REPORT

OF THE

COMMITTEE

APPOINTED TO ENQUIRE INTO THE NATURE
OF THE PAWAI TENURES

IN

REWA STATE

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INTRODUCTION

This Committee was appointed by Durbar Order No. 348 dated the 21st March, 1932, to examine and report on the nature of the existing Pawai Tenures in the Rewa State and to make recommendations on which rules could be framed to govern Pawais in future.

2. These terms of reference have been read by this Committee in the light of Durbar Order No. 18 dated the 5th August, 1931, in which it was made clear that the Committee would be fully entitled to discuss 'all the aspects connected with the Pawaidars', and to report on 'all questions connected with Pawais'. The Committee was also required, by the Durbar Order appointing it, to view these questions in the wider light of 'the true welfare of the Rewa State'. The terms of reference are, therefore, very inclusive; and we have concluded that any aspect of Pawai questions which affects the true welfare of the State, lies within the scope of its discussions and may form the subject of a recommendation.

3. In accordance with the terms of reference our report naturally falls into two well defined parts, *i. e.*

Part I—The nature of the existing Pawai tenures, and

Part II—Recommendations on which rules can be framed.

PART 1

THE NATURE OF THE EXISTING PAWAI TENURES

4. It is admitted that the Pawai tenures of the Rewa State owe their origin either to the direct bounty of the sovereign of the State or his protection. Historically they can be divided into two general classes :—

(1) Those which at one time existed independent of the Rewa Raj or prior to its establishment over their territories, and have since come under its sovereignty, and

(2) Those which have been created by the Rewa Raj from time to time.

There is, however, a fundamental divergence of opinion as to whether this historical distinction has any bearing at the present day upon the *existing* character of the Pawais. One view is that the difference is inherent and continuing. The opposing view is that, once the sovereignty of the Durbar was imposed or accepted, the difference ceased to operate.

5. In this connection it is pertinent to note what the position of the Pawais of the former category was, before they came under the Rewa Raj. We find (see the "Histories of Main Mamla Tenures" annexed to this Report) that the only Pawais in the former category are the Sengar, Chandel, Gond, Baland and Ben Bans Thakurs.

6. Of the five Sengar Thakurs, Naigarhi, Pahari and Jodhpur were originally grants for maintenance from the Raja of Mau, and were still grantees of the Mau Raj when the latter was subjugated in 1800. From that year the Rewa Durbar succeeded to the sovereignty of the Mau Raj ; and allowed those grants to continue. From that year, therefore, these grantees

became virtually grantees of the Rewa Durbar. In 1814, the Durbar agreed to establish direct relations with Naigarhi at the latter's special request. After annexation of the Mau Raj in 1835, the Raja of Mau was given a specific new grant for maintenance by the Durbar, and was subsequently known as the Raja of Bichhrehta. The only other Illaka in the Sengar group is Gangeo. This had been subjugated by the Rewa Raj before 1710, in which year two thirds of it were confiscated for rebellion and arrears of Mamla, the remaining one third being left to the Thakur.

7. As regards the two Chandel Thakurs, we find that they were originally part of the Bardi Raj, which was also subjugated and annexed by the Rewa Raj. Moreover, one of these Thakurs (Bardi) after the annexation was given a specific new grant; and the other (Singrauli) has recently lapsed.

(*Note*—We have classed Singrauli as a Chandel because it was a sub-grant of the Bardi Raj. The Singrauli Thakur was actually a Khairwar by caste.)

8. As regards the Gond Thakurs we find that they were once part of the Mandla Raj. These Thakurs (after the disruption of the Mandla Raj) were annexed to Rewa. They were subsequently conquered by the Bhonsla Raj, and later ceded to the Rewa Raj by the British Government who had conquered the Bhonsla Raj.

9. There is only one Baland Thakur (Madwas) and, as he was paying Mamla to the Rewa Raj by 1813, he had presumably been subjugated and annexed before that date.

10. Dih, the only important Ben Bans Thakur, was originally granted his holding by the Ben Bans Raja, and was still a grantee of that Raj, when the Ben Bans territories were

subjugated and annexed by Rewa. His position is, therefore, identical to that of the Sengar Thakurs.

11. The only existing Pawais, therefore, which can claim to come in the former category are :—

(*i*) Gangeo and Madwas, who at one time existed independent of the Rewa Raj, and

(*ii*) Naigarhi, Pahari, Jodhpur, Dih and the Gond Thakurs, who existed prior to the establishment of the Rewa Raj over the Mau, Ben Bans and Mandla territories.

It is alleged that these Pawais occupy a distinctive position In actual practice, however, we find no such distinction.

12. Moreover, on general grounds we consider that once the sovereignty of the Durbar was super-imposed, the 'feudal baron' (to use a convenient and analogous English cognomen) who was driven to that position by conquest or cession, or who accepted that position through fear or for protection, became subject to the same general subordination as 'feudal barons', who were promoted to that position by the Ruler. Such general subordination may vary, but only to the extent explicitly or implicitly recognised or allowed by the Ruler; such variations are questions of fact and can only be decided by :—

(*a*) the terms of documents, such as *Pats* and *Qabuliyats*, and

(*b*) the effect of custom and usage.

It is only, therefore, after examining documents, custom and usage that we can say if there is any *existing* distinction between the two historical classes of Pawai tenures.

13. If it could be proved that the Pawais, not originally granted by the Rewa Durbar, had continued to enjoy privileges

which no other Pawaidar enjoyed, it might be accepted that any distinction which pertains to the present day rests on an historical basis. But, as it can be shown that no special privileges are confined to this class only, it seems clear to us that the existing variation can have no purely historical basis, but must rest on documents, custom and usage. Our examination, however, shows that the documents, custom and usage relating to this class of Pawai do not vary according to their historical origin. The historical distinction, therefore, entirely disappears, though the sentimental distinction remains, and may well be recognised. Subject to this sentimental distinction all grantees occupy the same position vis-à-vis their Ruler. We see no reason, therefore, why they should not all be known as Pawaidars and their grants as *Pawais*. We have, however, recommended in Part II of our report that the more important Pawaidars should be known as Illakedars, and should be allowed some special privileges. Most of the Pawaidars referred to above have been included in that category.

14. Before, however, proceeding to the results of our examination of the documents etc., relating to each tenure, it is necessary to deal with the contention that certain conditions contained in *Pats* and *Qabuliyats* have been enforced, and are, therefore, inoperative. If such a contention were accepted it would be open to any Pawaidar, upon whom conditions were imposed after conquest, to refuse to fulfil the conditions on the ground that he had been forced to agree to them. The same argument would allow every war treaty to be abrogated at the mere will of the defeated country. There would thus be no end to the claims and counter claims. We have, therefore, assumed that any document signed or agreed to by any party must be conclusive for and against that party. Without this assumption

it would be equally open to the Durbar to denounce any such document as having been entered into without a full realisation of its consequences to the welfare of the State.

15. It has also been contended that custom and usage should, in certain cases, be ignored, as they have operated against the interests of Pawaidars. We must decline to accept this contention also at the very outset. Many customs and much usage can be shown to have operated against the interests of the Durbar. On this basis, therefore, practically all custom and usage could be called in question. We have accordingly considered only the facts and not the effect of custom and usage, except in so far as existing custom and usage is, in our opinion, against the true welfare of the State as a whole, of which the Pawaidars are a part. This exception is clearly justified since the welfare of the whole must always supersede the welfare of the part.

16. A further contention has been put forward that Pawaidars in Rewa State must enjoy at least the same rights as Zamindars in British India and Thakurs in other Rajput States, although it is acknowledged that there is no analogy between Rewa Pawaidars and landholders in British India. But our conclusions can only be based on the internal custom and usage of the Rewa State (wherever documents are not forthcoming), and we cannot, therefore, accept this contention. It may well be that custom and usage in British India in these matters have developed on different lines. Nor has the development in other Rajput States been uniform. The developments outside Rewa State may prove useful to guide us in questions on which documents, custom and usage give no clear lead. But where the existing facts regarding such questions are clear, it is documents and *internal* custom and usage which must prevail.

17. Many quotations have been produced to prove the validity of certain points of view. Some of these are mere 'obiter dicta' taken from the proceedings of a certain Committee which had no concern with the internal affairs of the States; and of these, some were put forward by counsel, who was engaged to support a special point of view. They can, therefore, carry little weight. Others are extracts from judicial rulings which indicate the development of custom and usage elsewhere. These are interesting expositions of policy and may well be useful in framing recommendations, but constitute no proof of past custom and usage in this State. Others are quotations from standard works, which suffer from the inherent inaccuracy of generalisations. Others, however, express the views of certain officers, who were at one time intimate with local conditions and at certain times responsible for the State administration. These do help to throw light on the custom and usage of the time and must be given full weight.

18. Frequent references have been made to 'law' and the 'legal aspect' of the questions under our consideration. But there is as yet no 'law' governing these matters in the Rewa State. There are not even yet any sanctioned rules. We have, therefore, avoided drawing any general conclusions from the principles of 'law' which have been recognised elsewhere in a similar connection.

19. For similar reasons we have avoided entering into a general discussion of the contention that Pawai rights constitute proprietary rights; and have confined our attention to what Pawai rights actually are, though we would draw attention to the generally accepted theory of Indian Land Tenure, that the ownership of the soil vests in the sovereign power.

20. Our conclusions are, therefore, necessarily based on the contents of documents, and the facts regarding custom and usage. Of the documents, Pats and Qabuliyats must constitute the fundamental evidence. Regarding custom and usage the existing position should in our view prevail, except in so far as it can be shown to be contrary to the correct interpretation of Pats and Qabuliyats or previously established custom. In this connection we have for the sake of convenience agreed to omit consideration of documents signed, or custom and usage established since the 12th August, 1924, as the Durbar have agreed to review any decisions on these questions, made since that date which conflict with past custom and practice and the rules to be framed on our recommendations.

21. Our examination of documents on the above basis has led us to the following conclusions regarding the existing character of each tenure :—

A—*Mamla* :—

(*a*) It will be seen from the 'Histories of Main Mamla Tenures' (attached to this report) that the conditions attaching to Mamla Tenures previous to 1860 were generally limited to

(*i*) payment of Mamla, and

(*ii*) rendering service (Sewa) and obedience.

After 1860, however, more detailed conditions were included in Pattas, and the limited period was omitted.

There also appears to have been a middle period (1860-70) during which the Patta was limited to 10 years with only a few extra conditions (Kothi-Nigwani, Singhwara).

Finally from 1870 onwards practically all pattas were for life with fully detailed conditions.

(*b*) There are exceptions, but the historical development seems clear, viz. as these grants tended to become permanent, greater care was taken by the Durbar to enter in detail in the Patta all the customary conditions attaching to this tenure, so that its proper character should not be overlaid by unauthorised usage. We may safely assume, therefore, that these detailed conditions represent the customary limitations of this tenure, which were previously implicit and clearly understood, but had later to be explicity laid down.

