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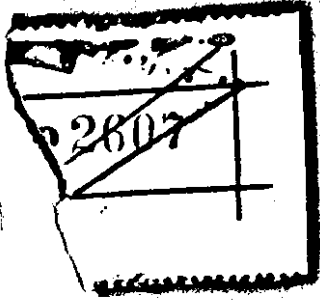
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E A S T I N D I A  
(Behar Cadastral Survey).

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*Ordered, by The House of Commons, to be Printed,  
22 November 1893.*

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INDIA (BEHAR CADASTRAL SURVEY).

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RETURN to an Address of the Honourable The House of Commons,  
dated 10 November 1893;—for,

of Copy of Correspondence between the Secretary of State for India  
Government of India, with Enclosures, concerning the Cadastral  
Survey and the Record of Rights in Behar (in continuation of Parlia-  
mentary Paper, No. 188, of Session 1892)."

India Office,  
20th November 1893. }

ARTHUR GODLEY,  
Under Secretary of State for India.

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(Mr. Knatchbull-Hugessen.)

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Ordered, by The House of Commons, to be Printed,  
22 November 1893.

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RETURN of Copy of Correspondence between the Secretary of State for India and the Government of India, with Enclosures, concerning the Cadastral Survey and the Record of Rights in Behar (in continuation of Parliamentary Paper, No. 188, of Session 1892).

— No. 1. —

LETTER from the Government of India (Revenue and Agricultural Department), to Her Majesty's Secretary of State for India; No. 56, of 1893, dated 29th August 1893. (Received 25th September 1893).

My Lord,

WITH reference to Lord Cross' Despatch, No. 95 (Revenue), dated 24th December 1891,\* and to the marginally noted questions in Parliament regarding the maintenance of the record of rights in Northern Behar, we have the honour to suggest that the following papers should be laid before Parliament :—

No. 24, dated 24th July 1893.  
No. 29, dated 27th July 1893.  
No. 44, dated 27th July 1893.

- (1.) Correspondence submitted with the Despatch of 28th October 1891.†
- (2.) Correspondence contained in our Revenue Proceedings of August 1892 (1-4).
- (3.) Correspondence published in the Supplement to the "Calcutta Gazette" of 16th instant, herewith forwarded.

2. It will be observed that the plan of employing village accountants on the survey, to which reference is made by Sir W. Wedderburn in his question of the 24th July, has not commended itself to the zamindars, and has been abandoned by the Bengal Government; and that we had ourselves, in our letter of the 1st August 1892, deprecated the employment of village accountants or patwaris without full consideration of the difficulties which stood in the way of the restoration of the patwari in Bengal. In respect of the steps now to be taken, we await the reply of that Government to our letter, No. 1794, dated the 24th July 1893, which will be found in the collection (3) of papers referred to in the preceding paragraph.

We have, &c.  
(signed) *Lansdowne.*  
*G. S. White.*  
*P. P. Hutchins.*  
*D. Barbour.*  
*A. E. Miller.*  
*H. Brackenbury.*  
*C. B. Pritchard.*

\* Already printed in Parliamentary Return, No. 188, of 1892 (Behar Correspondence), pp. 188—192. EYRE AND

JOHN M

HODGES, F

## CORRESPONDENCE RELATING TO EAST INDIA

Enclosure 1, in No. 1.

Proceedings of the Revenue and Agricultural Department of the Government of India for August 1892.

REVENUE DEPARTMENT.—Land Revenue, No. 491 T—R.

LETTER from *C. E. Buckland*, Esq., Secretary to the Government of Bengal, to the Secretary to the Government of India (Revenue and Agricultural Department) ; dated Darjeeling, 30 June 1892.

Sir,

IN paragraph 20 of my letter, No. 883 L—R., dated the 9th July 1891, on the subject of the resumption of the Cadastral Survey and record of rights in North Behár, the Lieutenant Governor drew a rough sketch of a plan for the subsequent maintenance and correction of the settlement records, and promised to submit his views in fuller detail to the Government of India when further experience had been obtained. No allusion was made to this particular subject in the orders of the Government of India which sanctioned the resumption of the survey in question, but the Secretary of State, in paragraph 10 of his Despatch, No. 95, dated the 24th December 1891, observed that in previous correspondence much stress was rightly laid on the necessity for arranging that the record of rights, when once it had been correctly prepared, should be duly corrected and maintained year by year, and expressed his satisfaction that this requirement was being kept in view. In forwarding this Despatch to the Bengal Government, it was suggested in your letter, No. 300—43, dated 9th February 1892, that the question should be considered whether an early announcement that measures will be taken to maintain the record of rights would not assist to remove some of the objections which have been urged against the survey of North Behár. It will not be expected that a complete and detailed scheme should be submitted at the present stage. I am, however, to enclose a copy of a letter\* addressed to the Board of Revenue, which indicates the outlines of a scheme which the Lieutenant Governor hopes may be found practicable, and, if practicable, may be approved by the Supreme Government. It must, however, be looked on only as a sketch, the details of which have to be filled in after the work has actually commenced, and after he has been able to discuss it on the spot with the local officers, indigo planters, leading zamindars, and other persons interested.

I have, &c.  
(signed) *C. E. Buckland*,  
Secretary to the Government of Bengal.

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Enclosure 2, in No. 1. †

REVENUE DEPARTMENT.—Land Revenue, No. 492 T—R.

LETTER from *C. E. Buckland*, Esq., Secretary to the Government of Bengal, to the Secretary to the Board of Revenue, Land Revenue Department ; dated Darjeeling, 30th June 1892.

Sir,

I AM directed to acknowledge the receipt of your letter, No. 389 A., dated 23rd April 1892, in which the Board recommend the revival of the Patwari Bill which was introduced into the Bengal Legislative Council on the 14th February 1885 by the Honourable Mr. A. P. Macdonnell, but was subsequently stopped by the orders conveyed in the Secretary of State's Despatch, No. 21, dated 15th July 1886. The Lieutenant Governor will at once say that he is not prepared to support the proposal to revive that measure. From a perusal of the previous correspondence, and from all that he has heard, he is satisfied that the patwaris have altogether failed to give satisfaction ; they have

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\* Enclosure 2, *infra*.

† Referred to in Enclosure 1, *supra*.

have long since ceased to fulfil the functions of a patwari under Regulation XII. of 1817, and the present system of dual control, as it now exists under that Regulation, has been universally condemned. He is also very disinclined to propose the legalisation of the cess of half an anna in the rupee of rent which he understands to be now commonly levied by the zamindars from their tenants on account of the payment of the patwari, or to advocate the levy of any portion of such a cess from the zamindars as was contemplated by the abandoned Patwari Bill.

2. I am now to put forward the following scheme, in which an attempt is made to combine the two plans suggested in my letter of 22nd February 1892, for the consideration and criticism of the Board of Revenue and of the collectors of the North Behar districts, and such other officers and private gentlemen as they may think proper to consult; explaining, however, that this is only a sketch the details of which have to be filled up, and that the Lieutenant Governor is aware that many practical difficulties may arise in working out the details. It is for the solution of these difficulties or the substitution of a better plan that he specially invites the assistance of the Board.

3. In the first place it is desirable to explain the Lieutenant Governor's view as to the object to be aimed at. The settlement record having been framed at great expense and with much labour, it is obviously desirable that it should not be allowed to become obsolete, but should be kept up to date by recording changes as they occur. There are two principal classes of facts recorded in the settlement papers—the rights of proprietors and the rights of tenants. Provision has already been made by the law for recording the changes in proprietary right, both as to names of proprietors and extent of interest, and they are believed to be sufficient for the purpose. Not only is the registration of all transfers of proprietary right, except for those of extremely small values, compulsory, but proprietors are also bound by a self-acting penalty to apply for mutation of names: an intermediate register of such mutations (Register D.) is kept up, and from time to time alterations are made in Register A., the general register of proprietary rights, in accordance with the entries in Register D. It seems clear that our object should be to devise a similar system for the record of changes in the names and rights of tenants (using the word in the wide sense of Section 4 of the Bengal Tenancy Act); the registration of all transfers, whether by inheritance, sale, or mortgage, should be made compulsory; a register of such mutations should be kept up; and year by year a general register of tenants (corresponding to general Register A. of proprietors) should be written up.

4. It will be observed that there is one function to which the Board attach importance, but of which the Lieutenant Governor desires to omit all mention—the duty of keeping up a record of the payments of rent by tenants and the arrears due by them. In provinces where the assessment is temporary, the Government is compelled to ensure an accurate record of the rent-roll, because on it depends to a large extent the fixation of the land revenue at the next settlement. In Behar, where the assessment is permanent, no such obligation exists; and the Government is not more called on to interfere in order to secure an accurate record of the payments of rent for a tenant's fields, than it is compelled to interfere between a house-owner in Calcutta and his tenants with a similar object. It is mainly from this point of view that Sir Charles Elliott is of opinion that the first step is to clear the ground by the repeal of Regulation XII. of 1817 and the abolition of patwaris as a class of Government servants in Behar. If patwaris are abolished, the zamindars who now employ them in the collection of rents and keeping of accounts will substitute such machinery as they may require for this purpose.

5. The principal papers in the settlement record for each mauza, which will be filed in the collector's record-room, so as to be safeguarded and available for reference, are (1) the field map; (2) the khasra or field index; (3) the khatian or collected list of all tenants who pay rent to one proprietor or group of proprietors, with the area of their fields, the rent payable and the incidents of their tenure; and (4) the khewat or register of proprietors and their interests in the village. For mutations in the khewat provision has already



been made by law. We are now concerned with mutations in the khatian; and this it is proposed to effect by establishing a large number of circles in each of which there will be a sub-registrar to record these mutations and prepare a corrected khatian or record of tenancies for each village year by year.

6. It will be necessary to provide that all tenants recorded in the settlement khatian must register all transfers of their rights. The present law (Act III. of 1877), under which registration of transfers of immoveable property under Rs. 100 is not compulsory, must be amended, with this object. When the deed of transfer or the notice of succession is brought to the registration office, the procedure of Section 12 of the Tenancy Act should be followed as regards issue of notice to the proprietor, but the provision regarding the payment of a landlord's fee may perhaps be cancelled. Registration fees must be paid by the transferee, perhaps at the rate of Re. 1 for each succession and Rs. 2 for each transfer by sale or mortgage: or else *ad valorem* fees might be charged according to the present fee tables of the Registration Department, viz.:

Rs. a.		Rs.	Rs.
0 12	where the value does not exceed	-	100
1 0	ditto is between	-	100 and 250
1 8	ditto ditto	-	250 „ 500
2 0	ditto ditto	-	500 „ 1,000

Re. 1 for every additional Rs. 1,000 or part thereof, with a fixed fee of Re. 1 in cases of inheritance.

All changes thus registered would be entered in a mutation register. Where a transfer or succession has taken place and has not been registered, the fee should be doubled.

7. It will also be necessary to enact that all proprietors are required to file in the local registration offices yearly jamabandis, with all changes in occupancy or rent recorded therein. The proprietors who should be required to file these jamabandis would be the persons, and their successors (or in the case of groups of persons a representative of them), in whose names the settlement khatian, or the different parts of it, are drawn up, the word proprietor being used as defined by Section 3 (2) of the Tenancy Act. It will have to be enacted that a proprietor shall be disentitled to sue for arrears of rent any raiyat whose name has not been entered in the jamabandi last furnished. If any proprietors fail to submit their annual jamabandis in due time and form, notwithstanding the issue of such reminders and processes as may be prescribed, power should be given to the collector to appoint a special village accountant whose duty it shall be to prepare the jamabandi required, his pay and incidental costs to be recovered from the proprietor as an arrear of land revenue under Act VII. (B.C.) of 1880. Also, if it is found that the jamabandis on comparison with those of the preceding year, are incomplete or inaccurate, the registration Officer must be authorised to call for amended jamabandis, and to move the collector to take measures to have them supplied. These annual jamabandis will have to be kept with the settlement records arranged village by village in the land record offices. The form of the jamabandi should correspond to the form of the settlement khatian *mutatis mutandis*, and the Board are requested to suggest a suitable form. The annual date by which the landlords should be required to file their jamabandis will have to be fixed.

8. The rural registrar of the circle, on receiving the jamabandi, would first compare it with the jamabandi of the previous year and note all changes. He would then turn to his mutation register, and would see if those changes have been registered. If they have, the new entry would be accepted as correct. If the register shows any change which has not been registered, the registrar would send notice to the parties whose names are expunged and inserted, and would call upon them to appear and state if they agree that the transfer has been effected. If they do agree, the transferee would be liable to pay a double fee for failure to register. If they do not, the registrar would refuse to admit the change, and would direct the parties to file a mutation case in the Revenue Court.

Court. On the other hand, if the mutation register shows a transfer which the jamabandi does not record, the registrar would send notice to the proprietor that in such an entry A's name should have been expunged, and B's inserted as notified on the registration of the deed or succession notice. If the proprietor contests the transfer, the registrar will retain A's name and refer B to the Revenue or Civil Court. If the proprietor accepts the statement that a transfer has been effected, the registrar will effect the necessary correction in the jamabandi. When cases are thus referred to a Revenue or Civil Court, the decision of that Court should be notified to the registrar, and a record made in the mutation register. The jamabandi thus corrected, and containing no changes except those which are accepted by the parties concerned, or else ratified by a decree of Court, would remain the authentic record of the names and rights of tenants for the year.

9. A question is sure to arise as to the amount of authority to be attached to the entries in the jamabandis made by the rural registrars. As the jamabandis will be filed before Government officers in their official capacity, they will, under Section 74 of Act I of 1872, become public documents, will be accessible to inspection under proper precautions, and it will be open to parties to apply for extracts or copies of them. These documents will, at any rate, always have evidential value as admissions of the persons by whom they are filed. By Section 107 of the Tenancy Act the decision of the Revenue, *i.e.*, Settlement Officer, in all proceedings for the settlement of rents under Chapter X. of the Act, and in all cases of dispute as to entries in the record, have the force of a decree; and by Section 109 of the same Act every undisputed entry in the final record must be presumed to be correct until the contrary is proved. His Honour is prepared to recommend that authority be given by legislation to corrected jamabandis similar to that which has been given by the sections above mentioned to the settlement records. Beyond this he does not at present see his way, and it will remain to be seen what weight the Civil Courts attach to the evidence which the jamabandis, mutation registers, and the copies and extracts therefrom will afford. The object of the maintenance of the village records of a permanently settled tract is not primarily to benefit Government by having a detailed record made of all facts connected with the tract surveyed, but that the landlords and tenants should have the advantage of an authoritative record made and maintained by Government officers, to which reference can be made in the case of any dispute between them; indeed, not only will the record tend to facilitate the speedy disposal of disputes between them, but the very fact of its existence is likely in many cases to prevent the dispute from arising in the first instance.

10. It will evidently be necessary to multiply largely the present number of rural sub-registrars, and it is necessary to consider how many such officers will have to be created, so as (1) to place a registering office fairly close to each village; (2) to give the officer enough and not too much to do; (3) to provide him with a sufficient income from fees. We may take the Muzaffarpur district, in which cadastral survey is about to commence, as an example. It has now five rural sub-registrars, and this number must clearly be increased. Its area is 3,000 square miles, and its population about 2,700,000 persons. If we lay down that about 100 square miles should be the area for each sub-registry office, we require 30 rural sub-registrars of circles, each being the centre of a circle the radius of which need not much exceed six miles. No village would then be inconveniently far from an office. The average population of each such circle would be 90,000 people, or about 20,000 houses, and of these perhaps about 10,000 would be tenants whose mutations have to be recorded. Among these there would be (at 4 per cent. per annum) 400 deaths and successions each year, and probably an equal or greater number of transfers. These at Re. 1 and Rs. 2 respectively, would supply an income of Rs. 1,200 by fees, which would probably suffice for the pay of the sub-registrar and his office. The above figures are, of course, highly conjectural, but are offered as a basis for consideration. When the settlement records are drawn up, the true number of tenants will be accurately known.

11. It will probably be necessary to strengthen the Collector's establishments by appointing a sub-deputy Collector at the Sadar, and at each sub-division, to hear the jamabandi mutation suits; and an inspecting registration officer will

be required for each district, to be constantly on tour visiting the circle registration offices and seeing that the jamabandi work is properly performed. The cost of these officers, unless there is any surplus from the registration fees, will have to be borne by Government.

12. I am to solicit the hearty and loyal co-operation of the Board of Revenue, the local officers, and all private persons interested in the subject, in working out the details of this sketch in order to provide a complete and practical scheme of maintenance of the settlement records, which can be laid before the Government of India.

I have, &c.  
(signed) *C. E. Buckland,*  
Secretary to the Government of Bengal.

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Enclosure 3, in No. 1.

EXTRACT from Supplement to "The Calcutta Gazette," Wednesday,  
16th August 1893.

SURVEY AND RECORD OF RIGHTS IN BEHAR.

The following papers\* relating to the survey and record of rights in Behar are published for general information.

By order of the Lieutenant Governor of Bengal.

(signed) *J. A. Bourdillon,*  
Officiating Secretary.

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Enclosure 4, in No. 1.

From *J. A. Bourdillon*, Esq., Secretary to the Government of Bengal, Revenue Department, to the Secretary to the Board of Revenue; dated Calcutta, 15th August 1893.

I AM directed by the Officiating Lieutenant Governor to acknowledge the receipt of the Honourable Mr. Stevens' letter, No. 826A., dated 14th August 1893, with its enclosure.† Mr. Stevens' letter and the Minutes of Proceedings give a clear account of the deliberations of the Conference held with the representatives of the zamindars and indigo planters of Behar on the subject of the cadastral survey and maintenance of the record of rights in North Behar, and of the results of that Conference. Briefly stated, the results are that the influential and representative gentlemen who attended the Conference, while reaffirming their opposition to the survey and maintenance of the record altogether, but regarding the contingency that such opposition might prove fruitless, have admitted their preference for a system of maintenance through kanungos; that is, in the lines of the scheme proposed for criticism by his Honour the Officiating Lieutenant Governor. This preference implies the rejection of the system of maintenance through village patwaris. The expression of this preference has been accepted by his Honour as decisive between the several schemes of maintenance, and orders will be at once issued to suspend the registration of patwaris under Regulation XII., 1817, or their utilisation for survey purposes. The Lieutenant Governor understands that this decision, which has already been communicated to the zamindars and indigo-planters, has afforded them gratification.

The results of the Conference are satisfactory to the Officiating Lieutenant Governor as clearly defining the situation, enabling Government to act with greater freedom and effect, and leading to the immediate removal of all these difficulties and uncertainties as to the agency by which the survey should be made and the record subsequently maintained, which had been gathering round the operations in North Behar. These operations will now be prosecuted with

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\* Viz., Enclosures 4 to 13, inclusive.

† i.e., Enclosures 5, 6, 7, and 8, *infra*.

with vigour to a well-defined end by officers under the complete control of the Government alone, and subject to the checks and guarantees for accuracy of work which have been sanctioned by the Officiating Lieutenant Governor at his interviews with the Honourable Mr. Stevens and the Settlement Officers, and Messrs. Carey and Craddock of the Central Provinces Commission.

Measures will also be taken now to procure the necessary legal sanction to the creation of a land record agency on the lines indicated in the draft Scheme and Bill which were laid before the Conference.

Sir Antony MacDonnell desires me, in conclusion, to convey his thanks to the Honourable Mr. Stevens for the judicious and effective way in which the proceedings were conducted by him. His Honour fully endorses the praise given by Mr. Stevens to the gentlemen, official and non-official, who attended the Conference. In his reply to the Tirhoot Landholders' address on the 7th instant at Muzaffarpur, Sir Antony MacDonnell acknowledged the practical and helpful manner in which, always on the assumption that the record was to be maintained, the zamindars had co-operated with the officers of Government during the discussions and the assistance they promised the Survey Department in the shape of unskilled labour free of charge.

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Enclosure 5, in No. 1.

From the Honourable *C. C. Stevens*, Senior Member of the Board of Revenue, to the Secretary to the Government of Bengal, Revenue Department. No. 826A, dated Calcutta, the 14th August 1893.

I HAVE the honour to make the following report on the Conferences which, under the instructions of the Lieutenant-Governor, I held at Muzaffarpur on the 3rd and 5th instant with the representatives of the zamindars and indigo planters of North Behar, on the subject of the Behar survey and of the future maintenance of the record of rights.

2. Before these Conferences I informally met the Government officers employed in the tracts immediately concerned. The object of this meeting was merely to obtain such general information relating to the facts and to the wishes of those affected by the survey as the local officers could give and was not already known. No proceedings were recorded.

3. I submit full reports of the Conferences, but it is desirable that I should lay before Government a brief summary of what was said and done, and should state the points which appeared to me to have been made clear.

4. I was assisted by the Honourable H. H. Risley, C.I.E., Secretary to Government in the Revenue Department, and by Mr. M. Finucane, Officiating Secretary to the Board of Revenue and permanent Director of Land Records and Agriculture, while Mr. Lyon, Settlement Officer of Muzaffarpur acted as Secretary. To all these gentlemen I am much indebted for their valuable help. The Commissioner of Patna, the Collectors of Muzaffarpur and Chumparan, the Officiating Director of Land Records and Director of Survey, and the Settlement Officer of Chumparan, were also present.

5. On the other side, the Maharaja of Darbhanga with his manager, Mr. Bell, the Maharaja's brother Raja Rameshvar Singh, Mr. Gibbon, the manager of the Bettia Estate, the secretaries to the Behar and Tirhut Landholders' Association, Sir W. B. Hudson, K.C.I.E., president, and Mr. Macnaughten, secretary of the Behar Indigo Planters' Association, together with several other influential European and native gentlemen, represented the zamindars and indigo planters. I endeavoured to find some persons who might represent the raiyats; and it is a significant fact in considering the conditions of North Behar that no adequate representation of this class could be obtained, and consequently the attempt had to be abandoned. There probably is not a single raiyat in Behar of intelligence and education sufficient to enable him to take part in such a Conference: and the raiyats' feeling on the subject can only be ascertained by personal inquiries in their villages.

6. I opened the proceedings by saying that the intentions of Government must be understood to be unalterable on the following points, which were not therefore open to discussion :—

- (1.) The survey is to be made and record of survey and rights is to be maintained up to date.
- (2.) The record is to be a public document, the accuracy of which Government must guarantee, so far as may be practicable.
- (3.) Since the Government is thus responsible, it must not be fettered in its discretion, as to the period at which corrections of the record should be made.
- (4.) The work must be done by an agency under the complete control of Government, and independent of any interested party.

It was then explained that in order to attain these objects, the Government was anxious to know the views and to study the interest of those affected.

7. I then proceeded to sketch the two systems which had suggested themselves to Government, viz., (1) the patwari scheme, under which the unit would be the village, and the survey would be made, and the record kept up, by the patwari; (2) what might be termed the kanungo scheme, under which the survey would be made by amins, and the record for a circle of villages be maintained by an officer of higher qualifications and on higher pay. It was made clear that the former of these two plans would require legislation; the patwari would be a Government servant, appointed, controlled, and paid by Government, and the cesses now collected from the raiyats for the payment of patwaris, under whatever name, must be taken in a legal and probably altered shape. The kanungo scheme was then sketched in outline following the note which had been, under the Lieutenant-Governor's orders, previously forwarded to the Indigo Planters and Landholders' Association.

8. A discussion followed, for which reference may be made to the detailed Minutes of the Proceedings appended to this Report. It was apparent that the unofficial gentlemen present were hostile to any maintenance of the record at all. They pressed for information on many points of detail involved in either of the schemes laid before them, and to meet their wishes I distributed copies of the first draft of a Bill which had been prepared, embodying the Lieutenant-Governor's scheme of kanungos. This Bill, although prepared under the orders of the Lieutenant-Governor, had not yet been submitted to his Honour, and consequently he had no opportunity of expressing his approval or disapproval of the draft. But since it was in general accord with his views, and there was an evident desire on the part of the unofficial gentlemen attending the Conference to be informed of the methods by which practical difficulties might be overcome, it was thought less inconvenient to produce the Bill somewhat prematurely than to reserve it till instructions could be taken.

9. It was not to be expected that any opinion should forthwith be given by the Conference; and it would have been manifestly unfair to press for criticisms without giving time for consideration. The Conference was then adjourned till the 5th, after the difference between the patwari and kanungo schemes had been again explained. No original plan was brought forward by the unofficial gentlemen present, but it was suggested that, instead of attempting to maintain a current revision of records, there should be a decennial revision. Since this suggestion was inconsistent with the principle that Government, being responsible for the accuracy of the record, cannot be fettered as to the periods of revision, I was unable to permit it to be discussed as a proposal, though I directed that it should be recorded as an opinion.

10. On the 5th instant the Conference reassembled. The explanation given by Mr. Finucane of a remark made by him at the previous sitting led to a short discussion regarding the sanction proposed in the Bill for enforcing the communication of information as to transfers. The general feeling among the unofficial members was that the provision was open to objection, as giving the sub-kanungo a lever which he might use for purposes of oppression. It was obviously impossible to promise that no power of punishment for passive obstruction

obstruction should be retained in the Bill, but it was explained that the details were open for consideration, and that any reasonable modifications which could be suggested were likely to be adopted.

11. I then read an extract from a letter written by Mr. Gibbon, on 24 October 1878, to the President of the Behar Rent Committee. The advice given in this letter, as I pointed out, depended on the following principles:—

- (1.) It is right that Government should have at its disposal a local agency of contemporaneous record.
- (2.) That agency should have no connection with the collection of rents, but should be entirely at the service of Government, and should be nominated and paid by Government officers.
- (3.) It is reasonable that the zamindars should pay at least a share of the necessary expenditure direct into the Government Treasury.
- (4.) It is possible to secure, consistently with due economy, the services of efficient men.
- (5.) The areas to be dealt with by these record-keepers should be readjusted, and the district divided into convenient and fairly uniform circles considerably larger than those of the existing patwaris usually are.
- (6.) The present staff of patwaris should be placed at the disposal of the zamindars, to keep or to dispense with at their option.

These considerations, I pointed out, are exactly those on which the Bill under discussion is founded.

12. I regretted that Mr. Gibbon was not present, but I had mentioned to him personally my desire to bring his letter forward, and he was aware that I attached much importance to it. I had abstained from reading it on the first day, partly because I had feared that it might lead to irrelevant discussions, and especially because it seemed undesirable to take Mr. Gibbon at a disadvantage or to forestall and hamper him in anything which he might wish to say. After I had read the letter, Mr. Macnaughten, by Mr. Gibbon's authority, said that circumstances had changed since 1878, and that Mr. Gibbon had claimed the right to change his opinions; Sir William Hudson further attributed Mr. Gibbon's change of opinions to the state of the law regarding the transfer of raiyats' holdings.

13. My object in reading the letter and laying stress on it was not to deny Mr. Gibbon the right to change his views, but to show that the scheme now brought forward was in precise accordance with that which had commended itself to one of the most valued unofficial advisers of Government, who even 15 years ago had had large practical experience. To me, I may remark in passing, it does not appear that the reasons given for a change from those views are adequate. The law as to transfers of occupancy rights has not been changed. If such transfers have become more numerous, surely the necessity for recording them has increased. And if the country is being surveyed and rights ascertained and recorded, it should be easier and less expensive to maintain the record. On the other hand, the interference of Government with the zamindars will be less under the Lieutenant-Governor's scheme than under the scheme which Mr. Gibbon proposed, since it is not now intended to register collections of rents.

14. The members of the Conference were next informed that His Honour the Lieutenant Governor had now seen the Bill which was produced at the former meeting, and had accepted it as a provisional basis of legislation, with certain modifications which were read and explained, and will be found reproduced in the Minutes of the Conference. Under the authority which had been given to me, I announced that Sir Antony MacDonnell would, if desired, be happy to come to the meeting and discuss any suggested amendments of the Bill. It was, however, considered unnecessary to trouble His Honour to do this.

15. I then asked whether the gentlemen present could now give me their opinion as to which of the schemes was to be preferred. The reply was given that, though those present could not bind absent interested persons, they were themselves of opinion that the kanungo scheme was the lesser of the two evils which were presented to them. This expression of preference, taken with the absence of any counter scheme of maintenance from the zamindars was all that the Lieutenant Governor asked for in his speech at the Bankipur Durbar, and under these circumstances I said that I was prepared under the Lieutenant Governor's instructions to stop all further action in the direction of the registration and training of patwaris, and pointed out that the entire abolition of the patwari system is involved in the kanungo scheme. This announcement appeared to give satisfaction.

16. The discussion then fell upon the question of the area to be dealt with by the kanungos. It was desired that this should be as large as possible, that a superior class of men should be employed, and that the corrections should not be made annually. The landholders were assured that these expressions of opinion would have full weight given to them, and it was understood that Government would extend the area to the maximum consistent with efficient work. Speaking only for myself, I said that I could not advise that so large an area should be at first adopted as to produce any risk of failure. The work must first be made safe, and the details might afterwards be modified by the light of experience. I declined to promise that the corrections should not be made annually, since it is a fundamental part of the scheme that this must be left to the discretion of Government.

