The genial forces of fecundity are generally kept in check by the low amount of available food.

(8) The Tenancy Act has encouraged absentee landlords. Absenteeism of landlords is held to be a great scourge: it fails to provide enlightenment and leadership in the rural areas. By losing touch with the peasantry, landlords become insensible and deaf to the grievances of ryots. The Tenancy Act by permitting subinfeudation among landlords and ryots places the actual tillers at the mercy of the immediate superior landlords or superior ryots. The peasantry of Bengal are thus within the grip of petty landlords and higher grades of ryots. They form the "petite bourgeoisie" and their movement is directed against superior landlords under cover of genuine service to the actual tillers. Zeminders and superior landlords, even if they are willing, cannot improve the lot of the peasantry, nor can they introduce any improvements in farming in the holdings occupied by protected ryots. They thus find little incentive in staying in villages. It may almost be said that the Tenancy Act has driven zeminders and superior landlords from the villages which are in their absence deteriorating swiftly. The natural leaders of villages are thus

uprooted and they are thus floating in the seething mass of urban humanity, "Towns are excrescences, grey fluxions, where men hurrying to find one another have lost themselves". The leadership of villages has fallen on incompetent hands: the State is showing reluctance to step in and the result is inevitable chaos and confusion. It is not fair to characterise zeminders and superior tenure-holders living in towns as absentee landlords, because the Tenancy Act has sapped the chord of relationship between the zeminders and the actual tillers. If they reside in villages, they shall have to live as strangers to their own peasantry who by virtue of the Tenancy Act have been thrown at the mercies of others. It is no use blaming zeminders as absentee landlords and trying to cripple their effective powers for doing good to the peasantry. If their powers are to go, they are to be transferred to competent authorities, not to any indigent, impecunious, unimaginative and unsympathetic community. It is in the nature of oppressed humanity to be the worst oppressors when they get any freedom to do so. Accordingly, the contemplation of the transference of the powers of zeminders to those jotedars and higher classes of ryots (who are middlemen in respect of the major portions of their holdings) is not a wholesome and welfare move in the interest of the actual tillers of the soil.

(9) Fair rent, fixity of tenure and free sale—these were the ideals of agricultural tenure in the nineteenth century. The Bengal Tenancy Act was greatly influenced by these ideals. The Act was conceived in the Revenue Department of the Government of Bengal; it was hatched by the Rent Commission (1880); it was delivered in an atmosphere of opposition. The Bengal Tenancy Act of 1885 was criticised by the Hon'ble Sir Richard Garth, the then Chief Justice of Bengal, by the majority of the District Officers, and by almost all the public Associations and eminent publicists. In the present age the concept of fair rent, as shown by the Rent Commission in their report and adopted in the Bengal Tenancy Act, no longer holds the field; the fixity of tenure at all costs is not considered healthful and sound; the doctrine of free sale is assailed by modern agronomists as being detrimental to the interests of farms and farmers. The Tenancy Act by laying emphasis on individual freedom has shown weaknesses; the State cannot

and should not remain an indifferent party if the dominant party, landlord, is restricted in the exercise of his powers. The Tenancy Act is a half-hearted measure in so far as it has subordinated the zeminders but it does not make the Government take active interest in the welfare of the peasantry.

(10) The Tenancy Act has affected the ultimate value of zemindaries by transferring some of the intimate and proprietary rights of zeminders to the tenants. "The sudden and arbitrary suppression of the freedom of contract, the incessant interference of fiscal officers in every day transactions of the people, the compulsory litigation imposed by the Act with its ruinous costs, anxieties and evil influences" have shorn off the attractions of landed estates in Bengal; they have made zemindery management difficult and delicate. The situation makes for artful landlords and deceitful tenants; the sense of mutual fair play and justice inevitably dies away. If it were true that the rights of landlords had been amputated in the interest of agriculture, there was no moral wrong in it. But the Act instead of promoting the welfare of agriculture has invited complications in the relations between landlords and tenants. The Tenancy Act was a political design: it sought to improve the position of tenants without ensuring scientific tenancy: it has, accordingly, miserably failed.

This is true that the Tenancy Act, as it stands, has administered the heaviest of blows to the landlord-tenant system and if landlordism is breaking down to-day and has fallen from its past glorious record, it is mainly through sheer force of circumstances, arrayed against the institution by the imperfect revenue policy of the Government. It is a very material question from the broader interest of agriculture if private landlordism should be allowed to die. This much should be recognised in fairness to history that landlords saved our agriculture in the past by sinking in capital and acting as unrecognised financiers to ryots. But they are handicapped in doing so at present and the Tenancy Act cannot escape its vital responsibility in the matter. Before adopting a system which involves a break with the past and the history, we should definitely know where and why the shoe pinches.

Be it noted in this connection that the Bengal Tenancy Act which governs the relation between landlord and tenant

is not a complete code even in respect of the law of landlord and tenant. The law of landlord and tenant, to be complete, must take cognisance of the special procedure for the realisation of rents in estates under the management of the Court of Wards or of the Revenue Authorities or of the special procedure for the realisation of rents in estates belonging to Government or of the details of the law relating to the avoidance of tenancies by a sale for arrears of Government. All these are omitted from the Bengal Tenancy Act which, as its preamble states, is an Act to amend and consolidate certain (not all) enactments relating to the law of landlord and tenant in Bengal.

True, Bengal is a permanently-settled province but there are temporarily settled estates and Khasmahal estates. Out of a little over Rs. 3 crores of land-revenue, the sum of Rs. 2 crores 15 lakhs and odd comes from permanently-settled estates, Rs. 66 lakhs from Khasmahal estates and Rs. 25 lakhs from temporarily settled estates. Roughly 58 thousand square miles are permanently settled, 5 thousand square miles are settled direct by Government and 4 thousand square miles are temporarily settled. Of the temporary settlements, the Sunderbans settlements are by far the most important. The word "Sunderbans" in its revenue sense means those lands which are declared under Regulation III of 1828 never to have been the subject of a permanent settlement. But it is commonly used with reference to all or any of the deltaic lands in the south of the districts of 24-Parganas, Khulna and Bakargang. The most important types of settlements are Mulguzar leases, Talukdar leases, 99 years' leases, large capitalist leases and Ryotwari settlements. If we examine the forms of Kabuliyat for these leases, we find the characteristics, differentiating the one from the other. Malguzar lessees have no power to transfer nor to sublet; Talukdari lessees have liberty to sell, alienate or transfer as tenure-holders; proprietors under 99 years' leases have liberty to sell, alienate or transfer, one-fourth of the estate being exempt from assessment and at the time of renewal (which will be for 30 years) the revenue shall not exceed 45 p.c. of the gross assets of the three-fourths of the estate. Large capitalist lessees have also the liberty to sell, alienate or transfer as tenure-holders; they are subject to renewal for 30 years, one-fourth of the estate

being exempt from assessment. In the Sunderbans there are also raitwari settlements whereunder lands settled shall be heritable but not transferable and the lessees are "to cultivate their holdings with due diligence to the satisfaction of the Government".

Even in the Sunderbans settlements where the right of transferability exists, intermediate tenures have developed decimating the income of the original lessees. Sunderbans are peculiar in one respect, that is, that the burdens and charges for maintenance of agricultural properties there are heavy and they are a sufficient evidence that their owners are "not batten- ing upon a class of helpless tenants".

It is interesting to find that the revenue policy of Govern- ment is making a commendable move towards inaugurating raitwari settlements. Government are recently (say, since 1915) adopting the policy of giving preference to settlements with cultivators. Over and above raitwari settlements in the Sunder- bands the same kind of tenure is practically being encouraged for reclamation of waste lands in the Western Duars in Jalpaiguri. In all these settlements the Government restrict the powers of subletting and transferring whereas the same policy is discouraged with regard to tenants vis-a-vis private landlords.

In the Diarah mahals intermediate tenures have grown up. In the Khasmahal estates where leases for shorter or longer periods subsist, there is little room for the growth of grades of ryots. Government can easily give a lead by developing healthy tenures in Khasmahal and temporarily-settled estates and can reform the tenancy legislation on sound and scientific lines.

In Bengal the average rate of rent for occupancy ryots is Rs. 3 per acre and the average value of produce in normal times is over Rs. 60 per acre. The lower grades of ryots pay more. The basis of rent is customary. The incidence of land revenue in Bengal is a little more than eight annas. The Bengal Provincial Banking Enquiry Committee Report which gives figures for pre-depression period shows that the total value of crops produced is Rs. 2,438 millions. If we divide the total value of crops produced by the number of cultivating families

(6 millions, each family consisting of 5 members) we get at the average annual income of the agricultural family which stands at Rs. 406 per family. The size of the average ryoti holding in Bengal is not more than 2 acres.

Share tenancy has a future in Bengal and in times of depression it is getting more popular, though bhag-tenants are little protected by legislation. In the province of Bengal there are the Bhag-jots of the following kinds:—

- (1) Arda-bhag jot—when produce is equally divided.
- (2) Thika or Dhan-thika—when the sub-tenant contracts to supply a fixed amount of produce taking all risks and bearing also expenses of cultivation.
- (3) Hal-Krishi—Krishani—in which the cultivator is a mere labourer who does the work, receives one-third of the outturn, the tenant supplying seed.
- (4) Atharabaisa jot—in which the under-tenant gets $\frac{1}{3}$ ths of the produce but does all the work of cultivation and supplies seed, etc.
- (5) Panch-ordha jot—in which the under-tenant gets $\frac{2}{3}$ ths of the produce doing all the work and supplying seed.

In the Bankura district, no less than 11 p.c. of the total area in possession of settled ryots is held on "Sanja", the rent consisting of a fixed amount of the produce irrespectively of yield. "Sanja" is generally equivalent to one-third of the crop in a normal year and it has to be paid in good and bad years alike, while the mixed rent often represents a higher proportion.

In Midnapore, the proportion is 4 p.c. Bhag-rent which consists of a portion of the crop, generally half, accounts for a further 5 p.c. and mixed cash and produce rents for 9 p.c. Occupancy ryots who pay a produce rent form 8.07 p.c., of the total number of interests. In Faridpore nearly 91,744 acres are held by ryots at produce rents.

In Behar the produce rents are of different kinds:—

- (a) Batai system—the division of the produce is made where the grain is thrashed out.
- (b) Bhaoli system—the standing crop is appraised and the due proportion of the crop after customary

deduction handed over to the landlord in the basis of the appraisalment.

- (c) Mankhap—where the ryot has to deliver a certain number of maunds of a specified crop for each bigha of land.
- (d) Mahunda—where the ryot delivers a certain number of maunds for his entire holding.
- (e) Chanrate—where the payment is made in cleared rice and not in unhusked grain.

Behar is a permanently settled province. The demand from land not permanently settled is only 10 per cent. of the whole. "The power of the zeminders to increase the rents payable to them and to dispossess cultivators from the lands held by them in cultivating tenancy is closely restricted by the Tenancy Act. But the residuary rights of the zeminder are valuable and yield on the average to their possessors at least nine times the land revenue they have to pay. These rights are freely transferable by sale or mortgage." The tenure-holders, as given out in the Behar Provincial Banking Enquiry Committee (1929-30), number 312,000 having shares in 293,000 tenures. The majority of the tenure-holders are of a permanent character, "though not as a rule on a rent fixed in perpetuity, but many are temporary leases or usufructuary mortgages of proprietary rights". The permanent tenures can be sold or mortgaged without restriction. The majority of ryots have hereditary occupancy rights; they are protected from ejection and from unconscionable enhancement of rent. Their rate of rent is low, the average not being more than Rs. 4 per acre. Occupancy rights are sold and mortgaged freely. The size of the average holding is roughly put at 5 acres.

Land tenure in Chota Nagpur is more scientific. Temporarily settled estates and Government estates are more important there. Proprietors with a permanent settlement are also found in most districts. The actual cultivators are protected: they are generally prevented from selling their holdings or from alienating them by mortgage for more than seven years. Their rents are low, averaging about Re. 1 per acre.

In Orissa temporarily settled estates, liable to revision after 30 years, are the rule. The proprietors have the privileges

of free sale and mortgage and naturally tenures of a sub-proprietary character are numerous. The ryots are protected by the Orissa Tenancy Act from ejection or arbitrary increase of rent. "They have very nearly complete right of sale of their occupancy holdings, subject to a payment of one-fourth of the purchase money to the landlord. They are in their own interests prevented from giving their lands on usufructuary mortgage for more than nine years. The rent average is about Rs. 2-8-0 an acre and the size of the average holding has been estimated at 4 to 5 acres."

Grievances and Demands.

The reasons for conflict in society are numerous but the fundamental fact must not be ignored that the primary factor in any given society is the way in which it earns its living. Economic power precedes and determines the character of political power and necessarily there is a close connection between societarian institutions and culture and the method of satisfying material appetites. But we have a capitalist society with a government which recognises and accepts the principles of democracy. This marriage of the acquisitive order of society with the professedly expressed ideas of liberty in the political government is not proving happy. We are accepting the majority principle in the government, but we are broad-basing the superstructure of society on the privileges of the few. This unhappy union is generating forces which have affected the health of the body economic. The assumptions of capitalism are bound to contradict the implications of democracy.

The movement against landlords is helped by the plurality of causes, the chief of them being the distress of the tenantry in the midst of potential abundance and the economic insolvency of the landholders themselves. The tenantry are distressed and they clamour for concessions. The landholders are knocked down by their sharp fall in their income from land and naturally they cannot go on with the concessions asked for. The conflict grows stark and decisive. The tenantry forget the past achievements of landlords and they

become angry at the suspension of the concessions. "Grievances are thus multiplied and vociferous ; the men who feel them clamour for the continuance of the concessions, which, in the past, could be granted without undue hesitation or effort. But to grant them in an epoch of crisis is to call for the voluntary surrender of privileges from those in whom their habitual possession has bred a veritable religion of ownership. What once seemed reasonable now begins to seem destructive. What once appeared as an issue to be debated now appears as a threat to law and order". In this wise, "extreme provokes extreme ; and in the clash of mighty opposites the prospect of rational compromise is lost".

Landlords are thus placed in a disadvantageous position. Their purchasing power has fallen low, and the luxury of a liberal policy is not feasible. Capitalism in distress can afford to "yield its outer breast-works to the pressure of democracy", but it is "outside its nature to surrender without conflict its inner citadel". Prof. Laski accordingly observes : "accommodation is always possible in a society where new material benefits can be continually conferred. It is in jeopardy in those periods where economic contraction has reached the point where the demands cannot be conceded without a revolution in the class-relations of the society. For changed class-relations mean changed system of ideas. They are denials of conception of good which represent the whole meaning of life for those who are asked to surrender them. Men may abdicate positions they do not deem fundamental. So far in history, at any rate, they have not abdicated peacefully, as a class, from any position they deemed vital to their well-being." Where there is expansion, there is security ; where there is contraction, security moves into the zone of danger. Every society is the theatre of a conflict between economic classes for a larger material benefit. To avoid the conflict there must be a policy of reform. But landlords in their crisis are unable to continue their policy of unremitting reform, as "the cost and extent is incompatible with the nature of the system under which it is now demanded". Even if they show reforms, they come often too late to satisfy the grievances. The challenge that we meet with in the behaviour of events is "a threat of the average man, the failures, the incompetent, the half-alive,

the routiners, to those who have won their place in the sun by ability and energy and effort”.

In the province of Bengal the economic distress prevailing for the last seven years has widened the gap between the landlords and the peasantry. The first demand that we meet with is the abolition of the Permanent Settlement. There is a popular belief that the sufferings of the peasantry are traceable to the permanent settlement but we have seen how the landlord-tenant system is overlaid with noxious excrescences and harmful shrubs through the imperfect revenue policy embodied in the tenancy legislation, as a result of which the institution built by the Permanent Settlement is made to break down. Technically, the abolition of the Permanent Settlement connotes and denotes that the unalterably fixed character of the land revenue will be removed and that the proprietorship of the soil given in perpetuity to the landholders paying revenue to Government will be imperfect. If these two objectives are achieved, the grievances of the peasantry will not be satisfied. From the Government side the move for the abolition of the Permanent Settlement is not resisted, as that will likely provide an opportunity for increasing land-revenue. The zemindery system can and does exist even without the Permanent Settlement. Therefore, the immediate satisfaction of the grievances of the peasantry is not directly bound up with the abolition of the Permanent Settlement.

If the Permanent Settlement go, revenue will be relegated into the position of rent, as Government will be the landlord. Under the existing law of the land there is no rigidity about the payment of rent, and in fact, defaulting of rent is permitted. If the abolition of the Permanent Settlement merely mean that the fixity of revenue is affected and that the Government assume the role of landlord, the situation will be more complicated inasmuch as realisation of rents will not be assured or in the alternative effective realisation of rents (under sun-set law if applied as in case of revenue) will prejudicially affect the existing rights and privileges of all tenure-holders and all classes of ryots. If the abolition of the Permanent Settlement is made to mean the extinction of the zemindery system, we must try to know what it exactly means. If revenue-paying landlords are abolished, that will not ease the situation a wee bit, because

there are impressive grades of tenure-holders who will intervene between the Government and ryots. If the whole body of tenure-holders are proposed to be removed from the picture, even then the Government cannot possibly come into contact with the actual tillers, because among ryots there are grades and the higher grades of ryots, though they may be technically called ryots within the meaning of the Bengal Tenancy Act, are nothing but middlemen in respect of their holdings or the major portion of them. If the principle of removing all middlemen intervening between Government and the actual tillers is adopted (and such a principle is supposed to be inherent in the abolition of the zemindery system), then the revenue-paying landlords, tenure-holders and the higher ryots who are nothing but middlemen shall have to be removed. Such a step will expropriate a considerable number of people interested in the income from land. Frankness requires it to be told that those who want the abolition of the Permanent Settlement as a measure for the welfare of the tillers of the soil are living in a world of their own. Mere abolition of Regulation I of 1793 may give a fillip to the Government in the matter of enhancing land revenue, and should the zeminders and tenure-holders be found in existence, they will in their turn try to enhance the quantum of rent. If zeminders and the higher tenants are removed with a view to get the Government into touch with the actual tillers, the situation makes room for Government as landlord. We have seen that in the event of Government acting as landlord the rights and privileges of the peasantry are always restricted by the laws and regulations passed by the Government. If Government is prepared to act as landlord, the case for the abolition of the Permanent Settlement with all its implications gathers strength. If the Government propose to abolish the Permanent Settlement merely with a view to getting an opportunity of increasing land-revenue but have no intention of acting as landlord, they will be bungling the situation as in that case the woes of the peasantry will, far from being alleviated, be intensified. Those who are agitating to transfer the Permanent Settlement with all its incidents to the higher tenantry, they are really the worst mischief-makers. The higher grades of ryots are bound to turn out to be the worst

landlords, as they are ordinarily impecunious, ungenerous, unsympathetic, exacting and unimaginative. They resemble the Russian kulaks. But such a demand, born of anger and revenge, is finding popular support in the countryside. The actual tillers are conveniently forgotten.

The next demand is the nationalisation of land. The nationalisation is the public ownership of lands and it is resorted to for disposing of land in a way thought suitable and commendable to the Government of the country. If land is to be nationalised, who are the parties that will be expropriated? There is a vast amount of sub-infeudation among the landholders: there are grades of ryots and the higher ryots are mostly and generally landholders, or at least they are fractionally so. If the mere revenue-paying landlords are to be nationalised, even the fringe of the problem is not touched. If the whole hierarchy of landlords including the middlemen among the ryots, save and except the actual tillers of the soil, are to be touched, that is a task of vast magnitude. Let us assess the implications of the demand more closely. Roughly the amount of Rs. 3 crores is realised as land-revenue in Bengal. The gross rental is more than 16 crores. The huge figure of gross rental includes assessment on coal mines, tea plantations, etc. The rental paid by occupancy ryots who are in greater number in Bengal is more than Rs. 8 crores. The rental intercepted by the under-ryots and bargadars is about Rs. 3 crores. There are more than 1 lac of revenue-paying estates. We do not know what is the amount of rental payable to revenue-paying landlords. The whole amount of gross rental, as shown above, does not go to the landlords of Bengal. But it must be borne in mind that the amount enjoyed by the landlords is also distributed over a large body of tenure-holders. Therefore, the revenue-paying landlords do not enjoy a very big income. The total number of land-holding units in Bengal is more than 56 lakhs which are assessed to cesses. Statistically it has been found that there are small landlords earning a very small margin of profit but they add to the number of landholders. The census figure says that there are 678 thousand landlords. There is also a good number among the higher grades of ryots who in respect of a great portion of their holdings might be called landlords, though they pass off for ryots under the

definition of the Bengal Tenancy Act. Moreover, the protected ryots having powers of subletting and transferability have themselves become landlords or their holdings have passed to the people who are not agriculturists. In any attempt to nationalise all grades of landlords the body of ryots who are factually landlords should not in fairness be excluded. This task will be administratively difficult and financially unsound. It is generally expected that the nationalisation of lands will be accompanied by compensation. We have shown various devices of giving compensation in the task of nationalising lands. Whatever device we resort to, any attempt to give compensation to all the grades of landlords and ryots excepting the actual tillers having perfectly legal rights over a particular estate or holding will be inviting complications of the worst kind. Take a concrete case: There is a small estate of 100 acres of land. The actual tiller, let us take, pays Rs. 5 per acre. The actual tiller has a superior grade of under-ryot who pays Rs. 4 per acre and the first grade of ryot, be he an occupancy ryot or any other class of protected ryot, pays Rs. 3 per acre. Be it noted that the average rate of rent of occupancy ryot in Bengal is Rs. 3 per acre. This first grade of under-ryot and the occupancy ryot are nothing but landlords. The nationalisation of land on sound and scientific lines should touch all who may be in Marxian phraseology, parasites, and in capitalist ideology, middlemen. Let us modestly take that there are three grades of tenure-holders, the first grade paying Re 1, the second grade paying Re. 1-8 and the third grade paying Rs. 2 per acre. The zeminder pays eight annas per acre as revenue to the Government. This picture will show that the high rate of rent payable by the actual tiller, whose sunken eyes and starved body are freely referred to, is not enjoyed by the zeminder; the sufferings and grievances are to be traceable not to the zeminder but to the under-ryot of the first grade and to the tenancy legislation which permits exploitation of the tillers by the petite bourgeoisie. If the estate of 100 acres is to be nationalised, the amount of fair compensation for the estate will be 20 times the multiple of the rental. The next question comes up: how will the parties expropriated be compensated. There is the zeminder, the three grades of tenure-holders and the two grades of ryots. Those whose rights are greater pay a

less amount of rent, so the quantum of rent cannot be the basis. If profits be made the basis, it will be found that parties with superior rights have less profits and those with inferior rights enjoy more profits. In the task of nationalisation, the principle of compensation should look more to rights than to profits. It is also suggested that Government may buy up the rights of zemindars and tenure-holders without affecting the occupancy ryots and the grades below them. Such a scheme is open to serious objections. First, to buy up the rights of zemindars and tenure-holders the Government will be undergoing financial obligations whereas they will thereby acquire no rights of serving the interest of the actual tillers of the soil. If the Government fail to reach the tillers, they will naturally be handicapped in improving agriculture. Secondly, Government cannot spend money to buy up rights which are imperfect. Under the Bengal Tenancy Act, the rights of landlords have been much too crippled and the situation will not improve if those imperfect rights are bought up by Government without any adequate powers of dealing with lands freely and of improving farming scientifically. If the rights of occupancy ryots are kept in tact, there is no meaning in the move for buying up the rights of the parties, superior to occupancy ryots. Lands may be nationalised with compensation but the purchase of the rights of particular grades to the exclusion of others will not contribute to the improvement of farms and farmers, and any step which cannot achieve the self-same purpose, that is the welfare of agriculture, cannot possibly and conscientiously be followed by Government. The immediate task is, therefore, to amend the tenancy legislation in a way that ryots of all grades may be placed on a uniform legal basis, and that they cannot, so long as the stipulation subsists, make themselves middlemen. The spread of sub-infeudation among landlords must, on the same logical reasoning, be stopped. The primary task of the tenancy legislation is to see that the functions of landlords and tenants are and can be efficiently performed.

However, in the matter of nationalisation, Government generally allow compensation on the basis of the estate concerned but not of the number of parties interested in the transaction. In certain parts of Bengal, sub-infeudation is so deep that there are twelve to sixteen intermediaries between

the proprietor and the actual tiller. This is certainly a hopeless situation which makes the task of nationalising the land with compensation extremely difficult. All this is the gift of the Bengal Tenancy Act and not of Regulation I of 1793. If the Permanent Settlement had shown any tendency to creating intermediaries, that could have been checkmated by a sound tenancy legislation. But in our country, the scrupulous regard for customs to the detriment of the contractual rights and obligations has infected the landlord-tenant system with corrosive virus. The result is the growth of an unethical and unscientific land-system. In this connection, I am leaving out of account heavily encumbered and lakhiraj estates and "debottar" and "wakf" properties, and the attempt to nationalise them may founder on the rocks of difficulties, practical and sentimental. Should, however, a scheme of nationalisation with compensation be found, the present body of landholders will have nothing to lose and everything to gain.

The third demand is the reduction of the land-tax payable by ryots. Before putting forward such a general demand, we should care to know if the rate of rent payable by ryots is really high. It is undoubted that the land-tax should be moderate. In Bengal the rate of rent is governed by customs: the rate is, therefore, customary and not competitive. The Bengal Tenancy Act lays emphasis on the prevailing rate of rent. Through insistence on the prevailing rate of rent the situation has come to this: there are dead lands fetching higher rent, as in the Burdwan division; there are fertile lands fetching lower rent, as in East Bengal. If rents are reduced, that will also affect land-revenue demand. The Taxation Enquiry Committee were of opinion that the land-revenue should not exceed 25 per cent. The pitch of land-revenue assessment in Bengal which was 90 per cent. in 1793 has come down to 21 per cent. The rate of rent being customary has created complications. The Burdwan Division is now most unhappily situated. The lands have become dead but they pay higher rents: the estate is becoming necessarily unremunerative, though the Burdwan Raj pays more than 66 per cent. of his income by way of land-revenue. The whole fabric of assessment has become unscientific. It is true that there are under-ryots of the last grade who pay an exorbitant rate of rent but

that has been possible under cover of the Bengal Tenancy Act which has given powers to the protected ryots to sublet and realise a higher rate of rent. The grievances of the lower grade of ryots are, we find, due to the higher grade of ryots, and that is a most intolerable arrangement, recognised and sanctioned by the Tenancy Act.

The fourth demand is the exemption of uneconomic holdings from payment of any rent. The creation of uneconomic holdings is a disaster and it is distressing to find that uneconomic holdings, instead of being weeded out, are proposed to be perpetuated. A man with an uneconomic holding is a danger to the peace of society. It is always better that he should be made free to roam or move about in search of employment. If a ryot is handicapped with an uneconomic holding, that works out ruin both to the holding and to the holder. The swift pace of the degeneration of the holding into uneconomic unit should be stopped and a progressive policy of restripment of uneconomic holdings should be followed.

If we analyse the demands put forward on behalf of the peasantry of Bengal by their leaders and in their local and provincial conferences, they reveal an interesting psychology. They claim that the Permanent Settlement should go; they also say that ryots should have tenures and rents permanently fixed and the privileges incidental to proprietorship of the soil should go to ryots. By the expression, ryots, they perhaps mean the higher grades of ryots, because they do not propose to place all the grades of ryots on the same footing. They do not say that ryots have no right to be middlemen; in the shoals of resolutions ryots are never asked to perform their obligations, nor are they told to be producers of real wealth, not illth. Instead of attempting to amend the Tenancy Act in a way favourable to the actual tillers of the soil and to the improvement of farms they propose to perpetuate the grades of ryots, the unscientific tenures and unethical practices in farming. It is very strongly insisted upon that landlords' transfer fee and the right of pre-emption should go. They leave the other weaknesses of the Tenancy Act untouched: it is significant to note the contours and shapes of the demand which undoubtedly show a bias for the higher classes of ryots. The

fatal gift of transferability, it is well-known, has added to the degeneration of ryots in Bengal. Moreover, the transfer-fee, though feudal in character, is incidental to the landlord-tenant system obtaining in Bengal. If it is to be reduced and is to go in the interest of agriculture, the right of transferability should be equally restricted, as that is more vital from the standpoint of sound agricultural practice. We have shown how Europe has acted boldly in the matter. The pre-emptive right of landlords is considered a sound practice. Whoever be the landlord, he should have the right to purchase to the exclusion of the right of strangers to come in. The right of pre-emption, considered economically, keeps up the prices of lands. It acts as a bar to outside non-agriculturists to play the role of landlords. Those who want the right of pre-emption to go are, in fact, working for depressing the prices of lands and for the intrusion of solvent outsiders in the place of landlords and tenants. This has nothing to do with the improvement of farms or of farmers ; the demand is more in consonance with the desires of land speculators.

In Bengal the fragmentation and division of holdings should be stopped ; the growth of uneconomic holdings must be checked ; the creation of tenure-holders and the grades of ryots should not be allowed. The plan of co-operative farming, as adopted in Italy, may be profitably followed. Agricultural societies on co-operative basis may be formed and they will enter into contract with landlords on behalf of the members, that is agriculturists, in the matter of punctual payment of rent. The societies with the help and guidance of landlords will be able to pool their resources in the development of the production and distribution of agricultural products. Individual farmers, unless powerfully aided by the state or landlords, have little weathering capacity in these days of economic blizzard and agricultural depression. Ryots should know no grades ; a true peasant is he who remains a peasant. If he turn himself into a middleman, he is not entitled to national consideration. The defects of the Bengal Tenancy Act, as pointed out, are not exhaustive but they establish the contention that the Tenancy Act was conceived unscientifically and has travelled towards a wrong direction. The Bengal Tenancy Act has affected the value of lands, the

value of zamindaries ; it has widened the powers of tenants ; it has invited the landlords to be mere rent-receivers ; but it has left it to no one, landlord or Government, to perform the functions of landlordism. It has complicated matters ; it has sowed the seeds of disunion between landlords and tenants ; but it has not attempted to solve the ills overtaking agriculture. The famished peasantry of Bengal is not the product of the Permanent Settlement : it is the product of the Bengal Tenancy Act. If the Permanent Settlement made zeminder the master of the situation, he was also the patron ; if he stood above, he also stood behind, his ryot. The Tenancy Act has crippled the powers of the master but it does not obligate the Government to stand behind the ryot, nor does it make it feasible for the ryot to improve agriculture unaided. The situation has dug its own ditches.

The United Provinces.

The United Provinces of Agra and Oudh were formerly known as the North-Western Provinces and Oudh. The Bengal system of the Permanent Settlement was very popular and it was considered wise that the Permanent Settlement should be extended to all the provinces. The Benares Province was permanently settled. The North-Western Provinces were nursed with the hope for a long time that the Permanent Settlement would be conferred on them. The temporary settlements with the landlords were being renewed practically with the assurance that they were sure to get the permanent settlement. The Directors in England put off the introduction of the Permanent Settlement on the main ground that fuller and more accurate information were necessary. The special commission of Messrs. Cox and Tucker concluded in favour of the Permanent Settlement. Messrs. Colebrook, Adams, Fendall wrote strong minutes in support of permanency. The Marquis of Hastings was hesitant : Messrs. Mackenzie and Keane opposed permanency. In 1862 practically the policy of the Permanent Settlement was approved by the Secretary of State for India but the final decision was not taken. In the forest of controversies of Permanent and Temporary Settlements the way to solution was lost, and in 1885 the plan for

the adoption of the Permanent Settlement was finally abandoned.

The term of settlement in the United Provinces was thirty years. But under the Act of 1929 the term of settlement with the Government is extended from 30 to 40 years. When the settlement expires, "the revenue which the landed proprietors of a district have to pay the Government on their land is recalculated. Recalculation is made by determining first the gross assets in the shape of rent, manorial dues, and valuation of the profits of proprietary cultivation and next, in order to obtain net assets, by allowing deductions on proprietary cultivation, also for improvements effected on a holding". Under the Act of 1929 and the rules made thereunder "the revenue assessed on a mahal should usually be 40 per cent. of the net assets and may exceed 40 per cent. but not exceed 45 per cent. to avoid reduction of the existing revenue or that a round sum be paid. It will not exceed 38 per cent. of the net assets in mahals in which the number of proprietors is large and the circumstances are poor and will not exceed 35 per cent. where the number is large or existence of malikana justified reduction. The revenue of a mahal shall not be enhanced by more than one-third of the expiring demand except when the expiring demand, if increased by one-third, amounts to less than 30 per cent. of the net assets. In that case, the revenue shall ordinarily be 30 per cent". The new Act provides for the submission of a forecast to the Government before the sanction of the settlement and also for affording the Council an opportunity to discuss the forecast, the assessment proposed, and the final settlement report.

In Oudh there are proprietary tenures, under-proprietary tenures and cultivating tenures. Proprietary tenures are divided into Talukdari, revenue-free grants, zemindery and Bhaiyachara. In Bengal zemindari is the major right but in Oudh Talukdari is the chief right to land. To "pure" Talukdars belong the descendants of the ancestral proprietors: to "impure" Talukdars belong the court favourites, bankers and speculators. However, the talukdars, pure or impure, are dealt with as a body. Lord Canning recognised the Talukdars as leaders and he declared the land in Oudh as confiscated and he restored the properties to the Talukdars on conditions of

loyalty to the British Government, regular payment of revenue, destruction of all forts, the prevention and reporting of crime, promoting the agricultural prosperity of an estate and securing tenants of every class full enjoyment of such subordinate rights as they had so far received. The terms were embodied on the Sanads granted to the Talukdar. The estates such as Balrampur, Padnaha, Katyari, Sisindi and Maurawan, were exempted from confiscation owing to the loyalty of their owners. Under the Act of 1869 "a special law of succession, gift, and bequest was laid down for personal succession and also for intestate succession. In some estates primogeniture is the rule, in others the personal law applies".

Revenue-free grants were created out of the confiscated estates of the Mutiny rebel leaders and given to the persons, chiefly Punjabis, for services rendered during the Mutiny. "The grantees were admitted by the virtue of Sanads to some of the privileges of Talukdars". They were not numerous and the grants varied in size. There were also religious and charitable grants, revenue-free or rent-free.

Zemindari estate is held in common and the Government revenue and other liabilities being paid out of the rents, the remainder is divided among the several partners according to their respective shares. Mr. Butts in 1873 remarked: "Zemindari villages, that is villages held in common, rapidly become divided. Though all were legally equal in the Nawabi, one man would be often found who would put himself, by consent, at the head of the community in order that the whole body might be better enabled to resist the oppression of an official or the greed of a neighbour. He became the head zeminder and was summoned to the Chakladar's Court to accept the revenue engagement. The machinery of Government was not fitted in those days to cope with all the owners of an estate. Collection of Government revenue was the great matter, and while one or two looked after that, the rest had their sir lands for which they rated themselves at something less than cultivators' rent." If the zemindary mahal is divided and the shares are specified but the co-sharers remain jointly responsible for the land revenue, the mahal is held in perfect pattidari.

Bhaiyachara is where all the land comprising an estate is divided and held in severalty, the liabilities of the co-sharers being assessed on their holdings. "It was originally a form of sharing on non-ancestral principle".

The sub-proprietors were a numerous class. They were mainly pukhtadars and matahatdars. Puktadars have subordinate but transferable rights in the village. They are to pay regularly and promptly their rents to Talukdars and they generally pay 75 per cent. of the gross rental. The principal forms of matahatdaris are didari, sir, nankar, birt, sankalp, purwa, dar, biswi, marwat and daswant.

Didari is a certain amount of land rent-free and was based on former proprietorship. Sir is the land which a man held for his subsistence when he did not hold the lease of the village or estate. Talukdars cannot disturb its owners by legal action. Nankar is a form of revenue-free villages. Birt means a cession of any part of the talukdars' rights with definite limits and takes many forms. Sankalp indicates land devoted to religious purposes. In return for founding a purwa if purwadars have held within the period of limitation any sir or nankar land, they will be recognised as under-proprietors paying the amount due to Talukdars. Dar is a fractional tenure in a patch of land, tenable by all classes. Daswant is obtained by clearing jungle land and bringing it under cultivation. Marwat is the bestowal of a piece of land in the family of a man who has fallen in battle fighting for his liege-lord, the Talukdar, at a low rate of rent and it cannot be resumed.

In Oudh there are various kinds of occupancy tenants:—

(1) At the first regular settlement of 1866 proprietors who had been dispossessed within the 30 years preceding the annexation in 1856 were given occupancy rights in the land that they cultivated, and are entitled to hold at a favoured rent which can be enhanced after five years.

(2) Certain other persons with superior claims were given decrees allowing them to hold their land at reduced rent and to be free from enhancement except at settlement.

(3) There are in Oudh certain tenants holding heritable but non-transferable leases. All these are classed as occupancy

tenants. There are ex-proprietary tenants in Oudh of the same type as in Agra.

"By the Oudh Rent (Amendment) Act of 1921 all statutory tenants were given the right to retain their holdings for life and the heir of such a tenant was given the right to remain in possession of the holding for five years after his predecessor's death. Enhancement is possible only at settlement and in every tenth year after settlement. But the enhancement is limited by rates specially fixed under the law. If a statutory tenant refuses to pay the rent thus enhanced, he is liable to ejection". The sub-tenants pay higher rents but have little rights: they hold their land for one complete agricultural year.

In the United Provinces, with certain special exceptions, no tenant's right is transferable and no tenant's holding can be legally mortgaged. An ex-proprietary or occupancy or a non-occupancy tenant can sublet his holding only for five and three years respectively, and he cannot again sublet until two and three years had elapsed after the expiry of the sub-lease. "The law is evaded and sub-leases are frequent leading ultimately to the relinquishment of land".

In Bundelkhand the proprietary body who were agriculturists were deeply indebted and there were transfers of land to non-agriculturists with undesirable results, and accordingly a Land Alienation Act was passed in 1903. The U. P. Provincial Banking Enquiry Committee (1929-30) are of opinion that there is no case for introducing a Land Alienation Act in any other part of the province. They state: "The tenants may be the money-lenders' milch kine, but no dairy was ever run at a profit with starved cows". We have found in Bengal that the unrestricted right of disposing of the land on the part of protected tenants has led to undesirable results: it will lead to such results everywhere, especially when the tenants are wasteful, illiterate and are not trained to a high state of co-operative efficiency. It is true that any Land Alienation Act which will reduce the credit value of land emphasises the need for opening scientific credit arrangements but to facilitate the passage of tenants into the hands of money-lenders and their deterioration into inferior tenants on the plea of freedom of disposing of land is not in consonance

with the latest concept of agricultural economics. "The exchange of a non-agricultural for an agricultural landlord generally, perhaps more often than not, means a substitution of a good for a bad landlord". The increase of the grades of landlords and of ryots, inherently due to the unhampered power of alienation of lands, may help in the flow of private credit money at usurious rates in the service of agriculture but it will, in the long run, impair the efficiency of farms and of farmers and reduce the incentive of the State to the safeguarding of the interests of lands. The case for the restriction of the powers of ryots with regard to transferability, subletting and sub-division is very strong: the case for the restriction of powers of alienating estates with a view to stopping sub-infeudation on the part of landlords is equally strong.

The Agra Tenancy Act, 1926, deserves more careful consideration as it is decidedly superior to the Oudh Rent Act. For the purposes of the Agra Act there are the following classes of tenants, namely, permanent tenure-holders, fixed-rate tenants, ex-proprietary tenants, occupancy tenants, statutory tenants, heirs of statutory tenants, non-occupancy tenants. The interest of a permanent tenure-holder and of a fixed-rate tenant is both heritable and transferable. The interest of an ex-proprietary tenant, of an occupancy tenant, of a non-occupancy tenant and of a statutory tenant is heritable but is not transferable either in execution of a decree of a civil or revenue Court. Restrictions on sub-leases are emphatic. No ex-proprietary or occupancy tenant shall, except with the written consent of the landholder, sublet the whole or any portion of his holding for a term exceeding five years; a statutory tenant shall not sublet for a term exceeding three years; a non-occupancy tenant shall not sublet for a term exceeding one year. All sub-leases shall terminate with the term of settlement. No sub-tenant shall sublet otherwise than with the written consent of his landholder. It is very interesting and significant to note that unlike the Bengal Tenancy Act which gives wide powers to protected tenants in scorn of the interest of lands, the Agra Act has a salutary provision whereunder a landlord may acquire land from his ex-proprietary or occupancy tenant on payment of compensation for the purpose of farming on improved lines. A

landlord or a permanent tenure-holder may acquire land from his statutory tenantry for various purposes such as improved farming ; for cultivation by himself ; for making roads, water-courses ; for constructing hamlets or markets ; for mills or factories. The rent of a fixed-rate tenant, an ex-proprietary tenant, an occupancy tenant, a statutory tenant or an heir of a statutory tenant shall not be enhanced by more than one-fourth of his existing rent but the rent fixed shall in no case be less than half the annual rental value at the circle or village rates ; the rent may be enhanced or abated only by a registered agreement or by decree or order of a revenue court. The rent of a non-occupancy tenant may be enhanced by agreement. An arrear of rent shall be recoverable by suit or by distraint or by notice through the Tahsildar. In the Bengal Act provisions regarding distraint have all been deleted in the Amendment of 1928. Under the Agra Act the landholder shall be entitled to distrain any crops or other products of the earth standing or ungathered on the holding and any crops or other products of the earth which have been grown on the holding and have been reaped or gathered and are deposited on the holding or on a threshing floor or place for trading out grain, whether in the fields or in a homestead. But the landholders shall not be entitled to distrain any crops or other products more than thirty days before maturity, and any crops or other products after they have been stored by the tenant, and any other property.

It is to be noted that the Agra Tenancy Amendment Act of 1931 provides that in case of any general refusal on the part of under-proprietors or tenants of any local area to pay arrears of rent, rates or cesses due by them to their landlords, the Local Government may declare that such arrears may be recovered as arrears of land revenue. In Bengal there is no such provision of law : only individual landlords under the Bengal Tenancy Act may apply for certificate power which empowers them to realise their arrears of rent under the Public Demands Recovery Act of 1913.

The cash rents in the United Provinces are as follows :—

(1) Lump sum on the holding, or a chukauta faisla irrespective of the crop grown, the cultivator taking the risk of seasons ;

(2) By rate of so much per bigha all round, irrespective of the crop grown on the soil ;

(3) By rates per bigha on soils, irrespective of crops ;

(4) By rates per bigha varying with the crop grown, irrespective of soils ;

(5) By combination of soils and crop rates.

“In fixing the rent, the kind of soil is always in the mind of the landlord”.

The rent per acre is as follows :—

Division.	Statutory.	Occupancy.
Meerut ...	Rs. 13½	Rs. 6
Jhansi ...	Rs. 3	Rs. 2½
Gorakhpur ...	Rs. 5	Rs. 4½
Lucknow ...	Rs. 7	

The value of outturn per acre, as shown in the United Provinces Banking Enquiry Committee's Report (1929-30), is Rs. 75 in Meerut, Rs. 27 in Jhansi, Rs. 78 in Gorakhpur and Rs. 63 in Lucknow. The average holding is 7.8 acres in Meerut, 13.1 acres in Jhansi, 3.8 acres in Gorakhpur and 7.2 acres in Lucknow.

Rents in kind are either Batai or Kankut. Batai is the actual division on the threshing floor, all the expenses of the cultivation being borne by the cultivator. Kankut is “estimating of gross produce of the standing crop”. Rents in kind are very unpopular.

The influence of caste in the fixation of the quantum of rent is felt in the United Provinces. The privileged castes pay lower rate of rent because they are often related to zeminders and cannot plough themselves owing to caste prejudices and thus have higher costs of cultivation. Brahmans and Thakurs belong to the privileged class. At a long interval the rise in prices affects the rate of the whole country.

The Central Provinces.

The Central Provinces Tenancy Act of 1920 is more boldly conceived. The divisions of proprietary right have

been : zeminders (who have the highest claim of the proprietary body), shikmi or subordinate zaminders, Malguzars, superior proprietors and inferior proprietors. There are three classes of tenants under the malguzar. First, absolute occupancy tenants whose rents are determined by the settlement officer and are unalterable during the currency of a settlement. Their right is heritable and transferable, subject to pre-emption by the malguzar. Secondly, occupancy tenants whose rents, fixed by the Settlement Officer, are liable to enhancement decennially. Thirdly, tenants-at-will. The C. P. Tenancy Act of 1920 has made every tenant, whatever the length of his occupation, to be an occupancy tenant or a tenant with a permanent right of occupation. The right is heritable but he may transfer only to a co-tenant or to person in the special line of heirs. The law permits subletting for one year only. But the law may be avoided by continuous yearly sub-leases, so it is provided that where it is found that tenants are habitually sub-letting the lands, the Local Government is empowered to pronounce the sub-tenant to have the right of an occupancy tenant.

The C. P. Tenancy Act of 1920 shows commendable features for the simplification of the tenancy system and they may profitably be followed in other provinces. In the Punjab there is the Land Alienation Act ; in Chota Nagpur there is a provision in the Tenancy Act that the sale of ryoti holdings is illegal ; in the United Provinces there are restrictions on sub-letting. But in Bengal "the unrestricted right to transfer or to sublet or to raise money on holdings has led to widespread impoverishment and indebtedness of the tenants, and to the gradual transfer of holdings to non-agriculturists and money-lenders".

The Punjab.

In the Punjab, there are proprietors, occupancy tenants, tenants-at-will, and farm servants. It is a country of peasant proprietors. The size of the average cultivated holding is small, generally eight acres. In the Punjab rents are usually a fixed portion of the produce : they rise or fall automatically with the price of produce. Land revenue is not high : it

absorbs about one-quarter of the net income of land but water rates are high. The land-revenue is periodically revised largely on the basis of existing prices. An occupancy tenant, subject to payment of rent, has a permanent right to cultivate his land ; he has almost the status of a small proprietor. The peasant is a small holder. To support a family upon a few acres without getting into debt requires a level of skill, industry and thrift, seldom attained in a hot country. For sheer ant-like industry there is no one in the Punjab to touch upon the Arain who is an ideal cultivator.

In the Punjab the most salutary work of the Government has been the creation of canal colonies. It is said that "half the country is burnt up by the sun and the other half drowned by the river and the whole is waterlogged with debt". The canals, fed by the Jhelum, the Chenab and the Ravi, have prevented the four flourishing districts of Shahpur, Lyallpur and Jhang and Montgomery being almost a desert. The total area colonised is about $5\frac{1}{2}$ million acres which is more than one-sixth of the total cultivated area of the province. In 1929-30, the Government earned a net profit of 32 per cent. upon the canals "serving the first three major colonies and 9½ per cent. upon its whole canal system of 20,000 miles and its capital outlay of Rs. 33 crores". In the creation of canal colonies the Government were prompted by two objects, namely, to relieve pressure of population in the congested districts, and to create flourishing villages of a type superior in comfort and civilisation. In the colonies we find the peasant proprietor, the yeoman farmer and the landlord. The yeoman farmer who is a wealthy peasant and the landlord were taken in to strengthen the colonies by the infusion of the capitalist elements, because the Punjab society was, after all, semi-feudal. But it must be noted that the peasant proprietor is the backbone of the colonies. In a newly developed country "it is character and capacity rather than mere hereditary advantage that lift men above their fellows" and the yeoman and the landlord "could not prove of value in the development of an infant colony, partly because it was found impossible to insist upon residence, and partly because even the resident yeoman rarely attained to any leading position".

In the colonies remission is admissible only if the yield is 25 per cent. or less of the standard outturn by the revenue authorities. Since a low standard is taken, remission is admissible only in the case of almost total failure. Tenants in the Punjab are often not allowed to cultivate the same land for many years running, lest they should assert a claim to occupancy rights. Government in the Punjab is the greatest landlord: they lease out thousands of acres for a year or two only. In the colonies very short leases are given. Although tenants are periodically shifted from holding to holding, they rarely leave the village. In all outlying districts relations between landlord and tenant are still of a feudal character. There are feudal payments such as grain, rice, sugar and ghee at marriage of son or daughter, fee payable by a marriage party coming to fetch away a bride, grazing fee. "In return for these payments the landlord advances seed, when required, without interest and settles all disputes".

The Punjab is most prosperous agriculturally. Prosperity has "added little to the peasant's real wealth but greatly to his debt and alarmingly to his numbers". Debt follows credit, so "debt may be an indication of prosperity". No poor country can support a heavy debt. The Punjab is prosperous but she is most heavily indebted. It is found in the Punjab that canals, wealth and debt follow in happy sequence. The good effects of prosperity are also neutralised by the rapid growth of population. In a warm country, whenever prosperity dawns, the people become slack and are satisfied with low standard of living, provided it is based upon small exertion. Accordingly, Mr. Keatinge observed in despair: "if every economic advantage gained is to be the signal for relaxation of effort, if improved methods of farming are to serve not only to increase the crop, but also to swell the ranks of non-workers, is any marked progress possible?" So the character of the cultivator is the most important factor. The demoralising effects of prosperity are to be more cared for.

There are three welfare measures in the Punjab. The object of the Land Alienation Act of 1902 was to prevent the small peasant proprietor from being expropriated by the village money-lender. Under the Act non-agriculturists are not allowed to buy land from a member of an agriculturist tribe.

Land cannot be sold in execution of a money decree. It debars a non-agriculturist from holding a mortgage for more than 20 years. At the end of the period, the mortgage automatically lapses without any payment on account of redemption.

The Panchayet Act of 1922 provides for election every three years and "one 'panch' is elected for every thousand inhabitants, subject to a minimum of three and a maximum of seven". To be a panchayet one should pay at least Rs. 5 yearly by way of land-revenue. Dispute involving Rs. 50 and less may be taken up by a panchayet ; criminal jurisdiction is restricted to cases of petty theft, assault, mischief, cattle trespass. Imprisonment cannot generally be inflicted and no fine exceeding Rs. 25 can be imposed. The distressing fact is that the Act is not yet popular in the Punjab.

The Punjab Regulation of Accounts Act of 1931 obligates all persons, money-lenders or shop-keepers, who advance loans in money or in kind at interest, to keep an account for each debtor and to send him every six months a signed statement of the account distinguishing between principal and interest and detailing all the loan transactions of the past six months. If a separate account is not maintained for a debtor, the creditor is liable to lose his interest and will in any case not be awarded cost.

A cultivator in the Punjab cannot be evicted by a civil court without the intervention of the revenue authority. His plough, cattle, implements and seed cannot be attached. If he is sued, his interest charges can be examined, and, if excessive, they can be reduced under the Usurious Loans Act of 1918 and when he dies, his ancestral land is not liable for payment of his debts, unless charged upon it.

In the Punjab the Government move in the welfare of the tenantry in a speedier and more effective way. The consolidation of holdings takes place there by co-operation. The first society was started in 1921 and in 1931 we find 500 societies with 48,000 members and during the period 336,000 acres have been consolidated at a cost of Rs. 2.5 per acre, the whole cost being borne by Government. There are better living societies to discourage waste, extravagance and suppress social evils ; there are thrift societies to encourage thrift ; there are co-

operative societies formed to take up land for the members to cultivate either collectively (in which case the produce is pooled) or individually (in which case each receives a separate holding). The experiment of land revenue redemption society was tried. All this shows that "the dust on antique time" is being slowly swept away and that the proverbial inertia of the peasantry is being energised.

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Land Rents in North Kanara

BY

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"He does not till the lands himself. All he cares for is to exploit the ryot's labour."

G. K. GOKHALE

Land Rents in North Kanara

Introductory: Land problems have aroused recently increasing public interest in Bombay Presidency as well as in other parts of the country. The problem of the protection of tenants by establishing fair rents and certainty of tenure is engaging the attention of those interested in the welfare of peasants. Only recently, a tenancy Bill has been passed by both the houses of Legislature in Bombay. Land tenures and the rates of rent differ in different districts. Hence a study of these questions, describing the conditions in each district, has its own value. An attempt is made in this paper to study the problem of land rents as existing in the North Kanara District.

North Kanara, popularly known as Karwar District, is the southernmost coastal part of the Bombay Presidency. It has a population of 4,17,835 and an area of 2,526,978 acres. Of this area, only 217,649 acres or 8.6 per cent is under cultivation, 4.8 per cent is current fallows, and the rest is covered with forest.

The district can be divided into two natural divisions for the purpose of this study. They are (1) the coastal region, which is a narrow strip of land about 75 miles in length and with a width of 7 to 10 miles, and (2) the inland forest tract, covering the rest of the district. The problem of tenants is practically confined to the coastal region, which has nearly two-thirds of the total population of the district. The problem is of little importance in the forest tract, because this region contains mostly spice gardens cultivated by owners themselves with the help of hired labour.

Proportion of Tenants to Owners: According to the Census of 1931, there are 106,096 total earners in the

district. Of these only 9,416 or about 8·5 per cent are cultivating owners or peasant proprietors, while the tenant-cultivators are 38,843 or about 36 per cent. In other words, for every five cultivators four are tenants without owning land. That most of the rented land is concentrated in the hands of a very small proportion of the population is evident from the fact that the number of non-cultivating proprietors receiving rent is only 3,072 or a little less than 3 per cent of the total earners. Thus, it can be said that the rented land in the district is owned by only 3 per cent of the total population, a state of affairs which is highly detrimental to the interests of tenants.

Again, of the total cultivated land in the district, only a small proportion is cultivated by owners themselves. This is supported by the following figures for Honavar Taluka taken from the Revision Settlement Report :—

Number of survey Nos. cultivated by owners	Cultivated by tenants under share-tenancy system	Cultivated by tenants on money rent	Cultivated by tenants on grain rent	Total
5,865	3,835	4,377	11,032	25,109

In the above table, cultivation by owners covers only 23 per cent of all the occupied survey numbers, while 44 per cent are cultivated for produce rents, 18 per cent for money rents and 15 per cent on the system of sharing the produce. What is true of Honavar is true of other coastal talukas also. This fact was admitted by Mr. G. Monteath, who was Collector of Kanara in 1913. He remarked : "The proportion of occupied land cultivated by owners appears to be less than a quarter of the whole occupied area. Such occupants—that is those who cultivate their own holdings—constitute in Kumta about a seventh, in Ankola about a fifth, and in Honavar and Bhatkal between a third and half of the whole agricultural population."

Incidence of Rent: With regard to the amount of rent to be paid by the tenant, it appears that the incidence of rent is higher in Kanara than in other neighbouring districts, as we shall presently see. When I visited Kanara in November, 1939, I made enquiries with many tenants in Ankola and Kumta Talukas regarding rent. I was informed that the tenants generally have to pay from 55 to 65 per cent of the gross produce as rent. This includes land revenue. In certain villages, the rent is as high as 70 per cent or even more. At first I thought that the tenants were overstating their case. But, I was somewhat convinced of the truth of their statement, after cross-examining them and verifying their evidence with the evidence I collected from a few landholders. Even then I was not fully satisfied. I looked into the Survey Settlement Reports and found, ample evidence in support of the statement of the tenants. For instance, Mr. R. M. Maxwell, I. C. S., (now Sir Reginald Maxwell), who was the Assistant Collector of Kanara, says in his Revision Settlement Report for Honavar Taluka and Bhatkal Peta, submitted in 1913: "On a study of the various systems and their distribution it appears safe to interpret the rents of my proposed Group I as representing not more than a $\frac{3}{5}$ ths share of both paddy and straw ; and of other rents as representing not less than half the value of both."

Mr. Maxwell admits that in some villages which he surveyed the rent was $\frac{3}{5}$ ths or 60 per cent of the produce and not more, while in other villages it was more than 50 per cent. This was in 1913. Since then, and especially immediately after the Great War of 1914-1918, rents have increased in Kanara, as everybody knows. If the rent varied from 50 to 60 per cent of the produce 27 years ago, it is no exaggeration to say that it is between 55 and 65 (in some cases even 70 to 75) per cent to-day, when there has been an increase in the incidence of rent. Further, the fact that the rent is as high as 75 per cent for some land in Ankola Taluka is officially admitted. Rao Bahadur V. D.

Yennemadi, who was District Deputy Collector, Kanara, writing in the Ankola Taluka Survey Settlement Report, says: "Properly speaking a tenant is entitled to half the gross produce but in majority of cases his share does not exceed $\frac{1}{2}$ to $\frac{1}{3}$." With regard to the conditions in Karwar Taluka, Mr. L. C. Swifte, Collector of Kanara, writing in 1908 observed: "While admitting the high subletting value of the lands in villages on or near the coast, I am inclined to think that in not a few cases it is unnaturally high, and more than the land is really entitled to." The words "in not a few cases" should be specially noted. The remark applies with greater force to-day in view of the fact that rents have increased since.

Land as an Investment: With these high rates of rent, the money invested by the landholders in Kanara in buying lands brings an attractive rate of interest. This fact is supported by the following table taken from the First Revision Settlement Report of the Honavar Taluka:

Group	Village	Sale		Lease		Percentage of rent on price
		Multiple of assessment	Price per acre	Multiple of assessment	Rent per acre	
I	Mundolli	180.6	Rs. 1,114	7.5	Rs. a. p. 44 4 6	3.9
		111.6	700	5.6	33 9 7	4.8
II	Bailur Talan	100.0	562	5.8	32 10 0	5.8
		150.0	825	6.0	33 0 0	4.0
		72.7	400	4.3	23 10 5	5.9
		72.7	372	4.3	22 0 0	5.9
III	Golibilur	25.8	129	1.5	7 8 0	5.8
	Herangdi	50.0	253	3.8	19 3 9	7.6
	Talgod	63.3	336	5.3	28 2 6	8.3

It is to be noted that only in one case the rent is slightly less than 4 per cent. In two cases it is between 4 and 5; in four cases it is nearly 6 per cent, while in the remaining two cases it is as high as 7·6 and 8·3 per cent respectively. Commenting on the above table, Mr. Monteath remarked: "I have asked landholders about this, and have always been informed that the highest prices paid—up to Rs. 1,000 an acre for the best quality of rice land in the most populous villages—represent a safe investment with a return of from four per cent upwards on the capital." It is evident from the above figures and the quotation that those who had invested their capital in land were receiving an attractive rate of interest at the expense of the poor peasants, who were not allowed to retain enough produce to make both ends meet. The same state of things continues even to-day.

Higher Rent than Elsewhere: It can be shown that the rent is higher in Kanara than in other districts. For instance, in the adjoining districts of Belgaum and Dharwar, the usual custom is that the produce of the land is equally divided between the tenant and the landholder, the latter providing the former with half of the required manure and seed. It should be noted here that in Kanara the landlord takes from 55 to 75 per cent, without supplying the tenant half of the manure and seed as in Dharwar and Belgaum. Similarly, in Maharashtra, according to the Peasant Enquiry Committee of the Maharashtra Provincial Congress Committee, the *Ardhel* system, 50/50 division of the gross produce, is the most common, the landholder in certain places sharing the cost of cultivation in certain proportions. In the Punjab, the tenant's position is much better than in Kanara. The usual rate of *Batai* in the Punjab is one-third to owner, after paying the menials' dues from the common heap. In the U. P. also, the condition of the tenants is better than in Kanara. There "most of the croppers operate their farms on what is known as

'half and half' system. Under this system, the landlord usually furnishes the land and the farm for the fuel, provides the work-stock and the feed for the work-stock, furnishes the seed and pays one-half of the cost of fertilisers, while the tenant only furnishes his labour to make the crop and pays the other half of the cost of fertilisers."