(*c*) *Mamla* was always originally a grant for maintenance (Guzara) to the younger branch of a Ruling Family or to the family of a conquered Ruler. When it was granted to a younger branch, it did not pay *Mamla* until three or four generations had passed. (The only existing Guzaras not assessed to *Mamla* are insignificant.) But it was essentially a *Mamla* tenure from the very beginning, *i. e.*, it was subject to all the conditions of a *Mamla* tenure except the actual payment of *Mamla*.

Later, these grantees also made grants for maintenance to the younger branches of their own families ; and in many cases these sub-grantees became separated and dealt direct with the Durbar.

(*d*) A characteristic of this tenure is that it always remained with the family, for whose maintenance it was originally granted ; and that when this family died out, the grant reverted. Many of the

detailed conditions imposed on this tenure were clearly laid down in order to ensure that this characteristic should be maintained.

(*c*) It can also be seen from the histories which have been prepared that the *pattas* granting *Mamla* tenures were, in earlier days, temporary, usually for 25 months. (The exceptions are the Ramnagar and Semaria groups, excluding their sub-grants; but these were more recent creations, closely allied to the Ruling family and received more indulgent treatment.) It seems that in those days these temporary *pattas* (which are quite clearly not mere receipts, as has been alleged) were allowed to hold good, until arrears accumulated. The authority of the Durbar was then re-imposed, and a fresh temporary *patta* issued. On these occasions increased *Mamla* was often imposed, and frequently a part of the grant was resumed in lieu of payment of arrears. Where the *Mamla* remained the same, it was usual (as already explained) to lay down more explicit conditions in the new *patta*. It has sometimes been stated that, because *Mamla* is sometimes referred to as *Tribute* and quit rent, therefore, the Mamledar is *Tributary* Chief who can claim some sort of independence. As, however, *Mamla* is sometimes referred to as *Jama* and sometimes as *Malguzari*, and in the case of Chandia was classified by Major Barr as "Land Revenue," it is clear that the words "Tribute" or "quit rent" in this connection have no special significance.

(*f*) The following are some important decisions arrived at and opinions expressed, during the Superintendency administration in connection with *Mamla* tenures :—

(*i*) *Madhogarh.* This estate was a grant to a younger member of the Rewa Ruling Family, *i. e*, a *Mamla* grant. The Thakur died without male issue in 1881, and the question whether the estate should, therefore, escheat to the Durbar was referred for the decision of the Government of India. The widows claimed a life interest in the estate. It was decided that by the custom of the State the right of the reigning Chief to resume an heirless estate was absolute, unless such right had been deliberately surrendered in specific terms and such surrender had been affirmed by successive Rulers. It was also ruled that according to precedent and practice in the Rewa State, grants did not continue in the possession of the widows of a deceased grantee though liberal provision for their maintenance was proper.

The case of Amarpatan (a grant similar to Madhogarh) was quoted in connection with the above decision ; and it was pointed out that this grant lapsed to the Durbar in 1844, even though the elder brother of the grantee was still alive.

These two cases show that a grant of this kind in Rewa is by custom heirless, when the deceased grantee leaves no male issue, and that such grants can be resumed by the Durbar. (The question is further discussed under Part II. II Devolution.)

(*ii*) *Naigarhi.* A claim was raised by the Thakur of Naigarhi, which was decided by the Agent to the Governor-General in 1882. The Thakur claimed independence of the Rewa Durbar and the exercise of full civil and criminal rights in his estate. It was ruled that the Rewa Durbar had become "the

masters and owners of the whole country" of the Sengar Thakurs after its conquest, and that these Thakurs held "their villages under the authority and with the permission of the Rewa Durbar". The Thakur's claim to independence was, therefore, disallowed; and the civil and criminal powers to be exercised by him personally were limited to cases not punishable by death or imprisonment for life; and it was added that, if the Thakur proved himself "unfit to exercise the powers entrusted to him, the Rewa Durbar would have the right to deprive him of these privileges."

The right of the Durbar to allot civil and criminal powers at its own discretion throughout all conquered and annexed territory is, therefore, beyond dispute.

(iii) Sohagpur. Colonel Robertson, as Political Agent, Baghelkhand and Superintendent of Rewa, wrote a full note regarding the Sohagpur succession in 1890, from which the following quotations are relevant to *Mamla* tenures generally :—

As I view the relations between the Thakur and its Mamledars it is entirely within the powers of the Chief to issue a fresh patta at each and every succession and, though maintaining the tenure if necessary, to amend the terms which unite it to the Durbar."

If the Council of Sardars "would urge that Baghel Thakurs, offshoots and collateral branches, however distant, of the Ruling Family are not liable to have their pattas renewed, such grants of *Mamla* remaining always intact and unaltered ....." the assertion "could without much difficulty be refuted by reference to the past history of Rewah, the custom of the country, the political necessity for maintaining the power of the Durbar and

the ceremony whereby the Chief with his own hands recognises and affirms a succession by tying a *pugri* upon the head of the heir."

" The Council of Sardars recommend that a fresh *patta* be issued with an increase to the *Mamla*.....".

(*iv*) *Singrauli.* Major D. Barr, Political Agent and Superintendent of the Rewa State, issued a *Rubkar* to the Rais of Singrauli in 1882 forwarding a *patta.* The *Rubkar* contains the following :—

" The right of the Durbar to issue a *patta* on whatever terms it may fix is undoubted. It remains for the Rais to accept or refuse the terms offered. The present *patta* provides for payment of Chauth on the land revenue of the Jagir .....".

(*v*) *Chandia.* Major Barr also noted as follows in 1885 :—

" I added that the Rewa Durbar had shown great kindness to her (Thakurain of Chandia).....by allowing her twice to adopt a successor.....she must, therefore, leave the entire management to Lal Chatradhari Singh who had been appointed by me on behalf of His Highness the Maharaja of Rewa, the owner of Chandia, and the sovereign of all those who owed allegiance to the Durbar".

B. *Paipakhar* :—

(*a*) The original character of the Paipakhar tenure is not in doubt. It is a grant made to Brahmans only for religious considerations.

(*b*) Paipakhar *pattas* (of which we have extracted ten typical cases) contain no more than a statement that a certain area is granted to a certain individual "in Paipakhar". There are no conditions mentioned, though in early days the Paipakharis were expected to assist the Durbar in time of war.

(c) In 1888-89, during the first Settlement, it was found that some Paipakharis paid *Chauth*, but others paid no revenue at all. The Durbar then decided to levy *Chauth* from all Paipakharis from the third generation (excluding the original grantees). This decision was objected to by many Paipakharis, who memorialised the Political authorities as the State was then under the Superintendency Administration, submitting that, as their *pattas* contained no condition making them liable to pay revenue, and as they had in fact paid no revenue for more than 100 years, they were entirely exempt.

(d) The Political authorities decided that all Paipakhar tenures are liable to assessment of *Chauth* in the fourth generation from the grantee. This decision was based on the considerations that exemption could not be claimed by documents, as their *Pattas* contained no such exemption, nor by custom and usage, since half the villages in Paipakhar were already paying *Chauth;* and that any failure to levy *Chauth* in the past had been due to the weakness of the Durbar and not to any inherent right belonging to this tenure. It was subsequently a'so decided after consultation with the Political authorities that *Chauth* was leviable on *Jama Nikasi* and not on *Jama Pawai.* These questions have, therefore, been decided, and are no longer open to dispute.

(*e*) The Paipakhar right which appears inconsistent with the origin of this tenure is the right of transfer to non-Brahmans. The original *pattas* contain no remarks regarding the right of transfer, but it is admitted that by custom and usage Paipakharis may transfer. It would be natural to assume that, owing to the religious character of this tenure, transfer should be limited to Brahmans. But we have been shown cases in which transfers have been made to non-Brahmans, and these transfers have been

approved in mutation proceedings by the Durbar. These cases date from the year 1890. We consider that they establish by usage the right of Paipakharis to transfer to non-Brahmans. In none of these cases was the transfer to a non-Hindu, and there is an order of the Durbar forbidding transfer to Mohammadans. The right of transfer to non-Brahmans would, therefore, appear to be limited by custom and usage to Hindus.

(*f*) One *patta* exists of a Paipakhar tenure known as *Dam-pakhar*. This tenure was limited to the grantee's life. The presumption is that the ordinary Paipakhar tenure is heritable, and this has been established by the custom and usage of the last 100 years. There are also some *pattas* which contain the words 'from generation to generation' or in 'perpetuity'; and in this respect the Paipakhari tenure does not differ from Brit, Mudwar etc.

C. *Brit, Mudwar, Inam, Bhaip and Nankar.*

(*a*) We have treated these tenures together as they differ only in their origin and not in their existing nature. Originally *Brit* was a grant for any kind of service to the Durbar, usually private and personal; whereas *Mudwar* was given for self sacrifice on the field of battle.

(*b*) *Inam* was also originally granted as a reward for service on much the same lines as Brit; while *Nankar* was originally granted for maintenance, usually after confiscation of a larger grant.

(*c*) *Bhaip* was usually granted as a mark of personal favour, and should not be confused with *Bhai-Baut* which was always a Mamla tenure.

(*d*) We have extracted fifty-two typical *Pattas* of these grants, which contain all the important variations in wordings,

and we find that they are all similar to the extent that the grantees enjoy certain lands without limitation of period and without payment of revenue.

(e) The difference in these *pattas* can be divided into four classes :—

(i) Those in which no condition is specifically mentioned.

(ii) Those in which obedience and service (Sewa) only are required.

(iii) Those in which specific Sewa is also required.

(iv) Those in which the grant is stated to be from generation to generation.

(f) When, however, we come to examine these differences in the light of custom and usage, we find that they practically disappear. For instance, those whose *pattas* contain no condition have in actual practice been subject to obedience, have rendered Sewa and have all enjoyed their grants from generation to generation. In fact, each class has enjoyed the same privileges as each other class and been subject to the same conditons. There are some exceptions, however, regarding specific Sewa; and in this connection it is necessary to examine the difference between general Sewa and specific Sewa. The original difference appears to have been this ; general *Sewa* was required from every grantee according to his status in times of emergency (which were of course very frequent in early days), whereas specific *Sewa* had to be rendered annually as well. But we find that this difference does not follow the difference in *pattas*, since many of class (*a*) and (*b*) above, and many unclassified ones also, did actually render specific *Sewa*. The liability to render specific *Sewa* is not, therefore, confined by custom and usage to those whose

pattas contain a condition to this effect. Exemption cannot be claimed by documents, since the *pattas* contain no such exemption. For the same reasons, therefore, that the Government of India decided that the *Paipakhar* tenure was liable to *Chauth*, it must be concluded that all these tenures are liable to specific *Sewa*. It is almost certain that the failure of certain grantees to render specific Sewa was due to the weakness of the Durbar, just as many *Paipakhar* tenures escaped Chauth before 1882.

(*g*) The exceptions do not, therefore, affect the general conclusion that there is no existing distinction between the liabilities attaching to any of those tenures. It is accordingly incorrect to refer to *Sewa Brit* and *Sewa Mudwar* (*i. e.*, Brit and Mudwar tenures whose pattas contain specific Sewa) as separate tenures.