17. The Maharaja of Darbangha then asked that the Lieutenant Governor's notes might be regarded as part of the proceedings, and that the zamindars might be favoured with as full an exposition of the views of Government as could conveniently be given. This was assented to.

18. It was once more pointed out that, subject to the four principles stated in paragraph 6 above, which are insisted on by Government as fundamental, all details, however important, are open to discussion, and that His Honour the Lieutenant Governor is most anxious to receive all the assistance which the practical experience of those interested can afford him, in order to make the working of the proposed arrangements as little inconvenient as possible. In breaking up the meeting, I then, on behalf of Government, thanked the gentlemen present for their attendance, and acknowledged the courtesy which had lightened my own labour.

19. As the Conference was rising, a further conversation took place between some of the members and Mr. Finucane on the subject of the provision by the zamindars of coolies for the survey, the Lieutenant Governor having, it was understood, expressed the hope to several zamindars, at his interviews with them, that help in this direction might be given so as to lighten the cost of survey. The offers then made were subsequently confirmed by an official letter from the Secretary to the Tirhut Landholders' Association, a copy of which is appended to this letter.\*

20. The general results of the Conference appear to me to be these :--

- (1.) It was made perfectly clear that the Government would insist on the maintenance of the record of rights up to date as necessary to secure permanent benefit from the original operations. It was made clear that the record should be maintained by a Government agency independent of all parties, and that a revision at the end of five or ten years was an arrangement which the Government could not accept while remaining responsible for the accuracy of the record as representing existing facts.
- (2.) It was evident that, though the interests of the zamindars and the indigo planters are not uniform, and perhaps in some instances conflict, both these classes object to the annual maintenance up to date of the record of rights. They would rather that the records

\* Enclosure 8, *infra*.

should not be maintained at all. Next to this they would prefer a revision after long periods, say of five or of ten years.

- (3.) Of the two schemes suggested to them, they prefer that of the kanungo dealing with larger areas to that of patwaris dealing with villages.
- (4.) The announcement of this preference enabled us to make the immediate concession, that the existing patwaris shall not be made use of for the purposes of the survey and shall remain free for the performance of zamindari duties. The concession was received with satisfaction by zamindars and planters alike.
- (6.) We were able to show that the adoption of the kanungo scheme would involve the repeal of the Patwari Regulation, XII. of 1817 (a measure which would probably be satisfactory to zamindar and planter), provided that an efficient mode of maintaining the record of rights can be brought into operation.
- (6.) I hope that it was made quite clear that the Government, while adhering to the principles laid down, will consider, and adopt if possible, all reasonable proposals intended to meet the wishes, or guard the interests, of those affected.

21. The main objections put forward to the introduction of any scheme were (1) the interference, (2) the cost, and (3) the probable dishonesty and exactions of the establishments. As the kanungo will have nothing to do with the collection of rent, or recording such collection, or with the letting of land, but will only deal with the maintenance of the record as completed by the survey, whereby all parties will have a standard of right to which to appeal, and as besides he will be closely supervised by superior officers, the interference will be reduced to a minimum, and it will be certainly less than that authorised by the existing patwari regulations. The landlord's share of the cost, though to large zamindars it may be considerable, simply because they possess large property, will be small to other classes, and every effort will be made to avoid needless expenditure. Among other things it is under consideration whether the fees and fines under the Land Registration Act, VII. (B.C.) of 1876, may not be credited to a district fund for the maintenance of these land records. And after all, though that part of the expense which will not be recovered by registration fees, &c., will have to be met by a cess, the amount so raised will be much less than that now levied with doubtful legality for or by the patwaris. At the present time a zamindar has a patwari in every village, it is understood. When the record of rights has been prepared and is maintained, the duties of the patwaris will be diminished; and it will probably be possible for a zamindar to do with fewer men than he now employs. Sir William Hudson, who has an intimate knowledge of the needs and condition of the raiyats, has publicly stated his opinion that they will gladly pay a rupee an acre for copies of the original record relating to their holdings. If this be so, they are not likely to object to pay their share at the rate of half an anna or so per acre per annum for its maintenance. It is too much to hope that there will be no instances of dishonesty or exactions; but the landholders of North Behar possess great power and influence, and are in no way deficient in energy and courage, so that we may confidently look to them to report all instances which may come to their knowledge of malpractices directed to the injury of their raiyats and themselves. I cannot but hope that on further examination the force of these objections will prove to be less than it at present appears to them.



## Enclosure 6, in No. 1.

PROCEEDINGS of a Conference held at Muzaffarpur on 3rd August 1893.

## PRESENT:

The Honourable C. C. Stevens, Member of the Board of Revenue, Lower Provinces (in the Chair).	W. D. Blyth, Esq., Collector of Champaran.
The Maharaja Bahadur of Darbhanga, K.C.I.E.	W. C. Macpherson, Esq., Officiating Director of Land Records and Agriculture, Bengal.
Raja Ramesvar Singh Bahadar.	E. Macnaghten, Esq., Secretary, Bihar Indigo Planters' Association.
A. Forbes, Esq., Commissioner of the Patna Division.	Babu Guru Prasad Sen, Secretary, Bihar Landholders' Association.
The Honourable H. H. Risley, C.I.E., Secretary to the Government of Bengal in the Revenue Department.	Babu Ram Dhari Sahai, Secretary, Tirhut Landholders' Association.
Sir W. B. Hudson, K.C.I.E., President, Bihar Indigo Planters' Association.	Rudston Brown, Esq., Indigo Planter.
Colonel Sandeman, Director of Bengal Surveys.	R. Macrae, Esq., Indigo Planter.
M. Finucane, Esq., Officiating Secretary to the Board of Revenue.	E. G. Colvin, Esq., Settlement Officer, Champaran.
T. Gibbon, Esq., C.I.E., Manager, Bettiah Raj.	Babu Parmesvar Narain Mahtha.
Henry Bell, Esq., Manager, Darbhanga Raj.	Babu Mangal Pershad.
L. Hare, Esq., Collector of Muzaffarpur.	Babu Ramesvar Narain Mahtha.
	Babu Jamuna Pershad Sukul.
	Babu Sridesvar Narain Mahtha.
	P. C. Lyon, Esq., Settlement Officer, Muzaffarpur, Secretary.

MR. STEVENS, in opening the Conference, said:—

I have been directed by the Lieutenant Governor to meet you for the discussion of the best means of making and maintaining the survey and record of rights in North Behar.

I may say frankly that it has come to my notice that two nearly opposite doubts have been expressed regarding the objects and procedure of Government in this matter. Some appear to think that the Lieutenant Governor has come down with his officers, bringing schemes cut and dried, and determined to adopt them, merely asking for the assent of those interested. Others think that there is nothing definite before them, and that they run the risk of being required to commit themselves prematurely to an opinion on propositions of a vague and shadowy nature. Neither of these apprehensions is well founded.

The points which may be taken at the outset as settled finally and definitely are (1) that the record of survey and of rights is to be maintained; (2) it is to be a public document, the authenticity of which the Government must guarantee, so far as this is practicable; (3) and since the Government is thus responsible, it must not be in any way fettered in its discretion as to the period at which correction of the record should be made; (4) and, lastly, this is to be done by an agency under the complete control of Government and independent of any interested party.

As to the best method of attaining these objects, his Honour the Lieutenant Governor is anxious to know the views and to study the interests of those who will be affected. The key to his position is to be found in the last paragraph of his reply to the landholders' address:—"Gentlemen," he said, "I do entreat you to regard the question in a considerate and conciliatory spirit. I am here to discuss every point with you in a friendly and amicable way. I will do everything I can do within reason and the law to meet your wishes; and if only you will meet me in a similar spirit, as I feel confident you will, then I do think that between us we shall be able during the next few days to arrive at a reasonable understanding and a workable agreement on the matters that have to be settled between us." These are not the words of a Government which is prepared to neglect or refuse advice.

Two plans have been under consideration, viz. (1) the use of the patwaris registered under Regulation XII. of 1817 to make the survey and to maintain the record, and (2) the employment ofamins for the survey and of a special agency for maintenance. As to the former, it may serve to clear away some misapprehensions if I say at once that the retention of the present patwari in his

his existing relations is not proposed. If retained at all, he would be made a Government servant, subject only to the orders of the officers of Government, and liable to transfer or removal by them. The extent of the area assigned to him would be reconsidered and readjusted. The cesses levied for the patwaris' remuneration, under whatever name, must be taken for him still, though in a legal and probably altered shape. It is recognised that Regulation XII. of 1817 must be revised so as to secure the above objects, though the Government is advised that the Regulation, as it stands, gives it a right to the services of the patwari, for the purpose of ascertaining and of recording facts connected with the villages, such as would be recorded in the record of rights, and that this right (though fallen into practical disuse) still exists legally. The Government is entitled to require the patwaris to give assistance and information in framing the record and in ascertaining the identity, and measuring the area, of the various plots of land in the village, to the extent of their ability. The exercise of these powers under the Regulation as it stands, especially under the unfavourable conditions which have gradually grown up, would, however, be involved in difficulty; and the dual control which it recognises would be adverse to efficiency, even though there were no objections. If, therefore, the patwari agency is to be employed, it must be under considerably altered conditions.

The other scheme which has been suggested is that there shall be an unit of area. The unit of area is the circle of villages—the circle will contain, perhaps, 20 villages—instead of the single village. The circle officer will be, not the patwari, but a more highly qualified and better paid Government official, and the information to be recorded will be reduced to the minimum necessary for supplying adequate information as to the actual occupation of each field, its area and soil quality, the status of the occupier, conditions of occupation, and the rent and rent-rate payable. The scheme leaves the question of rent payment to be settled between the tenant and landlord without any intervention on the part of the Executive Government. There will be only one statistical statement maintained “the jinswar,” which is not directly concerned with the relations of landlord and tenant, and which may be said to have more of an administrative than of a fiscal aspect. The following is an extract from the Lieutenant Governor's note on this scheme:—

“The importance of careful supervision in such a scheme as that under notice cannot be over-rated. I would therefore group the sub-kanungos' circles into circuits (of, say, 20 circles), to be placed under a kanungo on 50 rupees per month, whom I would include in the subordinate provincial service. The entire land record staff of the district I would place under a Sub-Deputy Collector. The following estimate of total cost for an average Behar district is therefore tentatively proposed:

	Rs.
120 Sub-kanungos - - - - -	3,000
120 Chainmen muharrirs - - - - -	1,200
6 Kanungos - - - - -	300
1 Sub-deputy collector - - - - -	175
	<hr/>
	4,675
Pensionary charges at one-fifth - - - - -	935
	<hr/>
Per mensem - - - - -	5,610
	<hr/>
Per annum - - - - -	67,320
Tour expenses - - - - -	2,500
Stationery and survey appliances - - - - -	1,180
	<hr/>
Total - - - - -	71,000

“As establishments have a tendency to grow, and as it might be found desirable to employ senior officers as District Land Record Deputy Collectors, this estimate might in time be exceeded. But it ought, I think, never to go beyond 75,000 rupees per annum.”

I may, to prevent all risk of misunderstanding, repeat in other words what I have already said. The discussion must postulate the maintenance of the

record. This is not an open question. The record will be a public document, the authenticity of which the Government must guarantee so far as this is practicable. The Government must, therefore, not be in any way fettered as to its discretion to have annual corrections of the record, if it so decides.

The agency by which the record is to be maintained may be an agency dealing with (a) individual villages, or (b) circles of villages. If the former be decided on, the unit of agency would be the patwari. If the latter be decided on, the unit of agency would be the circle kanungo. In either case the officer would be a whole-time Government official, entirely independent of any other control.

If the patwari is decided on, the control exercised through him by Government will be close and continuous; and he may be required to furnish any information or statistics required by Government in regard to his village for administrative, judicial, or other purpose. The patwari will not be at the disposal or control of the zamindar for any purpose whatever. He will have nothing to do with the collection of rent. But all arrangements connected with the land or the tenants must be brought on his records.

His pay will be levied from the zamindar and raiyat. It is believed that no more will be needed than the raiyats now pay for this purpose in the shape of *neg*, where the *neg* has not been already consolidated with the rent, or than what they pay for the purpose, though disguised as an addition to the rent, where the *neg* has been incorporated with the rent.

The landlords must make their own arrangements for rent collection.

If the circle kanungo be decided on, the information to be brought on record and the inquiries to be made into village economy from time to time will, of course, be less. And in this case the pay to be given to the officer will be higher; and generally the status of the officer will be better. The control to be exercised over the circle kanungo will be constant, and such as the Government deems adequate for guaranteeing the accuracy of the records.

When the agency is settled the character of the maintenance will have to be discussed. The principle to be insisted on here is that we shall make the map the basis, and that we shall work up from the occupancy of every field to the landlord.

In conclusion, Gentlemen, I would note that it is necessary for us to decide first by what agency the record is to be maintained, before we discuss what agency we shall employ to make it.

Mr. Bell said he was not quite sure that he understood the proposal as regards patwaris. If it was intended that they should cease to do any work for the zamindar, how were they to be paid?

Mr. Risley said that the method that would very likely be adopted was the addition of  $\frac{1}{4}$  anna to the road cess now levied, calculated on the present road cess returns. Where the patwari *neg* had not been consolidated with the rent, a share, probably a half, would perhaps be levied from the raiyats.

Mr. Bell said that, as far as he knew, no patwari *neg* was levied.

Mr. Gibbon said that Government appeared to be under a misapprehension as to the nature of the patwari *neg*. It seemed to be assumed that the zamindar collected this cess from the raiyats and paid the patwari from the proceeds. This was not the case. The patwari was the person who levied the cess, which was called by different names in different villages, and he collected the cess himself. In some villages he had recently taken to entering the amount of this cess as a footnote to the jamabandi, but the zamindar never fingered it. He believed that whether Government took away collections from the patwari or not, he would continue to collect his cess from the raiyat.

Mr. Finucane said that Mr. Gibbon's account of the cess might be presumed to be correct in reference to Champaran, but that this would make no difference to the scheme.

Mr. Bell, on the other hand, considered that the point was a most important one. Although the zamindars were to get no benefit from the patwari, they were to have to pay for him. He asked why they should have to pay at all when no cess had been consolidated with the rent. They had no concern with mere matters of general administration, which should be paid for by the whole community.

Mr. Gibbon protested that Government was still assuming that the raiyats paid the cess to the zamindar.

Mr. Risley

Mr. Risley said that the effect of the High Court judgment in the matter of patwari *neg* had been to give them a *tabula rasa*, and any scheme now proposed would have to be a wholly new one.

Mr. Bell said that the arrangements for payment would in fact amount to the imposition of a patwari cess.

Mr. Finucane concurred.

Mr. Bell said that the zamindars were not at present in a position to express any opinion on the schemes. His Honour the Lieutenant-Governor in writing demi-officially to Sir William Hudson had promised them a scheme combining the minimum of expense and the minimum of interference. At present they had no knowledge of the details of these schemes. How was the sub-kanungo going to perform his duties? What powers were to be given to him? Was he to be authorised to go into the villages, summon all the raiyats, call for papers and books, &c. &c.? It was most important that such points as these should not be reserved for future determination, but should be decided first. Again what validity was to be given to these men's corrections? They had no information on these points, and would be glad to see the two schemes drawn up in Bill form, and to be given time to consider those Bills.

Mr. Risley inquired whether they were prepared to consider the schemes at once if they should be put before them in Bill form.

Mr. Bell could not promise this, and said that the action to be taken now was too important to be hurriedly decided on, as any scheme now adopted would probably be extended later on to the whole of Bihar and to Bengal as well.

Mr. Risley then explained further the details of the second, or kanungo, scheme. He claimed that it prescribed the minimum of interference. The irreducible minimum of that interference was the year-by-year correction of entries affecting the possession, area, &c., of the fields in each village. The minimum of expense was secured by making the area to be dealt with by each sub-kanungo as large as possible. In the matter of legal validity it was necessary to go back to section 119 of the Bengal Tenancy Act, and to consider what the legal validity was which was attached to the original entries made in the record. This was the starting point. The original entries were of two classes, (1) disputed, and (2) undisputed. The High Court had declared that the decisions arrived at in the matter of disputed entries were *res judicata*. The undisputed entries were merely presumed to be correct until the contrary was shown. The corrections would similarly be divided into disputed and undisputed entries. The undisputed corrections to which both parties agreed would stand on the same footing as the original undisputed entries, and the burden of proof that they were incorrect would lie on the person contesting them, whereas, in the case of disputed entries, the statements made by each party would be noted by the sub-kanungo, and a contemporaneous record would thus be secured of the allegations made on each side, *valeat quantum*, admissible in evidence, but not creating any legal presumption whatever.

Mr. Bell contended that such entries could not be made evidence, as being *res inter alios acta*.

Mr. Risley went on to say that, if it was objected that no legal presumption should attach in any case to an unverified entry made by a sub-kanungo, there was the alternative of having every entry made by him attested by an officer exercising the powers of a Revenue Officer under the Tenancy Act, during an annual revision. The officer in this case would be of equal rank with the Settlement or Assistant Settlement Officer who framed the original record, and it would be proposed to attach a legal presumption of correctness only to those entries which had been verified by him, and to attach no importance to unverified entries. But this development of the scheme would of course somewhat enhance the cost.

Mr. Bell said he would be glad to see all these proposals down on paper.

Sir William Hudson inquired whether the officials present were pledged to act on lines already laid down for them, or were free to give their own views on the schemes under discussion. He said that he and others with him required assistance in dealing with such administrative schemes, and that there were many non-officials who would give much weight to the opinion of officials who had had practical experience of the difficulties to be met with in the field.

Mr. Finucane pointed out that the two schemes were very similar, and that

the choice lay merely between the employment of small men in small areas, and the employment of more important and better paid men in larger areas. Did the gentlemen present want large or small areas as units?

Sir William Hudson inquired whether Government was prepared to accept and debate any scheme other than those now proposed?

Mr. Risley replied in the affirmative, but added that Government would reserve the right to declare that any scheme that might be proposed did not amount to maintenance of the record at all.

Mr. Stevens repeated the limitation referred to in his opening speech, on which Government had determined, and said that the Lieutenant-Governor was anxious to receive the views of non-officials.

Sir William Hudson said that the non-official would be glad to have the opinion of officials of practical experience as to whether they be believed in the present schemes and anticipated their success.

Mr. Forbes remarked that Government had had the benefit of the opinion of such officials before propounding the present schemes.

Mr. Stevens added that the present meeting had been called in order that Government might ascertain the facts and hear the opinions of non-official gentlemen interested.

Mr. Bell was afraid that time was being wasted, as no real discussion could be entered upon until the details of the scheme had been considered. There being no reporters present, mere verbal statements could not be accepted by the zamindars. Sir Charles Elliott had promised the abolition of the patwari.

Mr. Risley said that any such promise was conditional on the acceptance of the scheme then under discussion, which had been abandoned.

Sir William Hudson concurred.

Copies of a draft Bill, with rules to be made under it, were then distributed to the gentlemen present as being a first sketch of the kanungo scheme.

Mr. Gibbon then inquired whether the sub-kanungo would not form some sort of court, how he was to compel the production of evidence, and what he was to do when evidence was persistently withheld from him. He contended that no case had yet been made out for the maintenance of the record at all, but that if it was to be maintained, they must choose whichever scheme appeared to them to be the lesser evil. How could they do this with no details before them? How was evidence to be taken? Would the sub-kanungo have power to summon him (Mr. Gibbon) and to call upon him to produce papers. If he refused, was he to be fined?

Mr. Risley said that all these points would be provided for in a rule-making section, and that all rules drafted under the section would be published for criticism, and that all criticisms would be considered by the executive authorities.

Mr. Bell intimated that the zamindars would be more strongly opposed to the Bill if power were to be given to the executive to make rules to carry out its provisions.

Mr. Finucane said that all of the points raised by Mr. Gibbon would be found to have been answered in the Bill and the rules drafted under it.

Mr. Gibbon inquired further whether the courts would accept the entries as evidence without the evidence of the man who made them.

Mr. Finucane said that this was provided for, and proceeded to explain that a safeguard had been introduced into the scheme in the provision made for the filing of lists of changes to be made in the record in the sub-kanungo's office. In this way a zamindar would be able to place on record his opinion as to the alterations which the sub-kanungo should make. The deputy collector would go into every village and verify every entry in detail.

Mr. Bell asked what would happen if no one appeared before the Deputy Collector or sub-kanungo, or if the raiyats and zamindars all agreed to conceal alterations and to announce that there were none to be made.

Mr. Finucane said that in such cases no changes would be recorded.

Mr. Bell contended that in that case the scheme would not secure the maintenance of the record, and said that in the North-Western Provinces raiyats and zamindars combined to deny the existence of changes in order to get rid of the harassment of the Government agent who was deputed to record them.

Mr. Risley and Mr. Finucane believed that the parties to changes would not adopt

adopt this attitude as soon as they appreciated the advantages that they would obtain by having the corrections made.

Mr. Finucane said, in answer to Mr. Gibbon, that all transfers of holdings or portion of holdings that were alleged to exist would be noted, even if they were illegal, but that such entries would in no way operate to legalise them.

Mr. Gibbon further inquired whether the record was to be binding as between zamindar and raiyat only, or as between raiyat and raiyat also. Were all mortgages, zar-peshgis, and the like to be recorded, even though they were illegal without the zamindar's approval?

Mr. Finucane said that all these points were to be found in the Bill and the rules under it. All mortgages involving possession would be noted.

Mr. Bell inquired what difference there was between the two schemes.

Mr. Finucane said that any Bill and rules that might be drafted to give effect to the patwari scheme would be very similar to those in the hands of the gentlemen present. There would be a change in the area of the unit, in the personality of the agent, and in the method of realising the cost of the maintenance of the record. The patwari scheme would be the more expensive. Both schemes were purely tentative; Government would be prepared to accept any better scheme if one can be put forward.

Mr. Risley added that the tendency under the patwari scheme would undoubtedly be towards greater interference. The area dealt with by each patwari being small, he would be asked for more elaborate information about it, and would probably be called on for local reports in judicial matters, and for census and other statistical information useful for administrative purposes. It would be impossible to ask for all these statistics from men dealing with the larger areas that were to be given to sub kanungos.

Mr. Bell understood that the zamindars were to have nothing to do with the patwari or his returns or his statistics, or indeed with his work in any way, but were to retain the privilege of paying for him.

Mr. Risley and Mr. Finucane agreed that the zamindars would not be called upon for any returns or statistics of a general character, but added that the zamindars and raiyats alike would be benefited by the operation of the scheme, and would be asked to pay in equal shares for the benefit derived.

Mr. Gibbon then inquired whether Government would devise some summary procedure for the recovery of rent.

Mr. Risley said that it was impossible to devise any such procedure until the maintenance of the record had been secured.

Mr. Gibbon asked whether Government would promise to devise some such procedure, if the zamindars agreed to the proposals made for the maintenance of the record.

Mr. Risley said that no such promise could be given, and that Government could not go beyond Sir Charles Elliot's statement in Council that "he hoped it might be possible" to devise such a scheme.

Mr. Gibbon wanted to know what security they had that Government would not go beyond their present requirements in the matter of returns and statistics, and that interference would always be at a minimum. He contended that no one could pledge Government to this.

Mr. Finucane referred to the draft Bill, and pointed out that everything done under it must be confined to the record of transfers and to subjects connected with the maintenance of the record of rights. Obviously if any summary procedure could be devised at all it could not be till we got rid of disputes. The first step to shortening procedure is to minimise the possibility of there being matter left to dispute over; the record of rights, and the scheme for its maintenance aim at effecting this object.

Mr. Gibbon feared that interference would certainly increase.

Babu Parmesvar Narain Mahtha cited as an example of increasing interference a recent addition to the road cess return form which required the entry of rates of rent—a completely new departure.

Mr. Bell thought that the instance showed the danger of trusting to the generalities that were being freely expressed.

Mr. Risley inquired what Mr. Bell would regard as an ideal method of maintaining the record.

Mr. Bell said that he agreed with Mr. Gibbon and Mr. Macnaghten that a periodical revision should be made at intervals of 10 years, and that no further attempts should be made to devise a scheme that it was impossible to work.

Mr. Stevens said that this could not be taken as a proposition, but merely as an opinion.

The Maharajah of Darbhanga said he could not express any opinion until the papers had been circulated among the members of the Behar Landholders' Association and he had received their replies, but he would prefer Mr. Bell's suggestion for the periodical revision of the records if they were to be kept up at all.

Sir William Hudson agreed, but wished to add:—"Unless Government is prepared to give us a summary procedure for the recovery of rent."

Mr. Gibbon agreed, but wished to add:—"If Government insist, against our opinion, on the maintenance of the record by any other means, I would prefer the scheme suggested in the Government Letter of June 30th, 1892."

Babu Ram Dhari Sahai agreed with Mr. Bell's suggestion.

Mr. Risley inquired whether, if Mr. Bell's suggestion could not be accepted by Government, the gentlemen present were prepared to offer an opinion on the schemes that had been submitted to them.

Mr. Bell and the Maharajah of Darbhanga expressed their inability to give a personal opinion on the point at present, as time was required to enable them to circulate the scheme among the members of the Bihar Landholders' Association.

Mr. Stevens inquired whether the opinions that had been expressed preferring a decennial revision were also liable to modification after further consideration.

Sir William Hudson said that those opinions were a plain and clear answer to a definite question propounded by Mr. Risley.

The Maharajah of Darbhanga in reference to his opinion on that point cited the case of the records of his own villages which were surveyed in 1878, and had recently been re-surveyed, and in which very few alterations were found to be necessary.

Mr. Bell gave some details of those changes.

Mr. Finucane pointed out that a record that had been left uncorrected for five years would be quite useless in the courts, and that legal validity could only be secured for the record by its proper annual maintenance. Unless this were secured it would be impossible to devise any procedure for the summary recovery of rents or for simplifying the evidence under the ordinary procedure.

Mr. Bell disagreed, and expressed his opinion that the Government of India should not force the maintenance of the record on the Provincial Government when a gentleman of the vast experience of Mr. Gibbon had declared that it was impossible to secure it.

Mr. Risley inquired, with reference to the registration scheme preferred by Mr. Gibbon, what was to be done with the map. The papers could be kept up under that scheme, but not the map.

Sir William Hudson pointed out that 8 out of 10 per cent. (the figure adopted as representing probable alterations) would be succession transfers involving no alteration of the map.

Mr. Stevens then asked for an answer whether, if it be determined that the record must be maintained annually or concurrently, the patwari would be preferred to the sub-kanungo.

Mr. Finucane again explained the difference between the two schemes.

The Maharajah of Darbhanga said no answer could at present be given.

Mr. Gibbon inquired whether he was to continue to nominate additional patwaris, substitutes for unfit patwaris, and the like.

Mr. Stevens said that Mr. Gibbon should formulate his question and send it up through the Collector of Champaran, but that in the meantime no change should be made in his present procedure.

Babu Ram Dahri Sahai inquired whether the registration of patwaris was to continue.

Mr. Stevens said that further orders would be subsequently issued on this point.

Messrs. Gibbon and Bell inquired whether the draft Bill and rules could be regarded as an official document.

Mr. Finucane said it was only a first draft not yet seen by the Lieutenant Governor, but added that it had been prepared on the lines of His Honour's scheme.

Mr.

Mr. Bell thought that the details of the scheme were of such importance that he would like to know, before he considered it, whether the Lieutenant Governor approved of the draft.

As to a further meeting of the Conference, Sir William Hudson thought any such meeting would be unnecessary until at least a definite reply had been given to the suggestion that the records should be revised decennially.

After some discussion the Conference was adjourned to 8 a.m. on Saturday the 5th August.

*P. C. Lyon, Secretary.*

Enclosure 7, in No. 1.

PROCEEDINGS of a Conference held at Muzaffarpur on 5th August 1893.

PRESENT :

The Honourable C. C. Stevens, Member of the Board of Revenue, Lower Provinces (in the chair).	L. Hare, Esq., Collector of Muzaffarpur.
The Maharajah Bahadur of Darbhanga, K.C.I.E.	W. D. Blyth, Esq., Collector of Champaran.
Raja Ramesvar Singh Bahadur.	W. C. Macpherson, Esq., Officiating Director of Land Records and Agriculture, Bengal.
A. Forbes, Esq., Commissioner of the Patna Division.	E. R. Macnaghten, Esq., Secretary, Bihar Indigo Planters' Association.
The Honourable H. H. Risley, C.I.E., Secretary to the Government of Bengal in the Revenue Department.	E. G. Colvin, Esq., Settlement Officer, Champaran.
Sir W. B. Hudson, K.C.I.E., President, Bihar Indigo Planters' Association.	H. Collingridge, Esq., Indigo Planter.
Colonel Sandeman, Director of Bengal Surveys.	Rudson Brown, Esq. "
M. Finucane, Esq., Officiating Secretary to the Board of Revenue.	Rowland Hudson, Esq. "
Henry Bell, Esq., Manager, Darbhanga Raj.	A. Macrae, Esq. "
Babu Bepin Behari Bose, Manager, Hutwa Raj.	E. Stevens, Esq. "
	Babu Ram Dhari Sahai, Secretary, Tirhut Landholders' Association.
	Babu Ramesvar Narain Mahtha.
	" Parmesvar Narain Mahtha.
	" Sridesvar Narain Mahtha.
	P. C. Lyon, Esq., Settlement Officer, Muzaffarpur (Secretary).