On account of the high incidence of rent in Kanara what happens is this. In most of the cases, if not in all, the tenant is called upon to pay the whole of the produce after deducting the bare cost of seed, manure and cultivation and consequently the tenant is merely an agricultural labourer on extremely low wages, though it suits the landlord to bind him by a contract. It frequently happens that the rent which the tenant covenants to pay is more than the land could yield, and in this case a burden of debt accumulates on him. The position of the tenant thus becomes little better than that of a serf. If he incurs his landlord's displeasure, a decree for eviction and arrears of rent follows, and his means of livelihood are gone for ever. Due to the poverty of the tenant, he is not in a position to make provision for sufficient manure, the result being that the yield is less than the land can produce under proper cultivation.

According to the estimates made by the Maharashtra Peasant Enquiry Committee, the cost of cultivation of almost every crop is not less than 50 per cent of the gross produce. The estimate cannot be very different if applied to Kanara. Even assuming that in Kanara the cost of cultivation, including the cost of manure and seed, is not more than 30 or 40 per cent of the gross produce, we find that the tenant is left with next to nothing for all his pains.

The question arises that, if it does not pay to cultivate land on rent, why is there such a scramble for it? The only possible answer is that the tenant hopes for the best

while renting the land at the beginning of the season. He goes in for it, having no other occupation to live on.

Nature of Tenancy : As we have seen, the system of share-tenancy is very rare in Kanara. For instance, only 15 per cent of the survey numbers were cultivated under this system in Honavar Taluka at the time of the Revision Settlement. Generally, tenants in Kanara cultivate land on a fixed money rent or grain rent. This is a disadvantage to the tenant. In a share-tenancy, both the risks and profits of farming are shared by the tenant and the owner, while in a fixed-rent-tenancy the risks fall on the tenant only. In a share-tenancy, the landlord is not a sleeping partner, as in the case of a fixed-rent-tenancy. The former system keeps both the partners interested in the process of production. The following quotation from Mr. Maxwell's Settlement Report for Honavar Taluka clearly shows as to why the system of share-tenancy is not encouraged in Kanara by the landholders: "The absence of *pālu* (share-tenancy) is, however, further explained by the fact that a very large proportion of them, including especially Navayats, have no sort of local interest in their lands which are purely a monetary investment and are often scattered about a number of remote villages, where the supervision of cultivation implied in any system of dividing the produce would be expensive and inconvenient." In addition to rent, there is the custom of stipulating that the tenant should pay for the conveyance of produce to the landlord's residence. Mr. Maxwell calculated that this conveyance charge on the rent varied from 5 to $8\frac{1}{2}$ per cent.

Recovery of Rent : It is a common practice for the landholders in Kanara to allege that they do not recover the full rent from the peasants and consequently their income is not as much as it appears to be. This may be so in a few cases when a particular tenant is a habitual defaulter. Even then there cannot be much scope for habitual defaulters in coastal Kanara, where competition in renting land

is keen because of the fact that landholders can secure other peasants to cultivate their land at the exclusion of the defaulters. If the landholders are not recovering high rent, there is no reason why the price of land in Kanara should be high. The fact that the price was high twenty-five years ago is already shown; that it is equally high, if not higher, today cannot be denied by anybody acquainted with conditions in the district. And the high rents would not be an attraction to investors unless they expect to recover them.

There is also enough official evidence to show that the landholders in Kanara have been recovering their full share of rents. For instance, Mr. Maxwell wrote: "Most landlords of the district have yet to be convicted of such generosity as to absolve their tenants without recourse to the rent suit; and the average number of rent suits during the five years ending 1907-8 was only 89.6, by no means a large figure in a taluka (Kumta) where both leases and non-resident landlords are so numerous." Similarly, Colonel W. C. Anderson, referring to the Brahmin landlords of Karwar Taluka, made the following remark: "They have apparently earned for themselves the reputation which they enjoy as being *most hard and exacting landlords.*" (Italics are mine). It is true that these remarks were made many years ago. But, it appears that there has been little change in the attitude of the landholders towards the peasants since then.

Land Rent and Revenue: The other argument usually brought forward by landholders is that the land revenue to be paid to the Government is so high that the rents on land cannot be lowered. What they contend is that very little margin is left to them after deducting the assessment from the rent. It is true that the incidence of assessment on certain land in the inland tract is considerably high in Kanara. But, in so far as the *gadde* rice land

on the coast is concerned, it is absolutely wrong to hold that the incidence of assessment is high in proportion to the rent recovered from tenants. The fact is that the rent is generally as high as four or five times the assessment. This means that if the rent is Rs. 100, the land revenue is Rs. 20 or Rs. 25. In Honavar Taluka and Bhatkal Peta, for instance, the average incidence percentage of actual assessment on rent is only 22·5 on rice lands in 45 villages, while it is 25·4 in 31 villages. Similar is the case in Kumta, Ankola and Karwar Talukas. These facts are sufficient to show that the contention of the landholders that the assessment is high in proportion to the rent is absolutely groundless. Under the present circumstances, the cultivator pays much more to the absentee landlord than to the Government.

The history of land revenue in Kanara for the last fifty years shows that there has been a constant tug-of-war between the landholders on the one side and the Government on the other, each party desiring to grab as much as possible from the land. The result has been that the poor tenant was completely crushed between these two parties. Strangely, the tug-of-war ended in the satisfaction of both the parties, both the landlords and the Government securing what they wanted. This they did at the expense of the poor cultivator. The Government raised the assessment on the plea that the rental value of land was high and that the landlords were making undue profits, while the landlords thereupon further increased the rent, which was already high, to a higher level on the contention that the land revenue was increased. The natural result was the ruin of the cultivator.

The fact that the Government raised the revenue on the contention that the landlords were receiving high rents is clear from the following remark made by Mr. Swifte, the Collector of Kanara, at the time of the

First Revision Settlement. He clearly stated: "There is no reason why Government should not obtain their (landlords') share of profits by enhancing existing survey rates." It must be noted that inspite of the increase at the Revision Settlement, the assessment still remained at a low level in comparison with the amount of rent, the latter being four to five times the former. Thus the enhanced assessment was quietly transferred to the shoulders of tenants in the form of increased rent, and the landholders remained unaffected. That any increase in the assessment falls on the tenant is evident from the fact that generally the lease agreements in Kanara contain a stipulation to the effect that the tenant should pay the enhanced assessment, if there be any. It was a great mistake on the part of the Government to increase the assessment without enacting a corresponding legislation fixing the maximum rate of rent to be paid by the cultivators. Thus, it is the attitude of both the Government and the landowners that is responsible for the degraded condition of the peasantry in Kanara.

Solution of the Problem: In order to save the starving mass of peasantry in Kanara, what is urgently wanted is the establishment of fair rents. The correct theory of rent ought to be that a tenant should pay only that amount as rent which remains after meeting his personal and family expenses and the prime cost of production. Rents in Kanara should be fixed on the consideration of this important factor. In this connection, the recommendation regarding fair rent made by the Burma Land and Agriculture Committee is worth quoting: "A fair rent can only be regarded as that part of the crop which remains after the cultivator of an economic holding has met the normal cost of cultivation and maintained himself and his family in reasonable comfort as that is understood by this class of cultivator in the district in which he lives. We go further and consider that the cultivator should retain for his own

use some part of the crop over and above the minimum required to maintain himself and his family in reasonable comfort."

Only the fixation of a fair rent will better the present miserable condition of the tenants. An improvement in the condition of tenants will also result in bettering the condition of landless agricultural labourers, because a rise in the standard of living of tenants means more employment for the field and other labourers and higher wages for them. In fact, the condition of agricultural labourers depends to a large extent on the state of the farmers. Cultivating tenants and the landless labourers with their dependants together form nearly 70 per cent of the total population of Kanara. Hence it can be said that the most important problem of the District as a whole is the problem of tenants and of agricultural labourers.

Peasants' Organisation: A reduction in rent is only possible as a result of collective bargaining by tenants with landowners; and collective bargaining is only possible by building up a strong organisation among the tenants. For instance, if the tenants are organised, they can take advantage of the provisions of the Bombay Tenancy Bill, which is expected to become an Act shortly, and try to secure a reduction in rent. Under Section 12 of the Act, the tenant can appeal to the Mamlatdar asking for a reduction in rent. The Mamlatdar, after hearing both the parties, should fix the rent which in his judgment is fair. In determining the reasonable rent, the following factors are to be taken into consideration: (a) the rental values of lands used for similar purpose in the locality; (b) the profits of agriculture of similar lands in the locality; (c) the prices of crops and commodities in the locality; (d) the improvements made in the land by the landlord; (e) the assessment payable in respect of the land; and (f) such other factors as may be prescribed.

Under the first factor, it is quite possible that the present high rents can be stabilised and that the tenants can be left without any relief. This is one of the main defects of the Bill, for the rental values of lands used for similar purposes in the locality are equally high. In fact, the proposed law which "tries to fix the fair rent, will in reality, sanctify unfair rents," as observed by Mr. S. V. Parulekar in the Bombay Assembly. But this danger can only be removed, if the tenants are united in a strong organisation. If all the tenants of a taluka, for instance, ask for a reduction in rent at one and the same time, it may be somewhat difficult for the Mamlatdar to take into consideration the rental value of other lands in the locality, because all the tenants in the locality can say in one voice that the rents are high everywhere. Secondly, under Section 15, the Provincial Government may from time to time fix the maximum rate of rent in any particular area. If the tenants of a taluka or a district carry on a vigorous movement for a reduction in rent by asking the Government to fix the reasonable maximum, it is quite likely that the Government may be forced to concede the demand. It all depends on the organised strength of the tenants. It is thus clear that the real issue is the organisation of tenants, if there should be fair rents in Kanara.

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LAND REVENUE REFORM IN THE PUNJAB.

**Memorandum submitted by the Institute
of Agrarian Reform to the Land Revenue
Committee of the Punjab Government.**

INSTITUTE OF AGRARIAN REFORM

**LAJPATRAI BHAWAN,
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9)
FOREWORD

The following pages contain the statement submitted to the Land Revenue Committee by the Institute of Agrarian Reform.

The statement embodies the peasant demands as formulated by the Kisan Workers Conference held in Lajpat Hall on 17th October 1937.

In introducing the statement to the general public we may be permitted to draw attention to a matter of importance—the attempt of the committee to mislead witnesses regard to the definition of 'Net Assets.'

'Net Assets' are at present defined as landlords' net assets. Now in most districts of the Punjab rents are produce rents fixed as a share of the crop ; further, a large proportion of the cultivated land is not let to tenants, but cultivated by the petty proprietors themselves. It is admitted in the assessment instructions sanctioned in 1893 and revised in 1914 that under such conditions "the indirect calculation of 'net assets' becomes not only difficult but hypothetical, and the results of greater uncertainty and less value" (Duke's Settlement Manual, Appendix 1. D, Rule 6).

The note attached to Q. 16 of the questionnaire of the Land Revenue Committee states that the Select Committee which considered the Land Revenue Act Amendment Bill of 1928 decided in favour of the definition of net assets as landlords' net assets as it was considered that the definition of net assets as profits on direct cultivation "would be surrounded with difficulties and involve too great a degree of assumption, inference and uncertainty."

This is a most remarkable view. The indirect calculation of net assets would seem to involve a much higher degree of 'assumption, inference and uncertainty.'

Wishing to ascertain the reasons which led the Select Committee, to form that opinion, the Secretary, Institute of Agrarian Reform, wrote to the Secretary, Land Revenue Committee, enquiring the source of the quotation. "These words," he added, "do not occur in the Report of the Select Committee concerned as printed in the Punjab Government Gazette, part V (1928), pages 17-28." The letter was dated 13th Sept. and an early reply was solicited. Two reminders were sent, dated 18th and 27th September respectively. Finally a reply was received, dated 1st October, in the following terms :—

"I am desired to inform you that the quotation is based upon a reference to the proceedings of the Select Committee made by the Punjab Government to the Government of India."

Neither the communication addressed by the Punjab Government to the Government of India on the proceedings of the Select Committee, nor the proceedings themselves are available to the general public. In an article which appeared in the *Tribune* dated October 7, the Land Revenue Committee were asked to publish the proceedings of the Select Committee. The reply of the Secretary, Land Revenue Committee was vague and did not help any one in tracing the quotation.

No notice was taken of the article. On October 15 the Secretary, Institute of Agrarian Reform, again wrote to the Land Revenue Committee, complaining that it was not clear from the latter's reply "whether these words were used by the Government of India, the Punjab Government or the Select Committee on the Land Revenue Act Amendment Bill of 1928." The Secretary, Land Revenue Committee in his reply dated 7th November said :

"I am desired to inform you that, as already stated in my letter No : 2020 R (S) dated the 1st October 1937, the quotation has been taken from a reference made by the Punjab Government to the Government of India."

Why cannot the Land Revenue say clearly whether the words were used by the Select-Committee, the Punjab Government or by the Government of India ?

The note to Question 16 would lead witnesses to ascribe the quotation to the Select Committee. Nothing is said in the note about any reference from the Punjab Government to the Government of India. If the quotation reflects the view of the Punjab Government or the Government of India, why is that fact concealed? The definition of net assets as landlords' net assets in the Bill of 1928 was opposed by 4 out of 6 non-official members of the Select Committee.

We strongly protest against the attempt of the Land Revenue Committee to prejudice witnesses in favour of the existing definition of net assets. A great deal depends on the change in the definition and, in the present case, the Land Revenue Committee have adopted methods of enquiry which are neither fair nor honest.

Secretary,
Institute of Agrarian Reform, Lahore.

November 14th, 1937.

INTRODUCTION

We may be permitted to introduce our statement with a few observations which are not unconnected with the Land Revenue Committee's terms of reference and their questionnaire.

The demand has been made from many peasant platforms that the income tax be applied to agricultural incomes. Government have, deliberately or otherwise, misinterpreted this demand as the application of the principles of income-tax assessment to the assessment of land-revenue.

It is possible to apply the income-tax to agricultural incomes; it will be difficult to apply the principles of income-tax assessment to the assessment of land revenue.

Land Revenue is still based on the discarded theory of State Landlordism. It is argued in Douie's *Settlement Manual* (para 2) that the words 'owners' and 'proprietors' as used in India do not 'imply all that they do in England':

"The share of the State, which we call the land revenue, is not a land tax. It is more analogous to rent, and in early settlement literature it was so described, the Government being represented as surrendering to the landowner a small portion of the rent. The land revenue is, therefore, 'the first charge upon the rents, profits, or produce of an estate or holding, and until it has been paid, they cannot, without the previous consent of the collector, be taken in execution of a decree obtained by any private creditor (Land Revenue Act XVII of 1887, Section 62.)"

The theory of State Landlordism was subjected to a thorough examination by the Indian Taxation Enquiry Committee of 1924-25. The Committee were unanimously of opinion that, under both Hindu and Muhammedan rule, 'the State never claimed the absolute or exclusive ownership of the land and definitely recognised existence of private property in it' (para 80) The Committee were divided on the question, whether the land revenue is a tax or a rent. They recognised that there are some cases in which it is a pure rent, such as those of the ground rents in towns, or of land leased to colonists in Burma, and that, an element of rent prevails in other similar cases. "On the other hand," the Committee said, "the conclusion that it is a tax is reinforced by the facts that the State has never claimed universal ownership, that it has conferred pro-

prietary rights in permanently settled areas, and that it imposes no restriction on sale or mortgage in the case of Ryotwari "land" (para 84). The committee also noted that the process of assessment and collection is akin to that of a tax-collector (para 84).

It would appear that serious objections exist to the view that land revenue is 'analogous to rent', which forms the whole basis of land revenue assessment.

Practically, we agree with Baden Powell, the discussion is 'a profitless war of words'. Following him, we may speak of the land revenue as a *thing per se*. But we would like to draw the particular attention of the Land Revenue Committee to the manner in which, in the opinion of a high authority like Baden Powell, the land revenue *operates*.

"It *operates* (italics Baden Powell's) as a tax on agricultural incomes—a contribution to the State out of the profits on land cultivation just as the income-tax is a contribution out of the proceeds of other industries and occupations" (*Land Revenue in British India* p. 49).

It is impossible for the Land Revenue Committee or the Punjab Government to disagree with Baden Powell. They must recognise that the land revenue, whatever be its nature, *operates* as a tax on agricultural incomes.

Now, as compared with the burden of the income-tax on non-agricultural incomes, the burden of the land revenue on agricultural incomes is immeasurably heavier. The peasants demand that what *operates* as a tax on agricultural incomes, may be frankly levied as a tax on agricultural incomes. The demand is reasonable and just.

Even if their terms of reference, para (1), exclude the consideration of a tax on agricultural incomes in place of the land revenue, we would ask the Land Revenue Committee to examine the practicability of such a tax under para (2) of their terms of reference.

The revision of the land revenue, interpreted as the transformation of an impost which *operates* as a tax on agricultural incomes into a tax on agricultural incomes, is not surrounded with such difficulties as the application of income-tax principles of assessment to the assessment of land revenue.

There will be an exemption limit in terms of 'net agricultural income'. Even if the limit is Rs. 500, practically all small holders will be freed from the tax.

Up to Rs. 30,000 the rate of the income-tax rises by 3 or 4 pies per rupee. The temptation to split up large agricultural incomes to evade payment of the tax at a higher rate, will not be greater in the case of agricultural than it is in the case of non-agricultural incomes. A graded tax on agricultural incomes will not, therefore, create new problems which income-tax officers are not already trained to deal with.

Big landowners, with large unearned incomes, will derive enormous benefit from the change. It would be the duty of Government to see that part of this benefit flows to tenants (Q. 37).

That unearned incomes, both agricultural and non-agricultural, should be more heavily taxed than earned incomes, is a separate question, which would undoubtedly be considered by the Resources and Retrenchment Committee.

The Land Revenue Committee may estimate the loss of revenue to the State which will result from the application of the income tax to agricultural incomes, and leave it to the Resources and Retrenchment Committee to make good the loss, as far as possible, by heavier taxation of both agricultural and non-agricultural unearned incomes, by discovering other sources of revenue, or by means of retrenchment.

The Land Revenue Committee cannot reject the application of the income tax to agricultural incomes on the ground of heavy loss of revenue. The Land Revenue Committee cannot usurp the functions of the Resources and Retrenchment Committee.

We quote Q. 22 of the Questionnaire below :—

“If this relief is not regarded as sufficient, what further relief is recommended, and how could the whole or part of the loss to provincial revenues be made good ?”

It is not possible to answer the question without reviewing the possibilities of retrenchment, including a heavy cut in salaries in all Government Departments, and imposing heavier taxes, both direct and indirect, on non-agriculturists. This is the special field of enquiry of the Resources and Retrenchment Committee. The Land Revenue Committee may tell this committee what justice to the working peasants, both owners and tenants, will cost. Why should we assume that the task of making good the estimated loss of revenue will transcend the powers of the Resources and Retrenchment Committee ?

THE QUESTIONNAIRE

Question 2 (c) The sliding scale system of assessment.

In granting remissions under the sliding scale system account is taken of three factors, *viz.*, (1) the percentage of the total matured area under each crop. (2) the average yield per acre of each of those crops, and (3) the commutation price assumed for each of those crops.

The sliding scale completely ignores the cost factor. It is assumed that when prices fall in any proportion, cost of production will automatically fall in the same proportion.

This is wholly untrue. The charge for water, abiana, is an important element of cost. Abiana rates have never been reduced in proportion to the fall in prices.

It is not necessary to produce formal evidence to show that when prices rise or fall, the variation in costs as a rule, is less than that in prices. It will be admitted that agricultural costs in the Punjab do not possess much elasticity.

When prices fall heavily, and costs less heavily, it is possible that net assets may wholly vanish. But the sliding scale assumes that the Zamindar always enjoys net assets, provided the fall in prices is not exactly 100 per cent. In the Lyallpur assessment the commutation price of wheat was taken at 60 annas. Assume that wheat is the only crop grown and that the price falls by 80 per cent, that is, from 60 annas to 12 annas a maund.

Government would grant 80 percent remission. If the standard demand was Rs. 3 per acre, the land revenue realised would be $9\frac{1}{2}$ annas per acre. But would any net assets be left when wheat was selling at 12 annas a maund?

We accept the sliding scale system, provided account is taken of the variation in costs in determining remissions. This means that remissions should be granted according to the fall in net assets.

Unless remissions are granted according to the fall in net assets, Government demand would, necessarily and mathematically, exceed one quarter net assets. This may be shown by an example.

The value of the gross produce of Lyallpur tehsil was estimated by the Settlement Officer at 228 lakhs (round numbers), and landlords' net assets at 100 lakhs, which leaves 128 lakhs as costs (56 per cent of gross value of the produce, actually costs may absorb 70-75 per cent of the value of gross produce). Government demand is 25 per cent of landlords' net assets, or 25 lakhs. The index figure for 1934-35 was found to be 45. This means, says

the Settlement Officer, 'that had the sliding scale system been in force with effect from Kharif 1934, it would have been necessary to give remissions in 1934-35 of no less than 55 per cent on the new demand which, as stated above, is Rs. 25,08,571. After giving 55 per cent remissions on this demand, the actual demand to be collected would be Rs. 11,28,856.'

A fall of 55 per cent would bring down the value of gross produce from Rs. 228 lakhs to 103 lakhs, and costs from 128 lakhs to 58 lakhs. Net assets are, therefore, reduced to 45 lakhs (103 less 58).

The Settlement Officer assumes that a 55 per cent fall in the value of gross produce is accompanied by a 55 per cent fall in costs. If costs fall to a smaller extent, Government demand must exceed one quarter net assets, as is shown by the following table :

Value of gross produce. Lakhs.	Costs. Lakhs.	Net assets. Lakhs.	Land Revenue. Lakhs.	Proportion of land revenue to net assets, per cent.
228	128	100	25	25
102'6 (55)	57'6 (55)	45 (55)	11'25 (55)	25
102'6 (55)	64'0 (50)	38'6 (62'4)	11'25 (55)	29'1
102'6 (55)	70'4 (45)	32'2 (68'6)	11'25 (55)	34'9
102'6 (55)	76'8 (40)	25'8 (74'2)	11'25 (55)	43'6
102'6 (55)	83'2 (35)	19'4 (80'6)	11'25 (55)	58'0
102'6 (55)	89'6 (30)	13'0 (87)	11'25 (55)	86'5
102'6 (55)	92'8 (27'5)	9'8 (90'2)	11'25 (55)	114'8
102'6 (55)	96'0 (25)	6'6 (93'6)	11'25 (55)	170'4

Figures in brackets show percentage fall in each case.

It is seen that when cost falls by 40 per cent as compared with the 55 per cent fall in the value of gross produce, net assets fall by 74'2 per cent. The proportion of Government demand to net assets in this case would be 43'6 per cent. If costs fall by 25 per cent only, net assets would fall by about 94 per cent, and if Government granted only 55 per cent remission, Government demand would amount to about 170 per cent of net assets.

The Settlement Officer, Lyallpur, has described the sliding scale as "extremely generous".

But he made no enquiry into the behaviour of costs when the value of gross produce falls by 55 per cent. The Revenue member of the Punjab Government (the present Premier) in the course of a press interview said : "Never

since the advent of the British, or for the matter of that under any rule, has such a big concession been granted to Zamindars in the Punjab" (*C & M. Gazette of Feb. 1, 1935*)

"This big concession" only means that while granting unlimited paper remissions, Government, under the sliding scale system, will ordinarily appropriate substantially more than 25 per cent of net assets. When the value of gross produce falls heavily, Government demand may easily absorb the whole of net assets, or exceed net assets. This must be the result, given the comparative inelasticity of our costs.

It is evident that net assets are affected by variations in costs, and it is given that land revenue is 25 per cent of net assets. It follows that for granting remissions we want a formula which, while taking account of the variation in costs, will ensure that Government demand does not exceed 25 per cent of net assets. The following formula is suggested :—

$$X = 100 - \frac{100G - Gg - 100C + Cc}{4L}$$

Where G = gross value of produce.

g = percentage fall in G.

C = Cost of production.

c = percentage fall in C.

L = Land Revenue.

X = Required remission in the standard demand

per cent.

For example suppose :

G = 228 Lakhs.

g = 55.

C = 128.

c = 40.

L = 25.

$$\begin{aligned} X &= 100 - \frac{100 \times 228 - 228 \times 55 - 100 \times 128 + 128 \times 40}{4 \times 25} \\ &= 100 - \frac{27920 - 25340}{100} \\ &= 100 - 25.8. \\ &= 74.2. \end{aligned}$$

This means that if the standard demand is reduced by 74.2 per cent (according to the fall in net assets), it would be equal to 25 per cent of the net assets. From 25 lakhs the standard demand should be brought down to Rs. 6,45,000.

For this formula we require the relation of C to G, and

of c to g. The standard demand cannot be found without determining G and C. In granting remissions from year to year it would be necessary to investigate the variation in costs consequent upon the fall in the gross value of the produce.

Definition of Net Assets

Q. No. 16. Would you amend the present definition of net assets in section 3(18) of the Land Revenue Act (Appendix C)? If so how?

Note. The present definition virtually defines net assets as the ascertained normal rent taken by landlords minus deductions paid out of rent and directly connected with the cultivation of the land. A possible alternative might be to define it in terms of the profits on direct cultivation, i.e., to take the gross produce minus the cost of production. But the Select Committee which considered the Land Revenue Act Amendment Bill of 1928 decided in favour of the former, as it was considered that the latter "would be surrounded with difficulties and involve too great a degree of assumption, inference and uncertainty."

This is a question of fundamental importance. It is necessary to fix the meaning of net assets before discussing the question of a graduated scale of assessment, the rate increasing with net assets, or that of "a yearly estimate of net assets for every revenue payer," or that of "exemption of net assets of land below a given minimum from the payment of land revenue."

Under the existing law net assets mean landlord's net assets. Attention is drawn to the difficulties of determining the net assets of an estate in the Punjab indirectly in Douie's *Settlement Manual*. It is admitted in the instructions (see Rule 6 appendix 1(D)) that the process of determining the net assets of an estate in the Punjab generally very difficult, and that in cases in which the bulk of the land is cultivated by the petty proprietors themselves "the calculation becomes not only difficult but hypothetical, and the results of greater uncertainty and less value" (para 310).

Net Assets are defined in the "Instructions" as the "average surplus which the estate may yield after deducting the expenses of cultivation". If the entire land of a tract is let to tenants-at-will, who are paying cash rents, and if the rent paid by them falls short of net assets, no harm is done by taking cash rents as a "sufficiently near approximation" to net assets. But in the Punjab, firstly, rents are most-

ly a share of the crop. Secondly, under existing conditions, the share left to the tenant is not sufficient to meet the expenses of cultivation, including remuneration for the labour of the tenant and working members of his family. Thirdly, the overwhelming majority of our revenue payers are petty peasant proprietors.

The Land Revenue Amendment Act of 1923 Clause 3 (18) specifies payments which are included in "expenses of cultivation". They are payments which the land owner customarily bears, and the share that would be retainable by a tenant if the land were let to a non-occupancy tenant paying rent, whether in cash or in kind, at the normal rate actually prevalent in the estate or group of estates.

It is assumed that out of the share left to him the tenant is able to meet the expenses of cultivation so that the share accruing to the landlord, less deductions on account of payments made by him, is the true surplus of the estate. The process of assessment is not concerned with the tenant at all. No enquiry is made into the tenant's expenses of cultivation.

Under such conditions, land revenue, which is 25 per cent of landlords' net assets, may exceed 25 per cent of the net assets of an estate.

We may give one example to show that, under present conditions, landlords' net assets are not identical with the net profits of agriculture.

We take a farm of about 28 acres in the Lyallpur district which was cultivated on the batai system (See "*The Punjab Farm Accounts*");

Year	Gross Income	Expenditure	Net Income	Land
	Rs.	Rs.	Rs.	Rs.
1930-31	976	635	341	207
1931-32	1269	504	765	205
1932-33	603	379	224	179
1933-34	801	407	394	166
<i>Average.</i>	912	481	431	189

We have ignored the division of the produce between the landlord and the tenant and assumed that the holding belonged to the cultivator.

During these four years, on an average, gross income was Rs. 912 and expenditure, which does not include either land revenue or any remuneration for tenants' labour

(there were four able-bodied workers) was Rs. 481, leaving Rs. 431 as "net income". At 5 annas per head per day wages for cultivators' labour would amount to Rs. 456 per year. "Net Assets", interpreted as surplus above cost, are found to be negative.

Now consider the definition of net assets as landlords' net assets.

The farm was given on half batai, that is, the landlord received one half of the gross produce as his share. Land Revenue and water rates were also equally shared between the landlord and the tenant.

Landlord's Share.

Year	Gross Income.	Expenditure.	Net Income.	Land Revenue
	Rs.	Rs.	Rs.	Rs.
1930-31	488	87	401	103
1931-32	634	82	552	102
1932-33	301	70	231	90
1933-34	356	90	296	83
<i>Average.</i>	452	82	370	94.5

We find that during these four years, on an average, landlord's gross income was Rs. 452, his expenditure (excluding the land revenue) Rs. 82 and his net income Rs. 370.

This "net income" of Rs. 370 was the landlord's true net assets, but before we call it the net assets of the farm we must find out whether the share left to the tenant was sufficient to defray the tenant's costs of cultivation.

Tenant's Share.

Year	Gross Income.	Expenditure	Net Income.
	Rs.	Rs.	Rs.
1930-31	488	652	164 (Loss)
1931-32	634	524	110
1932-33	301	398	97 (Loss)
1933-34	415	400	15

Tenant's expenditure includes half water-rates and half land revenue paid by him, but does not include wages for himself or working members of his family.

In 1930-31 and 1932-33 the tenant suffered a loss of

Rs. 261, and in the other two years earned a "net income" of Rs. 125. On the whole, so far from earning any "net income", he suffered a loss of Rs. 136 on four years' cultivation.

It is obvious that the landlord's net income includes the cultivators' subsistence. It is not economic rent, which is a true surplus.

The present system is doubly unjust. It is unjust to the tenant, for it completely ignores the tenant, and it is unjust to the peasant-proprietor, for it taxes him at a rate derived from landlord's net assets, which are not true net assets.

The non-cultivating landlord is able to exploit the tenant because of the constantly growing pressure of population on the soil. Land is scarce relatively to demand, and there are no alternative means of earning a livelihood for the tenant class. Under such conditions it is not surprising that the landlord's share should contain a large element of loot. Government's land revenue is a share of this loot.

We plead for justice for the tenant and honest taxation of the cultivating proprietor. The State is entitled to 25 per cent of the net profits of agriculture. The only honest method of determining the net profits of agriculture in the Punjab is the direct method, or interpretation of net assets as profits on direct cultivation *i.e.*, the gross produce *minus* cost of production, the wages of the cultivator and working members of his family, and return for enterprise being included in cost.

In this connection we may draw the attention of the Land Revenue Committee to the recommendations of the Indian Taxation Enquiry Committee of 1924-25.

"What the Committee would recommend is that for the future the basis of the settlement should be annual value, by which term they mean the gross produce less cost of production, including the value of the labour actually expended by the farmer and his family on the holding, and the return for enterprise, and that the functions of the Settlement Officer be limited to the ascertainment of this value on a uniform basis under such conditions as might be most appropriate in each province." (Para 103).

It is stated in the note to Q. 16 that the Select Committee which considered the Land Revenue Act Amendment Bill of 1928 decided in favour of the interpretation of net assets as landlords' net assets as it was considered that the definition of net assets as profits on direct cultivation "would be surrounded with difficulties and involve too great a degree of assumption, inference and uncertainty."

We may be permitted to say that even if that was the unanimous view of the Select Committee, the process of determining net assets indirectly involves a much greater degree of "assumption, inference and uncertainty." It is assumed that landlords' net assets are true net assets, which as we have seen, they are not. The present method of assessment is hypothetical in the highest degree. The calculation of net assets directly would, at any rate, be less hypothetical. Secondly, it would be better suited to a Province where the overwhelming majority of revenue payers are peasant proprietors. Thirdly, where the State's share is limited to one-fourth of true net assets of agriculture, it may be more willing to safeguard the interests of tenants than when it takes a share in the landlords' loot.

We may also clearly state that the majority of non-official members of the Select Committee opposed the definition of net assets as landlords' net assets in clause 3 (18) of the Land Revenue Act Amendment Bill of 1928.

The Select Committee consisted of 11 members: Sir Fazl-i-Hussain, Sir G. E. De. Montmorency, Mr. W. R. Wilson, Mr. C. A. H. Townsend, Mr. M. M. L. Currie, Syed Mohd. Hussain, Rana Feroz Din, S. Ujjal Singh, S. Labh Singh, Raja Narendar Nath and Ch. Chhotu Ram. The last six were non-officials. Of these, Ch. Chhotu Ram, in his minute of dissent, attached to the Report of the Select Committee insisted that the definition of net assets as landlords' net assets, while it safeguarded the interests of the rent-receiving class of landlords, "certainly did not do justice to the case of self-cultivating landowners." It was assumed that "the tenant gets all he deserves, and the landlord gets no more than his share of what is left after all legitimate deductions for the labour and expense incurred by the tenant have been made. "The real fact is," Chaudhri Sahib added, "that the tenant does not get anything like the share to which he is entitled as a result of the labour and expense which he incurs in cultivation and the landlord's share is swelled by an unjust diversion of a substantial portion of the fruits of a tenant's labour" (Punjab Gazette, 1928 Part V. P. 19). Chaudhri (now Sir) Chhotu Ram unreservedly rejected the definition of net assets as landlords' net assets.

Another non-official member, Syed Mohd. Hussain, was not satisfied with the Bill as it emerged from the Select Committee and reserved the right of moving necessary amendments to the Bill.

When Ch. Afzal-Haq moved an amendment to clause 2 (18) of the Bill relating to net assets, Syed Mohd. Hussain in supporting the amendment said: "Provision should be made for the labour of the people being taken into consideration in the matter of assessment. I can say on my own personal authority that these people who are poor Zamin-dars are not getting even one anna per day for the labour." (*Punjab Council Debates* 1928, P. 912).

A third non-official member of the Select Committee, S. Ujjal Singh, in his minute of dissent said. "In the case of land owning farmer, the net assets should be determined after deducting the ordinary expenses of cultivation and the value of labour of the farmer and his whole family expended on the holding."

A fourth non-official member, Rana Feroz-ud-Din, voted for Ch. Afzal Haq's amendment for including cost of labour in expenses of cultivation (or against the interpretation of net assets as landlords' net assets in the Bill).

We do not find S. Labh Singh's name in the division list. Only one non-official member of the Select Committee supported the definition of net assets in the Bill—D. B. Raja Narendar Nath. Like Sir Fazl-i-Hussain, Raja Sahib considered Ch. Afzal Haq's amendment irrelevant since cost of labour was already included in the Bill! Raja Sahib limited cost of labour to the dues of menials! "Moreover," Raja Sahib said, "his amendment besides being irrelevant, is also not very practicable, for it would be next to impossible to fix a standard by which the value of the labour of supervision by land-holder or his family can be arrived at. For example," Raja Sahib asked, "suppose a retired judge of the High Court goes to his fields and personally supervises cultivation, what would you pay to him as remuneration for his work?"

Our answer is 'Not a pie.' The share received by the non-cultivating owner is his unearned income, or following Raja Sahib, let us call it his wages of supervision. The cost of labour with which we are concerned is the labour of the tenant and the working members of his family.

The idea of labour costs, which was clearly grasped by Ch. Chhotu Ram, was not clear to Raja Sahib.

It thus appears that out of six non-official members of the Select Committee four opposed the definition of net assets as landlords' net assets either in the Select Committee or in the Council, and only one, Raja Narendar Nath, supported it. We have also seen that Raja Sahib mis-understood labour costs.

It follows that the view of the Select Committee that the definition of net assets as profits on direct cultivation "would be surrounded with difficulties and involve too great a degree of assumption, inference and uncertainty"

was the view of Government members of the Select Committee, not that of the majority of non-official members.

We are assuming that these words actually occur in the proceedings of the Select Committee. Should it be found that this sentence, or rather part of the sentence, was constructed by the Punjab Government, and not by the Select Committee, there is still less reason to quote it as the opinion of the Select Committee.

It has been said above that the calculation of net assets directly would be better suited to the Punjab since the overwhelming majority of our revenue payers are peasant proprietors. "The Punjab is in the main a country of peasant owners tilling their own field," says Douie's *Settlement Manual* (Para 313, edition 1930). There has been no change in the cultivating occupancy of land in the Punjab during the past six or seven years.

In this respect there is the strongest contrast between the Punjab and e.g., the United Provinces and Behar.

	Cultivating owners.	Tenant Cultivators.
	1,000	1,000
Punjab	1,707	1,128
U. P.	1,091	8,433
Behar and Orrisa	291	6,129

In the United Provinces tenant cultivators outnumber cultivating owners in the proportion of over 7 : 1, in Bihar over 20 : 1 ; in the Punjab cultivating owners outnumber tenant cultivators*.

According to the census of 1931, there were in the Punjab 192,531 non-cultivating proprietors, taking rent in money or kind, and 1,707,744 cultivating owners (males, total earners principal occupation). About 90 per cent of revenue payers are cultivating owners in the whole province. In certain districts the proportion is much higher (Hissar 98, Rohtak 97, Gurgaon 99, Karnal 96, Ferozepore 95, Simla 98, Kangra 96). It is below 80 per cent only in 3 districts, Multan 74, Montgomery 60, Jullundur 78).

As regards area, the return of cultivating occupancy for the quinquennial period ending June 15, 1932 shows 44.5 per cent of the cultivated area of the Province as tilled by the proprietors themselves (including tenants holding direct from Government, and a small area held by tenants free of rent), 7.3 per cent as in the possession of occupancy tenants, and 48.2 per cent as in the hands of tenants-at-will. (*Land Revenue Administration Report* for the year ending 30th September 1933, Statement II). Even if the area held by tenants-at-will were larger, it would be

*Figures for males alone - total earners principal occupation.

no justification for taxing cultivating owners according to standards based on rent paid by tenants-at-will. Even if the whole cultivated area of the Province were held by tenants-at-will, land revenue must be limited to a certain proportion of net assets, as directly ascertained or estimated. When it is known that the rent the received by landlords contains tenants' subsistence, rent ceases to be a reliable guide to net assets.

Landlord and Tenant

Tenants, as agricultural workers, are as much entitled to relief as peasant proprietors.

Speaking on the Land Revenue Act Amendment Bill of 1928 Sir Fazl-i-Hussain said in the Punjab Council :

"Sir, Chaudhri Chhotu Ram has candidly remarked in his note of dissent 'that landholders take excessive share of the produce and the tenant does not get anything like the share to which he is entitled as a result of the labour and expense which he incurs in cultivation.' I, therefore, submit, Sir, that the best solution of the difficulty is that instead of half share of the landholder he may be persuaded to accept one-third or even less. I trust, Sir, that the Hon'ble mover, who is a leader of Zamindars and has great influence over them, would try to mitigate the poverty and consequent sufferings of the poorer Zamindars and cultivators by acting up to this suggestion and would include it in the object of the Zamindara League" (*Punjab Council Debates*, 1928, P. 921)

So far as we are aware the suggestion has not been included in the objects of the Zamindara League.

"If Land Revenue were reduced," the Land Revenue Committee want to know, "would any part of the benefit be passed on to the tenant who at present pays no part of the land revenue." (Q. 37). The answer is "No", if the matter is left to Zamindars. But the matter must not be left to Zamindars. No one will ever succeed in "persuading" rent receiving Zamindars (notwithstanding the new regime) to accept one-third or less as their share of the gross produce where it is one half as at present.

But it is the duty of the State to compel them. The State does not exist merely to safeguard the interests of (Government servants, members of the Legislative Assembly e. g. increased daily allowance) and leaders of the Unionist party (e.g. lucrative appointments at the cost of tax-payer). It is an essentially wrong view of the functions of the State to leave the reform of batai whether in joke or in earnest,

to the Zamindara League. The tenants, being unorganised and having no alternative means of earning a livelihood, are unable to protect their interests. The State must intervene.

The problems of revenue and rent are interconnected. If the State's share is strictly limited to a given proportion of net profits of agriculture, as directly ascertained or estimated, both the peasant proprietor and the tenant will be benefitted—the peasant proprietor directly and the tenant indirectly through legislation controlling rents. Nothing can be done for tenants without a change in the definition of net assets. If we may use a simple illustration, a *kotwal* who receives a share in thieves' loot, will not be over-anxious to catch the thieves.

Prices.

If net assets are defined as profits on direct cultivation, and remissions are granted under the sliding scale system according to the fall in net assets so defined, average prices during the past 20 years may be used as the basis of assessment.

If the sliding scale is rejected, the question of basic prices for assessment assumes great importance. It is suggested that net assets, in this case, may be calculated on the basis of average prices in the quinquennium 1931-35, for these are the prices which are expected to rule in coming years, apart from short period fluctuations due to abnormal causes.

When assessment is based on the average of agricultural prices over a sufficiently long period in the past it is assumed, that the range of future prices will not be dissimilar, (*Doie's Settlement Manual, Para 331*). Attention may also be drawn to the view of the Government of India, Revenue and Agricultural Department, in regard to the level of assumed prices :—

"The fluctuations of prices are far too uncertain, and any conclusions as to their future course are far too hypothetical, to form a basis for assessment, and the furthest that it would be wise to go in reliance upon an anticipated rise is to use it as justification for not going lower than actually prevailing rates". (*Doie's Settlement Manual, P. 154 n*).

This is an argument against assuming prices for assessment that are too high. The tendency in settlements in the past was to err on the side of leniency, that is, to assume prices which were rather too low than too high. One is reminded of the speech in which the Chief Secretary (the present Governor of the Punjab and author of sliding scale) opposed the proposal to reduce the land revenue to

25 per cent of net assets in the Punjab Council in 1928. The chief Secretary, then Mr. H. W. Emerson, said :—

“I looked up one crop, the wheat crop, and I found that the price sanctioned by Government was Rs. 2-6-0 per maund. That was the price I was told to assume for the purpose of assessment, I then looked up the prices that have ruled at Multan since the settlement was sanctioned, that is since 1920. I chose the second week of July in each year, when wheat is cheapest; I found that the price of wheat has varied from Rs. 4 to Rs. 7-8 during the years since the last settlement, and considering that the price has ranged from Rs. 7 to Rs. 4 it certainly would not be unreasonable to take the price for purpose of assessment at Rs. 4-6-0. Even that would be very low, unduly low. Supposing the price had been taken at Rs. 4-6-0, that would have been Rs. 2 per maund higher than what I was told to assume, and by merely taking that additional Rs. 2 per maund for the price of wheat in one circle, a sum of 7 lacs would have been added to the assets of the circle and a sum of 2 lacs to net assets.

“The actual assessment sanctioned by Government was Rs. 1,22,000. If the price of wheat had been taken at Rs. 4-6-0 instead of Rs. 2-6-0 it would have been possible to take 25 per cent only of the net assets, and still to have justified a larger Government demand than was actually taken with a standard of 50 per cent “(*Punjab Council Debates, 1928 p. 1022-23*).

The practice in the past thus was to assume prices which were substantially below rather than above prevailing prices. Under the sliding scale, on the other hand, standard prices are higher than actual prices, or, prices which are expected to rule in the period of the settlement.

Of course it is not possible to predict the future course of prices. But in view of the structural changes in world agriculture, due to the agricultural revolution and other factors, both political and economic, it is certain that prices in the coming years would, on an average, be substantially below the Lyallpur commutation prices.

The two most valuable crops of the Punjab are wheat and cotton. Wheat exports have practically ceased*, while cotton is threatened by a new danger. Japan is our most important buyer, and Japan, for political and other reasons,

WHEAT

*The following figures show the imports of wheat into the leading industrial countries of Europe.

Wheat Imports in 1000 tons.

Source : “*Grain crops*” issued by the Imperial Economic

cannot be expected to increase her purchases in the coming years. On the other hand she is trying to improve the increase of cotton production in China. It is reported that "China hopes eventually to supply one half of Japan's present imports of raw cotton from America and India, which at present amount to the annual value of 900 million Yens" (Cable dated Tokyo March 27, 1937 which appeared in the daily papers sometimes ago. Attention may also be drawn to the following cable which appeared in the Civil and Military Gazette of Lahore dated October, 22 1937 :—

"Rome, October 21. The Cabinet at a meeting today decided to encourage cultivation of cotton in Abyssinia. The decision is related to the current Italo-Japanese commercial negotiations, which provide for the purchase of a large amount of cotton from Abyssinia by Japan in exchange for Japanese manufactures."

We may also not forget Indian cotton is not indispensable to Japan. Japan may use more American than Indian Cotton. "Nothing is more remarkable", says Mr. G. B. Sansom, "than the facility with which Japan seems to switch from the one to the other" (*Economic*

Year	Committee, London.		
	France	Italy	Germany
1929	1390	1737	2107
1930	1019	1904	1178
1931	2328	1462	785
1932	2089	1039	1005
1933	827	458	758
1934	721	462	637
1935	693	541	156
1936	517	525	73

In 1924-25 the quantity of wheat exported by India was 1,111,691 tons, valued at over Rs. 17 crores. The quantity and value of exports since 1929-30 are shown below.

Year	Quantity 1000 tons.	Value (lakhs Rs.)
1929-30	13	21
1930-31	197	195
1931-32	20	15
1932-33	2	4
1933-34	2	3
1934-35	11	11
1935-36	10	9
1936-37	232	210

The sudden increase in exports and in the price of wheat in 1936-37 is due to the war scare.

conditions in Japan, December 1932 by J. B. Sansom, Commercial Counsellor to H. M. Embassy Tokyo, 1933).

Our own mills cannot consume the cotton now exported to Japan—that would mean approximately doubling the output of Indian cotton mills. Exports to the United Kingdom have increased in recent years, but Lancashire cannot replace Japan as a buyer unless India begins to import Lancashire piece-goods on the pre-war scale (imports amounted to 310 crore yards in 1913-14) and this is unthinkable.

It follows that we cannot take an optimistic view of the price of cotton in the coming years. Any serious decline in the Japanese demand is certain to bring about a heavy fall of price.

Minimum limit of Assessment.

We do not wish to enter into a theoretical discussion about the meaning of a "small holder" or an "economic holding". In determining "a minimum below which the net assets of land shall not be liable to assessment", it would be more useful to consider income and expenditure of typical holdings in various districts.

In Appendix A, we give the accounts of certain holdings in eight districts. These are based on "The Punjab Farm Accounts". The Institute of Agrarian Reform has prepared accounts of typical holdings in four other districts, which are not represented in the "Punjab Farm Accounts". These accounts are discussed separately Appendix B.

The accounts given in Appendix A relate to canal-irrigated land, *cum* chahi and barani land, and chahi *cum* barani *cum* nehri land.

Expenditure excludes land revenue, and also wages for the cultivators' labour. In most cases there were two adult male workers. The Lyallpore holding was cultivated by four able-bodied men, but it is a two plough holding.

What are the "net assets" of these holdings?

We have explained above that net assets must include wages for the cultivators' labour and the working members of his family, and profits of enterprise; we insist that cultivators' wages must be wages of decent living.

The cultivator is a human being and as such deserves to be better treated than cattle, which are fed for the sake of the work that is got of them. Wages of decent living do not mean wages just sufficient to keep the cultivator's body and soul together.

Particular attention has to be paid to this point in defining taxable ability. "Those elements of income", says J. A. Hobson, "which are necessary payments to owners of productive agents in order to sustain the productive efficiency of an agent and to evoke its application, rank as cost of production and have no ability to bear taxation. The standard wages required to keep a working class family on such a level of efficiency and comfort as will evoke the regular application of its labour power constitutes labour "costs" (*Taxation in the new State*, pp. 41-42) We have not quoted the above passage to give an academic flavour to this memorandum, but to show that the teachings of economic science conform to the requirements of common sense.

Of the 8 holdings here considered the highest "net income" (average of 3 years) is shown by Hoshiarpur Holding B, Rs. 259. The net income of the Lyallpore holding for half a square may be taken at half of Rs. 431, or Rs. 216. Four holdings show a net income of over Rs. 200 and the other four less than Rs. 200.

Does Hoshiarpur Holding B yield taxable "net assets," Our definite answer is "No." A "net income of Rs. 259 is not wages of decent living for two adult male workers. So far as taxable capacity is concerned, it cannot be said to exist unless net assets, after paying wages of decent living, exceed Rs. 100.

The Punjab Farm Accounts establish beyond any shadow of doubt that at the present time one plough holdings do not yield "net assets" of over Rs. 100. It is undeniable that one-plough holdings do not possess any taxable ability. We demand exemption from the payment of land revenue of all holdings equal to one-plough land or less. When land owned is less than one-plough land, the cultivator is compelled to take more land on batai or cash rent. He is decidedly worse off than the owner of one-plough land: in some cases the whole and in many cases a considerable portion of the income from his own land goes to pay rent.

Briefly the case for exemption of one-plough holdings and those smaller in area is this: if the land revenue is of the nature of a rent or a surplus above cost, then, in the case of these holdings, this surplus either does not exist, or is so small as to be negligible. If land revenue is regarded as a tax on income, then the taxable capacity of owners of such holdings is nil.

Exemption may be granted for a period of years, say 20. Fraudulent partitions and sub-divisions, as distinct from those taking place under the law of inheritance,

can be easily known, and deprived of the benefit of exemption. We expect that during the next 20 years Government will be successful in considerably raising the income of the cultivator, which will lighten the burden of land revenue, and reduce the temptation to evade its payment. Should the economic situation at the end of the next 20 years be worse than what it is at present, there is bound to be serious trouble for everybody.

If our proposal is accepted, possibly 40 per cent of the total cultivated area will be freed from land revenue. The loss of revenue to the State will probably exceed $1\frac{1}{2}$ crores.

Probably more than 40 percent of the land under cultivation yields no net assets at present.

The loss of revenue may be made good, as far as possible, by heavier taxation of unearned income, both agricultural and non-agricultural. In this memorandum we are concerned with agricultural income only. Whether a heavier tax should be levied on non-agricultural unearned income than at present "with a view gradually to assimilating it, so far as its nature permits, to land revenue, rather than vice versa" (Q. 17 ii) is beyond the terms of reference of the Land Revenue Committee. The Committee are to consider whether income-tax principles of assessment can be applied to the assessment of land revenue, not whether land revenue principles of assessment can be applied to the assessment of non-agricultural income, whether earned or unearned. The latter is a separate question, which falls within the scope of the Resources and Retrenchment Committee. We, may, however, be permitted to state the general principle that if unearned agricultural income is more heavily taxed than earned income, unearned non-agricultural income should be similarly treated.

A strong case exists for the imposition of a graded surcharge on the income of bigger non-cultivating landlords. It is not possible for us to define "bigger" landlords, or to suggest a graded scale of taxation for them. This is for good reasons. We have said above that all owners, including non-cultivating owners, will derive considerable benefit from the definition of net assets as a true surplus above costs, and we have suggested that part of this benefit should accrue to tenant cultivators. This means State control of both cash and batai rents. No exact estimate can be formed of the income of non-cultivating landlords under, e.g., conditions of batai more favourable to the tenant. We do not know how conditions of batai

will be modified. Obviously if the landlord took one-third share in canal-irrigated areas, more would be left with him than if his share were limited to one-fourth. Secondly it is not possible to indicate the number of non-cultivating landlords whose income will be worth taxing after the change. Very probably it would be necessary to gain some experience of the working of the conditions of batai and controlled cash rents before imposing a graded surcharge on unearned agricultural incomes.

But we are convinced that even after the tenant has secured full wages for his toil, including some return for enterprise, considerable unearned income would be left with non-working land owners. The Punjab has many peasant proprietors, but the Punjab has also some very big owners. According to Mr. Calvert's figures, 118 percent of the total number of owners, each owning 15-50 acres, own altogether 35.6 percent of the cultivated area, and as few as 3.7 of the total number of owners, each owning 50 acres or more, own as much as 25.7 percent of the cultivated area (*Size and Distribution of Agricultural holdings in the Punjab*).

It may be stated as a historical fact that the non-working landlord has prospered under British-rule as he never prospered before.

Under Indian rule, generally speaking, only two parties shared the produce of land: the State and the cultivator.

Under Akbar there were no intermediaries because Akbar wanted all the revenue of the State, except that portion of it which Jagirdars and others were permitted to enjoy on behalf of the State. And such was the position under Sikh rule. In the territories governed by Diwan Sawan Mal, any one who broke up new land, or began to work a deserted well, became the proprietor of that land and liable to pay the land revenue. "In practice", writes E. B. Steedman, "the Diwan held that no man had any right to any land that he could not cultivate, and grants of waste land were given to any body who could bring it under cultivation. Not only did this take place, but many persons who had formerly been tenants-at-will found themselves invested with the doubtful privilege of paying direct to the State. The proprietors dropped out because there was no room for them."

The privilege of paying direct to the State was doubtful because the State's demand was heavy.

"The State", continues Mr. Steedman, "stock everything it could from the cultivator, and the idea of a

middleman intercepting part of the collection was not for a moment entertained."

The new proprietors belonged to every class. "Nothing", Mr. Steedman tells us, "was sacred to Sawan Mal. Churas and Kamins were in his eyes just as good proprietors, probably better than Syals and Belochs. There were then no boundaries. The syals retained what they could cultivate. The waste was occupied by Sawan Mal's colonists." (*Settlement Report, Jhang District*).

The old proprietors may not have dropped out completely, but it is clear that under such conditions they could not prosper. A new class of proprietors arose, *i e.*, those who cultivated the land. That may probably account for the comparative large number of peasant proprietors in the Punjab.

There is also a great deal of difference between Akbar's assignees and the landlords of today.

The assignee, servant of the Emperor, was bound to maintain at his own cost a definite force of cavalry for the Emperor's needs. This obligation was not merely theoretical. "In the thirtieth year of Akbar's reign," we read in the *Akbarnama*, "general orders issued that all assignees in the North should prepare for the expedition to the Deccan." The old assignee, then in the first place, was no intermediary between the tiller of the soil and the State; he represented the State so far as the payment of land revenue was concerned. In the second place, he performed important duties. The modern landlord, on the other hand, (1) claims a share in the produce of the land as an interdemary, not on behalf of the State; and (2) performs no duties whatsoever. The officials who maintain "law and order" form a class quite distinct from that of landlords, and while during the Great War some landlords acted as recruiting sergeants, no orders (so far as we know) issued mobilising them against any enemy either in the East or in the West. The position in fact is now quite the reverse of what it was in the old days. The old assignee protected the cultivator, while it is the duty of the cultivator (the Punjabi soldier is drawn from the peasant class) to protect the landlord. In a Jat village one will meet many ex-soldiers, all petty farmers, but few landlord-warriors. In any case (and this is the point of our argument) a landlord *qua* landlord is under no obligation to serve anybody in any capacity.

There is abundant justification for taxing the non-working landlord, who is little better than a parasite, more heavily than at present. But in order to suggest a graded

scale of taxation we require the number and income of such landlords under the new system, which date will become available only after the change.

Q. 15.

"Is there any reason to believe that land revenue is a tax upon labour and costs instead of upon surplus?"

We get very little help from paragraphs 348-408 of Douie's Settlement Manual in answering this question. But the Committee may once more read the opening sentence of paragraph 310 of the Settlement Manual, quoted above.

So far as the non-working landlord is concerned land revenue is strictly 25 per cent of their net assets. But the same rate applied peasant proprietors becomes a tax on subsistence.

Paragraph 391 of the Settlement Manual thus refers to tenants: "There are parts of the province where the tenants are masters of the situation, where they throw up cultivation with a light heart in one village being sure of a welcome elsewhere; there are other parts where they will accept very hard terms rather than give up their holding". These difference may be very imperfectly reflected in the rent statistics, but they cannot be neglected in actual assessment."

What is the situation in the Punjab ?

[Table

Net Income per acre, Batai 50 per cent.

Year, District and Farm.	Landlord	Tenant	Total			Proportion of landlord's in- come to total income, per cent.
			Rs. a. p.	Rs. a. p.	Rs. a. p.	
1923-24						
Lyallpore, 232 acres.	30 3 0	19 3 0	49 6 0			61'1
1925-26						
Lyallpore, 28 "	40 9 1	26 0 4	66 9 5			60'9
" 88 "	52 13 4	34 5 6	87 2 10			60'6
Montgomery						
50 acres	35 13 6	19 6 0	55 3 6			64'9
" 175 "	31 11 11	19 9 0	51 4 11			61'8
1926-27						
Lyallpore, 28 "	26 13 0	23 0 2	49 13 2			53'9
" 228 "	25 5 1	14 9 4	39 14 5			63'4
" 796 "	39 7 10	19 11 1	59 2 11			66'7
Montgomery						
50 "	25 15 9	12 6 0	38 5 9			67'7
Sargodha 135 "	15 12 9	4 8 1	20 4 10			77'9
1927-28						
Lyallpore, 28 "	12 13 1	5 11 8	6 7 5			188'7
" 240 "	21 8 7	8 5 4	29 13 11			72'1
" 786 "	37 9 1	16 12 10	54 5 11			69'1
Montgomery,						
50 "	19 12 1	4 6 1	24 2 2			81'9
" 42½ "	34 11 9	18 12 0	53 7 9			61'9
Sargodha, 28 "	25 7 6	12 6 9	37 15 3			67'2
1928-29						
Lyallpore 28 "	24 13 10	9 0 8	33 14 6			73'3
" 799 "	39 0 7	22 3 2	61 3 9			63'7
Montgomery						
24½ "	26 8 4	16 3 3	42 11 7			62'1
Sargodha 28 "	26 4 2	8 15 5	35 3 7			74'6
1929-30						
Lyallpore 28 "	23 1 10	6 4 2	29 6 0			78'7
" 802½ "	36 5 10	14 13 9	51 3 7			70'9
Montgomery						
36½ "	21 13 1	10 3 8	32 0 9			68'0

Year, District and Farm.	Landlord	Tenant	Total	Proportion of landlord's in- come to total income, per- cent.
Sargodha				
28 acres	12 4 5	0 3 5	12 7 10	98'3
1930-31				
Lyallpore				
27½	10 14 6	5 15 10	4 14 8	221'7
802½	16 11 1	1 13 10	18 8 11	90'0
Montgomery				
25	12 13 4	3 11 8	9 1 8	140'9
1931-32				
Lyallpore				
27½	16 7 9	4 0 5	20 8 2	78'2
Risalewala				
802	16 8 10	8 4 3	24 13 1	68'5
Montgomery				
48'8	12 4 5	5 13 7	18 2 0	67'6
1932-33				
Lyallpore				
27½	5 2 11	—3 8 8	1 10 3	319'2
" 802	25 2 8	13 7 1	38 9 9	65'3
" 50'3	18 7 5	9 2 5	27 9 10	66'7
1933-34				
Lyallpore				
27'3	7 12 7	0 9 0	8 5 7	93'3
" 786	19 4 11	9 2 11	28 7 10	67'8
Montgomery				
50	14 14 5	8 5 3	23 3 8	64'0

The average share of the landlord in the net income during the 4 years from 1930-31 to 1933-34 is shown below :—

Lyallpore			
27½ acres :	183	percent of total net income.	
" 802 acres :	73	"	"
Montgomery			
48 acres	85	"	"

It should not be forgotten that the Risalewala Farm is a very large Government Farm, managed by Government experts.

It must be admitted that at the present time practically the whole of the net income from cultivation and even more is appropriated by the non-working landlord. The table shows that even in the most prosperous year

a disproportionate share of the total net income goes to the landlord.

We have good reasons to believe that the condition of tenants in most other districts is worse, not better than that of the Lyallpore tenant.

It is clear that the tenant in the Punjab has to work under terms which are described in paragraph 391 of the Settlement Manual as "very hard".

Where, as in the canal colonies, the tenant pays half of land revenue, land revenue is a tax on the tenant's subsistence.

Land Revenue is a tax on the subsistence of the peasant proprietor, for the peasant proprietor is taxed at a rate derived from landlord's net assets, which contain the tenant's subsistence.

Evidence for and against this view should be sought not in paragraphs of the Settlement Manual, but in facts of actual life. How has peasant paid the land revenue in recent years?