(*h*) In one patta of Brit, the State cesses have been specifically remitted. This indicates that for Brit tenures generally there exists an inherent liability to pay State cesses. The only existing State cess is the Road and School cess; and in actual practice this cess is paid by all Brit holders as well as by other tenures included in this head.

(*i*) In a few cases of Brit and Mudwar only we find that Ubari (and/or Barhtari) has been paid. This payment represents the excess of actual Jama over the Jama of the original grant. It might be argued from this that these two tenures were only meant to enjoy free their original Jama, and that the Durbar has a claim to any increase since the grant was made. This may well have been the original intention, but is not supported by custom and usage for these tenures generally. This inherent original liability must, however, be borne in mind, when considering our proposal under Part II, XXV Enhancement.

(*j*) It is clear from the above that the essential character of these tenures is that they have been enjoyed permanently without payment of revenue (except *Ubari*), subject to obedience and service (including good conduct), so long as the required *Sewa* (whether according to custom or as definitely recorded in the pattas) was rendered

(*k*) It has, however, been realised by the Durbar in recent years that this *Sewa* is now valueless, since the duties which it was formerly meant to perform have since been undertaken by the standi g forces of the State. It has, therefore, been the policy of the Durbar to convert this *Sewa* into cash (at the time of succession), so that the Durbar shall not pay twice over for the same services. This cash equivalent has been based on the Nikasi of the grant and is now being paid by a number of Brit and Mudwar holders.

D. *Dewarth and Punyarth.*

(*a*) We have extracted four typical *Dewarth pattas*. They all assign a certain amount of land revenue to meet expenditure for the worship or in connection with the worship of some deity. The character of the grant, therefore, excludes transfer, and in fact many of these grants have been resumed when a transfer came to light. Moreover, as the management of such shrines was controlled by Durbar the grant was resumable on a change of management, *e. g.*, on the death of the grantee. This was necessary in order to ensure that the successor was a fit person to perform the required worship.

(*b*) Later *pattas* were given in the name of an individual and specified the nature of the expenditure to be incurred. They also required proper behaviour on the part of the individual responsible for the worship. Earlier *pattas* were not so explicit, but similar limitations were imposed on them by custom and usage.

(c) Only four *Punyarth pattas* can be traced. Three of them show that this tenure differs only from *Dewarth* in being a grant for charitable purposes instead of for the worship of a deity. The charitable purposes were seldom specified in the pattas, but were naturally subject to Durbar control. The grant was always made to an individual, and could, therefore, be resumed by the Durbar on the death of that individual. The fourth patta represents a single exception, in which the grant was made heritable. It has no bearing on the general character of this tenure.

(*d*) Previous to the first Settlement (1886-87) there was a larger number of Punyarth holdings, but as many of these were granted as a personal charity to a Brahman and required no specific religious performance, they were practically indistinguishable from Paipakhar tenures and were classified as such.

(*e*) In fact, both these tenures are really cash grants to meet special expenditure. They are, therefore, naturally revenue free. They took the form of assignment of land revenue, because that used to be the most convenient method by which to make a cash grant. It is no longer the most convenient method, and the Durbar have already converted the majority of Dewarth tenures into cash grants while nearly all Punyarth tenures (which were all very small) have been resumed or converted into "55/45" on account of long possession.

E. *Kath Brit.*

(*a*) We have examined five typical *pattas* of this nature, and find that in two cases it is stated that the revenue payable will neither be enhanced nor reduced, and in only one case that the grant is from generation to generation. These are, however, the two main characteristics of this tenure and have by custom and usage been applied to all *Kath Brit* grants, though some pattas

contain no undertaking not to enhance and only one promises permanency.

(*b*) The revenue payable is always referred to as Jama, and there has never been any right of transfer. In fact this tenure is really a tenancy with a permanent settlement, *i. e.*, so long as the Jama was paid regularly, the Durbar undertook not to oust the grantee. In all other respects the grantee's rights were limited to those of a Kothar tenant; he could not construct a bandh or plant a grove without the permission of the Durbar, and could be ejected at once if he failed to pay the Jama (even in the one case granted "from generation to generation"). His only obligation not shared by a Kothar tenant was the payment of Raj Bab (State Cess).

F. *Jagir and Zenana Jagir.*

(*a*) The *Jagir* tenure has a restricted character in the Rewa State, and does not correspond to *Jagir* tenures elsewhere. It was essentially a military or service grant. Usually a certain individual undertook to provide a certain number of soldiers (mounted or otherwise) whose cost was estimated at a certain fixed sum. In return the Durbar allotted that individual the revenues of an area large enough to meet this cost. When these revenues exceeded the fixed cost, the Durbar had a natural claim to the excess but in practice usually only claimed half the excess. This payment of half the excess is now known as *Barhtari*; but in the case of other tenures *Barhtari* is practically the same as Ubari, *i. e.*, the whole excess (see Part I, 21-C (*i*)).

(*b*) The grant was really a contract, and voidable by either party. It was a contract with an individual and, therefore, ceased with his death. The character of the grant excludes transfer and devolution.

(*c*) *Zenana Jagir* is entirely different in character. It was a life grant to ladies of the Ruling Family to meet their personal expenses. It has never been transferable and lapses to the Durbar on the grantee's death.

G. *55-45.*

(*a*) The history of this tenure is as follows: —

In early days, when a tenant wished to construct a *bandh*, he applied for permission to do so in order to claim some concession in rent. In order to encourage such improvement, the Durbar granted a concession in the form of allowing the applicant to retain 45 per cent of the rental, instead of paying the full rent. Thus, only 55 per cent of the rent was received by the Durbar, and the concession was known as "Haq 55-45". It was a special tenancy on concession rates, and enjoyed the rights of transfer and devolution.

(*b*) Later, when an examination of *Pawais* brought to light many illegal holdings, the Durbar decided to deal gently with these holders and instead of resuming their holdings allowed them to retain their lands on the concession rates of "55-45" on payment of 55 per cent of the rental to the Durbar. This "55-45" tenure differs from the earlier Haq "55-45" in that the latter was a tenancy and the former still remained a pawai. We have examined a number of orders conferring 55-45 tenures, and find that in some cases the grant is limited to the life-time of the grantee, but in most cases nothing is said on this point. The orders are also silent regarding the right of transfer, but by analogy with "Haq 55 45" this tenure (except when specified as a life grant) has by custom and usage enjoyed the right of transfer and devolution.

22. *General.*

(*a*) It will be clear from the above description that there is

a general liability attaching to all Pawai tenures to contribute to the cost of administration and defence. In *Mamla* tenures it took the form of the *Mamla* payment, Durbar Kharch and Sewa. In *Paipakhar* tenures it took the form of Chauth and in early days Sewa. In revenue free tenures it took the form of Sewa only, except for occasional *Ubari* or *Barhtari*.

It also took the form of State Cess (Raj Bab) in all tenures. One very early Cess was *Ferangiawan* to meet the fine levied from the Durbar for failure to supply *Rasad* to British forces passing through the State. Another was *Nalbandi* to meet the cost of special military expeditions. The main existing Cess is the Road and School Cess (see Part II, VI Cesses).

(b) There is also a general liability to render loyalty and obedience. It follows from the very existence of these liabilities that, if and when they are not fulfilled, the contract has been broken and is voidable at the will of the authority which imposed the conditions. This authority also enjoys the right of Sovereignty, and such grants, therefore, of course lapse to it also under the power of escheat (see Part II, VIII Escheat and Reversion).

(c) Finally, we would emphasise that residuary rights (not using the words in their legal sense) must belong to the Durbar and not to the Pawaidars. By residuary rights we mean any right which is not enjoyed by the force of document, custom or usage. That is to say, unless a Pawaidar can prove that a certain right has been specifically granted to him in his *Patta* or has, in fact, been enjoyed by him continually for at least 60 years, that right belongs to the Durbar. And even if any such right has been so enjoyed and yet is portion of a Sovereign right the Pawaidar can claim only compensation for actual loss when that right is resumed, and not a continuance of that right.

PART II

RECOMMENDATIONS ON WHICH RULES CAN BE FRAMED

In so far as the subject before us has not already been dealt with in Part I of the Report, it will be convenient to deal with it in this part of our Report under the headings, under which discussions proceeded in the Pawai Committee :—

I.	ASSESSMENT	(*a*) Land Revenue
		(*b*) Nazrana
		(*c*) Daijawan
II.	DEVOLUTION	
III.	ADOPTION	
IV.	TRANSFER	
V.	SEWA	
VI.	CESSES	
VII.	RESUMPTION	
VIII.	ESCHEAT AND REVERSION	
IX.	FORESTS	
X.	CUSTOMS AND EXCISE	
XI.	BAVAI	
XII.	FERRIES	
XIII.	SUB SOIL RIGHTS	
XIV.	LAND ACQUISITION	
XV.	COMPENSATION	
XVI.	CONVERSION OF TENURES	
XVII.	REVENUE POWERS	
XVIII.	SUB PAWAIS	
XIX.	INDEBTEDNESS AND MINORITY	
XX.	IMPARTIBILITY	
XXI.	ILLAKEDARS	

I. ASSESSMENT

(*a*) Land Revenue

(1) *Rate of assessment*

(*i*) It is clear from the Histories of Main Mamla Tenures that the normal rate payable by this tenure is chauth or 25 per cent. Some of these tenures have not yet reached this rate, but there is no doubt that Mamla was always meant to be one-fourth of the reputed rental. The following extracts are adequate to prove this :—

Singrauli. The Thakur has always paid one-fourth from 1812 onwards.

Chandia. Diwan Het Ram's Report of 1881.

"The land revenue.....in future .....may be..... even Rs. 5,000, which would not be a heavy demand remembering that only one-fourth (the usual rate paid by brotherhood in Rewah) of gross rental...will be paid". Proceedings of the Council of Sardars, 1881 :—"The estate including lands held by the Thakur's *bhais* yields a revenue of about Rs 18,000, of which the Thakur's share is Rs. 9,337, and the yearly *chauth* payable to the Durbar Rs. 4,500".

Sohagpur Major Roberts on's note of 1890.

"It seems to me that one-four or Rs. 5000 is a fair and sufficient sum to take as Mamla for the present at

any rate...I think we might deal liberally with the Thakur and forego any present increase in his Mamla. In the future when his Estate becomes more valuable...this point may well be remembered".

Madwas. Major Barr's order of 1882.

According to the document under which you enjoy possession over your holdings you are required to pay a fourth of your income to the Durbar".

(*Note* :—Madwas held an ordinary Mamla Patta, which mentioned only the amount and not the rate of Mamla. Major Barr was, therefore, presumably referring to a general liability to pay one-fourth attaching to Mamla tenures as such).

Kothi. Letter from the Thakur in 1926.

is the rule with the Durbar that on succession Mamla is enhanced, that is one-fourth of the yield or Nikasi is assessed as Mamla and Nazrana is also levied."

Sohagpur. Letter from the Thakur in 1927.

"As regards the contention about...Mamla...I gladly accept the same according to the custom of the State".