The minutes of the proceedings of the meeting held on 3rd August were taken as read and were agreed to, Mr. Bell and Sir William Hudson having previously read and considered them and admitted their accuracy. With reference to the remark made by him (*see page 18*) that in certain circumstances "no changes would be recorded," Mr. Finucane explained that he meant that no changes would be recorded by the sub-kanungo at that time. But the draft Bill provided for further action to compel information in cases of wilful obstruction or concealment. If it were found that information as to transfers was being kept back, and all other means of obtaining that information failed, the collector would issue a notice calling for returns, and would insist on their being filed, imposing a fine for their non-production. And should the returns thus obtained prove incorrect, the zamindar would be liable.

Mr. Bell inquired whether the zamindar was to be held responsible for all inaccuracies in his returns discovered or alleged to exist by the sub-kanungo. In many cases he might be unaware of the existence of changes.

Mr. Finucane explained that it was only in cases of direct obstruction that the penal clause would come into play. The stages would be as follows:—

- (1.) The parties would or would not file returns. This was at their option.
- (2.) The sub-kanungo would go to the village and make inquiries as to changes after due notice of his intended visit to all parties concerned.
- (3.) If he could gather no information, and there was evidence to show that there had been changes, and that both zamindars and raiyats



were combined to conceal them, the sub-kanungo would report accordingly.

- (4.) The collector would then consider the report, and, if he thought fit, call on both parties to file statements.
- (5.) Then, if the parties still refused to file statements, or filed false ones, the penal clause would come into operation.

Sir William Hudson said that he thought that self-interest would prevent the occurrence of such cases.

Mr. Finucane said that his long practical experience satisfied him that as a matter of fact neither zamindar nor raiyat was ever found to resist contumaciously any reasonable procedure of the Government, and he hoped and believed they would not do so in the matter now under consideration.

Mr. Risley said that a draft Bill must be consistent and complete to stand against criticisms in Council, and that even unlikely contingencies had to be provided against.

Sir William Hudson said that he and others objected to the penal clause, on the ground that it gave the sub-kanungo a handle against both zamindar and raiyat, and that it was by using this handle that he would be enabled to extort bribes and reap his harvest.

Mr. Finucane said that the provision was not essential to the Bill, and might perhaps be modified in Select Committee.

Mr. Stevens remarked that at the last meeting they had been asked what sanction had been provided for such a case.

Sir William Hudson said that the inquiry had only been made to show that the last state of the zamindar would be worse than the first. He contended that the section would give the sub-kanungo power to harass.

Mr. Risley pointed out that he was to be checked by superior officers, among whom was the collector.

Sir William Hudson said that the collector must be omitted from consideration, as he could not be expected to exercise effective control.

Mr. Bell said that as a matter of fact the zamindars would never be disabused of their belief in the power of the sub-kanungos. They would be paid for making entries, and then, in order to avoid the payment, both zamindar and raiyat would combine to conceal changes. The sub-kanungo would also think that he could best justify his appointment and show zeal by harassing all parties for information.

Mr. Finucane said he had not wished to raise a discussion about details, but only to point out what procedure would be followed in the case of combination.

Sir William Hudson said that if the zamindar and raiyat combined and were determined to conceal changes, no procedure could be devised to make them disclose them. They wished to have the provision omitted.

Mr. Stevens then said :—At the end of our last meeting it was remarked that perhaps no further meeting was necessary till the definite orders of Government should be given on the suggestion of quinquennial or decennial revisions. I had intended to make it clear that this suggestion could not be adopted. The Lieutenant-Governor is fully persuaded that the discretion of the Government, which will be responsible for the accuracy of the record, should not be fettered by any conditions as to the periods at which corrections should be made, and he cannot accept the proposals to make these periods quinquennial or decennial.

I regret that Mr. Gibbon is not with us to-day, not only because we shall miss the benefit of his present advice and criticisms, but also because I wish to read to you a part of a letter, to which I attach great importance, written by him on the 24th October 1878, to the President of the Behar Rent Law Committee :—

“The patwari should be nominated by the district officers, be the servant of Government paid by the Government; he should be, as originally intended, ‘a record-keeper,’ and nothing but a record-keeper, entrusted with no executive powers. He should have nothing to do with the village collections, granting receipts, giving pattas and kabuliyats, &c., &c.; the zamindar should be compelled to do all this through his own servants.

“The

“The patwari being the record-keeper, the zamindar should be compelled to hand him copies in duplicate of the past year's rent-roll (*jamabandi*) and balance sheet (*wasil-baki*), the current year's ticca land accounts (*arsatta*) and instalments paper (*behri*), quarterly returns of all assessment papers (*khasras*), and also collections made (*seahas*), memoranda of lands relinquished by raiyats and new lands bandobasta with raiyats, with a list of pattas given and kabuliyats received.

“One copy should remain with the patwari, the other be signed by the patwari and returned to the landholder. The patwari should be a good accountant and know something of surveying, in case you think it necessary that all measurement of jots should be made by the patwari. The raiyat should at all times have access to the patwari's papers, and the patwari be bound to afford him all information as to the state of his account.

“Instead of each petty village of from one to two hundred rupees rent-roll having a patwari of its own, the district should be divided into circles with rent-rolls of not less than Rs. 5,000, not more than Rs. 10,000. It should be optional with landholders to dispense with the present staff of men. Half the amount of money now expended by zamindars on the present staffs paid into Government treasuries would be sufficient to secure the services of efficient men, and would be a saving to the zamindars, as it would enable them to get rid of the men who cannot afford to be honest on the small salaries they receive.

“All returns called for by district officers should represent the exact terms of the holdings, however ridiculous to them such terms may appear.”

After our meeting on Thursday I told Mr. Gibbon that I had thought of reading this letter to the Conference that day, but that I deemed it better not to do so, since I was afraid that the effect might be to lead to irrelevant discussion, and I might have added that I was unwilling to forestall him in anything he might wish to say. He replied that I might have read it, and that there was nothing in it regarding which he had changed his views as to the conditions which then existed, but that circumstances have since become altered; when the letter was written, there was no survey or immediate prospect of one. But the difference which this change has made seems to me to be at the most one of convenience rather than of principle. In other words, the suggestions then made were proper in themselves, though the survey now, in Mr. Gibbon's opinion, makes it unnecessary that they should be carried out. You will notice that the following considerations underlie those suggestions:—

- (1.) It is right that Government should have at its disposal a local agency of contemporaneous record.
- (2.) That agency should have no connection with the collection of rents, but should be entirely at the service of Government, and should be nominated and paid by Government officers.
- (3.) It is reasonable that the zamindars should pay at least a share of the necessary expenditure direct into the Government treasury.
- (4.) It is possible to secure, consistently with due economy, the services of efficient men.
- (5.) The areas to be dealt with by these record-keepers should be re-adjusted, and the district divided into convenient and fairly uniform circles considerably larger than those of the existing patwaris usually are.
- (6.) The present staff of patwaris should be placed at the disposal of the zamindars, to keep or to dispense with at their option.

These considerations, gentlemen, are, you will perceive, exactly those on which the schemes now before you is based, and the only question is whether the survey has superseded them. In the opinion of Government it has not done so.

Just before we separated on Thursday, the very natural question was asked, whether the Bill then in your hands was to be taken as official, and as representing the views of the Lieutenant-Governor. You were told in reply that it

was based on the Lieutenant-Governor's suggestions, but had not in its present form been considered by him. He has since seen the Bill, and I am authorised to tell you that he has accepted it as a provisional basis of legislation subject to the following modifications, on which he would like to be favoured with your opinion :—

- (1.) A section should be introduced (after section 12?) imposing on the transferee (or successor) of the tenure, rent-free holding, or occupancy right, the obligation (subject to penalty of fine?) to report the circumstance of transfer to the kanungo. A fee should be levied on each transfer, &c.
- (2.) The collector and registrar of assurances should be bound to report to the kanungo all mutations, transfers, &c., under Acts VII. (B.C.) of 1876 and III. of 1877.
- (3.) The fees to be levied under clause (1) above to be credited to a Land Record Fund for the district. All copying fees and fines, &c., to be credited to the same fund. [It is for consideration whether fees under the Land Registration Act VII. (B.C.) of 1876 should not be credited to the same fund.]
- (4.) The "Land Record Cess" to be subject to a statutory maximum of  $\frac{1}{4}$  anna per rupee of rent, but the *rate* at which it is to be levied to be fixed annually, with reference to the estimated income from "Fees" and "Fines." The accounts of the fund to be published annually.
- (5.) Omit the proviso to section 4 of the draft Bill.
- (6.) Consider whether the officer should not be called kanungo instead of sub-kanungo. The higher officers to have higher titles.
- (7.) The question of amending the Land Registration Act of 1876, and the Transfer of Property Act, with the view of relieving landholders from the obligation of effecting double registrations (*i.e.*, in the Land Record and the Land Registration Offices), and of giving them the option of registering in the Land Registration Office alone, to be considered when the Bill is being prepared for submission to the Government of India, previous to introduction into Council.

I will say, in conclusion, that the strength of the supervising staff, and the area of the sub-kanungo's jurisdiction, are matters still open to consideration. If it be found possible for a better paid and higher class of official to cover a larger area, this may be subsequently arranged.

Mr. Macnaghten said that Mr. Gibbon had authorised him to say, with reference to the letter that had been quoted, that he claimed his right to change his opinions, that circumstances had altered since 1878, and that he did not adhere to the opinions expressed in the letter.

Sir William Hudson said that the principal reason that had induced Mr. Gibbon's change of opinion was the state of the law as regards the transfer of raiyats' holdings. As long as that was in a fluid state he could not hold by that former opinion. He (Sir William Hudson) was personally of the opinion that in the raiyats' interest the right of transfer should be abolished.

Mr. Bell said that they preferred Mr. Gibbon's present opinions to those expressed 15 years ago.

Mr. Stevens said that he had not understood Mr. Gibbon to say that he had changed his opinions, but that the conditions on which those opinions had been based had been changed. The letter had been read from no desire to convict Mr. Gibbon of inconsistency, or to deny him the right to change his views; the object was to show that the Lieutenant-Governor's scheme was not a mere official invention, but was exactly consistent with the opinion once held by an esteemed unofficial adviser of Government of great experience.

Sir William Hudson said that he understood that the Lieutenant Governor's remarks on the Bill were all dependent on the choice that might be made by them.

Mr. Stevens agreed, and said that he was authorised to say that the Lieutenant-Governor would be quite prepared to come down to the meeting and discuss any particular points or amendments to the Bill.

Mr.

Mr. Bell thought it was not necessary to trouble the Lieutenant Governor to come.

Mr. Finucane said that the Lieutenant Governor's note consisted of a series of concessions that he believed would be acceptable to the zamindars.

Mr. Stevens then asked whether the gentlemen present could now give him an opinion as to which of the schemes was to be preferred.

The Maharajah of Darbhanga said that he could not give an authoritative reply, as he had not had time to consult the Members of the Behar Landholders' Association, but that personally, as a choice of evils, he preferred the scheme in which the agent was to have a larger area and be better paid.

Sir William Hudson concurred and asked that the complete scheme for the employment of sub-kanungos might be circulated for criticism. He then asked what executive orders were now to be issued respecting the registration and training of patwaris.

Mr. Stevens said that if the sub-kanungo scheme was the one preferred by them, he was prepared, under the Lieutenant Governor's instructions, to stop all further action in the direction of the registration and training of patwaris. The entire abolition of the patwari system formed part of the kanungo scheme.

Mr. Finucane said that the Lieutenant Governor was prepared to consider any reasonable modifications of the provisions of Section 17 of the draft Bill when it went into Select Committee. It would not be put forward as a Government proposal to be necessarily passed in its present form.

Mr. Stevens added that in all matters of detail His Honour would be prepared to consider any reasonable proposals.

Sir William Hudson said that the question of the amount of interference was of great importance to them. Many of them thought that an extension of the area of the circles, and of the period of each revision, would diminish the amount of interference. He believed that three-quarters of the transfers would be succession transfers, involving little alteration of the records, and that the work in an area of 25 square miles would be light, especially if it should not be deemed necessary to recognise as transfers petty family arrangements by which members of the same family privately divided up their lands amongst themselves. He was of opinion that the area might be extended, and that, if the period were also extended, a sub-kanungo might do the work of 100 square miles.

Mr. Finucane understood that the principle that Government would follow would be to extend the area to the maximum consistent with efficient work. Experience would show what that maximum was.

Sir William Hudson asked if Government would say definitely that no extension of time could be granted.

Mr. Stevens replied that this could not be said. Government could not bind itself as to the period of revision. In the matter of area, his personal opinion was that it would be dangerous to start by giving the sub-kanungo too large a charge, as this would involve risk of failure, but the general wish to have larger areas and fewer men, and those of a higher class, would be borne in mind; and if experience should show that larger areas could be adopted, it would be easy to make a change.

Sir William Hudson remarked that, if we began with small areas, it was improbable that those areas would afterwards be enlarged.

Mr. Risley asked whether biennial corrections would not be of less value from a landlord's point of view in Civil Court suit than annual corrections.

Mr. Stevens thought it was unnecessary to discuss these details at the present time.

The Maharajah of Darbhanga asked that the Lieutenant Governor's remarks might be put on the minutes of the proceedings, and that the zamindars might be favoured with as full an exposition of the views of Government as could conveniently be given.

Mr. Risley said that the Bill and rules would be circulated for criticism and would doubtless form the nucleus of a vast amount of literature and discussion.

Mr. Stevens said that on Thursday he had laid before them, on behalf of Government, the four principles which the Government insisted on as fundamental. The details to be found in the draft Bill and rules and in the Lieutenant Governor's remarks were on a different footing altogether. In reference to these, the Government was not only willing but anxious to obtain advice and help

help. It was completely recognised that the gentlemen present were in possession of a practical knowledge of facts which few officers of Government could acquire, and it was highly probable that even those gentlemen themselves could not fully appreciate the interests of other classes not represented at the meeting. He thanked the gentlemen present for their attendance; and on his own behalf he thanked them for making his labours easy by the friendly and courteous manner in which their discussions had been conducted.

The meeting then adjourned.

P. C. Lyon, Secretary.

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Enclosure 8, in No. 1.

From *Babu Ram Dhary Sahoy*, Honorary Secretary, Tirhut Landholders' Association, to the Secretary to the Board of Revenue, L. P.; dated Muzaffarpur, the 7th August 1893.

WITH reference to the supply of coolies by zamindars, I am directed to state as follows:—

2. The zamindars are willing to give the services of three coolies at their own cost to accompany each amin that will be deputed to survey their entire and partitioned villages, it, of course, being understood that they will be employed by the amins solely on survey work and for such length of time only as the survey will continue; their employment will be contemporaneous with the continuance of the survey, and it will cease on the evening of the day it is completed. The amins should be directed to give a receipt to each zamindar, specifying the date, time, and the number of coolies that have been placed by him at their disposal. The zamindars should have the option, on receipt of the notice proposed to be given to them by the Survey Office, as to the probable date of the commencement of the work, and the estimated number of days for which the coolies would be required, either to supply coolies or pay in a lump sum of money to the Survey Office sufficient to cover their wages. We consider that Rs. 1-13 per 100 bighas would sufficiently cover them, calculating their wages at Rs. 3 a month. On payment of such sum of money, all responsibilities of the zamindar to provide for coolies shall cease.

3. As regards coparcenary villages, any zamindar giving coolies shall be entitled to recover the amount jointly and severally from the pottidars. I am aware that there is no legal provision to that effect, but consideration might be made for it in the apportionment of costs, and on this subject I shall address you later on.

4. I may add that the advantages of the present offer would only be complete with the co-operation of the amins. As we have every desire to reduce the cost of the survey and meet the wishes of Government, we have made the offer; but as it will go to reduce a considerable amount of the profit which is now being made in the supply of coolies, you must be prepared to face considerable obstacles and opposition from the interested quarter.

5. I am directed to say that His Highness the Maharajah Bahadur of Darbhanga, Raja Rameshwar Singh Bahadur, and Mr. Rott, Manager, Nurhan estate, fully agree with the above.

6. I may add that a large number of zamindars have signed a declaration form undertaking to supply coolies for each amin while the survey is going on, or to pay in their wages to the Survey Office in a lump sum at 3 rupees a month.

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## Enclosure 9, in No. 1.

**SCHEME** for maintaining a Record of Rights in Behar, circulated to the Indigo Planters and Behar Landholders' Association, and referred to in the Minutes of the Muzaffarpur Conference.

The following draft scheme for maintaining a record of rights is submitted for criticism. Two points are reserved for further discussion, namely—

- (a) The legislation necessary and practicable to give a sanction to the scheme and provide the funds ;
- (b) The validity or effect to be attached to the corrections effected in the record from time to time.

The scheme differs in no fundamental particular from the Patwari Bill of 1885, except in regard to—

- (a) the unit of area ;
- (b) the rank and qualifications of the officers who are to deal with that unit ;
- (c) the information to be recorded.

2. In the scheme which follows, the unit of area is the circle of villages ; the circle will contain perhaps 20 villages, instead of the single village. The circle officers will be, not the patwari, but a more highly qualified and better paid Government official, and the information to be recorded will be reduced to the minimum necessary for supplying adequate information as to actual occupation of each field, its area and soil quality, the status of the occupier, conditions of occupation, and the rent and rent-rate payable. The scheme leaves the question of rent-payment to be settled between the tenant and his landlord without any intervention on the part of the executive Government. There will be only one statistical statement maintained, the "jinswar," which is not directly concerned with the relations of landlord and tenant, and which may be said to have more of an administrative than a fiscal aspect.

This plan will not yield that wealth of statistical, fiscal, and general information which a patwari system furnishes in other provinces ; but it will be an enormous improvement on the present state of things, and it will effectively safeguard the interests of the cultivator of the soil ; it will facilitate the realization of the landlord's rent, and it possesses advantages of its own in the direction of (a) economy, (b) application to areas, such as Orissa or Chittagong, in which no patwari system exists, and (c) susceptibility of effective control by a smaller supervising staff.

3. An effective system of land records involves—

- (a) field duties ;
- (b) office duties.

The field duties reduced to their simplest expression consist of (a) field inspection, (b) map amendment, (c) khasra correction.

The office duties reduced to their simplest expression, or at all events the simplest expression consistent with our objects, consist of—

- (1) Jamabandi.
- (2) Jamabandi goshwara.
- (3) Milan khasra.
- (4) Jinswar.

Perhaps, also, as I have said, No. (4) is not absolutely essential ; but it is very desirable and should be included. —I append drafts of the statistical forms, with explanations on the reverse when necessary, which, in the system I am developing, would be maintained by the registering officer, or, as I shall call him, the sub- (or circle) kanungo. The forms were prepared under my orders by a Committee of Settlement Officers in the Central Provinces, and the references are to the Central Provinces' Patwari Rules. But alterations may be necessary to suit the circumstances of Bengal.

I proceed to consider what is the smallest staff by which the duties enumerated above can be efficiently discharged.

I am informed by the Director of Land Records, who has on this point consulted Colonel Sandeman, that in Muzaffarpur, Darbhanga, and Saran there are three plots to an acre, while in Champaran and Gaya there are 2½ plots. I shall subsequently indicate a means whereby the number of khasra entries may possibly be reduced; but here I assume that we have to deal with a three-field-to-the-acre country.

4. The work of maintaining the record varies with—

- (a) the total area of the circle;
- (b) the cultivated area;
- (c) the number of khasra entries;
- (d) the local condition of the tract, *i.e.*, whether changes in fields, boundaries, possession, &c., are numerous or otherwise, and whether assistance is readily given by the proprietors, raiyats, and so forth.

From my own experience of North Behar, not very recent it must be said, and from my recent experience of this sort of work on a grand scale in the Central Provinces, I should say that mutations will occur annually in (say) not less than 5 per cent., nor more than 10 per cent., of the khasra numbers; and that an expert man of the Central Provinces' Revenue Inspector class (pay Rs. 25 per mensem) can verify 250 khasra numbers a day, or 6,250 numbers in a working month of 25 days. That means 37,500 numbers during the open season of six months, or, with three khasra numbers to the acre, say 20 square miles.

5. I have stated above that possibly the number of khasra numbers might be reduced. The smallness of the average field indicates an intention to give to each individual rice or bhadoi plot a separate khasra number. In Raipur, which is largely a rice country, the rule was that each individual rice plot should be surveyed, but that in khasra writing they might be clubbed together together into one khasra number—provided that (a) the plots are held by the same tenant in the same right; (b) that the fields were alike in soil and position; and (c) that the class of soil was not one on which double cropping was habitually practised. Although the holdings in Raipur consist of isolated plots much scattered, this method of clubbing led to a reduction of about 15 per cent. in the khasra entries. In Behar it will probably not be necessary to take the soil class and position class into account, while fields making up the holdings are perhaps not so scattered. If this be so, a still larger reduction in khasra numbers may be effected. Say that the number is reduced, then the area with which an expert officer of the stamp I have mentioned can deal during the open season will be somewhat increased, though probably not to the extent, or in so large a proportion, as the khasra numbers are reduced by the plan of clubbing plots.

	Sq. Miles.
Muzaffarpur - - -	3,003
Darbhanga - - -	3,665
Saran - - -	2,622
Champaran - - -	3,531
Total - - -	<u>12,821</u>

6. The areas of the four North Behar districts are shown in the margin, but there are, so far as I know, no authentic statistics showing the cultivated area of any Behar district. In these circumstances, perhaps, I may take the estimates of cultivated areas offered in my Report on the Food

Supply of Behar (1876) as reasonable approximations. They were in round numbers for—

District.	Cultivated Area.
	Sq. Miles.
Muzaffarpur - - - - -	2,240
Darbhanga - - - - -	2,600
Saran - - - - -	2,360
Champaran - - - - -	2,250

or

or say, 9,450 square miles of cultivation altogether. This shows three-fourths of the area to be on the average under cultivation and one-fourth waste, which is probably not far from the truth. The average North Behar district has therefore in round numbers, on these calculations, 2,360 square miles of cultivated and 840 square miles of uncultivated area.

7. The maximum number of officers necessary to maintain the record of rights in the cultivated area of such an average district would be 118. The maintenance of the record of the uncultivated land would not be onerous unless much reclamation were going on. Having regard to the possibility of clubbing plots and so reducing the khasra entries, I should say that, for the average Behar district, 120 such officers, I will call them sub-kanungos, ought to suffice. Each sub-kanungo will want a chainman in the open season.

8. Experience in the Central Provinces has shown that it takes about twice as much time to compile the statistical information as it does to complete the field-to-field inspection. No doubt on the system now being explained the statistical information will not be so elaborate as it is in the Central Provinces, still the sub-kanungos will want some clerical help during the recess months. This I propose to give them by employing literate chainmen each on Rs. 10 per mensem.

We have thus worked out a staff for each district of—

	<i>Rs.</i>
120 Sub-kanungos at Rs. 25 - - - -	3,000 per mensem.
120 Chainmen-muharris at Rs. 10 - - - -	1,200 „

9. The importance of careful supervision in such a scheme as that under notice cannot be overrated. I would therefore group the sub-kanungos' circles into circuits (of, say, 20 circles), to be placed under a kanungo on Rs. 50 per month, whom I would include in the Subordinate Provincial Service. The entire Land Record Staff of the district I would place under a Sub-Deputy Collector. The following estimate of total cost for an average Behar district is therefore tentatively proposed :—

	<i>Rs.</i>
120 Sub kanungos - - - -	3,000
120 Chainmen-muharris - - - -	1,200
6 Kanungos - - - -	300
1 Sub-Deputy Collector - - - -	175
	<hr/>
	4,675
Pensionary charges at one-fifth - - - -	935
	<hr/>
Per mensem - - - -	5,610
Per annum - - - -	67,320
Tour expenses - - - -	2,500
Stationery and survey appliances - - - -	1,180
	<hr/>
Total - - - -	71,000

As establishments have a tendency to grow, and as it might be found desirable to employ senior officers as District Land Records Deputy Collectors, this estimate might in time be exceeded. But it ought not, I think, to go beyond Rs. 75,000 per annum or thereabouts.

In this first draft I do not enter into the manner on which the sub-kanungos should perform their duties: that will fall for later consideration.

Darjeeling, June 24, 1893.

*A. P. MacDonnell,*  
Officiating Lieutenant Governor.



## Enclosure 10, in No. 1.

From *H. H. Risley, Esq., C.I.E.*, Secretary to the Government of Bengal, Revenue Department, to the Secretary to the Government of India, Revenue and Agricultural Department (No. 748 T.—R.); dated Darjeeling, the 6th July 1893.

Since taking over charge of this province from Sir Charles Elliott, the Officiating Lieutenant Governor has paid much attention to the question of the Survey and Settlement of Behar, and I am now to submit, for the consideration and orders of the Government of India, a copy of a Minute which his Honour has recorded on those important subjects.

2. It will be perceived that the chief matter upon which the orders of His Excellency in Council are required is concerned with the maintenance of the record of rights when once it has been correctly prepared. This question is touched upon in your letter No. 1022 of the 1st August 1892, which Sir Charles Elliott did not discuss with Sir Antony MacDonnell. So far as the Officiating Lieutenant Governor understood, Sir Charles Elliott was tending, just before he left India, to adopt the conclusion that the task of maintaining the record was one of very formidable magnitude and difficulty, and that in view of the inadequacy of the executive establishments available for administration and supervision, and of the opposition of the zamindars to the exercise of any control by Government over the patwari under the existing law (Regulation XII. of 1817 and Regulation I. of 1819), it was hopeless to attempt anything of the kind; but it was evident that the Lieutenant-Governor's mind was unsettled on the point. He was, however, entirely opposed to legislation having for its object the reform of the patwari system on the lines of the Bill of 1885, for these reasons—

- (a) that such legislation had been negatived by the Secretary of State;
- (b) that a patwari scheme would impose too great a strain on the administration;
- (c) that it would be unpopular with the zamindars.

There was a fourth reason in certain hopes which Sir Charles Elliott seems to have unofficially held out to the zamindars and planters, that Regulation XII. of 1817 might be entirely repealed, presumably after a sufficient scheme had been made out of maintaining the record by some agency other than that of the patwari.

3. In the enclosed Minute, Sir Antony MacDonnell has endeavoured to place the case in its historical and practical aspects fully before the Government of India, and has stated with, it is hoped, adequate clearness what his own views and recommendations are. He is very strongly of the opinion that the record, when once it has been correctly prepared, should be maintained up to date. By the survey and record the landlords will gain substantially not only in that the recovery of existing rents will be materially facilitated and its cost reduced, but by the increase of rents in cases where the survey enables the landlord to prove that the tenant is holding land in excess of the area for which he is paying rent. In a very large proportion of the holdings in Bettiah Raj it is believed that such enhancement will be feasible; and although it is hoped that the manager will not take advantage of the survey to attempt a general raising of rents on this ground, it can hardly be doubted that the fact that he holds this power in reserve will tell in favour of the Raj in any question that may arise between it and its tenants. The presumption in favour of existing rents (created by Section 104, 3) carries with it the consequence that if there be a variation of the rent, it must be in the direction of an enhancement, unless power is given under Section 112 of the Act to reduce rent (a power which it is invidious to exercise if it can be avoided, and for which the Officiating Lieutenant-Governor does not now ask). The experience already acquired in the settlement of wards' and private estates under the Act shows that on an average

average the zamindars may count upon realising a return of from 12 to 15 per cent. on the expenditure incurred. Regarded, therefore, as a mere investment, the making of a survey and record of rights is a source of substantial profit to the landlords. In Behar they will further gain by the stereotyping of *sir* or demesne lands, which play so important a part in the agricultural system of that province, and over which raiyats henceforward will be debarred from acquiring occupancy rights. The planters, who are not solely landlords, and who regard the acquisition of rights in land as merely subsidiary to the cultivation and manufacture of indigo, will find their position enormously strengthened and their initial expenditure reduced by the survey placing on record the exact nature and extent of all proprietary rights, so that in future the planter will know exactly with whom to deal when taking a lease of a village. He will also be enabled, on occasions, to ignore the zamindars and to acquire effective rights for the purpose of cultivating indigo by entering into agreements with the raiyats direct.