"Sales of gold and ornaments in 120 Punjab Villages", from October 1, 1931 to December 31, 1933 are discussed in Pamphlet No. 1 issued by the Punjab Board of Economic Enquiry. A Questionnaire was prepared and distributed to Inspectors of Co-operative Societies through the courtesy of the Registrar, Co-operative Societies, Punjab. The Report is based on replies pertaining to 120 villages received from the Inspectors. The area of the Inquiry covered the whole Province.

It is estimated that three-quarters of the gold that has been sold has come from villages. The export of gold now amounts to about 300 crores, of which the Punjab may have contributed one-fourth or as much as 75 crores.

What led peasants to sell their gold? We are concerned with the period to which the inquiry relates. But one might well ask: "Why are peasants selling their gold"? for the sale and export of gold continues.

We quote below brief extracts from Inspectors' report :—

Multan District. "In my Ilaqa the big Zamindars have been selling the gold and jewellery in order to save their *Izzat* at the time of the payment of land revenue and *taccavi*.....very few have sold gold for the payment of *sahukara* debts, they were of course renewed after a small payment of grain, cattle and *bhusa*."

Khanewal (Multan District). "Causes of sale and pawning of gold are payment of land revenue in all cases".

Mailisi (Multan District) "Sale and pawning of gold has resulted mostly from the payment of land revenue in the Zamindar class and on account of dull business among the business people. Sale of gold is also the result of old indebtedness."

Shujabad (Multan District): "Reduction in produce and prices are the main causes of sale of gold for paying the revenue and redemption of debt."

Havi (Montgomery District.) "Necessary payment of Government revenue is the only cause of the sale and pawning of gold." Again, "General causes prevailing for disposal of gold are the poverty of members, necessity of money for land revenue, reduction of prices of agricultural produce."

Muzaffargarh District. "The needs which pressed the three members to sell their gold were the payment of land revenue and taccavi loan."

D. G. Khan District. "About 75 per cent of the gold sold or pawned was for payment of land revenue." Other objects mentioned are agricultural requirements like seed and cattle.

Bhalawal (Shahpur District); "Real causes of the sale of the gold sold are stated to be the payment of revenue in 95 percent of cases."

Kushab (Shahpur District): "Causes given are (1) fall in prices, (2) drought and famine. (3) land revenue and purchase of wheat, (4) clearance of old Sahukars debts raised against the security of ornaments long ago.

Lahore District: In all the villages the gold has almost all been sold to pay the land revenue and meet household necessities."

Kasur (Lahore District): "I may say that in rural areas the Zamindars have sold gold mostly for the payment of land revenue."

Tarn-Taran (Amritsar District): "Nearly all the members of the society sold their gold ornaments for payment of Government land revenue and liquidation of unsecured debts when they were pressed by the Lambar-dar for land revenue and the creditor for the payment of debts."

Gohana (Rohtak District): "The Chief cause of selling the gold is the pressure of the revenue demand."

Hafizabad (Gujranwala District); "Land Revenue is the chief cause of the sale of gold and jewellery."

Samundri (Lyallpur District): The income of the peasants from their crops, the only source of income, is so little that they are even unable to pay the land revenue and water taxes etc., therefore they are compelled to sell their gold kept in the form of jewellery and thus to pay up the land revenue in order to keep their prestige."

In this evidence convincing? We do not know. But it is difficult to understand why peasants are compelled to realise their assets to pay the land revenue if the land revenue is merely 25 per-cent of "net assets," and not a tax upon labour and costs."

APPENDIX A.

FARM ACCOUNTS.

Source : Punjab Farm Accounts.

I. Jullundur District. (Bandala) cultivated by a tenant helped by his three sons.

Year	Total Area			Chahi			Barani.			
	A	K	M	A	K	M	A	K	M	
1930-31	10	9	11	3	0	2	7	3	3	
1931-32	9	7	17	3	1	14	6	6	3	
1932-33	13	5	6	3	1	16	10	3	10	
1933-34	10	1	12	3	6	7	6	3	5	
	Gross income.			Expenditure.			Net income.			Land Revenue.
1930-31	366	0	177	0	196	0	24	3		
1931-32	445	3	168	0	277	3	25	6		
1932-33	611	8	231	3	280	6	33	6		
1933-34	334	14	225	2	109	12	26	11		
	Average			...			240	13		

II. Ludhiana District. Holding B.

Taken on rent, two workers.

Year	Total area.			Chahi			Barani			
	A	K	M	A	K	M	A	K	M	
1930-31	18	5	5	5	4	0	3	1	5	
1931-32	15	3	10	6	3	9	9	0	1	
1932-33	17	6	4	6	4	5	11	1	19	
1933-34	12	1	18	4	2	12	7	7	6	
	G. Income.			Expenditure.			Net Income.			L. R.
1930-31	674	14		708	5		33	7		38
1931-32	662	0		307	6		354	10		40
1932-33	1139	7		556	10		582	13		41
1933-34	400	2		348	12		51	6		16
	Average			...			238	14		

"New holding, but similar to that in previous years."

3. Hoshiarpur District Holding B. two adult male members.

Year.	Total Area. A. K. M.	Chahi. A. K. M.	Barani. A. K. M.	
1930-31	11-0-19	4-2-18	6-5-19	
1932-33	10-1-7	3-0-9	7-0-18	
1933-34	10-4-7	3-4-17	6-7-10	
	G. Income.	Exp.	N. Income.	L. Revenue.
1930-31	694-9	455-6	239-3	45-13
1931-32	Accounts not maintained.			
1932-33	816-0	384-11	431-5	47-5
1933-34	511-3	404-12	106-7	50-4

Average : Net Income = 259-0.

4. Amritsar : Holding A.

	Total area.	Chahi.	Barani.	Nehri.
1930-31	16-6-14	8-4-9	minus 3-19	7-6-6
1931-32	18-4-14	8 0-15	4-10	7-7-9
1932-33	13-1-13	10-2-19	minus 5-18	2-0-16
1933-34	17-6-8	11-1-11	4-0-4	2-4-13
	G. Income.	Exp.	N. Incomes.	L. R.
1930-31	496-12	528-14	minus 32-2	31-8 paid by lord land
1931-32	409-6	412-11	minus 3-5	33-0 " " "
1932-33	612-12	453-2	159-10	20-0 " " "
1933-34	634-7	490-5	144-2	26-0 " " "

Average : Net Income = 134-2.

5. Multan District (Holding A.)

	Area ;			
1930-31	15-7-0	well in winter and canal in summer.		
1931-32	15-2-15	"		
1932-33	15-2-15	"		
1933-34	23-7-10	"		
	G. Income.	Exp.	N. Income.	Land revenue.
1930-31	334-4	267-0	77-4	25-1
1931-32	474-5	292-15	181-6	16-10
1932-33	418-13	318-8	100-5	31-8
1933-34	375-2	329-2	46-0	65-0

Average : - 101-4.

6. Rohtak District. (Holding A.)

Year.	Total Area. A. K. M.	Chahi. A. K. M.	Barani. A. K. M.
1930-31	11-2-16	10-3-6	0-7-10
1931-32	11-2-3	3-7-0	7-3-3
1932-33	11-2-8	7-1-10	4-0-18
1933-34	14-7-8	9-5-8	5-2-0

	G. Income.	Exp.	N. Income.	L. R.
1930-31	430-15	454-4	minus 23-5	26-4
1931-32	433-2	380-2	53-0	35-7
1932-33	614-12	486-3	128-9	40-8
1933-34	523-13	443-0	80-13	42-1

Average : Net Income = 59-12.

7. Jhelum District. (Holding B.)

	Total Area.	Chahi.	Barani.	
1930-31	21-7-10	10-7-3	11-0-7	
1931-32	20-1-15	10-6-14	9-3-1	
1932-33	21-1-0	10-7-2	11-0-18	
1933-34	20-4-5	10-6-6	9-5-19	
	G. Income.	Exp.	N. I.	L. R.
1930-31	517-14	593-2	minus 75-4	35-11
1931-32	1009-1	743-0	266-1	22-8
1932-33	862-11	743-10	111-1	37-11
1933-34	702-9	651-4	51-5	30-14

Average : 90-5.

8. Lyallpore $2\frac{1}{4}$ acres Batai. (Canal irrigated).

	G. Income.	Exp.	Net Income.	L. R.
1930-31	976	635	341	207
1931-32	1269	504	765	205
1932-33	603	379	224	179
1933-34	801	407	394	166
Average :			431	

APPENDIX B.

The farm accounts given here relate to four districts, Lahore (3), Kangra (3), Muzaffargarh (3) and D. G. Khan (1), in all ten holdings.

Income and expenditure are given for the year 1936-37.

The following is a summary of these accounts:

District.		Holding.		Year 1936-37.			
				Gross Income.	Expenditure.	Net Income.	
		A.	K. M.	Rs. a. p.	Rs. a. p.	Rs. a. p.	
Lahore,	A. ...	10	6 0	(Nehri- Barani).	435 0 0	236 11 0	148 5 0
"	B. ...	17	4 0	(Chabi- Barani).	310 12 3	200 11 0	110 1 3
"	C. ...	15	0 0	(Nehri)	486 3 0	408 14 9	47 4 3
Kangra.	A. ...	8	4 10	(Barani)	65 14 0	26 15 0	38 15 0
"	B. ...	20	0 0	(Barani)	161 4 0	69 6 0	91 10 0
"	C. ...	9	5 6	(")	48 6 0	27 3 6	21 2 6
Muzaffargarh.	A. ...	11	2 15	(Nehri- Barani)	296 15 3	227 5 3	69 10 0
"	B. ...	6	0 0	(Sailabi)	144 0 0	125 2 6	18 15 6
"	C. ...	9	0 0	(Chahi)	290 2 0	252 15 0	37 3 0
D. G. Khan.	... 6	0 0	0 0	(Nehri- Chahi)	153 5 0	101 6 9	51 14 8

Accounts of Kangra holdings were obtained by L. Mohan Lal, Secretary of the Institute, and of other holdings by Basant Singh M. A. Research Scholar of the Institute. Kangra is Himalayan; D. G. Khan and Muzaffargarh are situated on the North West Dry area. These accounts, taken along with the summary accounts of holdings in eight districts, borrowed from the Punjab Farms Accounts, give

a fairly reliable picture of the economic condition of the Punjab cultivator cultivating different type of one plough holdings, Nehri, Chahi, Barani and mixed.

Of the ten holdings in the above table only two show a 'net income' above Rs. 100. It may be remembered that wages for cultivator's labour and the working members of the family have not been included in costs. Net assets in case of these holdings are non-existent.

It would be ridiculous to suggest that the cultivators of these holdings possess any taxable capacity.

1936-37.

Village Ghawind District: Lahore.

Holding A. Area held :	A.	K.	M.	} Canal irrigated :			
	10	6	0			8	6	0
				} Unirrigated :			
						2	0

Income.

Crop.	Area.			Out turn.		Rate per md.			Value.		
	A.	K.	M.	Mds.	Srs.	Rs.	As.	P.	Rs.	A.	P.
Cotton.	2	0	0	21	0	5	0	0	105	0	0
Rice.	1	4	0	25	0	1	10	0	40	10	0
Maize.	0	4	5	6	20	2	0	0	13	0	0
Chari.	0	1	5			3	8	0	45	8	0
Berra.	3	0	0	15	0	3	8	0	37	8	0
Shaftal.	1	0	0			8	0	0	64	0	0
Seuhi.	1	4	0			3	8	0	42	0	0
Wheat.	3	2	15	11	20	2	8	0	28	12	0
Toria.	1	0	0						28	0	0
Bhusa.									9	0	0
									<u>413</u>	<u>6</u>	<u>0</u>

Add the following in kind.

Harvesting :

Wheat 4 bundles Rs. 1 per bundle 4 0 0

Winnowing :

Wheat 1 md. Rs. 2-8-0 per md. 2 8 0

Maize 0 10 6

Cotton given to pickers, 2 mds. Rs. 5 per maund. 10 0 0

Rice : 2 mds. 32 seers 4 7 6

21 10 0Gross Income : 435 0 0

Analysis of Expenditure.

	Rs. A. P.	Rs. A. P.
Harvesting and Winnowing etc.		21 10 0
Up keep of Bullocks : No. of total adult stock is 6.		
Roughage fed to all the animal.		
Chari	45 8 0	
Senji	42 0 0	
Shaftal.	64 0 0	
Bhusa.	8 13 6	
Salt.	1 8 0	
Medicine.	1 8 0	
Concentrates.	2 0 0	
Grams.	2 0 0	
	<hr/>	
Total	167 5 6	
Share of the draft animals 1/3 of		
Rs. 167-5-6.	55 12 6	
Grams 9 mds.	22 8 0	
Shoeing	1 0 0	
Oil	3 12 0	
20% interest and discount on Rs. 120.	24 0 0	
	<hr/>	107 0 6
Seed :		
Cotton.	0 8 0	
Chari.	4 8 0	
Rice.	0 8 0	
Maize.	0 12 0	
Berra.	7 5 0	
Wheat.	9 5 3	
Shaftal.	2 8 0	
Senji.	2 11 3	
Torja.	0 4 0	
	<hr/>	28 5 6
Kamins :		
Carpenter and Blacksmith.		
Wheat 1 md. 16 seers.	3 8 0	
Maize 1 md. 8 seers.	2 6 6	
Cotton 28 seers.	0 4 0	
	<hr/>	
The charges of a man who used to clean the sheds of bullocks.		
Wheat 2 mds. Rs. 2-8-0 per md.	5 0 0	
Rice one md. 20 seers.	2 7 0	
	<hr/>	13 9 6

	Rs. A. P.	Rs. A. P.
Labour :		
A boy of 13 years.		
5 mds. wheat Rs. 2-8-0 per md.	12 8 0	
Food expenses : wheat 8 mds. Rs. 2-8-0 per md.	20 0 0	
One shoe.	1 0 0	
Fare,	1 0 0	
	<hr/>	34 8 0
Implements :		
20 ⁰ / ₁₀₀ interest ond discount on Rs. 80 the cost of a cart.	16 0 0	
Rs. 16 fodder cutter.	3 3 0	
2 knives and one file for fodder cutter machine.	2 0 0	
Oil for lubricating the cart and fodder cutter.	2 8 0	
Jhols for bullocks.	2 8 0	
Other implements.	6 0 0	
Miscellaneous.	1 1 9	
	<hr/>	33 5 0
Water rates : Cotton :		
	7 4 0	
Rice.	9 6 0	
Maize.	1 9 6	
Chari.	3 11 3	
Berra.	11 12 6	
Shaftal.	2 4 6	
Senji.	3 6 9	
Wheat.	4 14 0	
Toria.	4 0 0	
	<hr/>	48 4 6
		<hr/>
Total expenditure :		286 11 0
Gross Income.	435 0 0	
Expenditure.	286 11 0	
	<hr/>	
Net Income.	148 5 0	
Land Revenue.	24 3 0	

Village Bhikki wind. District Lahore.—1936-37

	A. K. M.	A. K. M.
Holding. B. Area held:	17 4 0	11 7 11
Un-irrigated:		11 7 11
Well:		5 4 5

Crop	Area			out-turn Mds. Srs.	Rate per maund		Value					
	A.	K.	M.		Rs.	A.	P.	Rs.	A.	P.		
Berra	10	0	0	{wheat 48	0	2	12	0	132	0	0	
				(gram 16	0	2	8	0	40	0	0	
Toria	1	1	0	7	0	3	12	0	26	4	0	
Chari	3	6	0			per kanal	1	8	0	45	0	0
Cotton	0	12	0	4	0	0	5	2	0	20	8	0
Maize	5	5	0	3	20	2	2	0	0	7	0	0
Gram	0	4	0			per kanal	2	4	0	9	0	0
Bhusa										21	5	4

Total ... 301 1 4

Add the following in kind.

Harvesting	4	6	0
Winnowing	4	4	3
Pickers	1	0	9
	Total		9 11 0

Total income 310 11 3

Analysis of Expenditure.

1. Harvesting and winnowing :	9	11	0	9	11	0
2. Kamins.						
Blacksmith : one maund 20 seers :						
@2/10/ per maund.						
Carpenter : one maund 20 seers :						
@ 2/10/ per maund	7	14	0			
Cotton 5 seers @ Rs. 5 per maund	0	10	0			
				8	8	0
3. Labour :						
Casual labour						
1/11 share of the total kind without cotton and fodder	19	7	6			
Food expenses : 4 maunds wheat @ 2/12 per maund	11	0	0			
				30	7	6
4. Upkeep of bullocks :						
No of total adult stockis 4½						
Roughages fed to all the animals.						
Chari (3 acres 6 kanals) ...	45	0	0			
Gram as green fodder ...	9	0	0			
Bhusa : ...	21	5	4			
Fodder purchased ...	10	0	0			
Salt ...	1	8	0			
	Total		86	13	4	

	Rs. a. p.	Rs. a. p.
Share of 2 oxen : 2/9 of the whole share. ...	38 9 6	
	<hr/>	38 9 6
Gram ...	20 0 0	
Gur 3 maunds ...	5 8 0	
cotton seed ...	5 0 0	
shoeing ...	2 0 0	
medicine oil ...	3 0 0	
	<hr/>	35 8 0
20% interest and discount on 2 oxen each costing Rs. 60		28 0 0
5. Seeds :—		
Bera ..	19 11 0	
Toria ...	0 8 0	
Chari ...	9 0 0	
Cotton ...	0 9 0	
Maize ...	0 8 0	
Gram ...	0 15 0	
	<hr/>	31 3 0
6. Well and Persian wheel: 20% interest and discount on Rs. 120-6	4 0 0	
Repairs ..	1 0 0	
oil for lubrication ...	0 8 0	
fodder cutter		
20% interest and discount on Rs. 15	3 0 0	
Oil for lubrication ...	2 0 0	
Knives ...	1 12 0	
file (raiti) ...	0 8 0	
Implements and cost of repairs. ...	6 0 0	
	<hr/>	18 12 0
Total expenditure.		
1. Harvesting, winnowing, picking	19 11 0	
2. Kamins	8 8 0	
3. Labour	30 7 6	
4. Upkeep of bullocks	38 9 6	
	35 8 0	
	28 8 0	
5. Seeds	31 3 0	
6. Fodder cutter, persian wheel, and implements.	18 12 0	
	<hr/>	200 11 0
Gross Income :	310 12 3	
Total expenditure :	200 11 0	
	<hr/>	
Net Income :	110 1 3	

**Village Laleani. Tahsil Kasur. District
Lahore—1936-37.**

**Holding C Area held : 15 acres. (canal irrigated.)
Income.**

Crop	Area a. k. m.	Outturn Mds. Srs.	Rate per maund		Value	
			Rs.	as. p.	Rs.	As. P.
Sugar-cane :	1 2 0	10 0	2 4 0		22 8 0	
Cotton	5 0 0	24 0	5 2 0		123 0 0	
Toria	2 4 0	16 20	3 12 0		61 14 0	
Maiza	0 7 0	per kanal	3 0 0		21 0 0	
Chari		"	3 0 0		48 0 0	
Shalgam		"	3 0 0		18 0 0	
Wheat	5 0 0	42 20	2 12 0		116 14 0	
Gram	0 5 0	0 9	2 8 0		0 9 0	
Barley	0 7 0		4 4 0		29 12 0	
Bhusa					14 3 0	

Total 455 12 0

Add the following in kind.

	Rs.	As.	P.
Harvesting : 15 bundle 12 as. per bundle	11	4	0
Winnowing			
Wheat 1 md. 20 seers			
Rs. 2/12/ per maund	4	2	0
Jhoka. Gur 1 md. 2/4/ per md.	2	4	0
Pickers. Cotton 2 mds. 20 seers.			
5/2/ per md.	12	13	0
Total Gross Income	486	3	0

Analysis of Expenditure.

1. Harvesting, Winnowing :			
Picking of cotton and Gur preparation	30	7	0
Food expenses of Jhoka	6	3	0
2. Labour for two months	11	0	0
3. Seed : Sugar cane	12	8	0
Cotton	1	14	0
Toria	1	0	0
Maize	1	8	0
Chari	4	8	0
Shalgam	1	8	0
Wheat	14	0	0
Gram	0	15	0
Barley	3	0	0

Total 40 13 0

	Rs. A. P.	Rs. A. P.
4. Kamins.		
{ Carpenter } 3 maunds		
{ Backmith } 8 seers wheat		
@ Rs. 2/12/- per maund		8 12 9
Bhusa		<u>1 8 0</u>
		Total
5. Upkeep of bullocks:		
No of adult stock : 2 bullocks.		
Fodder fed to them		
Maize :	21 0 0	
Chari.	48 0 0	
Shalgam.	18 0 0	
Bhusa.	4 8 0	
Gram 13 md. 20 seers.		
2/12/- per md.	37 12 0	
Concentrates 2 mds	5 0 0	
Salt.	1 8 0	
Oil	4 0 0	
Ghee,	6 8 0	
Shoëing four time a year.	4 0 0	
Gur.	<u>2 4 0</u>	
		151 4 0
20 per cent interest and discount on Rs. 220		44 0 0
The charges of a man who cleans the shed of bullocks	1 10 3	1 10 3
6. Implements :		
20 per cent interest and discount on Rs. 80, the price of a cart.	16 0 0	
,, Rs. 20, the price of a fodder cutter machine	4 0 0	
Cost of Jhuls.	3 0 0	
20 percent. interest and discount on Rs. 60-/-		
6		
the share in cane crushing Machine.	2 0 0	
Oil for light and lubrications ,,	4 0 0	
Oil for fodder cutter.	2 4 0	
The cost of two knives for the fodder cutter.	1 8 0	
File for the fodder cutter	0 8 0	
The cost and repairs of other implements.	<u>8 0 0</u>	
		41 4 0

	Rs. A. P.	Rs. A. P.
Water rates : Sugar cane.	11 11 0	
Cotton.	18 2 0	
Wheat.	18 2 0	
Barley	4 0 9	
Toria.	10 0 0	
Chari.	4 9 0	
Maize.	1 15 9	
Gram.	1 14 0	
Shalgam.	1 11 3	

Total

71 6 9

Total Expenditure.

1. The cost of harvesting, win- nowing, Gur preparation and cotton picking.	47 10 0
2. Seed.	40 13 0
3. Kamins.	10 4 9
4. Up keep of bullocks.	151 14 0
" "	44 0 0
" "	1 15 3
5. Implements.	41 4 0
6. Water rates.	71 6 9

408 14 9

Gross income :	486 3 0
Expenditure :	408 14 9

Net Income.	77 4 3
Land Revenue.	14 3 6

Tika Khanjan Mauza Aund.

Tehsil Nurpur, District Kangra.

Holding A Area held A. K. M. (Un Irrigated). 1936-37

8 4 10

INCOME.

Crop,	Area.		Out-turn.		Rate per maund.	Value.
	A.	K. M.	Mds.	Srs.	Rs. A. P.	Rs. A. P.
Wheat	2	6 8	11	0	2 0 0	22 0 0
Til	0	1 5	0	16	5 0 0	2 0 0
sugarcane	0	3 0	3	0	2 8 0	7 8 0
Maize	2	5 5	15	0	2 0 0	30 0 0
Bhusa.						2 12 0

64 4 0

Add the following in kind.

Harvesting and winnowing :		
Carpenter and blacksmith.		
Wheat 16 seers.	{	1 10 0
Maize 16 seers.		
		1 10 0
		0

Gross Income :

1597

Add the following in kind.

Kamins :

Blacksmith and carpenter. two bundles of wheat each@13 as. per bundle.	Rs. As. P.
	3 4 0

Gross Income : 161 4 0

Expenditure.

Up-keep of bullocks.

Fodder fed to 4 bullocks :	5 0 0
Bhusa.	9 0 0
Salt.	2 0 0
Medicine.	0 12 0
20 per cent discount on Rs. 100, the cost of 4 bullocks :	20 0 0

36 12 0

2. Seed : Wheat	5 2 0
Maize :	3 4 0
Sugar cane.	7 0 0

15 6 0

3. Kamins.

a. Given in kind to blacksmith and carpenter. two bundles of wheat each.	3 4 0
b. 1 md. of wheat each.	4 0 0
1 md. of maize each.	4 0 0

11 4 0

4. Implements (iron) Black smith Carpenter (timber.)	4 0 0
	2 0 0

6 0 0

Total Expenditure :-

1. Upkeep of bullocks.	36 12 0
2. Seed.	15 6 0
3. Kamins.	11 4 0
4. Implements	6 0 0
	69 6 0

Gross Income : 161 4 0

Expenditure 69 6 0

Net Income : 91 10 0

Land Revenue : 16 0 0

**Tika Khanjan Mauza Aund. Tahsil Nurpur
District Kangra 1936-37**

Holding C. Area held : A. K. M.
9 5 6 Un-irrigated

Income.

Crop.	Area a. k. m.	Out-turn. Mds. Srs.	Rate per md.		Value.		
			Rs.	a. p.	Rs.	As.	P.
Wheat.	1 7 0	9 0	2	0 0	18	0	0
Barley	0 1 10	1 0	1	0 0	1	0	0
Maize.	1 6 10	11 0	2	0 0	22	0	0
Sugar-cane.	0 1 0	1 0	2	8 0	2	8	0
Bhusa.					3	4	0
					<hr/>		
					46	12	0

Add the following in kind.

Harvesting and winnowing :

Wheat 16 seers.

Maize : 16 seers

1 10 0

1 10 0

Gross Income :

48 6 0

Analysis of Expenditure.

1. Harvesting and Winnowing.	1 10 0	1 10 0
2. Seed, Wheat	2 0 0	
Barley	0 1 6	
Maize :	1 0 0	
Sugar cane.	1 8 0	
	<hr/>	4 9 6
3. Upkeep of bullocks ;		
Roughage fed to draft animals.		
Bhusa.	2 8 0	
Salt.	1 0 0	
Medicine.	0 8 0	
20 percent discount on		
Rs. 50 the cost of oxen.	10 0 0	
	<hr/>	14 0 0
4. Kamins. Blacksmith and carpenter.		
1 md. wheat.	2 0 0	
1 md. maize.	2 0 0	
	<hr/>	4 0 0
Implements, cost of yearly repairs.	3 0 0	3 0 0
	<hr/>	<hr/>
Total expenditure		27 3 6
Gross Income:	48 6 0	
Expenditure :	27 3 6	
	<hr/>	
Net Income:	21 2 6	
Land Revenue :	4 4 3	

**Notes on farm account received from Nurpur Tahsil
of Kangra District.**

The following points should be noted :

1. Cost of maintenance of cattle is almost negligible as most of their grazing is done in the forest lands belonging to the village and the Government. Fodder consumed by them on the farm is also obtained free from these forests.

2. Concentrates do not form a part of the food supplied to the bullocks ; the farmers are too poor to buy them and they do not grow crops yielding concentrates.

1.936-37.

VILLAGE CHAUDHRI.

Tahsil Kot Adu.,

District Muzaffargarh.

Holding A

A. K. M.

Unirrigated : 7 5 0

Area Held : 11 2 15 Canal : 3 5 0

Income.

Crop.	Area.		Out turn.	Rate per maund.		Value.
	A. K. M.	Mds. Seers.		Rs. A. P.	Rs. A. P.	
Char.	1 5 10			per kanal 3 0 0	40 8 0	
Sugar-cane.	0 1 10	3 20		3 0 0	10 8 0	
Rice.	1 6 0	21 0		2 0 0	42 0 0	
Gram.	3 2 0	15 0		per kanal 2 0 0	30 0 0	
Shalgam.	0 2 0			2 8 0	5 0 0	
Peas.	0 1 0			2 8 0	2 8 0	
Wheat.	7 5 15	49 0		2 12 0	134 12 0	
Bhusa Rice.		12 0		0 4 0	3 0 0	
Bhusa Wheat.		49 0		0 4 0	12 4 0	
Bhusa Gram.		15 0		0 3 0	2 13 0	
Total.						283 5 0

Add the following in kind :—

Harvesting :

Rice 1 maund 12 seers @ Rs. 2 per md.	2 10 0
Gram 25 seers @ Rs. 2 "	1 4 0
Wheat, 1 maund 25 seers @ Rs. 2-12-0 "	4 7 6

Winnowing :

Wheat, 1 maund 23 seers @ Rs. 2-12-0 "	4 5 3
Gram, 19 seers 5 chattaks @ Rs. 2-6-0 "	0 15 6

Total ... 13 10 3

Total gross income.

296 15 3

Analysis of Expenditure.

	Rs. A. P.	Rs. A. P.
1. Harvesting and Winnowing.		13 10 3
2. Kamins. Carpenter, 1 maund, wheat		
@ Rs. 2-12-0 per md.	2 12 0	
Potter, 1 maund wheat „ „	2 12 0	
Blacksmith, 20 seers „ „ „	1 6 0	
Total ...	6 14 0	
3. Upkeep of Bullocks.		
Total adult stock : 5.		
Chari	40 8 0	
Shalgam.	5 0 0	
Peas.	2 8 0	
Bhusa rice.	3 0 0	
Bhusa wheat.	12 4 0	
Bhusa gram.	2 13 0	
Fodder purchased.	12 0 0	
Salt.	1 0 0	
Medicine.	2 0 0	
Total ...	81 1 0	
2 Bullocks. 2/5 of the total :		32 7 0
Gram for bullocks.		15 0 0
Oil.		1 0 0
Interest and depreciation at 20% on Rs. 120.		24 0 0
Upkeep of one donkey kept to assist in agricultural work and also used to take manure to fields.		18 3 6
4. Seed :		
Chari	3 2 0	
Rice	1 2 0	
Sugarcane	2 4 0	
Gram	6 0 0	
Shalgam	0 4 0	
Wheat	21 14 0	
Total ...	33 4 0	
5. Well and Persian Wheel.		
20% interest and depreciation on Rs. 100/2 his share.	10 0 0	
Repairs.	2 0 0	
Oil for lubrication	0 8 0	
Implements :		
Yearly cost, and repairs.	9 0 0	
Total ...	21 8 0	

	Rs. A. P.	Rs. A. P.
Cost of gur preparation :		
rent of cane		
Crushing mill.	2 0 0	
Jhoka	2 0 0	
Oil.	0 8 0	
Labour.	1 0 0	
	<hr/>	5 8 0
i. Labour :		
Yearly (boy of 16 years.)		27 0 0
Manure.		25 0 0
		<hr/>
	Total Expenditure ...	223 6 9
Water rates :		
Chari.	0 13 6	
Rice.	1 12 0	
Sugar cane.	0 3 0	
Shalgam.	0 2 0	
	<hr/>	
	Total ...	3 14 6
Land Revenue :		
Rice :	3 0 0	
Sugar cane.	0 5 3	
Wheat.	13 8 0	
Gram.	4 7 6	
Shalgam.	0 3 6	
Chari.	1 7 9	
Peas.	0 1 9	
	<hr/>	
	Total ...	23 2 9
	Gross Income ...	296 15 3
	Total Expenditure	
	(including water rates)	227 5 3
	Net Income ...	69 10 0
	Land Revenue ...	23 2 9

VILLAGE SULTANA.

Tahsil Laiya, District Muzaffargarh.

Holding B. Area held : 6 Acres.

Sailabi.

Crop.	Area.		Out turn.	Rate per maund.	Value.	
	A. K. M.	Mds. Srs.			Rs. A. P.	Rs. A. P.
Wheat.	4 0 0	30 0		3 0 0	90 0 0	
Gram.	1 4 0	9 0		2 0 0	18 0 0	
Shalgam.	0 3 10	...		per (4 0 0	14 0 0	
Vegetables.	0 0 10	...		kanal } 4 8 0	2 4 0	
Musa wheat	...	30 0		0 5 4	10 0 0	
„ Gram	...	9 0		0 4 0	2 4 0	
					<hr/>	
			Total ...		136 8 0	

	Rs. A. P.	Rs. A. P.
Add the following in kind.		
Harvesting :		
Wheat one md. 8 seers @ Rs. 3 per mound.	3 9 6	
Gram 20 seers @ Rs. 2 per maund.	1 0 0	
Winnowing :		
Wheat 30 seers @Rs. 3 ,,	2 6 6	
Gram 10 seers @ Rs. 2 ,,	0 8 0	
	<hr/>	7 8 0
Total gross income		<hr/> <hr/> 144 0 0

Analysis of Expenditure.

1. Harvesting and Winnowing :	7 8 0	
2. Kamins.		
Carpenter 30 seers @ Rs. 3	3 11 3	
Blacksmith 13 srs. 14 ch. @ Rs. 3	1 0 0	
	<hr/>	
Total ...	3 11 3	3 11 3
3. Up keep of Bullocks :		
Total adult stock : 3½		
Fodder fed to all the animals:		
Shalgam.	14 0 0	
Bhusa wheat.	10 0 0	
Gram.	2 4 0	
Fodder purchased.	15 0 0	
Medicine.	1 0 0	
Salt.	1 0 0	
	<hr/>	
Total ..	43 4 0	
The share of bullocks :		
4/7 of Rs. 43-4-0.		24 11 3
Concentrates.	4 0 0	
Oil.	2 0 0	
Cotton seed.	2 0 0	
20% interest and depreciation on Rs. 110.	22 8 0	
	<hr/>	30 8 0
Seeds: Wheat :	12 0 0	
Cram.	2 8 0	
Shalgam.	0 12 0	
Vegetables.	0 8 0	
	<hr/>	15 12 0
Labour :		
for six months.	27 0 0	27 0 0
Implements :		
Annual cost and repairs.	6 0 0	

Expenditure.

	Rs. A. P.	Rs. A. P.
1. Harvesting and winnowing,	7 8 0	
2. Kamins.	3 11 3	
3. Upkeep of bullocks.	{ 34 14 3	
	(30 8 0	
4. Seed.	15 12 0	
5. Labour.	27 0 0	
6. Implements,	6 0 0	

	Total	125 2 6	
Land Revenue : Wheat.	8 8 0	Gross Income.	144 0 0
Gram.	1 9 6	Expenditure.	125 2 6
Shalgam.	0 3 9		
Vegetables	0 2 0	Net Income	18 13 6
	<u>10 7 3</u>		

1936-37.

VILLAGE SANWARA WASAVA.

Tahsil : Laiya : District : Muzaffargarh.

A. K. M.

Holding C.

Area Held : 9 0 0 (Well Irrigated)

2 Pairs of bullocks.

Income.

Crop.	Area.	Out turn.		Rate per maund.		Value.	
		A. K. M.	Mds. Srs.	Rs. As. P.	Rs. As. P.		
Chari.	0 6 0			3 0 0		18 0 0	
Tobacco.	0 7 0	6 0 0		5 0 0		30 0 0	
Shalgam.	1 0 0			4 8 0		36 0 0	
Barley.	0 3 0			4 8 0		13 8 0	
Wheat.	6 0 0	55 0 0		3 0 0		165 0 0	
Bhusa Wheat.		55 0 0		0 5 4		18 5 4	
				<u>Total</u>		280 13 4	

Add :
Harvesting and Winnowing. 9 4 9

Total Income 290 2 0

Analysis of Expenditure.

1. Harvesting and Winnowing : 16 12 9
Wheat and Tobacco.
2. Kamins : Carpenter : one maund 20 seers.
Wheat :

	Rs. A. P.	Rs. A. P.
Blacksmith : one maund		
20 seers wheat.		
Potter 30 seers wheat		11 4 0
3. Seeds : Wheat	18 0 0	
Barley :	0 15 0	
Shalgam.	2 0 0	
Tobacco.	5 0 0	
Chari.	1 14 0	
	<hr/>	27 13 0
Upkeep of bullocks :		
Total adult stock 4, all bullocks :		
Fodder fed to all the animals :		
Chari.	18 0 0	
Shalgam.	36 0 0	
Barley.	13 8 0	
Bhusa.	18 5 4	
Fodder purchased.	5 0 0	
Concentrates.	4 0 0	
Gram	12 0 0	
Oil.	0 4 0	
Salt.	2 0 0	
	<hr/>	109 1 3
20 per cent. interest and depreciation on Rs. 240.		48 0 0
Labour (causal labour)		18 0 0
Wheel and persian wheel.		
20 per cent. discount on 80/2	8 0 0	
Oil for labrication.	2 0 0	
Repairs,	5 0 0	
	<hr/>	15 0 0
Implements.		
Yearly cost and repairs.	8 0 0	
	<hr/>	8 0 0
	<hr/>	
Total expenditure		252 15 0
Total Income.	290 2 0	
Expenditure.	252 15 0	
	<hr/>	
Net Income.	37 3 0	
Land Revenue.	10 0 0	
VILLAGE TATAR WALA.		
Tahsil Jampur :		
District D. G. Khan :		
Income.		
A. K. M.		A. K. M.
Area Held : 6 0 0	{ Well Irrigated.	3 4 0 0
	{ Canal Irrigated.	2 4 0 0

Crop.	Area.			Out turn.			Rate per maund.			Value.		
	A.	K.	M.	Mds.	Srs.		Rs.	As.	P.	Rs.	A.	P.
Wheat.	3	4	0	30	0	0	2	14	0	86	4	0
Rice.	1	2	0	9	0	0	2	4	0	20	4	0
Gram.	1	2	0	3	0	0	2	4	0	6	12	0
Jawar.	1	2	0	{per kanal.			2	0	0	20	0	0
Bhusa (Wheat Gram).										10	12	0
Bhusa (Rice)										2	4	0
Total										146	4	0

Add the following in kind.

	Rs.	As.	P.		Rs.	As.	P.
Harvesting :							
Wheat 1 maund 4 seers @ Rs. 2-14 per maund.				4	9	6	
Rice 1 maund @ Rs. 2-4 per maund				2	4	0	
Gram 4 seers @ Rs. 2-4 per maund				0	3	6	
Total				7	1	0	7 1 0

Gross Income. 153 5 0

Analysis of Expenditure.

	Rs.	A.	P.	Rs.	A.	P.
1. Harvesting.	7	1	0	7	1	0
2. Kamins Carpenters, (Blacksmith, potter). Carpenter. Wheat 2 mds. @ 2-14 per maund.	5	12	0			
Carpenter Jawar 1 md. @ 2-8 per maund.	2	8	0			
Blacksmith, Rs. 3 yearly	3	0	0			
Potter. Wheat 2 mds. @ 2-14 per md.	5	12	0			
Jawar 1 md. @ 2-8 per md.	2	8	0			
Total	19	8	0			

This man has to pay only $\frac{1}{2}$ of Rs. 19-8 because his share in the well is only $\frac{1}{2}$ of it.				4	14	0
3. Implements yearly cost.	8	0	0	8	0	0
4. Well and Persian Wheel : Interest & depreciation on Rs. 65 at 20 per cent. and $\frac{1}{2}$ of it.	3	4	0			

	Rs. A. P.	Rs. A. P.
His share of repairs	0 12 0	
Oil for lubrication.	0 4 0	
	<hr/>	4 4 0
Upkeeps of bullocks.		
Total adult stock 4 animals.		
Fodder fed to all the animals	20 0 0	
Bhusa Wheat	10 0 0	
Bhusa Rice.	2 4 0	
Gram.	0 12 0	
Fodder Purchased.	20 0 0	
	<hr/>	
Total Fodders.	53 0 0	
No. of Bullocks 2.		
5. (a) Share of bullocks $\frac{1}{3}$.		26 8 0
(b) Concentrates 2 mds. @ Rs. 3 per md.	6 0 0	
Salt.	1 4 0	
	<hr/>	7 4 0
(c) Interest and depreciation 20 per cent. on Rs. 110, price of bullocks.	22 0 0	
	<hr/>	22 0 0
Wheat 3 mds. 10 seers 5. Seed @ Rs. 3 per maund.	9 12 0	
Gram 30 seers @ Rs. 2-4-0 per maund	1 11 0	
Jawar 30 seers. @ Rs. 4-8-0 per maund	1 14 0	
Rice 32 seers. @ Rs. 2-14-0 per maund	1 12 0	
	<hr/>	15 1 9
Expenditure :	Rs. A. P.	
1. Harvesting.	7 1 0	
2. Kamins.	4 14 0	
3. Implements.	8 0 0	
4. Persian Wheel.	4 4 0	
5. Bullocks.	26 8 0	
	7 4 0	
	22 0 0	
6. Seeds.	15 1 0	
	<hr/>	
Total Expenditure	95 0 0	
Gross Income.	153 0 0	
Net Income.		
Deduct Water-Rates.	6 6 0	
	<hr/>	
Net Income.	51 10 3	
Land Revenue paid	5 12 6	

APPENDIX III.
LAND REVENUE COMMITTEE
QUESTIONNAIRE.

I. Principles of Income-tax Assessment.
YEARLY ESTIMATE.

1. The assessment of Income-tax is based on a yearly estimate of the net profits of every assessee.

(1) Is it practicable to estimate each year, and therefore each harvest, the net assets of each land revenue payer—

- (a) when the system of land revenue assessment is fluctuating,
- (b) when it is fixed.

(2) In both cases the chief variable factor for the purposes of assessment are :—

- (a) the nature of cropping,
- (b) the yield of each crop,
- (c) the current market price of each crop.

In the case of fixed land revenue a further variable factor is the area matured.

Is it practicable and advisable to modify the existing system of land revenue by reducing the variable elements, by any or all of the following methods :—

- (a) replacing the fixed system of land revenue by the fluctuating system;
- (b) by fixing different rates for (1) each crop, or (2) groups of crops as in the case of water rate (abiana);
- (c) by introducing the sliding scale system of assessment so far as prices are concerned. A copy of the communique issued by Government in connection with Lyallpur settlement, which explains the principles of the sliding scale system of assessment, is attached as appendix A.

(3) The above methods would take account of the chief variable factors except yield. Would it be practicable and advisable to allow for variations in yield by increasing or reducing the basic assessment rate each harvest for each crop, according as the harvest yield was in excess of, or less than the yield assumed at assessment ?

If so :—

- (a) what limits, if any, should be placed on the increase or reduction ?
 - (b) what agency would be employed to determine the yield of each crop at each harvest ?
 - (c) what rights of appeal, if any, should the land revenue payers have in regard to the increase in the existing rate ?
 - (d) what would be the political effects of varying the land revenue assessment each harvest according to the estimated yield ? Would it be popular with the people ? Would it lead to discontentment when rates are increased ? Would it tend to encourage corruption ?
2. (a) If it is considered impracticable to adopt a yearly system of estimates for each land revenue payer, would it be practicable and advisable to revert to the system of land revenue collection in kind ?
- (b) What would be the advantages and disadvantages of such a system ?
 - (c) What would be the agency through which it should be carried out ?
 - (d) Would it be acceptable by the people ?
 - (e) How could corruption be checked ?
 - (f) What would be the standard of assessment ?
 - (g) Should it be based on gross or net produce ?
 - (h) Should it vary from assessment circle to assessment circle ?
3. If drastic changes in the present system of assessment are recommended :—
- (1) Is it desirable to introduce them simultaneously all over the province ?
 - (2) If so, what change in the present law would be necessary ?
3. The land revenue system is at present regarded as a contract between the State and land revenue payer, the period of the contract being the term of settlement. Is it recommended that the contract should be set aside so that (i) some land revenue payer may gain from the change, and (ii) some may lose from the change ?
4. The alternative course would be to introduce changes gradually as settlements expire. This would

mean that it would take 40 years before the changes were complete, and until they were complete, inequalities would exist between different districts. Is this alternative recommended?

MINIMUM LIMIT OF ASSESSMENT AND SMALL HOLDINGS.

5. How would you define in terms of the amount of land owners :—

(a) the small holder,

(b) an economic holding,

having regard to the fact that the annual value of a holding is affected by soil, irrigation, location, fragmentation and proximity to *abadi* and *mandi*.

Would you include in small holders persons who did not themselves cultivate land but were mainly dependent on other sources of income?

6. (a) Having regard to the attached rough estimate of land revenue payers now paid in various grades, do you recommend the exemption of any grade or grades? If so, of which?

(b) Should those who do not cultivate be included the exemption?

NOTE.—There is reason to believe that amongst small holders the number of those who do not cultivate is large.

7. (a) If a minimum limit is fixed, should it be in terms of the acreage owned or of the amount of revenue paid?

(b) How should mortgages with possession be treated?

8. If you recommend a minimum limit for individual revenue payers, what would be the approximate loss to Government on the basis of the attached estimate?

9. How would you provide (1) for joint families, (2) partitions, (3) inheritance, (4) fictitious mortgages, (5) gifts by a father during his lifetime to his son in order to bring the shares within the exemption?

10. (a) If the exemption applied to the individual person or the individual holding, would not the result be to give a great impetus to partition and the consequent sub-division of holdings?

(b) Will this not lead to the multiplication of uneconomic holdings?

(c) What method should be adopted to check this?

11. Even if exemptions once allowed were not subject to revision for a period of years—say 10 or 20 years, what methods could be taken to check partitions and subdivisions when the time for revision of exemptions drew near?

12. To some extent the small holders is already favourably considered in assessment; *e. g.*, congested tracts are more lightly assessed than less congested, and in the distribution of the revenue over estates in an assessment circle estates consisting of small holders tend to get easier rates. Is it desirable to strengthen this tendency? If so, how can it best be done within the present system?

In this connection, please see the instructions given in paragraphs 384—408 of the Settlement Manual (copy attached as appendix B).

13. In assessing small proprietors, is it possible to differentiate between those who cultivate themselves and those who let their land on cash rents or batai?

14. As an alternative to exemption should small holders be given remissions more freely?

15. Is there any reason to believe that land revenue is a tax upon labour and costs instead of upon surplus?

Please see the instructions given in paragraphs 384—408 of the Settlement Manual (attached as appendix B).

16. Would you amend the present definition of net assets in section 3 (18) of the Land Revenue Act (Appendix C)? If so, how?

NOTE.—The present definition virtually defines net assets as the ascertained normal rent taken by landlords *minus* deductions paid out of rent and directly connected with the cultivation of the land. A possible alternative might be to define it in terms of the profits on direct cultivation, *i. e.* to take the gross produce *minus* the cost of production. But the Select Committee which considered the Land Revenue Act Amendment Bill of 1928 decided in favour of the former, as it was considered that the latter “ would be surrounded with difficulties and involve too great a degree of assumption, inference and uncertainty.”

17. What do you say to the suggestion that in principle income tax should be levied at a heavier rate on unearned than on earned income, *e. g.*, the net income received by a person from, say, urban house property should be taxed more heavily than that received by him as a salary earned by personal labour. If so, to what extent would you be satisfied (*i*) if the definition of “ net assets ” (*vide* appendix C) were amended so that “ net assets ” should

really represent the average annual surplus, if it is assumed that it does not already do so, and (ii) if a heavier tax were levied on non-agricultural unearned income than at present, with a view gradually to assimilating it, so far as its nature permits, to land revenue, rather than *vice versa* ?

GRADUATED SYSTEM OF ASSESSMENT.

18. Assuming that a minimum limit of assessment is not practicable, is it possible to have a graduated system of assessment by which relief could be given to the small holder ?

19. Assuming that it was desirable to redistribute the existing demand as between various classes of owners, and that legislation was passed accordingly, is there any practicable scheme by which this could be done, *e. g.*, by taking the assessment circle as the unit of redistribution, or by taking the individual estate ?

20. Without a complete redistribution, is any scheme feasible by which a surcharge could be made on land revenue payable by large owners and the amount so obtained distributed in relief to small owners ?

What surcharges should be made on the following demands of land revenue :—

- (1) Rs. 10,000 or above.
- (2) Above Rs. 5,000 and below Rs. 10,000.
- (3) " " 1,000 and below Rs. 5,000.
- (4) " " 500 and below Rs. 1,000.
- (5) " " 250 and below Rs. 500.
- (6) " " 100 and below Rs. 250.
- (7) " " 50 and below Rs. 100.

What would be the amount of the additional revenue so obtained, and what relief respectively would it give if distributed over the land revenue payer paying—

- (1) less than Rs. 25
- (2) less than Rs. 15
- (3) less than Rs. 10
- (4) less than Rs. 5

21. Can you suggest any indirect methods of taxation of agricultural produce or agricultural income for the purpose ?

22. If this relief is not regarded as sufficient, what further relief is recommended, and how could the whole or part of the loss to provincial revenues be made good ?

23. Would it be possible to give material assistance to the small holder if the principle of graduation were introduced into the levy of local rates instead of into the assessment of land revenue ?

NOTE.—(a) It has been suggested that land revenue payers might be classified in four classes according as they paid Rs. 15 or less, Rs. 15 to Rs. 40, Rs. 40 to Rs. 80, and over Rs. 80, and that local rates should be graduated accordingly, whatever is remitted in the first two classes being paid by the other two.

(b) Local rates average about 15 per cent. of the land revenue.

Miscellaneous Income-tax Principles.

24. If income-tax principles are applied, how would you allow for—

- (1) depreciation upon—
 - (a) livestock,
 - (b) implements and carts,
 - (c) means of irrigation, e.g., wells, kuhls, etc.
 - (d) buildings
- (2) interest charges upon borrowed capital,
- (3) insurance payments on account of—
 - (a) life insurance policies
 - (b) agricultural live stock and dead stock
- (4) agricultural losses. e.g., owing to calamity—
 - (a) if a revenue payer owns land in more than one area, should he be allowed to set off his losses in one place against his profits in another ?
 - (b) if so, should this be confined to areas within the Punjab ?

25. How would you deal with the Hindu undivided family ?

NOTE.—Under Income-Tax Law the Hindu undivided family is treated as one person but is not recorded or recognised as such in the Revenue Records.

26. (a) If income-tax principles are applied, should agricultural income earned outside the Punjab be taken into consideration whether remitted to the Punjab or not ?

(b) Should there be any differentiation between agricultural income earned in British India and agricultural

income earned in an Indian State and brought into the Punjab? If so, how should it be ascertained in the latter case?

NOTE.—A very large area is cultivated by Punjabis in Bahawalpur, and also, it is believed in Sind.

27. To what extent can the principles of income-tax be applied without requiring land revenue payers to keep accurate accounts? If they do not keep accurate accounts, how should their income be determined?

28. Should non-agricultural income of a land revenue payer be taken into consideration in determining the land revenue rate chargeable on his agricultural income.

GENERAL QUESTIONS.

29. Is there any reason to suppose that the payment of land revenue hampers the development of agriculture? *e. g.* Is there any sign of this in any district which is heavily assessed compared with one which is lightly assessed (*e. g.*, Lahore)?

30. Is there any reason to suppose that land revenue has anywhere made agriculture unprofitable? For example, has any land gone out of cultivation in order to avoid the payment of land revenue?

31. Is there any reason to suppose that the payment of land revenue has made it difficult for the small holder to maintain himself and his family?

32. Would exemption or a substantially lower rate raise the standard of living of the small holder? Or would it mainly tend to an increase of population?

33. Will a graduated scale of land revenue, with a higher rate for large owners, affect agricultural development in so far as this depends upon large owners?

34. Would a graduated scale tend to weaken the communal bond in villages?

35. Application of the principles of income tax would involve the abolition of the present limit upon (a) the period of assessment prescribed by section 53-A of the Land Revenue Act, and (b) the enhancement of land revenue on reassessment, see sections 48-B and 51 (3) of the Act. Do you regard this as a bar to the application on these principles?

36. Should tenants and mortgagees be taxed in respect of their profits from agriculture?

37. If land revenue were reduced, would any part of the

benefit be passed on to the tenant who at present pays no part of the land revenue ?

38. When Government gives canal irrigation to a large tract of proprietary area, should the whole of the unearned increment accruing as the result of the irrigation go to the landowners ? If not, what share should the State take ? And how should it take it ?

39. If the principles of income tax are applied, there will be a tendency, if population continues to increase, for revenue to decrease very substantially as the result of the consequent sub-division of holdings. This will probably involve restriction of the beneficent activities of Government. Are you in favour of this ?

40. If exemptions are granted,—

(a) should lambarbars be indemnified for the consequent loss of pachotra ?

(b) Should the concessions be applied to the local rate ? If so, how should the loss of revenue to District Boards be made good ?

41. Would not a reduction in land revenue increase the capital value of the land and so make it easier for the landowner to borrow ? Will this be for the benefit of the ordinary owner ?

LIGHT ON THE LAND QUESTION

A FRANK INQUIRY INTO
THE LAND VALUE
POLICY BY A MAN
IN THE STREET.
WHAT WOULD
IT DO ?

- I.—Among the enthusiasts
- II.—The man behind the idea
- III.—The idea
- IV.—Something in it ?
- V.—Proposals and beginnings
- VI.—Result of the inquiry.

THE HENRY GEORGE FOUNDATION OF GREAT BRITAIN
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LIGHT ON THE LAND QUESTION

I. AMONG THE ENTHUSIASTS

THEY told me that they wanted a fresh mind on it. Standing in a room in Westminster, amid pamphlets dealing with the taxation of land values from every conceivable angle, they said that they wanted yet another pamphlet.

They wanted the point of view of the Man in the Street.

I told them that I would write something if I had a free hand to say what I liked. The Man in the Street is usually frank. He has no consideration for the feelings of the political enthusiast whom he interrupts from the back of the hall. So I told these enthusiasts that I could write only in the spirit of the interrupter.

I explained that I knew little of their idea except that it had attracted public attention. "So much the better!" they declared. "Take all the literature you want——" (this with a wave of the arm towards the stocks of pamphlets) "and then write of how the idea affects you, of how—as the Americans are so fond of saying—you react to it." They seemed to think I should have an entertaining adventure.

After accepting their suggestion with some diffidence, I strolled about the office—that of the United Committee for the Taxation of Land Values—and glanced more or less curiously from one thing to another.

It was obviously a place under the control of one idea. It prang at you from every wall, from every shelf, and from every table. There was no escape from it.

This put me on the defensive. I like an idea to approach me quietly and with respect. I dislike being rushed.

So I removed some pamphlets from an arm-chair, and sat down.

But still there was no escape. My eye was immediately attracted to a quotation hanging over the mantelpiece. The words did more than put me on the defensive. They made me suspicious of the whole idea. They nearly caused me to back out of the task I had undertaken. They irritated and annoyed me.

This was the quotation:—

"The truth that I have tried to make clear will not find

Light on the Land Question

easy acceptance. If that could be, it would have been accepted long ago. If that could be, it would never have been obscured. But it will find friends—those who will toil for it; suffer for it; if need be, die for it.”

Die for it!

I have always—and more particularly since the war—been suspicious of ideas for which one is invited to die. In France and Flanders many of us, on both sides of the line, found ourselves discussing such ideas somewhat sceptically.

I turned to one of the enthusiasts in the room and asked, with some asperity, if anyone had died for this idea of the taxation of land values.

It appeared that the writer of the leading book on the subject—a book they pressed me to read—might be said to have given his life for the idea. It appeared, too, that many men had made big sacrifices in their devotion to what they considered to be a great ethical truth and the key to social justice.

I learnt also that many had given financial help with the same object. Every year a considerable sum is subscribed voluntarily to the Westminster organization in donations of various amounts from a large number of supporters.

What interested me even more was that not long ago a generous enthusiast established a separate Trust Fund to be administered over a term of years but to be used entirely for circulating the standard books of the movement and publishing new literature.

It was clear that a good many people were prepared to spend money on maintaining the vitality of the idea.

What did that mean?

Was this a genuine, non-party, educational movement, aiming at the general good in the propagation of a great idea amounting almost to a religion, or was there some sinister partisan motive behind it?

There was nothing sinister-looking in the people around me and I was quite prepared to believe that the movement was non-party, but for some time I had difficulty in agreeing that a naturally great idea is incapable of making its way without the aid of money.

Like other men in the street, I am always suspicious of ideas with any money behind them.

In this case, however, I soon found there was no need for any

ing of the kind. The evidence of self-sacrificing devotion was overwhelming.

But another doubt occurred to me as I glanced again at the framed quotation above the mantelpiece and the piles of pamphlets by which I was surrounded.

They were tied up in bundles and labelled. They had a surprising variety. I noticed :—

Certain Way to World Peace,
Land and Freedom,
The Crime of Poverty,
Unemployment and the Land,
The Beneficence of Natural Law,
Land Value Taxation in Practice,
The New Political Economy,
Short Studies in Bible Land Laws,
Municipal Agitation for Land Value Rating,
Cities Held to Ransom,
Economic Causes of War,
Housing and the Land Monopoly,
True Free Trade,
Agriculture and Land Value Taxation,
Poverty and Plenty,
Dictatorship and Democracy,

and many others.

Apparently this idea was a remedy for all the greater troubles of the world—international strife, unemployment, bad housing conditions, and all the rest of them—to say nothing of the hard struggle most of us have in trying to make ends meet. Apparently, too, this engaging remedy would enable us to get rid of the rates and taxes that industry now has to bear.

I looked with renewed uneasiness at the enthusiast standing by my side.

Was it possible that I had strayed into a haunt of fanatics ? Was I among the victims of a fixed belief, the sufferers from an incurable obsession ?

The enthusiast went on talking, and I found myself listening with interest to his remarkably clear views on the idea of which I was doubtful. There was nothing in what he said to suggest that he was suffering from an obsession.

Then another enthusiast, the author of a number of pamphlets, came in. He, too, spoke with the same clarity and without any trace of fanaticism.

Light on the Land Question

In the end, after a long talk that attracted me against my will, I decided to look into this idea and so took away all the books and pamphlets I could carry.

II. THE MAN BEHIND THE IDEA

I SOON became interested in the history of the idea. The story of ideas is always more interesting than that of Kings or Wars or most of the other events that fill our school books.

I found, as I expected, that the idea on which the proposal to tax land value is based dated back a long time. The feudal system itself recognized the common rights to land. The sovereign, as the representative of the whole people, was regarded as the only absolute owner of land, and the landholders, as tenants of the Crown, were obliged to render services or make some other equivalent return to the State for the privileges they enjoyed.

It was clear that the modern equivalent of this feudal system would be the payment of rent by the landholders to the Crown.

I found that among the pioneers of this movement which insisted that the rent of land should be a public fund were William Ogilvie (born 1736), Thomas Paine (born 1737), Thomas Spence (born 1750), Patrick Edward Dove (born 1815), and Edwin Burgess (died 1867).

It was an experience and an education in itself to find men who wrote so many years ago saying precisely what I had heard in the office of the enthusiasts.

Reading on, I found that the great school of French economists led by Quesnay and Turgot, who had influenced Adam Smith, laid it down as a maxim that all taxation on trade should be abolished and superseded by a tax on what they called the "net product" — that is, on the rent of land.

Earlier than this, in the 17th century, I found the movement inspired by such men as Winstanley the Digger, and by Sir Thomas More in the 16th century.

But it was clear that the vital life of the idea really dated from 1871, when an American writer named Henry George published a pamphlet, *Our Land and Land Policy*, which was followed a few years later by a long book of over 200,000 words entitled *Progress and Poverty*.

Now, the average novel contains fewer than 100,000 words, and I found myself asking, as I took up *Progress and Poverty*, what

The Man Behind the Idea

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Henry George should have needed 200,000 words to convince the world that he was making what he considered quite a simple proposal.

When a man finds it necessary to talk the whole evening on one point, there is a tendency to become doubtful of its merits.

So I took up the book in an impatient frame of mind. I like a man who can say what he has to say briefly and tersely with due respect for the spare time of his listener.

My doubts were not lessened when I found that Henry George was the author of the framed quotation above the mantelpiece. So this was the man who invited me to die for an idea! I turned over the pages in a mood that was still sceptical, if not indeed quarrelsome.

But I had to remember that this book has had an enormous sale in numerous editions, and been translated into many languages. Over 3,000,000 copies have been sold; it has been translated even into Chinese.

It seemed advisable, therefore, to approach it with respect.

I turned over more pages and it soon became clear that I was reading a brilliant exponent of the English language. The style was vigorous, clear, persuasive. It had the unmistakable touch of the master. It was a pleasure to read such finished and polished prose.