(*Note*:—The actual rate fixed was one-fourth).

Khairaha. Extract from Patta of 1928.

Rupees 2,500 (on a gross rental of Rs. 10,000) is fixed according to practice obtaining in the State as the annual Jama".

(*Note* :—The Thakur accepted this in a Qabuliyat).

Extract from Patta of 1927.

"One-fourth; Rs. 1,140 of Nikasi of Rs. 4,562 is fixed as the liability imposed".

Ghuman. Decision of His Highness in 1907 regarding Mamla to be paid.

"Kunwar Ram Singh in his inquiry has estimated the figure of Jama to be about Rs. 1,706. Therefore Chauth should be levied on this Jama Nikasi".

(*Note:*—This rate of payment was automatically laid down as Chauth. The amount to be paid depended only on the assessment of the Jama Nikasi).

In addition to the above quotations it will be seen that more than 60 per cent of the existing Mamledars already pay 25 per cent or more.

In a few cases, however, the mamla has hardly increased at all, since the original Mamla was imposed. From this fact has arisen a claim that Mamla was a tribute fixed in perpetuity. But the facts disprove this. There is no instance of a Mamla payment, which has not varied at some time or other. It is true that Mamla has often been referred to by various authorities as a *fixed* payment but it seems clear that, when so referred to, the meaning was that it was *fixed* by the *Patta*. When a fresh Patta fixed a higher sum, that sum became the fixed payment for so long as that Patta held good.

The fact that increases in some cases were often so negligible was almost certainly due to individual reasons, which made it inadvisable for the Ruler to increase the previous Mamla, either because of the strength and importance of the holder or through inability to insist on the recovery of a higher rate.

(*ii*) The rate payable by Paipakhar tenures is also 25 per cent and is being paid by all these tenures (see Part I, 21 B (*d*)).

(*iii*) Revenue Free Tenures have, of course, paid no rate though some have paid *Ubari* and/or *Barhtari* (see Part I, 21 C (*i*) and F (*a*)).

(*iv*) The highest rate paid by any tenure is 55 per cent (see Part I, 21 G), except originally Kath Brit (see Part I, 21 E (*b*)).

(2) *Basis of assessment*

The basis of assessment has always been the *Jama* of the pawai,

Originally the *Jama* of any area meant the total rental accruing from that area. In early days this rental was assessed in a very rough and ready manner. With the advance of security the original *Jama* increased ; but until the first settlement (1882-87) there was no certain means of ascertaining what this increase was. After this settlement the actual rental came to be known as *Nikasi*. But the settlement did not extend to all pawais and from that date arose the distinction between *Jama Pawai* (*i. e.*, the gross rental at the time of the grant of a pawai or at any time when it was subsequently assessed except by settlement operations) and *Jama Nikasi* (*i. e.*, the actual gross rental as ascertained by settlement operations). But the *Jama* of a Pawai was originally meant to be its *Nikasi*. When, therefore, the *Nikasi* became known (*i. e.*, when settlements were extended to pawais), any payments due from Pawaidars, which were originally based on the *Jama*, were claimed on the basis of *Nikasi*. In our view all such claims were fully justified, since *Jama* did originally and was always meant to represent the gross rental.

This view is confirmed by the ruling given by the Government of India in the Paipakhari case (see Part I, 21 B (*d*)).

(*b*) Nazrana.

Nazrana has never been paid by any tenure holders except Mamledars to whom *pattas* have been issued. It will be seen from the Histories that it is usually paid at the time of succession,

and in many cases there are orders of the Durbar remitting its payment in individual cases. There is no doubt in our minds that nazrana is payable at the time of succession by all Mamledars to whom pattas are issued. The fact that it has sometimes not been levied does not affect this general liability.

2. The nazrana usually amounts to a year's gross rental, and in many cases this sudden charge causes some hardship, since the Mamledars concerned seldom make previous provision to meet its payment before death. There is no reason why such previous arrangement should not be made by insurance. As, however, it is unlikely that this method will be generally adopted, we consider that the Durbar might well agree as a concession to reduce *nazrana* to a nominal payment. We consider a sum of five gold mohars would be a suitable sum but that this sum should be reduced if it exceeds half the Nikasi. This claim, which is justified by documents and custom, should however only be reduced in the case of those Mamledars who pay *Chauth* or the enhanced revenue recommended under "XXV ENHANCEMENT". Nazrana does not include nazar nichhawar, which is a homage due rendered by all State subjects.

(*c*) Daijawan.

It has been agreed that Daijawan is payable by all Rawaidars, but the exact character of the payment has been disputed. Whatever its character, there is no doubt that it is a payment on the occasion of marriages of daughters of the ruling family.

The rates have varied from 1817 to 1902, but were always based on the rental of the Rawai (See "XXIV JAMA NIKASI"). In 1903 different rates were fixed for each tenure. The fixing of the rate is a matter entirely within the discretion of the Durbar, as Daijawan is of the nature of a Cess (See "VI CESSES"). After the recent settlement (1920-25),

when the gross rental (Jama Nikasi) of Pawais was known, Daijawan was levied at the 1903 rates on this Nikasi.

3. During the Superintendency administration it was asserted by the Rao Saheb of Chorhat (1891) and the Thakur of Sariya (1890) that Daijawan was a ceremonial gift (Byohar) payable according to individual wishes. In both these cases it was ruled that Daijawan was of the nature of a State Cess and quite distinct from Byohar. The Rao Saheb raised the same plea again in 1903, and was given the same reply by the Durbar in 1904. In this connection it is only necessary to refer to Major Barr's order of 1886, in which it is clearly laid down that Daijawan is quite distinct and separate from Byohar, the latter being a voluntary offer and the former a kind of State Cess, which 'is incumbent on one and all to pay'.

4. As this Cess is likely, however, to prove inconsistent with future conditions, we recommend that it should be abolished as a concession, to those who pay Chauth or the enhanced revenue as recommended under "XXV ENHANCEMENT"

II. DEVOLUTION

The word 'Devolution' is used in order to differentiate inheritance of private property from the succession to a heritable Pawai. We are not concerned with the former, though in early days the laws governing both were the same. Subsequently, however, the law of inheritance of private property became much more liberal, whilst the devolution of heritable Pawais; though liberalised, still remained subject to definite restrictions.

2. Previous to 1820 all but the male issue of the deceased holder, and his brothers were excluded, but in 1820 near relations like a brother's son were included. In the case of larger Pawais, however, only the male issue of the last holder succeeded except with the special sanction of the Durbar. Later,

during the Superintendency, the order of 1820 was followed for larger pawais, but a further relaxation included all collaterals of the original grantee within five degrees of the last holder, and was calculated on the analogy of the provisions of the Succession Act in force in British India.

3. Subsequently, in 1911, the relaxation was extended to six degrees from the last holder. In 1914 a proviso was added that the successor within six degrees must be the son, grandson or great grandson of the common ancestor of the last holder. But neither of the relaxations of 1911 or 1914 were actually applied to larger pawais.

4. A special concession was granted by His late Highness in 1913 to a certain family of Tewaris, known as Adhraji, who had rendered special services to the Durbar in a religious capacity. This was a confidential order which was never acted upon, and appears to have been issued for personal reasons as an exceptional case. There is no record of these reasons, and as the order was contrary to previously established custom and usage it was withdrawn in 1925. It cannot, therefore, be used to establish any general claim in respect of 'Khandani' Rajputs who are mentioned in the order.

5. The position as stated above is proved by custom and practice, since pawais which had no successor within the Rules in force from time to time were resumed by the Durbar. Any extension of the right of devolution would, therefore, be a concession.

6. As there are obvious advantages in having uniform rules to govern this matter, we recommend that the rule to govern the devolution of all heritable pawais in future should be the rule of 1911 without the proviso of 1914. We cannot, however, recommend this concession for those who do not pay

Chauth or the enhanced revenue under "XXV ENHANCEMENT".

7. The devolution under these rules would not of course come into effect, until mutation had been sanctioned in the ordinary course of mutation proceedings. It has been the usual practice for the undisputed claimant to succession to hold possession during these proceedings. The rules would naturally only apply to heritable pawais, *i. e.*, Mamla, Paipakhar, Brit, Mudwar, Inam, Bhaip, Nankar, Kath Brit and "55-45" (excluding life grants).

8. The general practice regarding devolution in the case of an heirless widow is to allow widows of the last holder to enjoy a life interest. But this practice has not always been followed in the case of larger pawais. We recommend that the practice should be uniformly adopted in future, subject to such supervision as the Durbar consider necessary in the interests of the estate.

III. ADOPTION

It is clear from the documents produced in connection with succession to the Chandia, Chorhat, Bichhrahta and Nigwani pawais that previous sanction to adopt and subsequent recognition of adoption is necessary for all Mamla tenures. In the case of other tenures the position is the same, except of course in the case of grants of the character of life grants, *i. e.*, Dewarth, Punyarth, Jagir and Zenana Jagir. If an adopted son has ever been allowed to succeed to a life grant, it is clear that the succession amounted to a fresh grant, and confers no right of inheritance.

2. But we consider that in view of the fact that it is the bounden duty of every Hindu to make an adoption for religious reasons, and a son so adopted takes the place of a natural son in every respect, some concession should be made; and we recommend that all Pawaidars (except those enjoying grants of the character

of life grants), who pay *Chauth* or the enhanced revenue according to our proposals, should be allowed to adopt without the previous sanction of the Durbar. In order, however, to maintain the historical personal relations between the larger Pawaidars and the Durbar, we recommend that in the case of Illakedars only an adoption should require the subsequent recognition of the Durbar, which should, we recommend, be automatic, provided it is not opposed to Hindu Law and is in accordance with the custom of the family concerned. The devolution of a pawai to an adopted son would of course be governed by the same procedure as any other devolution.

3. Regarding adoption by widows we are satisfied that all such adoptions require the previous sanction of the Durbar. When made without such sanction, they have generally not been allowed to take effect.

4. We consider that in future an adoption by a widow, who has received authority from her late husband (as required by Mitakshara), should be automatically recognized. In other cases (*i. e.*, when there is no adoption) the widow should enjoy only a life interest in the grant (See "II DEVOLUTION", Para. 8) subject to such supervision as the Durbar consider necessary in the interests of the family.

IV. TRANSFER

Transfer by will is not enjoyed by any tenure. Such transfer was unknown in early days and has only been introduced in this State very recently in respect of private property. Transfer by gift (except with previous Durbar sanction) is also not enjoyed by any tenure, since such a right would have interfered with the customs in force under "ADOPTION" and "DEVOLUTION".

"GIFT" in this connection does not include sub-grant (See VIII ESCHEAT and REVERSION para. 3).