4. So far, then, looking at the matter from the raiyat's point of view, it will be seen that for a survey and record which will lead probably to an enhancement of their rents, and certainly to a curtailment of the area within which the rights conferred on them by the Tenancy Act can take effect, the raiyats will have to pay a sum amounting in the aggregate to one-half of the charges imposed upon the land. Clearly they have the strongest equitable claim to some substantial counterbalancing equivalent for proceedings which are likely, or which have a tendency, to produce such results. This equivalent is chiefly to be found in the maintenance of the record of rights, which if it mulets the raiyats now, will, it must be hoped, give them freedom from illegal demands and adequate protection in the future. Sir Antony MacDonnell does not deny that the survey and record of rights, especially if conducted in the way indicated in paragraph 34 of the Minute, will do some immediate good to the raiyats; and though he regrets that the operations were begun without previous provision being made for maintenance, he thinks they must be prosecuted now. But he does very earnestly urge upon His Excellency in Council that application should be made to the Secretary of State for permission to legislate for a cess of such amount as will enable this Government to create an efficient record establishment such as is detailed in the scheme marked B attached to the Minute. If the Secretary of State declines to accord this permission, then, if the record is to be maintained at all, no means are left except to organise and administer a patwari system in Behar under the old Regulation XII. of 1817 and I. of 1819, either as they stand or with the minimum of amendment that may be found necessary in order to make them workable enactments.

5. The Officiating Lieutenant-Governor is by no means sanguine that a Land Record establishment can be satisfactorily worked under these Regulations, the terms of which are in many respects obscure and indefinite, while the procedure laid down is cumbrous and antiquated. His fear is that it cannot, and that the strong and continuous opposition with which the effort to work it will certainly be met will add enormously to the difficulties which must attach to any scheme based on the Regulation. No record scheme can be satisfactory when the Revenue authorities and the Executive Government have not exclusive and complete control over the appointment and remuneration of the agency by which the scheme has to be carried out. Although the Officiating Lieutenant-Governor thinks that, if no other resource is left, an effort should be made to maintain the record under Regulation XII. of 1817, he trusts that this Government may not be placed in what he cannot but regard as a position of very exceptional difficulty and embarrassment, but that power may be conferred upon it to organise by legislation upon modern lines such a local Land Record establishment as may be sufficient for the end in view.

6. If the Government of India can see its way to expressing general approval of the views stated in the Minute, the Officiating Lieutenant-Governor will be in a position, when he visits Behar at the end of the current month, to act in pursuance of that approval, and he is not without hope that he may be able to induce the zamindars to accept a compromise and to intimate their readiness to accept Scheme B as set forth in the Appendix to the Minute. For his own part the officiating Lieutenant-Governor considers that in the

present circumstances of Behar a land record scheme which concerns itself merely with the permanent facts and conditions of tenancy, leaving the registering of payment of rent to the parties concerned, is all that need be insisted on.

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Enclosure 11, in No. 1.

MINUTE on the Survey and Record of Rights in Behar, and on the subsequent Maintenance of the Record, dated 24th June 1893.

The subjects of this paper are perhaps the most difficult and important of any now pending before the Bengal Government. I had the advantage of discussing them with Sir Charles Elliott before he went on leave, and of being placed to some extent in possession of his views on points which are still unsettled. On other points Sir Charles Elliott's opinions are to be readily ascertained from the correspondence. Since taking over charge of the Province, I have given my anxious attention to the question, and have consulted the responsible officials and several unofficial gentlemen on, I think, every phase which it presents. It is now necessary for me to state my provisional opinions on unsettled points, and to indicate the action which should be taken on them, though I retain full liberty to modify my views should I see reason to do so after consultation with the zamindars of Behar on my approaching visit to that Province. But before stating my present opinions, it will be useful to trace as briefly as may be the origin and the successive stages of the development of this question of a survey and record of rights in Behar. This retrospect will throw some light on the measures we should adopt in future.

2. It is unnecessary for my present purpose to go further back than Lord Ripon's administration, when the Government of India addressed to the Secretary of State the important Despatch No. 6 of the 21st March 1882, in which the whole agrarian question in Bengal was summed up, and the outcome of the various enquiries and Commissions that had been appointed to enquire into it set forth and formulated. One of the proposals (head XIII., paragraph 108 of the Despatch) therein made was "to take up the question of introducing throughout Bengal the system of village records and field surveys, commencing with the Patna Division." The Survey and Record of Rights now in progress in Behar are, therefore, immediately due to the initiative of the Marquis of Ripon's administration. But before that time they were among the most urgent recommendations of the Famine Commission, and had been in principle recognized in the time-expired Agrarian Disputes Act VI. (B.C.) of 1876: since then they have been supported by all the most competent officers, who have had to deal with the subject, as the only effective means of improving the condition of the Behar raiyats, whose condition appears to be more depressed than that of any cultivators in the whole of India. I may add that in the area within which the survey and record have been already completed, the peace and security which they have produced are, I understand, very highly appreciated by zamindars and raiyats alike, though as time advances and the record becomes obsolete, it may be doubted whether this gratifying state of things will be adequately maintained.

3. To the Despatch of the 21st March 1882, Lord Hartington, the Secretary of State, replied in his letter No. 54 (Rev.) of 17th August 1882, paragraph 10 of which runs thus—

"As regards head XIII., while fully admitting the advantages which would attend the establishment of village records and accounts, the formation of a record of rights and the introduction of a field survey, I cannot avoid the apprehension that the difficulties of carrying out these measures in those parts of Bengal in which village accounts and accountants, if they ever existed, have long ago entirely disappeared, even from tradition and remembrance, may prove greater than you anticipate. Your present proposal, however, merely contemplates an experimental commencement of the work in the Patna Division of the Province of Behar, where the need for it is, you think, most pressing and the conditions least unfavourable, and to this I will make no objection. I shall  
be

be glad, however, to receive full reports of the progress of the work, of the expenditure likely to be incurred, of the difficulties which may be encountered, and of the expedients by which they may, in your opinion, be overcome."

4. The Government of Bengal (then administered by Sir Rivers Thompson), whose Revenue Secretary I was at the time and for four years afterwards, was thus confronted with the most important administrative undertaking of a fiscal character since the Permanent Settlement, and it began work by considering, first, what agency, and secondly, what legislation, was necessary to give effect to the policy enjoined on it. Its consideration of the question of agency led to the proposal made in the Bengal letter to the Government of India, No. 309T.—R., dated 1st June 1883, to create a Department of Land

\* See Despatch No. 13 of 25th September 1883.

Records in Bengal. The Government of India, in forwarding\* that proposal to the Secretary of State, made the following remarks, which I quote as being the earliest opinion to which I wish to refer on the subject of the maintenance of the record of rights when once it had been correctly prepared :—

"All attempts to obtain trustworthy agricultural statistics or to maintain correct village records of rents and tenures such as are found in other parts of India have failed in Bengal owing to the decline of the patwari and kanungo system. This defect is prominently noticed in the Report of the Famine Commission, and its evil consequences have been brought clearly before us in dealing with the rent question in Bengal. We agree with the Lieutenant-Governor that legislation (on the rent question) itself will not solve the difficulties which have grown up in many parts of the province, and we think that in Behar at least a survey and reorganisation of the patwaris will be necessary when the Rent Bill passes into law. This great undertaking cannot in our opinion be satisfactorily completed without the continuous supervision of a special department ; and to avoid unnecessary delay in entering on important measures, we think that steps should be immediately taken to constitute the Department of Land Records. We have ascertained from the Bengal Government that though the measures in contemplation for the above purpose cannot be exactly formulated while the provisions of the Rent Bill are still in some respects unsettled, it hopes to be in a position to legislate on the subject (of patwaris) early next year."

5. The Secretary of State in his letter No. 24, dated 10th April 1884, sanctioned the creation of a Department of Land Records as a provisional arrangement which has since become permanent, and then proceeded to make the following remarks with special reference to the second subject, namely, legislation, to which, as stated in paragraph 4 above, the Government of Bengal had to address itself in order to give effect to Lord Hartington's orders of August 1892 :—

"It is impossible to doubt that the results of a general field survey of Bengal and the establishment of detailed village records, if they be found practicable, will be found most beneficial. But the task must be acknowledged to be a gigantic one, whether its difficulty, its cost, and the time it must take be considered, and the opposition which may probably have to be encountered on the part of both landlords and tenants, and I am unable to sanction any step with a view to so great an undertaking until I am furnished with fuller information than that which I at present possess with respect to the methods to be adopted, the expenditure likely to be incurred, and the difficulties which have to be met. These points should not be reported on without the opinion of the Board of Revenue and of the chief administrative officers having been obtained."

6. The question of legislation in amendment of the Patwari Regulation was therefore postponed pending the submission of further information to the Secretary of State, and with a view to procuring such information the Board of Revenue (and administrative officers through the Board) was consulted. I make the following extract from the Board's reply (letter No. 841A., dated 23rd September 1884, to the Government of Bengal) :—

"The importance of this question (maintenance of the record of rights) is only equalled by the difficulty of dealing with it—a difficulty so great that some

officers (notably Mr. Wilson, of Midnapore), look upon it as fatal to a proposal of attempting a survey at all. It must be conceded that there is no agency in Behar (Bengal?) to which the duty of maintaining the village records and maps could be committed, and that it will be necessary to create an organisation for the purpose. Throughout the greater part of Behar there are village servants known by the name of patwaris, but they would not, and indeed could not, discharge the duties performed by patwaris in the North-Western Provinces, and the supervising staff, on which the efficiency of the patwaris depends, does not exist at all. The difficulty, however serious it may be, must be faced and surmounted. *The rent bill would lose half its usefulness if it were not supplemented by a survey and record of rights, and the survey would be of no value unless measures were taken to maintain its accuracy from year to year.*"

7. The Honourable Mr. Reynolds, who was then in charge of the Land Revenue Department of the Board of Revenue, concluded his Minute by

\* Stated in a Minute, dated 18th February 1884. expressing concurrence in the views\* of Sir Charles Bernard that though there might be opposition

and difficulty in the way of the proposed survey and record operations, neither would be insurmountable. Fearing, however, that a general settlement of rents might, on a rigid interpretation of the law untempered by equitable considerations, lead to universal enhancements of rent in Behar (where reports went to show that rents were already very high), Mr. Reynolds advised the limitation of the operations to a survey and record of existing rights and rents alone.

8. The Government of Bengal, in forwarding the Board's report to the Government of India (Bengal letter No. 2426T.—R., dated 25th October 1884), expressed the following opinion:—

"While thinking that in 'exceptional circumstances and special areas, as stated by the Honourable Mr. Ilbert † in introducing the Tenancy Bill, we may have to settle rents, the Lieutenant-Governor is quite of the opinion that anything like a general settlement of rents in any district is to be deprecated. He accepts the view that on a survey introduced under the orders of Government, if the record of rights show the existence of exorbitant rents and the raiyats put forward claims for reductions, then only should such claims to have fair rents fixed be entertained."

† "Gazette of India" (Supplement) of 3rd March 1883, page 295.

9. The Government of India (letter No. 996 A. of 20th November 1884), in acknowledging the receipt of the Bengal letter and calling for further information, observed—

"It is hardly necessary to remark that the value of the survey and the record of rights will be incommensurate with the cost unless an efficient staff of patwaris and supervisors is organised on the lines suggested in Mr. Reynold's minute. \* \* \* If it be decided to commence operations in 1885 or 1886, and on this point the Governor of India will expect to be advised hereafter by the Government of Bengal, his Excellency the Governor-General in Council trusts that no effort will be spared to obtain at an early date the requisite legal powers to organise the patwari staff, and that the work of organisation will be vigorously prosecuted."

10. In accordance with these instructions, and in fulfilment of the original intention of legislating mentioned in paragraph 4 above, I introduced a Bill into the Bengal Legislative Council to amend the Patwari Regulation XII. of 1817, and I attach to this Minute a copy of my speech on that occasion, as it sets forth in sufficient detail the history and existing condition of the patwari system, and the reasons for its proposed reorganisation.

11. One object of this Bill was to levy the cost of a reformed patwari establishment by a cess on the land which, it was contended, would not amount to more than the people already paid for patwaris under the designation of "neg" or customary fees. The intention was to fund these payments, and from the amount so funded, which would be under official control, to pay the patwari and supervising kanungos. The Secretary of State was not disposed to sanction the imposition of a cess for an object the success of which he regarded as

as doubtful; and it was with a view to solve his doubts that it was determined to make an experimental survey and record of rights in a selected area. Accordingly, the Patwari Bill was suspended, pending the result of this experimental survey and record of rights, which was begun under the direction of Mr. E. W. Collin in about 500 square miles of the Muzaffarpur district.

12. While this experimental survey was in progress, further correspondence passed between the Government of Bengal, the Government of India, and the Secretary of State, in regard to the latter's instructions to charge the cost of the experimental operations to provincial revenues, and generally in regard to the Patwari Bill, the object of the correspondence on the latter subject being to remove his Lordship's objections to this proposed measure. In this correspondence, the Government of India, supporting the Government of Bengal, said:—

“ We need not again point out what has been already admitted by all parties in the correspondence, that an elaborate survey and record of rights are a pure waste of money, unless due provision is made for keeping the information they furnish up to date. \* \* \* \* Unless your Lordship should be of opinion that the explanations now given are sufficient to remove the objection entertained by your predecessor to the inclusion in the Patwari Bill of authority to levy a cess for the payment of village accountants, we concur with the Bengal Government that the only course to pursue is to close the cadastral survey at the end of the present season, and to abandon altogether for the present the attempt to obtain an accurate record of the land and of the incidents of its tenure.”

13. The efforts of the Government of India were, however, fruitless; the Secretary of State in his letter No. 21, dated 15th July 1886, stated that his objections to the cess were not removed, and he considered that, under the circumstances, “ the only course to pursue was to abandon the proposed measure for the present.” This decision involved the abandonment of the experimental survey and record, which was accordingly brought to an end after a large area had been cadastrally surveyed, and a record of rights completed in about 80 square miles of that area. No provision was made to maintain this record up to date, and it must now have become somewhat obsolete; but, as observed in paragraph 2 above, it has given much satisfaction to those interested in it.

14. This order of the Secretary of State's closes what may for my present purpose be regarded as the first stage in these proceedings. During this stage it was, to use the words of the Government of India just quoted, admitted by all parties, firstly, “ that an elaborate survey and record of rights are a pure waste of money unless due provision is made to keep the information they furnish up to date;” secondly, that the agency necessary to maintain the record should be provided before the survey and record were begun.

15. The second stage of these proceedings is practically an endeavour to carry out, without legislation, the accepted policy in regard to the record of rights in Behar. Legislation on the patwari question having been denied, a change of opinion in regard to its necessity gradually supervened; it being, as the Board observed, a comforting doctrine that what is unattainable is also undesirable. But apart from this natural disposition of practical administrators to adjust measures to circumstances, the change of opinion can, I think, be traced to two distinct sources, one dating from Sir Rivers Thompson's administration, the other from that of his successor, Sir Steuart Bayley. While the experimental survey and record was going on in Behar, the Bengal Government was also considering the desirability of introducing surveys and record of rights into certain estates managed by the Court of Wards; and in these estates, being limited areas (in some of which, moreover, acute disputes regarding rent actually existed), the Bengal Government did not attach the same importance to the maintenance of the record as it did in the case of a whole district and much more a whole province, when the object was not only to allay existing acute disputes, but also to make lasting provision for the prevention of disputes in the future and for the settlement of a basis of agrarian prosperity. This policy and view of the application of Section 101 of the Tenancy Act in

regard to Wards' estates was set forth in the Bengal letter No. 2419-913 L.R., of 1st December 1886, and there is no doubt that once started it obtained a hold over the spirit of the administration, and an extension which was not at first intended.

16. This result was helped by the report which Mr. Collin in 1887 submitted of his experimental survey operations, and this report is the second source to which I trace the change of opinion referred to in the preceding paragraph. Mr. Collin, who is an officer of ability and judgment, there said, and his words, which are the outcome of practical experience, afford a striking confirmation of the wisdom of the policy of survey and record of rights embodied in Chapter X. of the Tenancy Act:—

“Some such measure as survey and record of rights is absolutely necessary if the rights of the raiyats are not to be entirely confiscated, and if a system by which they have been hitherto deprived of more than half of their legitimate share of the profits of their land is not to be perpetuated.”

And again—

“The main point is to ascertain the existing rent and certify it to the raiyat. \* \* \* I believe it is a sufficient protection to the raiyat to ascertain and certify his rent to him. The danger lies in his ignorance of his rental.”

Mr. Collin, it will be seen, supports the view urged by Mr. Reynolds and Sir Charles Bernard, as stated in paragraph 7 of this Minute, a view in which I entirely concur, as to the desirability of not interfering with rents whenever interference can be avoided.

17. Mr. Collin advocated a survey and record of existing rights as good and necessary in itself and worth the cost, even if not afterwards maintained. He did not, indeed, undervalue the great advantage of maintaining the record; but he had no faith in any system of maintenance by unreformed patwaris, and he thought with Mr. Finucane (*see* paragraph 26 below), that something might be done by making zamindars file returns and checking these by Government agency. Even this way of looking at the matter was not followed by Mr. Norman, then Collector of Muzaffarpur, who, in forwarding Mr. Collin's report, not only denied the possibility of maintaining the record by means of patwaris or zamindars, but went the length of affirming that its maintenance would be of no use or advantage.

18. On this report and these recommendations the Board, having been consulted, replied\* as follows:—

“The Board cannot console themselves with the acceptance of Mr. Norman's opinion that it matters very little whether the record is maintained or not. On the contrary, they are firmly persuaded that the record will year by year become of less and less value unless adequate measures be taken to ensure its periodical examination and correction, so as to bring it into accordance with the state of things actually existing at the time. The Board would greatly

regret to see these registers,† on which a large sum of public money has been spent, and which are described by the Commissioners as excellent and well-arranged, gradually becoming ‘waste paper’ for want of supervision and correction. \* \*

But in a permanently-settled area, such as is now under consideration, the Board are reluctantly compelled to say that the existing law leaves the Government practically without any resource. It is hopeless to expect that the record can be maintained by the agency either of patwaris (unreformed) or zamindars. The feeling which has prompted Messrs. Finucane and Collin to urge the adoption of some measures which will give a permanent value to the work in which they have taken so much interest, and which they have accomplished so well, has the entire sympathy of the Board. But the Board would be wanting in their duty if they failed to represent that Government has practically before it only the alternatives of abandoning all measures for the proper maintenance of the records of the Muzaffarpur survey, or of invoking the aid of the Legislature for the establishment of an efficient system of patwaris and kanungos.”

Thus

Thus it will be seen that the Board of Revenue adhered to the principles of what I have called the first stage of the proceedings, while the Government had begun to vacillate.

19. The Board's views did not commend themselves to his Honour Sir Steuart Bayley, who, in submitting Mr. Collin's report on the experimental survey to the Government of India, had supported the proposal to extend to the rest of Behar a survey and record, even if it were not afterwards to be maintained. And the Government of India, in its letter, No. 433 R.—39—2, of 16th June 1888, agreeing with the Bengal Government, said :—

“ In view of the facts brought out, the arguments urged against a survey and record until an agency was made to maintain it lose some of their force. That the full benefits of a record of rights cannot be secured unless it is continuously maintained is obvious ; and the Government of India is not without hope that a solution of the difficulty will be found in the inquiries in progress. But even were it otherwise, his Excellency in Council is forced by the recent experiment to the conviction that a survey would be justified by the unquestionable advantages it would confer in determining existing tenures and rents in a manner which could be asserted and maintained under the Tenancy Act.

“ Holding these views, and apart from the financial cost of the operations, his Excellency the Governor General in Council entirely concurs in the opinion of his Honour the Lieutenant Governor that the experimental survey has been a success, and that it is desirable to extend the measure to other tracts where uncertainty as to existing rents prevails.”

20. The correspondence was submitted to the Secretary of State, who, in his letter, No. 66, of 16th August 1888, said :—

“ I observe you incline to the opinion that, even if the continuous maintenance of the village record cannot be fully secured, still an accurate record of existing facts would be of great advantage as affording a basis on which a better state of things might grow up under the Tenancy Act. \* \* \* \* \*

If the work is to be undertaken in other localities, the cost of *and subsequent maintenance of the village record* must be kept within the narrowest possible limits of cost, *as the expenses will have to be defrayed by the classes and localities concerned.*”

I invite particular attention to the words I have italicised, as they seem to indicate the possibility that the prohibition against legislation on the patwari question may be reconsidered by the Secretary of State. For the rest his Lordship adopted an attitude of benevolent neutrality and watchfulness, as regards the new departure, rather than of active approval ; but he gave the Government of India a free hand.

21. Thus the Governments of Bengal and India, gradually abandoning the doctrine that a survey without subsequent maintenance of the record was a waste of money and useless, came to think that a survey and record without subsequent maintenance is useful, and worth the cost. The reasons for this change were :—

- (a) The strong necessity that existed, and still exists, for supplementing, in the interests of the depressed tenantry of Behar, the operation of the Tenancy Act by a record of tenants' rights of status.
- (b) The Secretary of State's opposition to legislation on the patwari question.

22. But, while deciding on a survey and record even without provision for subsequent maintenance, the Governments of Bengal and India and the Secretary of State have not ceased to insist on the desirability and importance of maintaining the record up to date, and the later communications from the Government of India, especially the letter, No. 1628—43, of the 1st August 1892 (which I had no opportunity of discussing with Sir Charles Elliott), indicate a marked urgency of desire that provision should be made for maintaining the record when once it has been correctly prepared.

23. In all this I entirely agree. It is true that my position in regard to this question, before I left the Bengal Government in 1886, had been not only that the record should be maintained when framed for a large tract of country, but that it should not be begun till provision for its maintenance had been made.



On these points my opinion has undergone no change; and, undoubtedly, I should be glad if the Secretary of State were again approached with a view to our taking power by legislation to raise as much money as will enable us to maintain the record, if not by patwaris then in the way I shall presently indicate, which involves the minimum of interference between landlord and tenant. In this way I clearly see my road to the effective maintenance of the record without any trouble, and at a cost to the zamindars and raiyats which would be trifling compared to the immense benefits which both would reap from such a measure. I have suggested in paragraph 20 above that his Lordship might possibly be now willing to consider the fresh representations in regard to legislation which I trust the Governor General in Council will permit us to make. But in any case his Excellency in Council may rely on me to give effect to the policy he has been pleased to sanction.

24. In a subsequent portion of this Minute I shall consider the procedure for making the record, the agency for making it, and the cost. Here I wish to dispose, so far as possible, of the question of maintenance, and to state the measures I propose to take to that end. In June 1892 Sir Charles Elliott, addressing the Board of Revenue, proposed a scheme for maintaining the record, which depended for its efficacy on the raiyats and others reporting to a registering officer all the changes in their holdings which might occur from time to time. I have carefully examined that scheme in the light of my own knowledge of Behar, and of recent experience acquired in the Central Provinces, where survey and record operations are now in progress on a larger scale than elsewhere in India. My conclusions were, that the scheme would not give the information which the Lieutenant Governor wanted, and that, even if it did, the information would be inadequate for the purposes of an effective record. The local criticisms on the scheme were of a similarly unfavourable character, and Sir Charles Elliott himself, being now satisfied that the scheme would not work, has agreed to abandon it.

25. Sir Charles Elliott's idea was to have a self-acting or automatic and self-supporting scheme, not resting on local inquiries or on the maintenance of the village map. He hoped that the people, rent-payers and rent-receivers, would, by the operation of certain sanctions explained in the letter, be induced to report mutations, and would, by various fees, pay for the recording establishments. But it may be taken as an axiom that no system of maintenance is of use which does not rest on the bases of village inspection, map amendment, and *khasra* corrections on the spot. It is also doubtful whether, as *khasra* corrections will probably not annually be more than about 5 per cent. of the entries, the fees levied from the persons served, *i.e.*, whose record is corrected, would pay for the correcting establishment, unless they were pitched high. To levy much fees would be contrary to practice in other provinces, and no doubt unpopular. It follows, with certainty, that no self-acting agency would be effective, and with probability, that an effective record agency must be paid for from some other source than fees charged for the special services rendered.

26. In 1885 the Director of Land Records in Bengal prepared a scheme, which I understand the Behar zamindars, believing legislation to be imminent, accepted\* subject to certain conditions. This scheme is given in Appendix A., and has some points in common with the proposals made by Sir Charles Elliott, while it differs from these (*inter alia*) in requiring new legislation for the imposition of a special cess. It was, however, disapproved by the Board and by the Government of Bengal, for the reasons expressed in the following extract from the Bengal letter to the Board of Revenue of the 9th January 1886:—

"In reply, I am to say that the Lieutenant Governor, having perused your letter and the careful report prepared by Mr. Finucane, comes to the same conclusion upon the question as that at which the Board have arrived.

"Sir Rivers Thompson is unable to accept the proposals which have been made, and to which Mr. Finucane has given his support, that the present staff of patwaris are to be henceforth regarded as zamindari servants paid from the cesses now levied on their account, nor that, in his record of rights and of payments, the patwari shall depend for his information upon returns and

accounts

\* See enclosure to the Director of Land Records' letter to the Board, No. 767, dated 19th November 1885.

accounts furnished to him by the zamindar, and that he should confine himself to ascertaining how far these accounts agree with what the raiyats admit to be correct. To define the duties of a patwari in such terms would, the Lieutenant Governor considers, be fatal to the maintenance in the villages of an accurate and effective record of rights. Furthermore, it must be made clear that no cess, whatever shall be levied from the raiyats for payment of patwaris except that which is realisable under the Bill.

"The patwari's work should, in Sir Rivers Thompson's opinion, represent the results of his own personal observation and inspection, and should not entirely depend on its operation upon the information which the zamindar supplies to him. A system under which the patwari makes his original record entirely depend upon returns and accounts periodically given to him by the zamindar must lead to conflict and controversy.

"It is not necessary that any rule should be made that all payments of rent must be made in the presence of the patwari; but, in the work connected with the maintenance of the record of rights, measures should be adopted to make the patwari's action, as far as possible, independent."

These objections appear to me now, as they did in 1885, to be fatal to such a scheme; but I understand that Mr. Finucane has since represented that his proposals were not fully understood at the time, and that they are not really open to the objections stated. This may be a matter for subsequent consideration; but in any case, if as a last resource we are compelled to look to the patwari of Regulation XII. of 1817 for the maintenance of the record, then we must deal direct with the patwari himself, and control him in the actual preparation of the village papers.

27. I am well aware that the great zamindars and landlords of Behar are opposed to an enforcement of Government control over the patwaris under Regulation XII. of 1817. Herein I confess to having some sympathy with them, and I do not propose to employ the patwari of Regulation XII. of 1817 for the purpose of maintaining the record, except as a last resource. But I attach such extreme importance to the maintenance of the record that, failing other means, I should endeavour to work through that Regulation. I am, however, anxious to meet the wishes of the Behar landlords, many of whom are my personal friends, and for all of whom I entertain a strong liking; and I have therefore framed a scheme which is marked B. in the enclosures to this Minute. That scheme dispenses with the patwari altogether, or rather substitutes for him an officer on higher pay and of superior status, whose functions would correspond more closely to those of the kanungo under the Emperor Akbar's land system, as I explained in introducing the Bill of 1885 into the Bengal Legislative Council. The sub-kanungo of Scheme B. would, like the original kanungo established or recognised by Raja Todar Mal, be the servant of Government alone, and would be in no way subordinate to the zamindar. This follows from the fact that the scheme, broadly speaking, limits the maintenance of the record to the facts of occupation, status, and rent payable; leaving the question whether in any case the rent has or has not been actually paid to be settled between the raiyat and his landlord, without any interference on the part of the Executive Government. This is the minimum of maintenance on which Government must insist in the interest of the raiyats; and I am, subject to the orders of the Governor General in Council, willing to abide by it for the sake of concord and compromise with my Behar friends. This scheme will cost about Rs. 70,000 per district annually, but where is that sum to come from if we do not legislate? Only a very small portion could be supplied by copying fees and such like miscellaneous income, and it would not be fair to the general public to pay the entire sum from provincial revenues, even if these revenues were able to afford it, which they are not. The bulk of the money must come, if it is to be raised at all, from the people interested, "from the classes and localities concerned," as the Secretary of State said in his letter, No. 66, of 16th August 1888, already referred to in paragraph 20 above. That the money would be cheaply and well spent, I have no doubt at all; for with such a record as I contemplate we should attain what we have been striving for since the permanent settlement, a sufficient knowledge of the facts of each holding and estate

\* Not printed in this Return as an Appendix to the Minute, but of pp. 107-120, *infra*.

estate, whereby agrarian disputes would be reduced to a minimum, such disputes as occurred would be susceptible of easy and speedy decision, and, for the first time within a century, a real and lasting foundation would be laid for the agricultural prosperity of Behar.