But this very pleasure put me on my guard.

This man, I said to myself, writes too well. I must beware of him. Clothed in such attractive language almost any idea might be made to seem reasonable. What appears to be unanswerable reasoning may be merely the sophistries of the intellectual strategist. Let me look to my defences against the assault of these massed battalions of words!

I have the same feeling when listening to Mr. Lloyd George, Mr. Winston Churchill, Mr. Ramsay MacDonald, and other politicians skilled in the use of words. They can make the worst of cases appear convincing. One must beware of them all.

If I seem to be too suspicious of the masters of words, I would remind you that I am writing as a Man in the Street who belongs to no political party and has no fixed political views. I am neither Conservative, nor Liberal, nor Labour. I have voted for each party. As I see it, each has ideas that are needed in turn.

It was in this independent spirit that I approached Henry

George, the great prophet of this movement for the taxation of land values.

I found myself becoming as interested in the man as in the idea. I wanted to know what sort of man this was who had become recognized as a prophet by millions of people all over the world.

Printer's apprentice, then cabin boy at sea, printer again, unsuccessful gold-seeker in California and British Columbia, printer for the third time, author, lecturer, he became finally a platform campaigner and world traveller fired by the single ambition of spreading the idea that dominated him.

Why ?

Was *Progress and Poverty* written primarily for gain ?

Clearly not. No man could have supposed that so long a book on so "dry" a subject would eventually have a sale of 3,000,000 copies. In fact, he made little money out of it ; he was always a comparatively poor man.

Why, then, did he write it ?

It seemed to me that if I could find the answer to this question I should know much more of the kind of man he was and be in a better position to judge the merits of his idea.

In the final chapter I found the answer to my question :—

"I have in this inquiry followed the course of my own thought. When, in mind, I set out on it I had no theory to support, no conclusion to prove. Only, when I first realized the squalid misery of a great city, it appalled and tormented me, and would not let me rest, for thinking of what caused it and how it could be cured."

Turning back to the previous chapter my eye caught this forcible indictment of land monopoly :—

"In allowing one man to own the land on which and from which other men must live, we have made them his bondsmen in a degree which increases as material progress goes on.

"This is the subtle alchemy that in ways they do not realize is extracting from the masses in every civilized country the fruits of their weary toil ; that is instituting a harder and more hopeless slavery in place of that which has been destroyed ; that is bringing political despotism out of political freedom and must soon transmute democratic institutions into anarchy.

"It is this that turns the blessings of material progress into a curse. It is this that crowds human beings into noisome

cellars and squalid tenement houses ; that fills prisons and brothels ; that goads men with want and consumes them with greed ; that robs women of the grace and beauty of perfect womanhood ; that takes from little children the joy and innocence of life's morning."

You see how persuasively he writes and with what skill he breathes life into words !

Manifestly, Henry George was no dry political economist with a distrust of everything into which sentiment enters. He was evidently a passionate, warm-hearted man devoted to the cause of human progress.

It was not surprising to find that Henry George himself may be said to have died for his idea.

He stood—for the second time in his life—as candidate for the office of Mayor of New York. His doctor hastened to warn him of the danger of the strain of fighting the campaign. He was then only convalescent from an illness, and was frankly told that the exertion would prove fatal. The fight was to last three weeks, but he died on 28th October, 1897, five days before the election. In the words of his biographer :—

" He had made his fight the theatre of the world, and messages poured in not merely from neighbouring cities and all parts of the nation, but from Great Britain, France, Germany, and Denmark, from Africa, Australia, Japan, and China, to lay garlands of tribute on his bier. To the watching world he had fought the greatest of battles and won the supremest of victories. He had risked and met death to proclaim justice."

While respecting such devotion, I had difficulty in believing that the appeal to equity which appeared to be the guiding principle in Henry George's teaching could form a scientific basis of political economy.

III. THE IDEA

IT is time we came to the idea itself.

Fortunately, it is a simple one. It is this—*ALL MEN HAVE EQUAL RIGHT TO THE USE OF LAND.*

On that simple basic idea is founded the whole theory of the taxation of land values which reaches its climax in the single tax.

Light on the Land Question

I was anxious to see how Henry George and his followers would justify the contention that private ownership of land is an outrage which cannot be defended.

Having recently bought a small piece of land and gone through all the complicated legal procedure which gives me the title to it, I had a personal as well as general interest. Standing on my half-acre I felt even less inclined to die for an idea which would practically destroy my claim to ownership.

So I read on eagerly to see on what grounds Henry George would dispute my claim.

I was not kept long in suspense. I soon came on a sentence which put his point of view in a nutshell. It was this :—

“The equal right of all men to the use of land is as clear as their equal right to breathe the air.”

No argument could be simpler. No one disputes the equal right to breathe the air. Every baby born into the world inhales it at once as a free gift. Why should that baby have no similar title to his foothold on this planet? Why should he enter the world as a trespasser?

That seems to me a fair summary of the Henry George case. He goes on to say :—

“The recognition of individual proprietorship of land is the denial of the natural rights of other individuals. It is a wrong which must show itself in the inequitable division of wealth. For as labour cannot produce without the use of land, the denial of the equal right to the use of land is necessarily the denial of the right of labour to its own produce.

“If one man can command the land upon which others must labour, he can appropriate the produce of their labour as the price of his permission to labour. The fundamental law of nature—that her enjoyment by man shall be consequent upon his exertion—is thus violated. The one receives without producing; the others produce without receiving.”

As I read on I found that if I could show that I had done anything to produce my half-acre I could satisfy even Henry George of my title to it. If by my own labour I had added half an acre to this planet he would not dispute my right to claim it as my own.

Indeed, he would stand by me in any legal fight and lend me the whole weight of his eloquence to prove that

what I had produced by my own hands or brains, or what others had produced and I had paid them for—such as my house—belonged to me.

“Show me,” says Henry George in effect, “that you have produced the air, and I will grant you the exclusive right to breathe it, or sell it. Show me that you have produced half an acre of land, and I will grant you the exclusive right to put a fence round it and to charge your fellows whatever rent you can extort from them for the use of it.”

I found that he repeatedly emphasized what he regarded as the real and natural distinction between things that are the produce of labour and things that are the gratuitous offerings of nature.

He takes, for example, a house and the site on which it stands.

He insists that the essential character of a house is that it embodies labour. It is brought into being by human exertion. Its existence or non-existence depends on man.

On the other hand, the essential character of the site of the house is that it does not embody labour. It exists irrespective of human exertion and irrespective of man. The land is the field in which man finds himself—the storehouse from which his needs must be supplied, the raw material on which the exercise of his labour primarily depends:

“The rightfulness which attaches to individual property in the produce of labour implies,” he claims, “the wrongfulness of individual property in land.”

We will leave it at that and go on to the next aspect of the idea.

It is comparatively easy to decide that no one has any moral right to claim a piece of land as his own—but how can you attain the ideal of all men having an equal right to the use of land and reconcile that “equal right” with the practical necessity of private possession and security of tenure?

I was anxious to see how Henry George proposed to get over this difficulty.

It soon appeared that there was a profound difference between Henry George’s method of approaching the problem and any idea of dividing the land into equal pieces, or bringing about State ownership and control either by confiscation or purchase out of public funds.

It was clear that Henry George dismissed as useless and unreasonable the division of the land into equal pieces. He realized

that the injustice would remain. For if in such a division I got a piece of land in Westminster, and you were allotted a piece of the same size on the Cumberland moors, *while the rent or value of land still went into private pockets*, I would have an enormous advantage over you.

I could live at ease without working. You could get no living from your land, but would be driven to find employment on other people's land where rents were charged. Clearly the equal division of the land of this country among 46,000,000 inhabitants, and the equal rights of all the people to all the land are two very different propositions.

I began to see why Henry George never tired of emphasizing the significance of economic rent and the part it plays in human affairs.

The purchase of the land from the owners—on the theory that they are entitled to compensation when common rights are established—he condemned in his most emphatic manner. He wrote :—

“Just in proportion as the interests of the landholders are conserved, just in that proportion must general interests and general rights be disregarded, and if landholders are to lose nothing of their special privileges, the people at large can gain nothing.

“To buy up individual property rights would merely be to give the landholders in another form a claim of the same kind and amount that their possession of land now gives them.

“It would be to raise for them by taxation the same proportion of the earnings of labour and capital that they are now entitled to appropriate in rent. There would not only be no relief, but the burden imposed on labour and capital for the benefit of the present landholders would be much increased.

“For one of the elements in the present market value of land is the expectation of the future increase of value, and thus to buy up the land at market rates and pay interest on the purchase money would be to saddle producers not only with the payment of actual rent but with the payment in full of speculative rent.

“The prospective increase in land values always makes the market price of land much greater than would be the price of anything else yielding the same present return. The State would virtually be taking a perpetual lease from the present landholders at a considerable advance in rent over what they are now receiving.”

He was equally emphatic, I found, in condemning outright confiscation by simply declaring all land public property and letting it out to the highest bidders.

He insisted that this would involve "a needless shock to present customs and habits of thought" and "a needless extension of governmental machinery."

Moreover, he made it clear that any such plan would break down because of the impossibility of taking the land in this way without also taking all the buildings and improvements on it, and thus confiscating for the State what belongs to the individual and must be secured to him as his private property.

It was comforting to know that he was quite happy to leave me in undisputed possession of my house and a wooden shed that I took the trouble to put up the other day.

But it was with some uneasiness that I came to his plan for dealing with my half-acre on which the house and the shed stand.

I found that he proposed to make my small foothold on this planet, and the rest of the land of this country, into common property in a simpler, easier, and quieter way than by formally confiscating it and letting it out to the highest bidders. In what was obviously the core of his argument he wrote :—

"I do not propose either to purchase or to confiscate private property in land. The first would be unjust; the second needless. Let the individuals who now hold it still retain, if they want to, possession of what they are pleased to call their land. Let them continue to call it *their* land. Let them buy and sell and bequeath and devise it. We may safely leave them the shell if we take the kernel. *It is not necessary to confiscate land; it is only necessary to confiscate rent.*"

That is to say, he has no objection to my claiming as my own the half-acre for which I paid £500 as long as I admit that its annual value—the rent I could get for it apart from any improvements—is not mine but belongs to the community and may be taken in public revenue.

Against this he insists that I am the absolute owner of the house I have built, and that neither the State nor the municipality has any right to impose a penny of taxation on it, or on anything that I earn by my own efforts.

I began to see the vital distinction between property in land and property in a house or any other result of work done on the land.

With this distinction always in mind, Henry George was led finally to make this practical proposition :—

“ What I therefore propose as the simple and sovereign remedy . . . is to appropriate rent* by taxation.”

He added :—

“ Insomuch as the taxation of rent and land values must necessarily be increased just as we abolish other taxes, we may put the proposition into practical form by proposing to abolish all taxation save that upon land values.”

In this way, he argues, economic rent being taken by the State in taxes, the land, no matter in whose name it stood, would in effect be common property, and every member of the community would participate in the advantages of its ownership.

How ?

As explained above, by concentrating taxation on the value of land and abolishing the tax-burden now carried by trade and industry—so the theory goes. The revenue from land value taxation, which would be levied by the Exchequer and the local authorities just as taxes and rates are levied to-day, but on the simple basis of land value, would meet the expenditure needed to cover the costs of good government.

Instead of being mere tenants at will, the people would become both possessors and tenants of land. Every occupier would pay rent to the people. In every case the rent would correspond to the value of the land occupied, apart from any buildings or improvements on it. Every individual as a member of the community would be equally interested in the *common ownership of land value*. The land value would provide the public services and the amenities of municipal life and progress, without any charge on individual earnings. In this way equal rights to the land would be established.

This sounded plausible—but I wanted to know how Henry George justified his claim that his proposal would raise wages.

I found that he devoted many thousands of words to arguing this vital point. Step by step he sought to prove his case by showing the relation of wages to rent. Finally he summarized his argument in this way :—

Where land is free and labour is unassisted by capital the whole produce will go to labour as wages.

* That is, the economic rent of *land*, apart from buildings and improvements.

Where land is free and labour is assisted by capital, wages will consist of the whole produce, less that part necessary to induce the storing up of labour as capital.

Where land is subject to ownership and rent arises, wages will be fixed by what labour could secure from the highest natural opportunities open to it without the payment of rent.

Where natural opportunities are all monopolized, wages may be forced by the competition among labourers to the minimum at which labourers will consent to reproduce.

That is to say, the dead weight of rent going ever into private pockets for the sole benefit of privileged people inevitably drags wages down to the lowest level.

The remedy was to throw open natural opportunities for labour and capital that are now withheld in the interests of individual landholders. This was the only way, according to Henry George, to reduce that competition among the workers for jobs which is ultimately bound, in spite of the efforts of Trade Unions, to keep wages down.

Natural opportunities can be made available to all on equal terms by taking rent in taxation for public purposes, when it will pay no one to hold valuable land out of use. By putting land into use you increase the demand for labour. By giving access to natural opportunities, you reduce the competition for jobs. By increasing the demand for labour and reducing the competition for jobs, you raise wages. That is the theory.

Henry George defined real capital as labour products used for the production of more wealth—factories, machinery, tools, seed, stock-in-trade, and so on—as distinct from the spurious capital that gives the power to exploit under one form or another through monopoly or privilege. He maintained that fair and full returns, not only for labour but also for capital as he defined it, would result from his proposal to tax land values and untax industry.

As I read on, I discovered a third aspect of his idea—the cheapening of land and indirectly of houses that would result from forcing more land into the market.

Finally I found a fourth—that any increase in the value of land brought about, say, by a new railway or the development of a

town, would, as a matter of course, be assessed for taxation like the value of all land, whether falling or rising, and would be taken directly for the benefit of the community.

The whole idea, in its broad outline, was now before me. I was asked to believe that it would solve most, if not all, of our economic problems. Unemployment would vanish, real wages would rise, slums would give place to happy sunlit homes, poverty would disappear.

I was asked also to accept the principle that the State and the municipality would be justified in taking rent—the value of land—by taxation for the benefit of the community without compensating the owners.

At first the idea had given me a considerable shock; but by this time I began to realize what compensation there would be in the financial relief conferred on the land-user and on trade and industry by abolishing the taxes on capital and labour.

IV. SOMETHING IN IT?

THE more I looked into the idea, the more difficult it became to dismiss it.

It grew on me—against my will. I began to feel there might be something in it.

At first glance the merits of the scheme seemed to be exaggerated. Excessive claims appeared to be made for it. Henry George seemed to have been carried off his feet by his enthusiasm.

That was how I felt about him.

But when I had gone more closely into it, and thought of the condition of the country under the present system, I had less difficulty in believing that his picture of the transformation that could be brought about by land value taxation and the abolition of other taxes was as fanciful as it had at first appeared to me.

Here was a new light on the subject.

I thought of the slums, of the high cost of housing, of the great army of unemployed, of the smallholders who find it impossible to make ends meet because of the burden of rent and the poverty of would-be purchasers of farm produce—and then I thought of the great landowners who do no work but draw immense sums every

year from land that has been given its value by the presence and activities of the community..

I thought of the high proportion of their small wages that the ordinary working men have to pay in rent and rates.

I thought of the speculators who actually buy land not to use but to hold up (that is, to prevent its use) till the public need for it becomes so urgent that the price soars high enough to tempt them to sell.

I thought of the money that local councils have to pay for land needed, say, for a public park; of the obstacle put in the way of railway or tube development by the fantastic sums demanded for land over which the lines must pass; of the burden on industry of crushing taxation.

Was it possible that these injustices and difficulties were due to the people having been robbed of their inheritance in the land?

I took up a leaflet entitled *Sheffield's Toll to Land Monopoly*. and found that it gave figures from an official report by the city council, issued in 1928, on the rating (local taxation) of land values.

They were certainly impressive. They revealed the glaring contrast between the rateable value of land under the existing system and the price that has to be paid for the same land when it is needed in the public interest.

Over 30 cases are given in the leaflet, but one will serve to illustrate what happens.

The council needed 14 acres on which only £4 10s. was being paid a year in rates, the annual rateable value being put at only £30. But when the council acquired the land in the public interest they had to pay £6,249 for it—or 208 times the annual rateable value.

Now, capital or selling value is seldom put at more than 20 times the annual value. Even if you put it at 30 times, the corresponding capital value or selling price of these 14 acres was only thirty times the rateable value—that is, £900.

How was the owner able to get £6,249 for land which, *judged by its rateable value*, was not worth more than £900?

The answer is simple.

Under the existing system land is not rated on its real selling value but on the *use* that is made of it. If *no* use is made of it, it is not rated at all.

These 14 acres in Sheffield were rated as agricultural land, and because the owner made *some* use of them—by cutting the grass or grazing stock on it—he was rated at £30 and had to pay £4 10s. a year. Thus he allowed it to be inferred that the capital or selling value was £900 at the most.

Actually, as it appeared when the city wanted to buy the land, its real value was far higher. For years the landowner was able to enjoy the privilege of paying a trivial sum in rates on very valuable land; and when the time came to sell, he was able to take further advantage of his position by getting a price about seven times greater than he was entitled to on the basis of the rateable value.

Under the existing system, therefore, the landowner is allowed to have it both ways.

I could not help agreeing that under such a system both the community and the citizen are treated unfairly. And I could not help agreeing also that the Derating Act, by making it easier to hold up land, has made the position worse. Under this Act (passed in 1929) the Sheffield landowner would not even have had to pay £4 10s. He would have paid nothing.

It was not difficult to agree that the holders of unused or under-used land should not be allowed to levy toll on a community when it needs to expand.

It was impossible to escape admitting the injustice of first robbing the community of rates that should be payable on such land, and then robbing them a second time by compelling them to pay a large sum for values that they had themselves created.

I was not surprised to find that hundreds of local councils in Great Britain had declared themselves in favour of the rating of land values and had asked time and again for legislation that would make it possible.

Neither was I surprised to find that Mr. Winston Churchill put the case against the land monopolist with his usual downright-ness in the days when he was on the Radical platform.

In 1909, when he said bluntly to the land monopolist :—

“ This property of yours might be put to immediate use with general advantage. It is at this minute saleable in the market at ten times the value at which it is rated. If you choose to keep it idle in the expectation of still further unearned increment, then at least you shall be taxed at the true selling value in the meanwhile.”

Twenty-seven years ago—and still there is no tax on land values !

There are people who argue that it is unfair to single out unearned income in the form of rent from other sources of unearned or undeserved profit. Why penalize the landowner, they ask, when you allow a man to benefit from a rise in stocks and shares ? When you leave to a doctor or a lawyer increased profits due to the growth of population, when you make no attempt to take the greater part of profit made on the sale of a picture that has grown in value by the passing of time ?

I found that Mr. Churchill had supplied the answers to all these objections.

Pictures, he pointed out, did not lay a toll on anyone's labour ; they did not touch enterprise or production at any point ; they did not affect any of those creative processes on which the material well-being of millions depend.

As for stocks and shares, if a rise conferred profits on the fortunate holders far beyond what they expected or indeed deserved, nevertheless Mr. Churchill argued that profit had not been reaped by withholding from the community the land which it needs, but on the contrary, apart from mere gambling, it had been reaped by supplying industry with the capital without which it could not be carried on.

Very true—but it may perhaps be pointed out in passing that a large element of land value often enters into the stocks and shares with which Mr. Churchill was dealing. The companies whose “ property ” is thus bought and sold are mostly landowners enjoying the privilege of appropriating the rent that Henry George would divert to the community. Moreover their profits have to be considered in the light of the fact that there is a labour market to call upon in which wages are driven down by the all-embracing land monopoly. There is a real connection between the fortunes made on the Stock Exchange, the land monopoly, and the “ over-supply ” of workers seeking employment.

As for the doctor or lawyer who benefits from the growth of population, Mr. Churchill pointed out that they give service in return for their fees. If the service is too poor, or the fees too high, other doctors and lawyers can come freely into competition.

In such cases, he insisted, there was constant service, there was constant competition, there was no monopoly, there was no injury to the public interest, and there was no impediment to the general progress.

No one could have put it better.

You have only to compare the position of the doctor or the lawyer with that of the landowner who sits at home while the value of his land rises, owing to the activities of other people, to realize the essential difference between income from landowning and other sources of income.

It seemed to me surprising, as the facts of the case became clearer, that nothing had been done to get rid of the evils of land monopoly in this country.

I wanted to know more of attempts that had been made to apply Henry George's idea, and of what had been done in other countries.

V. PROPOSALS AND BEGINNINGS

AN idea is never really happy in the British Parliament. There is no place in which it has a harder struggle to survive.

You have only to read the history of the idea of the taxation of land values to realize this.

As long ago as 1885, a Royal Commission on the Housing of the Working Classes reported that a local tax on land values would remove one of the chief obstacles to housing by forcing more land into the market at a lower price. They recommended that Parliament should pass legislation to make this possible.

Nothing was done.

In 1901 the minority of a Royal Commission that investigated local taxation made out, in a separate report, what appeared to be an unanswerable case for urban site value rating.

Nothing was done.

Proposals and Beginnings

19

From 1902 to 1905 Bills for the local Rating of Land Values got a Second Reading in a Conservative House of Commons.

Nothing was done.

Local Councils who found themselves, as in the case of Sheffield, having to pay excessive prices for land, and voicing the injustices of the present rating system, kept the idea alive and repeatedly demanded powers from Parliament to enable them to impose rates on land values.

Nothing was done.

In 1906 the General Election returned to power a Liberal Government pledged to the taxation and rating of land values. Sir Henry Campbell-Bannerman said emphatically :—

“ Why should we remain satisfied with our ring fences which in the great centres of population are put round the town beyond which the people must go to have freedom to build ? Nothing, in my opinion, short of the taxation of land values, will suffice to get to the root of this great matter so vitally essential to the health and prosperity of the world.”

And again :—

“ You and I side with the public interest. Let the value of land be assessed independently of the buildings upon it, and upon such valuation let contribution be made to those public services which create the value. This is not to disturb the balance of equity but to redress it. There is no unfairness in it. The unfairness is in the present state of things. Why should one man reap what another man sows ? ”

The Land Values (Scotland) Bill 1906 was passed by the Commons and rejected by the Lords in 1907.

No legislation succeeded in reaching the Statute Book.

In 1909 Mr. Lloyd George gave countenance to the idea in his famous Budget. He proposed to value all the land of the United Kingdom, apart from improvements, to impose an increment duty of 20 per cent on increase in land values, 10 per cent on the value of reversions, $\frac{1}{2}$ d. in the £ on the value of urban undeveloped land, and a duty of $\frac{1}{2}$ d. in the £ on ungotten minerals which was altered into a tax on mineral royalties.

These proposals, with the exception of the provision for valuing all the land, did not satisfy the advocates of the Henry George idea.

The "land value duties" did not represent for them the "taxation of land values." In their eyes these duties were but mischievous attempts to tax certain classes of land holders in a discriminating way. This is not an afterthought; it was stated at the time.

What the followers of Henry George welcomed in the "People's Budget" was the provision for land valuation as the basis for a straight tax on land values.

They found that it was this valuation which the landed interests feared and disliked most. The attack on the "land value duties" which led to their repeal by a Coalition Government in 1920 was really, it appeared, an attack on valuation.

The attack succeeded. The valuation of the land was not completed, and in 1923 the rest of the land clauses in the People's Budget were destroyed by a Conservative Government. The revenue that had been collected was actually paid back to the landowners.

In 1924, with a Labour Government in office, Mr. Philip Snowden, as Chancellor of the Exchequer, explained that nothing could be done in the first year, but he promised that his next Budget would deal with the taxation of land values. The Labour Government did not last so long. The Conservatives returned to power.

Seven years passed.

In April, 1931, Mr. Snowden, again Chancellor of the Exchequer, introduced a Budget, providing for a tax of one penny in the pound on the capital value of land. Minerals were not included, and agricultural land was taxed only on the difference (if any) between its value for agricultural purposes and its value for other purposes. Even this modest beginning was too much for some of the Members upon whose support the Government depended, and before the Finance Act was passed it was weakened by further compromises.

The Conservatives fought the proposal bitterly. At Southampton on 14th June, 1931, Mr. Baldwin said: "If we get back to power that tax will never see daylight."

In August the foreign exchange crisis became acute, and the Labour Government fell. In November the general election resulted in an overwhelming Conservative majority in the House of Commons. The new Government promptly suspended and in 1934 repealed the Land Value Tax clauses of the Snowden Budget. Mr. Ramsay MacDonald was still Prime Minister. He did not attend the House of Commons to defend this destruction of the

work of his Labour Government. But in a letter to the United Committee for the Taxation of Land Values he said: "It may be argued that the step which has been taken indicates the power of certain interests." Certainly no one could know better than the Prime Minister what motives had determined this action.

What will be done now ?

The answer is in the hands of the Man in the Street. It is his business. It is for him to make his influence felt if practical expression is to be given to the legislation so often promised.

So much for Great Britain. When I turned to other countries, I found there was a different story to tell. A start had been made through local taxation in several parts of the world to apply the land value policy. In a number of places considerable progress had been made in imposing local rates on land value for some or all the local revenue, and reducing or remitting the rates on buildings and improvements.

Examples were New Zealand—the majority of boroughs and many counties; the Transvaal—all towns and village councils; two Australian States—all local authorities; several other Australian States—a number of towns and shires; the Western Canadian Provinces—towns and country districts with rates partly or wholly on land values; and towns like Durban, in Natal; East London, in the Cape Province; Kroonstad, in the Orange Free State; Salisbury and Buluwayo, in Rhodesia; and Pittsburgh in Pennsylvania.

I was specially interested to learn that most of the capitals and biggest cities in the British Dominions levy rates on land values and relieve buildings or exempt them entirely. Such are Wellington, Sydney, Brisbane, Pretoria, Johannesburg, Durban, Victoria, Vancouver, Regina, Edmonton and Winnipeg.

The outstanding States, however, in the British Dominions that have begun to put the idea into operation are New South Wales and Queensland.

In Sydney, N.S.W., the whole of the local rates (except for water and sewerage) are raised by a levy on land values, and nearly the whole of the local revenue of New South Wales is raised in the same way. Throughout Queensland all local taxation is levied on land values, and for more than a generation rates on houses and other buildings have been unknown. The local authorities do not even value them. Only the land value is assessed.

Light on the Land Question

In Denmark valuation of the whole country is revised every five years, showing separately the capital value of land apart from improvements or buildings. Under the Act of 1922 a small and uniform national tax is levied annually on the assessed value of all land. Under the Act of 1926 local taxation is now levied at a higher rate on the value of land alone than on buildings and improvements which is in the direction of the Henry George proposals. The associated smallholders, peasant proprietors numbering 80,000, are in the forefront of the political forces in favour of this reform.

So one could go on—but this story of the land value policy in operation would take too much of my space. It can be found more fully in several of the books and pamphlets published by the United Committee.

Looking through records of the application of the policy abroad, I could find no trace of any bad results. On the contrary I found a mass of striking official testimony from Mayors, Town Clerks, and others, which showed that where a beginning has been made with Henry George's policy the results have been remarkably good. In Denmark—where most progress has been made, and land monopoly is not allowed to fasten its grip on the community as in other countries—the prosperity of the people, revealed in a level of wages higher than in any other European country, is a significant fact.

But followers of Henry George, I found, are not yet satisfied with the progress made by his idea. They consider that in some places where it has been started it has not been given a fair chance to operate.

In Australia, New Zealand, and Canada high tariffs, it is argued, have done more to hamstring industry than the partial application of land value taxation has done to aid it.

The slogan of the Henry George followers is "Land Value Taxation and Free Trade." The full Free Trade gospel is preached by them in their demand for *freedom to produce* as well as to exchange.

In no part of the world, they insist, has legislation gone far enough in the taxation of land values and in the so-called "land taxes" for *State* purposes in Australia and New Zealand the application of the principle has been vitiated by exemptions and graduations.

Advocates of the land value policy condemn tariffs everywhere, and maintain that the advance in the direction of land value taxation, while of importance as showing what can be done, is only a small instalment. They assert that the whole value of land belongs to the community and they would abolish all rates and taxes now levied on buildings, trade and industry..

Can it be done ?

VI. RESULT OF THE INQUIRY

IN trying to arrive at conclusions on this fascinating problem—made all the more so by having both a moral and an economic aspect—I thought it would make things easier for me if I first jotted down on a piece of paper a list of what appeared to be the injustices of the existing system.

This is what I wrote :—

IT IS UNJUST

That a man who wants to work on the land should have to pay so much for it that he can't make a living.

That a man who builds a house or shop should not only have to pay very dearly for the site, but also have rates and taxes heaped on his building and his business.

That taxpayers and ratepayers should have to pay millions a year for housing the poor largely because owners of the land on which they have to be housed are able to extort an excessive price.

That there should be over 2,000,000 unemployed while many thousands of acres are going out of cultivation largely because the prices and rents of land are too high, and because landowners can keep sites vacant and land idle, or make it an exclusive pleasure-ground, and pay nothing or only a trivial sum in taxation.

That people should be crowded together in slums mainly because they can't afford, even with the help of subsidies provided by their fellow citizens, to keep a roof above their heads. Where rents are lower on the outskirts the advantage is counteracted by the increased cost of travelling to work.

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- That I should have to pay more in rates if I add another bedroom to my house while the owner of vacant land across the road can hold it up for years without paying a penny till the price is high enough to induce him to sell.
- That one man should have to work about eight hours a day, deep down underground, for less than £3 a week, while another man—the landowner—should be able to draw from the same land many thousands a year in rents, mining royalties, and wayleaves, without doing anything.
- That the owner of land on the outskirts of an expanding town should be able to extort from the ratepayers ten, twenty, or thirty times more than he gave for the land.
- That the owners of land needed for a new tube or railway or arterial roads and bridges should be able to extort money in the same way.
- That as a town expands, and central sites become more and more valuable, the ground landlords should be able to pocket these huge increases, or hold the land to ransom when leases expire and so hamper trade.
- That every improvement made by the community should leave wages where they are, while enriching people who produce nothing.
- That for every improvement by the individual he should be penalized by being called on to pay additional rates and taxes on such improvements.
- That the millions spent, for example, on making the Thames Embankment should have enabled a few landowners to make fortunes at the expense of their fellows.
- That the cost of production of every article should be largely increased by the rates and taxes levied on industry.
- That the working man should have to pay as much as one-third of his weekly wage in house-rent while the proportion paid by the richer man is far less.
- That the farmer should have no security of tenure but be at the mercy of the landowner, while in the interests of hunting or mere caprice leases often forbid the best use of land for genuine agricultural purposes.
- That there should be any hold-up of land from which building materials are drawn—an additional cause of house-famine and high rents.

So the list grew. Once I had started I had difficulty in stopping. There seemed to be no end to the injustices due to the land monopoly. The effects of it appeared to run through the whole of our national life.

I tried to think of some comparable toll levied on the community.

There was war, of course. That levied a toll, and some people made money out of it. But clearly it could not be put in the same class as the land toll.

There were all the social services, such as poor relief and unemployment benefit, which had to be maintained because of low wages and want in the midst of wealth. They, too, levied a toll—but clearly it was impossible under present conditions to carry on without them.

I failed to think of anything that could be compared with the grasping hand of the land monopolist.

I then had to decide whether it was necessary to accept the whole of Henry George's idea.

I began to think again of my half-acre, and of how the scheme for handing over to the community the rent I could get for it would affect me.

It was obvious that its selling value would practically vanish. In that sense I should certainly be a loser. I should also have to pay £25 a year to the community for the privilege of being able to call my half-acre my own.

I was anxious to see how Henry George would meet this case. This is how he deals with it :—

“Take now the case of the homestead owner—the mechanic storekeeper, or professional man who has secured himself a house or lot, where he lives, and which he contemplates with satisfaction as a place from which his family cannot be ejected in case of his death.

“He will not be injured ; on the contrary, he will be the gainer.

“The selling value of his lot will diminish—theoretically it will entirely disappear. But its usefulness to him will not disappear. It will serve its purpose as well as ever. While, as the value of all other lots will diminish, or disappear in the same ratio, he retains the same security of always having a lot that he had before.”

You see how ingenious he can be ! And he goes on :—

“He is a loser only as the man who has bought himself a pair of boots may be said to be a loser by a subsequent fall in the price of boots. His boots will be just as useful to him, and the next pair of boots he can get cheaper.

“ Other things considered, he will be much the gainer. For although he will have more taxes to pay on his land, he will be released from taxes on his house and improvements, on his furniture and personal property, on all that he and his family eat, drink, and wear, while his earnings will be largely increased by the rise of wages, the constant employment, and the increased briskness of trade.

“ His only loss will be if he wants to sell his lot without getting another, and this will be a small loss, compared with a greater gain.”

Was I convinced ? Was I as completely convinced, I asked myself, of the justice of this proposal as of the injustices of which I had made a list ? I could not dispute the claim that land value belongs to the community, nor the view that it is wrong to tax houses or anything else produced by labour ; but how about the idea that land values would provide all the revenue necessary for public purposes ?

I doubted if Henry George, if he were living now, would insist, as he did in 1879 and till his death in 1897, that the whole of the expenditure of this country, both local and national, could be met by land value taxation.

At the time he wrote the world was a comparatively reasonable place.

It had not slaughtered ten million men or blown thousands of millions of capital into the air. It had not piled up huge national debts. There were no expensive unemployment insurance schemes or old age pensions.

Armies and navies were comparatively cheap. No country had to raise a national revenue, as we have to, of over £800,000,000—to say nothing of another £180,000,000 of local revenue.

His world was quite a different one ; and I found it difficult to believe that he would have suggested raising the whole of this revenue by land value taxation alone.

No doubt the value of the land of this country has increased considerably since he wrote—but has it increased enough ?

To make it possible to raise the whole of the revenue by merely taking the annual value of the land, the true economic rent would have to be £1000,000,000. Is it so much ?

No reliable figure exists. I have seen estimates of the *selling* value of all the land of Great Britain, and the highest is £10,000,000,000, which is based on the ascertained fact that the selling value of the land of all New Zealand (apart from buildings

and improvements) is £315,000,000, equivalent to £206 per head of the population.

The selling value per head of the land of Great Britain is not likely to be less, and if you multiply our population of 46,800,000 by that figure, you get nearly £10,000,000,000.

Further, the assessed selling value of the land on which the City of New York stands is over £1500,000,000. In Greater London this is not likely to be less. Assuming that London land is worth £1500,000,000, it appears to be credible that the land value of the whole country should be seven times as much, i.e., upwards of £10,000,000,000.

But, even so, this selling value is equivalent to an annual value of only £500,000,000, while the sum we need annually for public expenditure is at least £900,000,000.

At best, it seemed, only half the expenditure of this country could be raised by land value taxation and rating.

Presumably, therefore, I argued, as Henry George would not be able to offer me the remission of all other taxes and rates in return for taking the whole of the annual value of my half-acre, and practically destroying its selling value, he could not expect me to agree to his proposal as a whole.

But at this stage two important points occurred to me.

First, I remembered that these estimates had been based on the *selling* value of the land, which is an *untaxed* value. That is to say, it is the amount which the owners would get for the land if each piece were sold *subject to existing rates and taxes*. It is an enormous sum, but it does not represent the full value of the land; it represents only that part of the value which the landowners are able to put in their pockets.

Obviously a large portion of taxation to-day does come out of the rent of land, though in a crude and unfair way—that is, from land that is used and *only* as it is used. Income Tax on ground rents, for example, naturally lessens the selling value of land subject to that burden.

It follows, therefore, that if we are to put “land value” on one side of our budget and “public expenditure” on the other side, we must enter the whole land value and not just that part of it which has a certain selling value.

Unhappily there appeared to be no possibility of arriving at such an estimate. But in spite of the absence of this figure of the “whole land value,” I found myself, after considering this aspect

of the problem, more willing to agree that the merits of the case were not affected by what appears at first sight to be a gap in the argument.

At any rate, I could see the force of the view that *we should concentrate taxation as far as possible on land value and get rid as far as possible of the taxes on trade and industry*. This means that Income Tax and Death Duties would also disappear.

Further, I remembered that a great part of our expenditure goes in unemployment pay, housing subsidies, small-holding subsidies, etc. I remembered also the enormous sums that are given year by year in organized charity to mitigate distress.

And I had to confess that no Government has been able to make any impression on unemployment—that insidious malady from which the country is suffering acutely.

The 1929 Derating Act, by taking rates off some land and buildings, chiefly at the expense of the motorist and the ordinary taxpayer, was expected by its authors to make an impression—but the number of unemployed has risen steadily since it was passed. According to Lord Snowden, it added £34,000,000 to indirect taxes. The inevitable effect has been to reduce real wages, to put more money into the pockets of the wealthy landowners and to encourage the tendency to keep land out of use in the hope of higher rents or prices.

Schemes for spending £100,000,000 over a number of years on road-making and other work have similarly failed.

Protection—the only other remedy suggested—has failed completely in every country where it has been tried.

Clearly it was necessary to consider the land value policy in relation to unemployment and low wages.

Eventually I found it necessary to agree that the great problems with which we are confronted cannot be detached from the system under which the land monopoly is allowed to flourish.

I came, therefore, to this position—that, aside from the question whether our *present* national and local expenditure of at least £900,000,000 could be wholly raised from land value taxation, the point to be emphasized was that the *economic* effect of the proposal would be to reduce public expenditure by hundreds of millions a year—that part of our public expenditure necessary to-day to supplement wages that are at or below subsistence level.

Present-day taxation, I realized, is so levied as to restrict production, and it has to be screwed up more and more to dispense subsidies or pay for costly pro-poverty expedients in the attempt to undo the evil it causes.

“With all the burdens removed,” I read, “which now oppress industry and hamper exchange, the production of wealth would go on with a rapidity now undreamt of. . . .”

“Give labour a free field and its full earnings; take for the benefit of the whole community that fund which the growth of the community creates, and want and the fear of want would be gone. The springs of production would be set free and the enormous increase of wealth would give the poorest ample comfort.”

Who could dispute that?

When treating a sick patient, a doctor is now rarely content merely to give him a bottle of medicine. He tells him that he must live under more healthy conditions, that he must cut down this and that, and generally give his body a chance to respond to the treatment. Otherwise the doctor will not be responsible.

It was easy to imagine Henry George saying to this sick country: “If you follow my advice, it will mean leaving behind you the unhealthy, enervating luxury of land monopoly, the suffering that springs from it, and the anomaly of having great wealth on the one hand and extreme poverty on the other. Take my advice, act with courage, and I promise you that before many years you will be strong and fit again.”

This country cannot prosper while the land monopoly continues to exact its ruinous toll. Free the country from its throttling grip, and we would at once breathe more freely. New life would flow into the national activities, and with the burden of land monopoly would go many other burdens that now weigh us down.

By these steps it became clear to me, after so sceptical a beginning, that in our enormously increased national and local expenditure may be found not an argument against the Henry George idea, but a convincing argument for it.

Our difficulties are now too great to allow us to trifle any longer with the taxation of land values and the untaxing of industry; and my vote, for what it is worth, will certainly go to the political party that *will* put it into practice.

Light on the Land Question For the Student

- PROGRESS AND POVERTY. By Henry George. Cloth, 1s.
SOCIAL PROBLEMS. By Henry George. Cloth, 1s.
THE CONDITION OF LABOUR. By Henry George. Cloth, 1s. net.
(Any of the above can be had in extra quality rexine binding at 2s.)
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UNIVERSITY STUDIES
Number 2.

LOUISIANA STATE UNIVERSITY STUDIES

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No. I THE COMMUNITY PROPERTY SYSTEM OF LOUISIANA WITH COMPARATIVE STUDIES

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No. II LAND PROBLEMS AND POLICIES IN THE AFRICAN MANDATES OF THE BRITISH COMMONWEALTH

BY
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WITH FOREWORD BY
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No. III THE RECOGNITION POLICY OF THE UNITED STATES SINCE 1901. FIRST EDITION 1928. NEW AND REVISED EDITION 1931.

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LAND PROBLEMS AND POLICIES
IN THE
AFRICAN MANDATES OF THE BRITISH
COMMONWEALTH

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TO MY MOTHER AND FATHER
With Love and Appreciation

PREFACE

In making this study of the land problem in the African mandates of the British Commonwealth, I have been particularly impressed with the vast field for research which the development of the mandates system has opened to the student of international relations. For example, there arise the interesting questions of the relation of administration under this plan to inter-racial conflicts, industrial development, and other matters of social, political, or economic importance. I hope that in the near future I may be privileged to undertake a more comprehensive discussion of some other phase of these important problems.

A word of explanation is perhaps necessary regarding the use of the term "British Commonwealth" in this volume.

There is no other expression which gives quite the meaning that is desired. The fact that two Mandatory Powers, Great Britain proper and the Union of South Africa, are involved in the administration of the four mandates considered precludes the employment of the term "British." Nor does "British Empire" carry quite the connotation which is necessary. It will be seen, therefore, that "British Commonwealth" is the only term which is at all satisfactory.

I wish to express my appreciation of the advice and encouragement which have been given me during the preparation of this volume. Special thanks are due to Professors Charles A. Timm, O. Douglas Weeks, and Nina Lee Weisinger, of the University of Texas; to Professor Charles W. Pipkin, of Louisiana State University, whose friendly interest has made the publication of this work possible; and to my wife, whose aid in the preparation of maps and in the revision of the book, has been invaluable.

NICK P. MITCHELL, JR.

*Louisiana State University,
Baton Rouge, Louisiana,
February 7, 1931.*

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FOREWORD

International co-operation is to-day a recognized necessity among all nations. The forms that it may take vary, but the essentials of compromise, persuasion and debate are part of the daily work of every government of the world in its dealings with all other governments. Any freedom in this century for the United States and for all the world is to be found only in co-operation. The organization of peace is a duty which the modern democratic nation cannot escape without serious consequences to the peace of the world and to the security of the nation itself. It is in this organization of peace that the citizens of the United States are taking an increased interest, and it is in the results of this international co-operation that they see a larger security for their nation. The other way is national suicide and international anarchy. Those who are serving most wisely their own country and the future peace of mankind are patiently trying to strengthen the institutions of common understanding among men. It is in the way of understanding that the new economics and the new politics of the United States, of Europe and of the world are finding fresh means of expression.

There is perhaps no fact in the development of international co-operation since the war which is more significant of the new machinery of conference and publicity and consultation at Geneva than the growth of the international administration of the mandated areas under the supervision of the League of Nations. The lessons which are being learned by the nations of the world in the use of this machinery with regard to the colonial regions are among the achievements of the new order which was inaugurated when the Covenant of the League of Nations was accepted. It is the beginning of a new international policy of trusteeship as opposed to exploitation, and also there is being developed a system of administration in international government. These two facts illustrate the difference between the old order of colonial government before the years of the war and the established system of control through international agencies which was set up by the League of Nations. A new philosophy of international relations is the result.

The Covenant of the League of Nations in Article 22 defines the principle of the Mandates System and the organization of this new international control of one of the major problems of world politics. The idealism of Woodrow Wilson and the suggestion of General Smuts with reference to certain detached European areas—that they might be entrusted to States who should be responsible for the conduct of their administration to the League of Nations—were the sources of the mandatory system. The language of the first paragraph of the article dealing with mandates is worth recording here. It is: "To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilization and that securities for the performance of this trust should be embodied in the Covenant." Here indeed was something new in wars and in peace making! In spite of a bitter and shabby peace there was talk of "a sacred trust of civilization," and in time this may be all that is remembered about the peace.

The test of the capacity of modern democratic nations to accept the well-being and development of peoples as "a sacred trust of civilization" is in the successful administration of the system of mandates which was provided for in the Covenant of the League of Nations. The practical aspect of the mandates system is of great importance because it can be a most effective instrument in creating the conditions of good-will and justice which will help to maintain the peace of the world. For this reason the history and the working of the mandates system is of interest to every nation and is an important part of the machinery of international conference at Geneva. And in the working out of this great experiment in colonial government and in international co-operation the people of the United States must feel a keen sympathy. This nation had an important part in the shaping of the international policy with regard to mandates through the leadership of President Wilson, who had, as President Edwin A. Alderman of the University of Virginia said, "the heart to match the moral hopes of mankind against their passions." This is a noble saying about Woodrow Wilson, and the truth of it becomes plainer as men attempt "to substitute for the arbitrament

of war and death the reign of law." The validity of democratic ideals and institutions throughout the world have a meaning for the authority of such principles in this country, and the success of the mandates system must always be watched with the keenest interest in the United States.

The best method of giving practical effect to the principle of international trusteeship was declared by the Covenant to be that "the tutelage of such peoples should be entrusted to advanced nations who, by reason of their resources, their experience or their geographical position, can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League." Thus was embodied the principle of international responsibility and there was begun the new experiment of administering colonial areas with reference to the well-being and development of the peoples concerned and under the supervision of an international authority. Here was something new in world affairs.

There were fourteen different mandated territories, divided into three groups. There were the Class A Mandates in the Near East, the Class B Mandates in Africa, and the Class C Mandates in the Pacific and Africa. The total area of the mandated territory is 1,244,000 square miles, the population is approximately 18,000,000, and the annual trade is nearly \$200,000,000. The future importance is of course difficult to forecast, but the future of the mandated areas is closely connected with the peace of the world. The significance of this able study by Mr. Mitchell lies in the fact that he presents concrete evidence on one of the most important administrative problems arising in the mandates, rather than merely acknowledging that such a problem exists. It is an attempt made with care and understanding to consolidate material from many scattered sources, bringing together not only the chief questions, but the opinions on these questions held by leading writers in the field.

This study makes plain the achievements of the League of Nations in establishing a system of international administration. The administration of the mandated territories under the League of Nations has provided exceptional opportunities for the whole machinery of international control to be better understood and the possibilities that are created for fuller cooperation among the nations that are using the agencies of international adminis-

tration are more widely known. It is difficult to overestimate the value of this phase of the practical work of the League of Nations. In every case of mandate, the Mandatory renders to the Council of the League of Nations an annual report in reference to the territory committed to its charge. The Covenant provides further that the degree of authority, control or administration to be exercised by the Mandatory shall, if not agreed upon by the Members of the League, be explicitly defined in each case by the Council. The administrative machinery is completed by the Permanent Mandates Commission, constituted to receive and examine the annual reports of the Mandatories, and to advise the Council on all matters relating to the observance of the mandates.

There has never been a time when the will for peace was more insistent. But this is not enough. The future of peace demands the organization of interests and the use of agencies of control; and never before have nations been able to co-operate continuously in planning economic and political policies with a view of ensuring both the well-being and development of those colonies and territories inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world. This is through the instrumentality of the League of Nations and it means a new epoch in international co-operation and international administration. The League of Nations through publicity, information, conference and consultation, has set up the machinery through which it is possible for modern democracies to contribute to the enduring foundations of world peace.

CHARLES W. PIPKIN.

CHAPTER ONE

MODERN AFRICAN QUESTIONS AND THEIR BACKGROUND

1. AFRICAN PROBLEMS AND THE AWAKENING INTEREST IN THEIR SOLUTION

The average citizen of any modern nation, sitting back complacently among the many little comforts and luxuries which those of an advanced civilization consider almost as necessities, thinks very rarely of the native of Africa. And when, for one reason or another, he does take the time to give a passing thought to the African aborigine, he considers him more as a subject for the activities of religious missionaries than as a human being, the protection of whose worldly welfare, from a practical standpoint at least, is of more vital importance to the native than is that of the spiritual well-being of his soul.

It is evident, however, that in this day and time there is developing a widespread interest in the continent of Africa and its inhabitants. As a result of stirring addresses by missionaries returned from the field of action, and various articles written in defense of native rights, the everyday man is beginning to realize that heinous crimes have been, and are being, in some regions, even now, committed against the indigenous African races by their fellow-men.

Among the pages of history there are to be found the stories of many such abuses; and it is these records which are in large part responsible for the growing demand that the African native be given justice. For a most striking example of the unfair methods employed by the white man in his dealings with the black, one has but to read the story of that remarkable transaction in the rubber industry inflicted by Leopold of Belgium upon the unsuspecting and helpless natives of the Congo region. For thirty-three years this monarch ruled with an iron hand, his policy being to make all vacant lands the property of Leopold.¹ There was established a state monopoly on ivory and rubber, the natives being permitted to sell these goods only to the favored

¹ Moon, Parker T., *IMPERIALISM AND WORLD POLITICS*, chap. v., p. 82.

company, or to others authorized by it to buy. In addition, each native village was assessed a tax. To collect this, there was organized a native army, which later came to be very oppressive and brutal. Concessions were then granted to corporations for the exploitation of the territory, Leopold reserving half of the stock in each concession. Various estimates have been made as to the profits which the king of the Belgians derived from this undertaking; but it is generally agreed that the fortune which he garnered here totalled at least twenty millions of dollars.² In fairness to Leopold, however, and without attempting to deny that the native inhabitants were very cruelly and unjustly treated, it must be said that the abuses perpetrated on the residents of the Congo region were probably no worse than those found throughout the history of tropical colonization as a whole. Further, it must also be stated that the weight of evidence indicates that Leopold invested the fortune which he made in the Congo almost entirely in beautifying and developing the Belgian nation.³

This illustration clearly establishes the fact that there exists a real African problem, the solution of which undoubtedly will constitute one of the outstanding topics in international fields during the years to come. This great problem of course has its subdivisions; for example, there are the problems concerned with labor, those which deal with the religious and spiritual aspects of native life, and those which involve the development of African industrial and commercial interests. But there is another sector of the fundamental problem which, to the minds of many, should be regarded as the root of the whole question. That sector, namely, the land problem, in all of its varied phases, has been chosen as the subject of the present volume.

But, in turn, the land problem itself may be divided into several constituent elements, each of which will be given as comprehensive a discussion in the course of this work as the material available will permit. In the first place, there is the matter of land tenure. Mr. E. D. Morel has admirably stated this phase of the problem in the following comment:

Are the peoples of Africa to be regarded as land-owning communities? Or is native tenure in land to be swept

² *IBID.*, pp. 79-85.

³ Lichtervelde, Louis de, *LEOPOLD OF THE BELGIANS*, pp. ix-x.

away? That is the fundamental issue, because in that issue is involved the destinies of the African peoples, and the whole character of the future relations of Africa with the outer world.⁴

In this portion of the discussion, there will be given as full a treatment as is possible of the various systems of native land tenure, there being pointed out the complications which have arisen as a result of the introduction into native areas of modern capitalistic enterprise. A general description of the present system of native reserves will also be included.

In the second place, the subject of the alienation of land in these mandated territories will receive a thorough investigation. An attempt will be made to show concisely the exact nature of the various restrictions which have been imposed on the indigenous peoples in their alienation of land to non-natives, and to present some definite facts as to the amount of land which has already been alienated, showing the relationship of the acreage of the land so granted to the total area available for alienation. The methods by which land may be acquired for public purposes will also be considered, this question being of course a matter of fundamental importance in any territory.

In the third place, there will be presented as comprehensive an explanation as possible of the various arguments for and against the segregation of the native races in the territory of South-West Africa, bringing out definitely the relative weight of the points advanced by the supporters of each side of the discussion.

Finally, in the fourth place, a chapter will be devoted to the very interesting topics of the Land and Agricultural Bank of the territory of South-West Africa, the various methods by which the natives are being encouraged to improve their agricultural prowess, the means which have been provided for the survey and registration of transactions in land in the regions under consideration, and the disposal which has been made of the property of ex-enemy nationals. The profit to be gained from a study of these subjects, even though it be quite brief, is apparent. The Land and Agricultural Bank is doing noteworthy work in land settlement in South-West Africa; and considerable attention is being given in all the territories to the agricultural education of

⁴ Morel, E. D., *THE BLACK MAN'S BURDEN*, Part III, chap. xii., p. 167.

4 *Modern African Questions and Their Background*

the aboriginals. It is needless to emphasize the importance of the systems of survey and registration, as it will easily be seen that the establishment of a clear title to the land, along with the compilation of an intelligible record of the transactions in which it has figured, is essential to the security of native tenure. The matter of the disposal of ex-enemy property, that is, of that property which was held in these territories by German citizens at the time that these regions were a very important part of the German colonial empire, constitutes a subject with which the administrative powers have never before been involved. At the conclusion of the war, when Germany turned over her colonies to the Principal Allied and Associated Powers, these properties were of course also lost. The manner in which the Mandatory Powers have dealt with these ex-enemy holdings is naturally a subject of the greatest interest to the student of international relations.

Such, then, are the principal divisions of the land problem in the African mandates of the British Commonwealth. Numerous writers, some of whom may be classified as specialists on the problem of the relationship of the white and the black races, as Buell, Johnston, Morel, and Lugard, have said from time to time that the native question is the land question. It is hoped that in a volume devoted to a consideration of the various topics which have been mentioned, there can be developed a satisfactory treatment of the land problem as a whole.

2. THE AFRICAN MANDATES AS A FIELD FOR RESEARCH

As certain of the territories administered under the mandates system, a comparatively new development, have been selected as the field of research for this volume, it seems desirable that there be some mention of those reasons which were responsible for the choice.

In the first place, as has been said, the mandatory system is a development of our own times, based on certain fundamentals, the spirit of which, if obeyed, must invariably lead to better administration, at least from the native point of view, of the territories concerned. It will therefore be both interesting and profitable to consider just what these principles are, and to discover to what degree the mandatory powers are fulfilling them.



AFRICA

(Adapted from OFFICIAL YEAR BOOK OF THE UNION OF SOUTH AFRICA, No. 6)

In the second place, Britain is the leading colonial power of the world; and it accordingly seems logical that her colonial policies should be the most important. The attitude of the British government toward the mandatory system, as reflected in the administration of the mandates assigned to it, should indicate to a large degree the position with regard to that system which is to be taken by all the Great Powers.

Finally, in the third place, in a contemplation of these mandates, it will be possible to present a contrast of the attitude toward the native populations held by purely colonial as well as mandatory administrations, this being accomplished through brief references to the old German land policies, and through fuller discussions of those of the present governments.

3. COLONIES VERSUS MANDATES

Before the reader can grasp the full significance of the chapters which follow, it will be necessary for him to understand perfectly the distinction between the position and status of the ordinary Crown Colony of the British Empire and that of those mandates which are the basis of this discussion. It is with the hope of clarifying any question which may exist as to this distinction that the present section is included.

Simple "colonies" have been known for ages past. Technically speaking, by "colony" is meant a community politically dependent in some degree or form, the major or dominant portion of whose membership belongs by birth and origin to a mother country, such persons having no intention of returning to the mother country or of seeking a permanent home elsewhere.⁵ Actually, however, this definition is not fully applicable to the British colonies, for in few of them could it be said that "the major or dominant portion of the membership belongs by birth and origin to the mother country." Rather, the British colonial empire has resulted from the operation of a policy of expansion which necessarily involved the subjugation of all such races and peoples as stood in its way.

A Crown Colony may be defined as a colony under the complete administration of the British Colonial Office, which exercises its power through diverse administrative agencies. It will

⁵ Egerton, H. E., *THE ORIGIN AND GROWTH OF GREATER BRITAIN*, chap. i, pp. 2-5.

be understood that such a colony is thoroughly British, being the actual property of Britain, administered by British officials under British law for the person of the British Crown, and constituting an integral portion of that vast body of states which make up the empire of His Britannic Majesty.

The mandate, however, is a new form of colonial tenure, devised by the Versailles diplomats in 1919, under which the colonial and other possessions of the defeated powers were placed in the custody of the League of Nations, on the pretext that such action constituted a benefit to humanity. By the terms of the treaty, these ex-possessions of the conquered nations were assigned to particular states to be administered for fixed terms as mandates of the League. Their status is shown in the following excerpt from the British Mandate for East Africa:

The Council of the League of Nations:

Whereas by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein German East Africa; and . . .

Whereas the Principal Allied and Associated Powers agreed that, in accordance with Article 22, Part I (Covenant of the League of Nations), of the said treaty, a mandate should be conferred upon His Britannic Majesty to administer part of the former colony of German East Africa, and have proposed that the mandate should be formulated in the following terms; and

Whereas His Britannic Majesty has agreed to accept the mandate in respect of the said territory, and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas by the afore-mentioned Article 22, Paragraph 8, it is provided that the degree of authority, control, or administration to be exercised by the Mandatory, not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations;

Confirming the said mandate, defines its terms.^a

Theoretically, then, these regions are in no sense the property of the power which administers them under the mandatory system of the League; actually, however, there are many who

^a C. 449 (1) a. M. 345 (a). 1922. VI. BRITISH MANDATE FOR EAST AFRICA,
n. 3.

consider that the acceptance of a mandate is merely a veiled annexation, the "C" mandates, for which the provision is made that they shall be administered as an integral part of the territory of the Mandatory Power, being particularly scored on this point. Nevertheless, it should be clear that in theory at least, (and, with one exception, to a flattering degree in practice also), the mandated territories which are to be studied in this volume are not considered as the property of the British Commonwealth, but are thought of as being merely assigned to it for administrative purposes by the League of Nations, to which annual reports must be made as to the system of government employed, the problems encountered, and the policies pursued.⁷

4. THE INFLUENCE OF IMPERIALISM

As imperialism, the desire of nations for domination over subject peoples and extensive territories, is largely responsible for the existence in Africa today of those conditions with which the reader is to come in contact in this volume, it seems proper that he should be reminded of the vast significance of imperialism in international relations; that it has been always an influential and sometimes a dominant factor in the determination of the policies of the Great Powers; that it has been the cause of numerous international crises and wars; that it was one of the primary factors in the formation of the Triple Entente; that it was one of the chief causes of the Great War, being a prominent feature in the war aims of both the Allied and the Central Powers; and, finally, that even since the close of that terrific struggle it has continued to be a cause of antagonism and international rivalry, expressing itself in the mad race for concessions with regard to oil, raw materials, markets, and various investments, totaling billions of dollars, in colonies and backward countries.⁸

Perhaps, too, mention should be made of the dynamics, the driving forces, of imperialism. In the first place, there are busi-

⁷ "The annual report is a matter of importance; it is examined by the Mandates Commission of the League, an impartial body on which a majority of members are not nationals of mandatory states, which obtains explanations from a responsible officer of the mandatory, and the report of the Commission with any observations of that officer are submitted to the League." Keith, A. B., *THE CONSTITUTION, ADMINISTRATION, AND LAWS OF THE EMPIRE*, Part II, chap.viii., p. 295.

⁸ Moon, Parker T., *op. cit.*, chap. i., pp. 1-7.

ness groups, as exporters, importers, manufacturing and shipping interests, investors and bankers, and subsidiary associations, to all of whom imperialism is an extremely important factor in the opening of new fields for expansion. In the second place, there are various military and naval bodies, who may advocate an imperialistic policy as a necessary measure, for example, in the acquisition of some region essential to the strategic defense of the nation. And finally, the growth of imperialism has been stimulated through the activities of missionaries, as Livingstone; of adventurers, as Brooke; of explorers, as Stanley; and of various national statesmen, as Disraeli, Ferry, and Roosevelt.⁹

Such, then, are the groups which are actively interested in the development of an imperialistic policy. But, potent though these interests are, before such a policy can achieve success in any country, it must have the approval of that vast body known as the common citizenship. What, then, are those powerful motives which have such appeal as to change the ordinary, everyday citizen into an advocate of imperialism?