2. The following are the existing rights of transfer :—

(*a*) *Mamla.* Transfer is restricted to granting *guzaras* and *jagirs.* In this connection the Superintendency order of 1894 (amplified in 1907) should be read. It is stated therein that certain Mamledars, whose pattas contained limitation of transfer, had broken the condition and it warned them that they should resume such illegal grants within one year or the grants would be confiscated. Such confiscations were actually made (most of them between 1913 and 1915) not only in the case of Mamledars whose pattas contained a condition limiting transfer, but in the case of other Mamledars also. The reason was that limitation of transfer was a general character of the Mamla tenure which applied to them all, whether the condition was entered in their pattas or not. This general limitation is not affected by later Durbar Orders, which lay down that the order of 1894 did not apply to those whose pattas contained no condition limiting transfer, since these later orders seem to refer only to the question of confiscation and not to the right of making the original transfer. This seems clear from the fact that two of these later orders relate to the Chorhat and Naigarhi pawais; and yet these two Pawaidars subsequently accepted *pattas* limiting transfer. It may safely be assumed, therefore, that for Mamledars in general, the right of transfer is limited to *Guzaras* and *Jagirs* only (See VIII ESCHEAT and REVERSION).

(*b*) *Paipakhar.* Transfer is restricted by custom to sale and mortgage only.

(*c*) *Brit, Mudwar, Nankar, Inam,* and *Bhayap.* Transfer

is restricted by custom to sale and mortgage only, except where specific Sewa is a condition of the Patta in which case no transfer can be made.

(*d*) *Dewarth*, *Punyarth*, *Kath-Brit*, *Jagir* and *Zenana Jagir*. There is no right of transfer from the very nature of the tenure (See Part I 21 D, E & F).

(*e*) "*55-45*" (excluding life grants). This tenure has full rights of transfer except by gift and will.

3. In order that Pawaidars may enjoy greater security, we recommend that all Pawaidars (except Illakedars) enjoying Mamla, Paipakhar, Brit, Mudwar, Nankar, Inam and Bhayap (excluding Inam and Bhayap of the character of life tenures) who pay *Chauth* or the increased enhancement proposed, should be allowed full rights of transfer including gift and will, provided.

(1) that in cases of transfer by sale the Durbar should have the right of pre-emption for a period of one year from the date of sale, (2) that no transfer to a person who is not a Rewa State subject should be permissible without Durbar sanction, (3) that in cases of transfer by sale, gift or will the transferee should immediately pay not less than 25 per cent as revenue and an increase of 10 per cent at each future transfer or succession upto a maximum of 55 per cent.

A transfer by sale, gift or will differs from a transfer by grant in that the transferee becomes a sub-pawaidar only in the latter case. In the former case he becomes independent of the transferor. The distinction is one of fact, and will normally be decided by the terms of the document of transfer.

As regards Illakedars we are impressed with the advisability of ensuring their continued and unimpaired existence, and would limit the full rights of transfer, as proposed above to one-third of their Illakas.

We cannot recommend any right of transfer for the remaining tenures, since they have the character of life grants.

V. SEWA

We are satisfied that Sewa in some form or other had originally to be rendered by every tenure (except Dewarth and Zenana Jagir). In practically all cases, except Dewarth and Punyarth, Sewa was in the form of military service, but the occasions on which it had to be rendered (*i. e.*, in time of war) became latterly infrequent, whereas the occasions for rendering it on ceremonial occasions regularly recurred. In this connection we would draw attention to the case of Singrauli Thakur who objected to appearing at the Dusehra Durbar. The Thakur complained to the Hon'ble the Agent to the Governor General in Central India, who declined to interfere and the Durbar insisted on his appearance.

2. Much of this military Sewa is, however, now out of date, and except for purposes of ceremonial, of little value. We, therefore, recommend that such valueless Sewa should in the case of all revenue free tenures be converted into cash (see "XXV ENHANCEMENT"), in the case of other tenures (except life grants) be reduced as proposed in Schedule C 29, and in the case of life grants should be allowed to lapse on the death of the present holder. Personal attendance on public occasions with the customary ceremonial has its historic, traditional and cultural value, and should in our view be maintained.

3. It has been contended that the entries in State records regarding the rendering of Sewa are in some cases fictitious and have been inserted, when Sewa was not actually rendered, in order to establish a liability on the Pawaidar concerned, we can find no justification for this. The entries, which have been

quoted, were made in the regular course of administration, and we see no reason to question them.

4. Some of the existing Sewa rendered by Pawaidars is contributed by their sub-pawaidars. We see no reason why these contributions should not continue, provided that they are proportionately reduced. We recommend that none of this Sewa should in future be convertible into cash.

VI. CESSES

Cesses are a form of taxation distinct from rent and can only be imposed by or with the authority of the Durbar. Their incidence is also a matter entirely for the Durbar to decide.

2. Cesses can be divided into two categories:—

(*a*) imposed by Durbar on Pawais ; and

(*b*) imposed by Pawaidars on their tenants.

3. Regarding (*a*), originally three Cesses (exclusive of Daijawan which has been dealt with separately) were imposed on Pawais, *i. e.*, Settlement, Road and School. They were first imposed in 1867 by an order of the Durbar. The Settlement cess was abolished a few years later, and the other two in 1891 because too many arrears had accumulated. In 1906, however, the Road and School Cesses only were re-imposed on all Pawais, except (*a*) Dewarth and (*b*) Jagirs not paying *barhtari* (See Part I 21 F (*a*)). The rate fixed was $2\frac{1}{2}$% of the *Jama Nikasi*, where that was known, and on the *Jama Pawai* in other cases. In 1911 the rate was assessed on the *Jama Nikasi*, but those paying on *Jama Pawai* were allowed to continue to do so until the next succession.

4. It has been acknowledged that all tenures are liable to be assessed to cesses (except Dewarth); but it has been urged that such cesses should be limited to the Road and School Cess. We

are unable to follow this argument. If entirely new cesses could be imposed by Durbar Order in 1867, could be abolished by Durbar Order in 1891, and restored by Durbar Order in 1906, we see nothing to prevent the imposition of further Cesses by Durbar Order in future, when the requirements of administration demand. Cesses are a form of taxation, imposed by virtue of a sovereign right, and are distinct from "revenue". Incidentally, a specific condition that Cesses will be paid is included in practically all existing *Pattas*, except Paipakhar.

5. Regarding (*b*), the levy of cesses by Pawaidars has been specifically forbidden in the pattas of the strongest tenure, Mamla, and by analogy in all other tenures. But in practice 5 cesses have been allowed to be collected by all Pawaidars, as these were also collected by the Durbar in Kothar lands. These 5 cesses are named below,

(1) *Daijawan.*

This cess was a distribution of the Daijawan payable to the Durbar. It will naturally cease, if our proposals to abolish Daijawan are accepted. The levy of Daijawan by a Pawaidar for his own family marriages has already been declared illegal.

(2) *Chamari.*

This cess is levied on Chamars for the right of collecting hides.

(3) *Bayai.*

See "XI BAYAI".

(4) *Bokra Pichhaura.*

A marriage cess limited to 33 castes.

(The rate payable in Kothar was fixed at Rs. 12/8/- by the Durbar in 1925).

(5) *Chaukidari,*

This cess is levied by Pawaidars to pay for village chaukidars, who are in some cases appointed by the Durbar. The cess is no longer levied in Kothar. It was abolished by the Durbar at the last settlement.

6. *Chamari* and *Bayai* have been included in rent in Kothar lands, and in Pawais in which settlement pattas have been distributed. We recommend that the same should be done in other pawais also.

As regards *Chaukidari*, we recommend its abolition as has already been done in Kothar. The Chaukidars in pawais would then be paid direct by the Durbar.

As regards *Bokra Pichhaura*, we recommend its abolition also throughout the State, as we consider it unsound that cesses should be levied by any authority except the Durbar.

7. It appears that in actual practice a number of other unauthorised cesses are levied by Pawaidars. It has been alleged that these cesses (including *Chamari*, *Bayai* and *Bokra Pichhaura*) are *Sayer* (miscellaneous) income, and are something different from real cesses, we are unable to appreciate the distinction, and for reasons already stated consider that all these unauthorised cesses should be forbidden by the Durbar.

VII. RESUMPTION

It follows from what we have stated in Part I regarding the nature of Pawais that every pawai is resumable by the Durbar in certain circumstances (See Part I 22 (*b*)).

2. It is clear that every Pawai is resumable when a specific obligation imposed in the Sanad of the grant is not fulfilled. It automatically lapses on the death of the grantee only in the case of life grants. In all cases it can be resumed for disloyalty, which includes disobedience amounting to disloyalty; and for this purpose

only we would define disloyalty as including the offences referred to in Chapter VI of the Indian Penal Code as in force in the State.

The fact that resumptions in early days were infrequent does not prove that the right of resumption by the Durbar did not exist. It may well be that in this, as in many other questions, the Durbar was in the past often not in a position to enforce its rights against powerful pawaidars.

3. It will be seen that in many Pattas there is a condition that the Pawaidar should "follow the duties of his class". We understand by this, that a certain standard of personal behaviour is required from a pawaidar. This is proved by the fact that the Durbar has often in the past resumed a pawai for improper conduct. This condition seems to us sound ; but we recommend that resumption should not be reverted to for this reason in future, since bad conduct is only a personal disqualification and need not necessarily affect the pawaidar's whole family. We do consider, however, that such a Pawaidar should cease to control his pawai. We, therefore, recommend that in such cases the Pawai should be placed under the Court of Wards.

4. It is necessary that disciplinary action should also be available for disobedience not amounting to disloyalty or failure to render dues. We recommend that such action also should be limited to attachment under the Court of Wards, apart from the reduction of any social or other honour which remains entirely within the discretion of the Ruler.

5. As regards illegal Pawais, *i. e.*, those which carry a defective title, we consider that if the possession has existed for 60 years or more, or has been confirmed by any order or declaration of the Ruler or the administration acting in his behalf, the

Pawai should not be liable to resumption on that account. It might, however, be liable to enhancement of revenue according to the merits of each case.

6. The published policy of the Durbar is that resumption should, as far as possible, be avoided in future. Our proposals confirm this policy, but we would emphasize that in our view the condition of loyalty is essential and should always be maintained, whatever other concessions are allowed.

7. If our proposals under "TRANSFER, DEVOLUTION and ADOPTION" and under this head are accepted, it is clear that resumption will in future be an improbable contingency in the case of all heritable pawais.

8. A point has been raised regarding the bandhs constructed by a Pawaidar, whose Pawai is resumed. We consider that in such cases the pawaidar should not lose the fruits of his own development, even though he loses the pawai ; and that, therefore, he should be allowed to retain such bandhs as a 55/45 tenant.

VIII. ESCHEAT AND REVERSION

There appears to have been some confusion regarding the difference between Escheat and Reversion. Escheat is clearly a sovereign right. Under this right all heirless property (including treasure trove) becomes the property of the Durbar, and this right can only be enjoyed by a Pawaidar to the extent to which it has been specifically granted to him by the Ruler. Such specific privileges have been granted by the Durbar principally in many Mamla Pattas. We consider that these specific privileges should remain, but that it would be advantageous to have uniformity, as far as possible, in this matter.

2. We, therefore, recommend that, provided our proposals under "XXV ENHANCEMENT" are accepted, all Illakedars

(who would under our proposals include most of the impartible Mamledars) should be allowed to enjoy escheat of moveable property upto the value of Rs. 1,000.