28. If the Behar zamindars reject the scheme which, in my anxiety to meet their objections, I propose, and if, moreover, the Secretary of State maintains his veto on the imposition of a cess for maintaining the record, then, undoubtedly, there are only two courses before us: to abandon all attempts to maintain the record, and prepare for ourselves, 10 or 15 years hence, the same chaotic state of things as we now find in existence; or to see what can be done under Regulation XII. of 1817. Having already stated that I regard the maintenance of the record as of extreme importance, it will be understood why I shrink from the former alternative. I am well aware of the difficulties in the way of working the patwari of Regulation XII. of 1817, difficulties which I myself and abler revenue officers have thought insurmountable. But an actual experiment has never yet been made in such circumstances as we are by our survey and record calling into existence. And it may possibly be that practice may falsify our theory, and show us how, by some slight alterations in the regulation, consistent with its principles, means may be found to make it a more effective instrument in our hands. At all events I cannot entertain any proposals—some have, I understand, been made—to repeal Regulation XII. of 1817, and so abolish the slight control Government now has over the registered patwari, except on the condition of the provision of an efficient substitute, such a substitute, for instance, as would enable us to work Scheme B. in the Appendix.

29. And this, I understand, was the attitude adopted by my predecessor up to the eve of his departure. It is true, I believe, that Sir Charles Elliott contemplated the abolition of the Patwari Regulation (XII. of 1817) when an effective scheme for maintaining the record had been provided. But the hopelessness of devising a scheme which should not involve the imposition of a cess, and yet be independent of Regulation XII. of 1817, had apparently come home to him, for in the seventh paragraph of the Resolution on the Survey and Settlement Reports for 1891–92, which was recorded by him on the day before he made over charge of these provinces to me, I find the following expression of his views on the subject of the training of local agency for the purpose of executing and maintaining surveys and records of rights:—

“Another satisfactory feature of the year’s work is the progress made in training local men in survey work. The employment of local agency on survey and settlements not only materially reduces the cost, but provides an efficient means of maintaining the maps and records when the work is complete. During the season under notice the following local establishments were put through a course of instruction and will be utilised as far as possible:—

“In the Champaran district, 181 patwaris and their relatives.

“In the Muzaffarpur district, 270 patwaris and their relatives and other local men (80 more were under training).

“In Tippera, 300 local men (Bengalis).

“In the coparcenary villages in Behar, it is possible that some difficulty may be experienced in arranging for a patwari or other resident of the village to do the survey and record writing, but it is hoped that this difficulty may not be insurmountable. Section 5 of Regulation I. of 1819 empowers the Collector, with the approval of the Board of Revenue, to appoint patwaris in such villages with or without reference to the proprietors, and if it is found that the latter cannot agree among themselves to nominate a joint patwari, it may be necessary to take action under this section.”

This paragraph, it will be observed, refers to the questions of reducing the cost of the Behar survey and maintaining the record hereafter, and it distinctly contemplates the employment of the patwari not merely to make the survey in the first instance, but also to maintain it when made. The injunction to have recourse to Section 5 of Regulation I. of 1819 in order to provide patwaris in those villages where, owing to the number of joint proprietors, no registered patwari has at present been appointed leaves no doubt on the point that the patwari to be so employed is the statutory patwari, i.e., the patwari appointed by the Collector under the Regulations.

I am aware from my conversations with Sir Charles Elliott that he did not wish to force the inclinations of Behar landlords in connection with the employment of the Regulation Patwari to maintain the record. Neither do I; but if I am driven to it, if I have to choose between abandoning the attempt to maintain the record, and endeavouring to maintain it through Regulation XII. of 1817, then I shall decide on the latter course, though I shall do this with reluctance.

30. This conclusion to which I have come, to work under the Regulation XII. of 1817, if I am precluded from working outside it, confirms a decision which, on the independent ground of economy in survey expenditure, I have already taken, while it links up and harmonises, so far as may be, our present policy and practice with the policy which, as stated in paragraph 14 above, was approved in the earlier stage of these proceedings. The decision is to take up in earnest the registration of patwaris under the Regulation (this was begun in 1876 and carried some length in Behar), and to employ none but registered patwaris (or, failing them,amins) on the survey and record operations now in progress. I do not conceal from myself the probability that this endeavour to procure registered patwaris even for survey work will be met with opposition by Behar zamindars. They will probably think it is the thin edge of the wedge, and that having got patwaris registered for survey work, I shall retain them for the maintenance of the record. Undoubtedly I shall retain them if I am driven to maintain the record under Regulation XII. of 1817; but that is not my primary object in getting them registered. My direct and primary object is to reduce the expenditure on the survey, which is now very considerable, and admits of great reduction by the employment of the registered patwari in his

\* I may add (to meet the Board of Revenue's reasonable wishes) that, although the registered patwari is bound to survey his village as part of his statutory duties and without further payment, it may be well, as he is not always well paid, to give him a special allowance as a reward for good work.

customary and statutory duty of surveying his village\*. If the zamindars agree to a scheme of maintenance outside Regulation XII., I shall, after the survey is over, see what I can do to assist them in procuring the repeal of Regulation XII. of 1817, and thus cut the patwari loose from all official control and supervision. If then I had a free

hand in this matter, and time were no object, I should, in the interests of economy (and of the future maintenance of the record if we must act under Regulation XII., 1817), be disposed to suspend the survey and record operations until the patwaris had all been registered and trained to survey. But I apprehend that the obligation to carry on the work from the point at which I find it leaves me no choice but to work through amins, when registered and trained patwaris are not forthcoming.

31. And this brings me to a very important matter indeed. I find that in some places Colonel Sandeman has been making the survey and record through so-called patwaris who are not registered, and are in point of fact zamindari servants pure and simple, paid by the zamindar, and merely temporarily lent by them to the survey authorities. Over these men no effective control can be exercised. They work or leave off working just as they please, and if detected in making false measurements or false entries there is no means of adequately punishing them. The Board of Revenue and the Director of Land Records are strongly opposed to this system; the Settlement Officer has objected to it; and the Superintendent of Surveys, Colonel Sandeman, is himself dissatisfied with it. Certainly I consider it open to the very gravest objections. As the Board of Revenue observe, "it cannot be forgotten that one of the main objects of the Behar Survey and Settlement was the protection of the raiyats, and the Board consider that the experiment of having a large part of the work done by the servants of the very party against whom, if any one, the raiyats require protection, must be attended with some hazard." Manifestly no real trustworthiness can attach to records prepared by the servants of one of the parties concerned. To obviate this formidable objection, Colonel Sandeman has been employing muharrirs to check the entries made by the zamindari patwaris. But this double agency adds largely to the cost of the record, and who that knows Behar can think that after all this is a real check? The record must be prepared under conditions which shall relieve it, so far as we can guarantee, from any suspicion of one-sidedness; and to this end I have decided that mere zamindari servants shall, on no account, be

employed in surveying and preparing the record of the raiyats' holdings. It will no doubt be urged that as the patwari registered under the Regulation is also under the zamindar's control to some extent, the objections to the employment of unregistered patwaris apply also to him. But it cannot be contended that the position of the Government is the same in regard to the registered as to the unregistered man. We hold a strong position in regard to the registered patwari; he is a Government servant; we can dismiss him and we can criminally prosecute him for making a false entry. We have no such hold as this over a private patwari, who is merely lent to us, and whom we do not pay. The position is explained in the following extract from a letter which I have caused to be addressed to an influential gentleman in Bihar, who has taken exception to my orders, directing the employment of registered patwaris alone, and, failing them, professional amins. The letter refers to an important opinion given by the Advocate General as to the obligation the registered patwari is under to survey his village by order of the Collector:—

“The Officiating Lieutenant-Governor has received your letter of the 9th instant, referring to the employment of patwaris on the Behar Survey, and is glad that you have written to him on the subject.

“The matter stands thus. On going through the papers connected with the Behar Settlement, and on hearing what influential gentlemen in Calcutta had to say regarding it, it appeared to Sir Anthony MacDonnell that there were two aspects of the proceedings which needed special attention—(a) the expense, (b) the absence of an effective plan for maintaining the record when completed.

“The latter aspect of the question is now engaging His Honour's attention, and he trusts to have an opportunity of consulting you and Behar zamindars generally on it when he visits Muzaffarpur next month. On the former aspect of the case, it seemed to His Honour eminently desirable that something should be done to reduce the cost of the survey. The cost of survey and ‘khanapuri’ is now very considerable, and the tendency is to further increase. On inquiry Sir Anthony MacDonnell found that the survey was being chiefly carried on by amins (to whose employment objections have been raised apart from the matter of cost). The belief was entertained that the Collector could not legally require patwaris to measure their villages. To test the accuracy of that belief, which the Officiating Lieutenant-Governor personally doubted, the question was referred to the Law Officers of the Crown. The Advocate-General has now advised Government (and the Board of Revenue accepts the opinion) that patwaris can be required under the usual sanction to survey their villages as part of their statutory duties.

“But the patwaris over whom the Government can exercise this measure of legal control are the registered patwaris alone, that is to say, the patwaris whom the Collector, usually on the zamindar's nomination, recognises for each mahal or village. Over the unregistered patwaris, who are merely the private servants of the landlords, the collector can exercise no control.

“You will, His Honour is sure, recognise that it is most undesirable that the survey should be made and the record prepared by a private servant of one party concerned, or by any one over whom the Settlement Officers have no adequate control.

“If Behar zamindars and planters assist the Government in this matter, by registering their patwaris where none have yet been nominated and registered, and thus gratuitously procuring for them the requisite status, then the Lieutenant-Governor has no doubt that the cost of the survey and initial record operation will be very greatly reduced, while the efficiency of the patwari as a village servant will be immensely increased by the experience and training in survey he will gratuitously receive. By this means it is not impossible that the cost may be reduced under one-half the present figure. This would be an enormous gain to landlords, tenants and all concerned. But if landlords and others do not help in this matter by coming forward and nominating their patwaris, so as to enable the survey authorities to work through registered patwaris, then, if the operations are to be successfully prosecuted, the Government has no resource left but to work through amins. (Of course the survey authorities will continue to work through amins until the registered patwaris are ready to take the amins' place.) In this alternative the objection based on the expensiveness of the survey, &c., will not lie at the door of the Government, but at the doors of those who, being under a legal obligation to nominate patwaris,

patwaris, abstain from doing this, and thereby impede the adoption of a procedure whereby the cost can be substantially reduced."

On this part of the subject, then, what we have to do is—

*For purposes of survey—*

- (a) To make out a list of the villiages in which survey operations have begun or are contemplated.
- (b) To forward that list to the Collectors of the districts concerned, and ask them to take immediate steps under the Patwari Regulation to have patwaris registered for these villiages. In the case of coparcenary villiages, to which class most villiages in Muzaffarpur are understood to belong, it may be necessary, as was observed by Sir Charles Elliott in the Resolution quoted above, to take action under Section 5 of Regulation I of 1819.
- (c) To train the patwaris so registered, if they need training, to survey.
- (d) To employ the registered and trained patwaris in the survey and record operations instead of amins. Until the patwari is ready to take the professional amin's place, the latter must be kept on.

*For purposes of subsequent maintenance of the Record, if we must act under Regulation XII., 1817—*

- (e) To request the Board to direct that the recording establishments shall for each village carefully enter the nature and amount of all and every payment customarily made by (a) rent-payers, (b) rent-receivers to, or for the services of, patwaris.
- (f) To request the Board to prepare and submit a scheme for maintaining the record through the agency (i) of the registered patwari, and (ii) of such supervising staff of kanungos and Revenue officers as may be necessary. An estimate of the cost of this supervising establishment must be submitted at the same time. How it is to be provided will be a matter for subsequent consideration.
- (g) To request the Board to consider, in communication with the Law officers, whether, having regard to the terms of Sections XVIII. and XX. of Regulation XII. of 1817, the Government has the power (a) of determining what the patwaris' salary shall be; (b) of laying down by whom and in what proportion it shall be paid, and (c) of requiring the parties, who are directed to pay such salary, to deposit it in a Government treasury in the manner contemplated in Rule XXI. of the Board's Rules regarding patwaris in Bihar (Section XIV., Revenue Officers' Manual, 1888).
- (h) To request the Board generally to consider whether, Regulation XII. of 1817 is susceptible of any modifications (and if so what modifications) not inconsistent with its principles, whereby it may be made a more efficient instrument for maintaining the record of rights.

33. I now pass on to the consideration of the actual procedure of recording rights, and the cost of survey which is being incurred. With the method of survey I need not concern myself, though I shall later on make a few remarks regarding the subordinate agency and the establishment of permanent survey marks. The notifications that have hitherto been issued run as follows:—

"Under the powers conferred on him by Section 101(1) of the Bengal Tenancy Act VIII. of 1885, and with the previous sanction of the Governor General in Council, the Lieutenant Governor is pleased to order that a survey shall be made and record of rights prepared in respect to all lands included within the external boundaries of pargana . . . in the district of . . .

The particulars to be recorded in the survey and record of rights shall be the following:—

The name of each proprietor, with the character and extent of his interests.  
The situation, quantity, and boundaries of proprietors' private lands, as defined in Chapter XI of the Act.

The name of each tenant.

The class to which he belongs, that is to say, whether he is a tenure-holder, raiyat holding at fixed rates, occupancy raiyat, non-occupancy raiyat or under-raiyat, and if he is a tenure-holder, whether he is a permanent tenure-holder or not, and whether his rent is liable to enhancement during the continuance of his tenure.

The situation, quantity, and boundaries of the land held by him.

The name of his landlord.

The rent payable.

The mode in which that rent has been fixed, whether by contract, by order of a court, or otherwise.

If the rent is a gradually increasing rent, the time at which, and the steps by which, it increases.

The special conditions and incidents, if any, of the tenancy."

34. This form of notification seems to me to be appropriate, and it should be continued. It will be noticed that it requires merely a record of existing facts, not a settlement of rents; and herein it agrees with the views held by the Board of Revenue in 1884 and by Mr. Collin in 1887, as stated in paragraphs 7 and 16 above. If either landlord or tenant applies for a settlement of rent, then under Section 104(2) of the Tenancy Act the Revenue Officer is bound to settle the rent, but he should not attempt to settle rents in any other case. It has been, I understand, contended by a gentleman in Behar, whose opinion must always carry weight with me, that the initial words of Section 104(2) impose on the Revenue officer the duty of settling rent of his own motion "when it appears that a tenant is holding land in excess of or less than that for which he is paying rent." But in the first place the Act does not afford any rule or criterion by which the Revenue officer is to be guided in determining the area for which rent has been previously paid, unless it can be said that Section 52(2) of the Act affords such a rule. And secondly, the contention here referred to amounts to saying that the Revenue officer is bound to take judicial notice of the landlord's measurement papers, a proposition which is on the face of it inadmissible.\*

\* On this point see the very important decision of the High Court, dated 30th May 1892. *Goures Patro versus Manager, Burdwan Raj Estate.*

It is clear, moreover, that this section deals with matters essentially for judicial decision, and I think, therefore, it will be prudent for Revenue officers not to attempt to settle rents, except on the application of either the landlord or the tenant.

I am very indisposed to adopt any course which may have the effect of enhancing, through revenue officers, rents in Behar, where, if the fullest inquiries are to be trusted, rents are often too high. I am anxious to leave the question of fixing fair rents to the civil courts, in which, carefully controlled as they are by the honourable judges of the High Court, I have confidence; but if the settlement officers are compelled by a judicial interpretation of Section 104 (2) of the Tenancy Act to consider *suo motu* the question of rent enhancement on the ground of excessive area, then I shall probably apply to the Governor-General in Council for the general power under Section 112 of the Act to reduce rents which are unfair and inequitable (a power not conferable on the civil courts). Thus a settlement which shall not be one-sided, but fair to all parties concerned, may be made.

35. When the facts of the holdings, &c., have been recorded, an extract of the record (*parcha*) should invariably be furnished to each tenant. I attach the highest importance to this. It is essential that the tenant should be in a position to know, before attestation, what has been entered regarding his holding, in order that at attestation he may, if necessary, object to any wrong entry. It is essential that people should not be taken by surprise, but that they should have ample time to consider the proposed entries affecting them before they became final.

36. Attestation is, so far as the raiyat is concerned, the most important link in the chain, and I must insist on the entries of area, rental and status made in the record of rights being attested with special care by a Revenue officer of gazetted rank. I must absolutely prohibit attestation of such entries by muharrirs or by any subordinate officers whatever. A sub-deputy collector is the lowest grade officer whom I would entrust with the duty, and the sub-deputies so entrusted should be picked men. If we are to make a record, no pains

pains should be spared to make it an authentic statement of the facts. I should say that in an area where the disputes about existing rents and status are few, a competent officer should be able to attest the *khatians* for from 250 to 300 tenants in a working day.

37. The cost of the operations is at present high, and if we are not able to use registered patwaris for survey and khasra writing, I fear it will tend to increase. So far as I can gather at present, the—

	Rs.
Traverse survey costs - - - - -	40 per sq. mile.
Cadastral survey and "khanapuri" (estimated) -	170 "
Attestation, publication and settlement (estimated)	160 "
Total - - - - -	<u>370</u>

The ways in which this cost can be reduced are (a) employment of patwaris instead of amins, on their customary and statutory duty of surveying, (b) invoking the voluntary assistance of the raiyats and others interested in the measurement of their own fields, (c) making no settlements of rents unless required to do so by landlord or tenant, (d) employing as few muharrirs as possible to write *parchas* and help in making the "khanapuri." The reduction of expenditure depends so much on attention to details that I can give no more precise indications as to sources of possible economies; but the expenditure is so much higher than I was accustomed to in the Central Provinces, that I have, with the permission of the Government of India and the consent of the Chief Commissioner of Central Provinces, decided to arrange for the deputation of the Officiating Commissioner of Settlements, Mr. Carey, and a selected Settlement Officer, to consult with Colonel Sandeman, and Mr. Macpherson on the whole question of expenditure, which depends to a very great extent on a careful consideration of a multitude of details and their relative adjustments.

38. In the matter of survey marks, I would say that the fewer permanent marks we have the better. They are a great trouble and expense to examine and maintain. I would have no marks except on triple junction points, unless a flag raised at one such point cannot be seen from the next adjacent point. In that case, an intermediate mark is necessary. I understand Colonel Sandeman agrees to this.

39. In addition to prosecuting operations in the parganas in the Hajipur sub-division of Muzzaffarpur and in the tappas of the Bettiah sub-division of Champaran already under survey, it is proposed next season to begin work in two areas of 500 square miles each in Muzzaffarpur, in one area of similar extent in Saran, in one area of similar extent in Champaran, and in 500 square miles of the Tikari Ward's estate in Gaya. The Saran area belongs to the Maharaja of Hutwa, and the Champaran area belongs in great part to the Bettiah Estate, managed by Mr. Gibbon. If the Maharaja of Hutwa and Mr. Gibbon give assistance, there ought to be no difficulty at all in registering patwaris in these areas and subsequently training them. The amins would then be got rid of and the expenses of survey probably reduced by one-half. In the Tikari Estate in Gaya, which is under the Court of Wards, there will be no difficulty. In other estates the rapid and smooth progress of operations cannot be so certainly counted on, the Behar zamindars being, as I have said, jealous of the exercise by the Government of control over patwaris, and anxious that the latter should become zamindari servants absolutely. It is said that the Behar patwari is wholly untrustworthy, and I myself have not painted him in very flattering colours. But the patwaris in other provinces were probably as bad before they were taken well in hand, and there have been cases in which the denunciations of even the Behar patwari were due to his not being as pliant an instrument as the denouncer wished. At all events the patwari, be his character what it may, is at the present moment a power in Behar: and if the zamindars refuse to meet us in some such way as that indicated in paragraph 27, it will be for us to see, before throwing up the sponge, whether we cannot make him a power for good instead of for evil.



140. I have forwarded this Minute to the Board of Revenue for any remarks they might wish to offer; and I annex their observations on it.\* I am gratified to find that both members are in complete accord with the opinions I have expressed.

(signed) *A. P. MacDonnell,*

Officiating Lieutenant Governor.

Darjeeling, 24 June 1893.

Enclosure 12, in No. 1.

APPENDIX A.

OUTLINES of Mr. Finucane's Scheme referred to in paragraph 26 of the Minute for provision of Establishment for Maintenance of Records of Survey and Record of Rights and of Village Accounts.

1. A Government servant to be appointed for each circle or number of villages containing an area with about 16,000 rupees rental, which in Behar would cover about 10 square miles.

2. This officer to be called munserim patwari, to receive a salary of from Rs. 15 to Rs. 20 a month, to possess the attainments of an amin or the like qualifications.

3. The duties of the munserim Government patwari would be—

(a) to receive from the zamindars at stated times a statement showing the changes to be made year by year in the survey records. This would practically be the khasra re-written for plots in which any change in occupancy occurred;

(b) to receive from the zamindar a jama-wasil-baki or other account showing the realisation from each raiyat year by year.

4. The zamindar would make his own arrangement for keeping his own and his raiyats' accounts, and would simply make over to the Government patwari copies of such accounts as may be prescribed for record and attestation.

5. The Government patwari on receipt of the zamindar's jama-wasil-baki would visit the villages of his circles, explain to the raiyats the amounts shown by the zamindar as realised, ask them if the amounts thus shown are correct. If the raiyat admits their correctness, the fact would be noted; if he denies their correctness, the Government patwari would make a note of the raiyat's allegation on the jama-wasil-baki, but would not attempt to decide which allegation, whether the raiyat's or zamindar's is correct. The jama-wasil-baki would thus be a record of the contemporaneous allegations of both parties, and might be made admissible in evidence in suits between landlord and tenant as such and nothing more. Further, the munserim patwari would compare the amounts entered in the receipts held by the raiyats with the amounts shown by the zamindars as realised from them. If he found a discrepancy, he would content himself with explaining to the raiyat that he ought not to pay rent without obtaining a receipt, and with warning him that if he persists in being foolish enough to do so, he must put up with the consequences.

6. As regards agricultural statistics, the Government patwaris need not trouble the zamindars at all. They would simply go on the land with the maps in their hands and make out for themselves any statistics of cultivated area or the like which may be required.

7. Over every 10 of these munserim patwaris a kanungo at Rs. 50 to be appointed.

8. Over five kanungos, that is to say, over an area of about 500 square miles a Deputy Collector.

9. After these officers had been at work for a short time in this way, supervised and controlled as they would be, by the kanungo and the Deputy Collector

Collector, it is to be reasonably supposed that raiyats would take care to obtain receipts for all payments made by them, and that after a short time they would not make any payment without first obtaining a receipt.

There would then be no reason why the peripatetic Deputy Collector should not be vested with powers of a civil court, or even with summary powers for disposal of rent suits.

In this way a rent suit would resolve itself into this; the rent payable by the raiyat is known from the settlement records. If a zamindar alleges an arrear to be due from a raiyat, the raiyat may be asked to produce his receipts to show he has paid the amount due of him; should he fail to do so, the Deputy Collector would give a decree.

10. The present staff of patwaris (or such of them as are not required for Government service) to be made zamindars' servants, to be retained or dismissed at the pleasure of the zamindar.

11. A cess of half an anna in the rupee would meet the expense of the requisite establishment; of this one-half should be paid by the zamindars, the other half by the raiyats, as the former would derive quite as much benefit from the successful working of the scheme as the latter.

12. The cess would only be realised and the Bill would only apply where a survey and record of rights has been made.

13. For other parts of the country, the zamindars may be made responsible for the supply of such information or agricultural statistics as Government may reasonably require and prescribe, but they could make their own arrangements for obtaining such informations.

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Enclosure 13, in No. 1.

No. 1794—174, dated Simla, the 24th July 1893.

From Sir E. C. Buck, K.T., C.S.I., Secretary to the Government of India Revenue and Agricultural Department, to the Secretary to the Government of Bengal, Revenue Department.

IN reply to your letter, No. 748 T.R., dated 6th July 1893, on the subject of providing for the maintenance of the land record in Behar by a cess, I am desired to communicate the following remarks and instructions.

2. The minute recorded by His Honour the Officiating Lieutenant Governor contains a clear history of the correspondence which has taken place in respect to the maintenance of the record. As indicated by Sir A. MacDonnell, the Government of India have persistently urged that arrangements must sooner or later be made for maintaining it, and the survey was only sanctioned on the understanding that action would be taken in this respect as soon as the scheme sketched in the final paragraph of Sir Charles Elliott's letter, No. 883 L.R., of 9th July 1891, had received detailed consideration.

3. Like Sir A. MacDonnell, the Government of India would have preferred that the method and means for maintaining the record should have been decided before the survey commenced; but in view of the consideration urged in their letter, No. 2135, of the 18th September 1891, that the survey itself was a task which from its magnitude and importance was not likely to be successfully undertaken by a Lieutenant Governor, whose term of office was drawing to a close, they apprehended that if operations were deferred until a complete scheme for the maintenance of the record had been prepared and sanctioned, the entire project might be indefinitely postponed. It seemed possible, indeed, that if a beginning were not made in 1892, a further period of inaction would set in, ending perhaps in the abandonment of the whole undertaking.

4. As matters now stand, the Governor General in Council is fully alive to the necessity of urgent action, and desires that his thanks may be conveyed to Sir A. MacDonnell for the energetic manner in which he has taken up the

subject. I am to convey the assurances of the Government of India that they will give every support in their power to His Honour in any measures which may be shown to be really necessary for the accomplishment of an object which they have always urged to be an inevitable adjunct to the survey, and will, if funds can be provided in no other way, be prepared to recommend to Her Majesty's Secretary of State the imposition on the landowners of a cess within the limits indicated in Sir A. MacDonnell's minute.

5. His Excellency in Council is glad to observe that in some of its leading features Sir A. MacDonnell's scheme is in accordance with that sketched in Sir Charles Elliott's letter of 1891. In both schemes the inspection and correction of the record is to be effected by a special staff of kanungos or land inspectors; in both the circle of each inspector, or in other words, the unit of area, is to be 20 square miles; and in both the correction of the record is to be confined to the entry of facts and is in no way to deal with the collection or settlement of rents. The important point of difference is that in the scheme of 1891 the funds were to be raised by mutation fees, while it is now proposed that they be provided by a cess.

6. It seems probable that, as elsewhere in India, the amount which can be raised by fees for mutations will not, in any case, provide a sufficient amount to meet the cost of all establishments. But it would seem desirable that before finally determining the amount required to be raised by cess, steps should be taken to ascertain what funds can be realised by the system of compulsory mutation adopted in the revenue codes of other provinces, and whether any economies can be effected by the utilisation of the special staff for registering assurances. On these questions the Government of India will await your opinion.

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No. 2.

Letter from the Government of India (Revenue and Agricultural Department),  
to the Secretary of State for India.

No. 80, dated 8th November 1893.

My Lord,

WE have the honour to forward a memorial addressed to your Lordship by the British Indian and other associations, on the subject of the survey and record of rights in Behar, together with a copy of a Minute (No. II.) by Sir Antony MacDonnell, and connected correspondence, dealing not only with the memorial, but with the entire question of the expediency of carrying out and maintaining the survey operations now in progress in Northern Behar. It will be observed that, as a special case, we have permitted the publication of the Minute as well as of the draft Bill and rules attached thereto, without waiting for your Lordship's final orders on the memorial. Our reasons for taking this course are sufficiently stated in the telegraphic correspondence, which will be found enclosed.

2. As regards the memorial, we consider that the pleas and arguments which have been advanced by the memorialists are fully met by the facts and statements set forth at length in Sir A. Macdonnell's Minute, in the Fourth Part of which the various objections are stated and discussed *seriatim*. The only question which we are disposed to regard as open to reconsideration is that which concerns the share of the expenditure to be borne by the State. With regard to this point, however, we desire, before coming to any conclusion, to await the return of Sir Charles Elliott, who has already directed his attention to it, but postponed submitting his final opinion. We shall address your Lordship again on this point, when we submit the further report asked for in paragraph 10 of your Despatch No. 95, dated 24th December 1891, regarding the measures to be taken for the maintenance of the record of rights.

3. It will be seen from our letter of the 21st October, which forms the last of the enclosures to this despatch, that although we have thought it desirable to allow publicity to be given to Sir A. MacDonnell's views, as contained in the draft Bill, and the rules to be made under it, we have not given more than a  
general

general approval to the Bill, while we have intimated our desire that the rules as well as the whole scheme designed for the maintenance of the land record should be carefully discussed at a conference of Bengal officers with experts specially deputed from the provinces in which such a system has already been introduced.

We have, &c.

(signed) *Lansdowne.*  
*P. P. Hutchins.*  
*A. E. Miller.*  
*H. Brackenbury.*

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Enclosure 1 in No. 2.

From *M. Finucane*, Esq., c.s., Officiating Secretary to the Government of Bengal (Revenue Department), to the Secretary to the Government of India (Revenue and Agricultural Department).

No. 1163-T. R., dated Darjiling, 23 September 1893.

I AM directed to submit the accompanying memorial,\* without date, received on the 1st September 1893, addressed to Her Majesty's Secretary of State for India in Council by the British Indian Association, the Behar Landholders' Association, the Bhagalpur Landholders' Association, and the Zamindari Panchayat and the Indian Property Association, in which those associations have again called in question the legality, necessity, and utility of the survey and record of rights now being carried into effect in Behar.

2. The views and observations of the Officiating Lieutenant Governor on the memorial have been submitted in paragraph 2 of my letter No. 1130-T.R., dated 21st September 1893, and in the portions of his Honour's Minute, dated 20th idem, therein referred to.

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Enclosure 2 in No 2.