In the first place, there is fear, which naturally leads to the desire for naval bases or strategically situated regions for the protection of the country or its possessions, to the wish for the control of all such raw materials as may be needed in time of war, and to the belief that the possession of colonies will guarantee future economic prosperity. In the second place, there is the motive of national economic solidarity, which leads to the support of private business interests of fellow-citizens much more readily than to that of enterprise sponsored by foreign interests. As a third motive, and a very powerful one it is, there is the popular desire for national greatness, prestige, and honor, which may be divided into the belief that a great nation must retain its prestige by protecting its citizens and their property in other countries, into national unwillingness to accept the humiliation of permitting some other nation to obtain a disputed territory, and into the desire to have an empire as large as that of any other nation. Too, the punishment of atrocities or insults to the national flag often indirectly leads to imperialist annexation, as was the case when France went into Algeria. And finally, in the fourth place, there is the motive which Moon calls "aggressive

⁹ *IBID.*, chap. iv., pp. 58-67.

altruism," expressed in Kipling's conception of "The White Man's Burden," in British pride in British humanitarianism in India, and in the German desire to extend German *kultur* to the natives of Africa.¹⁰

These, in brief, are the principal facts which are necessary to give the reader a clear conception of the great part that imperialism has played, and even now continues to play, in the relations of modern colonizing powers. For fifty years the continent of Africa has been the setting for a bitter struggle between rival colonial states; at the present time, it continues to be the scene of such a conflict. But the modern combatants strive not for territory, but for concessions, goaded on by the forces of economic imperialism. It is from this movement that Africa today is most endangered; and it is therefore against this peril that the Mandatory Powers must endeavor to protect their trusts.

5. LAND-GRABBING IN A CROWN COLONY

There can be little doubt that the outstanding need of the African native at this time is the protection of his economic welfare; he must have support against those grasping commercial interests which would take advantage of him. The primary consideration of the entire question must be whether the mandatory system of the League of Nations can and will give him that protection. Certainly he has not received it in the past in the Crown Colonies of the British Empire. As an example of the manner in which native rights have been disregarded in such areas, one may consider certain events which occurred in what is now Southern Rhodesia, formerly a Crown Colony.¹¹ Here there was pursued a very ruthless policy with regard to the taking of native lands, so ruthless in fact that even now it remains a blot against the name of the British Empire.

At the time in question, there was ruling in the territory King Lo Bengula, a Matabele chief who could not read. He was induced by three commissioners of Cecil Rhodes, the noted imperialist, to sign, on October 30th, 1888, a most interesting document. In return for one thousand Martini rifles, a hundred thousand ball cartridges, a hundred pounds sterling payable on

¹⁰ *IBID.*, pp. 67-74.

¹¹ At the time the first of these disgraces occurred, Southern Rhodesia was not a Crown Colony.

the first day of every lunar month, and a second-hand steamer, the native king delegated to these commissioners exclusive control over all the metals and minerals within his country, along with the right to exclude from the kingdom any other person who might come there in search of such concessions. Later messages from Lo Bengula show that at the time when he signed this agreement, he was totally ignorant of its contents; but the white men interpreted it as giving them the right to exploit and to govern all the territory of the native monarch.¹²

The following year Queen Victoria granted the South Africa Company a charter which gave it

for twenty-five years the right to make treaties and laws, maintain police, construct roads, railways and harbors, develop mines and industries, make grants of land, and in short, govern a vast but purposely undefined area, north of British Bechuanaland and Transvaal, and west of Portuguese Mozambique, but with no northern boundary. The latter was left unmentioned, because Rhodes hoped to extend it far to the north.¹³

With a capital of a million one-pound shares, of which the promoters took ninety thousand shares and fifty per cent of any future profits, the Chartered Company began business operations. For over thirty years it ruled as it pleased, until the growth of the white population resulted in the creation of Southern Rhodesia as a self-governing colony in 1922.¹⁴

On November 17th, 1891, Lo Bengula made the Lippert Concession, which was later purchased by the British South Africa Company. The essential portion of this concession was the granting by Lo Bengula, in return for a down payment of one thousand pounds and an annuity of five hundred pounds,¹⁵ of the following rights and privileges to a German financier, one Edward Amandus Lippert:

The sole and exclusive right, power, and privilege for the full term of one hundred years to lay out, grant, or lease, for such period or periods as he may think fit, farms, townships, building plots, and grazing areas; to impose and levy rents, licenses, and taxes thereon, and to get in, collect, and receive the same for his own benefit; to give and grant cer-

¹² *IBID.*, chap. ix., pp. 168-170.

¹³ *IBID.*, p. 170.

¹⁴ *IDEM.*

¹⁵ Harris, Norman D., *EUROPE AND AFRICA*, chap. ix., p. 233.

tificates in my name for the occupation of any farms, townships, building plots, and grazing areas.¹⁶

During all the years of government by the Chartered Company, the whites received the best agricultural lands, while the natives were given large reserves of much poorer quality. A head tax of one pound per annum was collected from the natives living on reserves, while an additional pound was paid to the owner by those living on the land of a white man.¹⁷ "The area claimed as the private property of the shareholders (of the Company) included, besides all waste lands, every square foot of land occupied by the natives;"¹⁸ the total claim covered some seventy-three million acres of land. Mr. E. D. Morel shows a very comprehensive understanding of the situation which has existed in Southern Rhodesia:

Since these events took place the Chartered Company, basing its claims to unalienated land, in part upon the Lipert concession, which, as already stated, the Judicial Committee of the Privy Council has now declared to be valueless for that purpose, and in part upon military conquest, has perused the policy of treating the land of Southern Rhodesia as though it had passed entirely out of native ownership and had become the property of the company's shareholders. It has divided the land into two main categories, alienated and unalienated. Land in the occupancy and ownership of white men is called alienated land. Any native living on such land pays the white occupant and owner one pound per annum, and a further pound per annum to the Company as head tax. Unalienated land is the land not in the occupancy and ownership of white men, and includes the native reserves. Natives living in the reserves pay one pound per head per annum to the Company as tax, and another pound per head per annum for the privilege of living where they do. Portions of this unalienated land outside the reserves can, apparently, be taken over at any time by individual white men, provided, of course, that they obtain the Company's sanction. The natives living on such acquired portions are then expected to pay one pound per head per annum to the white acquirer, plus the pound per head they already pay to the Company.¹⁹

¹⁶ Hone, Percy E., *SOUTHERN RHODESIA*, Part II, chap. i, p. 110.

¹⁷ Moon, Parker T., *op. cit.*, chap. ix., p. 172.

¹⁸ Harris, John H., *AFRICA: SLAVE OR FREE?* Part III, chap. ii., p. 133.

¹⁹ Morel, E. D., *op. cit.*, Part II, chap. v., p. 49.

This case has been cited as an example of modern land-grabbing in a Crown Colony of the British Empire, for it was not until July 29th, 1918, that the Judicial Committee of the Privy Council declared that the Lippert Concession was worthless as a title deed to the unalienated lands, and checked the landed imperialism of the Chartered Company.²⁰

6. THE STATUS OF NATIVE LAND IN THE MANDATES

If modern administration in these regions, under the mandatory system, can prevent the occurrence of any events of such a regrettable nature as those of the case discussed in the preceding section, then this new departure in colonial administration will have achieved success. With particular reference to the land problem, it may be said that it is the desire of the League of Nations, in accordance with the doctrine that the mandated areas constitute "a sacred trust of civilization," amply to protect the rights of the native inhabitants. This is shown, for example, in the sixth article of the Mandate for the Tanganyika Territory, which reads as follows:

In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.

The Mandatory will promulgate strict regulations against usury.²¹

Further proof of the desire of the League that the native shall not become the victim of wholesale land-grabbers is found in the section on land tenure in the list of questions which the Permanent Mandates Commission desires shall be dealt with in the annual reports of the Mandatory Powers:

103. Is the Government's policy directed towards the exploitation of the arable land by the establishment of large agricultural undertakings under foreign management or by the development of the system of native small-holdings?

²⁰ LAW REPORTS, A. C. 1919, p. 211. Quoted in Buell, Raymond L., *THE NATIVE PROBLEM IN AFRICA*, Vol. II, p. 210.

²¹ C. 449 (1) a. M. 345 (a). 1922. VI. *BRITISH MANDATE FOR EAST AFRICA*, p. 4.

104. What are the various classes of property which, in view of their nature, origin or use, constitute the domain of the territory?

Under what item of the local budget do the revenues of this domain appear, or, in the case of the sale of such property, the sum realised?

Under what items of the local budget do the costs of exploiting such domain appear?

Are the recruiting and employment of the labour required for the exploitation of this domain regulated by the common law?

105. Does the law provide a definition of the term "vacant lands?" What authority is competent to decide whether land is vacant?

Does the law recognise the rights of use and enjoyment that may be exercised by the natives in the "vacant lands" (the right of gathering produce, cutting of wood, grazing, hunting, fishing, etc)?

106. Has the Mandatory Power acquired on its own account (and not in its capacity as Mandatory) any property or rights whatsoever in the territory? If so, what property or rights?

On what basis does the State's proprietary title rest?

Is this property subject to the same dues and charges as the property of private individuals?

Is the State subject to the ordinary regulations regarding the recruiting and employment of the labour needed for the exploitation of these lands?

How is the revenue of these lands employed?

107. What is the system of land registration in force? Is it applicable to land owned or occupied by natives? Is there a land registry department?

108. What is the native system of land tenure? Is it uniform throughout the territory? Have the natives any notion of the right of individual property?

Does the law recognise the right of natives to hold property as individuals?

109. Do the authorities exercise control over land transactions with a view to safeguarding the customary rights of the natives on such land?

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What is the maximum term of land-leases to non-natives?

Does the law reserve land for the natives or native communities, from which they cannot be dispossessed for the benefit of non-natives?

110. Have the native chiefs the power of dispossessing existing occupiers and of granting the land to third parties? If so, have the persons dispossessed the right of appeal to the authorities?

What is the approximate proportion in the whole territory of native land, state land, and land leased or sold to non-natives, including any property of the Mandatory Power referred to in Section 106?

111. What are the regulations with regard to expropriation for reasons of public utility? How is the compensation determined?²²

It is certainly not difficult to establish the conclusion that the characteristics of the mandate differ radically from those of the Crown Colony, and that the position of the native and his land varies decidedly under the two forms of administration. In the remainder of this dissertation an attempt will be made to indicate clearly those conditions existent under the mandatory system which have tended to improve the status of the indigenous peoples. Moreover, throughout the volume there will be developed the relationship between the various land policies pursued and the fact that these territories are mandates of the League of Nations, with their administration consequently being ever subject to the searching light of public inquiry and the all-powerful, compelling force of public opinion.

²² A. 14. 1926. VI. LIST OF QUESTIONS, pp. 6-7.

CHAPTER TWO

A PRESENTATION OF THE TERRITORIES INVOLVED

1. SCOPE OF THIS CHAPTER

Africa to the white mind has always been the so-called "Dark Continent," its mention conjuring up pictures of naked savages struggling through grass-grown jungles, of crouching lions and massive elephants terrorizing helpless native villages, and of lengthy caravans toiling across hot desert sands. Some such image comes to almost every individual no matter what part of Africa may be the subject of the discussion. Yet such representations are not true of all portions of this interesting continent. The present volume deals exclusively with African territory, all, it is quite probable, constituting a setting entirely unfamiliar to the average American or European. In recognition of this fact, and in order that the reader may be fully appreciative of the scene of action, there has been prepared this chapter, which is devoted to a presentation of the physiographical, social, and historical background of the regions which are to be considered.

2. BRITISH TOGOLAND

(a) PHYSIOGRAPHICAL CHARACTERISTICS

In western Africa, on the Gulf of Guinea, with the French colony of Dahomey constituting an eastern boundary and the British Gold Coast and its protectorates a western limit, there is situated the former German colony of Togoland.¹ In the north and east, with the exception of the extreme southern portion of the eastern frontier, there are found artificial boundaries; but along the western line natural features predominate.²

By the Anglo-French Declaration which Viscount Milner and Monsieur Simon signed at Paris on the 10th of July, 1919, Togoland was divided into two administrative sectors, the one

¹ REPORT ON THE BRITISH MANDATED SPHERE OF TOGOLAND (hereinafter cited as REPORT) FOR 1920, p. 4.

² Peace Handbook No. 110, TOGOLAND, (hereinafter cited as HANDBOOK), pp. 1-2.

under French authority, and the other under the control of the British.³ Although the area of the old German colony totalled about 36,500 square miles,⁴ the division was so made that the district which became British Togoland comprises, approximately, only 13,040 square miles.⁵ With regard to the nature of the surface of this territory, it is possible to divide the entire region into the four following areas:

In the first place, there is a coastal district, made up of four parts, these being a few hundred yards of sand, then various lagoons and marshes, with a low plateau serving as a background for the whole area. Proceeding away from the coast, this plateau becomes again a depression.⁶ Thus it will be seen that Togoland is very unfortunate in its coast, for not only has its seaboard these more or less unfavorable aspects, but it is also very short in proportion to the size of the country, there being in the entire old German colony only 32 miles of coast.⁷

In the second place, there is in the southeast, behind the depression mentioned in the preceding paragraph, a somewhat higher plateau, reaching in some places an altitude of 1600 feet. It is punctuated from time to time by isolated hills.⁸

In the third place, there is the central mountain range, in which there are found no great elevations and no extensive plateau land. The southwestern part of this chain is known as the Togo range, consisting of a central ridge with outlying lateral chains on the east and west. In this is found Mount Agu, which, rising to an altitude of 3370 feet, is the highest mountain in the territory. The northeastern sector of the chain is the Kara-gap region, which is made up of a series of broad plains, the average elevation being about 2500 feet above the level of the sea.⁹

Finally, in the fourth place, there are the lowlands of the northwest, also composed of a series of broad rolling plains, bounded on the northern side by the wooded Gambaga hills.¹⁰ The average elevation of this region is approximately 650 feet.¹¹

³ REPORT FOR 1922, p. 4.

⁴ REPORT FOR 1920, p. 4.

⁵ REPORT FOR 1922, p. 5.

⁶ HANDBOOK, p. 3.

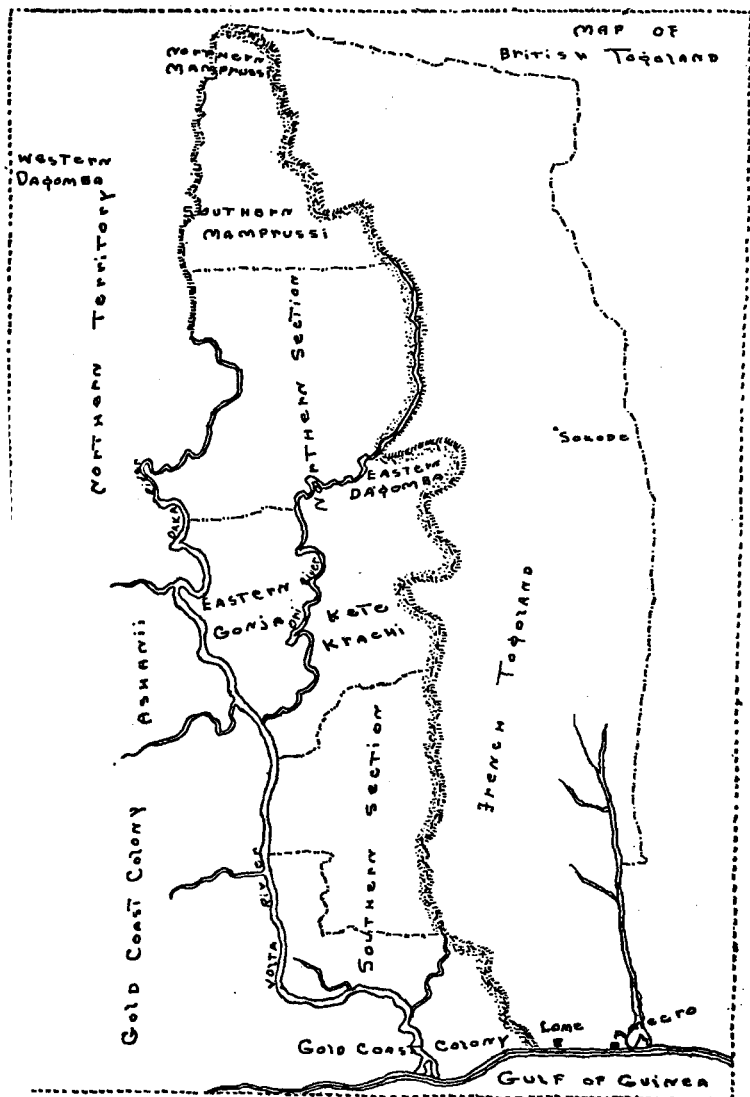
⁷ *IBID.*, p. 5.

⁸ *IBID.*, p. 3.

⁹ *IBID.*, p. 4.

¹⁰ *IDEM.*

¹¹ *IBID.*, p. 5.



BRITISH TOGOLAND

(Adapted from REPORT ON BRITISH TOGOLAND for 1928)

The central mountain chain divides the rivers of the territory into two groups. These are the Volta system of the west; and that group of rivers found in the southeast, draining into the various lagoons of the coast.¹² The Volta system includes the Volta itself, with its tributaries, which are the Daka, the Asukoko, the Dea, and the Shavoe; and also the Oti, a very important stream. The chief tributaries of the Oti are the Kumagu, the Mo, the Bassa, and the Kara, the latter being perhaps the most important of the four. The principal streams of the south-eastern group are the Shio, the Haho, and the Monu, the latter being again the most important of the group.

The rivers of the territory in the rainy season are often raging torrents, prohibiting communication. In the dry times of the year, however, they often disappear partially or entirely, with the exception, of course, of those in the mountain districts.¹³

The climate of Togoland is tropical, and quite similar to that of the Gold Coast,¹⁴ being conditioned largely by the Sahara on the north and the Atlantic on the south. The highest mean temperatures are usually recorded in February and March, the averages then, making allowance for the different altitudes of the country, varying from 79° F. in the mountain districts of the central chain to 82° F. on the coast. The minimum mean temperature is usually found in the months of July and August, the averages at that time running from 70° F. in the mountains to 75° F. in the coastal regions.¹⁵

In the southwest and on the coast, the rainy season begins in late March or early April, and continues for three or four months, reaching its height in June or July. August brings a dry period. In September, however, the lesser rains set in, and river floods are frequent.¹⁶ The heaviest rainfall is ordinarily in the Ho-Kpandu district, the yearly average there being about 55 inches.¹⁷

In the north there is only one rainy season, this continuing from April to October. Here the fall is somewhat lighter, about 44 inches being the average yearly precipitation.¹⁸

¹² *IDEM.*

¹³ *IBID.*, p. 6.

¹⁴ *REPORT FOR 1920*, p. 6.

¹⁵ *HANDBOOK*, p. 7.

¹⁶ *REPORT FOR 1920*, p. 6.

¹⁷ *HANDBOOK*, p. 7.

¹⁸ *IBID.*, pp. 7-8.

The month of November inaugurates another dry season throughout the entire country, this period as a rule continuing until March.¹⁹ During this interval, however, there are very strong winds, and often quite violent storms.²⁰ In passing, it might be observed that the seasons are much more sharply defined in the north than they are in the south.²¹

(b) SOCIAL AND ECONOMIC ASPECTS

The most important people in the southern part of British Togoland are the Ewes. Having spread across the southwestern end of the central mountain chain, they have absorbed practically all the older populations.²² To the north is found a mixed zone of various peoples speaking Chi dialects, the leading tribe here being known as the Guams. To the north of this central mixed zone are to be found strong tribes of Sudan peoples, principally Mohammedan, with a tendency to centralize into extremely war-like kingdoms.²³

The following table shows the distribution of the native population throughout the various districts of the territory in 1927:²⁴

District	Area in Square Miles	Population
Ho	1,155	40,577
Kpandu	1,452	46,678
Kete-Krachi	3,911	25,244
Eastern Dagomba	4,609	58,929
Eastern Mamprusi.....	1,528	4,518
Kusasi	385	12,093
	13,040	188,039

The principal causes for the accumulation of comparatively large populations in particular localities in British Togoland seem to have been the presence of opportunities for trade, the comparative fertility of the soil and regularity of the rains, and the existence of facilities for refuge in the case of the weaker tribes, and for the command of communications by those which are stronger.²⁵

¹⁹ REPORT FOR 1920, p. 6.

²⁰ HANDBOOK, p. 8.

²¹ REPORT FOR 1920, p. 6.

²² HANDBOOK, p. 9.

²³ *IBID.*, p. 10.

²⁴ REPORT FOR 1927, p. 51.

²⁵ HANDBOOK, p. 11.

According to the report of the Mandatory Power, in 1927 there were only 29 non-natives in the territory.²⁶ All of these, however, have been generous in giving extensively of their time and energy to work in the interest of the welfare and progress of the region.

British Togoland, although the soil is poor and not more than half of it is in cultivation, is nevertheless a country more of an agricultural than an industrial nature.²⁷ The chief agricultural products are cocoa, coconut palms, ground-nuts, millet, oil palms, maize, rubber, sisal hemp, fruits, beans, and sugar.²⁸ The livestock industry in general does not flourish, due to the presence of the tsetse fly; but some growers of cattle, sheep, and goats have achieved a moderate degree of success.²⁹

British Togoland also produces certain minerals of some economic value. Among these are iron ore, gold, chromite, bauxite, and limestone, iron ore being the most important. Research has shown that it is of high quality, and that there are available at least twenty million tons. Unfortunately, the deposits are not well situated as regards transport facilities.³⁰

Finally, the territory produces certain industrial goods, pottery being the most popular native handicraft. The inhabitants also engage in the making of straw-plait, in rope-work, in the carving of wood and ivory, in dyeing, and in cotton spinning. However, regardless of the existence of these trades, the introduction or development of a class of semi-skilled native labor is an essential prerequisite to the further advance of manufacturing.³¹

(c) THE POLITICAL HISTORY OF BRITISH TOGOLAND

With regard to the political history of British Togoland, it may be said that the first European influence was that of the Portuguese, who in the fifteenth century had established themselves in what is now the Gold Coast region. There is no evidence to the effect that they actually made settlements on the

²⁶ REPORT FOR 1927, p. 51.

²⁷ HANDBOOK, p. 32.

²⁸ *IBID.*, pp. 32-35.

²⁹ *IBID.*, pp. 35-37.

³⁰ *IBID.*, pp. 40-41.

³¹ *IBID.*, p. 53.

Togo coast; yet traces of their influence and blood are found to some extent in modern names and physical characteristics.⁸²

The state which later developed into the Kingdom of Prussia and the German Empire made a futile attempt in 1680 to extend its control to Africa. In that year, Frederick William of Brandenburg sent out an expedition which succeeded in gaining treaties from three chiefs at Cape Three Points. In 1682 the Brandenburg African Company was established to develop the trade provided for in the treaties of 1680; and the next year saw the erection of a fort at Cape Three Points. But, although some further expansion was made during the following three years, the Brandenburg settlement was not destined to succeed. With the death of Frederick, the Company was neglected and soon became bankrupt. His successor, who felt no interest in the project, disposed of the African possessions to the Dutch West India Company in 1718.⁸³ In such a fashion, the early Prussian efforts in Togoland came to an end. The influence of the Dutch was even more negligible, as they made no sustained effort toward colonization.

Regardless, however, of the indifference of the government, German merchants founded business houses and built factories at different points in Togoland, as did the British and the French. Conflicts frequently occurred between these rival enterprises. Such was the situation in 1884 when the German government, finally imbued with the desire of obtaining for Germany "a place in the sun," heeded the demands of tradesmen for the dispatch of a German warship to protect certain German commercial interests in Togoland. This vessel, the *Sophie*, gave her support to a native claiming the chieftainship of Togo, and so filled him with the spirit of German strength and power that on July 5th, 1884, after his establishment as ruler, this chief entered into a treaty with the famous Dr. Nachtigal, by which a German protectorate was declared.⁸⁴ During the next two years, agreements as to the boundaries of Togoland were made with France and England, these powers, by their participation in such negotiations, formally recognizing the legality of German influence in this region.⁸⁵

⁸² *IBID.*, p. 14.

⁸³ *IBID.*, p. 16.

⁸⁴ *IBID.*, p. 17.

⁸⁵ REPORT FOR 1920. p. 4.

There was no particularly outstanding achievement made by the officials of the German government in Togoland during the thirty-five years that the colony was a German possession. In the main, they confined themselves to expeditions attempting to explore and conquer the interior, and to endeavors to extend the frontiers of their political and commercial influence.⁸⁶

Immediately upon the outbreak of the World War, Togoland was occupied by a joint British and French force.⁸⁷ On August 7th, 1914, the town of Lome and its surrounding hinterland surrendered to the British; on the 26th of August, after several engagements and the destruction of the great wireless station at Kamina, the acting governor unconditionally surrendered the entire colony.⁸⁸

The next event in the political history of Togoland brought it to its present status. In the Treaty of Peace signed at Versailles on June 28th, 1919, Germany renounced all her rights over her oversea possessions in favor of the Principal Allied and Associated Powers.⁸⁹ Togoland was of course included. The Powers then agreed that the governments of Great Britain and France should make a joint recommendation to the League of Nations as to the disposal of the territory. In this recommendation it was proposed that the western part of the former German colony should be conferred as a mandate upon His Britannic Majesty, the eastern portion being similarly assigned to the government of France.⁹⁰ The acceptance of these mandates brought to a close, for the present, the political history of one of the most interesting territories in the entire African continent.

3. THE BRITISH CAMEROONS

(a) DIVISIONS OF THE TERRITORY

For purposes of better administration, the territory of the British Cameroons has been separated by the Nigerian government, which superintends the administration of this mandate, into northern and southern divisions. The northern portion has

⁸⁶ HANDBOOK, pp. 19-22.

⁸⁷ *IBID.*, p. 22.

⁸⁸ REPORT FOR 1920, p. 4.

⁸⁹ Article 119, The Treaty of Versailles. Found in Martin, Lawrence, THE TREATIES OF PEACE (1919-1923), Vol. I, p. 84.

⁹⁰ C. 449 (1) b. M. 345 (b). 1922. VI. BRITISH MANDATE FOR TOGOLAND, p. 3.

been further divided into three parts, these being, first, the Emirate of Dikwa, second, "that portion of the British sphere of the Cameroons which lies north of the Benue river and east of the Nigerian province of Yola," and, third, "that part of the British sphere of the Cameroons which lies south of the Benue river and east of the Nigerian province of Yola." The southern half of the mandated area is known simply as the Cameroons province.⁴¹ This division of the territory is accepted in the following discussion of its geographical, social, and economic characteristics; but the political history of the region will be considered as a unit.

(b) THE EMIRATE OF DIKWA

It has been said that the Emirate of Dikwa, which is a small portion of the ancient Empire of Bornu, has the general shape of a closed fist with two fingers extended, the major portion of the region being a flat and swampy plain lying between Lake Chad on the north and the mountains of Mandara on the south. A strip of territory which stretches to the south on the western side and includes a part of the mountains forms the extension. As to the exact location of the Emirate, it lies between latitudes 10° 50' N. and 13° 05' N., and longitudes 13° 10' E. and 14° 40' E. Its area is approximately 5,000 square miles.⁴²

In examining the surface of the Emirate, one finds first, in the mountain district, a great granite spur, twenty miles in length, rising at some points to an elevation of more than 3,000 feet above the level of the plain.⁴³ To the north of this region there is a sandy country, in which are to be found numerous swamps and sandy ridges. Further to the north, toward Lake Chad, one encounters a vast expanse of treeless, dead, flat swamp-land, its soil apparently a deposit of argillaceous loam imposed over a sub-soil of a more or less sandy nature. Dreary and monotonous though this plain is, it produces most excellent corn.⁴⁴

With regard to the matter of coasts, the only coast-line which the Emirate of Dikwa has is a very narrow frontage, (about five miles), on Lake Chad. The extensive growth of tall reeds and grasses here, however, makes passage difficult. Fur-

⁴¹ REPORT ON THE BRITISH SPHERE OF THE CAMEROONS (hereinafter cited as REPORT) FOR 1922, pp. 2-3.

⁴² *IBID.*, p. 9.

⁴³ *IDEM.*

⁴⁴ *IBID.*, p. 10.

ther, there are only two rivers of importance, these being the Lebait, with its tributary the Kalia, containing water all the year round, and the Yedseram, flowing for about two months near the town of Dikwa, and for perhaps a slightly longer time in the south.⁴⁵

From the middle of March until early in May intense heat, under the pressure of which the temperature often reaches 120° F. in the shade, characterizes the climate of Dikwa. The four months preceding this period constitute the cold season, during which the temperature sometimes drops as low as 41° F. The nights are generally cool during the entire year.

The rainy season begins in May, and is heaviest from the middle of July until the end of August, with an average precipitation of about twenty-four inches during this period. After the middle of September, a long dry season begins, continuing, with only occasional thunder-storms, until May.⁴⁶

Various races go to make up the population of the Emirate, estimated at 220,000. There are about 87,000 Arabs, these being largely a pastoral people, migrating from their farm villages from December until June in search of pasture. There are about the same number of Kanuri or Berri-Berri. In the southern part of the Emirate are to be found about 10,000 Ghamerghu and Wala, while in the southwest are approximately 15,000 Margi and Batta. Hill pagans, estimated to number around 20,000, living in the mountain districts, and some 2,000 nomad Fulani constitute the remaining inhabitants.⁴⁷

The agricultural products of the Emirate include corn, maize, beans, onions, sweet potatoes, pumpkin, okra, melons, tobacco, and indigo, corn being the most important.⁴⁸ As for mineral resources, some iron is found in the mountains.⁴⁹ There is no particularly outstanding industry in Dikwa, though spinning and weaving, dyeing, pot-making, saddle-making, and leather-working are common trades.⁵⁰ The breeding of livestock in this region, however, has proved to be a very remunerative occupation.⁵¹

⁴⁵ *IBID.*, pp. 10-11.

⁴⁶ *IBID.*, p. 12.

⁴⁷ *IBID.*, p. 13.

⁴⁸ *IBID.*, pp. 16-17.

⁴⁹ *IBID.*, p. 18.

⁵⁰ *IDEM.*

⁵¹ *IBID.*, p. 16.

(c) THE CAMEROONS NORTH OF THE BENUE AND
EAST OF YOLA

The second administrative division of the northern Cameroons is that lying north of the Benue river, and east of the Nigerian province of Yola. At its narrowest point, this region is some ten miles in width, but it broadens toward the north. It is approximately 100 miles in length; while its area is not definitely known, it is about 1200 square miles.⁵²

The country is primarily one of plains; but there are some granite outcrops of the Jirai and Mandara Hills. The principal rivers are the Kilangi, the Tsikakiri, the Yedseram, and the Masagala, with their respective tributaries. There are a few scattered lakes. While the climate and the seasons correspond in general to those encountered in the Emirate of Dikwa, the average rainfall in this section of the Cameroons is only about thirty-five inches per year.⁵³

The population of this small region has been estimated as being at least 60,000. The inhabitants are the nomadic Fulani, of whom there are about 10,000; and the Habe or aboriginals, the principal tribes of these being the Jirai, the Maiha, the Falli, and the Margi.⁵⁴

The agricultural products found in the Emirate are common here, with cotton being grown largely for local use. No mineral resources have been discovered. Spinning and weaving are the principal industries; but the raising of livestock is gaining in importance.⁵⁵

(d) THE CAMEROONS SOUTH OF THE BENUE
AND EAST OF YOLA

The third administrative portion of the northern Cameroons is that which lies east of the Nigerian province of Yola, but south of the Benue river. It is well-watered and fertile, and has an area of approximately 10,000 square miles.⁵⁶

Several clear-cut mountain ranges are found in this region, among them being the Alantika, the Balkwassa, the Jongba, the

⁵² *IBID.*, p. 27.

⁵³ *IBID.*, pp. 28-29.

⁵⁴ *IBID.*, pp. 29-30.

⁵⁵ *IBID.*, p. 33.

⁵⁶ *IBID.*, p. 34.

Sapeo, and the Awudi groups in the north, with the Gandua, the Aludu Ganderu, and the Ribao systems in the south.⁵⁷ In the valleys the soil is very productive.

The principal streams are the Ini, with its tributaries, and the tributaries of the Deo and the Faro, all eventually flowing into the Benue. The climate may be compared with that of the major portion of the northern provinces of Nigeria, being relatively cool and healthy.⁵⁸

The population numbers probably some 30,000, about 7,000 of these being Fulani. The remaining inhabitants are found primarily in the Chamba, the Mambila, the Daka, and the Jubu tribes.⁵⁹

In addition to the agricultural products found in other sections of the northern Cameroons, rice and pineapple grow readily. As in the portion north of the Benue, there is no definite knowledge of the existence of any mineral resources. Very few persons engage in any form of manufacturing, those who do confining themselves primarily to spinning, weaving, and basket-work. The economic salvation of the natives seems to rest rather in the rearing of cattle, sheep, and goats than in the development of industry.⁶⁰

(e) THE CAMEROONS PROVINCE

The southern section of the British Cameroons is known simply as the Cameroons Province of Nigeria. Forming a long, narrow wedge, some eighty miles in width and three hundred miles in length, it has an area of approximately 17,548 square miles.⁶¹

Its physical features are quite diverse in nature, the country as a whole being broken and difficult of passage. The surface varies from the mangrove swamps at sea level to the volcanic Cameroon Mountain, which reaches an elevation of 13,350 feet. Much of the province is covered with forest, although the Bamenda division is principally grassland. The only rivers of any importance are the Cross, the Membe, and the Mungo; they,

⁵⁷ *IBID.*, p. 38.

⁵⁸ *IDEM.*

⁵⁹ *IBID.*, p. 35.

⁶⁰ *IBID.*, pp. 43-44.

⁶¹ *IBID.*, p. 47.

during the rainy season, are navigable for launches to some extent.⁶²

On the coast there are three excellent harbors, these being Victoria, situated on Ambas Bay, Tiko, on the delta of the Mungo river, and Rio del Rey, a very fine natural harbor. The second of these, Tiko, has a splendid wharf, and is now used by the government as an engineering repair depot for its craft.⁶³

The climate ranges from the almost tropical conditions near Rio del Rey to the invigorating temperature of the Bamenda district, where the mean is about 64° F. The average yearly rainfall varies from slightly over 100 inches at Buea to a total well in excess of 400 inches on the coast lying west of Victoria. This spot is considered one of the rainiest places in the entire world.⁶⁴

In general, the same races which have been found elsewhere in the Cameroons compose the population of approximately 358,000 natives.⁶⁵ The non-native population is made up primarily of traders and government officials.⁶⁶

The chief agricultural products of this district are cocoa, rubber, ground-nuts, beans, pepper, and maize, the latter being one of the staple foodstuffs of the native population. The great forests of the province contain much valuable oil palm, mahogany, and camwood. There are no outstanding mineral deposits, though iron ore and basalt are found in varying quantities.⁶⁷

Although manufacturing has here achieved no noticeable foothold, some of the natives are skilled in the smelting of iron ore and the fashioning of iron products, the weaving of mats, the making of pottery, and the extraction of salt from the salt springs occurring near Ossidinge.⁶⁸

In the southeast, many cattle, sheep, and goats are raised without difficulty. The presence of the tsetse fly, however, makes

⁶² *IBID.*, p. 48.

⁶³ *IBID.*, p. 49.

⁶⁴ *IDEM.*

⁶⁵ *IBID.*, p. 47.

⁶⁶ No figures were available indicating the proportion of the non-native population found in each administrative division of the British Cameroons. The *Report for 1927*, p. 90, however, states that there were at that time 258 non-natives in the entire territory. This *Report* further states that the total native population in the British Cameroons at that date was approximately 700,000.

⁶⁷ *REPORT FOR 1922*, p. 50.

⁶⁸ *IBID.*, p. 51.

impossible the establishment of any livestock farms near the forested regions.⁶⁹

(f) THE POLITICAL HISTORY OF THE
BRITISH CAMEROONS

The old German colony of Kamerun, of which the territory known as the British Cameroons constitutes only a very small part, was never the possession of any European power before its occupation by Germany. In the fifteenth century, however, its coast was explored by the Portuguese, who, in accordance with the policy which they pursued in Togoland, made no attempts to establish a colony. About 1845 an English Baptist mission was founded in the territory;⁷⁰ to this, in 1858, on the occasion of their expulsion from the island of Fernando Po, there came another body of the same faith. Purchasing land from the natives, they here established themselves, calling their settlement Victoria. Their government requested that Great Britain declare a protectorate over the colony. Although this action was never taken, the British flag was flown by the native chieftains of the Victoria region as the symbol of the nation under whose authority they desired to place themselves.⁷¹

About the year 1883 the great Bismarck ceased to oppose colonization. Learning of his change in attitude, certain German merchants who were trading in the region which was to become German Kamerun began to acquire rights to property from the native chiefs. In 1884, the well-known German emissary, Dr. Nachtigal, was sent to West Africa as Imperial Commissioner. Although ostensibly his object was the promotion of German trade, he nevertheless had full power to annex any available land which he might encounter.⁷² At the same time an English representative, Consul Hewett, was on his way to West Africa with exactly the same object in general, and with the particular purpose of accepting the application for the establishment of a British protectorate which had been made by the Victoria government. But Mr. Hewett was too late. On July 12th, 1884,⁷³ Dr. Nachtigal concluded a treaty with King Bell of Duala, by which

⁶⁹ *IDEM.*

⁷⁰ *Peace Handbook No. 111, CAMEROON, (hereinafter cited as HANDBOOK), p. 15.*

⁷¹ *REPORT FOR 1922, p. 47.*

⁷² *HANDBOOK, p. 15.*

⁷³ *IBID., p. 16.*

he planted the German flag over the Cameroons.⁷⁴ The British, after a few protesting negotiations, withdrew, leaving the Germans in full control, even of the settlement of Victoria.⁷⁵

As in German Togoland, there were no outstanding achievements made by the administrative officials of German Kamerun. They devoted their time to explorations in the interior, and to an extensive campaign against native rebellions, which were numerous.⁷⁶ Yet on the face of the available evidence, it would seem that the conduct of the German authorities quite often justified these uprisings.⁷⁷

When the World War broke out in 1914, the Germans in Kamerun feared that just such a native outbreak would occur. They therefore cruelly massacred many of the indigenes, including several prominent native chieftains. The British and French expeditionary forces, however, were in complete control of the colony as early as February, 1916.⁷⁸ By the Anglo-French Declaration of July 10th, 1919, the territory was divided into two mandated areas, France and Britain being the two Mandatory Powers.⁷⁹ As such it continues today. The burden of the work of administration in the British Cameroons, however, falls upon the government of the neighboring colony of Nigeria.⁸⁰

4. THE TANGANYIKA TERRITORY

(a) PHYSIOGRAPHICAL CHARACTERISTICS

The Tanganyika Territory, or British East Africa, is by far the most important of the four mandates administered under British power in Africa. It consists of that portion of the former colony of German East Africa which the Principal Allied and Associated Powers agreed should be administered as a mandate by His Britannic Majesty. For the sake of brevity, it may be said that the territory is bounded on the north by Kenya and Uganda, on the west by the Belgian mandate of Ruanda-Urundi and Lake Tanganyika, on the southwest by Northern Rhodesia

⁷⁴ REPORT FOR 1922, p. 47.

⁷⁵ *IDEM.*

⁷⁶ HANDBOOK, pp. 17-24.

⁷⁷ *IBID.*, p. 21.

⁷⁸ *IBID.*, pp. 24-25.

⁷⁹ C. 449 (1) c. M. 345 (c). 1922. VI. BRITISH MANDATE FOR THE CAMEROONS, p. 3.

⁸⁰ REPORT FOR 1922, pp. 1-5.

and the Nyasaland Protectorate, on the south by Portuguese Mozambique, and on the east by the Indian Ocean.⁸¹ Its area is approximately 374,085 square miles, this including about 20,000 square miles of water.⁸²

The surface of Tanganyika is unusually varied. Along the coast there lies a plain, from ten to forty miles in width, to the rear of which the country gradually rises to a plateau, which constitutes the greater portion of the interior. This plateau drops from a general level of 4,000 feet to the levels of Lakes Tanganyika and Victoria, some 1,500 to 2,000 feet lower. It is in the northeastern areas that one finds the highest points in the territory, encountering there the extinct volcanoes of Mount Kilimanjaro, which reaches to a point 19,720 feet above sea level, and Mount Meru, which attains an altitude of 14,960 feet. To the southwest are the Livingstone Mountains, in which the highest peak is some 9,000 feet in elevation.⁸³ Jungles typical of the tropics cover much of Tanganyika.

The coast-line is approximately 500 miles in length, extending from the Umba river in the north to the Rovuma river in the south. Its shelving character, the presence of numerous coral reefs, and the changing bars at the mouths of the rivers make approach to it difficult. Tanga and Dar-es-Salaam, however, have really good harbors.⁸⁴

The principal constituents of the river system of the region are the Rufiyi, which drains about twenty-five per cent of the entire territory, the Rovuma, the Pangani, the Wami, the Kagera, the Mlagarazi, and the Ruhuhu. There also occur several lakes, of which the three of primary importance are Lake Victoria Nyanza, the largest lake in Africa, Lake Tanganyika, the second largest, and Lake Nyasa, which ranks third.⁸⁵

The climate of Tanganyika is influenced to a considerable extent by the position of the territory with regard to the warm Indian Ocean.⁸⁶ The region may be divided into four climatic

⁸¹ REPORT ON THE TANGANYIKA TERRITORY (hereinafter cited as REPORT) FOR 1924, p. 3.

⁸² *IBID.*, p. 4.

⁸³ *IDEM.*

⁸⁴ Peace Handbook No. 113, TANGANYIKA, (hereinafter cited as HANDBOOK), p. 8.

⁸⁵ *IBID.*, pp. 8-11.

⁸⁶ *IBID.*, p. 11.

zones.⁸⁷ The first of these is the warm and somewhat damp coastal region with the hinterland which adjoins it, its elevation being not over 300 feet. Here the average yearly temperature is 78° F. In the second place, there is the hot and moderately dry zone between the coast and the central plateau, varying in elevation from 300 to 2,000 feet. The average yearly temperature in this area is somewhat lower than it is nearer the coast. In the third place, there is the hot and dry district of the central plateau, this being between 2,000 and 4,000 feet in height. Here the average temperature is about 70° F., with great daily and yearly variations. Finally, in the fourth place, there are the semi-temperate regions around the slopes of Kilimanjaro and Meru and the mountains of the south, the altitude ranging from 5,000 to 10,000 feet. In these places there are fairly low yearly temperatures, with, however, great extremes.⁸⁸

Each year brings two well-defined rainy seasons. As a general rule, the long rains begin in February or March, and continue for two or three months, while the short rainy season extends from October to November. Yet for a tropical country the amount of rainfall is low,⁸⁹ and as a result, in some years great droughts have occurred.⁹⁰

(b) SOCIAL AND ECONOMIC ASPECTS

The Bantu peoples constitute the foundation of the racial composition of the population of Tanganyika. To them have been added the invading tribes of the Wahimas, a pastoral people of Hamitic race; the Masais, who even today are a warlike, nomadically inclined people; the Wangonis, of Zulu stock; and the Arab-Swahilis, the latter being those natives who show in blood and characteristics the influence of Arab and Mohammedan civilization.⁹¹

In 1928, the native population was estimated as being 4,735,000.⁹² The following table indicates the manner in which it was distributed among the various provinces of the territory:⁹³

⁸⁷ REPORT FOR 1926, p. 65.

⁸⁸ HANDBOOK, pp. 13-14.

⁸⁹ REPORT FOR 1926, p. 65.

⁹⁰ HANDBOOK, p. 11.

⁹¹ *IBID.*, pp. 16-18.

⁹² REPORT FOR 1928, p. 7.

⁹³ *IBID.*, p. 9.

Province	Area in Square Miles	Estimated Population
Mwanza	25,530	798,000
Bukoba	11,010	348,000
Tabora	40,230	533,000
Kigoma	48,345	290,000
Iringa	41,450	413,000
Mahenge	32,730	197,000
Lindi	38,910	357,000
Eastern	27,320	519,000
Central	38,770	607,000
Tanga	13,863	349,000
Northern	33,770	324,000
	349,928	4,735,000

There were also present in 1928 some 31,000 non-natives, about 6,000 of these being Europeans, with the majority of the remainder coming from Asia and northern Africa.⁹⁴

The Tanganyika Territory differs from the other mandated regions of Africa in that it contains some rather large towns. Of these the chief is Dar-es-Salaam, founded by the Sultan of Zanzibar in 1862. It is the seat of government, has a population of 35,000, and is a solid and well designed town. Second in importance is Tanga, to the north of Dar-es-Salaam. Other seaports are Pangani, Kilwa, and Lindi. Tabora, situated at the junction of two of the principal caravan routes within Tanganyika, is the most important inland town, having a population of 25,000. Other inland towns are Moshi and Arusha in the north, Morogoro, Kilosa, and Dodoma in the central region, Iringa and Mahenge to the south, Bukoba on Lake Victoria, Kigoma and Ujiji on Lake Tanganyika, and Mwaya on Lake Nyasa.⁹⁵

Among the agricultural products of this area are numbered sorghum, rice, coffee, cocoa, sweet potatoes, spices, tobacco, cotton, hemp, oil palms, coconut palms, rubber, and various fruits.⁹⁶ The livestock industry is very firmly established in the northwest, although the presence of the tsetse fly prevents its growth in other districts. Cattle, sheep, goats, and hogs are raised, hides and skins being the chief animal products.⁹⁷

⁹⁴ *IBID.*, p. 7.

⁹⁵ *IBID.*, p. 5.

⁹⁶ *HANDBOOK*, pp. 62-71.

⁹⁷ *IBID.*, pp. 72-75.

Tanganyika has several very valuable mineral deposits, there being found here gold, iron ore, mica, copper, lead, silver, potash, coal, and precious stones. The gold deposits are probably of the most importance.⁹⁸

Native manufacturing has been confined largely to the production of pottery, iron work, ornaments, mats and baskets, wood carvings, oil products, soap, and salt. Non-natives, however, have produced furniture, cement, roofing-tile, soap, and glass. The foreign element in the territory also includes some workers in ivory and wood.⁹⁹

(c) THE POLITICAL HISTORY OF THE TANGANYIKA TERRITORY

In the sixteenth century Tanganyika, like all East Africa, was under the influence of the Portuguese. A fort was built at Kilwa in 1505, but was soon abandoned, the region then falling under the rule of the Arabs under the Sultan of Zanzibar. This state of affairs continued until 1884, when Dr. Karl Peters, in the interest of the German nation, which had hitherto been represented only by missionaries and traders, entered the Usagara highlands, and obtained numerous treaties giving extensive rights and privileges to a German Colonization Society. The German government, over the protests of the Sultan of Zanzibar, then granted to this Society dominion over that vast area between the state of Zanzibar and Lake Tanganyika.¹⁰⁰

A boundary having been drawn between the British and the German spheres of influence in this region by an agreement in 1886, the German East African Association obtained a charter in 1887. In the following year it took over the administration of what now constitutes the coastal belt of Tanganyika. Native resentment, expressing itself in frequent uprisings, prevented the successful administration of the territory by this company; consequently, on October 22nd, 1889, the German government proclaimed the existence of an Imperial Protectorate. A competent military force soon reduced the natives to submission. Strange as it may seem, the Sultan of Zanzibar was then granted an indemnity to compensate him for the loss of this area.¹⁰¹

Material development was made under the new government, railway systems being built and harbors improved. Yet there

⁹⁸ *IBID.*, pp. 80-82.

⁹⁹ *IBID.*, pp. 82-83.

¹⁰⁰ *IBID.*, pp. 24-28.

¹⁰¹ *IBID.*, pp. 30-32.

was much native opposition to German rule, due to the general harshness of the administration.¹⁰² The most important uprising was that which began near Kilwa in 1905, spreading rapidly over the entire southern end of the colony. Sir Harry Johnston estimated that 120,000 persons died at this time, either in actual conflict, from guerilla warfare, or from the famine which ensued.¹⁰³

A very large proportion of the actual fighting which occurred between the Allies and the Central Powers in Africa during the World War took place in Tanganyika. However, the district was soon taken by the Allies. At the close of the War, His Britannic Majesty agreed to accept the responsibility for the administration of the former German colony under mandate. The Council of the League of Nations, on July 20th, 1922, thereupon set forth the terms of the British Mandate for East Africa, thus definitely bringing Tanganyika into its present political status.¹⁰⁴

5. SOUTH-WEST AFRICA

(a) PHYSIOGRAPHICAL CHARACTERISTICS

The territory of South-West Africa, which was formerly known as German South-West Africa, is bounded on the north by Angola and Northern Rhodesia, on the south by the Orange river and the Cape Province, on the east by British Bechuanaland and a portion of the Cape Province, and on the west by the Atlantic Ocean. It has an area of some 322,000 square miles.¹⁰⁵

On the west there is a coastal strip, in general an unbroken desert region, which rises gradually to a plateau some 3,000 to 5,000 feet in elevation. Behind this plateau, in which one encounters extensive grass plains and a few isolated mountains, there is the region of the Kalahari desert, consisting largely of sand dunes.¹⁰⁶ Toward the eastern border, in the vicinity of the Orange river, the characteristics of the country vary from

¹⁰² *IBID.*, p. 34.

¹⁰³ Johnston, H. H., *THE COLONISATION OF AFRICA*, p. 413. Quoted in *HANDBOOK*, p. 35.

¹⁰⁴ C. 449 (1) a. M. 345 (a). 1922. VI. BRITISH MANDATE FOR EAST AFRICA, p. 6.

¹⁰⁵ *OFFICIAL YEAR BOOK OF THE UNION OF SOUTH AFRICA*, No. 6, (hereinafter cited as *YEAR BOOK*), p. 982.

¹⁰⁶ *Peace Handbook No. 112, SOUTH-WEST AFRICA*, (hereinafter cited as *HANDBOOK*), pp. 2-3.

grassy to wooded plains, which then merge into a region of dense bush.¹⁰⁷

On the low coast-line, some 830 miles in length, the only harbors of any importance are Walvisch Bay and Luderitz Bay. Even in these, landing facilities are at present poor, though they could be improved quite easily.¹⁰⁸

With the exception of the Kunene and the Okavango rivers in the northern boundary, and the Orange river in the southern, there are practically no streams which carry surface water during the entire year.¹⁰⁹ Among the other rivers in the territory are the Kuiseb, the Swakop, the Konkip, the Hom, and the Ugab.¹¹⁰

Although the north and the northeast are rather hot, the climate as a whole is temperate rather than tropical. Taking into consideration the different altitudes of the various parts of the country, the average yearly temperature appears to be about 64° F.¹¹¹ The yearly precipitation varies from about an inch along the coastal belt to six inches in the south, about twelve in the central regions, and twenty-two in the north.¹¹² The dry season usually extends from November until April.¹¹³

(b) SOCIAL AND ECONOMIC ASPECTS

The chief native races in South-West Africa are the Bantu, the Hottentot, and the Berg-Damara.¹¹⁴ According to the census of May, 1921, there were in the territory 177,462 indigenes and 50,207 non-natives, 19,432 of these being Europeans. The chief town is Windhoek, the seat of government, with a population of approximately 8,000.¹¹⁵

The scarcity of water makes the cultivation of agricultural products difficult. There are grown, however, some maize, potatoes, tobacco, sorghum, melons, beans, fruit, and vegetables.¹¹⁶

¹⁰⁷ YEAR BOOK, p. 983.

¹⁰⁸ HANDBOOK, p. 4.

¹⁰⁹ YEAR BOOK, p. 983.

¹¹⁰ HANDBOOK, p. 4.

¹¹¹ *IBID.*, pp. 5-6.

¹¹² YEAR BOOK, p. 983.

¹¹³ HANDBOOK, p. 5.

¹¹⁴ *IBID.*, p. 7.

¹¹⁵ YEAR BOOK, p. 984.

¹¹⁶ HANDBOOK, p. 47.



SOUTH-WEST AFRICA

(Adapted from REPORT ON SOUTH-WEST AFRICA for 1919-1920)

The country is primarily a pastoral one, hundreds of thousands of cattle, sheep, and goats being raised each year.¹¹⁷

The territory is rich in mineral resources, having valuable deposits of diamonds, copper, tin, gold, coal, and iron.¹¹⁸ In the year 1922 alone, diamonds to the value of approximately four million dollars were exported.¹¹⁹

Manufacturing has come to play quite a large part in the economic life of South-West Africa. The leading industries, in all of which natives are employed to some extent, are the manufacture of glass, the extraction of building-stones, wood-carving, and the construction of vehicles. In 1922 alone, the output of the manufacturing industries was valued at approximately two million dollars.¹²⁰

(c) THE POLITICAL HISTORY OF SOUTH-WEST AFRICA

The coast of South-West Africa was discovered by the Portuguese in 1482, but, as has been seen to have been the case in the other mandated areas, they made no attempt to establish a settlement. About 1685 the Dutch governor of the Cape of Good Hope sent expeditions into this region; and some missionaries who went remained in it for a few years. The first permanent settlement, however, was that made by the Rhenish missionaries from Berlin about 1842, near Bethany.¹²¹

On the recommendation of Sir Bartle Frere, the Governor of Cape Colony and High Commissioner for South Africa, Walvisch Bay and its surrounding territory were annexed by the British in 1878. Early in 1883, the German government informed the British that a German merchant was about to establish a factory on the coast to the north of the Orange river, requesting that British protection be given him, if British sovereignty extended over that region by reason of its proximity to territories which had been declared to be British. It was further asserted that if such protection were not forthcoming, the German government would itself provide it. In July, 1883, the proposed settlement was founded at Angra Pequena by an agent of Luderitz, the merchant.¹²² No affirmative reply being received from the British government as to the extent of its

¹¹⁷ YEAR BOOK, p. 1000.

¹¹⁸ HANDBOOK, pp. 66-80.

¹¹⁹ YEAR BOOK, p. 1003.

¹²⁰ *IBID.*, p. 1006.

¹²¹ HANDBOOK, pp. 9-10.

¹²² *IBID.*, pp. 11-12.

sovereignty in that area, a German Protectorate was formally declared on April 24th, 1884.¹²³ Luderitz then extended the territory through purchase and treaties with the native tribes. From 1885 until 1892 the colony was under the administration of the German South-West African Colonial Society, which had acquired the rights of Luderitz. In 1892, however, an Imperial Commissioner was appointed to take charge of the government.¹²⁴

The most important event to occur during the German administration of South-West Africa was the Herero uprising which took place early in 1904. War was formally declared against the Germans, who were for a time in extreme danger of defeat. Upon the arrival of reinforcements, however, they soon conquered the natives, the entire Herero tribe being practically exterminated.¹²⁵

German South-West Africa was occupied by the allied troops early in the World War, the colony being under complete subjugation by the middle of July, 1915. At the close of the war, it was conferred on His Britannic Majesty as a mandate, and was assigned to the Union of South Africa for administration. It should be noted that this is the only "C" mandate which is discussed in this volume.¹²⁶

6. PREPARATIONS FOR THE STUDY NOW COMPLETE

Such are the fundamental physiographical, ethnological, and historical facts with regard to the African mandates of the British Commonwealth. A reader to whom these essentials were unknown could not have hoped to achieve the utmost understanding and appreciation of the problems arising in these territories. Having perused the foregoing data, however, he is now ready for the consideration of the first phase of the land problem, this being the subject of the native systems of land tenure.

¹²³ YEAR BOOK, p. 982.

¹²⁴ HANDBOOK, pp. 13-14.

¹²⁵ *IBID.*, pp. 14-16.

¹²⁶ In view of the many works which have appeared on the mandatory system, it has not been considered necessary to dwell upon the various classifications of the mandates. It is assumed that the reader understands that in the "B" mandates, (in this volume British Togoland, British Cameroons, and Tanganyika), the Mandatory Power "must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals." On the other hand, it is considered that the "C" mandates can best be administered as integral portions of the territory of the Mandatory Power.

CHAPTER THREE

THE NATIVE SYSTEMS OF LAND TENURE

1. EUROPEAN AND NATIVE CONCEPTIONS OF OWNERSHIP AND TENURE OF LAND

There can be little doubt that the fundamental reason for the existence of the land problem in the African mandates of the British Commonwealth today, indeed the underlying source of this question throughout the entire continent of Africa, is the total incompatibility of the conceptions held by Europeans and by natives as to the ownership and tenure of land. The reader is of course familiar with the European system of private ownership, accepted throughout the civilized world. In the days of the old manorial system, all the land was conceived as being the property of the lord of the manor, being granted by him to tenants and escheating to him on their death or dispossession. Life estates were often granted, but with the passing of the years these have come to be practically unknown. The general European conception at present recognizes the individual ownership of land, it now being held in fee simple estates, under which system it is the property of the owner to have and to hold forever. The right of his heirs to inherit it is of course established.

Far different from this is the conception of the African native with regard to the ownership of land. To the aboriginal African the sun, the water, and the land constitute one single element, a fundamental component of African social and economic life, with its greatest object the provision of human sustenance. These three are so interdependent that the alienation of the land would horrify the indigenous people equally as much as would the alienation and sale of the water or of the sun.¹

The African sees all land as vested in the tribe, its disposal being in the hands of the chief, who may allot it either to families who have outgrown their family lands, or to strangers who desire to settle among the tribe, provided, of course, that such strangers have paid the customary tribute and dues.² In times

¹ Harris, John H., *AFRICA: SLAVE OR FREE?* Part III, chap. i., p. 107.

² Lugard, Sir Frederick D., *THE DUAL MANDATE IN BRITISH TROPICAL AFRICA*, chap. xiv., p. 284.

past, the immense extent of land available for such grants as a general rule prevented much strife concerning the possession of the land by natives, who used the holdings given them as gardens, cattle stations, and hunting stations, all finally developing into the native farm. At all times, however, the men of the community had to hold themselves in readiness to go to the defense of their town and tribe; and their every journey had to be made with the express permission of the chief.³ Almost universally, to the mind of the native the sale of the land is abhorrent, a totally unthinkable act. From time immemorial this land has been held by the tribe, and by family groups within the tribe, the members of these family groups, being, throughout West Africa, such persons as can trace their descent through one maternal ancestress, succession running through the female line.⁴

But such succession does not imply that the successor, as the head of the family for the time being, has vested in him the right of ownership to the exclusion of the other members of the family. He is, indeed, a co-owner with the rest; and so jealously do the members of the family restrict him to a legitimate use of his position that the slightest trespass on their rights entails deposition. Theirs is the right to nominate to the headship of the family. Theirs is the right to depose from such headship; and no act of the head for the time being is valid without the consent and concurrence of the members of the family, nor is his permission necessary in the enjoyment of the family land.⁵

There are two outstanding features of the native character which complicate the problem. The first of these is the intense local attachment to his home and neighborhood which the native has. It has often been the home of his fathers before him, and it is in it that there are found the roots of subsistence of his people. On the land he lives in his ancestors, being far happier, far more moral, and in a far more natural state here than at any other place. The second of these characteristics is the childlike procrastination which the native exhibits with regard to a troublesome question. If he is in debt, he will gladly incur further

³ Mackenzie, John, AUSTRAL AFRICA, Vol. II, Book VI, chap. iv., p. 486.

⁴ Hayford, Casely, THE TRUTH ABOUT THE WEST AFRICAN LAND QUESTION, chap. v., p. 52.