3. As regards Reversion, the question is to what extent sub-pawais revert to the parent pawai and not to the Durbar. It is clear that no sub-pawai can revert to a pawaidar, unless it has been rightfully granted by him. Every Pawaidar (except those enjoying life grants) can create a Jagir, and such grants usually revert to the parent pawai. The existing nature of the Mamla tenure, however, forbids the creation of any sub-pawais, but this restriction was not enforced until the Superintendency in 1894 (See IV TRANSFER). As, however, it is necessary for impartible Mamla tenures to create *Mamla Guzaras* and *Jagirs*, the former to provide maintenance for younger brothers etc., and the latter to provide Sewa, they were specifically allowed in 1930 to make these kinds of sub-grants only.

The Superintendency order of 1894 was based on the consideration that all sub-grants of Mamla tenures were illegal as these tenures had no right of transfer. As no other tenures have the right to make a sub-grant, it follows that the order is applicable to all tenures. The order further laid down that any sub-grants already made, if not resumed hy the pawaidar before a certain date, would lapse to the Durbar. This order was qualified by subsequent Durbar orders after 1900, which were, however, themselves modified by later practice (See IV TRANSFER 2, Mamla). But in any case Guzara and Jagir sub-pawais are entitled to revert to the parent Mamla pawai. Other kinds of sub-grants have also reverted to the parent Mamla pawai in the past ; and as it must be presumed that existing sub-pawais are legal, since if still existent they have been condoned

through not having lapsed under the order of 1894, we consider that the *existing* position, under which only *Guzara* and Jagirs revert to the *parent-Mamla* pawai, requires modification.

4. Of the three classes of Sub-Pawais mentioned under 'XVIII SUB-PAWAIS', Class A must revert to the Durbar. Class B, *i. e.*, those which have been included in a Pawai by the Durbar, should by rights revert to the Durbar, but as the parent pawaidar would by this reversion, through no act of his own, lose the portion of the rent accruing to him, we recommend that reversion should not take place, but that the heirless sub-pawai should be converted into "55/45" tenure and remain part of the parent pawai.

As regards Class C, we have already indicated that, in so far as they exist, they must be considered to have been condoned by the Durbar. We consider that this class of sub-pawai should, therefore, revert to the parent pawai, as should all sub-grants legally created in future.

The above remarks do not refer to Tenancy rights (*i. e.*, Bandhs, gardens and agricultural houses) within a pawai, which revert to the Pawaidar or Sub-Pawaidar when a tenant dies heirless or leaves his holding.

IX. FORESTS

We are satisfied that by documents, custom and usage the Durbar own all forests situated in pawais. But the Pawaidars have rights of user (Nistar) *i. e.*, they can extract snfficient wood to meet domestic requirements only. Nistar rights are governed by rules under the Forest Act. These rights have usually been enjoyed free of charge until very recently. We understand that they will continue to be free in unreserved Forest (Kachcha Am Jungle), in which area only four species of trees are at present protected.

2. In very early days, before there was any form of forest administration, there is no doubt that a Pawaidar was at liberty to clear any forest land in his pawai for cultivation. Nowadays the requirements of forest administration make it necessary that the areas in which forestry is to function should be reserved ; and the question arises whether a Pawaidar has suffered any loss when such areas are reserved in his pawai. In our view he has suffered loss, when the reserved area absorbs any cultivated land, since the Nikasi of his pawai has been reduced. It is doubtful, however, if he has suffered any loss, when the reserved area absorbs land, which has not been cultivated during the last 20 years, since such land would hardly now be cleared by the Pawaidar for cultivation, and he is, therefore, losing no potential rent. He has definitely suffered no loss when the reserved area absorbs only uncultivated land. Under the terms of many pattas he cannot claim compensation for any areas absorbed by reserved forests, even if he has suffered loss. But we consider that this creates some hardship.

3. We, therefore, recommend that compensation should be paid when any cultivated land or any land which has been cultivated during the last 20 years or any essential grazing areas are absorbed by a reserved forest.

4. The question of the *Mahua* tree was discussed in the Committee, and we have, therefore, noted our views. The *Mahua* tree is classed as forest produce under the Forest Act. As soon as the forest settlement is completed, the application of the Act will, we understand, be limited to reserved forests except for the protected species of tree which do not include the *Mahua*. In that event there will be no restriction on the collection of the *Mahua* flower except in reserved forests. In the latter there must be some restriction in the interests of the forest

administration, but we consider that this restriction should be arranged so as to cause the minimum interference with local use and consumption.

5. We also recommend that, in order that forest administration may not supersede the interests of agriculture, cultivated land should not be acquired for forest purposes without full compensation under the ordinary law (See XIV LAND ACQUISITION).

6. A further question has been raised regarding the right of a Pawaidar to extend cultivation in unreserved Forest (Kachcha Am Jungle). In this connection it must be borne in mind that the Kachcha Am Jungle has to supply the Nistar requirements of the neighbouring villages. These requirements must be paramount, and extension of cultivation cannot be allowed to endanger them. It is, therefore, essential in our view that any extension of cultivation in Kachcha Am Jungle should require the previous approval of the Durbar, who before giving sanction would satisfy itself that the proposed extension would not endanger these essential Nistar requirements.

7. The question of Shikar rights has also been raised, and the position so far as we have been able to ascertain is that outside Shikargah areas the only limitation on Shikar by any State subject is the preservation of certain species and in reserved forest such restrictions as are necessary in the interest of forest administration. We have no recommendations to make to alter the existing position.

X. CUSTOMS AND EXCISE

There is no doubt that Customs and Excise are both matters which fall entirely within the authority of the Durbar. No right in these matters has been enjoyed by Pawaidars for at least

50 years and even previous to this contracts were given by the Durbar for the collection of Customs and Excise over areas which included pawais.

2. In 1854 Durbar orders were issued placing all Customs and Excise matters under the direct control of the Durbar. Since then, *Likhwats* have been signed by all Pawaidars, of sufficient position to exercise any such rights, relinquishing their control to the Durbar.

3. No compensation has been given, except in one case, Deora, where a special Patta was granted conceding certain rights in this respect; but this concession was bought out by the Durbar in 1894, and there are now no Pawaidars which either enjoy or exercise any control in Customs and Excise matters.

4. In 1881 the Chandia Thakur claimed such rights. The question was carefully examined by the Superintendency administration, and it was ruled that no Pawaidar had any claim to control Customs and Excise. They can now, therefore, have no claim to compensation.

XI. BAYAI

Bayai is technically a weighment due. It was originally levied on produce brought to a bazaar for sale. It has since been diverted into two channels.

A. It is levied from the tenants as a tax on the sale of their agricultural produce, and takes the form of a percentage added to his rent (6 pies in the rupee). In the last Settlement *Bayai* was definitely included in rent, and has ceased to exist as a separate due throughout Kothar lands and all Pawais in which *Pattas* were distributed by the Settlement. In other *pawais*, *Bayai* is still levied as a percentage of rent. We recommend that it should be treated in those *Pawais* in the same manner as

in the rest of the State, and included in the rent payable to the Pawaidar.

B. It is also levied from the purchaser in a bazaar (and sometimes from the seller), in which case it is known as *Khawai* and in this form is in our opinion really a municipal tax. In our view it should be credited to the authority which maintains the bazaar in which it is levied.

XII. FERRIES

We are satisfied that the right to collect ferry dues is a right reserved to the Durbar and, where enjoyed by any Pawaidar, has been or is so enjoyed by concession and not by right.

2. In actual fact, practically all ferry dues are levied by the Durbar, generally through contractors, whose contracts have extended over pawai areas for many years.

3. In many Mamla Pattas the right to control ferries is specifically reserved, and in any case is in our opinion a sovereign right.

4. Certain individual Mamledars have enjoyed some rights in this connection, presumably by implicit delegation, and where these have been enjoyed for at least 20 years, we consider that compensation should be paid, provided the exercise of the right has been condoned by the Durbar.

XIII. SUB-SOIL RIGHTS

We can only trace three sub-soil operations in pawais. These are :—

(*i*) Singrauli Corrundum Mines.

(*ii*) Umaria (Chandia) Coal Mines, and

(*iii*) Stone quarries.

2. (*i*) In the Singrauli case (1812) when calculating the Chauth due to the Durbar, the income from mines was included in the gross-rental of the pawai, but there were actually no mines

in existence then. Corrundum Mine was opened later (1890-94) and the Durbar claimed all the royalties derived from it as of right. The Thakur claimed three-fourths of the royalties; but the Durbar contended that, as the original gross rental had not actually included any income from mines and as sub-soil rights were a sovereign right, he had no claim. In view, however, of the actual terms of his Patta he was allowed 10 per cent of the royalties as a special case. The Pawai no longer exists and this payment has, therefore, ceased.

(*ii*) In the Chandia case (1888) one anna per rupee of the royalties was granted to the Thakur by Major Barr "owing to the introduction of a Railway Line," on condition that the Thakur compensated his Sub-Pawaidars for "lands encroached upon". This payment was obviously, therefore, in compensation for surface rights, and does not constitute any claim to sub-soil rights merely because it was made in the form of a percentage of mining royalties.

(*iii*) In the case of Stone quarries the practice has been for Mamledars to enjoy rights of user (Nistar) only, with the single doubtful exception of Chandia in 1906, which was based solely on the analogy of the coal mines. We recommend that rules should be framed as soon as possible codifying these customary rights.

3. In most Pats and Qabuliats of Mamla tenures the sub-soil rights have been definitely reserved to the Durbar. Such rights have never been exercised by any other tenure. We are satisfied, therefore, that all sub-soil rights (except for Nistar in Stone quarries and any special exception made by the Durbar, as in the case of Chandia) belong solely to the Durbar.

4. We consider, however, that compensation is due to

Pawaidars for any diminution of their surface rights caused by sub-soil operations (*i. e.*, when any such operations disturb land which is cultivated or has been cultivated during the last 20 years) or any essential grazing areas; and we recommend that it should in future be met by a lump sum payment, on condition that a fair proportion of the compensation is passed on to any Sub-Pawaidars concerned. The procedure for assessing the compensation has been proposed under "XV COMPENSATION"

XIV. LAND ACQUISITION

The generally accepted principle in all civilised countries is that the Government may acquire any land for a public purpose, but that compensation should be paid if any private right is taken away or reduced by the acquisition.

2. It will be seen that many *mamla* pattas contain the condition that compensation will not be paid to Mamledars for land acquired for railway construction. In some cases also it is specifically laid down that compensation will not be paid for land included in reserved forests. It is also a fact that no compensation has been paid to Pawaidars for land acquired for roads or other public purposes until very recently.

3. The fact that no compensation has been paid to Pawaidars in the case of Railway construction and roads goes to show that acquisition for such a purpose did not in fact take away any *pawai right*. As regards reservation for forests, we have made our recommendations under "IX FORESTS", and we have pointed out there, that reservation of uncultivated areas constitutes no diminution of *Pawai* rights. In fact the only instance in which a Pawaidar can claim that he has suffered any loss by land acquisition is when the agricultural area of the Pawai has been thereby reduced.