REVENUE DEPARTMENT,—Land Revenue—No. 1130.T—R.

Darjeeling, 21 September 1893.

From *M. Finucane*, Esq., Officiating Secretary to the Government of Bengal, to the Secretary to the Government of India, Revenue and Agricultural Department.

Sir,

I AM desired by His Honour the Officiating Lieutenant Governor to forward, for the information and orders of the Government of India, a draft Bill † (Appendix C. to this letter) for establishing an agency for the maintenance of records of rights made under Chapter X. of the Bengal Tenancy Act, and to request the permission of the Governor General in Council to the introduction of the Bill into the Bengal Legislative Council on a suitable opportunity. I am at the same time to forward a Minute, dated 20th September 1893, which Sir Antony MacDonnell has recorded in connection with the Cadastral Survey and Record of Rights now being carried into effect in Behar, and with the maintenance of the record when made.

2. A memorial, without date, received on the 1st September 1893, forwarded under separate cover, has been submitted to the Officiating Lieutenant Governor by the British Indian Association, the Behar Landholders' Association, the Bhagalpur Landholders' Association, and the Zamindari Panchayat, and the Indian Property Association, for transmission to Her Majesty's Secretary of State, in which the legality, necessity, and utility of the Record of Rights have been again called in question; and Sir Antony MacDonnell has thought it right to examine this memorial, to point out its defects and inaccuracies, and generally to re-state the whole case for a Survey and Record of Rights of North Behar. The Minute is therefore submitted in the hope that it will not only justify the legislation which it is necessary to undertake in order to maintain the record, but also that it will show in a compendious form the reasons which, operating  
over

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\* See page 135 below.

† See page 107 below.

over a long series of years, have led Government to undertake these operations in Behar. On the margin of paragraph 7 of the Minute will be found references to the portions of the Minute in which the statements made in the memorial of the Zamindari Associations are discussed.

3. I am to invite attention to the opinions (Appendices A. and B. to the Minute) of both members of the Board of Revenue, in which they express their concurrence with the views of the Officiating Lieutenant Governor. I am also to invite attention to paragraphs 73A. and 73B. of the Minute, in which the President and Secretary of the Indigo Planters' Association intimate a willingness to accept the scheme for maintaining the Record, subject to a condition with which Sir Antony MacDonnell wishes to comply.

4. The question whether the Land Record establishment may be utilised for registration of titles to and transfers of land under the General Registration and Transfer of Property Acts, is one which has been brought to His Honour's notice. Provision has been made for the communication to the Land Record-keepers of registrations effected under the former Act; but after much consideration Sir Antony MacDonnell thinks that, before going further in this direction, it will be better to bring the Land Record system now proposed into working order, and then to graft on to it any expansion that may be considered to be practicable.

5. Advantage has been taken of the opportunity afforded by the Bill, to spread the realisation of the expenses of the Survey and Record of Rights over a period of years, thus lightening the burden of costs on the zamindars and raiyats, and at the same time facilitating their collection. I am in this connection to invite special attention to Section 12 of the Bill, and paragraph 74 of His Honour's Minute.

I have, &c.

(signed) *M. Finucane,*

Officiating Secretary to the Government of Bengal.

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Enclosure 3 in No. 2.

MINUTE, dated 20th September 1893, on the Cadastral Survey and Record of Rights in *Behar*, by His Honour the Officiating Lieutenant Governor.

## PART I.

### INTRODUCTION.

IN discussing the question of the cadastral survey and settlement of North Behar in a Minute dated the 24th June last, my chief objects were to secure the assent of the Governor General in Council to the following two principles:—

Object of the Lieutenant Governor's Minute of 24th June 1893, and orders passed by the Government of India upon it.

- (a) That no person should be employed in making the survey or preparing the record who was in the employment of either landlord or tenant, or who was not entirely under the control of the Government, and liable as a public servant to punishment for misfeasance.
- (b) That when the record of rights had been correctly completed it should subsequently be maintained up to date, and that immediate steps should be taken to create an official agency for maintaining it.

The Minute and its appendices also set forth proposals both as to the agency to be employed in making the survey and record, and in maintaining it when made; and I had the satisfaction of being able to cite the joint opinion of the Members of the Board of Revenue, endorsing and accepting those proposals.

The Government of India was pleased to approve fully of my proposals. His Excellency in Council pointing out that those concerning the maintenance of the record of rights were in point of fact in agreement with, though in amplification of, the scheme which had been previously put forward by Sir Charles Elliott, the addition consisting in the provision for map amendment and

and for correction of the record on the spot, without which no scheme for maintaining the record of rights could be effective or complete.

2. Having received these orders of the Government of India, I caused a draft scheme for maintaining the records to be sent for consideration to the Indigo Planters' Association and the Behar Landholders' Association—the two great bodies charged with safeguarding landlords' interests in Behar; and at the same time the Board of Revenue was requested to prepare a draft Bill upon the subject, with such draft subsidiary rules as might be necessary for giving effect to its provisions. My intention was—an intention subsequently carried into effect—to lay the draft scheme, Bill, and Rules before a representative conference of all interested in the question, on the occasion of a visit to Muzaffarpur which I had decided to make.

Action taken by the Lieutenant Governor on receipt of the approval of the Government of India of proposals made in the Minute of 24th June 1893.

3. I went to Behar at the end of July, and at a public Darbar held on the 31st idem at Bankipore, referred to the question of the survey and record of rights then in progress. The question whether a survey should or should not be made being no longer an open one, I limited my observations to two points, namely, "how the work can be best and most cheaply done; and how, when done, its good effects may be perpetuated." This meant, as I went on to explain, whether the survey was to be carried out by Government patwaris or by amins; and whether the records were to be maintained by the Government (or registered) patwaris or by the kanungos of the draft scheme which had been circulated for criticism to the Indigo Planters' and Landholders' Associations, as stated in paragraph 2 above. My object in my Darbar speech was to place the issues with their limitations clearly before all interested parties, and that object was fully secured by the publicity given to my observations. I attach to this Minute a copy of that portion of my speech in Darbar which is concerned with the question under notice.\*

4. Before leaving Calcutta for Behar, I had received the draft of a memorial against the record of rights, purporting to proceed jointly from the planters, zamindars and other landholders of North Behar, which it was proposed to present to me at Muzaffarpur. In the sequel it turned out that the memorial was practically an expression of the views of the Indigo Planters' Association only; but as such it was entitled to the greatest consideration, and this it received. The memorial, besides raising some very important questions, indicated the existence in the minds of its framers of such extreme misconceptions as to the official attitude of this Government, and as to the meaning of the Bengal Tenancy Act, that I welcomed the opportunity its presentation gave me of supplementing my remarks in Darbar by a further statement, which well-nigh covers the entire ground in controversy. I attach to this Minute a copy of the memorial and of my reply.

Memorial from the Indigo Planters' Association, and reply thereto.

5. These preliminaries over, the conferences for which I had gone to Behar took place at Muzaffarpur under the presidency of the Honourable Mr. Stevens, Senior Member of the Board of Revenue, and the results are recorded in the Minutes of the proceedings, and in Mr. Stevens' report, dated the 14th August, both of which documents are enclosures to this Minute. Briefly stated, the results are that the zamindars are still opposed to the maintenance of the record of rights; but in view of the contingency of their opposition proving futile, they express preference for the maintenance of the record through kanungos or Land Record-keepers to its maintenance through patwaris; that is to say, they prefer the scheme of maintenance indicated in Appendix B. of my Minute of the 24th June and the draft Bill submitted to the Conference, to the enforcement of Regulation XII. of 1817, or the resuscitation of the patwari. I have accepted the choice made by the zamindars.

Conferences with zamindars and indigo planters at Muzaffarpur, and result.

It is quite true that their choice is a conditional choice, but that is because they object to the maintenance of the record altogether, and not because they do not think the scheme a good one. The truth is that the great majority of Behar landholders do think the scheme as good as, in the prescribed conditions,

\* See Enclosure 7 in No. 2, p. 120.

tions, could be devised, and that they are immensely relieved in mind by my acquiescence in their conditional acceptance of it in preference to the patwari scheme. They said so at the time, and they again express their satisfaction in the Resolution printed in the enclosures, which of their own motion the Tirhut Landholders' Association have forwarded to Government.

6. In paragraph 31 of my Minute of the 24th June last, reasons were given why it was thought desirable to enforce the provisions of Regulation XII. of 1817, and the registration of patwaris in the districts under settlement. Briefly these reasons were primarily that the cost of survey might be cheapened by employing the registered patwari instead of an amin in surveying his village; secondly, that an agency for maintaining the record might be created and put into training. There was, however, general reluctance on the part of landlords to register their patwaris or bring them in any way under Government control. If the patwaris were not to remain their private servants, while working under the Government in making the survey or framing the record of rights, then the zamindars would prefer that the Government should make its own arrangements for survey and framing the record, and leave the patwaris alone. This state of feeling, the difficulties attaching to any effort to work patwaris under Regulation XII. of 1817, and the choice as to the agency for future maintenance made by the zamindars—all these three considerations induced me to abstain from enforcing a general registration of patwaris, and to instruct the Director of Surveys to employ amins or professional surveyors only in survey work in Behar, care being taken that though local men may, without objection, and indeed with advantage, be trained as surveyors, no amin shall be employed in surveying a village, with which, or with the owner or raiyats of which, he has or had any connexion. It is true that this decision destroys the hope I had entertained of cheapening the survey by employing registered patwaris to do the measurements which under the Regulation they are bound to do as part of their statutory duties; but the objections of the zamindars gave conclusive force to the consideration that it would be undesirable to register patwaris under Regulation XII. of 1817, make them Government servants, and train them to survey work, when on the completion of the survey, that is, after the lapse of a few months, their services were no longer to be made use of. The men to be employed on survey work henceforward will form a body from which we can pick and choose our agents for subsequent maintenance of the record. It may be added here that the zamindars, seeing my difficulty and appreciating my wish to reduce the costs, have offered me free of cost the unskilled labour required by the Survey Department. This will be a material help for which I am much obliged to the zamindars.

7. So far the way is clear, and it is to be hoped that all the uncertainties which had gathered around the operations in connection with the agency for survey and for subsequent maintenance of the record will now disappear. I have already given the necessary orders, both as to the agency for making the survey and framing the record, and as to the procedure to be followed by it, and my orders on these points are being separately reported to the Government of India for information and approval. These orders will, I trust, have the effect of securing accuracy in preparing the record, as the amins will be entirely precluded from making any entries affecting the status of the tenant or the rate of his rent. Entries regarding these all-important matters will be made by superior officers only. It now remains for me to submit to the Government of India the legislative proposals by which the agency for maintaining the record is to be legalised and

Fresh Memorial of Zamindari Associations against the Record of Rights.

\* The specific objections to the cadastral survey urged in this Memorial may be classed under the following heads. The paragraphs of this Minute on which the objections are specifically answered are given in brackets; but the objections are generally dealt with in Part IV. of the Minute.

(a) The zamindars were kept in ignorance of the intention of the Government to survey Behar. "They were not aware that such a measure was in contemplation until the Secretary of State's sanction had been obtained." [24.]

(b) The cadastral survey of Behar should not have

funds for its support provided. But as I have just received from the British Indian and Behar Landholders' Associations a Memorial\* for submission to Her Majesty's Secretary of State, in which the legality, expediency and usefulness of the survey and record of rights, and its subsequent maintenance, are again called in question, it may be useful to recapitulate the reasons and emphasize the

the

been undertaken without special legislative sanction. The survey of a district is not authorised by the provisions of Section 101, Tenancy Act, which only applies to a "local area," which must necessarily mean a limited area possessing some special features. [25-27A.]

(c) The cadastral survey of Behar is required for "administrative purposes," and if it is to be continued, the Government should bear all the costs, which ought not to be imposed on landlords and tenants under Section 114 of the Act, and which, if imposed, will impoverish them. [57, 58, 61.]

(d) All District Officers having local knowledge are, as shown by the Parliamentary Return published in May last, against the cadastral survey. [49.]

(e) The cadastral survey will cause general litigation which will not be conducted in the ordinary courts, "which are well-known and 'trusted' by the people," but must be heard and determined by Revenue officers, "whose decisions for obvious reasons will not be considered with the same respect." The experience of the cadastral survey in the Srinagar Estate is an illustration of this. [56, 59.]

(f) No provision has been made for any agency for maintaining the record when it has been completed. [28, 55.]

the necessity for such legislation as I propose, and generally for such a survey and record of rights as we are now carrying into effect in Behar. This procedure will enable me to answer the Memorialists and justify the action of the Government on all points which they raise. This has indeed been already done many times; but the Memorialists are rich, active, and influential, and amid the often refuted contentions which they attempt to revive the true issues are apt to be lost sight of, and the voice of reason and justice to remain unheard. It is well to remind those who interest themselves in the controversy that the question lies not between the Government and the zamindars, but between the zamindars and their raiyats,

and that the only interest the Government has in the matter is, as Lord Ripon's Government said, "the diminution or prevention of human suffering." It is true that the raiyats do not make their grievances known through public meetings, telegrams to the newspapers, and all the other devices of an exotic system of agitation. But the grievances are there all the same, deep-seated, growing, continuous; they make the administration of Behar a most anxious task for this Government at all times, and when the crop of even a single season fails, a task which becomes well-nigh insupportable.

Let there be no mistake, no misapprehension of the issue now. While we wish to deprive the zamindars of no privilege to which they are justly entitled, and while we would increase their facilities for managing their estates and collecting their rents, our principal object in undertaking the Survey and Record of Rights in Behar is to protect the legal rights of the raiyats, which have been so lamentably neglected in the past. The zamindars seek to defeat the existing law; the Government seeks that the law shall be enforced.

8. In the following remarks, then, I shall briefly traverse the entire ground Argument to be developed in this covered by legislative and executive action in Minute. Bengal during the past century, in connection with the subject of recording of raiyats' rights. I shall first deal with the record of rights in its historical and legal aspects. I shall next consider the necessity of a record of rights in Behar, as it existed before the passing of the Tenancy Act. I shall then examine whether that necessity has been removed or mitigated by the operation of that Act. The evidence we have as to the usefulness of a record of rights as a remedy for the agrarian abuses which exist will afterwards be stated, and on convenient opportunities the various objections raised in the Zamindars' Memorial now submitted will be noticed. Lastly, the expediency and effectiveness of the Bill I propose for the maintenance of a record of rights will be discussed.

## PART II.

### THE SURVEY AND RECORD OF RIGHTS IN ITS HISTORICAL AND LEGAL ASPECTS.

9. The agrarian difficulties in Behar which now confront us are the fruits of the mistake which Lord Cornwallis committed in making the Decennial Settlement of the land revenue permanent without first recording the relative rights and interests of zamindars



zamindars\* and raiyats in the soil. It is a matter of history that the settlement in perpetuity of the land revenue of these Provinces had been the subject of prolonged consideration before Lord Cornwallis ever came to India. It was one of the subjects over which Francis and Hastings disputed, and more than a century ago it ranged Bengal officers into two opposing schools—the zamindari and the raiyatwari. Helped by English or feudal notions of property in land, the zamindari view prevailed against indigenous custom and immemorial practice, and for years before 1793 preliminary inquiries were prosecuted with the object of ascertaining the true assets of the various estates preparatory to a settlement of the revenue in perpetuity. Among other means taken to ascertain these assets was farming the estates to the highest bidder—a plan which was naturally objectionable to the old zamindars, who memorialised the Government in England on that and other alleged grievances. In passing orders on that memorial in 1784, the Court of Directors clearly showed that it was not their intention that a permanent settlement of the revenues should be made without full inquiry into the rights of all parties, and without the provision of adequate safeguards for the immemorial rights of the raiyats. The Court's orders dated 1784 accordingly directed that an inquiry should be made into the rights of all descriptions of persons according to the established usages of the country. These inquiries, which were preliminary to the permanent settlement of the

Mr. Shore opposes the Permanent Settlement on the ground of inopportuneness.

land revenue, resulted in voluminous reports from the collectors of districts, the Board of Revenue, and other public officers in the Lower Provinces of Bengal, and these reports were summarised and examined by Mr. Shore (afterwards Lord Teignmouth, and Governor General of India) in his Minutes, dated 18th June 1789, for Bengal, and 18th September following, for Behar, which are printed as Appendices to the well-known Fifth Report of the House of Commons on Indian Affairs. But the information then gathered was merely of a general character; it afforded very inadequate knowledge as to the financial resources of the various districts, as only in a few districts was any attempt made to institute detailed inquiries or to establish a record of rights. The want of precision which characterised the information which had been gathered so convinced Mr. Shore of the inexpediency, both in the financial interest of Government and in the interest of the raiyats, of basing any permanent arrangements on it, that all the weight of his great influence was directed towards inducing the Governor General to conclude a settlement in the first instance for 10 years only, and a decennial settlement was actually made. It was Mr. Shore's hope

† See Mr. Colebrook's Minute of 1st May 1812, and Mr. Justice Field's "Regulations of the Bengal Code," page 36.

that during the term these special inquiries and record of facts might be completed which had already been begun in the 24-Parganas and other places under the orders of Government.†

10. Unfortunately, Mr. Shore's prudent counsels did not prevail with the

Lord Cornwallis, while agreeing with Mr. Shore as to the necessity for protecting the rights of the raiyats, differs from him as to means. Raiyats' rights consequently not ascertained before the Settlement.

Governor General, who, in his Minute of 3rd February 1790, declared his belief that the objects which Mr. Shore had in view might be secured by speedier means than a detailed and tedious inquiry.

It was Lord Cornwallis' opinion that by limiting the Government demand upon the zamindar, and by imposing upon him the obligation of coming to terms with his raiyats, subject to specific rules and restrictions, the purposes of a detailed inquiry in the interest of the raiyats would be effectually and expeditiously fulfilled, while the immediate advantages to the revenue derivable from a permanent settlement would at once accrue. The advice of Mr. Shore was therefore rejected, and the decennial settlement

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\* The article under the head "zamindar" in the glossary to the Fifth Report prepared by Sir Charles Wilkins, the Orientalist, explains the original and derived meaning of zamindar. "A zamindar," he says, "is an officer who under the Muhammadan Government was charged with the superintendence of the lands of a district financially considered, the protection of the cultivators, and the realisation of the Government share or its produce either in money or kind, out of which he was allowed a commission amounting to about 10 per cent. and occasionally a special grant of the Government share of the produce of the land to a certain number of villages for his subsistence, called *nankar*. The appointment was occasionally renewed; and as it was generally continued in the same person so long as he conducted himself to the satisfaction of the ruling power, and even continued to his heirs, so in process of time and through the decay of the ruling power and the confusion which ensued, hereditary right, at least prospective, was claimed, and tacitly acknowledged, till at length the zamindars of Bengal, in particular, from being the mere superintendents of the land, have been declared to be hereditary proprietors of the soil, and the before fluctuating dues of Government have under a permanent settlement been unalterably fixed in perpetuity."

was declared permanent without any definite knowledge having been acquired of the resources of each estate, and without any precise record having been made of the reciprocal relations of zamindar and raiyat. Rules, however, were provided in the Settlement Regulations, whereby it was believed that those relations would be established on a permanent and satisfactory basis. To these rules I shall presently refer at length: but here I would note that the outcome of Lord Cornwallis' policy has unfortunately justified Mr. Shore's fears rather than the Governor General's hopes. While we are to-day under the necessity, which Mr. Shore foresaw, "of correcting abuses by new rules," we do not find that the zamindars verify Lord Cornwallis' expectations by welcoming these corrections or by accepting that interference on the part of Government which the Governor General asserted to be "undoubtedly necessary for effecting an adjustment of the demands of the zamindars upon the raiyats." On the contrary, this interference, which was foreseen to be possible, and expressly declared to be justifiable by the authors of the Permanent Settlement themselves, is now resented as an infraction of a solemn engagement of which a chief stipulation was the reservation of this very power of interference.

11. The modifications which the Permanent Settlement introduced into the Effects of Permanent Settlement on status of zamindars. relations between the Government and the zamindars are specifically set forth in the Proclamation dated 22nd March 1793. which was afterwards enacted into Regulation I. of the same year. That Proclamation contained two principal provisions: it fixed for ever the revenue which had been assessed on the various estates at the Decennial Settlement which has just been concluded, and it declared the settlement-holders, whom it designated "proprietors of the land," privileged to transfer "to whomsoever they think proper, whether by sale, gift, or otherwise, their proprietary rights in the whole or any portion of their estates without applying to Government for its sanction to the transfer." There were some subsidiary stipulations, to which it is unnecessary to refer here more specifically; but the intention and effect of the Proclamation was to abandon, on the part of Government, the right to increase the revenue which had been assessed on the estates of the zamindars, and, subject to summary sale for non-payment of that revenue, to constitute the zamindars, as far as the Government was concerned, owners of these estates.

12. Now the rights which the Government possessed were admittedly not Effects of Permanent Settlement on status of raiyats. exhaustive of all the interests in the land. Under the customary law of the country, as admitted by the authors of the Permanent Settlement, the raiyats, too, had rights which it was not discretionary with the Government to alter or annul. Those customary rights of the raiyats the Permanent Settlement neither did nor could affect or prejudice in any degree whatever (*see* Section 15, Regulation VII., 1799, Clauses 7 and 8). The zamindars do not complain that the effect of the survey and record of rights or the measures proposed for the maintenance of the records will be to enhance the revenue for which their estates are liable, nor to fetter the free transfer by sale, gift, or otherwise, of the whole or any portion of their rights. As far as the relations between them and the Government are concerned, there can be therefore no ground for any charge of breach of faith, and there is no allegation of any such breach. The charge is that, by recording the various rights in the soil and maintaining the record, the Government of to-day is violating a pledge given in 1793. No charge could be more baseless than this, for in 1793 not only was the power to intervene reserved, but by the provisions regarding the delivery of pattas, the appointment of patwaris, and the stereotyping of the official unit of measurement under the Regulations of the Decennial and Permanent Settlements, the intention was to record the area of the holdings, the status of the tenants, and the rates of rents, and to fix the last-mentioned for ever. Had the Government in 1793 not contented itself with the elaboration of rules and theoretic plans alone, and had it followed Mr. Shore's advice and translated these rules into practice, and actually recorded rates and status before declaring a settlement permanent which had been framed on confessedly defective and inaccurate information, until the defects had been made good and the inaccuracies rectified, there might have been no need for such a reservation as that contained in Article VII. As it was, however, the reservation

was essential, and it is upon it that we are now acting, so far as the altered facts permit.

13. The safeguards by which Lord Cornwallis hoped to protect the interests of the raiyats were, briefly put, three in number. The first was the injunction on zamindars to prepare pattas subject to the approval of the Collector (to preclude the introduction of new clauses or covenants); the second was the deposit in the collectorate of the standard of measurement, whereby the areas of holdings might be guaranteed; and the third was the maintenance of the accounts of the raiyats by the village patwari, whereby the permanency of the rates might be secured. It was intended by these safeguards to assure to the raiyat the possession of a certain area of land on certain specific conditions and at specific rates of rent: in other words, to certify the information we shall furnish to all parties by the record of rights now in progress. This intention was completely defeated by the persistent refusal of the zamindars to give pattas or to recognise the patwaris as the custodians of the raiyats' rights. It has also been stated, with some plausibility, that the raiyats were not always eager for these pattas. They were apprehensive that the consolidation of all demands in the patta would be only the creation of a new *asul*, or original rent, upon which fresh cesses, or *abwabs*, might be calculated, and that the acceptance of a patta would diminish the force of their customary right to hold their lands as long as they paid the pargana rate for it; but the obligation on the zamindars to fulfil this intention of the Regulations, and on the Government to see it fulfilled, has not been weakened by the lapse of time, though time has shown that the method of fulfilment preferred in 1793 was ineffectual, and certainly not suitable to circumstances as they are to-day.

14. To understand the refusal of the zamindars to give pattas one has only to consider what a patta meant. It meant a lease renewable in perpetuity, prepared by, and at the expense of the zamindar, and delivered to the raiyat through the collector, specifying the area of the holding, the conditions of the tenancy, and the amount of rent, which was never to exceed the established pargana rates. In other words, the permanent settlement provided that the pargana or customary rates of rent should remain fixed and unalterable for ever, just as it provided that the revenue payable by the zamindars to Government should also remain fixed in perpetuity. Obviously the zamindars had the very strongest reasons for not complying with their obligations in regard to the delivery of pattas. Compliance would have effectually limited the zamindar's control over his raiyats, and put an end to all enhancements of existing rent. It would have compelled the zamindars to look for an increase in their rent-roll to the reclamation of the waste land only, as was indeed intended. The zamindars therefore opposed a passive resistance to the orders of Government; and as Lord Cornwallis, while insisting on the delivery of pattas as a stipulation of the settlement, provided no standard, such as a record of rights, and no agency other than the Civil Courts (an inadequate, novel, and exotic institution) to which the raiyats could appeal, the result was that the provisions of the settlement regarding pattas were not observed.

In theory Lord Cornwallis' plan for securing the record of raiyat's rights was excellent. The accuracy of the area of the holding was provided for by the unit of measurement deposited for safe custody with the Collector; the integrity of the conditions of the holding, and the exclusion of all new covenants, were guaranteed by the provision requiring the Collector's approval to the pattas. The permanency of the rates of rent, and the maintenance of fair dealing between raiyat and zamindar, were vouched for by the appointment of the patwari as a public servant to keep the village accounts. Nothing could be better on paper, but the whole plan was a complete failure in practice, simply because no executive agency to enforce the arrangement was provided. For precisely similar reasons has the Bengal Tenancy Act hitherto failed in Behar, and we are now endeavouring to correct this failure by creating that executive agency which, taught by experience, we have provided for in Chapter X. of the Tenancy Act.

15. It is not uncommonly believed that the terms of settlement of the land revenue made with the zamindars in 1793, by Lord Cornwallis' Government, were easy, and that the revenue assessed was light. I am disposed to doubt this view, and to think that at all events in the Bengal districts, the settlement was for the time a severe one. In his Minute of June 1789, Mr. Shore wrote.—

"A proportion of nine-tenths of the zamindars' receipts is surely as much as our Government ought to demand if it means to regard the welfare of their subjects by zamindars' receipts. I should hope that the profits of the zamindars would in time exceed this proportion by a due attention to the improvement of their lands and encouragement of their raiyats."

And this was the basis on which the Permanent Settlement was made, 90 per cent. of the assets (*i.e.* then existing rentals) as then ascertained were taken by the Government, and 10 per cent. left to the zamindars. To modern notions this would be a harsh assessment, but it must be remembered that the zamindars had their *nankar* or *nij jot* lands free; that they were secured all the prospective income from waste lands: and that, finally, many of the best officers of the day believed there had been concealment of assets, and that as a matter of fact Government did not get nearly 90 per cent. of the assets of the estates. And this belief seems to have been better grounded as regards Behar than as regards Bengal. Mr. Sarishtadar Grant, in his Analysis of the Finances of Bengal, published in 1788, estimated the concealment of assets at more than a crore of rupees, or one-fourth of the whole. But Mr. Shore disputed this; and I myself believe that we have, in the rapidity, especially in Bengal, with which estates were sold up for arrears of revenue at the end of the last century, some proof that the revenue assessed was at the time excessive. The sales of estates in Behar were comparatively few compared with Bengal, thus indicating the greater lightness of the settlement in the former province. Of course, the refusal of raiyats to pay rents, owing to the zamindar's demand of rent at rates above the pargana rate to which I have adverted, might explain to some extent the enforced sales, without the assumption that the settlement was itself harsh; but my impression is that the assessment made in 1793 was severe for the time. After a very few years, with the reclamation of waste lands and the unauthorised enhancement of rents, the case was entirely reversed, the income of the zamindars, which was represented by one-ninth of the revenue in 1793, having become more than five-fold the revenue in 1893. *In three generations the income of zamindars of North Behar has increased eighty-fold\* (in the Darbhanga district it has been increased one hundredfold.)*

	Revenue Assessed in 1793 (Permanent Settlement).	Rental in 1793 (calculated on Government Revenue plus One-ninth Zamindars' Allowance).	Rental as shown in existing Road Cess Returns.	Year of Valuation of Rental.
	Rs.	Rs.	Rs.	
Darbhanga - - }	10,55,395	11,72,661	71,37,044	1883
Muzaffarpur - - }			67,27,009	1891
Champaran - - }	13,27,533	14,75,036	30,73,556	1888
Saran - - }			59,87,760	1883
	23,82,928	26,47,697	2,39,16,269	

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\* The following figures have been furnished by the Board of Revenue:—

	Rs.
Zamindars' gross income (on which revenue was assessed) in 1793	26,47,697
Government revenue as assessed at Permanent Settlement	23,82,928
	2,64,759(a)
Zamindars' gross income (rental) in 1893 (excluding increase in Darbhanga)	2,39,16,269
Government revenue in 1893	34,05,149
	2,05,11,120(b)

Therefore (b) = 80 times (a).