⁵ *IBID.*, p. 53.

liability, rather than face an immediate settlement. Both of these features work to his disadvantage in the land question.⁶

According to Sir Frederick D. Lugard, one of the leading Englishmen in African affairs for many years, African land tenure is not "communal," if one interprets that term in the sense of tenure in common; but it is rather an individual tenure of land which is derived from the common stock at the disposal of the tribe or family.⁷ The same scholar gives his conclusions with regard to African land tenure in the following words:

It is not easy to focus into a paragraph a general conception of African land tenure. The general principles would seem to be that the assignment of land to the individual is entrusted to tribal or family authorities, in whom is vested the control of common grazing lands and forests; that every individual has a right to a share in the use of the land, and holds it in perpetuity, subject to the performance of tribal obligations, but may not alienate it; that these principles are held more tenaciously by the forest tribes than by those further north, where, in some cases, it is the representative of the earth-god who assigns the land, in others an individual chief, while pastoral nomads are indifferent to questions of land ownership and value grazing rights only. The forest tribes jealously maintain that all unoccupied land belongs to some community or other, while the northern tribes are less insistent on such claims. All alike recognize the right of the conqueror to dispose of the land. The inevitable tendency to individual ownership is meanwhile constantly asserting itself, with the evolution of the tribe, and is fostered by pressure of population, by foreign example, and by the replacement of annual by permanent crops.⁸

The South African Native Races Committee, writing some twenty-five years earlier, made the following comment on native tenure:

The tribal tenure of land, knit up as it is with the personal relation of the landholder, on the one hand to the chief, and on the other hand as head of his family to its subordinate members, is not a progressive system. And it has always been the object of colonial governments ultimately and as soon as possible to substitute some form of individual holding. If successfully established, the advantages

⁶ Evans, Maurice S., *BLACK AND WHITE IN SOUTH EAST AFRICA*, chap. v., p. 139.

⁷ Lugard, Sir Frederick D., *op. cit.*, chap. xiv., p. 285.

⁸ *IBID.*, p. 287.

at first sight seem to be numerous. The natives might more speedily lose their almost nomadic restlessness under difficulties, if some idea could be instilled into them of the real value of a permanent holding of land, and of the labour they year by year expend on it. Fixity of tenure, moreover, is necessary to induce them to put more energy into the cultivation and irrigation of their plots. A higher class of cultivation and irrigation would go some way towards meeting the growing needs of a rapidly increasing population. Ploughs are said to have brought more land under cultivation; but the native mind is slow to move, and their conservatism in this instance has been supported by the chiefs, who are naturally reluctant to further weaken their influence by the introduction into the tribe of so revolutionary a change as private ownership of land.⁹

Mr. Maurice S. Evans, an outstanding writer and sociologist, shows clearly in the following contrast just what the advent of European adventurers and immigrants, who brought with them their conception of ownership, has done to native tenure:

In the early days of South East Africa, and I speak more particularly of Natal proper, there was abundance of land and wide scope for black and white alike.

In those days it was the common phrase among colonists in speaking of the natives to say that no people on earth were so well off or so happy. Cattle in abundance, hill and dale on which to graze, the choice of the land for their gardens, wants that a few days' labour would supply. The attention of the newcomer was directed to the files of comely girls and stalwart young men going to dance or festival, singing as they went; to the abundance of food and beer; to the wealth in stock and the ample leisure the native had in which to enjoy it all. These early years of the white man's government were idyllic days for the black man; his old life was not interfered with, most of his old interests remained; his pleasurable activities were not curtailed; he dwelt in security; and had, what is essential to ensure these happy results, the full use of broad lands for pasture and cultivation. It is significant that this form of address, this statement of fact, is seldom heard in these later days; the least observant of Europeans feels that a change has come over the life of the native since that time. Now one hears more of their laziness, their disregard of contracts and obligations, the best methods of inducing or compelling them to furnish reliable and continuous labour; but little of their

⁹ South African Native Races Committee, *THE NATIVES OF SOUTH AFRICA*, chap. v., p. 73.

happiness, little of the content which, in the past days, was generally admitted filled their lives . . . The position was idyllic, and had it so remained there would have been no native problem as we know it today.¹⁰

How vastly different is his picture of the effect of the growth of the white population!

But the white man as well as the native increased in the land. Newcomers arrived from oversea inspired with new ideas foreign to those held by the old settlers. The easy-going methods of the latter were arraigned and condemned. The apostles of progress demanded that fuller use be made of the fertile land, that ground simply used for grazing should be broken up and cultivated, and varied crops grown for market. They scouted the uneconomic but pleasant practice of trekking from summer to winter veldt, and advocated that men should remain all the year round on their farms, growing winter food for their stock, and utilizing the whole according to modern ideas in vogue elsewhere. Land-hunger swept over the country, and the government was pressed to throw open the Crown lands to survey and allotment for whites, and to charge a rent to the natives remaining on the unappropriated balance, the demand being that, finally, all should pass into the private possession of the white man, and the native lands be confined to those already allotted as locations. The men who lived in the old way were denounced as being backward and unprogressive, and comparisons were constantly made to their disadvantage, with those who held the land in more progressive countries. As might be expected, the new ideas prevailed; fences enclosed the wide open country; grazing areas came under the plough; many new crops demanding much labour, such as wattles, were planted; improved stock was imported; and the Crown lands given out as private farms, all profoundly altering the position of the native on his land.

Instead of having the run of the farm for his cattle and goats he was fenced into the least valuable portion; his garden ground was limited and allotted to him; in place of the old patriarchal relations in which no cash passed, a heifer or a few goats being recognition of his services, he was charged rent; and a money payment was given for his labour. Failing fulfilment of his contract, the law interposed and he was evicted. The change came gradually; he generally had some time in which to adjust himself to the new conditions; yet not seldom the white man, stirred by the racial instinct for development and economic progress, and fanned by emulation, made it the guiding principle of his

¹⁰ Evans, Maurice S., *op. cit.*, chap. v., pp. 126-128.

life, and the native, at a loss to comprehend, was rushed along, vainly attempting to adjust himself as the resistless whirl carried him along with it.¹¹

Surely it can be truly said that there is nothing which more readily shows the vast difference between the black and the white races than do their respective views on the question of land. The black man is entirely happy with the right of usufruct of land which belongs to the community; but the white is satisfied only when the land is entirely his, with the right to have and to hold against all comers for all time.

A gleam in the darkness of the economic relations of the two races is found in the following comment on the attitude which the British government has held toward the question of native ownership:

The rule of the law of nations according to which aborigines have only a personal right of occupying the land inhabited by the tribes to which they belong, subject to the right of the State exercising the sovereignty to restrict them to lands which it sets apart and reserves for them, suitable for them as agriculturists, necessarily gives the aborigines an inferior station with respect to the colonists and exposes them to being cheated out of their lands by malevolent Europeans. To avoid this situation and this possibility, a practice has recently been put into operation in some of the British colonies by which the British Government grants all land on lease, reserving a rental, so that all transfers of land are subject to its sanction as general landlord. The aborigines are thus protected and the formation of monopolistic holdings is prevented. The land rental being paid by the colonists and the aborigines alike, there results a just division of the expenses of government between the two elements of the population.¹²

2. SYSTEMS OF TENURE IN BRITISH TOGOLAND

(a) IN THE NORTH

Fulfilling the terms under which the mandate was conferred, the administration in British Togoland upholds the system of land tenure existing under customary native laws, recognizing its legality. Long usage is the sole reason for the acceptance of

¹¹ *Ibid.*, pp. 128-129.

¹² Snow, A. H., *THE QUESTION OF ABORIGINES IN THE LAW AND PRACTICE OF NATIONS*, p. 128.

this system as a firm precedent with powerful legal force, there being no written law to serve as a foundation for native tenure.¹³

In the north of British Togoland, among the tribes of Yendi and those which are related to them in the Kratchi district, the original dominion in land is vested in the religious heads rather than in the political chieftains. Such religious leaders are designated as "Tindana," this term meaning "owners of the land."¹⁴ The natives in this region associate all land with a deity, believed to dwell in the land, his presence therefore inspiring awe and reverence and checking illegitimate occupation. Before any grant can be made, this deity has to be propitiated by his high priests; consequently, tithes are paid to them in the form of guinea corn or millet, which they exchange for sheep or cows to be sacrificed to the deity on fetish days.¹⁵ Although this idea is now gradually passing away, and the coming of the political chiefs has caused a gradual decline in the authority of the high priests as the distributors of land, the Tindana are nevertheless still powerful. The ownership and occupational right of land once given by them passes in perpetuity.¹⁶

There exist both collective ownership of land by families, and individual ownership by different members of those families. Such individuals, however, must not allow these private enterprises to interfere with the satisfaction of their obligations toward the family land. Permanent occupation and individual ownership have developed largely as a result of the quality of the soil, which demands continuous cultivation.¹⁷

On the death of the head of a family, the family land passes to the oldest male in the male line. Any private property which the deceased may have had goes to his sons, or, failing them, to his brothers.¹⁸ Custom makes the sale of land unknown and unthinkable, although it is not entirely prohibited by native law. Lease, however, is permissible, but re-entry may be made by the lessor at his pleasure. Sub-letting by the lessee is forbidden.¹⁹

¹³ REPORT ON THE ADMINISTRATION OF THE BRITISH MANDATED SPHERE OF TOGOLAND (hereinafter cited as REPORT) FOR 1924, p. 38.

¹⁴ REPORT FOR 1920, p. 20.

¹⁵ REPORT FOR 1923, p. 33.

¹⁶ REPORT FOR 1925, p. 81.

¹⁷ REPORT FOR 1920, p. 20.

¹⁸ REPORT FOR 1925, p. 81.

¹⁹ REPORT FOR 1920, p. 20.

In the extreme northern portion of the British Sphere, there lives the Kusasi tribe, in which the chief is in charge of all the land, acting as a trustee for the interests of his people. The leasing of land to a family is done by verbal agreement with the chief; and the lessee gains the right to live on and cultivate the land so long as it remains in occupation thereof, and does not die out or migrate. In case the family does not continue in occupation of the land, however, the grant reverts to the chief, who may then re-allot it. A stranger may be given land by the head of the tribe to be used during the period of his residence within the chiefdom; but unless a special agreement is made, it is not customary for the holding to pass to his successors. In all cases such as this, the chief consults the fetish before leasing the land. In general, no money is paid to the chief for the use of the land; but it is customary for the lessee, after the completion of his house, to make the head of the tribe some present in recognition of the debt.²⁰

(b) IN THE SOUTH

In the southern portion of the mandated sphere, the forms of land tenure existing may be classified into four categories, these corresponding in general to the different types of proprietorship.

In the first place, there are the tribal lands, acquired by right of discovery and settlement or by conquest, and constituting the common property of the tribe. The chief of the tribe and his elders, or councilmen, act as guardians of the land for the entire group. According to ancient custom, any member of the tribe may settle on any unoccupied portion of this land, the chief exercising seigniorial rights over such unoccupied land as is owned by no clan or family. A community, family, or individual of another tribe can receive a grant of this land from the chief and his elders; but it is customary for a payment to be made for such a privilege. This payment is usually in money; later, as a rule, a portion of the crops grown is also presented. These settlers are liable to dispossession at all times, for they obtain no *de jure* title to the land. But such action is rarely taken, and the settler gains virtually the right of occupation in perpetuity.²¹

²⁰ REPORT FOR 1926, p. 51.

²¹ REPORT FOR 1925, p. 82.

In the second place, there are the Stool lands, which are set aside for the maintenance of the Stool, the land being vested in the chief of the tribe, who is the occupant of the Stool.²² With the consent of his elders, the chief may lease, mortgage, or alienate Stool land, provided that such action is for the benefit of the Stool. Any person who desires to cultivate Stool land or to fish in Stool waters must pay a rent to the chief of the tribe. The entire membership of the tribe is entitled to permission to cultivate such land, however, and to build upon it; and even strangers are allowed to farm it. While the usual consideration for such a grant is in the form of money or barter, a share of the produce of the land is often also required. These leases of Stool land are for an indeterminate period. However, in the event of the assertion by the grantor of a claim over a holding, it must be forfeited to the occupant of the Stool.²³

As a rule, of course, the family of the chief is the most important and influential in the tribe; and, in general, the land acquired by it is of considerable extent. Being the official head of his family as well as the occupant of the Stool, the chief is the custodian of this family land; and in this sense it might be spoken of as Stool land. Ordinarily, however, a distinction is drawn between this land and Stool land proper.²⁴

In the third place, there are the family lands, which, as the name implies, are tracts owned by families, dominion being vested in the senior member of the group,²⁵ with every member, male and female, having working and usufructuary rights. The head of the family allots the land; and if the individual receiving a grant meets his obligations toward the family and the tribe, his tenure on this plot is secure.²⁶ The private ownership of trees on family land is allowed, they being the personal property of the individual who plants them; so far as the ground itself is concerned, however, the presence of his trees gives him no extra rights as against the other members of the family.²⁷ Trees already on the land are regarded as being the property of the head

²² REPORT FOR 1922, p. 17.

²³ REPORT FOR 1925, p. 82.

²⁴ *IDEM.*

²⁵ REPORT FOR 1922, p. 17.

²⁶ REPORT FOR 1925, p. 82.

²⁷ REPORT FOR 1920, p. 20.

of the family; yet if any individual cultivates them, he enjoys usufructuary privileges.²⁸

The mortgaging of land is rapidly dying out, although it was extensively practised in the past. Under native law, the mortgagor can re-enter at any time by paying off the loan.

Instances have occurred when land mortgaged as far back as the last Ashanti invasion in 1868 remained unclaimed until quite recently when a member of the mortgagor's family suddenly woke up to the fact that the land had become of considerable commercial value, owing to the mortgagee and his family having cultivated and raised cocoa plantations thereon. It is not uncommon for any member of the mortgagor's family to appear before the District Commissioner to reclaim the land as it stands, and offering to refund the price of the original loan, at the same time demanding the inclusion of the crops and buildings.²⁹

In the past, the sale of family land, which can be effected only with the consent of all members of the family, was extremely rare, being resorted to, in general, only when the family was indebted and could raise money in no other way. Of recent years, however, sale has become more common. The growing desire for individual ownership, due primarily to the rapid development of the cocoa industry, probably has been the principal reason for the increasing number of such sales. Families willing to dispose of their lands in order to satisfy monetary embarrassments have no difficulty in finding a buyer.³⁰ Land purchased in this manner becomes private property, and may be inherited by the oldest son of the purchaser. After that, it becomes family property, and passes first to the brother of the deceased head of the family, and then to his eldest son.³¹

In the fourth place, there are the individual lands, which may be acquired by grant from the chief and his councilmen, or by gift, prescription being unknown. In the event that the individual holds land as a grant from the chief, he is usually required to donate part of his crops or to render services to that chief. In return for this, however, the grantee secures what is practically a permanent title. If he has obtained the land for the purpose of building on it and allows the building to fall into

²⁸ REPORT FOR 1922, p. 17.

²⁹ REPORT FOR 1925, pp. 82-83.

³⁰ *IBID.*, p. 82.

³¹ REPORT FOR 1920, p. 20.

ruins, or if he disputes the title of the grantor, his grant *ipso facto* terminates, the land reverting to the grantor or his representative.⁸²

Any individual of alien tribe may lay out a farm. All that seems to be necessary is that such a person, through the presentation of gifts to the owner, shall insure himself of the right to use the ground. He does not thereby gain ownership, however, dominion in the land remaining vested in the original owner, who, despite the fact that the occupant may plant whatever crops he chooses, has free access to the land at all times.⁸³

(c) THE SYSTEM IN GENERAL

In summary, it may be said that the prevailing form of native land tenure in British Togoland is one which is essentially communal, operating therefore to make the soil, which the native conceives as the gift of the gods for the production of his sustenance, accessible to all for the raising of the necessary food crops.⁸⁴ The native, however, is fully alive to the fact that his land today is of far greater commercial value than ever before.⁸⁵

3. SYSTEMS OF TENURE IN THE BRITISH CAMEROONS

(a) IN THE EMIRATE OF DIKWA

The question of land tenure in the Emirate of Dikwa presents several features worthy of comment. In the first place, it is admitted by the Muslims that the proprietary rights over land are vested in the ruler of the state, the Sheikh. On the other hand, however, there exists a markedly individualistic system of tenure over farm land, probably resulting to some extent from the large Arab immigration to an area in which very grandiose claims had been made, and quite often sustained, by the headmen of the older towns.⁸⁶ It is interesting to observe the presence even now of conceptions which arose under political conditions which have long been changed. The headmen, or the "mai," of

⁸² REPORT FOR 1925, p. 83.

⁸³ REPORT FOR 1920, p. 20.

⁸⁴ REPORT FOR 1924, p. 38.

⁸⁵ REPORT FOR 1925, p. 83.

⁸⁶ REPORT ON THE BRITISH SPHERE OF THE CAMEROONS (hereinafter cited as REPORT) FOR 1922, p. 22.

the five old towns of the So, rulers of the region some 1000 years ago, still plead the rights of their ancestors over the land as a legal title, in spite of the fact that these rights are at present almost, if not altogether, a thing of the past. Certainly the mai use them in an attempt to secure favorable decisions from the Sheikh, pleading that although dispossessed, they are the hereditary lords of the soil.³⁷

If a farmer has full rights to his land, he may sell, let, or grant away those rights. In the event of his death, both the strict Muslim laws of inheritance and local customs with regard to family possessions are influential in determining the heir to his property.³⁸

Examples are more illuminating than theories . . . He may absent himself, for example, on the pilgrimage, and on his return claim his land; if his absence had been very long some sort of prescription would be pleaded in refusal, but he would still have the right of appealing to the head of the state, the Sheikh, not to the courts, for a fair decision on the facts. On his death male heirs succeed. Should the land not be strictly divided and the senior male heir attempt to sell, let, etc., his rights, apparently the other heirs could demand a division and he could only sell his own rights subject to the Sheikh's rule. Should the heirs be absent on an owner's death, they could yet claim their inheritance on their return from absence if not too prolonged.³⁹

The headman in a native village has not only his family land, but also an official farm. Too, in the smaller hamlets, the land on which the village stands is under the control of this officer. He is also in charge of unoccupied lands, making grants of bush land as the representative of the ruler. Vacated farm land under his control may be let or even sold to natives, subject at all times to the right of the previous owner or his heir to reclaim the holding. Houses, wells, and cultivated trees are owned, but the land on which they are situated is regarded as being under the dominion of the owner of the improvement only so long as the improvement exists.⁴⁰

Such, in brief, are the views of the farming peasantry of Dikwa toward land tenure. The ideas of the Sheikh and his

³⁷ REPORT FOR 1921, pp. 23-24.

³⁸ REPORT FOR 1922, p. 22.

³⁹ REPORT FOR 1921, p. 22.

⁴⁰ *IBID.*, pp. 22-23.

councillors, and of the Dikwa chiefs in general, however, are much more in accordance with Nigerian and European laws on the subject.

No doubt they regard private property in land as an infraction of sovereignty; but they naturally want to encourage immigration, especially Arab immigration, and they object to the "dog in the manger" attitude of the Kanuri, who makes excessive claims to land, refuses to let or sell his rights, and tries to charge rents to Arabs and use the proceeds to pay his taxes. These views have been expressed in so many words by the present Sheikh, including the remark about the tax. He also pointed out that lands left vacant in Rabih's wars or in the famine of 1913 are often claimed by Kanuri with no near title to them. A concrete case will be illuminating. One Husein, a petty Sheikh living in the neighbouring state of Mandara, had been in the habit of coming to Dikwa for three months every year and renting a piece of "firki" land at the rate of a liar (about five shillings at present) per small measure of land. He then decided to migrate with all his community and cattle, but the Kanuri landowners refused to let. Husein appealed to the Sheikh, who, finding on enquiry that there was plenty of land for all and that the old rents were extortionate, decreed a division of the land with the condition that if the harvest were reasonable the Arabs should pay to the Kanuri "Khasham al jurab," Arabic for "mouth of the corn bag," that is, a tenth of the crop. In effect, he created something like a lease in perpetuity . . .⁴¹

This decision indicates that the trend of action by the chiefs has been and is for the general benefit of the country.

In 1921, the Sheikh proposed the public condemnation at a Mohammedan festival of the right claimed to raise rents and evict tenants at will. Soon realizing, however, that premature action here would be dangerous, he decided to manifest his leadership through his rulings in the individual cases on that subject which came before him, hoping that by such a course a change in policy could be gradually effected. In case of failure, the matter can of course be settled by decree in later years.⁴²

Obviously it would have been unwise for the Sheikh peremptorily to have abolished private property in land, in spite of the importance of his retaining the right to divide the lands in proportion to the number of people wishing to cultivate. Instead

⁴¹ *IBID.*, p. 23.

⁴² *REPORT FOR 1924*, pp. 49-50.

of promulgating new regulations, therefore, he will, as has been said, use his influence, as, for example, in his judicial decisions, against the three most undesirable features of the old system of land tenure:

first, the obstructionist attitude adopted by some of the Beri-Beri headmen towards Arab and other immigrants; second, the exaction by landowners of high rents in cases which enable the lazy owners to live on the proceeds of their rents; third, the transfer, by purchase or otherwise, of large estates between individuals.⁴³

Strictly speaking, no lands are anywhere communally owned, nor any lands considered as the absolute property of the state.⁴⁴

(b) IN THAT PORTION ADMINISTERED WITH THE
NORTHERN PROVINCES OF NIGERIA

There are no particularly outstanding details in connection with land tenure in that division of the British Cameroons administered with the northern provinces of Nigeria. Interestingly enough, however, although the Pagans are in complete occupation of the major portion of the country, it is claimed by the Fulani chiefs that all rights over land located near their towns, markets, and slave-farm villages are vested in themselves.⁴⁵

The system of native tenure in the northern part of the mandated territory is well summarized in the following extract from a report on the important northern districts of Adamawa, Grumpao, and Yebbi:

Land is vested in the Chief, who assigns unoccupied portions to those who desire it. The native law and custom, whilst it entitles each individual native to claim sufficient land for the support of himself and his family so long as he fulfills certain obligations demanded by the laws of the tribe, is equally emphatic in denying to him individual proprietary rights in land; whilst his claim to occupy national land was recognized he was invariably liable to forfeit these claims and even to be dispossessed for contravention of local customs. Land has not yet acquired an exchange value. The assignee and his heirs have undisturbed possession of the land assigned, together with the usufruct of the trees growing on it, provided they continue to claim or farm it. No

⁴³ REPORT FOR 1922, p. 22.

⁴⁴ REPORT FOR 1924, p. 25.

⁴⁵ REPORT FOR 1921, p. 38.

cases have come before the administration in which land as property has been sold though instances occur of the pawning or sale of the harvest.⁴⁶

It is the intention of the Mandatory Power to administer the land of this territory in the same manner as it is dealt with in the northern provinces of Nigeria, under the Land and Native Rights Ordinance, which secures to the natives the customary rights to use and enjoy the land of the Protectorate and the natural fruits thereof to an extent sufficient to enable them to provide sustenance for themselves and their families. This Ordinance also preserves for the natives rights of occupation under native custom existing at the time of the enactment of the law. Further, it restates the principle that all lands are native lands, to be controlled by the Governor for the use and common benefit of the indigenous people.⁴⁷

In other words, the Government has assumed complete control over all land as trustee for the native communities and has the right to occupy all the land it requires without payment or compensation (except for disturbance), and is in a position effectually to prevent the alienation of any land by the native administration to private persons without its consent. The Government would not, however, without sufficient cause occupy any land to the detriment of any native community or individual.⁴⁸

(c) IN THE CAMEROONS PROVINCE

In the Cameroons Province, administered with the southern provinces of Nigeria, land tenure is of a communal nature, the ultimate ownership of all land, whether occupied or not, being vested in the chief or the village community.⁴⁹ Private ownership is unknown, and land cannot be sold or leased by any private individual in consideration of a rent or other payment. Every member of the community, however, has an indisputable right to the use and enjoyment of adequate land for the needs of himself and his family. Allocation of the land is made by the head of the tribe to various delegates, who are ordinarily the heads of the families. Subject to good behavior and the fulfillment of stated

⁴⁶ REPORT FOR 1924, p. 25.

⁴⁷ REPORT FOR 1922, p. 9.

⁴⁸ *IBID.*, pp. 9-10.

⁴⁹ REPORT FOR 1921, p. 59.

obligations, the occupier and his family gain certain inalienable rights as users of the land.⁵⁰

The right of property in land is derived either from right of conquest or from first occupation of a hitherto uninhabited country, or through long-continued and uncontested use; and it will be found that the ownership of the land is vested either in the chief as at Bali (Bamenda) or in the community as at Buea, according as the conquest or original occupation was the work of one single chief or of a community acting without any one directing force. In either case it comes to the same thing; it is the native village community or state that is the one and only owner of the whole territory, and this village community or state concedes the enjoyment and use of its lands to families and to individuals. The absolute and irrevocable alienation of land to a stranger is not allowed, and individual ownership can only be acquired over the results of a man's labour or that of his family and dependents, and over an area of land which does not include the soil itself. The ownership of the land remains collective, the representatives of the community, whether a single chief or several heads of families, being the trustees.⁵¹

(c) THE SYSTEM IN GENERAL

In summarizing the native systems of land tenure existent in the British Cameroons, it may be said first that in Dikwa there are prevalent three sets of ideas regarding land tenure. The first and most primitive of these is that in which the land is conceived as being vested in the chief of the clan as trustee; the second regards all land as vested in the Sheikh as paramount lord and landowner, and recognizes only right of occupancy or lease granted at his discretion; the third, applying only to certain types of soil, recognizes the sovereignty of the title of the Sheikh, but insists on the securing for the occupier of the fruits of labor spent in the improvement of the land. These ideas are recognized and protected by the provision of the Land and Native Rights Ordinance to the effect that native laws and custom with regard to land shall be considered in all cases in which natives are involved.⁵²

In the south, however, in the non-Moslem parts of the Cameroons, land tenure is communal. The soil is owned by the clan, the chief directing its disposition, and the members of the tribe

⁵⁰ REPORT FOR 1922, Annexure II, p. 55.

⁵¹ REPORT FOR 1921, p. 59.

⁵² REPORT FOR 1924, p. 25.

having usufructuary rights during their life-times. Alienation to non-natives is forbidden, and lease may be granted only through the authorities.⁵³ Thus the government has shown no desire to interfere with the existing system of land tenure and its natural evolution in these provinces, merely insisting that no person not a native of Nigeria shall acquire any interest in land without the approval of the Governor.⁵⁴

4. SYSTEMS OF TENURE IN THE TANGANYIKA TERRITORY

At a conference of the governors of the East African Dependencies in 1926, the following classification was made of the lands of East Africa:

First, there are those lands which, as jungle or forest or desert or swamp, or because of the inroads of human and animal disease or for other causes, were indubitably unoccupied and unclaimed at the time when our Government was established.

Secondly, there are those lands to which there was only a doubtful claim, the "lands of the spear," where the cattle of hostile tribes grazed under warrior guard whenever grazing was scarce at home.

Thirdly, there are the lands effectively occupied by a large and settled native population.⁵⁵

In commenting on this classification, the conference went on record to the effect that:

This third category of land should clearly be reserved to its original native owners. In the other two, sufficient land for their own use should be secured to the native tribes originally sprinkled or wandering over it, but the rest is clearly the property of our Government, to develop in the manner which it considers most suitable.⁵⁶

In the Tanganyika Territory, the whole question of land tenure and ownership is somewhat complicated, as there exist

⁵³ White, Freda, *MANDATES*, chap. ix., p. 108.

⁵⁴ Lugard, Sir Frederick D., *MEMORANDUM*. Quoted in *REPORT FOR 1922*, p. 55.

⁵⁵ *CONFERENCE OF GOVERNORS OF THE EAST AFRICAN DEPENDENCIES, 1926, SUMMARY OF PROCEEDINGS*, p. 13. Quoted in *REPORT OF THE COMMISSION ON CLOSER UNION*, p. 333.

⁵⁶ *IDEM*.

side by side three distinctly antagonistic and mutually exclusive systems.

These may be described as (1) the ancient tribal system based upon a communal ownership, as established over a wide area of Africa; (2) the purely private and individualistic Arab system, whereby the original alien immigrant possessed himself of a desirable piece of land without consideration for the possible rights of the State or the community; and (3) the European system, under which Government grants of suitable properties were made to certain persons or companies after at any rate nominal consideration of the rights of the native community and the development of the country.⁵⁷

Although the ancient tribal system prevails over the most extensive area, it is confined in general to the less developed and desirable parts of the territory. While this system worked well before the African came into contact with outside influences, it is at present complicated by modern conditions. Caution is ever necessary, therefore, to insure the preservation of native rights, and at the same time, the adequate development of the large and often rich regions involved.⁵⁸

The Arab system of ownership lends itself more readily to incorporation into the European scheme of private property in land. A great complication in its successful operation, however, arises from the fact that these estates were primarily intended to be exploited by slave labor.

Once slavery ceases, the Arab owner tends to lose his powers of development, and his property falls into a neglected and unproductive state, with the inevitable result of eventual dispossession by the easy road of debt and mortgage. There is thus a constant danger that the former Arab owners (who, after all, were responsible for many useful innovations, and who did much to develop the Coast area in the past) may be expropriated by European or Indian successors who will exploit the properties on modern commercial lines, while the Arab and his ex-slaves sink apathetically into a hand-to-mouth existence under conditions distinctly opposed to social progress. It is no doubt true that these lands were originally seized in utter defiance of the rights of the original African communities; but it is scarcely possi-

⁵⁷ REPORT ON THE ADMINISTRATION OF THE TANGANYIKA TERRITORY (hereinafter cited as REPORT) COVERING THE PERIOD FROM THE CONCLUSION OF THE ARMISTICE TO THE END OF 1920, p. 69.

⁵⁸ *IDEM.*

ble to revive such considerations at this stage, while the Arab may be said to have justified his existence to a great extent by the many improvements which he introduced, to the general benefit of the country.⁵⁹

The German administration introduced the European system of land tenure, making large grants to individual persons and companies, often with little or no consideration of native rights and requirements. The resulting native unrest, however, led in later years to a modification of German policy, the methods employed becoming more far-sighted and considerate. Yet it cannot be denied that in many cases land was alienated in absolute disregard of the fundamental principles of a just administration of a backward territory. As a consequence, the present British administration is compelled to make this statement:

We are left in certain portions of the Territory with an unfortunate legacy in the shape of an over-crowded and discontented native community on the one hand, and with large and valuable properties handicapped for lack of sufficient labour, on the other.⁶⁰

The warlike Masai tribe, whose members are very proud and do not readily engage themselves to work for Europeans, have been assigned an extensive reserve, reaching approximately from Nairobi to Arusha, south of Kilimanjaro. Although they require a great deal of room for the grazing of their cattle, they are able to find pasture in places which would hardly repay cultivation. Some sections of the group have settled down and are devoting themselves to agriculture; it is probable that others will do likewise in the course of time. Those who succeed in inducing the Masai to look after their cattle find them excellent herdsmen.⁶¹

In general, it may be said that the land problems in the Tanganyika Territory are not so difficult as they are in Uganda, Kenya, and Nyasaland. Arab tenure, governed by Mohammedan law and custom, remains predominant on the coast, while in those districts settled by the Germans there still exist the freehold titles which were granted to non-natives.⁶² The only district which might be called a native reserve is that for the

⁵⁹ *IBID.*, p. 70.

⁶⁰ *IDEM.*

⁶¹ Lagden, Sir Godfrey, *THE NATIVE RACES OF THE EMPIRE*, chap. iii., p. 111-112.

⁶² *REPORT OF THE EAST AFRICA COMMISSION*, 1925, p. 129.

Masai tribe, the governor of the territory in 1926 having gone on record as being opposed to the establishment of such areas.⁶³

5. TENURE IN SOUTH-WEST AFRICA

There is relatively little to be said on the subject of native tenure in South-West Africa. The most interesting feature of its entire tenurial system is the existence of several native reserves, from which many of the men go out to work in the factories or on the farms of others. Some live on the farms on which they labor; by law, however, a farmer is prohibited from having more than ten native families on any one farm.⁶⁴

As far as native tribal life is concerned, European colonization in this region in the past has meant tragedy for the native inhabitants.

Before the white men came, they were a number of tribes, pastoral and nomadic as was natural in that dry-grass country, owning herds, living on milk and meat, and moving from water-hole to water-hole as the surrounding pasture got trampled out. Some of the tribes such as the Hereros and the Hottentots were rich and proud; none save the Bushmen seem to have been savages.⁶⁵

In these modern native reserves, tribal organization has been reconstructed, and schools are being provided and subsidized. It would seem that the natives are here to be under laws that will give them freedom, justice, and fair opportunities to live and develop in peace.⁶⁶ Tenure on these reserves, which are in many cases the ancestral lands of the natives, is generally communal; and the land is inalienable, though there is a steady procession of Europeans into these territories for trading purposes.⁶⁷ On the reserves, the natives are given locations for which they pay rent in labor or in cash, this rent going into a trust fund for that reserve, the fund being controlled by a reserve board. This board is made up of the superintendent of the reserve, who acts as chairman, the duly appointed native headmen, and not more than six adult males domiciled or having

⁶³ Conference of Governors, 1926, *op. cit.*, p. 13. Quoted in Buell, Raymond L., *THE NATIVE PROBLEM IN AFRICA*, Vol. I, Appendix 13, p. 553.

⁶⁴ *MINUTES OF THE PERMANENT MANDATES COMMISSION*, (hereinafter cited *MINUTES*), Fourth Session, p. 59.

⁶⁵ White, Freda. *op. cit.*, chap. x., p. 128.

⁶⁶ Lagden, Sir Godfrey, *op. cit.*, chap. i., p. 67.

⁶⁷ Colquhoun, A. R., *THE AFRICANDER LAND*, Part I, chap. vi. p. 93.

substantial interests in that reserve, these six being elected by the other adult males.⁶⁸

In 1922, with the total area of the country being approximately 83,433,000 hectares,⁶⁹ the status of the reserved land was as follows:⁷⁰

	Hectares
Land Occupied by Natives Under German Treaties	992,931
Reserves Proposed or Granted and Being Occupied	1,501,480
Land Earmarked for Future Expansion.....	406,361
Reserved Native Area.....	7,271,250
Government Ground Occupied Pending Closure or Further Action.....	315,355
Grand Total.....	10,487,377

In 1928 it was estimated that there were living on these reserves 4,419 men, 7,350 women, and 8,197 children, making the total native population here at this time 19,966.⁷¹ Off the reserves at this stage of the development of the mandated territory there were to be found 23,939 natives residing in urban areas, and 63,042 in rural regions, including mines and works outside the urban districts.

The following excerpt, which is a splendid explanation of the administration of such a native area, summarizes the relations of the inhabitants to the reserve itself:

A reserve having been prepared at government cost and set aside by proclamation, the usual procedure is to appoint a resident superintendent except where the reserve is small and within convenient distance of the magistrate, who would then supervise personally.⁷²

The selection of a superintendent depends upon his experience of natives, character, and ability. He is also subject to certain rules against trading, farming, possession of cattle, etc., in a reserve. General regulations and adminis-

⁶⁸ REPORT FOR 1926, p. 32.

⁶⁹ A hectare equals 2.47 acres.

⁷⁰ REPORT FOR 1922, p. 14.

⁷¹ REPORT FOR 1928, p. 22.

⁷² The Hon. G. R. Hofmeyr, while Administrator of South-West Africa in 1924, stated that where the size and importance of a reserve warranted such a course, a white superintendent was appointed, together with a certain number of paid native Headmen; in the smaller reserves, however, only paid native Headmen were appointed, they being directly responsible to the magistrate. MINUTES, Fourth Session, p. 60.

trative instructions for the superintendent are laid down by the Head Office and communicated by the Secretary for South-West Africa, or Native Commissioner as a matter of routine through the magistrate's office of the district concerned, and to whom the superintendent is responsible for ordinary affairs.

A reserve is usually set aside for one class or tribe, but if it is found necessary to accommodate others, the superintendent, in consultation with the Head Office, must apportion the area accordingly.

As each family or group arrives, the Superintendent, having satisfied himself that there is no legal objection to its admission, such as crime committed elsewhere, want of a pass, etc., registers the family and the stock, together with particulars, unless there is reason to believe the stock has been illegally acquired. He also arranges for the reserve brand to be placed on cattle, and he issues passes and certificates to the newcomers besides indicating, with the assistance of reserve headmen, places of residence, grazing-ground, boreholes to be used or parts where water can be obtained near the surface, and so on.

When natives have begun to assemble in a reserve, the necessary headmen are elected and recognised as spokesmen and assistants to the Administration, unless there is anything against approval of the appointments.

There is no compulsion regarding natives going into reserves from outside nor as to their remaining. The primary object is to give a refuge for natives, especially families, the old and infirm, also for such stock as they wish to bring in or must bring owing to economic pressure elsewhere. The first principle is to get the natives fairly settled, and then to take up the question of their advancement, which time has not yet permitted to go very far.

Those natives already settled have progressed very materially in wealth, comfort, and security. One significant result of the reserve system is an increasing birthrate, which at one time was at a standstill or rapidly declining in town locations. The children are strong and healthy in the reserves and obtain sufficient milk and natural food.

All natives concerned are essentially communal and are not yet ready nor willing to have individual tenure of land.

A Native Reserve Proclamation has been published with the object, *inter alia*, of devoting direct revenue from any reserve to the benefit of the reserve and its inhabitants. This will enable the people gradually to develop, in conjunction with government assistance, civilised methods, education, and mission work, and to improve their stock. In some parts, dams, stock dipping tanks, fencing, a little agricul-

ture, and so forth have been started, besides boring for water, and erection of windmills and reservoirs.

Instructions are frequently issued to magistrates and superintendents for their guidance.

While the laws of South-West Africa generally apply to everyone in a reserve, it is the policy not to break down or interfere with the various native laws and customs which are still preserved and found most satisfactory in regard to peaceful administration and particularly where social and family life are concerned. The natives understand a sort of patriarchal relationship, and minor disturbances can be and generally are settled amongst the natives themselves. Otherwise, they are brought to the superintendent. An appeal also lies to the Magistrate and even to the Head Office if necessary. Serious cases, whether criminal or civil, are dealt with according to the ordinary laws of the territory.

All able-bodied persons are encouraged and urged to seek work outside the reserves at mining centres, on railways, farms, etc., and as the natives' wants in the way of clothing, groceries, and European stuffs have increased a great deal, they realise that in order to satisfy such wants they must work for them, though not fond of labour. At meetings held on reserves, the inhabitants generally agree with the ideas of the Administration that those able to work should do so and not idle in the reserves. The Administration bears in mind that progress is impossible unless the natives also work.⁷³

Finally, it is of importance to note that in this primarily pastoral country the natives on some of the reserves do not pay for their grazing privileges. However, the Administration is endeavoring to establish a standard fee for such rights, the plan being to invest the money thus gained in a trust fund which will be used for the development of the reserve.⁷⁴

In general, it may be said that with regard to occupied land in South-West Africa

the position briefly is that in all the provinces the tribal natives hold, during good behavior, by virtue of inheritance, use or dedication, a large slice . . . , mostly on communal tenure in locations or reserves, their right to it being secured either by title, registration, pledges, or legislative acts.⁷⁵

⁷³ *IBID.*, Annex 5, p. 178.

⁷⁴ *MINUTES*, Sixth Session, p. 78.

⁷⁵ Lagden, Sir Godfrey, *op. cit.*, chap. i., p. 29.

6. TENURIAL PROBLEMS AND POLICIES IN GENERAL

It seems preferable that the natural evolution of native land tenure should not be interfered with arbitrarily, either by the introduction of foreign principles and theories which the native could not understand, or by the checking of progress in that evolution through the permanent establishment by legislation of primitive systems, at a time when these systems are still in a transitional state.⁷⁶ Native law and custom and the necessities of changing circumstances should be ever fundamental elements in the determination of any tenurial policy.

After this consideration of native conceptions of land ownership and systems of tenure, the oft-quoted statement of Mr. E. D. Morel is again highly pertinent:

The system of native land tenure is essentially just, thoroughly adapted to the needs of the country and its people, a striking refutation of the "arrested development" theory, as applied to the Negro, and *per se* an eloquent vindication of the Negro's claim to consideration at the hands of the European invaders of, and settlers in, his country. There can be no justification whatever for the break-up of land tenure, or for the alienation of native property under any pretext. It is morally indefensible, and what is morally indefensible is seldom politically wise.⁷⁷

⁷⁶ REPORT ON THE BRITISH CAMEROONS FOR 1922, p. 55.

⁷⁷ Morel, E. D., AFFAIRS OF WEST AFRICA, chap. xix., p. 173.

CHAPTER FOUR

THE ALIENATION OF NATIVE LAND

1. ALIENATION UNDER GERMAN RULE

It is primarily in the matter of alienation of land that a contrast may be drawn between the attitudes and achievements of former governments and those now administering the territories under the mandates system. A consideration of the German policy toward alienation is therefore of importance.

By the land ordinance of February 2nd, 1911, all lands without an owner in the territory which is now British Togoland were definitely annexed as the property of the state, ownerless land being defined as that to which no person, family, group of families, community or tribal association could show a title.

Demarcation was at once commenced, a non-native being entrusted by the Governor with the protection of the rights of the natives. A native, to establish his title, was expected to prove continuous possession for ten years. The district commissioners decided on questions of ownership, and were expected to safeguard the interests of third parties. Their decisions were to be confirmed by the Governor. Two years were allowed in which to lodge appeals. The probable increase of population was a factor to be taken into account. Either a sufficient area was to be allotted to the native farmers, or, if the land had already come into the possession of the Government, a portion was to be returned for their use or as their property.¹

In 1904 the governor issued the following order concerning the acquisition of rights over native lands:

Lands belonging to natives shall not constitute the subject of any lawful negotiation with, or in the interests of, any foreigners without the approval of the Governor.

Likewise no compulsory execution on the lands described above shall be effected without the approval of the Governor.

The Governor is authorised in the granting of any such permission, in the interests of the public, to attach to the appropriator restrictions and obligations, in especial also as

¹ Peace Handbook No. 110, TOGOLAND, p. 39.

regards to the period in which and the scope within which the land be utilized, as well as to the free release of portions of the land to the government, which may be required for the construction of public works (as amended by Native Land Rights Appropriation Ordinance of 20th May, 1911).

Foreigners in the sense of this Order shall mean all persons not natives of the Division in which the land constituting the legal negotiation is situate.²

It may be said, then, that in German Togoland the alienation of land was subject to the approval of the government, whose stated aim was to guarantee to the inhabitants the uninterrupted possession of their lands, and fair terms in those cases in which contracts had to be made. Theoretically, at least, native customs and rights were fully respected; and no contracts were recognized which did not meet the requirements of all such local precedents.³

The earliest document of any importance with regard to the alienation of land in the territory now the British Cameroons was the All-Highest Decree of June 15th, 1896.

Save and except in the case of claims to property or other realty which private or legal persons, chiefs, or native communities can substantiate, save and except also the rights of occupation of third parties established by agreements with the Imperial Government, all lands within the Protectorate being ownerless shall be Crown land. . . .

When Crown land is occupied in the vicinity of existing settlements of natives, areas shall be reserved, the cultivation and usage whereof shall ensure the subsistence of the natives, having regard also to future increase of the population.

Ownerless land (Crown land) shall be sought out and determined by Land Commissions which shall be appointed by the Governor who shall allot to them the requisite staff of surveyors. These Commissions shall also decide any claims made by private persons. An appeal to the law shall lie against such decision . . .

Crown land shall be disposed of by the Governor, to wit, either by transfer of the title to ownership or by lease. Regulations made under the mining laws, whether already in force or yet to be promulgated concerning the disposal of subterranean treasures of the soil, are not affected by the disposal of Crown land.

² REPORT ON BRITISH TOGOLAND FOR 1922, pp. 40-41.

³ *IBID.*, p. 12.

The conditions governing the disposal of Crown land shall be determined by the Governor on the detailed instructions of the Imperial Chancellor.

When Crown land is disposed of, sufficient areas shall be reserved for public purposes; in particular, forests the preservation whereof is to the public interest shall not be disposed of. There shall also be the right to recover any land required for roads, railways, canals, telegraph lines, and other public works in consideration of a refund of any actual immediate losses to those entitled thereto . . .

The sanction of the government shall not be necessary to the acquisition of ownership or to leases of property which is owned or leased by a non-native. The Governor, however, is empowered to make notification of such juristic transactions obligatory universally or for certain districts.

Without the sanction of the Governor it shall not be permissible for natives to make over the title of ownership to urban properties of more than one hectare (2.4 acres) or to any rural properties, or to lease them for a period exceeding fifteen years, to a non-native.

Agreements which require sanction accordingly and sanction of which is refused shall be null and void.

With the specific approval of the Imperial Chancellor the Governor may be empowered to authorize individuals and companies to prospect for land in territories where Land Commissions have not yet been engaged to make agreements with the owners, if any, or other interested parties for the cession of the land, and to occupy such land provisionally as ownerless land.⁴

At the time when the German government in Kamerun fell, however, the demarcation of Crown land in accordance with this Ordinance was far from complete, very few such areas having been marked out.⁵

There seems to have been no definite land policy of general application in this territory before the passage of the decree of 1896. During this early period, ownership was established in various ways, in some cases by simple occupation, in others by purchase from the native chiefs, and in still others by purchase from the government. After the enactment of this measure, however, occupiers of land were given freehold titles.⁶

⁴ REPORT ON THE BRITISH SPHERE OF THE CAMEROONS, Cmd. 1647, pp. 65-66.

⁵ REPORT ON THE BRITISH CAMEROONS FOR 1927, p. 78.

⁶ REPORT ON THE BRITISH SPHERE OF THE CAMEROONS, Cmd. 1647, pp. 60-61.

The Land Commissioners then proceeded to carve out native reserves on the basis of six hectares (about fifteen acres) for each adult male; and all the remainder of the land not covered by a title or forming part of a reserve, was declared Crown land. In some instances a friendly settlement by way of exchange was come to with the government; in other cases resort was had to the law. The legal position on this point of expropriating plantation lands for native reserves is obscure, largely due to the extremely vague wording of the clauses intended to safeguard the rights of natives in the agreements dating prior to 1896, and also to conflicting decisions of various land commissioners at different times.

The natives generally complain that the reserves are not large enough, and that the worst land was allotted to them. In the northern districts no native reserves were created, nor does there appear to have been any definition of what was or was not Crown land, presumably because the condition of these regions was not such as to tempt concessionaires. The governments took what land they needed; and a few odd traders and the missionary societies had no difficulty in getting the comparatively small areas they required.⁷

Only two other important acts were passed with regard to the alienation of land in Kamerun. In 1903 it was provided that property might be expropriated for public purposes if compensation were made to the owner, while in 1910 certain regulations dealing with the sale and leasing of Crown lands were established.⁸

The general effect of the German land policy may be briefly summarised as follows. In the northern part of the British sphere there has been practically no interference with the rights of native communities over their lands. In the southern portion, round the base of Cameroon Mountain, the rights of the natives have been alienated, except in so far as certain areas have been reserved for their use.⁹

Very soon after their occupation of the Tanganyika Territory, the Germans introduced there a system of land laws to be applied to non-natives, this system being based on the general Prussian statutes regarding the subject. With certain modifications, this code was in force at the outbreak of the World War.

Subject to the rights of private persons or of chiefs or native communities, all unowned land was declared to be

⁷ *IBID.*, p. 61.

⁸ *IDEM.*

⁹ *IDEM.*

Crown land, and the ownership of it was declared to be vested in the Empire. Such Crown land could be granted by the Governor either by way of transfer of ownership or by lease, but before any such grant could be made it was necessary to ascertain that the land was in fact free from claims of third parties and unoccupied; and for this purpose a system of Land Commissions was established, whose duty it was to enquire on the spot as to whether any particular piece of land which had been applied for was in fact free to be disposed of by the government.

The Governor had wide powers as to imposing conditions on making any grant of land, and it was particularly provided that in the neighborhood of native settlements areas, sufficient to ensure the subsistence and other needs of the native population, were to be reserved. In addition there might be a reservation of all minerals, of adequate areas for public purposes, particularly forest land, and a right to resume land required for roads, railways, canals, etc., upon payment of compensation.

Originally all agreements for the transfer of the ownership of land or of leasehold interests where the lease exceeded fifteen years were subject to the sanction of the Governor. Such an interference with the rights of private property did not, however, long survive; and an Imperial Ordinance of November 26th, 1895, laid down that this sanction was not required in the case of land owned by a non-native. Transfer of lands by natives to non-natives still remained subject to such sanction.¹⁰

Originally at least, the German government encouraged white settlement, alienating more than half a million hectares of land, most of it being located in the northeastern highlands. About one-fifth of it was placed under rubber, sisal, coffee, and cotton cultivation.¹¹

These alienations were controlled by an Imperial Decree of 1895, which, as has been seen, declared all land in German East Africa to be Crown land, subject to the rights of private and juristic persons or of chiefs and native communities. Land Commissions were appointed by the Governor for the native reserves; they were obliged to set aside for the natives four times the amount of suitable land under cultivation, although they were authorized to offer the natives a definite sum for withdrawing from their land. These commissions accordingly marked out reserves totaling 756 square miles in the highlands of

¹⁰ REPORT ON TANGANYIKA TO THE END OF 1920, pp. 70-71.

¹¹ Buell, Raymond L., *THE NATIVE PROBLEM IN AFRICA*, Vol. I, chap. xxix., p. 486.

the northeast. The remainder of the land in this vicinity was alienated by the government to German settlers, either under freehold or lease.¹²

The effect of the entire system in old German East Africa is well summarized in the following extract:

By law, ownerless lands throughout the territory were domain or Crown land, a government enquiry determining their extent. Natives were to continue to enjoy the land they occupied, and were to be allowed at least four times as much as they cultivated. This, however, was a mere official declaration, and is no guide to the actual German treatment of the natives.

Seyyid Bargash, Sultan of Zanzibar, who claimed sovereign rights over the adjoining African coast, renounced these by treaty with the Deutsch-Ostafrikanische Gesellschaft. Under his rule, the actual soil of a property and the buildings or plantations upon it had often been in the hands of different tenants; and this dual ownership, inconsistent with European ideas, survived round Tanga and elsewhere even after the German Civil Code had been introduced. The anomaly became the more noticeable as land rose in value, and as conditions of ownership of the ordinary kind were applied to an increasing extent of territory. Some attempts were made to develop a land reform policy, but these led to many conflicts between the administration and the landholders.

Natives were evicted wholesale from their homes on all kinds of pretexts, while their huts were burnt and their effects destroyed. In Tanga, the government took possession of the land in the town, having first removed the native population, then planted palms on it, and as copra oil realized high profits, let out small holdings at high rents. At Dar-es-Salaam two-thirds of the natives (16,000) occupied the Sultan's land (the Schollershamba) covering 24.2 hectares, which included a great part of their reserve and had been acquired by a European association which granted them the right of settlement. In 1915 the municipality received from the Treasury a grant of 500,000 rupees to buy the Schollershamba, and the sale contract was signed or about to be signed at the time of the outbreak of war. There can be little doubt that the natives would have experienced the same treatment as those at Tanga.

Outside the municipal areas, Crown land was not sold outright until at least half was cultivated, but was leased at five per cent of the sale price of from ten to one hundred heller per hectare per annum. The leasehold conditions

¹² *IBID.*, p. 487.

were that cultivation must begin at once, and must be extended at the rate of one-tenth of the land each year. Pasture land was obtainable on the sole condition of its being fenced with wire or quickset hedge. Native rights on land taken up by Europeans were to be recognized to the extent of four hectares per hut.¹³

A policy of ruthless alienation was also followed in German South-West Africa, land there being both sold and leased. Sir Godfrey Lagden says of this:

Under the German military system of rule, those who would not submit to being practically enslaved were exterminated or driven to seek refuge under the British flag. Their condition was made insufferable under regulations, which could be enforced by any European, without the right of appeal to authority.

Those regulations provided amongst other things that the natives:

should abandon tribal life and be dependent for their living upon employment by Europeans, and be regarded as vagabonds if found doing otherwise;

should have no right or title to land;

should all, including unemployed young women and second wives, be distributed for labour at farms or industries;

should not be allowed to keep horses;

should not be allowed to remove of their own free will from one part to another.

These conditions, which demoralised and were fast leading to extinction of the races, have now disappeared or have been modified in conformity with the policy followed in the Union of South Africa.¹⁴

An adequate picture of the effect of this German system is found in the following table with regard to land ownership in South-West Africa, during the years 1912 to 1914:¹⁵

¹³ Peace Handbook No. 113, TANGANYIKA, pp. 78-79.

¹⁴ Lagden, Sir Godfrey, THE NATIVE RACES OF THE EMPIRE, chap. i., p. 67.

¹⁵ OFFICIAL YEAR BOOK OF THE UNION OF SOUTH AFRICA, No. 6, p. 96.

The Alienation of Native Land

Description	Area in Acres	
	1912-1913	1913-1914
Total Area	206,245,000	
Government Land.....	150,888,491	150,931,946
Government Land Fit for Farms.....	121,272,727	121,365,806
Native Land.....	7,190,170	7,146,715
Company Land.....	29,609,970	30,021,126
Company Land Fit for Farms.....	21,932,172	21,932,222
Land Sold:		
Government Land, 1120 Farms	28,377,830	29,369,743
Native Land, 56 Farms.....	1,490,561	1,635,953
Company Land, 71 Farms.....	1,144,571	1,345,515
Land Leased:		
Government Land, 82 Farms..	1,371,265	1,697,809
Native Land, 7 Farms.....	167,219	68,419
Company Land, 49 Farms.....	1,635,140	1,101,919
Land Available for Sale or Lease:		
Government Land.....	83,066,078	81,901,562
Native Land.....	5,557,090	5,442,344
Company Land.....	19,152,010	19,484,788
Surveyed Government Land Available for Lease:		
Plots of Unknown Area.....	614 Farms	709 Farms
Government Land Reserved, 297 Farms	8,458,552	8,396,693
Native Reserves:		
Bondelswartz and Hottentots	432,250	432,250
Berg-Damaras	424,840	425,581
Game Reserves	21,693,763	21,693,763

The essence of the German land policy was very candidly stated by Dr. Paul Rohrback, who in 1890 had occupied a high position in the Colonial Office of the Imperial Government:

The decision to colonize in South-West Africa could, after all, mean nothing else but that the native tribes would have to give up their lands on which they had previously grazed their stock in order that the white man might have the land for the grazing of his stock.¹⁶

Particularly shocking is the fate which befell the Hottentots and the Hereros, who alike regarded their land as the communal property of the tribe and therefore inalienable. But acquisitions were made in these tribal regions first by German missionaries, then by traders, and then by concession-hunting companies, with the result that the major portion of the land of the Hereros and

¹⁶ Peace Handbook No. 112, SOUTH-WEST AFRICA, pp. 59-60.

the Hottentots was finally confiscated, these two groups being almost exterminated.¹⁷

Such, then, were the general land policies of the former administrations of these old German colonies. Although on paper there seem to have been many advantageous features, nevertheless the system and the activities which occurred under it must be condemned, not primarily because of any inherent defect in the scheme itself, but because of the regrettable inefficiency of the administrative officials appointed by the Imperial Government. Moreover, quite often these officials were unscrupulous and corrupt; more than once this lack of moral strength was extremely costly to native welfare.

In this discussion of the alienation of land, the most important of all land problems, the opportunity again arises to emphasize particularly the failure of the system of imperial ownership, typified by the old German administrations, to protect the welfare of the indigenous peoples, and to indicate once more the possibilities for such protection under the modern enlightened administration of the Mandatory Powers.

2. ALIENATION UNDER THE MANDATES SYSTEM

(a) IN GENERAL

The problem of the alienation of land in backward territories received very full consideration at the Paris Peace Conference in 1919. The Italian Delegation at a session of the Commission for the Revision of the Berlin and Brussels Acts presented the following draft clause, the influence of which is evident in the provisions of the 'B' mandates to the effect that the Mandatory Power shall consider native law and custom in its dealings with native land:

Legislation regarding landed property shall respect as far as possible customs in force in the territory, and the interests of the native populations.

Land and real rights belonging to natives cannot be transferred to non-natives without the consent of the local government; and no claim to the said lands can be created for the benefit of non-natives without like consent.¹⁸

¹⁷ *IBID.*, p. 60-65.

¹⁸ Beer, George L., *AFRICAN QUESTIONS AT THE PARIS PEACE CONFERENCE*, Part III, chap. vii., p. 257.

That the Mandatory Powers have obeyed the spirit of these injunctions in the passage, and, to some extent, in the execution of their laws is indicated in the following excerpt from the *Report on Tanganyika for 1926*:

Administrative officers, in dealing with the disposition of land, have been instructed to bear constantly in mind the first part of the preamble of the Land Ordinance, 1923, as follows:

"Whereas it is expedient that the existing customary rights of the natives of the Tanganyika Territory to use and enjoy the land of the Territory and the natural fruits thereof in sufficient quantity to enable them to provide for the sustenance of themselves, their families, and their posterity should be assured, protected, and preserved . . ."

Also the injunction in Section 3 of the Ordinance that the land vested in the Governor "shall be held and administered for the use and the common benefit, direct or indirect, of the natives of the Territory."

Also the further injunction, in Section 4, that the Governor in the exercise of the powers conferred upon him by the Ordinance in respect to any land "shall have regard to the native laws and customs existing in the district in which such land is situated."¹⁹

(b) IN BRITISH TOGOLAND

Under the German government, European firms were permitted to purchase land in British Togoland for trading purposes only, even that purchase being allowed solely on the following conditions:

(a) The land had to be situated at one of the acknowledged trading centres;

(b) It was compulsory within twelve months to erect a building for trading purposes;

(c) Transfer by Europeans to natives and Syrians was forbidden, but Europeans could transfer between themselves;

(d) On a European firm becoming bankrupt the land reverted automatically to the original owner.²⁰

These regulations of the former government are almost more detailed and complicated than are those of the present administration on the same subject. Now the simple statement is made that land in the British Sphere cannot be alienated from a

¹⁹ P. 84.

²⁰ REPORT ON BRITISH TOGOLAND FOR 1925, p. 84.

native to a non-native. Although lease is permissible, such transactions must be conducted before the District Commissioners, who express the approval or disapproval which the Administration has for that particular grant. Approval is given only when the Administration is satisfied that the rights and interests of natives and native communities are not infringed.²¹ All contracts are signed in the presence of the political officers, on whom is imposed the duty of seeing that they are fair.²²

The Land Ordinance of 1927, which was enacted for the Northern Section of the British Sphere of Togoland, provides that the political officers are to have power to inquire into and settle, in an executive capacity, any disputes which may arise between natives with respect to land. Provision is made for the review of the decisions of the District Commissioners by a Provincial Commissioner and by the Chief Commissioner of the Northern Territories. The disregard or defiance of any such decisions or settlements by any person is to constitute an offense punishable by a fine not exceeding fifty pounds or by imprisonment with or without hard labor for any term not in excess of three months.²³ This Ordinance has absolutely no effect on the native systems of land tenure, these being made the basis of every decision.²⁴

In the Southern Section of British Togoland, there is applied that legislation which came into force in the Gold Coast Colony in 1927, all of this being in line with the ideal of the preservation of native welfare.²⁵ In case of conflict, however, these provisions must yield to the British Sphere of Togoland Administration Ordinance of 1924.²⁶

From the Southern Section it is reported that there is an increasing demand for land for cocoa, particularly in the northern part of the Section, and many people are obtaining land for this purpose. This is leading to an influx of people from the Colony. The local people only sell where, owing to lack of numbers, they cannot cultivate themselves; and they have a pretty good idea of the value of their land. Under the Ordinance all purchases of land by non-natives of the

²¹ REPORT FOR 1923, p. 33.

²² REPORT FOR 1925, p. 83.

²³ REPORT FOR 1927, p. 4.

²⁴ *IBID.*, p. 47.

²⁵ *IBID.*, p. 7.