4. In such instances we consider that compensation should be paid and may be calculated in each case on merits by the procedure proposed under "XV COMPENSATION". We notice that during the Superintendency the fact that large areas had been acquired for railway purposes was taken into consideration when assessing other charges (*cf.* XIII SUB-SOIL RIGHTS 2 (*ii*)) though no claim for direct compensation was acknowledged.

XV. COMPENSATION

The question of compensation arises for the consideration of this Committee, because under the exigencies of modern administration certain rights, which have by custom or usage in the past been exercised by Pawaidars, have had to be or may have to be resumed by the Durbar.

2. Where these rights are rightfully enjoyed or have been enjoyed without interference for at least 20 years the view of this Committee is that, when resumed by the Durbar, due compensation should be paid to the Pawaidar. We refer, of course, only to pawai rights and not to private rights, which would be dealt with under the ordinary law.

3. We have recommended under specific heads in what cases compensation should be paid.

4. The question remains as to how due compensation shall be determined. For this we recommend a special procedure in view of the special nature of such questions. We recommend that each case or class of case should be appealable to a tribunal appointed by the Durbar after informing the Pawaidar or Pawaidars concerned, and that the tribunal should make its recommendations direct for the orders of the Durbar.

XVI. CONVERSION OF TENURES

There have been certain pawais whose title on examination has been found to be defective. When the defect came to light, the Durbar frequently resumed the pawai and re-granted it on another tenure (*cf.* Part I 21-G). This procedure was not a conversion of a tenure, since there was no right to the continuance of the original holding.

2. Conversions have, however, taken place, generally in favour of the Pawaidar but sometimes favourable to the Durbar.

3. From the very nature of a gift or grant, we consider that as long as the conditions of that gift or grant are fulfilled, the terms thereof should not be altered except by consent of the grantee. There is nothing to prevent the grantor from granting more favourable conditions, but the gift or grant should in our view only be reduced (except by consent) when it is of the nature of a re-grant, *i. e.*, when the grant has for any reason lost its right of continuance, either by breach of any conditions (explicit or implicit) or by the failure of heirs. This is undoubtedly what Major Barr meant when he wrote in his Administration Report that 'grants once made cannot be resumed without bringing discredit on the State and provoking discontent

4. We, therefore, recommend that conversion of tenures should cease, except when the Durbar wishes to grant increased privileges or when the grant, for any reason, becomes resumable, in which case as already stated conversion would be really a re-grant and not a conversion.

XVII. REVENUE POWERS

Revenue Powers are a part of judicial powers and cannot be claimed by right. They have to be conferred by the Durbar.

2. But certain Pawaidars have in fact exercised some revenue powers in the past and could hardly have maintained their rights unless they had done so. It must be noted, however, that these powers did not amount to legal powers, since the decisions thereunder were not enforceable by law and the aggrieved party could always appeal to the State Courts and obtain redress. It is clearly inadvisable that such powers should continue to be exercised, without legal authority. It is clear that this has been realised by the Durbar, who have not only taken steps to limit their exercise in the interests of the tenants, but have in some cases forbidden their exercise altogether (see Histories of Main Mamla Tenures). We consider, however, that some powers are necessary in order to enable the Pawaidar to collect his dues, and we recommend that these should in future be legally conferred on Pawaidars by the Durbar. The powers would of course be conferred individually on the person enjoying the Pawai. We recommend that they should normally be conferred on a successor without alteration except on account of personal deficiencies.

3. As to what powers are necessary we take it for granted that they will be limited to the right of collecting rent, *i. e.*

(*a*) determination of rent, except in so far as it has already been determined by settlement operations,

(*b*) enhancement of rent,

(*c*) ejectment, and

(*d*) realisation of rent, *e. g.*, by distraint.

As a matter of fact only larger Pawaidars have exercised powers under these heads; and we consider that this customary limitation should continue. In order that the Durbar may have at their disposal, when framing the Revenue Code (a step which

we recommend should be taken at the earliest possible date), adequate information on this point, we add a Schedule showing the powers which we understand that larger pawaidars have in fact exercised under these heads in the past.

4. We suggest for consideration that the powers conferred on Pawaidars should correspond to the powers enjoyed by certain classes of Revenue Officers. This might result in conferring somewhat increased powers on some Pawaidars, but would in our opinion confer great administrative convenience. It would also ensure that all agricultural tenants throughout the State receive similar treatment under the Law.

5. In the interests of those, over whom these powers will be exercised, we consider it necessary that they should only be conferred on Pawaidars who agree to their tenants enjoying the same rights as Kothar tenants including the right to receive Settlement Pattas; and that all other Pawaidars should be prevented from exercising any powers whatsoever.

6. In addition to powers over tenants the Pawaidars claim powers over Sub-Pawaidars. But so far as we can find no such powers have in fact been exercised since all disputes have been referred to Durbar Courts. The fact that some disputes have been settled before Pawaidars by agreement does not prove the existence of any legal powers. In order, however, that Pawaidars may be able to control their sub-pawaidars (Class B & C See XVIII SUB-PAWAIS), for the purpose of collecting revenue, we consider that Pawaidars (whose Illakas contain sub-pawais) should be given special Revenue Powers by the Durbar for the determination, enhancement and realisation of the Land Revenue payable by sub-pawaidars.

XVIII. SUB-PAWAIS

Sub-Pawaidars are of three kinds :—

(A) Those whose parent pawais have disappeared or who have separated their connection, (*e. g.*, by receiving a new grant in exchange) and are now in direct relations with the Durbar :

(B) Those who are part of the pawai but not created by the Pawaidar :

(C) Those who have been created by a Pawaidar.

2. Class A are to all intents and purposes Pawaidars and enjoy the same rights as such. Those who separated their connection by exchange were all created before 1875 A. D. They received *pattas* direct from, and had dealings direct with the Durbar. After this long period it must be presumed that they were exchanged with the knowledge if not the consent of the parent Pawaidar, who can now, therefore, claim no control over their present holdings or the original holdings for which they were exchanged. Some separated for other reasons and some have reverted to the Durbar. This class A is, therefore, included in our observations regarding Pawaidars, wherever these occur in our Report.

3. Class B usually have a specific guarantee included in the *patta* issued to their Pawaidar, who is required to respect and maintain their grants, (See Histories of Main Mamla Tenures). They pay their revenue to the Pawaidar.

4. Class C only differ from Class B in respect of their origin. They only exist to the extent to which they were condoned by the Durbar after the issue of the 1894 order.

5. Our proposals regarding the reversion of Sub-Pawais have been made under VIII "ESCHEAT and REVERSION".

6. Our proposals regarding control of Sub-Pawais (B & C) have been made under "XVII REVENUE POWERS".

7. It is perhaps hardly necessary to add that a sub-pawaidar cannot enjoy more rights in his sub-pawai than the parent pawaidar in the rest of the pawai. He may enjoy less, according to the terms of his grant. Any dispute regarding the extent of these rights, which can not be settled by agreement, must be decided in the Durbar Courts.

XIX. INDEBTEDNESS & MINORITY

The Pawaidars have raised the question as to the principles which should be adopted in dealing with :—

(*a*) an indebted pawai, and

(*b*) a pawai under minority.

2. Both these matters are questions of public policy and are therefore for the Durbar to decide. But, in order to make our recommendations as complete as possible, we venture to recommend that the following principles should be accepted by the Durbar :—

(*a*) It is not incumbent on the Durbar to take any Pawai under Court of Wards for indebtedness ; and it will not normally do so, until the interest on the debt is more than one-third of the income of the Pawai.

(*b*) The recorded wishes of the deceased Pawaidar will be respected when the management of a Pawai during a minority is undertaken by the Durbar.

XX. IMPARTIBILITY

According to Hindu Law all joint property is partible unless the contrary can be established. We are satisfied that the same principle applies to Pawais; *i. e.*, all pawais are partible unless proved to impartible by family custom, a condition of the Pat or

Durbar order. The impartibility of a Pawai is, therefore, a question of fact, which must be proved before the appropriate Court; and we see no need to make any further recommendations.

XXI. ILLAKEDARS

There are certain Pawaidars who have occupied a special position and it has been the custom to refer to these Pawaidars as Illakedars. But no definition of an Illakedar has yet been laid down by the Durbar. The principle followed seems to have been to limit the term to those who enjoy Pawais of major size and importance. We consider that it should now be clearly laid down as to which Pawaidars are of sufficient importance (both social and economic) to be called Illakedars.

2. We recommend that the following only should be included in this category :—

(*a*) All Pawaidars the nikasi of whose holding amounts to Rs. 10,000 or above ;

(*b*) Pawaidars of special social standing the nikasi of whose holding exceeds Rs. 5,000, and

(*c*) Pawaidars the nikasi of whose holding is less than Rs. 5,000, but who for special reasons should, in the opinion of the Durbar, be included.

3. We also recommend that Illakedars only should, in view of their importance and social standing, be granted the special rights and privileges detailed in Schedule c/33, in addition to any other rights which have been recommended under other heads of the Report for all pawaidars. These special rights and privileges cannot of course vest in a transferee (See IV TRANSFER para. 3).

4. The category of Illakedars will include persons who have not hitherto enjoyed *Tazim* and its attendant honours, but

the grant of *Tazim* is a separate matter and one entirely for the Durbar to decide.

XXII. PATS AND QABULIYATS

The present position is that *fresh Pats* and *Qabuliyats* are issued in the case of certain larger Mamledars only at the time of each succession (See Histories of Main Mamla Tenures). No other tenure holders execute *Qabutiyats*, but most of them have *Pats*.

2. When decisions have been made on the recommendations of this Committee under all other heads, the issue of *Pats*, and *Qabuliyats* will become a formal matter. We recommend that standard forms should be prepared after these decisions have been made, clearly embodying the conditions upon which each tenure is held. The new forms would be issued to all tenure holders and would replace all previous documents, and all fresh *Pats* and *Qabuliyats* would be issued in the same form.

XXIII. GENERAL

It may well be that there are exceptions to every general principle, which we have laid down in our Report; but we are not concerned with these individual exceptions except in so far as they affect any general recommendation. Individual exceptions resting on the specific items of a *patta* or *Likhwat* may exist, and would have to be dealt with by the Durbar on the merits of each case in the light of orders passed on this Report. For the same reasons we have made no specific recommendation regarding the alleged guaranteed status of the Chandia Pawal.

2. As regards definitions we have made no specific recommendations (except under "XXIV JAMA NIKASI") as we consider that it will be more satisfactory for these to be framed by the Durbar, when drafting the rules which will be based on the orders passed on our recommendations.

3. Certain general questions have been raised in the Committee, which are perhaps not strictly within our terms of reference, but as they have definite repercussions upon the position of a Pawaidar, we have considered it right to give our views thereon.

The questions refer to :—

(*a*) liability in case of famine or agricultural distress :

(*b*) liability to provide Rasad :

(*c*) power to attest documents : and

(*d*) certain personal claims.