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I am myself disposed to think that the true income in 1793 was higher than would appear from the above figures, but in any case the increase is still enormous. The present Government revenue of the four districts of North Behar is 34,05,149 rupees, the increase in the century being due to resumptions, escheats, &c. The existing rental thus varies from five times the revenue in Saran to ten times in Darbhanga. The valuation of the Darbhanga district is now in process of being revised, and I am informed by the Collector that the present rental will show an increase of 10 per cent. over the rental of 1883. If this be so, the rental will be 11 times the revenue of that district (7 lakhs of rupees), or, put it another way, the revenue will be only 9 per cent. of the gross rental. With what show of reason, then, can Behar, and especially Darbhanga, zamindars claim that the general taxpayer shall pay for that record of rights which they are, and always have been, under a legal obligation to establish?

16. Reverting to my narrative, I wish to point out that after the Permanent Settlement had been concluded the zamindars at once began to evade tender of pattas, or tendered them at more than the customary rates. The raiyats refused to accept these pattas, which they either did not understand or found to be unfair. There was a withholding of rents, much confusion soon prevailed, and many estates were sold, especially in Lower Bengal, for arrears of revenue. (In Behar, where, as I have said, the settlement seems to have been made, though ostensibly on similar, yet really on more lenient terms, than in Bengal, the sales of estates were much fewer.) This circumstance caused the East India Company, which had to pay its dividends and to meet the expenses of the great war with Tippoo in which Lord Wellesley was then engaged, some alarm for the security of its own revenue. The zamindars declared they could not pay the revenue unless their hands were strengthened against the reculant raiyats; and the Government, pressed by want of money, agreed to strengthen the hands of those on whom it immediately depended for the punctual payment of its revenue.

The notorious Haftam, or Regulation VII. of 1799 (which ought to be a lesson and a warning to those who would now undertake to devise a summary procedure for realising rents), was therefore enacted "for enabling proprietors and farmers of land to realise their rents with greater punctuality; for providing against unnecessary delay in the payment of the public revenue assessed upon the lands; and for securing the ultimate recovery of arrears of revenue by a sale of the landed property, from which it may be due, at the close of the year." This Regulation gave the landlords practically unrestricted right of distraint. They were empowered "to distrain, without sending notice to any court of justice or any public officer, the crops and products of the earth of every description, the grain, cattle, and all other personal property, whether found in the house or on the premises of any other person." Moreover, with a view to give the landlords greater power still over their tenants, magistrates were required to punish by fine or imprisonment raiyats who could not establish the truthfulness of complaints of hardship made against landlords or their distraining agents, and the civil courts were directed to indemnify zamindari officers or others employed in the collections when improperly summoned. It was further declared that if any person should wantonly and without cause be the means of summoning to the courts of justice, civil or criminal, the principal officer or any officer engaged in collecting the rents of any zamindar, talukdar, or other landholder or farmer of land, and a loss of rent or other evident damage should be sustained by the landholder or farmer in consequence of such wanton and unnecessary summons, an action should lie against the party who caused the summons, for such loss or damage, and on proof thereof the party injured should be entitled to recover the amount with all costs of suit.

17. This Regulation was not meant to define or limit the actual "rights of any description of landholders or tenants, which could properly be ascertained and determined by judicial investigation only, but merely to point out in what manner defaulting tenants might be proceeded against in the event of their

Effects of the settlement on the course of Legislation, Regulation VII. of 1799.

Evil effects of Regulation VII. of 1799 on the rights of the raiyats.

their not paying the rents justly due from them, leaving them to recover their rights, if infringed, with full costs and damages in the established courts of justice." These last provisions, says Mr. Justice Field,\* scarcely require comment. "There is scarcely a country in the civilized world in which a landlord is allowed to evict his tenant without having recourse to the regular tribunals; but the Bengal zamindar was deliberately told by the Legislature that he was at liberty to oust his tenants if the rents claimed by him were in arrear at the end of the year, leaving them to recover their rights, if infringed, by having recourse to those new and untried courts of justice, the failure in which might be punished with fine or imprisonment."

The result of this Regulation was that in 12 years the ancient rights of the raiyats throughout Bengal were on the verge of obliteration.† The student of Indian history, as it has hitherto been written, remembers the Administration of Lord Wellesley for the victories of Seringapatam, Assaye and Laswari. But these brilliant episodes have their antitheses in the evils produced by this bad law.

18. There was, however, no intention to abrogate the rights of the raiyats by Regulation VII. of 1799, and when, during Lord Minto's Administration, the evil effects of the Regulation became known, there was a strong revulsion of official feeling, which produced Regulation V. of 1812 (the Panjam) whereby it was hoped to correct the bad effects of Regulation VII. of 1799.

Under† the Haftam process the person of the raiyat could be seized in default; under the Panjam process his property could be distrained, and in either case the proceedings commenced by what has been described as a strong presumption equivalent to a knock-down blow against the raiyat." The effect of Regulation V. of 1812 was unsatisfactory, and at last it was clearly recognized that the zamindars would never of their own accord define the legitimate rights of their raiyats, nor place any limitation to their own claims upon them. Lord Cornwallis' plan of giving pattas had failed totally, and it was therefore resolved to strengthen and reorganise the indigenous system of patwaris and kanungos as an independent agency for maintaining a record of the reciprocal rights of both parties. The zamindars were bound by Section 62, Regulation VIII. of 1793, to main a patwari in every village, who was to be a Government servant; but in this, too, they neglected their obligations, and gradually converted the patwari into their own private servant or gomashtha. The reform now embarked on was embodied in Regulation XII. of 1817.

19. When that Regulation became law, the Board of Revenue proceeded to take action on it by prescribing what the duties of the patwaris should be.§ But the Board had not even in 1817 sufficiently gauged the steadfastness of zamindari opposition to all reform affecting raiyats' interests, and they afforded an effective means of resistance to the zamindars in the dual allegiance which the Regulation imposed on the patwari—a means which zamindars have not failed to make full use of from that day to this. The Court of Directors were better advised, as will be seen from the extract from their valuable letter of 12th July 1820 (Enclosure 16). They feared that the Regulation would prove futile, and their fears were only too well founded. It soon became apparent that as an engine for the protection of the tenant, by bringing on record and maintaining the established rates and rules by which rents were to be regulated, Regulation XII. of 1817, was as useless as the provisions of Regulation VIII. of 1793 had been. The objects of the Government in 1817, as in 1793, were entirely frustrated by the systematic opposition of the zamindars

§ Among the very first of them was the maintenance of measurement chittas, khasras, or field-books, showing the boundaries and area of each plot of land in each raiyat's possession, the rent payable, the crops grown, and the quality of the soil. On this point I would invite reference to the Board's letter, dated 18th May 1819, and its enclosures, annexed to this Minute (pp. 150-158). I do so because the zamindars of Behar have contended that measurement of the village was not among the patwaris' statutory duties, but the zamindar had, I believe, come to see the error of that contention even before my recent visit to Behar.

zamindars to every attempt of the revenue officers to obtain any satisfactory record of the relations between landlord and tenant.

20. Things had now been advanced to this stage. The failure of Lord Cornwallis' method of a record of rights by means of pattas had been recognized; the failure of the Patwari Regulation XII. of 1817 was being fast admitted; all advocates of raiyats' rights were coming to an agreement that the only effective plan for securing agrarian quiet and fair dealing was by a survey and record of rights. To-day the zamindari advocates in the newspapers and in Parliament would fain have the public believe that the record of right such as we now propose to make is a new-fangled notion—the product of anti-landlord feeling. Nothing could be more untrue. The proposal made by Mr. Shore, but rejected by Lord Cornwallis in the last century, to have a detailed record of rights of Bengal, was accepted as essential by the Government more than 70 years ago. Convinced by the failure of Lord Cornwallis' plan of the interchange of pattas, and satisfied that the Patwari Regulation XII. of 1817 would of itself do no good, the Government of India, 70 years ago, saw that the only effective means of securing agricultural quiet and prosperity in Bengal was by a record of rights. In a Despatch, dated 1st August 1822,\* to the Court of Directors, the Government of India

\* Bengal Revenue Selections, Vol. III. page 441.

wrote as follows :—

“In the ceded and conquered provinces, our separate Despatches relative to the settlement will show that we design, as far as practicable, to adjust, through the agency of the Collectors, the rights and interests of every raiyat in every village as it may be settled, and specifically to define the rights of the zamindars with reference to the mufassal jamabandi so made. The existence of the Permanent Settlement in the Lower Provinces does not, in our judgment, oppose any legal bar to the adoption of a similar course there, if we can command a sufficiency of fit instruments, and the scheme be generally deemed expedient; for Government, in limiting its demand, specifically reserved the option of such an interference, and if the zamindars have themselves failed to assess their raiyats, and to issue pattas on equitable terms as provided, such an interference would require no other justification than the proof that it could be expediently exercised.

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“We freely, indeed, admit that even though the raiyats of Bengal had possessed no right of holding their lands at determinate rates considered in relation to the sovereign it was unquestionably competent to Government, in fixing its own demand, to fix also the rates at which the malguzar was to make his collections; and it was, we think, clearly intended to render perpetual the rates existing at the time of the Permanent Settlement. The intention being declared, the rule is of course obligatory on the zamindars.”

Revenue letter from Bengal dated 1st August 1822, paragraph 109.

Thus the Government of India, so far back as 1822, proposed a record of rights of the permanently-settled districts of Bengal as being the only effectual means of defining and maintaining the rights of the raiyats, all other means having proved useless.

21. In reply the Court of Directors in 1824,† far from thinking such proceedings an invasion of the rights of the zamindars, wrote thus :—

† Revenue Selections, Vol. III., page 443.

“It is in the highest degree important that your design of adjusting the rights and interests of the raiyats in the villages as perfectly in the Lower as in the Upper Provinces should be carried into effect. The doubts which we have already expressed with respect to the sufficiency of the Collector's agency will receive from you a due degree of attention. The complaint you make with respect to the limited extent of the machinery which you can apply is of serious importance. You certainly do not estimate too highly the danger of performing such enquiries precipitately, and without due security for their being sufficiently exact; and from your assurance that the matter will continue to command your most anxious attention, we feel confident that no unnecessary delay will be incurred. If the great cause of delay is the inadequate extent of the agency you can employ, it is important to consider by what means it

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may be practicable to enlarge it. We shall have the greatest satisfaction in receiving the result of your deliberation upon this subject, and shall be ready most zealously to co-operate with you for the speedy accomplishment of so desirable an end. Should you succeed in securing to the raiyats those rights, which it was assuredly the intention of the Permanent Settlement arrangements to preserve and maintain, and should you in all cases where the nature and extent of those rights cannot be now satisfactorily ascertained and fixed, provide such a limit to the demand upon the raiyat as fully to leave to them the cultivator's profits under leases of considerable length, we should hope that the interests of that great body of the agricultural community may be satisfactorily secured."

22. On the receipt of these orders in India, it would seem that an exhaustive enquiry was set on foot to ascertain precisely what had been the precise effect of the endeavours to reorganise the patwari and kanungo systems on the basis of Regulation XII. of 1817. The results of this enquiry were reported to Government in the Board of Revenue's letter, No. 2199, of 11th May 1827, which is printed in Enclosure 21. Practically it amounted to this, that—to quote from the letter—"until means are devised for ensuring the authenticity of the documents furnished, whether they relate to accounts, mensuration or raiyatwari assessments, the office of kanungo will mislead instead of giving any useful information." In other words, nothing could be done without a record of rights.

23. It would be tedious to trace what further steps were taken after 1827, till our own times, to carry out a record of rights in Behar. But the history of Bengal legislation shows that from 1827 till the Mutiny, the views of the zamindari party were unduly in the ascendant. If it were part of my present purpose to trace the progress of agrarian legislation in Bengal, I should here have to devote much space to considering the utterly ruinous effects which the sale laws, from Regulation XI. of 1822, to Act XI. of 1859, have had on the rights and condition of the raiyats. "The mischievous power of annoyance, interference, and extortion," says Mr. Justice Field† (who was by no means a raiyats' advocate), "which these sale laws have given to the auction purchaser, have been fatal obstacles to agricultural improvement, and have proved at once the source and the instrument of oppression and wrong. We can talk of it and write of it with indifference; but to the tenant of an estate, as remarked by Sir Henry Ricketts, the sale was 'the spring of a wild beast on the fold, the bursting of a shell in a square. It was the disturbance of all they had supposed to be stable.'" An auction purchaser had power to annul all rights and eject all tenants who could not prove they held a particular status, and few of them could prove this, because there was no record to which the raiyats could appeal in defence of their rights, which the laws always saved and guaranteed.

24. But if I abstain from following the course of legislation between 1827, when the necessity of the record of rights was admitted by the East India Company, and 1885, when it was begun under the Government of the Queen-Empress, I wish to say a word on the new contentions [marked (a) and (b) in the margin of paragraph 7 above] raised by the Zamindari Associations in their Memorial to the Secretary of State, submitted after the twelfth hour had struck, that they have had no notice of the intention to survey Behar, and that Chapter X. of the Tenancy Act is inapplicable to the survey of so large an area as a district, still less of four entire districts.

I had myself special opportunities of becoming acquainted with the intentions of the Legislature in framing Chapter X. of the Tenancy Act, and I might declare, from personal knowledge, that there never was, from first to last, any intention of restricting the discretion of the Government as to the extent of country to which the chapter might be applied. I might assert, from special information on the point, that it is an entire mistake to suppose that the provisions of the Act regarding surveys and record of rights were not intended to be applied by Government of its own motion to whole districts or divisions like



the Commissionership of Patna, without application from the landlords and tenants. But in this matter I do not ask the Government of India to accept my own remembrance of the facts as authoritative evidence on the point. I prefer to cite the evidence of the declarations of Governor-General in Council, the Bengal Government, and the Legislative Council, as to their intentions in framing Chapter X. of the Act. In their Despatch, No. 6, of March, 1882, paragraph 100, asking sanction to the legislation which eventuated in the Bengal Tenancy Act, the Government of India particularly pointed out that by far the most important of their proposals was "that a general field survey should be undertaken, and that a system of village records and accounts shall be introduced." "Whether," they wrote, "we have regard to the prevention of famine or to waste of life or waste of money, which may result from official ignorance; whether we look to the need for actual administration which shall search out and expose deep-seated evils, or the need of some assurance that the facts affecting agricultural interests shall be so notorious and indisputable that none shall be able to pervert them to the injury of the weak, we perceive in the circumstances of many portions of Bengal, and particularly of Behar, strong reasons for placing the Bengal officials on a level, in point of administrative advantages, with their brother officers in other provinces. We seek no fiscal advantages, but the prevention or diminution of human suffering." This evidence leaves no doubt as to what the intentions of the Government of India were when it first approached legislation on the subject; and as the despatch was published for general information, the zamindars had specific and early information as to what the intentions of the Government were in regard to the survey of Behar. It will be manifest from what follows that the intentions of the Government in this matter were never altered, and that the zamindars for three years before the Act was passed were well aware that it was intended to effect a cadastral survey and record of rights. The intention was expressed in Section 164 of the first edition of the Tenancy Bill, on which the Zamindari Associations reported in 1883. The intention was repeated in

\* Letter No. 73, dated 14th September, 1884, from the Vice-President of the Tirhut Landholders' Association, to the Secretary to the Government of Bengal, printed on pages 521-536 of the Report of the Government of Bengal on the Tenancy Bill, 1884.

Section 117 of the second edition of the Bill, on which they reported in 1884\*; and the provisions of Section 101 of the Act as we have it now are not materially different from the corresponding Sections of the Bill which preceded it. I would, in this connexion, particularly call attention to the following extract from the letter of the Tirhut Landholders' Association, referred to on the margin, in which, speaking of the record of rights, &c., they quote with approval the following extract from the Minute of dissent which, as Member of the Select Committee on the Bill, the Honourable Kristo Dass Pali wrote in reference to these provisions:—

"The chapters relating to these subjects (Record of Rights, Settlement of Rents, &c.) are doubtless in accordance with modern ideas of land administration in periodically settled India; but as far as Bengal is concerned the rights and interests of different parties are generally well defined, and where there might be disputes between landlords and tenants in matters dealt with in these chapters, common sense would suggest that the application of the law should be left to the self-interest of the parties concerned. But the essence of these chapters is that while liberty is accorded to both landlord and tenant to move the machinery provided in them, the local government is empowered to bring of its own motion the machinery into action. . . . And yet power is taken by the local government to order the preparation of table of rates for special areas, and to charge the landlords and tenants with the cost of this work, though they may not in the least benefit by it. In the same way, the expenses which may be incurred by enforcing the provisions relating to record of rights and settlement of rents will be cast upon the landlords and tenants, though no application had been made by them. Thus a new cess will be imposed upon the land for the purposes of proceedings which may do more harm than good to the landed classes."

The preceding observations of the zamindars' own representative in the Legislative Council, fully concurred in by the Tirhut Landholders' Association, had probably escaped the attention in the zamindari associations in framing their present objection. They will now, however, perceive that they are, as a lawyer would say, estopped by their own admissions from again renewing these objections

objections. As a matter of fact, they had (and availed themselves of) the amplest opportunity of urging objections to the measures now under notice, and they will perhaps be therefore ready to concede what is, indeed, obvious, that further "special legislative sanction" is not required. The quotation I give from the proceedings of the Legislative Council of the Governor-General in paragraph 26 below would be by itself a conclusive refutation of this most unhappy contention.

25. The next piece of evidence I shall cite in support of the position that a cadastral survey and record of rights was one of the objects for passing the Tenancy Act, is the declaration of the Bengal Government, made in its letter No. 3T.—R., dated 24th May 1884, to all Commissioners of Divisions when the Tenancy Bill had assumed practically its final shape. Commenting upon Chapter X., the Government of Bengal said :

"To the provision regarding the record of rights and the settlement of rents, the Lieutenant-Governor attaches the highest importance, because it is the first earnest attempt to carry out what has often been contemplated, but never attempted, viz., to record by authoritative inquiry the right in their holdings of the entire agricultural community in Bengal. The proposal is one of very great magnitude, and its execution must extend over a long period of years; but to its successful accomplishment alone can we look for the great administrative advantages which must ensue in the security of the cultivating classes in their possessions, and the establishment of proper relations generally between landlords and tenants. The Lieutenant Governor specially requests that with the observations upon them contained in paragraphs 71 to 77 of the Select Committee's Report, and in paragraphs 19 to 21 of the letter of the Government of India, the sections of this chapter may be carefully considered by you and by your collectors, both with reference to the facts to be recorded, the adequacy of the powers taken for the purpose of ascertaining and recording them, and the appropriateness of the procedure for the object in view. He also invites your attention to section 116 (2), and begs that you will give your careful opinion as to whether it is desirable that only a presumption should arise in favour of the correctness of facts ascertained with due care in the full light of publicity, and with ample opportunity to the parties interested to contest them; or whether it is to the general interest that the facts as ascertained (and if not all, then what facts) should be regarded as conclusively established for a certain specified period."

Here again there can be no doubt as to the intentions of the Government of Bengal, which were to make a survey and record of rights of the entire agricultural community of Bengal.

26. I now come to the debate in Council on the final report of the Select Committee on the Bill, after which it became law without any further change. This debate is most instructive, as it shows not only what meaning the Legislative Council itself attached to Chapter X. of the Act, but also indicates what the zamindari representatives in the Council themselves understood to be its meaning and value—

"The Honourable Babu Peari Mohan Mukerji moved that Sections 101 to 115 be omitted. He said:—'When giving his sanction to the provisions regarding record of rights, Her Majesty's Secretary of State expressed his apprehension that the difficulties of carrying out the measure may prove greater than the Government of India anticipated. But the practical difficulties of the measure are not the most prominent among its objectionable features. It would cause irritation among landlords and raiyats, and convulse rural society to an extent of which those who are not thoroughly acquainted with the details of our agrarian economy can have little idea. Landholders and raiyats alike have repeatedly prayed the legislature to expunge these provisions from the Bill, as they would do good to neither. They involve an amount of expense and irritating inquiry which will be far from compensated by the result, and it is on this account that to no part of the Bill have the raiyats from different parts of the country offered more opposition than to this.

"The Honourable Mr. Evans said:—'I do not agree with the honourable member. There is no doubt that when a record of rights is sought to be made over a particular area there will be a considerable amount of contest at the time. But when it has been made, every landlord and every tenant will really

be better off, and these records will give facilities in dealing with cases. If such a thing as a cadastral survey and record of rights is carried out over the whole of Bengal, it will remove a large source of litigation and uncertainty. Much must be left to the discretion of the Local Government as regards when and where and to what extent the survey and record is to be made. I stated my opinion on this matter when this Bill was referred to the Select Committee. I quite understand that friction must be produced to obtain it, but the ultimate benefit will be so great as to counterbalance the friction.'

"The Honourable Mr. Reynolds said :—'I think the honourable member has overlooked the fact that this chapter, which he desires to omit, will apply to Government settlements. The settlement procedure law is at present contained in Bengal Act VIII. of 1879, which this Bill proposes to repeal, and I do not observe that the honourable member has any motion for the omission of that Act from the schedule of Acts to be repealed. The result of this amendment would, therefore, be to leave the Government no means of conducting a settlement of revenue in Government estates, except the old Regulation of 1822. I do not think he contemplated any such result.'

"The Honourable Mr. Gibbon said :—'I oppose the amendment. I think the chapter as now drafted in the Bill will be more beneficial to landlords than to tenants. In fact, speaking personally as a landholder, I look forward to the operation of this chapter to undo much of the harm which will be done to the landlord's interests under Section 18. When it was first proposed and as it stood in Bill No. II., I objected to this chapter, but the Select Committee has removed every objection I had to it, and I look forward to the beneficial effects of this chapter both in the interests of the landlord as well as in those of the raiyat.'

"His Honour the Lieutenant-Governor said :—'I am glad to find from quarters so different a concurrence of opinion in favour of this chapter as one of great importance and necessity. For myself I would sooner omit very many other portions of the Bill than this one. It provides for the first serious attempt to secure that which is absolutely required, by means of a careful record of rights, not only for the better administration of the country, but for a better understanding between landlords and tenants of their respective positions. Until such a record has been made, we shall have made no progress in the settlement of disputes arising between landlords and tenants. The difficulties to which the honourable member refers are difficulties which I am sure we can get over. For if such difficulties have been overcome in a province like the Panjab we need fear no serious difficulty in a province like Bengal. We are not intending to press on this process with anything like undue haste or to force it on with undue precipitation. With the sanction of the Secretary of State and of the Government of India the utmost we should attempt in the first instance would be one single district, and we shall be guided much by the success we meet with in that district before proceeding further. I am sure I speak the conviction of the Honourable Rao Sabeed Mandlik and of every person who comes from that part of India which he represents, when I say that where a record of rights prevails it has been found to be good and beneficial for all sections of the landholding community.'

"The Honourable Sir Steuart Bayley\* said :—'I can hardly be expected to accept a proposal for the omission of this chapter, in the settlement of which the Select Committee has taken an immense deal of pains, and which I think has been reduced to a shape in which it may be worked beneficially and without serious risk of danger to any one. The chapter covers very large ground and can be applied to various cases, individual and general; it may be applied to a tenure or part of a tenure or to a whole district. But I think there has been some misapprehension in the mind of the honourable mover of the amendment as to the Secretary of State's opinion, and I may be allowed to quote his words. He says :—

"While fully admitting the advantages which attend the establishment of village records and accounts, the formation of a record of rights, and the introduction of a field survey, I cannot avoid the apprehension that the difficulties of carrying out these measures in those parts of Bengal in which village accounts and accountants, if they ever existed, have long ago entirely disappeared

\* Sir Steuart Bayley was in charge of the Bill.

disappeared, even from tradition and remembrance, may prove greater than you anticipate. Your present proposal, however, merely contemplates an experimental commencement of the work in the Patna Division of the Province of Behar, where the need for it is, you think, most pressing, and the conditions least unfavourable; and to this I will make no objection.

“ You have heard just now from His Honour the Lieutenant-Governor that this order of the Secretary of State is still in full force, and that at present he has no intention of going beyond it. Certain provisions of this chapter are of course applicable everywhere. A landlord in Bengal proper may apply to have these settlement operations brought into effect in regard to his estate or a portion of his estate; or on a riot taking place in any single landlord's estate, the Local Government may apply to the Government of India for permission to put it in force in that estate. But with regard to a general record of rights, not only is it distinctly understood that the Lieutenant-Governor will apply it only in some one selected district in Behar and abide by the results of that experiment, but it is also certain that, as the Secretary of State has not sanctioned anything beyond that, nothing beyond it will be carried out until the Secretary of State does sanction it. The result I am unwilling to prophesy, but I do say that, as in the neighbouring district of Benares the operation has been most successfully carried out without much friction, and has been the salvation of the tenant, a similar operation may be conducted in the province of Behar, which is in almost all respects similar to the districts bordering it in the North-Western Provinces. I do not see why what has been worked so successfully in the North-Western Provinces should be inapplicable to Behar. There is one portion of the chapter to which further allusion will be made when the Honourable Rao Saheb Mandlik makes his proposal. I will only say that we look on the provision to which the honourable member's amendment refers (Section 112) as particularly necessary to be kept in the Bill, but we hope sincerely never to have occasion to use it. It is a very strong power kept in the background to be used when the operation of the ordinary law is not found sufficient. With these remarks I oppose the motion.”

“ His Excellency the President observed that he had been very much struck by the almost complete unanimity of opinion which prevailed in the Council as to the utility of this chapter. At the same time he was perfectly able to comprehend the natural anxiety which its unreserved application over very extensive areas would occasion both to the raiyats and the zamindars. Regarding the question in the abstract, it was perfectly obvious that one of the first steps towards the cessation of litigation and ill-feeling between two antagonistic interests was that they should each know exactly what belonged to them; therefore no one, His Excellency imagined, not even the honourable member himself, could in theory be opposed to the introduction of this chapter. At the same time His Excellency could assure the honourable member that not only in deference to the suggestions made to them by the Secretary of State, but also from their own appreciation of the exigencies of the case, the Government of India would be indisposed to consent to the application of the sections referred to otherwise than in the sense and spirit recommended by Lord Kimberley. By applying the machinery of the chapter to a special and limited area in a tentative method, they would be able to observe how the clauses were likely to work, and there was every hope that by that cautious method of procedure they would be able to obviate those objections to which the honourable member had referred.

“ The amendment was put and negatived.”

This extract from the proceedings of the Legislative Council on the passing of the Bengal Tenancy Act, shows what the views and intentions of the Legislature were on the meaning and application of Chapter X. of the Tenancy Act. They were (1) that, in the words of the Honourable Member in charge of the Bill, “ the chapter covers very large ground and can be applied to various cases, individual and general; it may be applied to a tenure or part of a tenure or to a whole district; (2) that “ the machinery of the chapter was to be applied to a special and limited area in a tentative method,” and if found to work successfully, was to be extended to the entire Province of Behar; (3) that the Government of India were satisfied that “ as in the neighbouring districts of Benares, the operations had been most successfully carried out without much friction, and had been the salvation of the tenant, a similar operation might be

conducted in the province of Behar, which is in almost all respects similar to the districts bordering it in the North-Western Provinces."

It is, I believe, in India a rule of construction of Statutes, that the intention of the Legislature may be inferred from the debates in Council on the passing of an Act. If this be so, then there can be no doubt, in view of the preceding extract from the debate in Council, that the expression "local area," as used in Chapter X. of the Tenancy Act, may mean either a tenure or a whole district. And if this conclusion were still in doubt, it would borrow further confirmation from clause (d) of Section 101, inasmuch as settlements of revenue are, as the Legislature well knew, undertaken, not for estates alone, but also for whole districts such as Chittagong, and whole Provinces such as Orissa, both of which are now under settlement under Chapter X. of the Tenancy Act. Moreover under Section 39 of the Act, price-lists have to be prepared for "local areas," and the unit of area for the purposes of that section is under the Tenancy Act rules, which have the force of law, a subdivision of a district. These rules were, before they acquired the force of law, published in the "Gazette" and circulated for criticism among all Zamindari Associations and other public bodies, but no objection was ever taken to them on the ground that a "local area" must mean "a limited area presenting some special features."

27. An experimental and tentative survey and record of rights was, in accordance with the undertaking given in Council, carried into effect under Mr. Collin's supervision, in a typical tract of the Muzaffarpur district, and was declared by the Governments of Bengal and of India to have proved successful. The Secretary of State agreed in this opinion,\* and subsequently, on the submission to him of proposals for the extension of the survey and record of rights to the whole of North Behar, accorded his sanction to them. It is therefore manifest that the contention now raised by the zamindars is wholly without foundation, and that in all that has been done in this connection, the Government of Bengal has acted well within its powers; and in strict conformance with the letter of the law, and with its spirit as declared by the Legislative Council at the time the Act was passed.

I may finally call attention again to paragraph 9 of my Minute of 24th June last, in which the words of the Government of India were quoted directing the Bengal Government in 1884 to take in hand at once the organisation of the patwaris in Behar, in view to their employment on the survey and settlement of that province.