²⁶ *IDEM.*

Southern Sphere must be approved by the authorities. There have been no applications from non-Africans.²⁷

In this connection, it will be remembered that the typical "B" mandate provides that:

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.²⁸

It is to be regretted that there are available no figures as to the amount of land alienated or leased in British Togoland; but a comprehensive search has revealed nothing. This may be due in part, if not altogether, to the fact that:

Of all the mandated areas, Togoland may be said to come the nearest to being a completely native territory, perhaps because of all the areas it is that least suited to white settlement.²⁹

(c) IN THE BRITISH CAMEROONS

Before 1927 the alienation of land in the British Cameroons was regulated by the Crown Lands Ordinance, the Public Lands Acquisition Ordinance, and the Native Lands Acquisition Ordinance.³⁰

Titles to Crown lands, which are limited in extent, are issued in the form of leases, the conditions and terms of such leases being governed by the purposes for which the land is to be used. The regulations of the Crown Lands Ordinance of 1918 provide for four types of leases, agricultural, building, railway site, and native occupation, the rents for all types being revisable. The maximum terms are, as a rule, 45 years for agricultural leases, 60 years for building leases, and 21 years for those for railway sites. Leases to natives of Nigeria, however, may be granted for any term or for an indefinite period.³¹

Accepting the principle established by the former German government that all ownerless lands constitute Crown lands,³²

²⁷ *IBID.*, pp. 47-48.

²⁸ C. 449 (1) b. M. 345 (b). 1922. VI. BRITISH MANDATE FOR TOGOLAND, Article V, p. 4.

²⁹ Van Maanen-Helmer, Elizabeth, *THE MANDATES SYSTEM IN RELATION TO AFRICA AND THE PACIFIC ISLANDS*, chap. iv., p. 65.

³⁰ REPORT ON THE BRITISH CAMEROONS FOR 1927, p. 78.

³¹ REPORT FOR 1922, p. 56.

³² See page 62.

the Mandatory Power was therefore faced with the undertaking of seeking out ownerless lands, of demarcating them and of administering them as Crown lands as, until that was completed, there could be no security of tenure beyond those areas which had actually been demarcated as Crown lands by the German government. For instance, until all ownerless lands had been demarcated as Crown lands a lease under the Native Lands Acquisition Ordinance could not be issued until a title to the land required by the lease had been established.

The work of seeking out ownerless lands and causing them to be demarcated as Crown lands would have been one of great magnitude and would have entailed following a policy which was considered contrary to Article V of the Mandate, by which "in the framing of laws relating to the holding or transfer of land the Mandatory shall take into consideration native laws and customs and shall respect the rights and safeguard the interests of the native population," and also contrary to the generally accepted land policy of British administration in West Africa. Even had it been considered advisable to pursue the policy of demarcating ownerless land, the period of uncertainty would perforce have been so long as, possibly, to retard the progress of the mandated territory.³³

By the Native Lands Acquisition Ordinance of 1917, provision was made for the leasing of land for a term of years in return for the payment of a sum of money, in consideration of a rent, or by weekly, monthly, or quarterly tenancy. Under this Ordinance, the Governor was given power to refuse to approve any lease which he did not think desirable.³⁴

The following extract from the Native Lands Acquisition Ordinance shows its control over the creation of rights in land by aliens:

No alien shall acquire any interest or right in or over any lands within the Protectorate from a native except under an instrument which has received the approval in writing of the Governor.

Any instrument which has not received the approval of the Governor as required by this section shall be null and void.

It shall be unlawful for any alien or for any person claiming under an alien to occupy any land belonging to a native, unless the right of the alien to occupy or authorise the occupation of the land:

³³ REPORT ON THE BRITISH CAMEROONS FOR 1927, pp. 79-80.

³⁴ REPORT FOR 1922, p. 56.

is evidenced by an instrument which has received the approval of the Governor in writing; or

was acquired, if the land is situated in that part of the Southern Provinces which in the year 1900 was included in the Protectorate of Southern Nigeria before the first day of January, 1900, and in the case of lands situated elsewhere in the Southern Provinces, before the 30th day of March, 1908; or

is authorised by or under any Ordinance.

An alien is defined as any person who is not a native of Nigeria.

An instrument means any document in writing affecting land, and includes a will.⁸⁵

It is the intention of the government that land disputes between natives of Nigeria shall be decided by native law and custom. Disputes regarding titles granted under the Crown Lands Ordinance of 1918, or the Native Lands Acquisition Ordinance of 1917 are, therefore, heard by the Supreme Court. All questions with reference to tribal or communal boundaries are settled by the Resident of the province. If the communities involved belong to different provinces, the dispute is settled by joint inquiry by the two Residents, subject to the decision of the Lieutenant-Governor and final appeal to the Governor.⁸⁶

Even in the early days of British administration, in those sections of the Cameroons administered from the northern provinces of Nigeria, the alienation of land was controlled by the provisions of the Land and Native Rights Ordinance. This was enacted to secure to the natives the customary rights to use and enjoy the land and the fruits thereof in sufficient quantity for their sustenance. It was soon realized that there were disadvantages in the dual system of land tenure. Further, the Native Lands Acquisition Ordinance was not working as it should in the Cameroons. Therefore, by the British Cameroons Administration (Amendment) Ordinance of 1927 the provisions of the Land and Native Rights Ordinance were extended to all the territory under British authority, the Native Lands Acquisition Ordinance and all regulations bound up with it being declared no longer applicable to the mandated region.⁸⁷

It should be observed that by this Ordinance

⁸⁵ *IBID.*, p. 55.

⁸⁶ *IBID.*, p. 57.

⁸⁷ *REPORT FOR 1927*, p. 78.

provision is made for two classes of occupiers: (a) natives or non-natives who have been granted a right of occupancy by the Governor, and (b) natives who occupy land under and in accordance with Native laws and customs. The rights of class (a) are defined by the Ordinance and by any special contract between the Governor and the occupier. The rights of class (b) are governed by the Native laws and customs of the district in which the land is situated modified by the provisions of the Ordinance and Regulations thereon. Class (a) must, except in a few excepted cases provided for by the Ordinance, pay rent which is to be credited to local Native Administration funds. Class (b) are not required to pay rent. The rights of class (a) to continue to occupy land during the term of the rights of occupancy can be determined for "good cause," under the provisions of the Ordinance. The right of class (b) to continue to occupy any particular land is subject to the right of the Governor to regulate the use and occupation of all land to the general benefit of the community.³⁸

This Ordinance emphasizes as fundamental principles the facts that the whole of the lands whether occupied or unoccupied are native lands, subject to the control and disposition of the Governor to be administered for the use and common benefit of the indigenes, and that such control is to be exercised as far as possible in accordance with the laws and customs of the natives themselves.³⁹

A very important provision is found in Section Twenty-Two, reading as follows:

Nothing in this Ordinance shall be deemed to affect the validity of any title to land granted to a non-native or any interest therein acquired by such non-native before the 4th February, 1927, but all such titles shall have the same effect and validity in all respects as though this Ordinance had not been enacted. Provided always that such titles shall be proved to the satisfaction of the Governor before 1st January, 1928.⁴⁰

All land to which a title is established under this section, and all land in the Cameroons which has at any time been vested in the Public Custodian appointed under the first Public Custodian Ordinance, is exempted from the provisions of this Ordinance.⁴¹

³⁸ *IBID.*, p. 80.

³⁹ *IBID.*, p. 79.

⁴⁰ *IBID.*, pp. 79-80.

⁴¹ *IBID.*, p. 79.

It is further provided that no title to the occupation and use of any native lands shall be valid without the consent of the Governor, who shall have regard for the native laws and customs existing in the district where the lands are situated. The Governor may grant "Rights of Occupancy," demanding rental for such rights, with the privilege of making periodical revisions of this rental. All such rents collected are to be paid into local Native Administration funds.⁴²

Finally, it is provided by Section Fifteen that the devolution of the rights of an occupier upon death shall be, in the case of a native, by the native custom existing in the locality in which the land is situated.⁴³

Such, then, are the principal features of the Land and Native Rights Ordinance, which has so far constituted a satisfactory solution to the various land problems existing in the British Cameroons.

Unfortunately, as in British Togoland, no statistics are available as to the amount of land which has been alienated. One should remember, however, that the land of the Cameroons is desired principally for cocoa and palm plantations; such areas already in existence will be discussed in a later chapter.⁴⁴

(d) IN THE TANGANYIKA TERRITORY

According to their tenure, the lands of the Tanganyika Territory may be classified in the following manner:

(a) Lands which have been appropriated by written legal process or title to the use of individuals.

(b) Lands which by virtue of custom or long prescriptive possession have been constituted into collective or individual estates, the ownership of which is not supported by title and can only be established by repute, custom, or prescription.⁴⁵

The first important measure issued by the new government with reference to land in the Territory was the Order in Council of 1920, the salient features of which are here given:

All rights in or in relation to any public lands shall vest in and may be exercised by the Governor for the time being in that for His Majesty, or if the Secretary of State at any

⁴² *IBID.*, p. 80.

⁴³ *IDEM.*

⁴⁴ See Chapter Six.

⁴⁵ REPORT ON TANGANYIKA FOR 1924, Appendix I, p. 47.

time with respect to all or any such lands by Order under his hand so directs, in such other trustee or trustees for His Majesty as the Secretary of State may appoint.

The Secretary of State may, when he thinks fit, by a like order remove any trustees so appointed, and may appoint any new or additional trustee or trustees . . .

The Governor, or such other trustee or trustees, may make grants or leases of any such public lands . . . as aforesaid, or may permit such lands to be temporarily occupied, on such terms and conditions as he or they may think fit, subject to the provisions of any ordinance.

Subject as aforesaid, the Governor, in His Majesty's name and on His Majesty's behalf, may make and execute, under the Public Seal, grants and dispositions of any lands within the Territory which may be lawfully granted or disposed of by His Majesty: Provided that every such grant or disposition be made in conformity either with some Order in Council or law now or hereafter in force in the Territory, or with some Instructions which may be addressed to the Governor . . .

"Public Lands" means all lands in the Territory which are subject to the control of His Majesty by virtue of any treaty, convention, or agreement, or of His Majesty's Protectorate, and all lands which shall have been acquired for the public service or otherwise however.⁴⁶

The Land Ordinance of 1923 declared the whole of the land of the Territory to be public land, under the control of the Governor, and subject to his disposition, to be held and administered by him for the use and common benefit, direct or indirect, of the natives of Tanganyika. The validity of any title to land or interest therein lawfully acquired before the date of the Ordinance, however, was not affected thereby. Rights of occupancy may be granted for any definite term not in excess of 99 years; but, except with the approval of the Secretary of State, no single right of occupancy may be issued to a non-native in respect of any area exceeding in size 5,000 acres.⁴⁷ Further, no grant of freehold may be made except where it is necessary to give effect to any contract or undertaking by the former German government, land granted by that government being held either under freehold or lease, with the option of purchase.⁴⁸

⁴⁶ REPORT ON TANGANYIKA FOR 1923, pp. 59-60.

⁴⁷ REPORT FOR 1927, p. 69.

⁴⁸ REPORT FOR 1924, Appendix I, p. 47.

The first rent to be charged for a right of occupancy to a non-native is determined by the offer of the highest bidder at a public auction. The rent is then subject to a reserve or upset rent, which is fixed by the Governor. It varies for different localities, the minimum being considerably less than a shilling per acre per annum for agricultural land and even less for pastoral lands.⁴⁹ The initial rent is revisable at the end of 33 years and again at the end of 66 years.⁵⁰ The grantee of the right of occupancy has to agree to certain obligations as to cultivation, fencing, and development, these requirements varying, of course, with the use which is to be made of the land.⁵¹

With regard to the actual process of the alienation of land, when any particular area is applied for, the usual procedure is to refer the application to the administrative officer in charge of the district in which the land applied for is situated.

The land is then visited by an administrative officer and an enquiry is instituted on the ground as to whether the land is effected by any native rights of ownership or occupation, either permanent or intermittent, or whether it is really vacant land. If any native rights are likely to be infringed, they are specifically safeguarded in the grant, or if this is not feasible, the application is not proceeded with.

Transfers of land from natives to non-natives are not permitted except with the sanction of the Governor, and such transactions as have been allowed related only to small holdings on the coast belonging to Arabs or Swahilis.

In many cases in the past Indians obtained mortgages on coconut and other plantations belonging to the natives on the coast as security for money lent or for credit given.

The Credit to Natives (Restriction) Ordinance, 1923, will prevent this in future as it debars suits for the recovery of money advanced to natives unless the debt was approved by an administrative officer in the first place.⁵²

In 1926 there was passed the Land (Amendment) Ordinance. Before its enactment, only the Attorney-General or some other officer specially appointed could institute legal proceedings in respect of the unlawful occupation of public land. The amending Ordinance provides a simpler procedure.⁵³

⁴⁹ REPORT FOR 1927, p. 69.

⁵⁰ REPORT FOR 1924, p. 33.

⁵¹ REPORT FOR 1923, p. 42.

⁵² REPORT FOR 1924, Appendix I, pp. 47-48.

⁵³ REPORT FOR 1926, p. 56.

The Ordinance of 1923 further provided that if the occupier of the land granted under a right of occupancy desired to renew that right or have the term extended, his application for such renewal or extension had to be treated as one for a new grant, the land being again offered to the public at auction. It will easily be seen that under this provision great hardship might have been involved in those cases in which an occupier had expended considerable sums in the development of the land and in the erection of permanent buildings. Consequently, to eliminate this dangerous possibility, there was enacted the Land (Further Amendment) Ordinance of 1926, which enabled a right of occupancy to be renewed, or its term extended, without auction when the circumstances seem to the Governor to make such a concession desirable.⁵⁴

Another very interesting point was involved in this same Ordinance:

Under a system established by a German Decree of the 22nd March, 1905, a large number of plots came into the occupation of tenants who paid to the government either yearly or half-yearly a sum, of the nature of rent, fixed by the Decree at 50% of the Hut and Poll Tax. This system was continued after the British occupation, and is now commonly known as Kiwanja Tenure.

These tenancies are regarded as tenancies from year to year, terminable upon six months' notice by either party. The form of tenure is not in accordance with the provisions of the Land Ordinance, 1923, relating to the occupation of what is now public land. Moreover, it is disadvantageous to the tenant, who lacks the security which a right of occupancy under the Land Ordinance for a definite term would give, and it is disadvantageous also to the public revenue, which receives in many instances much less than the true economic rent of land occupied under this system.

The amending Ordinance accordingly enables the Governor to dispense with the necessity for an auction when a person in lawful occupation of public land applies for a right of occupancy under the Land Ordinance and where the holding of an auction would cause hardship to the applicant by reason of the duration of his previous lawful occupation, of the use of the land made by him, or of his expenditure of capital or labour on the land.

The Ordinance further provides for the conversion and enlargement into rights of occupancy of the lesser rights of other lawful occupiers as, for example, rights acquired

⁵⁴ *IBID.*, p. 57.

under Temporary Occupation Licenses granted by the British government before the commencement of the Land Ordinance, 1923.

To obtain the benefit of the Ordinance application for conversion into a right of occupancy has to be made before 31st December, 1927.⁵⁵

As a result, at the present time Kiwanja tenure has practically ceased to exist.

The Land (Perpetual Succession) Ordinance was enacted during the year 1927, its object being to facilitate the acquiring, holding, and transmission of land by religious, educational, and charitable societies and associations, and others of similar type. It enables any such society or association to become a corporate body, by which land can be held in perpetual succession.⁵⁶

In 1927, also, another amendment was added to the Ordinance of 1923. Its main object

is to give expression in the land law of the Territory, and consequent protection, to the fundamental principle which underlies it, to wit, the preservation of the existing customary rights of the natives of the Territory to use and enjoy the land and its natural fruits in sufficient quantity to enable them to provide for the sustenance of themselves, their families, and posterity. As a doubt had arisen whether native occupiers of communal land to whom no certificate of occupancy had been issued would be recognized as occupiers under the principal Ordinance and be entitled to the protection against arbitrary disturbances which that Ordinance gives, the law has been so amended as expressly to recognize a native's right to the use of such land as a right of occupancy under the Ordinance.⁵⁷

By the Land Ordinance of 1923, all water rights are reserved to the government. The large amount of irrigation from public rivers, both by natives and by Europeans, particularly in the Moshi and Arusha districts, with the attendant disputes, made necessary the passage of an Ordinance to regulate the use of natural sources of water supply.⁵⁸ This provided for the formation of District Water Boards, with a Central Advisory Board for the Territory. Such District Boards have been created for the districts of Arusha, Moshi, Usambara, and Tanga.⁵⁹

⁵⁵ *IBID.*, p. 58.

⁵⁶ *REPORT FOR 1927*, p. 69.

⁵⁷ *IDEM.*

⁵⁸ *REPORT FOR 1923*, p. 42.

⁵⁹ *IBID.*, p. 43.

As to actual alienation, the Commission on the Closer Union of the Dependencies in Eastern and Central Africa says in its *Report*:

In Tanganyika the principal area of non-native settlement is in the Moshi and Arusha districts, but the limits of alienation in this neighbourhood have been approached. The pressure of the growing native population in these districts is already making itself felt. The chief other area in Tanganyika suitable from the point of view of climate for white settlement is the southwestern highlands. In the Iringa Province there are about 25,000 square miles of high country, but the general suitability of this tract as we have already stated remains to be proved. Moreover, the extent of effective native occupation is not exactly known and the prospects of white settlement must remain uncertain until detailed surveys have been completed. As regards the remainder of Tanganyika the choice of areas available for white settlement is limited, either for climatic reasons or on account of the density of the native population.⁶⁰

At the close of the year 1928, of the total area of 373,494 square miles or 239,036,160 acres, there had been alienated approximately 3,430 square miles or 2,195,000 acres. In other words, only about nine-tenths of one per cent of the land of the territory has been subject to such transactions.⁶¹

The following excerpt from a Tanganyika *Report* is indicative of the activities taking place each year under the various land ordinances:

There has been a steady demand for land for agricultural purposes from bona-fide settlers throughout the year. In the vicinity of Kimamba, in the Morogoro district, the area having been proved to possess excellent cotton soil, a large block was demarcated and the lease sold by public auction to planters at the beginning of the year at an upset rental of two shillings per acre per annum, and additional plots have been auctioned during the year. There is an area of approximately 7,500 acres cleared for cotton cultivation during the coming year, and from the further applications received for land in the Mkata plains for cotton cultivation there is every proper reason to believe that this huge area will be opened up in the near future. In the Arusha-Chini area of the Moshi district a block comprising 2,000 acres in 100-acre plots has been laid out on application by prospective cotton planters. Rights of occupancy have also been

⁶⁰ REPORT OF THE COMMISSION ON CLOSER UNION OF THE DEPENDENCIES IN EASTERN AND CENTRAL AFRICA, p. 22.

⁶¹ *IBID.*, p. 315.

granted in various other districts for coffee-planting and general farming. The total area granted for agricultural purposes during the year under rights of occupancy was approximately 16,625 acres . . .

The small townships along the Central Railway have justified their establishment as is evidenced by the number of plots taken up during the year. In the nine trading centres 152 plots have been granted by public auction on rights of occupancy for 25 and 33 years at an average rental of 446 shillings per 10,000 square feet . . .

Leases of ginnery plots have been sold by public auction in various parts of the Territory, the upset price being 20 shillings per acre per annum for a five-acre plot. The rights of occupancy have been purchased at rentals varying from the upset rental in one case to as much as 1000 pounds per annum in another.⁶²

Further, in 1926,

Eighty-seven plots for Missions or Mission School plots were granted during the year.

Rights of occupancy in respect of 722 trading plots were granted during the year. Many of these, however, do not represent new holdings but are the result of applications to convert Kiwanja holdings into rights of occupancy under the Land Ordinances.

The demand for cotton market sites continued and 172 rights of occupancy have been granted after public auction. Of this number 147 were in the Mwanza Province.

Fifteen sites for factories and go-downs have been disposed of by public auction; and in addition two go-down sites for petroleum storage have been taken up.⁶³

It is the intention of the government that no further land shall be alienated for agricultural or pastoral purposes in that area which is reserved for the use of the Masai tribe, in the district of Tanga, in the districts of Usambara and Pangani north of the Pangani river, or in the cultivated areas of the Moshi and Arusha districts around Kilimanjaro and Meru. In these districts there is a large native population; and the excessive alienation made to settlers by the former German government has left little room for tribal expansion.⁶⁴ It is further proposed that no applications shall be entertained for grants in the Iringa and Rungwe districts until the question of affording transport facilities to the areas applied for has been settled.⁶⁵

⁶² REPORT FOR 1924, pp. 33-34.

⁶³ REPORT FOR 1926, pp. 50-51.

⁶⁴ REPORT FOR 1924, p. 33.

⁶⁵ REPORT FOR 1925, p. 58.

In future; Government will itself select land which may be available for non-native settlement in those areas which are considered suitable for the purpose, and will then divide the selected areas up into agricultural or pastoral units over which Rights of Occupancy will be granted from time to time. This procedure does not denote any departure from the accepted principle that the rights and interests of the natives must be fully safeguarded.⁶⁶

Professor Raymond L. Buell, in *The Native Problem In Africa*, adequately estimates the value of the present system of alienation in the Tanganyika Territory:

The Tanganyika Land Ordinance, as it stands at present, accepts the principle of protecting native rights in the land, as prescribed in the Mandate, but it does not establish a procedure which will insure that the principle will be applied. If it is impracticable to install the system of land tenure which prevails on the Gold Coast or in Southern Nigeria, the Tanganyika Government might profitably follow the idea suggested by the Nyasaland Land Commission (which is being worked out in Uganda) of delimiting certain areas of the land as European reserves to which future alienations should be restricted.⁶⁷

The same writer also says:

By the end of 1925, the total amount of land alienated by the Tanganyika Government amounted to nearly 1,800,000 acres, compared with 7,680,000 acres alienated by the Government of Kenya. The present European population of Tanganyika is about 4,000 compared with 12,500 in Kenya. If the Tanganyika Government proceeds with a program of land alienation, its settler population will probably reach that of Kenya in a few years.⁶⁸

(e) IN SOUTH-WEST AFRICA

In South-West Africa, the Lands Branch of the government was established in 1919, its principal factor being the Land Board of five members. As one of the chief problems in this territory is that of a water supply, an Irrigation Branch was also created.

Crown lands are now being disposed of under the Union of South Africa Land Settlement Act of 1912, as amended by the

⁶⁶ REPORT FOR 1928, p. 63.

⁶⁷ Vol. I, chap. xxix., p. 490.

⁶⁸ *IBID.*, p. 495.

Act of 1917 and the Land Settlement Acts Amendment Act of 1920, as applied to the territory by Proclamation No. 14 of that year.⁶⁹ These establish general regulations with regard to transactions in land. Stressing the necessity of the protection of native rights, they are quite similar to those in other mandated territories.

The Land Board recommends that farms allotted to settlers should be 5000 hectares in area in the middle districts, 6000 in the north, and 12,000 to 15,000 in the south, according to the carrying capacity of the veldt. A capital of at least five hundred pounds is required of all settlers; and it is advisable that they should be able to command from two to four times that amount.⁷⁰

The Administration is prepared to assist approved settlers by advances for:

(1) The building of a dwelling-house; the maximum amount that can be advanced under this heading is 400 pounds.

(2) Boring for water or for the construction of wells and dams.

(3) The purchase of stock. Under this heading the maximum advance for the purpose is 750 pounds. Remission of rent for the second and third years of a settler's operation may be granted, where a settler has effected improvements of a permanent nature to the value of 10 per cent. of the prairie value of the holding allotted to him.

The Administration is also prepared to consider applications from persons or companies desirous of ranching on a considerable scale, and for this purpose it is contemplated to advertise at an early date a few ranching blocks. The size of these ranches will depend largely on the districts in which they are situated, but it may be that each ranch will comprise approximately six ordinary farms. It is doubtful whether any such ranches will be advertised in the southern districts of the territory. The conditions under which the ranches will be allotted will be similar to those in force in the Transvaal, and will provide *inter alia* for occupation by representatives of the allottees, and the stocking of each ranch with a prescribed number of stock.⁷¹

The former German government had issued certain leases, under which the lessees were given permission to purchase if certain qualifications were met. The new administration has upheld these contracts.⁷²

⁶⁹ OFFICIAL YEAR BOOK OF THE UNION OF SOUTH AFRICA, No. 6, p. 997.

⁷⁰ REPORT ON SOUTH-WEST AFRICA FOR 1920, p. 15.

⁷¹ YEAR BOOK, No. 6, p. 997.

⁷² REPORT FOR 1920, p. 15.

The competition for settlement farms is extremely keen. Since it is the Administration's policy not to allot farms until water has been found thereon and since the rate of settlement is thus limited to the rate at which water can be provided, progress in respect of land settlement has necessarily been somewhat slow, and it has not been possible to accommodate more than a comparatively small number of the applicants. Many people with sufficient capital, however, have purchased land direct from private owners and in many cases the prices paid would, four or five years ago, have seemed fabulous.⁷³

The following table shows the granting of lands which has taken place in accordance with the Land Settlement Proclamation of 1920:⁷⁴

Year	No. of Holdings	No. of Settlers	Area in Hectares	Valuation in Pounds
1920	169	203	1,595,873	144,364
1921	245	311	2,125,154	173,139
1922	169	216	1,163,600	125,451
1923	79	101	765,461	57,916
1924	123	157	1,047,322	78,949
1925	95	118	783,961	57,040
1926	127	140	1,085,295	83,200
1927	91	101	574,713	62,553
1928	44	48	340,398	41,713
	<u>1142</u>	<u>1395</u>	<u>9,481,777</u>	<u>824,325</u>

The noticeable decline in alienations for the year 1928 was the result of the coming of the Angola immigrant farmers, the Administration desiring to make adequate provision for them before allotting farms to other settlers. The demand for holdings has in no way diminished, there being keen competition for any holding which becomes available for allotment. The number of cancellations and surrenders of allotments has decreased, and in no case has such cancellation been due to financial embarrassment. Moreover, no lease has been allowed to lapse by efflux of time, lessees either having had their leases extended or having exercised their options to purchase their holdings.⁷⁵

The following allotments have been made under the Crown Land Disposal Proclamation of 1920, most of them as additional

⁷³ REPORT FOR 1927, p. 6.

⁷⁴ REPORT FOR 1928, p. 46.

⁷⁵ IDEM.

grazing land for farms which were considered to be too small to afford a settler a decent living from his farming operations:⁷⁶

Year	No. of Holdings	No. of Settlers	Area in Hectares	Valuation in Pounds
1921	32	36	209,096	19,685
1922	8	9	65,903	6,014
1923	16	18	78,723	6,944
1924	73	84	573,448	39,264
1925	57	60	286,917	22,296
1926	38	40	179,601	17,926
1927	27	27	132,912	12,955
1928	23	24	68,783	13,494
	<u>274</u>	<u>298</u>	<u>1,595,383</u>	<u>138,578</u>

Disposition has been made also of a number of township plots, either by tender or by public auction. The sale of these blocks is subject to the condition that the purchaser is obliged to erect a suitable dwelling or place of business within two years from the date of the sale. The demand for such building sites in Walvisch Bay has fallen off somewhat; but with the development of its port, there will always be a certain demand for ground suitable for business and residential purposes.⁷⁷

This is the only mandated territory in which any land tax is levied, but here both natives and Europeans are subject to a small assessment, the rate varying with the location and the nature of the property.⁷⁸

3. THE ACQUISITION OF LAND FOR PUBLIC PURPOSES

Although little material is available on the subject, there being none at all for the territory of South-West Africa, the acquisition of land for public purposes is too important a topic to be set aside as unworthy of discussion.

In British Togoland, the Public Lands Acquisition Ordinance of the Gold Coast Colony is applied. It allows the governmental acquisition of land for a purpose which is definitely for the welfare of the public, if proper compensation is made to the owner.⁷⁹

By way of illustration,

⁷⁶ *IBID.*, p. 47.

⁷⁷ *IBID.*, p. 83.

⁷⁸ *IBID.*, p. 28.

⁷⁹ REPORT ON BRITISH TOGOLAND FOR 1924, p. 38.

The land alienated by the Germans has been taken over by the British Government on the occupation. The following lands are therefore alienated:

(i) At Yendi a plot of land, one square mile, which is planted up for experimental purposes in forestry and is still being maintained.

(ii) At Kete-Kratchi the land on which the Government station is situated was presented to the German government by the Kratchi-hene and Elders.

(iii) At Ho and Kpandu the plots upon which the Government stations are situated, and similar areas, as in Yendi, for experimental purposes, which are being maintained, and small plots spread over the country upon which rest houses have been erected.

Since the occupation the following lands have been acquired free for Government purposes:

(i) At Yendi, one square mile for residential purposes and 800 square yards for a trade school.

(ii) At Ho, a plot of land, 245 acres in area, has been acquired by Government as a residential area and public offices, under the terms of an agreement made between the Head Chief and His Elders and the Administration. In the event of another Government taking over the Administration, this plot of land reverts to the Chief and his elders, who would then make a new contract with the incoming Government.

(iii) At Kpedschu, 16 miles south of Ho, situated on the Ho-Adidome Road, a plot of land has been temporarily acquired by the Agricultural Department for experiments in cotton.⁸⁰

In the British Cameroons, by the Public Lands Acquisition Ordinance of 1917, the Government may appropriate any land required for a public purpose on payment of compensation for the land and its improvements. The Government may take possession six weeks after the notice has been published, gazetted, and served upon the owner or occupier of the land. All disputes as to title or compensation are settled by the Supreme Court; and a certificate of title is granted to the Government when all claims have been settled and certain other formalities fulfilled.⁸¹

In the Tanganyika Territory, the Land Acquisition Ordinance provides for the acquisition of land for public purposes, the manner in which compensation for such land is to be assessed and paid being prescribed. In practice, however, this Ordinance

⁸⁰ REPORT FOR 1923, p. 32.

⁸¹ REPORT ON THE BRITISH CAMEROONS FOR 1922, pp. 57-58.

applies only to lands held in private ownership and not to lands held under the Land Ordinance of 1923, that Ordinance itself making provision for the recovery of land thereunder.⁸²

4. ALIENATION AND ADMINISTRATION

Such is the problem of the alienation of land and the various restrictions which have been imposed to aid the native when he is thrown into contact with it. And all in all, it may be quite truthfully said that, to date at least, the protection of the interests of the African indigene in the land seems to have been uppermost in the policies of the administrations of the "B" mandates. Nor can the administration which the Union of South Africa is conducting in South-West Africa be condemned as yet for violation of this principle. It would seem, however, that in the future this Mandatory Power will break away from that policy. That the discussion of the problems of land tenure and alienation may be complete, therefore, this regrettable tendency will constitute the subject under consideration in the following chapter.

⁸² REPORT ON TANGANYIKA FOR 1926, p. 57.

CHAPTER FIVE

SHALL NATIVE SEGREGATION BE PERMITTED IN SOUTH-WEST AFRICA?

1. IMPORTANCE OF THE QUESTION

It is quite probable that the important question of the segregation of the natives in South-West Africa will constitute in the future one of the most discussed topics in the entire problem of the indigene and his relation to the land, the issue developing as the direct outgrowth of the attitude of the present government of the Union of South Africa, and the policy which that government pursues.

Before this discussion is begun, however, perhaps it should be emphasized that, as far as the mandated territories are concerned, it is only in South-West Africa that this problem has arisen. The government of the Tanganyika Territory opposes both the establishment of native reserves and the idea of segregation, really administering the area for the benefit of the aboriginals. The non-native population in British Togoland and in the British Cameroons is not sufficient to cause the development of any such issue.

After the conclusion of the World War, when the terms of the peace treaty were being arranged, it became apparent that it was the ardent desire of the Union of South Africa to annex the territory formerly constituting the colony of German South-West Africa. That desire was of course thwarted by the establishment of the mandatory system. Although it abided by the result of the negotiations and agreed to administer South-West Africa as a "C" mandate, the government of the Union of South Africa has nevertheless continued to hope for annexation; and the policies and practices that have been followed in the mandated area have been in general such as would have been pursued had that annexation actually taken place.

Outstanding among these policies has been the encouragement of the immigration of foreigners, who have taken up much of the land, though of course millions of acres are still available. It is an interesting travesty that of the 207,000,000 acres in South-West Africa only about 5,033,000 are set aside for the use

of the natives, in spite of the fact that under the mandatory system administration is supposed to be entirely for the benefit of the indigenous peoples. However, the injustice of this proportion is somewhat alleviated when it is remembered that of the entire area probably not over half is really suitable for cultivation.

In accordance with that policy of land settlement, the administration in South-West Africa has urged the confinement of its native peoples to certain areas. Although the desire to make available more land for non-native holdings is the real reason for the development of such a policy,¹ the administration has attempted to justify it on the following grounds:

because of the necessity of removing native settlements from areas essentially European; the need of doing away with "black islands," which are small native reserves within white areas; the praiseworthy aspiration of providing healthier and more natural living conditions for the native population; and the advisability of establishing a means of more efficient control of native reserves.²

The question of the segregation of the native races has always constituted an important issue in the Union of South Africa. Practically unimpeachable arguments have been built up in support of the policy; on the other hand, a case almost equally as strong has been constructed by the opposition. As South-West Africa is administered as an integral portion of the territory of the Union of South Africa, it is only natural that the same arguments for and against segregation should be advanced there. With regard to the future of this mandated area, therefore, it is important that these arguments should be enumerated. The citation of pertinent quotations from the leading writers in the field during the last quarter of a century has been chosen as the method of presentation of this portion of the general land problem. Brief notice will also be taken of some of the chief policies advocated as substitutes for segregation.

¹ The problem of segregation is also arising to some extent in the towns and villages. A consideration of the scanty material available on the subject indicates that many black and white areas are already in existence in these settlements, and that consequently it will be possible to adopt a policy of complete segregation in these places much more readily than in the agricultural districts.

² REPORT ON SOUTH-WEST AFRICA FOR 1921, p. 13.

2. THE CASE FOR SEGREGATION

As an opening argument in the case for a policy of segregation, there has generally been established by its advocates a picture of the distress which may befall the natives if segregation is not accepted. The truth of the following statement can hardly be denied:

It is unquestionably right . . . that enough land, good land, should be set aside for native use in those Highlands of Africa which are destined to be colonized by white men, while there is yet time. There is real danger, if this is not done, that the whole native peoples will be depressed by economic forces into a quasi-servile proletariat ministering to a white aristocracy, a result which can only corrupt both black and white, multiply poor whites and poor blacks, and end in revolution and the breaking up of laws. The real protection against this possibility is to give the native ample land on which to develop on lines of his own choosing, to adopt such of the white man's ways as he finds good, and to reject the rest, to preserve and develop what is good in his own customs and life instead of having it forcibly crushed out by transplantation, and above all to preserve that peculiar self-respect and freedom which comes from being independent owners of the soil, owning no man as master.³

Further, there should be noted the assertion of Cardinal Manning that:

The land question means hunger, thirst, nakedness, notice to quit, labour spent in vain, the toil of years seized upon, the breaking up of homes, the misery of parents, children and wives, the despair and wildness that springs up in the hearts of the poor when legal force, like a sharp arrow, goes over the most sensitive and vital rights of mankind. All this is concerned in the land question.⁴

Those who advance the merits of segregation strengthen their picture of the dire results that may occur if sufficient land is not at once reserved for the natives, expropriation being allowed to continue unchecked, by quoting the words of the Reverend Edwin W. Smith, a former Northern Rhodesian missionary, with regard to the intimate relationship which the African considers existing between his land and himself:

³ Cripps, Arthur S., *AN AFRICA FOR AFRICANS*. From the preface by Philip Kerr, pp. viii-ix.

⁴ Quoted in Cripps, Arthur S., *op. cit.*, chap. vi., p. 61.

A new site can never be the same to the people, for African religion is rooted in the soil, and bound to the parcel of ground hallowed by the presence of the dead. One needs to hear the pagan African's lament as to the piteous condition of their deceased parents and chiefs reduced to misery by the enforced migration of their subjects and children, in order to understand the firm attachment of the people to their land. Separation from their land means a severance between the dead and the living members of the community, with an inevitable slackening of the moral obligations which that communion entailed.⁵

The value of this native attachment to the land is brought out definitely in the following excerpt from Maurice Evans' *Black and White in South East Africa*:

Back to the land is the cry in the older countries, where they have experienced the dire results of exaggerated city life, and the thought of the best among them is to replace, by more natural conditions, what has insidiously developed into a cancer in their national life. Here we have a people crying aloud against the divorce threatening them. Along the line of the genius of a race much may be done, much may be modified, wounds may be healed, and development and progress made possible; counter to it, dire distress and eventual destruction of the race ideal. Of infinite import and value to the Abantu race has been this clinging to the land and all that it implied. It has preserved them from the dissolution which a too ready compliance with the temptations held out by our civilization would have implied. The race still stands firm; its attachment to the land has saved it.⁶

In the next place, Mr. A. S. Cripps establishes a very strong point in favor of segregation when he says:

Let us try to see dispossession, by the light of our own English history, as what it is—a lure, a blind, a curse to our Imperial Commonwealth! Let us awake to the fact that a million Rhodesian acres go a very small way in the provision of huge cattle-ranching estates for European colonists, but go a very great way in the provision of room-to-plot for African peasants.⁷

The Reverend F. B. Rand, writing in 1923, makes the assertion that:

The white man has seized (and is still seizing the little that remains!) practically the whole of the land, and has so

⁵ Quoted in Cripps, Arthur S., *op. cit.*, chap. iii., p. 30.

⁶ Chap. v., pp. 150-151.

⁷ Cripps, Arthur S., *op. cit.*, chap. iv., p. 49.

rendered the territorial separation of the races an impossibility, unless indeed, he is prepared at this late hour to disgorge and make restitution. . . . The existing native reserves, we are told, are only too small because of the feckless and improvident agriculture. Let your correspondent take up a map and see the utter disproportion of the land allotted to white and black. Not one fiftieth of it is in the hands of the natives, and yet they outnumber the Europeans by five to one.⁸

Moreover, again quoting Mr. Cripps:

Our native reserve land, already severely circumscribed under the settlement declared in our Reserves Order in Council of 9th November, 1920, is now threatened under the Government Notice of 18th May, 1923, by the prospect of a multiplication of alien immigrants holding some official capacity in connection with Church or State, whose business it may be to teach the unfortunate Reserve Native how to develop what reserve land has been left to him, not according to the adaptive and imitative genius of his own race, with its rich stores of traditional wisdom as to local conditions, but according to some superimposed foreign fashion.⁹

Turning away from this gloomy forecast of the situation which might arise under an extended policy of expropriation, those who favor segregation then predict the results of the establishment of a comprehensive policy based on their principles and ideals:

The policy of territorial separation is the only policy that will make possible a home existence for the natives in their own homeland, for we know that however educated and however worthy the civilized native may become he cannot hope to find a home, or to feel at home, among the whites. . . .

But in their own areas the natives will have their homes and their own home-life, without which human existence is indeed miserable. Those among them who long for the privilege of private ownership will be able to acquire land in freehold in localities set aside therefor, while those who cling to the old ways will be allowed to continue as before under their old system of communal land tenure.¹⁰

If good and ample land can be set aside in the various territories of spacious South Africa in which the natives can live and move without let or hindrance; in which they can do

⁸ Quoted in Cripps, Arthur S., *op. cit.*, chap. vii., p. 81.

⁹ Cripps, Arthur S., *op. cit.*, chap. ix., p. 110.

¹⁰ Nielsen, P. Quoted in Cripps, A. S., *op. cit.*, chap. vi., p. 61.

what work they like for themselves and for their own people; in which they can engage according to their individual desires, in all kinds of trade and commerce without the prohibitions of the white man's colour-bar; in which they can earn the wages that are governed by the laws of supply and demand only; in which they can build up after their own fashion courts of law and political councils for themselves; in which, in fine, they can live and work out their own salvation, unhurried and unworried by strange and impatient masters, then, surely, the natives of South Africa will have gained a great gain, far greater than any they can ever hope to win by putting their undeveloped strength against the organized resistance of the whites.¹¹

Moreover, the Commission on the Closer Union of the Dependencies in Eastern and Central Africa says in its *Report*:

Segregation is in many respects attractive. It would remove from the area of conflict many matters which have been the subject of acute controversy in the past. It would enable the political evolution of each community to proceed more rapidly on its own lines. The white areas could be granted from the outset a more complete and familiar form of self-government than is feasible otherwise.¹²

And in *Black and White in South East Africa*, Maurice Evans strengthens the case for segregation by declaring that:

The great and fundamental advantage to the native would be that his home life and the conditions surrounding him from cradle to adolescence would be conserved as regards the best traditions and customs of his race in the past; that, as these necessarily changed, the best wisdom of the race, guided by the best the white man could give and devise, would be directed to make them sound and healthy. As the old ancestral controls weakened, fresh ones suitable to the race and its altered conditions would be gradually imposed, but always of such a nature as would tend to conserve the best in them and evolve the best possibilities at present dormant in the race.¹³

Throughout this volume reference has often been made to the work of Professor Raymond L. Buell. He comments on the case for segregation in the following words:

Some South Africans have proposed an out and out policy of compulsory racial segregation. They believe that the fruits of racial inter-penetration in South Africa have been

¹¹ Evans, Maurice S. Quoted in Cripps, A. S., *op. cit.*, chap. vi., p. 62.

¹² P. 67.

¹³ Chap. xi., p. 23.

bitter—that native life under European employers has been thoroughly demoralizing and that European society, based on primitive labor, is a “slave state” composed of a White Aristocracy superimposed upon a Black Proletariat—a system which has produced the Poor White on the one hand, and the Mulatto or Colored person on the other. They believe that a white civilization living in intimate dependence upon a primitive people of a different type of standards, outnumbering the whites four to one, is in danger of losing its economic, moral, and cultural standards, and that if universal intermarriage does not take place, a result which they would deplore, racial animosity and illicit miscegenation will inevitably develop. Thus the Segregationists favor the creation of separate areas in South Africa for the exclusive occupation respectively of blacks and whites, each maintained on a basis of an all-black or an all-white economy. The Black Area, under this theory, would eventually become economically and politically independent of the White Area. Neither race would be obstructed in its group development by the other.¹⁴

In addition, Professor Buell notices that:

Friends of the native appear to be agreed that the native would socially be better off living on a farm of his own with his family than in the mining compounds.¹⁵

An equitable scheme of segregation draws praise in the following words of Dr. S. M. Molema, the Bantu historian:

Such a scheme, if equitably carried out, would be highly satisfactory, and in that way can the dangers of “the native problem” that exists for the whites and “the foreign problem” that exists for the blacks be considerably minimized and perhaps successfully combated. But let us not forget that an enlightened Segregation Policy implies Faith, not the egotistical Faith that insists on superimposing one’s own Race’s Kultur on a subject Race, but Faith in Freedom and so in the grant of Freedom for its self-development to that subject race. Creative Imperialism (of the higher or Christian type) is surely at its supreme height of power when, refraining from the temptation to mould temptingly plastic subjects, it affords them a scope and a sphere wherein to mould themselves.¹⁶

Dr. Molema emphasizes, however, that first and foremost, such a separation must be equitable, for only a just and fair division can provide the privileges of self-government and free constitutional life to both black and white.¹⁷

¹⁴ THE NATIVE PROBLEM IN AFRICA, Vol. I, chap. ix., pp. 133-134.

¹⁵ *IBID.*, p. 135.

¹⁶ Quoted in Cripps, A. S., *op. cit.*, chap. vii., p. 83.

¹⁷ Quoted in Cripps, A. S., *op. cit.*, chap. i., p. 11.

Finally, Mr. Cripps, who has given much of his time and labor to a crusade for the improvement of the conditions of native life, commends the natives' own desire for areas in which segregation is the rule as the most important argument in favor of them. And certainly the force of that contention cannot be easily overlooked.¹⁸

For the successful operation of a system of segregation, it is necessary that the areas set apart in which natives can acquire land by purchase should be sufficiently large to support a community numerous enough to supply itself with all its needs for its social and economic life. In these native areas there should be some white supervision, as, for example, in the direction of education and government. Regulations which prevent the accumulation of large acreages by any one individual, and which prohibit speculation, should be established. Moreover, there exists, among others, a fundamental doctrine which, if it is carried out to perfection, will make inconceivable the existence of small black areas scattered among the white peoples.¹⁹

There should be no violation by the white man of the areas set apart for the native. Only those would be admitted as residents into these reserves who were there primarily for the benefit of the natives, administrative officers, missionaries, and teachers. Trading licenses issued during pleasure and specifically conferring no vested interests might be allowed, but the idea is that the natives shall in time, under guidance, be fitted to fulfil all the duties pertaining to their separate existence.²⁰

Such is the case which has been established in support of the segregation of the native races. Its worth is adequately summarized in the three following quotations, the first being taken from an article on *Native Races and Peace Terms*, by John H. Harris:

The time has surely come when the white colonising nations should agree to set aside an area in each Colony or Protectorate for the exclusive use of the native inhabitants. But these areas to be successful must satisfy certain conditions; they must comprise the ancestral lands of the tribe; they must be adequate not merely for the present generation, but large enough to admit of tribal expansion, and, more import-

¹⁸ Cripps, Arthur S., *op. cit.*, chap. vi., p. 68.

¹⁹ Evans, Maurice S., *BLACK AND WHITE IN SOUTH EAST AFRICA*, chap. xi., p. 316.

²⁰ Cripps, Arthur S., *op. cit.*, chap. viii., p. 88.

ant than all is that these areas must be held by the tribes in secure tenure. The only white men permitted within the borders would be those administrators, missionaries, and merchants who seek only the welfare of the natives, and whose presence is mainly concerned with guiding the tribes in learning the task of a progressive administration of purely tribal affairs.²¹

The second is selected from an article by L. Marquard, entitled *The Native Question in South Africa*:

The policy of separate areas for European and native has now been definitely embarked on, and there is no intrinsic reason why this should be unjust as long as ample opportunity is given to natives in the shape of increased territories and the establishment of a land bank to assist farmers. . . . If the policy of separation is unfairly carried out it will eventually have to be abandoned. Its only chance of success is its fairness.²²

And the third and last is from the pen of that ardent advocate of segregation, Arthur S. Cripps:

The policy of Segregation Areas is worth trying as a remedy for the grave and complex maladies in the African part of our Empire. . . . A first-rate Expropriation Policy may commend itself as worth imperial backing where a mere second-class makeshift scheme (with an illusory attraction of cheapness) may fail to excite enthusiasm outside the borders of the Colony concerned. A Segregation Policy, if it be worth trying, is worth trying well. We are not so rich in alternative expedients as to be able to court failure in this experiment of Territorial Segregation that we in South Africa propose to take the responsibility of making. The Land Question is a very serious question in our part of Africa. And a comparatively equitable Segregation Scheme of compact Areas, a Scheme pledged to no tyrannous orthodoxy about enforcing European tenure, a Scheme rising superior to the temptation to multiply petty regulations, (that so easily besets experiments of the sort in our own day), may do much to give a convincing assurance of our good faith as to the Land Question.²³

3. THE CASE AGAINST SEGREGATION

The case against the segregation of the native races may be opened with the following attack upon it made by a prominent writer of some twenty-five years ago:

²¹ CONTEMPORARY REVIEW, Vol. 109, June, 1916, p. 754.

²² NINETEENTH CENTURY, Vol. 104, July, 1928, p. 26.

²³ Cripps, Arthur S., *op. cit.*, Appendix, chap. v., pp. 197-198.

The segregation of the black race is not a point for which I would aim. It seems to me a dangerous experiment to lock him up in areas, give him political rights, and tell him to go ahead and make a civilised people. It seems to me the height of folly to give him rights and deny him privileges.²⁴

He says further:

Every now and then it is wildly suggested that the American negro should be emigrated back to Africa *en bloc*; and an almost extraordinary suggestion is for a division of the sub-continent between the two races in which the white should take all the high, healthy, temperate regions and the blacks the low, tropical parts unsuited for white occupation. The first objection is that to withdraw the blacks from among the whites, either in America or South Africa, would dislocate half the machinery of agricultural, domestic and industrial life, while a considerable number of white men would have to throw up lucrative employment in the black districts. Supposing, however, that the suggestion was only to apply to such natives as are still living tribally, or owning ground, then the difficulty would arise of allocating the two spheres. Altitude and temperate climate are not everything in South Africa; there are parts of Bechuanaland, for instance, which fulfil the conditions, but where only natives can make a living, while some of the portions of Central and East Africa which are marked out for black occupation already own white communities which would be hard to dislodge. These are only the more obvious and elementary objections to a scheme which is, in fact, outside the region of practical politics. We have not yet succeeded in introducing a successful method of land settlement into South Africa; so that it is in the highest degree premature to talk of moving whole communities from place to place and reconstructing the whole domestic economy of the sub-continent.²⁵

A second witness, the Commission on the Closer Union of the Dependencies in Eastern and Central Africa, does not favor a policy of segregation, at least not at the present time. The Commission justifies its stand as follows:

There are serious difficulties. First, it could never be complete. Secondly, it would be difficult to devise any satisfactory boundaries. Neither the black nor the white state would be strong enough to stand alone, and their common economic interests would necessitate some form of co-ordination. Thirdly, there would be great difficulty in splitting

²⁴ Colquhoun, A. R., *THE AFRICANDER LAND*, Part I, chap. vi., p. 102.

²⁵ *IBID.*, chap. vii., pp. 125-126.

up the various services, such as medical, agricultural, and veterinary.²⁶

In the third place, Dr. Schalkwyck in 1923 made the following rather cold-blooded estimate of the policy of segregation:

By segregating the native you remove all the factors which tend to diminish his natural increase—excess of births over deaths. By reverting to his former mode of life, and by discarding European habits and customs the struggle for existence for him will become less. Polygamy will flourish again with resultant large families. He will be away from European diseases and strong drink. Moreover, the national sentiment will be revived and fostered, and the native will become a menace to the white man. Keep him dispersed among the whites, and he cannot organize. Keep him in touch with the Europeans and his natural increase will diminish. In many towns the death-rate of the non-European is only slightly less than the birth-rate, and is in any case, from two to five times higher than the European death-rate. It is an indisputable fact that the more the native adopts methods and customs of civilization the greater will be his struggle for existence and the more his natural increase will diminish.²⁷

A fourth writer, the sociologist, Maurice Evans, sees as objections to segregation the facts that it pampers the native, that it may hinder the expansion of the white race, and that the possession of a home by the native will probably interfere with his coming out to work for the European, industrial development being thereby retarded.²⁸

Professor Buell, in his comprehensive study of the problems of Africa in general, finds two objections to the theory of compulsory segregation.

Friends of the natives have opposed it on the ground that the white man, being self-interested and having full power to impose the policy, would give to the natives only those areas which the white man could not use. Others have criticized it on the ground that the total separation of the bulk of the white from the black race in South Africa is economically impracticable. As we have seen, most of the gold mines could not be profitably exploited without cheap native labor. Practically all European industry and agriculture is dependent upon native labor.²⁹

²⁶ REPORT OF THE COMMISSION ON THE CLOSER UNION OF THE DEPENDENCIES IN CENTRAL AND EASTERN AFRICA, p. 97.

²⁷ From THE FRIEND for October, 1923. Quoted in Cripps, A. S., *op. cit.*, chap. vii., p. 76.

²⁸ Evans, Maurice S., *op. cit.*, chap. xi., pp. 316-317.

²⁹ Buell, Raymond L., *op. cit.*, Vol. II, p. 968.

Finally, in the consideration of the case against segregation, it is of interest to note the attitude of the comparatively advanced negroes of the western world, as reflected in Article XII, Section 20, of the *Declaration of Rights of the Negro Peoples of the World*, drafted and adopted at the convention held in New York in 1920, at which Marcus Garvey presided as chairman:

We protest against segregation districts, separate public conveyances, industrial discrimination, lynchings and limitations of political privileges of any Negro citizen *in any part of the world* on account of race, color, or creed, and will exert our full influence and power against all such.⁸⁰

Thus is concluded the argument of those who oppose the segregation of the native races. That they have established a very powerful justification for their attitude is evident. Yet it would seem that the decision must be rendered in favor of a policy of segregation for South-West Africa, in spite of the fact that such a decision violates the very spirit of the mandatory system. But in truth, this "C" mandate is a virtual annexation; and, regardless of what may be said about "sacred trusts of civilization," it will continue to be administered by the Union of South Africa as having such status. In view of this unfortunate attitude of the administration, therefore, a policy of segregation will, in all probability, work out more successfully than any other for the good of the natives. If properly administered, it can prove of great benefit both to the indigenes and to the whites. Those who administer such a policy, however, must at all times remember that:

If segregation is to be the settled policy . . . , that segregation must be fair to all races, giving adequate and secure tenure to every individual, regardless of colour. The land allotted to the natives must not merely be adequate; it must be of suitable quality; it must be healthy; and finally, it must include a fair share of drinking water for cattle and springs of water for human consumption. Less than this would constitute a grave injustice to the native inhabitants.⁸¹

4. SUBSTITUTES FOR SEGREGATION

(a) THE GLEN-GREY SYSTEM

One of the most outstanding substitutes for a segregation policy in South-West Africa would be the Glen-Grey system,

⁸⁰ Quoted in Buell, Raymond L., *op. cit.*, Vol. II, p. 968.

⁸¹ Harris, John H., *AFRICA: SLAVE OR FREE?* Part III, chap. i., p. 119.

which has almost the same characteristics as segregation itself. This was established in the Union of South Africa by the Glen-Grey Act of 1904, embodying the opinions of Cecil Rhodes. Being a carefully planned scheme for the organization of a model reserve, it provided for the division of land into locations, each of which would be subdivided into allotments of about eight and a half acres. Every location was to be controlled by a Board of three resident landholders, and a certain number of the members of these Boards were chosen to make up the District Council, which was presided over by the Resident Magistrate. The location councils had the power to raise and expend money and to manage the location in general. Every landholder was required to pay a minimum rental of fifteen shillings annually; default might lead to eventual cancellation of title. The allotment, if all taxes were met, passed by primogeniture to male descendants, thus creating a system of freehold hereditary holdings in a reserve.⁸²

A competent authority says of the Glen-Grey Act and the system established by it:

The main object of this fundamental and archetypal measure was the encouragement of progressive tendencies by giving security and independence and stimulating enterprise. It aimed at conferring upon the native residents of proclaimed areas a form of Home Rule by means of councils which, though having considerable powers, were under the guidance of Government officers. The Act was not extended to the whole of the native territories in Cape Colony, but limited to portions like the Transkei, where the general features of the land and the character of its occupants favoured the experiment. In no other part of South Africa could it have been applied with such prospects of fair trial and success. It gratified the ambitions of many who were anxious to advance and who liked the idea of fixity because it released them from chieftainship and the tribal system and promised freedom to gain the reward of personal toil. It was a bit of benevolent class legislation full of safeguards. . . . The passing of the Act marked a direct step in the break from old traditions and, though it has not been found practicable to apply it generally in South Africa, it is probable that reform will eventually follow on its lines. The councils are advisory to the administration; they give the natives a voice in their own affairs, control of local funds, train them to constitutional methods of appeal, and serve admirably to

⁸² Lugard, Sir Frederick D., *THE DUAL MANDATE IN BRITISH TROPICAL AFRICA*, chap. xv., pp. 326-327.

keep the Government in close touch with their feelings and aspirations.³³

(b) THE SEPARATION OF LAND OWNERSHIP

When General Botha came into power as the Prime Minister of South Africa, he found the ownership and occupation of land throughout the territory in a state of almost hopeless confusion, there existing many systems of tenure, both just and unjust.

Prime Minister Botha realized that for the good of the country, some settlement should be made. He accordingly fell back upon the principal recommendations of the Lagden Commission of 1903-1905, and divided the 300,000,000 acres of land in South Africa between the white and the black populations.

A system based on the recommendations of the Lagden Commission is quite possible as a substitute for a policy of absolute segregation of the races in the mandated territory of South-West Africa; but in view of the state of civilization of the natives, it is hardly probable that a very high degree of success could be achieved. The Commission made the following recommendations:

(1) That in the interests of both Europeans and natives, purchase of land by natives should be limited to certain areas to be defined by legislative enactment.

(2) That whatever principles govern the question of purchase of land by natives should apply equally to the leasing of land by natives.

(3) That unrestrained squatting of natives on private farms, whether as tenants or otherwise, is an evil, and that the principles of the Cape Act of 1899 should be adopted for dealing with it.

(4) That purchase of land which may lead to tribal or communal or collective possession of land by natives, as opposed to individual ownership, should not be permitted.

The three main effects of the application of these recommendations would be to limit white and native holding to defined areas, to abolish irregular squatting, and to encourage individual ownership. Whatever the advantage or disadvantage of these recommendations, they certainly carried the native land question very much further from primitive conception.³⁴

³³ Lagden, Sir Godfrey, *THE NATIVE RACES OF THE EMPIRE*, chap. i., pp. 30-31.

³⁴ Harris, John H., *op. cit.*, Part III, chap. i., pp. 110-111.

Finally, it should be remembered that in any system based on these recommendations there is not established a policy of segregation of peoples, but merely one of the separation of land ownership. There is absolutely nothing in such a system, (and there was nothing in the legislation which General Botha put into practice), to preclude the intermingling of the races for social, religious, or industrial purposes.⁸⁵

(c) THE POLICY OF DIFFERENTIATION

The policy of differentiation, or voluntary and partial segregation, is advocated by those who consider that economic considerations make compulsory segregation impossible and even dangerous from the native standpoint. Under this policy there would be established a nucleus of native settlements adjacent to white communities. In all probability, the majority of the natives would continue, either temporarily or permanently, to work for Europeans; but a part of them would have some place which they could really call their home, in which they could lead their own lives, subject to some form of administration, as, for example, such a council as was established by the Glen-Grey Act.

According to Professor Buell, the policy of differentiation, if adopted, should mean that:

Europeans will govern Europeans and Natives will govern Natives and questions affecting both must be decided upon by mutual consent.

Economically whites and natives will always be dependent on each other. Consequently, segregation can never be complete. It must also be a gradual process; and it cannot be compulsory as far as the whites are concerned. The gradual development of native communities, housing a portion of the native population, is, on the other hand, possible.⁸⁶

In theory, at least, no adverse criticism may be made of the policy of differentiation. On the contrary, it seems to be worthy of much consideration as a satisfactory substitute for a policy of complete segregation.

⁸⁵ *IBID.*, p. 112.

⁸⁶ Buell, Raymond L., *op. cit.*, Vol. I, chap. ix., p. 136.

5. THE QUESTION IN THE FUTURE

Of such a nature is the problem of segregation in South-West Africa. It is quite probable that some such policy will openly be put into effect in this mandated territory within a relatively short period of time. And, considering the extreme backwardness of the indigenes of this region and the relations existing between it and the Mandatory Power, it seems that more benefit may accrue to the natives through the application of such a scheme than would otherwise be possible. Yet from a moral standpoint, in view of the pledge of the government of the Union of South Africa to administer the territory as one belonging to the native inhabitants, segregation, or any other such proposal, can hardly be justified.

CHAPTER SIX

MISCELLANEOUS LAND PROBLEMS AND POLICIES

1. THE TOPICS DISCUSSED

The Land and Agricultural Bank of South-West Africa, the methods by which the natives are being encouraged to improve their agriculture, the systems of survey and registration, and the problem of the disposal of ex-enemy property constitute four subjects of vital importance in such a volume as this. The amount of material available, however, is too scanty to permit the presentation of a separate chapter for each of the four topics.