(*a*) As regards "famine etc.", the Durbar have already accepted the full responsibility; but this does not preclude the Durbar from requiring the co-operation of Pawaidars in any scheme which is necessary for the purpose of relief to pawai tenants.

(*b*) As regards "Rasad", there are Durbar orders which lay down that no rasad should be levied without payment. But it is inadvisable that rasad should be levied by a Durbar official within a large pawai except through the Pawaidar or his agent. We, therefore, recommend that in all Illakas *Rasad* should usually be levied only through the Illakedar or his agent. In other pawais the Durbar official should use his discretion as to whether he levies *rasad* direct or not. It seems to us unnecessary to give an Illakedar any special authority to levy *Rasad*, as his position as an Illakedar will be sufficient.

(*c*) As regards "Attestation", we are unable to find any authority for the claim that Pawaidars are entitled to attest documents. But in any case such a power (which amounts to registration) is essentially a civil power which is always exercised by the Government. It cannot be assumed by individuals though

we see no reason why in certain cases an individual Pawaidar should not be appointed a Sub-Registrar under the law, if that is considered by the Durbar to be administratively sound and convenient. We cannot agree to the proposal that every document relating to property within a pawai should be signed by the Pawaidar before registration, as this would seriously constrict the rights of transfer enjoyed by tenants and sub-pawaidars. The ordinary law seems to us adequate to protect the Pawaidar's interests in this respect.

(*d*) As regards certain personal claims we have dealt with this point, to the extent to which we feel justified in making any recommendations, under "XXI ILLAKEDARS".

4. A further point has been raised regarding the absence of a Pawaidar from his pawai. Under existing orders he has to obtain permission before leaving the State. We understand that the object of these orders is to ensure that proper arrangements exist for the management of the pawai during his absence. This object seems to us sound; but in view of the improved facilities for travel of the present day, we recommend that in future such permission should not be required unless the Pawaidar is to be absent for more than three months or intends leaving India. In such cases we consider that he should report his intentions and state what arrangements he has made for the management of his pawai. As the importance of good management attaches mainly to larger pawais, we consider that this report need only be required from Illakedars. It will also apply to heirless widows with a life interest in an Illaka (See II Devolution para. 8).

XXIV. JAMA NIKASI

The difference between *Jama Pawai* and *Jama Nikasi* has already been explained under "I ASSESSMENT (*a*) (2)".

But there is some difficulty in this connection, when Pawais include sub-pawais, since sub-pawaidars only pay the Pawaidar a portion of the rent they collect. The rental accruing to the Pawaidar is, therefore, less than the gross rental of his pawai by the amount retained by his sub-pawaidars. But for the purpose of assessment it has been assumed by the Durbar since 1881 that the *Jama Nikasi* of a *Pawai* is the actual gross rental including sub pawais. Under this assumption the amount which accrues to the Pawaidar is only his percentage of the *Nikasi* of the lands not included in sub-pawais since the percentage (if any) paid by sub-pawaidars to him has to be passed on to the Durbar. This is justified in principle in the case of Sub-pawai created by the Pawaidar, since the Durbar was no party to that creation and had not agreed to reduce its claim. In effect, however, this means that the Pawaidar is collecting revenue from his sub-pawaidars without any remuneration to himself. In other words this revenue might as well be collected direct by the Durbar, thus practically turning all sub-pawais into pawais. In our view, this would be an extreme measure, and we suggest that the Pawaidar should be allowed to retain 25 per cent of the revenue collected from his sub-pawaidars of class B & C. In future, therefore, the *Jama Nikasi* would be the gross rental of the pawai, including *sub-pawais minus* the usual concessions in respect of *Bandhs* and *Sir* as allowed at the last Settlement. But the revenue payment due from the Pawaidar would be 75 per cent or the revenue collected from his sub-pawaidar of Class B and C *plus* his percentage of the gross rental of the rest of his pawai *minus* the usual concessions.

2. In this connection a further point arises regarding Col. Colvin's letter to certain Mamledars, which was issued in 1926 and contained the following sentence :—

"Incidentally I may mention that neither your Mamla nor other payments made by you will be increased as a result of the Settlement during your lifetime ".

In view of this promise the Mamledars, to whose pawais settlement operations had not been previously extended, raised no objection to the scope of the last settlement including their pawais. We consider that this promise of His Highness' Adviser must be implemented by the Durbar. Under its terms Road and School Cess in the case of Mamledars, in whose pawais Pattas have not been distributed, must continue to be based on *Jama Pawai* (as defined in I Assessment (*a*) Land Revenue (2) Basis of Assessment) until the next succession. The promise does not in our view prevent the imposition of a new Cess (see XXVI "SUMMARY" Paragraph 2); nor does it affect our proposals for enhancement of Mamla, which cannot be isolated from the proposed concessions under other heads.

3. We further suggest that if a strict application of this definition of *Jama Nikasi* causes an immediate increase in the amount payable by any other individual Pawaidar, this increase should be taken into consideration when fixing the enhancement due, if our proposals in the next paragraph are accepted.

XXV. ENHANCEMENT

Many of our previous recommendations have been made contingent upon the acceptance of our proposals under this head. The reasons are as follows.

2. Pawaidars have in the past enjoyed a privileged position in regard to their contribution to the expense of administration. Mamledars originally paid a small direct charge for this purpose (Durbar Kharch), but this has since merged into the

Mamla payment. These Mamla payments have been increased from time to time, in early days after re-imposition of Durbar authority and in latter days usually on succession. Pawaidars as a whole, however, have only paid the Durbar a small percentage of their income, or rendered *Sewai* which is now valueless. The tenants of Pawais have of course paid their full rent, the same as tenants of Kothar, but only a very small proportion of this rent has accrued to the Durbar, who is the ultimate owner.

3. This privileged position of the Pawaidars has naturally been subject to limitations; for instance, there has been a limited right of transfer, adoption and devolution. The position has also been subject to gradual restrictions; the management of their estates and certain powers exercised by Pawaidars were in early days left in their hands as a matter of convenience or economy of administration; these powers were exercised by sufferance or by delegation, and their resumption has been essential for the maintenance of law and order and the peace and good government of the country. These limitations have caused discomfort and insecurity; and the natural desire of the Pawaidars (as of all human beings) is for comfort and security.

4. Our recommendations have taken this natural desire into consideration, and have aimed at establishing for them a greater degree of comfort and security. But we are definitely of opinion that, even apart from these concessions, the Pawaidars should pay their fair share of the cost of administration. It is not fair on Kothar tenants that they should bear practically the whole burden of the cost of administration, which confers equal benefits upon all and which must inevitably increase in cost with the advance of modern conditions.

5. Moreover, if the concessions we have proposed under Adoption, Devolution and Transfer are accepted by the Durbar, the resumption of a pawai would be outside the scope of probability in the future. In other words the *Pawai* would become more and more like private property. This cannot, in our view, be allowed, unless the Pawaidars accept burdens which bear a much fairer proportion to those borne by the rest of the State.

6. In our view this proportion should be at least 25 per cent; but as the proportion at present paid varies so greatly, we consider that for those who now pay less the enhancement must be gradual and in proportion to the existing variations. We consider that, if the following enhancement is imposed on Pawaidars, they may well be granted by the Durbar the concessions proposed in the previous paragraphs; though we do not admit that the imposition of these enhancements confers on the Pawaidars any claim to these concessions, since the Durbar can justifiably claim enhancement for purely administrative reasons.

7. (*a*) *Mamledars.*

Enhancement by three instalments from existing payments upto 25 per cent, first instalment to be payable at once, second instalment after 10 years (which has been the usual period of a settlement in State), third instalment after a second 10 years. If a succession occurs in the interval, the next instalment to become due then, but the following instalment to await the settlement period, *i. e.*, if a succession occured in the 6th year after the first instalment, the second instalment would become immediately due but the third instalment would not be due for 14 years.

(*b*) *Paipakharis.*

As these Pawaidars are already paying 25 per cent, we consider that they may be allowed to enjoy all the concessions we have proposed for them without an enhancement.

(c) *Revenue Free Tenure Holders.*

Immediate conversion of the liability to render Sewa into 10 per cent cash equivalent. Conversions already made at a higher rate to be absorbed in the second instalment. Subsequent enhancement by three instalments upto 25 per cent as for Mamledars, except that the first instalment will not be due until after 10 years.

8. For reasons already given, we consider that the Durbar has every right to impose an administration (Durbar Kharch) cess in addition to the Road and School Cess, whenever the welfare of the State demands it ; but we recommend that no such cess should be imposed until after the above enhancements have been completed.

9. The proposed enhancements provide that all Mamledars (who do not already pay 25 per cent or more) will be paying 25 per cent in 20 years ; and all revenue free tenures in 30 years. We consider this a long enough period to allow those concerned to make adequate arrangements for meeting their increased liabilities.

XXVI. SUMMARY

To summarise, we recommend that the Durbar should be pleased to sanction our proposal for enhancement of revenue payable by Pawaidars, and that when this has been done the following concessions shall be granted :—

(1) Nazrana should be abolished except for a nominal payment ;

(2) Daijawan should be abolished ;

(3) Devolution should extend to six degrees from the deceased holder ;

(4) Adoption should be allowed without previous sanction. A widow's adoption should be sanctioned if she had authority from her husband; otherwise, she should enjoy only a life interest;

(5) Extended rights of transfer should be granted as proposed;

(6) Sewa should be converted or modified as proposed;

(7) Resumption should only take place for disloyalty (including disobedience amounting to disloyalty), or for breach of a specific condition of the grant, or for illegal tenure less than 60 years old which has not been condoned;

(8) Illakedars should be allowed to enjoy Escheat of property as proposed. Pawaidars should be allowed to enjoy reversion of sub-pawais as proposed;

(9) Compensation should be paid for any diminution of surface rights created by reserved forests, sub-soil operations, and acquisition for railways, roads or other public purpose. Amount of compensation assessed to be appealable to a special Tribunal;

(10) Revenue powers should be conferred individually over tenants and sub-pawaidars;

(11) Illakedars should be listed and given certain special rights.

2. If the Durbar, however, consider that the enhancement we have proposed is unjustified in the case of any particular tenure, we would like to record our view that the imposition of the administration (Durbar Kharch) Cess on such a tenure would be fully justified, so that the Pawaidars concerned may pay their fair share of the cost of administration.

CHAIRMAN :

(Sd.) C. L. Corfield

MEMBERS :

1. (Sd.) Brajendra Nath
2. (Sd.) Balwant Singh, Lt.-Col.
3. (Sd.) Salikram Tandon
4. (Sd.) Ram Manoharlal
5. (Sd.) Ramagovind Singh
6. (Sd.) Bhawani Dutt Joshi
7. (Sd.) Ayazali Khan
8. (Sd.) Ram Prasad Tiwari

WAITING MEMBERS :

1. (Sd.) Sita Prasad
2. (Sd.) N. K. Dube
3. (Sd.) Darshan Singh
4. (Sd.) L. Bhagwat Prasad Singh

REWA :

Monday the 20th November, 1933.