2. THE LAND AND AGRICULTURAL BANK OF SOUTH-WEST AFRICA

The constitution of the Land and Agricultural Bank of South-West Africa is modeled on that of the Land and Agricultural Bank of South Africa, established in 1912. The majority of the provisions of the act setting up the latter Bank have, with the necessary modifications, been made to apply to the new institution. It is operated and controlled by a Board of Management consisting of four members, who are appointed by the Administrator. One of them, who must be a member of the Public Service of the Union of South Africa, is delegated to act as Chairman of the Board.¹

As to the objects and powers of the Bank, the following are given as the main purposes of its prototype, the Land and Agricultural Bank of South Africa:

To make advances:

(a) to farmers against the security of first mortgage on agricultural or pastoral land. The maximum advance is 2,000 pounds to any one farmer, and the advance cannot exceed 60 per cent of the value placed by the Central Board on the land;

(b) to agricultural co-operative societies against the security of the joint and several liability of the members for the society's debts; and to guarantee the fulfillment of

¹ REPORT ON SOUTH-WEST AFRICA FOR 1922, p. 48.

contracts undertaken by co-operative societies individually or by some organization acting for a group of cooperative societies;

(c) to farmers to construct dipping-tanks, silos and other contrivances for the making or storage of ensilage and to erect boundary fences;

(d) to settlers who hold land from the Crown under lease or licence. Repayment of these loans is guaranteed by the Minister of Lands.²

Further, the South African Bank serves as a collecting agent for the government in the recovery of certain dipping-tank and fencing advances made by the state, receiving a commission of five per cent on all amounts so recovered. It has also been invaluable in the relief of distress caused by drought and flood.³

Under a proclamation in 1927, the Land and Agricultural Bank of South-West Africa was given power to advance to farmers the sum of 500 pounds sterling for the development of their water supply, rather than that of 250 pounds which had previously been allowed. The construction of dams is being contemplated by quite a number of farmers; and the Board is very glad to grant loans for this purpose, on the conditions that the site has been approved by the Government Dam Expert, and that the plans and specifications for the proposed structure have been passed by him.⁴

The Land Bank was given the power, also, in 1927, of advancing loans, not in excess of the sum of 250 pounds each, to farmers, other than settlers on Crown Land, for the purchase of good breeding stock. The period within which this loan must be repaid is set at five years, the rate of interest being fixed by the proclamation at five per cent per annum.⁵

Arrangements were concluded with the Lands Branch under which inspections of farms bonded to the Land Bank are to be undertaken in future by members of the Land Board, during the course of inspection work in connection with land settlement farms. In this way the necessity for separate inspections has been obviated and duplication of costs avoided. An inspection on behalf of the Land Bank has just been completed in the Grootfontein and Otjiwarongo districts. The cost works out at 30 shillings per farm,

² OFFICIAL YEAR BOOK OF THE UNION OF SOUTH AFRICA, No. 6, p. 905.

³ *IBID.*, pp. 905-906.

⁴ REPORT ON SOUTH-WEST AFRICA FOR 1927, p. 75.

⁵ *IDEM.*

which is approximately what its inspections cost the Land Bank under the old method, only the Land Bank is not obliged to employ a permanent official for this purpose. Farms in several other districts are at present in course of inspection by directors of the Land Board. . . . It is not intended to have a yearly inspection made, as once every two years will suffice the needs of the Land Bank.⁶

By way of illustration of the actual operations of the Bank, one may examine the following figures, reflecting its activities for the year 1928:

There was advanced for improvements the sum of 8,521 pounds sterling; for the purchase of stock 10,440 pounds; for the redemption of Landwirthschaftsbank Bonds 13,260 pounds; for the redemption of Land Bank Bonds 57,002 pounds; and for the redemption of other bonds 20,011 pounds. The total sum granted to care for other debts amounted to 8,530 pounds, while 52,471 pounds went for the purchase of land. The majority of these advances were for sums between 1,000 and 2,000 pounds. Grants totaling 14,130 pounds were allowed for the development of additional water supplies. Finally, there was advanced the amount of 52,505 pounds, in satisfaction of 287 applications, for fencing purposes, the average grant being 27 pounds per mile.⁷

There can be no doubt that the Land and Agricultural Bank of South-West Africa is a praiseworthy institution, making possible as it does the provision of sufficient capital to supply the needs of temporarily embarrassed settlers. Such an establishment, manifesting the public interest in the welfare of the settler and in the development of the country, will prove invaluable in building up in South-West Africa a more contented people in a more prosperous land.

3. THE AGRICULTURAL EDUCATION OF THE NATIVE PEOPLES

Professor Raymond L. Buell, in *The Native Problem in Africa*, makes the statement that the economic welfare of the native is fundamentally dependent upon agriculture.⁸ The truth of this assertion cannot be denied. Rather, it might be said further that, as the spiritual and moral well-being of the in-

⁶ *IBID.*, p. 74.

⁷ REPORT ON SOUTH-WEST AFRICA FOR 1928, pp. 100-105.

⁸ Vol. I, chap. xxviii., p. 473.

digene in large measure grows out of satisfactory economic conditions, it too is vitally concerned with the success of native agriculture. A consideration of the methods by which the administrations of the Mandatory Powers are attempting to encourage and develop that agriculture should therefore prove to be both interesting and profitable.

The administration in the British Cameroons has made no report as to the status of native agriculture in that mandated area. In British Togoland, however, there exists an Agricultural Staff, composed of a European Assistant Superintendent of Agriculture, whose headquarters are at Kpeve, which is the most centrally placed station; two African Assistant Overseers, who are in charge respectively of the Stations at Kpeve and Kpedshu; a junior officer (also an African) at Kpeve, who is available for general work and to act as an interpreter; and an Assistant Overseer and an Assistant Plant Inspector, who are in charge of the groups of laborers engaged in the sanitation of cocoa farms, the headquarters of these two officials changing as their work progresses. There are small stations at Ho and Kpando in charge of headmen. At Ho and Kpando also are to be found small plantations, while the Experimental Stations of the Department are located at Kpeve and Kpedshu.⁹

The Mandatory Power has made no statement as to the success which this Agricultural Staff has attained in its various labors. The mere fact that such a Staff has been established, however, indicates that the Mandatory Power is aware of the important part which native agriculture must play in the life and development of the territory, and that that agriculture is to be aided in every possible way.

In the Tanganyika Territory, there exists an Agricultural Department, composed of about 15 agricultural officers and 180 native agricultural assistants. At Mpapwa, a school is conducted by the Department of Agriculture, in co-operation with the Department of Education, in which native agricultural instructors are being trained. Such instructors tour the territory, demonstrating to the natives the best methods of cultivation. In general, it may be said that the work of this Agricultural Department is largely educational in nature. A monthly journal, *Mambo Leo*, is published in Swahili; and through it and various circulars, valuable information is conveyed to the natives

⁹ REPORT ON BRITISH TOGOLAND FOR 1925, p. 17.

in very simple terms. Schools demonstrating plowing and various other modern agricultural methods have been established. Moreover, the native production of cotton and coffee is given every possible encouragement.¹⁰

An interesting development is the adoption of ox-ploughs by the natives for communal cotton-growing, in one area. The plough in Africa will be the great liberator of women, who, by old custom, do all the planting with hand-hoes. It is obviously impossible to found a great agriculture on female labour, and yet it is hard for men to lay down their male vanity and take to women's work. But a plough is a fine new toy worthy of a man's attention; and in this way will come time and energy for the women to improve their housewifery and nurse their babies properly.¹¹

It is the policy of the administration to encourage the natives to grow new crops, at the same time improving the cultivation of those which they already know.

Given cheap transport, there is a very prosperous future for the agricultural tribes, though as yet the railways are entirely inadequate, and the tsetse renders animal transport impossible over large areas. The children in the village schools are taught to tend plants scientifically, and to grow trees too; for it is realized that the ruthless destruction of forests, if it is allowed to go on, will mean the death of the herds in the great heats for want of shade. Agricultural officers distribute good seed and demonstrate modern methods to the cultivators. The aim is both to improve the food crops for local use, and to stimulate the growing of crops for export. The main exports are steadily increasing and include sisal, coffee, hides, copra, and cotton. Of these the natives produce sisal, cotton, hides, and copra. The fine coffee is still a European crop grown by the planters in the Northern hills.¹²

In the past, a very distressing feature of the agricultural policy of the government of Tanganyika has been its neglect of the Amani Institute of Tropical Agriculture. This was established by the Germans in 1902, and constituted, with an experimental plant and a splendid laboratory and library, "a tropical scientific institute superior to anything in the British Colonies and Protectorates."

¹⁰ Buell, Raymond L., *op. cit.*, Vol. I, chap. xxviii, pp. 473-477.

¹¹ White, Freda, *MANDATES*, chap. ix, pp. 119-120.

¹² *IBID.*, p. 119.

Owing to lack of funds, this Institute, which ought to be the central research station for all British East Africa, is practically derelict. One solitary Kew gardener, with a tiny squad of native labourers, tries to keep it from crumbling to pieces, but can do little but fight the encroaching weeds.¹³ Professor Buell says of this:

The greatest reproach against the agricultural policy of the Tanganyika Government is the fact that it allowed the Agricultural Institute at Amani, probably the leading scientific institute in the tropics, established by the Germans in 1902, to fall into decline. The East Africa Commission reported (*Report of the East Africa Commission*, Cmd. 2387, p. 85):

"In spite of the efforts of successive Secretaries of State for the Colonies, this world-famous research institution is, for all practical purposes, lying derelict, its laboratories unoccupied, its costly apparatus dismantled, the living quarters deteriorating, the magnificent and priceless collection of books and scientific records and specimens unused. Instead of supplying the five territories in particular, and the scientific world in general, with contributions to their knowledge of tropical plants, soils, and insects, of the greatest scientific and economic importance, its only output at present consists of penny packets of seeds."¹⁴

At the present time, however, a movement is under way to re-open the Amani Institute, the cost of its maintenance being borne jointly by the East African territories.

Certainly progress has been and is being made in the native agricultural methods of the Tanganyika Territory. It is to be hoped that this development will continue, for the large amount of land suitable for agriculture in this mandated area causes this to be a matter of extraordinary importance.

With regard to South-West Africa, the following excerpt gives a very concrete picture of the agricultural policy in that territory:

Excellent results have been achieved at the Gammans Agricultural School, though operations have been somewhat hampered owing to lack of water. However, a large dam is in course of construction and is now practically complete. This will contain a sufficient supply of water to enable a large strip of soil to be placed under irrigation and it will then be possible to train students in all branches of farming there. The institution has become so popular that pressure

¹³ *Ibid.*, p. 120.

¹⁴ Buell, Raymond L., *op. cit.*, Vol. I, chap. xxviii., p. 476.

has been brought to bear on the Administration to erect similar schools in other parts of the Territory and the practicability of establishing three more schools in the Otjiwarongo, Keetmanshoop, and Gobabis districts is receiving consideration. The schools will be run on the same lines as the Gammans school, which is open to Europeans only. Students must be at least 16 years of age and must have passed the sixth standard. The school course covers two years and students must then serve for one year under a progressive farmer. If they are then certified to be quite suitable, the Administration will consider them for settlement farms. This policy affords a good prospect for the promising youths of the country.¹⁵

In summary, it may be said that the Mandatory Powers seem to be giving their best attention to the problem of agricultural education; and that in this very important field broad strides are being taken. There is good reason to believe that this progress will be even greater in the future.

4. SURVEY AND REGISTRATION

The question of the survey of land and the registration of title to that land is clearly a matter worthy of mention, involving as it does the establishment of clear and definite claims to property.

Each of the mandated territories under discussion has some sort of a survey organization. South-West Africa, for example, employs four whole-time surveyors. The size of the Department in Tanganyika varies with the amount of work which is in progress, survey being undertaken mainly of farms and enemy estates, and of residential, commercial, and native plots in different townships.

An Ordinance was passed on the 22nd June, 1928, for the registration and licensing of land surveyors in the Territory. This Ordinance was enacted to recognize and protect the practice of the profession of land surveying in the Territory, and at the same time to protect the public against unqualified persons who may offer themselves as surveyors of land. Until its enactment there was no local legislation which contemplated surveys by persons other than Government survey officers, and the only relevant Ordinance in force was the brief Survey Ordinance, No. 10 of 1921, giving power to such officers to enter upon lands. The Land Surveyor's Ordinance, which does not apply to surveys made by

¹⁵ REPORT ON SOUTH-WEST AFRICA FOR 1928, p. 43.

Government officers, first prohibits unlicensed persons from making for reward surveys of any land for the purpose of ascertaining its boundaries. It further provides that a survey shall not be accepted for the purpose of the registration of a title to land unless it is made by a licensed surveyor. A licence will be issued by a Board of Control after examination, or upon production by the applicant of certain other evidence of his qualifications. A register of persons licensed will be kept in the *Gazette* in order that the public may be informed who are entitled to practice under this Ordinance. Control over the professional conduct of surveyors will be given to the Board, whereby a surveyor's licence may be suspended or cancelled in any of the events mentioned in that clause.¹⁶

With regard to the registration of documents, the German system, which was applied almost universally in these territories when they constituted a part of the German Empire, provided for the registration of title in a *Grundbuch*, such registration assuring an indefeasible title. In some districts there existed *Land Registers*, which were available for non-natives, but which appear to have been for purposes of record only and as a preliminary to the establishment of a *Grundbuch*. Entry in a *Land Register* was less formal than entry in a *Grundbuch*; and it carried no assurance of an indefeasible title.¹⁷

In the territory which is now British Togoland, the registration of landed property was practised during the German occupation, but has been neglected since the World War. Provision for such registration is made in the laws of the Gold Coast Colony which apply to British Togoland, however, and it is to be hoped that some action will be taken on the matter in the near future.¹⁸

Registration in the British Cameroons is cared for by the Land Registration Ordinance of 1915, making the registration of instruments affecting land generally compulsory. Section Twenty-Two of this Ordinance provides that:

Every Crown grant executed after the commencement of this Ordinance, and every instrument affecting land the subject of a Crown grant or whereby land is granted by a native to a non-native executed after the commencement of this Ordinance shall be void, unless the same is registered

¹⁶ REPORT ON TANGANYIKA FOR 1928, p. 65.

¹⁷ REPORT ON TANGANYIKA COVERING THE PERIOD FROM THE CONCLUSION OF THE ARMISTICE TO THE END OF 1920, p. 71.

¹⁸ REPORT ON BRITISH TOGOLAND FOR 1923, p. 33.

within sixty days from the date thereof: Provided that the Registrar may extend such period of sixty days to six months in the case of an instrument executed in Nigeria and to twelve months in the case of an instrument executed elsewhere, whenever he shall be satisfied that registration has been delayed without default or neglect on the part of the person acquiring the right or interest in the lands in question. A Crown grant includes every grant, conveyance, lease, or mortgage by or on behalf of His Majesty or of the Government.¹⁹

The situation in the Tanganyika Territory is pictured in the following extract:

From the point of view of immediate and practical considerations, we are at present struggling under the greatest difficulties in dealing with any privately-owned land, owing to the lack of numerous title deeds and records. While certain German documents of great value have been recovered, there is nevertheless a general absence of registers and plans essential for a proper handling of such an enormous problem as that presented by the former German properties throughout the country;²⁰ and a great amount of work will be necessary before the survey of properties and scrutiny of alleged titles will have reached the stage where the possible tenant can feel that his right is clearly and satisfactorily established. Meanwhile, the former enemy properties have to be dealt with as seems possible in each case, while the problem is also frequently complicated by the necessity of handling estates of such Arab or Swahili owners as may die. Some prompt action is essential in such cases, unless properties are to be allowed to fall into decay, while an increasing area of valuable land goes into Chancery. The land question, in fact, must be regarded as one of urgency, and an immense amount of work will be required from the Legal, Land, and Survey Departments before the matter can reach at all a satisfactory stage.²¹

In 1925 an Ordinance was passed providing for the registration of title to land acquired by a native without the formality of a survey. This applies particularly to those lands, primarily near or on the coast, which have been held by natives for many years without documentary title.²²

¹⁹ REPORT ON THE BRITISH CAMEROONS FOR 1922, p. 57.

²⁰ The *Grundbücher* of Tanganyika were found in April, 1921.

²¹ REPORT ON TANGANYIKA COVERING THE PERIOD FROM THE CONCLUSION OF THE ARMISTICE TO THE END OF 1920, p. 70.

²² REPORT ON TANGANYIKA FOR 1925, p. 63.

The diversity of the field which is covered by the Registration Department of South-West Africa is indicated in the following table:²⁸

Description of Document Registered	Number Registered	
	1927	1928
Deeds of Grant.....	93	86
Certificate of Registered Title.....	26	35
Certificate of Substituted Title.....	33	33
Certificate of Consolidated Title.....	4	4
Deeds of Transfer.....	401	495
Special Mortgage Bonds.....	413	468
Notarial Bonds.....	28	24
Substitutions of Debtors under Bonds.....	12	22
Cessions of Bonds.....	86	92
Cancellations and Part Payments of Bonds	383	475
Antenuptial Contracts.....	100	117
Settlers' Leases and Amendments thereof..	142	255
Cessions of Settlers' Leases.....	34	40
Miscellaneous Deeds and Documents.....	571	605

It is evident that any discussion of this subject could go little further without becoming more technical than is desirable in a general survey of the problem. The statements here made and the examples here cited, however, present the chief features of the question in more or less summary form.

5. THE DISPOSAL OF EX-ENEMY PROPERTY

The disposal of ex-enemy property, that is, that property which belonged to the nationals of the former enemy states, in these mandated territories, is provided for under Article 297 of the Treaty of Versailles. The principal provisions of this article are:

Subject to any contrary stipulations which may be provided for in the present Treaty, the Allied and Associated Powers reserve the right to retain and liquidate all property, rights, and interests belonging at the date of the coming into force of the present Treaty to German nationals, or companies, controlled by them, within their territories, colonies, possessions and protectorates, including territories ceded to them by the present Treaty.

The liquidation shall be carried out in accordance with the laws of the Allied or Associated State concerned, and the German owners shall not be able to dispose of such property, rights, or interests, nor to subject them to any charge without the consent of that state.

²⁸ REPORT ON SOUTH-WEST AFRICA FOR 1928, p. 89.

German nationals who acquire *ipso facto* the nationality of an Allied or Associated Power in accordance with the provisions of the present Treaty will not be considered as German nationals within the meaning of this paragraph.

The price or the amount of compensation in respect of the exercise of the right referred to in the preceding paragraph will be fixed in accordance with the methods of sale or valuation adopted by the laws of the country in which the property has been retained or liquidated.²⁴

In the case of a Power which so agrees in the Treaty, the proceeds of such sale of ex-enemy property shall be credited to the Reparations account of the Power of which the former owner is a national, through the Clearing Office established by the Treaty. If a Power has not accepted such a provision:

The proceeds of the property, rights, and interests, and the cash assets, of the nationals of Allied or Associated Powers held by Germany shall be paid immediately to the person entitled thereto or to his Government; the proceeds of the property, rights, and interests, and the cash assets, of German nationals received by an Allied or Associated Power shall be subject to disposal by such Power in accordance with its laws and regulations and may be applied in payment of the claims and debts defined by this Article Any property, rights and interests or proceeds thereof or cash assets not used as above provided may be retained by the said Allied or Associated Power and if retained the cash value thereof shall be dealt with as provided in Article 243.

In the case of liquidations effected in new States, which are signatories of the present Treaty as Allied and Associated Powers, or in States which are not entitled to share in the reparation payments to be made by Germany, the proceeds of liquidations effected by such States shall, subject to the rights of the Reparations Commission under the Present Treaty, particularly under Articles 235 and 260, be paid direct to the owner. If on the application of that owner, the Mixed Arbitral Tribunal, provided for by Section VI of this Part, or an arbitrator appointed by that Tribunal, is satisfied that the conditions of the sale or measures taken by the Government of the State in question outside its general legislation were unfairly prejudicial to the price obtained, they shall have discretion to award to the owner equitable compensation to be paid by that State.²⁵

²⁴ Martin, Lawrence, *THE TREATIES OF PEACE*, Vol. I, p. 180.

²⁵ *IBID.*, p. 182.

In British Togoland ex-enemy property has been dealt with under the Enemy Property Control and Disposal Proclamation, issued on July 28th, 1922. By its provision was made for the preparation of Schedules, these being lists of ex-enemy properties available for disposal. The following illustration is taken from such a document:²⁶

No.	Description of Property	Estate or Interest	Firm
1.	A piece of land with all buildings thereon at Ho, lately in the occupation of the Deutsche Togo-Gesellschaft, specified as Plot No. 1, and as approximately delineated in Plan marked "A, Enemy Property, Togoland," signed by the Controlling Officer, Enemy Property, on the 27th January, 1922.	All the right, title, and interest held on the 28th day of January, 1916, by the Deutsche Togo-Gesellschaft.	Deutsche Togo-Gesellschaft.

Such was the machinery set up for the disposal of ex-enemy property in British Togoland. So well did it function that by 1927 all the ex-enemy properties in this mandated territory had been sold.²⁷

The principal properties of this nature in the British Cameroons were the 28 plantations in the Cameroons Province, which lie for the most part on the lower slopes of the Cameroon mountain and between it and the sea. Their total area is about 245,000 acres, some 45,000 acres being cultivated.

Within these areas there are the native reserves of Buea and other villages. The main crop is cocoa, with rubber, bananas, and oil palms as secondary crops. A large amount of capital has been sunk in these undertakings, and expensive machinery for curing the cocoa has been installed in several plantations. As a whole they are wonderful examples of industry, based on solid scientific knowledge. Throughout one cannot fail to see evidence of the forethought and method with which the work had been planned. Nothing was left to chance. There was a careful system of Government supervision in force, and whenever any practice that was inimical to the general progress of the plantations was noticed it was suppressed by authority. A committee of planters sat from time to time and discussed the experi-

²⁶ REPORT ON BRITISH TOGOLAND FOR 1924, p. 52.

²⁷ Permanent Mandates Commission, MINUTES, Twelfth Session, p. 179.

ments and practical work of the plantations, and made recommendations.²⁸

The policy which the Administration under mandate planned to pursue with regard to the plantations is shown in the following quotation from the *Report on the British Sphere of the Cameroons*:

On the fate of these plantations will depend to a large extent the future prosperity of the Victoria Division. Provided that due allowance is made for the requirements of the natives, the plantations should be taken over by European and American companies, which alone will have sufficient capital and experience to maintain them at their past high level of efficiency and preserve the good name of the Cameroons for the high quality of its cocoa. It will be impracticable to split up the plantations into small plots for native owners. Without capital it would mean that the buildings and machinery would fall into ruins, entailing enormous losses, and without the necessary experience disease would soon spread, and the cocoa would be destroyed. The resources of civilisation must, therefore, be brought to the aid of the native and the plantations sold to companies able to develop them. This policy will be really in the best interests of the natives of the Province.²⁹

In accordance with this policy, these plantations were disposed of at public auction in London, practically all being sold. In November, 1924, the discrimination against ex-enemy purchasers was removed. From then on the majority of the properties were purchased by ex-enemy nationals, who now outnumber the subjects of the Mandatory Power in the territory.

It is satisfactory to record that the relations between the two sections have been altogether amicable. That no differentiation has been made as to the import of goods from ex-enemy countries is clearly shown by a glance at the customs statistics, which reveal that, whereas the value of imports has risen five times, the import duties have risen but two and a half times. The difference is due to the fact that all building materials, plant, and machinery, of which the Germans have imported vast quantities for reconstruction purposes, are admitted duty free, whatever be the country of their origin.³⁰

²⁸ Cmd. 1647, p. 62.

²⁹ *Idem*.

³⁰ REPORT ON THE BRITISH CAMEROONS FOR 1925, p. 63.

The tenure acquired by the purchasers is, in most cases, full ownership, subject to certain restrictions which are defined in the conditions of sale. In some few cases, however, the tenure gained is leasehold, with an option to purchase the full ownership on agreed terms.⁸¹

In the territory which now constitutes Tanganyika, a Custodian of Enemy Property was appointed in March, 1917, to control, protect, and preserve the assets of all enemy subjects and corporations. As the British advanced from the north, all enemy produce was collected by a Controller of Enemy Merchandise appointed by the military authorities. Stocks of cotton, rubber, sisal, and coffee were accumulated. Later, however, this office was absorbed by the Department of the Custodian of Enemy Property.

Strenuous efforts were made to secure shipping for the produce, but this was found to be extremely difficult owing to the urgent military requirements for shipping then existing. As a consequence considerable deterioration of the stocks ensued. Some stocks were disposed of locally, and the balance gradually despatched to the London market, where satisfactory prices were obtained.⁸²

A short time later, there were appointed an Inspector of Plantations and two Assistant Inspectors, who, with a view to the conservation of the estates and the buildings, machinery, etc., thereon, at once made efforts to lease temporarily such estates as were workable, and to arrange for caretakers to be placed in charge of the others. All enemy owners or agents who had remained on the estates were permitted to continue to reside there, and were allowed to manage the estates, subject to the general control of the Custodian.⁸³

The principal industry of the Northern Area was the cultivation of sisal. The leases of these estates were thrown open to public tender, and although quite satisfactory rents were obtained, it is to be regretted that owing to the uncertainty of the period of tenure and the heavy demand on the British population of the neighbouring Protectorates for military operations, the majority of the lessees were aliens. Every lease contained a proviso that the tenant should clean and replant an area equal to that from which sisal was cut, with the result that not only was there a satisfactory output

⁸¹ REPORT ON THE BRITISH CAMEROONS FOR 1924, p. 26.

⁸² REPORT ON TANGANYIKA FOR 1920, p. 72.

⁸³ *Idem.*

of sisal, whilst a considerable income was credited to the estate accounts, but the productivity of the estates was maintained. The difficulties in obtaining shipping very seriously affected the lessees of the sisal estates, and led to a great congestion of sisal in the Tanga stores which continued for a period of two years.

Whenever funds were available they were utilised to maintain and keep clean as far as possible the coffee and coconut estates.⁸⁴

In the Central and Southern areas, the lengthy duration of military operations seriously handicapped the leasing of the plantations. Therefore little could be done beyond conserving such assets as remained and collecting such produce as was to be found. Later, however, it was found possible to grant a number of leases of considerable areas for the cultivation of cotton, these leases being for seasons only. Highly satisfactory results were achieved.⁸⁵

The fact that at the end of 1928 only one of these plantations remained unsold is a striking testimonial to the value of this system.⁸⁶ The following statement is typical of the transactions which have occurred under it each year:

Of the ex-enemy properties scheduled for sale only 3 plantations and 1 town plot remained unsold at the end of 1927. During the year, 75 properties were disposed of, realising 45,278 pounds. The properties which are considered to be ex-enemy-owned but which have so far, owing to insufficiency of title, not been scheduled total 52. The amount realised by the sale of all properties up to the end of 1927 was 1,324,945 pounds. Purchasers have met their installment obligations in all instances.

The number of estates scheduled for liquidation and dealt with increased to 911, the total amount expended to 31st December, 1927, in payment of claims therein being 825,450 pounds. A further sum of 11,498 pounds has been paid to claimants against the German Government based on formal awards made by the Anglo-German Mixed Arbitral Tribunal. Eleemosynary payments to German nationals during the year amounted to 10,063 pounds, and amounts released during the same period to former owners who are no longer ex-enemy nationals totalled 4,373 pounds.⁸⁷

⁸⁴ *IBID.*, p. 73.

⁸⁵ *IDEM.*

⁸⁶ Permanent Mandates Commission, *MINUTES*, Fifteenth Session, p. 117.

⁸⁷ *REPORT ON TANGANYIKA FOR 1927*, p. 87.

With regard to ex-enemy properties in the Tanganyika Territory, Professor Raymond L. Buell makes the following comment:

The Tanganyika Government was obliged not only to restore the revenue and trade of the country, but also to liquidate claims which individuals had against the German Government and to liquidate ex-enemy property. The German plantations, totaling about eight hundred and sixty estates, were for a time held by the government, but under the direction of a custodian of enemy property, a total of 2,151,100 acres had been sold by the end of 1925 for a sum of 1,381,327 pounds. In the auctions for these holdings, Germans were not allowed to bid as they were in the British Cameroons. It is understood, nevertheless, that some Germans purchased property through Greek and Indian "dummies." While the majority of these holdings were acquired by Britishers, Greeks and Indians also made large purchases. About ninety per cent of the property in Dar-es-Salaam is now in Indian hands. After the settlement of German claims against the estates, the sums derived from the sale of the plantations will presumably be credited by the Reparations Commission against Germany's reparations account.⁸⁸

The Ex-Enemies Restriction Ordinance of 1922 forbade the entry of ex-enemies into the Territory without the permission of the Governor. However, this Ordinance expired in June, 1925, and it was then considered that:

as such persons were allowed free entry into the Territory upon the same terms as others, it would be unreasonable to maintain the restrictions on the holding of land by them. An Ordinance entitled the Ex-Enemies (Land Holding) Repeal of Restrictions Ordinance was accordingly enacted in November, 1925, which removed the surviving prohibitions affecting ex-enemies and relating to the holding of land.⁸⁹

Tenants on temporary leases paying reasonable rentals were found for business premises and township houses almost as rapidly as they were vacated. In general, all those buildings which are empty are of sound and substantial construction, and will form a very valuable asset to the territory in the future.

Quick disposal was made of movable ex-enemy property. The stocks of trade goods belonging to the various commercial houses were sold at public auction, all finding a very ready sale

⁸⁸ *Op. cit.*, Vol. I, chap. xxvi., p. 436.

⁸⁹ REPORT ON TANGANYIKA FOR 1925, p. 58.

as most of the articles were essential to the life of the community. However, these stocks were found to be relatively low.⁴⁰

In order to complete this section on ex-enemy property, it is necessary to include the following excerpt, Article 438 of the Treaty of Versailles, which refers to the subject of the Mission properties in the ex-enemy states:

The Allied and Associated Powers agree that where Christian religious missions were being maintained by German societies or persons in territory belonging to them, or of which the government is entrusted to them in accordance with the present Treaty, the property which these missions or missionary societies possessed, including that of trading societies whose profits were devoted to the support of missions, shall continue to be devoted to missionary purposes. In order to continue to ensure the due execution of this undertaking the Allied and Associated Governments will hand over such property to boards of trustees appointed by or approved by the Governments and composed of persons holding the faith of the Mission whose property is involved.

The Allied and Associated Governments, while continuing to maintain full control as to the individuals by whom the Missions are to be conducted, will safeguard the interests of such Missions.

Germany, taking note of the above undertaking, agrees to accept all arrangements made or to be made by the Allied or Associated Government concerned for carrying on the work of the said missions or trading societies and waives all claims on their behalf.⁴¹

Such, then, are the methods by which the property of the nationals of ex-enemy states has been assimilated under the mandatory system. This particular phase of the general land problem is in truth a new development; but it should be remembered that never before have the conquering nations been forced to act under the light of an international public opinion. It is to be hoped that this is but one of the many more just and more equitable standards for post-war settlements which the future is to bring as a result of the late revolution in international relations and international administration.

⁴⁰ REPORT ON TANGANYIKA FOR 1920, p. 73.

⁴¹ Martin, Lawrence, *op. cit.*, Vol. I, p. 261.

6. MISCELLANEOUS PROBLEMS AND THE FUTURE

There can be no doubt that the problems which have been considered in this chapter are of the utmost importance, and that they will continue to be so in the future, with the exception, of course, of the question of the disposal of ex-enemy property, which diminishes each year as this disposition nears completion. The Land and Agricultural Bank of South-West Africa, the agricultural education of the native peoples, and the systems of survey and registration will always be matters of significance. And if present policies are continued, it would seem that there must undoubtedly be achieved a very high degree of success in the administration of these phases of the general land problem.

CHAPTER SEVEN

CONCLUSION: A FINAL WORD ON THE LAND PROBLEM

1. THE LAND PROBLEM REVIEWED

It is now in order to bring together in summary form the essential portions of the various land problems which have been presented in this volume.

In the first place, there was considered the question of land tenure. It was found that the communal ownership of land is characteristic of native life, private ownership having come to be practised to some extent, however, in the last few years, as sale and lease have become more common. Further, the various classifications of land, (as tribal, Stool, family, and individual), were discussed, the point being made that the fulfilment of tribal obligations is still a prerequisite to individual freedom of occupation. Also, comment was made upon the development of lease and the gradual extinction of the practice of mortgage. Finally, the conclusion was drawn that the existing systems of native tenure, which are just and established, should be upheld.

In the second place, it was seen that various restrictions have been imposed on the natives of the mandated territories with regard to the alienation of their land, no such transactions being permitted unless they are first approved by the Administration. These restrictions were commended. It was also pointed out that land may be acquired for public purposes if proper compensation is made.

In the third place, it was noted that the Administration of the territory of South-West Africa has demonstrated a regrettable tendency to subject the major portion of the area to exploitation by non-natives, in direct violation of the principles of the mandatory scheme, the native inhabitants being confined to certain districts. The arguments for and against segregation having been presented, it was decided that, in view of the persistence of the Mandatory Power in considering the area almost as an annexed region, the application of such a policy would probably prove to be of considerable benefit to the native peoples.

Finally, a discussion was given of the Land and Agricultural Bank of South-West Africa and its various loans and advances to financially embarrassed settlers and farmers; of the encouragement of native agriculture, through demonstration schools and other educational methods; of the systems of survey and registration, by which title to property is firmly established; and of the disposal of the property of ex-enemy nationals, this property being sold at auction, with the proceeds usually going to the reparations account of the government of the former owner. All of this work was praised; and it was urged that the Mandatory Powers see to it that these activities, which have the promotion of native welfare at heart, are maintained.

In brief, then, the point of the entire question is whether the land shall be allowed to remain in the possession of the native, whether it shall be taken by government, or whether it shall be permitted to pass into the hands of non-native interests. The importance of the maintenance of native title has been emphasized and the hope voiced, as it is again, that under the mandates system the land will be regarded entirely as the property of the indigenous peoples, being administered accordingly, with the pecuniary interest of the Mandatory Power involved constituting merely an incidental factor.

2. PRESENT PROBLEMS AND FUTURE POLICIES

There can be little doubt that the land problems which vex native areas at the present time will continue to exist in some form or fashion; but, in all probability, the policy which is to be pursued by European powers in Africa in the future will be, at least in theory, entirely one of trusteeship, such a policy being the outgrowth of the present attitude of international public opinion toward the administration of backward areas. One of the basic principles under such a system will call for the preservation of the land for its native inhabitants, for whom alone its natural riches are to be developed. Both European exploitation and the rise of a privileged land-owning class within the native communities themselves must be prevented.¹ In this connection, it should be noted that:

The greatest danger for everybody would be to create a landless peasantry in the tropics. Here men will surely remember the lessons of the French and Russian Revolu-

¹ Morel, E. D., *AFRICA AND THE PEACE OF EUROPE*, Part. II, chap. v., p. 52.

tions, that those whose work is with the soil can never forget it; that sooner or later, when a leader comes and the day, when courage wakes, or the heart breaks, they will rise and take their lands again. And color hatred would be added to the horrors always involved in a peasant revolt.²

The Conference of the Governors of the East African Dependencies in 1926 laid down the following conclusions as to the proper methods of dealing with the land of the native inhabitants:

(1) Whenever a native population exists, sufficient land should be secured to it as to afford full opportunity for economic stock breeding and dairying, or for the production of crops according as the tribal bent is for pastoral or agricultural pursuits.

(2) European colonisation should be encouraged wherever the climate is suitable and adequate areas are available for settlement, without depriving the existing native population of sufficient land for its own use.

(3) The area of land reserved for a native tribe should be sufficient to accommodate the whole tribe together; so that where a tribal organization exists it may be preserved and improved; and that where none exists, some form of native institutions may be gradually developed.³

Of special promise is the declaration made at this Conference by the Governor of the Tanganyika Territory. He accepts these conclusions, subject to the reservation that the land policy of Tanganyika as defined in the Land Ordinance whereunder the land is vested in the Governor for the use and common benefit, direct or indirect, of the natives, is to remain unimpaired in every respect. He further states that the Government of Tanganyika will continue to oppose the policies of segregation and of the establishment of native reserves.⁴ He, at least, seems to realize that the protection of the welfare of the indigenous peoples must be the primary element in any successful administration of a backward territory.

To the conclusions of the Conference of Governors, the Commission on the Closer Union of the Dependencies in Eastern and Central Africa adds the following recommendations, which, while they do not refer primarily to the mandated area, may nevertheless prove to be of importance in practical administration:

² White, Freda, *MANDATES*, chap. viii., p. 91.

³ CONFERENCE OF GOVERNORS OF THE EAST AFRICAN DEPENDENCIES, 1926, SUMMARY OF PROCEEDINGS, p. 13. Quoted in Buell, Raymond L., *THE NATIVE PROBLEM IN AFRICA*, Vol. I, Appendix 13, pp. 552-553.

⁴ *IBID.*, p. 553.

Adequate areas of land should be reserved in perpetuity for native use. Such areas must be clearly demarcated—at least before there is the slightest danger of demands by settlers encroaching on what ought to be reserved for natives. Once the areas have been demarcated no substantial alienation of the land within them to non-natives must be permitted until the whole body of natives has so advanced in education as to be able to express a responsible corporate opinion. The only exceptions to this rule should be when the Secretary of State, (or the Central Authority acting on his behalf), has after proper inquiry satisfied himself that the alienation of land is to the clear and undoubted advantage of the natives.

In addition to the area set aside for native needs, the Government should reserve power to provide other areas of land in which natives who wish to settle outside native areas may acquire land by purchase.

Subject to the above, land should be definitely assigned for alienation to immigrants; but

(a) the rate at which "foreign" settlement is introduced should be carefully regulated, so as not to create undue disturbance in economic conditions;

(b) the quality of the settlers should be maintained at a high level.

Settlers once admitted should be given all the help which it is in the power of the Government to render to them.

So far as possible settled areas and native areas should be arranged in continuous blocks of a sufficient size to make it possible to build up homogeneous native and non-native units for local government.⁵

Everything possible should be done to preserve the rights of the native races in their land. An author well-known for his writings on the problem says of this:

Keeping faith with native races, seeking first their well-being and moral advancement, is the essence of trusteeship, which, in turn, is sound statecraft, for by these means inter-racial confidence will be established, leading on to contentment and security, to which will be added abounding prosperity not only for the indigenous inhabitants but in full measure for the brown and white immigrant colonists. The challenge to trusteeship must be met and at all costs defeated.⁶

⁵ REPORT OF THE COMMISSION ON CLOSER UNION OF THE DEPENDENCIES IN EASTERN AND CENTRAL AFRICA, p. 55.

⁶ Harris, John H., "The Challenge to Trusteeship," *CONTEMPORARY REVIEW*, Vol. 133, p. 207.

To offset the desire of non-natives for the acquisition of a permanent title to native lands, the term of leases of residential sites in the European sector of a township must be sufficient to encourage a lessee to invest capital in the erection of permanent buildings; a period of 99 years would perhaps be advisable. If the leases were only for sites for warehouses, or for temporary houses outside a township, however, the term probably could be less. The first and most important step in the preservation of the peasant proprietor

is the prohibition of the sale or transfer of land, without the consent of the Governor, to any person, European or other, who is not subject to the local native jurisdiction. . . . Transfers of land between natives subject to the local native jurisdiction can best be controlled by the native authority, which is the natural guardian of native custom, under the watchful security of the Resident.⁷

This question of the maintenance of native rights and welfare is fundamental. Freda White says of it:

Prospective scarcity of labour, and actual lack of transport, hamper tropical production. Even were these difficulties overcome, there remains the question of whether the natives are willing to exploit their resources. The solution of giving the land to white planters who will use their skilled methods in supervising native labour has been largely tried. It is too easy an answer to be entirely the right one. The natives hate losing their lands, which as a rule are the property not of individuals but of the tribe. To part with them is more than a personal misfortune; it is the loss of the whole tribe and its unborn generations; and in fact it is often forbidden by native custom. Already, however, in many parts, Europeans have acquired the most fertile and well-watered land, in the best climates, and the natives are left with inferior areas, sometimes even insufficient to support them. . . . There is probably no subject which agitates the native mind today more continuously than the question of their rights in land, both collectively as tribes and individually as owners or occupiers.⁸

A final summary of the importance of a just land policy in backward areas is found in the following extract:

The two pillars of sound colonial administration must be a liberal and humane labor regime and an equitable land

⁷ Lugard, Sir Frederick D., *THE DUAL MANDATE IN BRITISH TROPICAL AFRICA*, chap. xiv., p. 296.

⁸ *Op. cit.*, chap. viii., pp. 87-88.

system. It is generally agreed that a just land policy implies that amply sufficient areas should be reserved for the native's present and prospective needs and that the African should not be allowed to alienate this territory recklessly either to Europeans or to a privileged land-owning class. In general, the negro has no conception of private occupation of ground. According to the customary tenure in West Africa, the ownership was vaguely vested in the community, every member of which was entitled to its use. Hence, land could not be permanently alienated and the native had no intention of doing so, no matter how explicit were the words of the European title-deeds. Moreover, in a number of instances the colonizing Powers had arbitrarily granted huge tracts without regard to aboriginal rights. This was notoriously the case in the Belgian Congo and the Cameroons. Furthermore, insurrections in the German colonies led to the wholesale confiscation of native areas. Just as the Hereros of South-West Africa became in this way a landless people, so the Bakwiri in the Cameroons were deprived of the fertile territories that were subsequently turned into European cocoa plantations. The accomplished fact of dispossession in the German colonies could not be rectified, but concerning the remaining unoccupied land, the condition had been largely remedied as regards the future by a change in German policy. In the Belgian Congo also the Leopoldian policies had been discarded and the system inaugurated in 1909 was based upon the principle that the native had first title and right to the soil. Important areas were reserved for his use and he was not permitted to alienate them. Furthermore, he was allowed to harvest the fruits of all unoccupied lands. This reformed system followed that of the British colonies, in which native rights were very carefully guarded and effectively protected. As African civilization cannot develop along sound lines unless these principles are strictly adhered to, it would be highly advisable to secure an international convention embodying them. But since conditions vary so greatly in the different colonies, such an agreement might have to be of so vague a character as to be merely a pious wish.⁹

In the determination of a land policy, there should be considered the following comments made by the Commission on the Closer Union of the Dependencies in Eastern and Central Africa:

In all the territories the Governments ought to work out in advance a programme for alienation of lands to immigrants, and in order to enable them to do so careful inquiries are necessary:

⁹ Beer, George L., *AFRICAN QUESTIONS AT THE PARIS PEACE CONFERENCE*, Part III, chap. vii., pp. 255-257.

(a) into the amount of land which can be alienated without violating the principles of native policy;

(b) into the agricultural and other economic possibilities of such land; and

(c) into all the conditions affecting the native labour supply, so that the rate at which new settlers are introduced may be regulated accordingly.

The Government's programme for land alienation should be worked out in conjunction with its programme for railway construction, which should be elaborated in advance according to the knowledge of economic possibilities made available as a result of the inquiries referred to above, especially (b). In areas into which the railway programme provides for the early introduction of railway extensions, the land should be disposed of at prices which take into account this possibility. Some provision might possibly be made for deferring the payment of the full purchase price, or rent should, if possible, be fixed at the beginning, so that the intending settler may know the limit of his commitments.¹⁰

Finally, in the conclusion of this general discussion of present land problems and future policies, there should be emphasized once more, in summary form, just what this land question really is. One writer says of it:

Now, what is the crux of this land question? Is it, in the main, that the land shall belong to the indigenes and not to foreign capitalists; or that, in the last analysis, neither the foreign capitalist, nor the indigenes, but Government shall own it? To state the problem in another way, is it that the people shall be free to till the soil in their own right and sell the produce thereof to merchants abroad. . . . ; or that Government shall step in and control private rights on the assumption that parties are incapable of managing their own business?¹¹

A better statement of the problem, however, is found in the following excerpt:

The crux of the question is whether the native should be left free to expand, according to his desire and ability, or whether he should be forever restricted. After an exhaustive study of this question the majority of the Native Affairs Commission decided in favour of the last view—probably

¹⁰ REPORT OF THE COMMISSION ON THE CLOSER UNION OF THE DEPENDENCIES IN EASTERN AND CENTRAL AFRICA, pp. 55-56.

¹¹ Hayford, Casely, *THE TRUTH ABOUT THE WEST AFRICAN LAND QUESTION*, chap. i., p. 2.

that of a considerable number of Afrianders—and are therefore in the anomalous position of advising a general extension of the native's political power on the one hand and a diminution of his individual privileges on the other. As the native has never had the franchise, except in a restricted sense in Cape Colony, he would hardly miss it. But he has had land from time immemorial, not on individual tenure but still communally, with every power of expansion if he and his tribe desired, and in certain sections of South Africa, notably the Cape Colony, he has been able under British rule to acquire land freely. The truest welfare of the native races is bound up with the land, and the best hope of South Africa is to make them a successful agricultural and pastoral people and to attach them to the soil.¹²

Such is the general land problem which, in all probability, will continue to exist in exactly the same phases, though perhaps not to the same extent, in future years. The subjects of tenure, alienation, and segregation will always be topics of importance to the student of the question. To be successful, the policies pursued by the Mandatory Powers should make provision for the encouragement of indigenous production, the rights and interests of the natives being ever paramount. If given a sound administration of the land problem, the mandated areas should attain to economic stability, domestic peace, and political quietude.

3. THE VALUE OF THE MANDATES SYSTEM

There is no more proper way of concluding this discussion of land problems and policies in mandated areas than by a brief statement as to the value of the mandates system. The administration and development of backward territories is a work which no one nation can perform adequately, but one which all nations can unite, as many of them have done in the League of Nations, to do for their mutual benefit.

The mandatory work of the League will be among its most important and certainly its least open to attack. The mandatory principle is one of the best guarantees of a new spirit in international relations, for it substitutes the principle of responsibility to a common world morality for that of purely selfish exploitation. It is not that the world has become suddenly purged of all its graspings; far from it indeed. It means simply that a method has now been worked

¹² Colquhoun, A. R., *THE AFRICANDER LAND*, Part I, chap. vi., pp. 95-96.

out for the execution of a principle which everyone is glad to accept in theory.¹³

Although the force of international criticism is the only weapon which the League can wield against the Mandatory Powers, it would be a bold nation which would refuse, under such circumstances, to bring itself in line with enlightened practice. On the other hand, the real merit of the mandates system is found in the hope that

under the urge of publicity the pride of the various nations may be stimulated to a new kind of competition, a competition not to see how much they can get out of their wards, but rather to see how much they can put into them. The French might well be disappointed if the British made a better showing in developing one of their colonies, or the South Africans come to vie with the Australians in the work given them.

And if such a lift in standards occurs in the territories under mandate is it conceivable that it will be without effect on the vast colonial world not so controlled? If the former German Cameroons, for instance, are freed from many of the existing colonial evils, would it be possible for the old-line colonies right alongside to persist in these abuses? Hardly, indeed, for after all, good is contagious in this world of ours, and the natural tendency is for people to lift themselves higher and still higher all the time.¹⁴

There can be no doubt that administration under the mandates system, with its many innovations, will be exceedingly interesting to watch. "Between them, the 'colonial' nations will probably try every method of government; and the progress of the experiments will be recorded and checked annually at Geneva."¹⁵ Already the manner in which the land problem is being administered in these mandated areas, when compared with policies under the rule of the British South Africa Company, for example, indicates that the mandates system is in truth a new development which is to be of inestimable value in the advancement of native welfare.

In conclusion, it should be remembered that Africa is today the land of a miraculous future, just as four hundred years ago, the vast tract between Ponce de Leon's

¹³ Sweetser, Arthur, *THE LEAGUE OF NATIONS AT WORK*, chap. ix., p. 129.

¹⁴ *IBID.*, pp. 132-133.

¹⁵ White, Freda, *op. cit.*, chap. viii., p. 91.

fountain of youth and Coronado's golden strand was a mystery-shrouded wilderness, hiding a magical promise of things to come.¹⁶

In order that the native inhabitants of Africa may have the opportunity in that future to develop along the lines most conducive to the promotion of their social and political welfare and their economic prosperity, it is of the utmost importance that the peoples of the civilized world interest themselves in the question of backward areas, and that they demand at all times that the mandated territories, at least, shall be administered with the protection and expansion of native rights and property ever the fundamental consideration.

¹⁶ "Germany's African Colonies All Lost," *CURRENT HISTORY*, Vol. 7, Part II, p. 114.

APPENDICES

APPENDIX I
AUTHORIZATION FOR THE ESTABLISHMENT
OF THE MANDATES SYSTEM

THE COVENANT OF THE LEAGUE OF NATIONS,

ARTICLE XXII:

1. To those colonies and territories which as a consequence of the late war have ceased to be under the sovereignty of the States which formerly governed them and which are inhabited by peoples not yet able to stand by themselves under the strenuous conditions of the modern world, there should be applied the principle that the well-being and development of such peoples form a sacred trust of civilisation and that securities for the performance of this trust should be embodied in this Covenant.

2. The best method of giving practical effect to this principle is that the tutelage of such peoples should be entrusted to advanced nations who by reason of their resources, their experience or their geographical position can best undertake this responsibility, and who are willing to accept it, and that this tutelage should be exercised by them as Mandatories on behalf of the League.

3. The character of the mandate must differ according to the stage of the development of the people, the geographical situation of the territory, its economic conditions and other similar circumstances.

4. Certain communities formerly belonging to the Turkish Empire have reached a stage of development where their existence as independent nations can be provisionally recognised subject to the rendering of administrative advice and assistance by a Mandatory until such time as they are able to stand alone. The wishes of these communities must be a principal consideration in the selection of the Mandatory.

5. Other peoples, especially those of Central Africa, are at such a stage that the Mandatory must be responsible for the administration of the territory under conditions which will guarantee freedom of conscience and religion, subject only to the maintenance of public order and morals, the prohibition of abuses such as the slave trade, the arms traffic and the liquor traffic, and the prevention of the establishment of fortifications or military and naval bases and of military training of the natives for other than police purposes and the defence of territory, and will also secure equal opportunities for the trade and commerce of other Members of the League.

6. There are territories, such as South-West Africa and certain of the South Pacific Islands, which, owing to the sparseness of their population, or their small size, or their remoteness from the centres of civilisation, or their geographical contiguity of the territory of the Mandatory, and other circumstances, can be best administered under the laws of the Mandatory as integral portions of its territory, subject to the safeguards above mentioned in the interests of the indigenous population.

7. In every case of Mandate, the Mandatory shall render to the Council an annual report in reference to the territory committed to its charge.

8. The degree of authority, control, or administration to be exercised by the Mandatory shall, if not previously agreed upon by the Members of the League, be explicitly defined in each case by the Council.

9. A permanent Commission shall be constituted to receive and examine the annual reports of the Mandatories and to advise the Council on all matters relating to the observance of the mandates.

APPENDIX II

A TYPICAL "B" MANDATE

BRITISH MANDATE FOR TOGOLAND¹

The Council of the League of Nations:

Whereas by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein Togoland; and

Whereas the Governments of the Principal Allied and Associated Powers agreed that the Governments of France and Great Britain should make a joint recommendation to the League of Nations as to the future of the said territory; and

Whereas the Governments of France and Great Britain have made a joint recommendation to the Council of the League of Nations that a mandate to administer, in accordance with Article XXII of the Covenant of the League of Nations, that part of Togoland lying to the west of the line agreed upon in the Declaration of July 10th, 1919, referred to in Article 1, should be conferred upon His Britannic Majesty; and

Whereas the Governments of France and Great Britain have proposed that the mandate should be formulated in the following terms; and

Whereas His Britannic Majesty has agreed to accept the mandate in respect of the said territory, and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions;

Confirming the said Mandate, defines its terms as follows:

ARTICLE 1.

The territory for which a mandate is conferred upon His Britannic Majesty comprises that part of Togoland which lies to the west of the line laid down in the Declaration signed on July 10th, 1919, of which a copy is annexed hereto.

This line may, however, be slightly modified by mutual agreement between His Britannic Majesty's Government and the Government of the French Republic where an examination of the localities shows that it is undesirable, either in the interests of the inhabitants or by reason of any inaccuracies in the map annexed to the Declaration, to adhere strictly to the line laid down therein.

The delimitation on the spot of this line shall be carried out in accordance with the provisions of the said Declaration.

The final report of the Mixed Commission shall give the exact description of the boundary line as traced on the spot; maps signed by the Commissioners shall be annexed to the report. This report with its annexes shall be drawn up in triplicate; one of these shall be deposited in the archives of the League of Nations, one shall be kept by His Britannic Majesty's Government, and one by the Government of the French Republic.

ARTICLE 2.

The Mandatory shall be responsible for the peace, order and good government of the territory, and for the promotion to the utmost of the material and moral well-being and the social progress of its inhabitants.

¹ C. 449 (1). b. M. 345 (b). 1922. VI.

ARTICLE 3.

The Mandatory shall not establish in the territory any military or naval bases, nor erect any fortifications, nor organize any native military force except for local police purposes and for the defence of the territory.

ARTICLE 4.

The Mandatory:

- (1) shall provide for the eventual emancipation of all slaves, and for as speedy an elimination of domestic and other slavery as social conditions will allow;
- (2) shall suppress all forms of slave trade;
- (3) shall prohibit all forms of forced or compulsory labour, except for essential public works and services, and then only in return for adequate remuneration;
- (4) shall protect the natives from abuse and measures of fraud and force by the careful supervision of labour contracts and the recruiting of labour;
- (5) shall exercise a strict control over the traffic in arms and ammunition and the sale of spirituous liquors.

ARTICLE 5.

In the framing of laws relating to the holding or transfer of land, the Mandatory shall take into consideration native laws and customs, and shall respect the rights and safeguard the interests of the native population.

No native land may be transferred, except between natives, without the previous consent of the public authorities, and no real rights over native land in favour of non-natives may be created except with the same consent.

The Mandatory shall promulgate strict regulations against usury.

ARTICLE 6.

The Mandatory shall secure to all nationals of States Members of the League of Nations the same rights as are enjoyed in the territory by his own nationals in respect of entry into and residence in the territory, the protection afforded to their use and property, and the acquisition of property, moveable and immoveable, and the exercise of their profession or trade, subject only to the requirements of public order, and on condition of compliance with the local law.

Further, the Mandatory shall ensure to all nationals of States Members of the League of Nations, on the same footing as to his own nationals, freedom of transit and navigation, and complete economic, commercial and industrial equality; except that the Mandatory shall be free to organise essential public works and services on such terms and conditions as he thinks just.

Concessions for the development of the natural resources of the territory shall be granted by the Mandatory without distinction on grounds of nationality between the nationals of all States Members of the League of Nations, but on such conditions as will maintain intact the authority of the local Government.

Concessions having the character of a general monopoly shall not be granted. This provision does not affect the right of the Mandatory to create monopolies of a purely fiscal character in the interest of the territory under mandate and in order to provide the territory with fiscal resources which seem best suited to the local requirements; or, in certain cases, to carry out the development of natural resources, either directly by the State or by a controlled agency, provided that there shall result therefrom no monopoly of the natural resources, for the benefit of the Mandatory and his nationals directly or indirectly, nor any preferential advantage which shall

be inconsistent with the economic, commercial and industrial equality hereinbefore guaranteed.

The rights conferred by this Article extend equally to companies and associations organized in accordance with the law of any of the Members of the League of Nations, subject only to the requirements of public order, and on condition of compliance with the local law.

ARTICLE 7.

The Mandatory shall ensure in the territory complete freedom of conscience and the free exercise of all forms of worship which are consonant with public order and morality; missionaries who are nationals of States Members of the League of Nations shall be free to enter the territory and to travel and reside therein, to acquire and possess property, to erect religious buildings and to open schools throughout the territory; it being understood, however, that the Mandatory shall have the right to exercise such control as may be necessary for the maintenance of public order and good government, and to take all measures required for such control.

ARTICLE 8.

The Mandatory shall apply to the territory any general international conventions applicable to his contiguous territory.

ARTICLE 9.

The Mandatory shall have full powers of administration and legislation in the area subject to the mandate. This area shall be administered in accordance with the laws of the Mandatory as an integral part of his territory and subject to the above provisions.

The Mandatory shall therefore be at liberty to apply his laws to the territory subject to the mandate with such modifications as may be required by local conditions, and to constitute the territory into a customs, fiscal or administrative union or federation with the adjacent territories under his sovereignty or control, provided always that the measures adopted to that end do not infringe the provisions of this mandate.

ARTICLE 10.

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information concerning the measures taken to apply the provisions of this mandate.

ARTICLE 11.

The consent of the Council of the League of Nations is required for any modification of the terms of this mandate.

ARTICLE 12.

The Mandatory agrees that if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article XIV of the Covenant of the League of Nations.

The present instrument shall be deposited in original in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Members of the League.

Done at London, the twentieth day of July, one thousand nine hundred and twenty-two.

APPENDIX III

A TYPICAL "C" MANDATE

THE MANDATE FOR GERMAN SOUTH-WEST AFRICA¹

The Council of the League of Nations:

Whereas by Article 119 of the Treaty of Peace with Germany signed at Versailles on June 28th, 1919, Germany renounced in favour of the Principal Allied and Associated Powers all her rights over her oversea possessions, including therein German South-West Africa; and

Whereas the Principal Allied and Associated Powers agreed that, in accordance with Article 22, Part I, (Covenant of the League of Nations), of the said Treaty, a Mandate should be conferred upon His Britannic Majesty to be exercised on his behalf by the Government of the Union of South Africa to administer the territory afore-mentioned, and have proposed that the Mandate should be formulated in the following terms; and

Whereas His Britannic Majesty for and on behalf of the Government of the Union of South Africa, has agreed to accept the Mandate in respect of the said territory and has undertaken to exercise it on behalf of the League of Nations in accordance with the following provisions; and

Whereas, by the afore-mentioned Article 22, paragraph 8, it is provided that the degree of authority, control or administration to be exercised by the Mandatory not having been previously agreed upon by the Members of the League, shall be explicitly defined by the Council of the League of Nations:

Confirming the said Mandate, defines its term as follows:

ARTICLE 1.

The territory over which a Mandate is conferred upon His Britannic Majesty for and on behalf of the Government of the Union of South Africa (hereinafter called the Mandatory) comprises the territory which formerly constituted the German Protectorate of South-West Africa.

ARTICLE 2.

The Mandatory shall have full power of administration and legislation over the territory subject to the present Mandate as an integral portion of the Union of South Africa, and may apply the laws of the Union of South Africa to the territory, subject to such local modifications as circumstances may require.

The Mandatory shall promote to the utmost the material and moral well-being and the social progress of the inhabitants of the territory subject to the present Mandate.

ARTICLE 3.

The Mandatory shall see that the slave trade is prohibited, and that no forced labour is permitted except for essential public works and services, and then only for adequate remuneration.

The Mandatory shall also see that the traffic in arms and ammunition is controlled in accordance with principles analogous to those laid down in the Convention relating to the control of the arms traffic, signed on September 10th, 1919, or in any convention amending the same.

¹ 21/31/14. D.

The supply of intoxicating spirits and beverages to the natives shall be prohibited.

ARTICLE 4.

The military training of the natives, otherwise than for purposes of internal police and the local defence of the territory, shall be prohibited. Furthermore, no military or naval bases shall be established or fortifications erected in the territory.

ARTICLE 5.

Subject to the provisions of any local law for the maintenance of public order and public morals, the Mandatory shall ensure in the territory freedom of conscience and the free exercise of all forms of worship, and shall allow all missionaries, nationals of any State Member of the League of Nations, to enter into, travel and reside in the territory for the purpose of prosecuting their calling.

ARTICLE 6.

The Mandatory shall make to the Council of the League of Nations an annual report to the satisfaction of the Council, containing full information with regard to the territory, and indicating the measures taken to carry out the obligations assumed under Articles 2, 3, 4 and 5.

ARTICLE 7.

The consent of the Council of the League of Nations is required for any modification of the terms of the present mandate.

The Mandatory agrees that, if any dispute whatever should arise between the Mandatory and another Member of the League of Nations relating to the interpretation or the application of the provisions of the Mandate, such dispute, if it cannot be settled by negotiation, shall be submitted to the Permanent Court of International Justice provided for by Article 14 of the Covenant of the League of Nations.

The present Declaration shall be deposited in the archives of the League of Nations. Certified copies shall be forwarded by the Secretary-General of the League of Nations to all Powers Signatories of the Treaty of Peace with Germany.

Made at Geneva the 17th day of December, 1920.

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