27A. After this paper had been put into print, I was requested by the Government of India to take the opinion of the Advocate-General as to the interpretation to be placed on the term "local area" in Chapter X. of the Tenancy Act. The Honourable Sir Charles Paul having been accordingly consulted by the Board of Revenue, gave the following opinion:—

"Section 101 of the Tenancy Act is divisible into two parts—

- (1) Where a survey is ordered by the Local Government with the previous sanction of the Governor-General in Council.
- (2) Where a survey is ordered without such sanction in certain specified cases [clauses (a), (b), (c) and (d)].

With regard to (1), a survey may be ordered in any case in respect of lands in a local area. This, in my opinion, regard being had to the general terms used, authorises the survey of a province, district or subdivision of a district.

With regard to (2), a survey may be ordered of the lands of a local area which, in my opinion, should be limited, by the object in view, denoted by the occasion or cause which necessitates the exercise of the powers conferred on the Local Government. These occasions or causes are mentioned in clauses (a), (b), (c) and (d)."

This opinion confirms what I had written, and the latest objection of the Zamindari Association is thus shown to be devoid of foundation and unworthy of any further notice.

28. In paragraph 7 of their memorial [see marginal note to paragraph 7 above, head (f)], the zamindars now say: "Had Section 101 with its express limitation

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limitation of 'local area' been intended to apply to a Government survey of a whole province, or of the greater part of a province, provision would have been made in the Act for maintaining and keeping up to date the records of such survey, but no such provision is made." I welcome this statement: it is as full an admission as the zamindars could be expected to make, that the maintenance of the record of rights is the logical consequence of its preparation. But the memorialists are wrong in thinking that provision should have been made in the Tenancy Act for maintaining the record. The intention of the Government, before and at the passing of the Tenancy Act, was that there should be special legislation for creating a Land Record Agency, and the Government of India in its Letter, No. 196 A., dated 20th November 1884, instructed the Lieutenant Governor to undertake such special legislation in the Bengal Legislative Council. The words of the Governor-General in Council are—

"It is hardly necessary to remark that the value of the survey and record of rights (under the Tenancy Bill) will be incommensurate with the cost unless an efficient staff of patwaris and supervisors is organised. \* \* \* If it be decided to commence operations in 1885 or 1886—and on this point the Government of India will expect to be advised hereafter by the Government of Bengal—His Excellency the Governor-General in Council trusts that no effort will be spared to obtain at an early date the requisite legal powers to organise the patwari staff, and that the work of organisation will be vigorously prosecuted."

In accordance with those instructions, I introduced the Patwari Bill into the Bengal Legislative Council on the 31st January 1885 (that is, before the Tenancy Act was passed) as a supplementary measure. My words were, "Without this supplementary measure the Tenancy Bill will fail of its full beneficial effect in Behar, where its beneficial effect is most needed." The Bill was not sanctioned by the Secretary of State for a reason which no longer operates; but the steps taken in 1885 clearly show the fallacy of the argument of the Zamindari Association on this point.

29. The preceding observations have shown, on the authority of the Regulations and Orders of the Government of the day, that from the beginning there never was on its part any intention to interfere with, abrogate or annul the rights of the raiyats; that under the arrangements made by Lord Cornwallis it was intended to record and uphold their rights by enjoining on the zamindars to deliver pattas to them, renewable for ever at pargana rates, to maintain patwaris and to register the unit of measurement; that the pattas were not delivered nor the patwaris maintained; that it was attempted to correct these omissions and wilful negligence by the enactment of Regulation XII. of 1817; that this measure having also proved nugatory, it was proposed in 1822 to carry out a record of rights, similar in character to that we are now undertaking in Behar; that the Court of Directors cordially approved of this proposal; that the measure was not carried out, because of the want of suitable agency at the time; that the matter was again taken up in 1882 with the express object of effecting a record of rights throughout the whole of the Lower Provinces of Bengal, but particularly in Behar; that when the Tenancy Bill was on the point of becoming law, the Bengal Government was directed to take immediate steps to reorganise the Patwari system in Behar with the object of maintaining the record in that province; and finally that, on the declarations of the Government of Bengal, the Government of India, the Secretary of State, the Legislative Council, and the honourable the Advocate General, there cannot be any doubt as to the applicability of the Survey and Settlement provisions of Chapter X. of the Tenancy Act to entire districts as well as to any portion of them, or as to the intention of applying them to the entire province of Behar. From the historical and legal point of view, then, the right of the Government to make this survey and record of rights throughout Behar, and to maintain the record when made, is incontestable.

## PART III.

## NECESSITY OF THE SURVEY AND RECORD OF RIGHTS IN BEHAR.

*Section I.—Before the passing of the Tenancy Act.*

30. The preceding part of this Minute was concerned with the relative rights of raiyats, zamindars and Government under the Permanent Settlement, with a discussion of the manner in which the rights of the raiyats had been infringed, and of the attempts made by the Government from time to time to afford them protection. Reference has also been made to the tardy objections (now declared by the Advocate General to be unfounded) to the survey raised on the wording of Section 101 of the Tenancy Act, and it was shown that from the very first inception of the Bill, which is now Act VIII. of 1885, it was the settled intention to make a survey and record of rights in the Patna Division.

*Necessity for the record of rights in Behar.* From that intention the Government of India never wavered, and in drafting the Act such language was used as was deemed suitable to give the intention its full effect. I now proceed to consider the question whether it is, as a matter of practical expediency, necessary or desirable to make such a survey and record of rights. The necessity is being daily denied by the zamindars and their advocates, while the raiyats are voiceless and the Government averse from entering the dusty arena of newspaper controversy. The story of the hardships of the Behar peasant is a thrice-told tale, which it would be unnecessary to repeat were it not that we have on the side of the raiyats nothing but ignorance, poverty and helplessness while we have on the side of the zamindars education, wealth and power, and all the trained intelligence and advocacy that wealth can purchase. I deem it necessary, therefore, for, I trust, the last time so far as I am concerned, to re-state the evidence on the point.

31. It is unnecessary for my present purpose that I should retrace the condition of Behar further back than the famine year of 1874. In that year there was a more or less severe failure of the crops throughout the whole of Behar, the failure being greatest in the district of Tirhut. So impoverished were the raiyats of that district, so utterly without resource, and so unable to bear up against the failure of a single season's crop, that one-third of the population was at one period in the receipt of relief from the Government. Had it not been for the relief operations set on foot by the State, at least half a million people would have died of starvation in this single district. The financial effect of the relief operations in the single Darbhanga district is thus described in the report of the Director of Agriculture in Bengal for the year 1885-86 :—

“In 1874 a scarcity occurred in Darbhanga—a district which is one of the most fertile, best cultivated and highly favoured by nature in all India. It was necessary for Government to expend in that year, by way of charitable relief, no less than 37 lakhs of rupees in cash, and to expend 118,000 tons of grain, valued in Burma at nine pounds sterling per ton, thus costing in all more than one hundred and twenty lakhs of rupees. If to this be added the cost of freight from Burma, the cost of transport to Tirhut, and the cost of famine establishment there employed, and if the amounts realised by sale of part of the grain be allowed as a set-off against these latter items—it follows that it will not be too much to put down the net cost of famine to Government in a portion of this single district at a crore and a half of rupees, the Government revenue of that part of the district as it then stood (the boundaries have since been changed) being less than five lakhs per annum. It thus appears that the famine expenditure on this district, in one year, was more than thirty times the amount of the Government revenue, or far more than its capitalized value.

The revenue of the district as it now stands is a little over seven lakhs, and the rental was Rs. 71,37,044 according to a valuation made in 1883 (it is now 10 per cent. more, or eleven times the Government revenue as shown in paragraph 15 above). This enormous unearned increment, amounting to about one hundred-fold the zamindars' income as taken for revenue assessment purposes

three generations ago, has, with very few exceptions, been secured without any expenditure of capital by the landlords, without their having fulfilled many of the obligations which English notions of landed property attach to the ownership of land. I do not make this a special ground of complaint against Behar landlords. They are what their training and environment have made them. But I do say that this enormous enhancement of rents, which the law had fixed in permanence, has helped to reduce the raiyats to a very precarious condition, and that it should now give them the greatest claims upon their landlords' liberality. The vicissitude of a single season, the early cessation of one year's rains, brought the entire district across the threshold of disaster twenty years ago. The population is now denser than in 1874, all efforts to promote emigration have failed, and the people have less to fall back upon, as their rents, which were high in 1876, amounting to 63 lakhs of rupees, have since risen to 78 lakhs, or by nearly 25 per cent. A reference to pages 8 and 73 of the Government of India Blue Book of 1892, on "Prices and Wages in India" (ninth issue), will show that within this period prices of staple food crops have risen by less than 12 per cent. As there was in 1876 little or no room for extension of cultivation, it seems to follow that rents in Darbhanga have since the famine been enhanced at least twice as much as the law contemplated they ought to be. If it be remembered that the failure of the *kharif* crop of 1874 brought a million of hungry people on our hands in the single district of Tirhut, who, if the Government had not come to their aid, would have starved, and that since 1874 there have been no less than four scarcities in the district, necessitating the distribution of relief by Government, the full significance of these unprecedented enhancements of rent will be appreciated.\*

32. In the autumn of 1875 there was again a slight failure of the crops in North Behar, and careful inquiries were made into the condition of the people. The results were very disquieting, and Sir Richard Temple's Government, in communication with the Government of India, appointed a Commission, consisting of the late Mr. Geddes and myself, to inquire into the whole agrarian condition of North Behar. We reported in 1876, and I invite special attention to the following remarks by Mr. Geddes, in which I concurred. Mr. Geddes was, I may add, an officer of altogether exceptional competency for an inquiry of the sort:—

"How comes it that, with the present not very grave vicissitudes of season, the Imperial Government should be expected to interpose in regard to a most fertile region, the great bulk of whose agricultural profits go elsewhere than to the Imperial Exchequer? How comes it that Behar, with an industrious population, the most fertile soil in India, a territory comparatively very lightly assessed in land tax—how comes it that this Behar should be seeking Imperial relief oftener and more extensively than the regions less fertile and far less (more?) heavily assessed by Government?" \* \* \* "The explanation as to why the three northern sub-divisions should not tide over the vicissitude by falling back on food reserves, or on money resource, summarises itself briefly thus. The whole conditions of agricultural industry there are such as to render it precarious. There is no sufficient certainty as to tenure. It is impossible for the population to fall back this year solely on accumulated reserves, whether of grain, of property, of money or of credit. For the whole conditions of life, as will be seen from the Collectors' reports, are such as to preclude any sufficient accumulation of the kind. The raiyats cannot fall back on any credit fund like the tenant-right of other parts of Bengal, for practically there is no such right available to offer in pledge. The people who plough and sow, and who ought to reap, have not a reasonable assurance as to the fruits of their industry."

Mr. Geddes went on to describe the unsatisfactory character of rent suits in Behar, and the *thikadari* or farming system, consisting in the assignment to rent speculators of the control

\* During the famine of 1874, the great Darbhanga estates were under the management of the Court of Wards, and the management did as much as could be expected to relieve the starving tenantry. After attaining his majority, the Maharaja, Sir Lachmeswar Singh, approved of all that had been done, and is thus justly entitled to the praise attaching to public beneficence. The same remarks apply, though in a modified degree, to the Maharaja of Hatwa, Sir Krishna Pertab Sahi, and the late Maharaja of Bettia. In Champaran, however, and in Saran, the scarcity was much less than in Darbhanga.



control which the landlord is able to exercise over the tenant, including therein almost unlimited powers of distraint, enhancement, and ejection. The report also alluded to abuses connected with the cultivation of indigo, and reasons were given for the inference that in Muzaffarpur and the northern subdivision of the Bhagalpur district one-third of the culturable area was under *thika* assignment to indigo planters. The practice of illegal distraint, or of sending out bailiffs to prevent the reaping of the crop, as a means of pressure, in order to enforce compliance, whether with legitimate demands or exactions, was very fully described; and the points where violations of the law habitually occurred were specified with precision. The general effect was to show that in North Behar the raiyat had practically no rights allowed him at all, and that all the worst abuses of the days of Regulation VII. of 1799 prevailed throughout a region where Act X. of 1859 had been nominally in force for nearly 20 years.

Sir Richard Temple, in reviewing Mr. Geddes' Report, remarked that the condition of the peasantry was undoubtedly low in Behar—lower than that of any other peasantry with equal natural advantages which he had seen in India. He considered that a remedy should be applied to the abuse of the power of distraining the raiyats' crops. The Government of India promised the Lieutenant Governor its support in any measures he might propose for ameliorating the condition of the people of North Behar; and the observations of the Secretary of State\* upon this correspondence were as follows:

"Your Lordship in Council is fully aware that the situation in North Behar is one of grave anxiety. The well-being of the population is described in the able Report of Mr. Geddes as resting on foundation of a very precarious character, and it will demand the utmost vigilance and discrimination of the Government of Bengal, to deal with the complication with which the whole question is embarrassed. Your Excellency in Council has wisely determined not to have recourse to immediate and necessarily incomplete remedies, but to leave the subject to the attentive consideration of the Government of Bengal, which will gradually introduce such ameliorations as full experience and extended inquiry may dictate. I fully approve of the Resolution of your Lordship in Council, and shall await with interest the result of the measures which the Lieutenant Governor, under the sanction of your Government, shall deem it his duty to adopt."

33. The measures adopted by the Lieutenant Governor (Sir Ashley Eden) consisted in the appointment of a Committee of Behar officials and non-officials to consider the whole question of the relations of landlord and tenant in that Province. Meanwhile, the zamindars of Bengal, unlike their fellow landlords of Behar, were being worsted by their raiyats, and were pressing for special facilities for the realisation of their rents. Following the precedents of former years, a Bill for the more summary realisation of rents was introduced into the local Council; but times had changed: the sufferings of the raiyats had touched the conscience of the Government, and it was recognised that the rent question had become the great question of the day, and that the time had come for dealing with it in a full and comprehensive manner. Accordingly the Bill just referred to was withdrawn, and the whole question of the rent law of both Bengal and Behar was referred to a Commission. The Commission produced the first draft of the Bengal Tenancy Act, and the Government of India in 1882, in recommending legislation on the lines of the draft to Her Majesty's Secretary of State, wrote of the depressed condition of the Behar tenantry thus:

"The evidence before us of the depressed and precarious position of the tenantry in that part of India is full and conclusive. It would be altogether a mistake to suppose that the unfortunate state of things which there exists is mainly, or even very largely, due to indigo planting. The facts connected with the cultivation of indigo, which were brought to notice some years ago, testify, indeed, to the possibility of serious oppression, and strikingly exhibit the manner in which persons exercising the authority of landlords could trample upon the rights of defenceless peasants. But these facts, taken by themselves, merely illustrate abuses of proprietary power which are rife throughout Behar. The

Opinion of the Government of India on the material condition of Behar in 1882.

produced the first draft of the Bengal Tenancy Act, and the Government of India in 1882, in recommending legislation on the lines of the draft

The area under indigo cultivation is an insignificant fraction out of the 23,670 square miles which constitute the Patna Division. It is manifest that the majority of the raiyats in the whole of that large tract of country are rack-rented. The raiyats of the Shahabad district appear to be better off than others; but for a general view we would refer your Lordship to the note drawn up by Mr. Reynolds on the 11th December 1880, after a visit to Bankipore, during which he had conferred with experienced officers. It was urged upon him that the great evil which calls for remedy in Behar is the arbitrary enhancement of rent at the will of the landlord. The Collector of Patna reports that the mass of the tenantry are now paying rents which have doubled within the last 16 years. The Covenanted Deputy Collector of Gaya calculated that the rental of the different districts is at present from twice to four times the amount paid at the time of the Permanent Settlement. Mr. Reynolds shows from the road cess returns that the incidence of rent is higher in the Patna district than in any other district of Bengal; higher in Darbhanga and Saran than in any other districts except Hooghly and Burdwan; and higher in Gaya, Shahabad, and Muzaffarpur than in any other districts except the above and five more, of which two (Rajshahi and the 24-Parganas) pay the same average rental as Gaya, and one (Rangpur) pays the same average rental as Shahabad. The only district of the Patna Division where the average rental does not appear to be unusually high is Champaran, of which the circumstances are exceptional, as the proportion of waste land is very large.

“Without entering upon any detail in support of our opinion that the Behar raiyat is poor and oppressed, we will recite briefly a few descriptions of prevailing circumstances or practices given by zamindars or planters themselves. Major Hidayat Ali, an important landholder in Behar, writes on 20th September 1877: ‘The raiyats of this Province, viz., the heads of families, and even the women and the male adult children of the agricultural classes, though they labour hard, are yet in a state of almost utter destitution, and that owing to the heavy assessments laid on them.’ His opinion is characterised by Colonel Emerson, the Cantonment Magistrate of Dinajpur, as unprejudiced and valuable. Mr. Worsley, Collector of Muzaffarpur, reports on 9th October 1877:

“‘That illegal distraint was universally practised in this village I well know; but I had not expected to receive the following naive confession from all the principal zamindars of Hajipur subdivision: The zamindars confess that they resort to private distraint in preference to distraint through the Court; the latter involving expense which has to come on the raiyat, and diminishing his means of paying his legitimate dues, as well as of leaving a sufficient balance for his own support.’”

The rest of the quotation is connected with a description of abuses in connection with indigo planting, many of which have been remedied through the influence of the Indigo Planters' Association.

34. This, it will be admitted, is no measured condemnation of the whole land and rent system of Behar, but it was not so forcibly put as it might have been had the Government in 1882 been in possession of the detailed information which came to light a few years later. At the risk of anticipating what I have to say regarding the condition of Behar after the Tenancy Act had become law, I reproduce this information here. In paragraph 11 of my Minute of 24th June I stated the circumstances under which Mr. Collin was appointed to carry out an experimental survey and record of rights in the Muzaffarpur district. The report which, after his operations were brought to an end, Mr. Collin submitted, is a most valuable document, and throws a flood of light not only on the past practices and existing condition of Behar, but also demonstrates beyond reasonable doubt the benefits which the raiyats will derive from a survey and record of rights. Mr. Collin's report,\*

\* Printed in Parliamentary Return, dated 17th May 1892.

which was submitted to Government in 1887 shows that in the tract settled by him, which was selected as being typical of the worst difficulties to be anticipated in the Muzaffarpur district, rents had been illegally and arbitrarily enhanced out of all proportion to what is justified by law, and that this illegal and arbitrary enhancement, as might naturally be

expected with an increasing population, had gone on during the 10 years before 1887 to even a greater extent than was previously the case. The general principle which usually regulates legal enhancements of rent in these Provinces is known as the Rule of Proportion, and it depends on the rise of prices of staple crops. Under this rule the enhanced rent must bear to the former rent the same or a less proportion than the existing prices bear to prices at the time the former rent was fixed. Now, in the period dealt with by Mr. Collin the rise in prices was 29 per cent. (paragraph 70). Yet he found the increase in rent rates in one village, named in Appendix F. of his report, to be 314 per cent. since 1840, the average increase in 33 villages named in that Appendix was 137 per cent., and the average increase in 36 villages named in Appendix G. 116 per cent. (paragraph 69). This enormous increase in rates was unconnected with extension of cultivation, which was taken into account in striking the rates, or with improvement in productiveness of the soil (paragraph 69), and was doubtless effected by extra-legal means.

35. Mr. Collin brings to notice that periodically recurring enhancements of rent had only come into vogue since 1840 (paragraph 68), and he draws attention (paragraph 9) to the very significant fact that it was also in 1840 that the zamindars adopted the system of giving *thika* leases or assignments of villages at high rents. What that meant will be apparent from the remarks made in paragraphs 34, 36, and 46 of this Minute. There is no doubt that these enhancements stand to these assignments as effect to cause. It was the rare thing for a Behar zamindar to sue for enhancement in the courts. One way of enforcing an enhancement is described in paragraph 36 below, or, if the owner wished to be saved the trouble of that, he often gave a lease of the village to a *thikadar* or farmer, if indeed the mere threat to give the village in lease was not sufficient, as it very often was, to reduce the raiyats to submission. This system of leasing or assigning the rents of a village, with power to the assignee to exercise the full authority of the landlord during the currency of the lease—the *thikadari* system, as it is called—has been the curse of Behar. How far it has been used to compel raiyats to grow a particular crop against their will I do not now stay to consider; but if this compulsion still exists, I do not attach to it anything approaching to the evil effects on the people which has been produced by the continuous worrying and excessive enhancements of their rents which have been effected through this bad system of land management. I have heard it maintained that the prosperity of the indigo industry depends on the continuance of this *thikadari* system, and that under the European planter the system is shorn of many of its evil attributes; that rents are not raised, nor illegal exactions enforced, nor the raiyats exposed to the rapacity of money-lenders or other members of the horse-leech tribe. I do not deny that there are farmers and farmers; and probably most indigo planters are considerate and helpful landlords. But I do think that the industry would thrive better if it could shake itself free of the *thikadari* system, and I do not believe that the raiyats will ever be adequately protected from its abuses until a record of their rights is made and maintained.

36. That the system of illegal and arbitrary enhancement was in 1887 still in operation in Behar, is shown beyond dispute by the facts mentioned in paragraphs 73 to 80 of Mr. Collin's Report, and in his remarks on Appendices F. and G. An examination of these Appendices will show that in village Kamtowl the rates all round were raised in 1876, and again in 1884, to 230 per cent. over the rates of 1840, in Burdaha by 46 per cent. since 1885, in Kinaru by 11 per cent. since 1880, in Balra Karum Chand by 90 per cent. since 1877, in Chowsewan by 65 per cent. since 1880, in Bishunpore Bhagwan by 16 per cent. since 1880, and in Panapur Khoord by 24 per cent. since 1883. A striking instance of the helplessness and ignorance of the raiyas is given in paragraph 72, where it is stated that an occupancy raiyat, holding at Rs. 3 per bigha, and entitled by law to hold at that rate, yet took in the year 1884-85 a lease for three years, by the terms of which he agreed to pay Rs. 6-14 per bigha, to give up his land at the end of that period, and at any time during the currency of the lease, and, further, contracted not to build any house or cowshed or farm building.

Further evidence of continuation of excessive rent enhancements after the passing of the Tenancy Act

building on his land, or to dig a well or to plant trees, all of which things he is, it is true, entitled to do under the Tenancy Act, with or without his landlord's consent, and notwithstanding such agreement, but which he will not know of his right to do, unless his rights under the Tenancy Act are brought home to him by the prosecution of a survey and record of rights. A still more striking instance of the methods by which rents are being enhanced by landlords is mentioned in the same paragraph, where it was reported in July 1887, that the agents of a certain zamindar "were attempting to induce the raiyats to execute agreements to pay enhanced rents." A number of Muhammadans refused, and the zamindar's agent, in November last, went to the village to reason with them. The day after his arrival a case was put in against the Muhammadans for the slaughter of a bullock. The case was found to be false. In February last a case was brought against some other raiyats in the criminal courts. These raiyats executed agreements (*sharahnamahs*), and the case was compromised. In March an attempt was made before the Registrar at Muzaffarpur to have a *sharahnamah* registered, which the raiyats would not admit to have executed. The Registrar found that most of the raiyats were not present when the deed was said to have been executed by them, and that their signatures had been written by the patwari. Again, in April another criminal case was filed against a refractory raiyat, which was dismissed. "This is, perhaps," adds Mr. Collin, "as good an instance as any that could be given of the operation of free contract, by which the raiyat, in his generosity, voluntarily consents to forego a part of the profits of his land."

Such was the state of things before and for two years after the Tenancy Act was passed. I shall presently show that there has been practically no amendment up to date; and that, unenforced by executive action, the Act has remained as much of a dead letter in Behar as Act X. of 1859 had done.

37. I conclude my references to the condition of Behar before the enactment of the Bengal Tenancy Act of 1885, by quoting the remarks of the Famine Commission of 1880 on the state of Behar. After describing the various abuses found to prevail in Behar, which they visited, and suggesting remedies, *prominent among which was a survey and record of rights*, the Famine Commission remarked: "Where, as in Behar, the relations of landlord and tenant are too often those of a high-handed proprietary body on the one hand, habitually disregarding the law, and on the other a tenantry ignorant, very helpless, sunk in the most abject poverty, the onus of bringing complaints of oppression ought not to be laid upon the tenants. The first and imperative duty of the Bengal Government and the local officials would seem to be to guard zealously against infringements of the law by the rich, and to put them down as if they were offences against the public peace."

Proposals of the Famine Commission regarding Behar. Record of rights recommended.

Page 131, paragraph 37 of their Report.

38. Before I pass on from this part of the subject it may be useful to compare the condition of Behar as it is at present with what it was a hundred years ago in the early days of British rule. There is a large element of uncertainty in all such comparisons, especially when applied to periods so removed from each other by lapse of years, and so differentiated by growth of population and its pressure on the soil. But such comparisons are instructive and point an useful moral. The following extract from Mr. Grant's *Analysis of the Bengal Finances (1788)* shows how things were a century ago:—

"Generally, the Soubah of Behar derives its superiority over most of the other Provinces of the Mogul Empire, from the great natural advantages of a temperate climate, high and fertile soil, well watered, productive of the dried grain and all the luxuries required by the more active, warlike inhabitants of the north; with a central situation, having easy communication internally, and serving as an emporium, or by means of the River Ganges, a thoroughfare to facilitate the commercial intercourse between Bengal, as well as foreign maritime countries, and more interior Provinces of Hindustan. These advantages drew arts and manufactures from abroad; and after the Pathan conquest produced an increased population in soldiers or emigrants of that martial agricultural people, who were induced to become settlers, either from local allurements or the political encouragement of Government, in establishing a national feudal militia

militia towards the eastern imperial frontier. The revolution in favour of the royal descendants of Timoor, first brought about in 933 Hejirah, or A.D. 1527, and finally effected on the accession of Akbar in 963 of the former, or 1555 of the latter era, with the regular civil administration established then, and ever since continued in almost its original form, heightened greatly the prosperity of the Soubah, under the crown of Delhi; while the independent state of numerous Mussalman jagirdars, joined to the refractory spirit of a hardy warlike race of Hindu landholders and peasantry, differing greatly in bodily temperament, nourished by the heartier food of wheat and barley, from their effeminate neighbours of Bengal living chiefly on the watery diet of rice, served in some measure to preserve internal tranquility and resist the tyranny of lawless foudari usurpers in time of recent public anarchy.

“Accordingly, agriculture, manufactures, and commerce have always highly flourished in this favoured province. Opium, which may be considered the peculiar province and staple commodity of the country, might fairly be estimated to return in gross, under rules of a private or public monopoly of necessary existence everywhere in India, twenty lakhs of rupees for about four thousand chests exported yearly; including a moderate charge of sovereign territorial rent, with full cost of labour, and profit on stock, amounting in value to one-half of the whole quantity produced. Saltpetre, manufactured chiefly in the Circars of Hajeepur and Saran, reckoned at two lakhs of maunds, might moderately be calculated to yield to the labourer and sovereign, or favoured merchants, ten lakhs of rupees; cotton cloths for exportation on all sides, twenty additional lakhs; while the ordinary productions of grain, sugar, indigo, oil, betel-leaf, &c., carried out for sale, returned at least fifteen lakhs more, after deducting an equal sum for the annual imports of Bengal; salt being almost the only article required from abroad for home consumption: thus leaving perhaps, on the whole, a clear balance of trade to the Soubah of fifty lakhs of rupees to answer a yearly drain of specie to the like amount, constituting the net tribute to be derived from a gross rental of near a million sterling per annum; besides a profit of ten lakhs, accruing from the usual State monopolies of opium with saltpetre. And all this, after complete comfortable subsistence, on the most ample equitable scale of political economy in Asia, of a population probably of three millions of souls, exclusive of the Civil and Military establishments necessary for the internal administration of the province. It may further be observed that, if such were the affluent circumstances of the country under the despotism of the Moguls, its mercantile prosperity forming the basis of actual wealth and revenue, hath surely not diminished within the period of the freer, more lenient government of its present rulers, as might be sufficiently evinced by reference to the Custom House accounts of Patna during the term elapsed, exhibiting comparatively a view of great increasing commerce.”

What the condition of things is now is indicated by the result of the inquiries which, entirely unconnected with the operation of the Rent Law, Lord Dufferin instituted in 1888 into the condition of the poorer classes throughout India. Inquiries were then made in typical villages, in every district and subdivision in Bengal and Behar. The actual rents and areas of holdings and population in these villages were ascertained, together with profits of cultivation, extent of indebtedness, cost of food, of clothing, and of general subsistence, and the result was declared by the Commissioner of Patna to be that 40 per cent. of the population of the division, which contains 16 million souls, were insufficiently fed, to say nothing of clothing and housing; that they had to undergo long fasts, having for a considerable part of the year to satisfy themselves with one meal a day.

Now my own belief is that this picture is greatly overdrawn, and that in average years the destitution is not nearly so great as was supposed in 1888. But there is still no doubt that the condition of a considerable portion of the people of Behar has deteriorated, that it is now precarious to a degree, that many live from hand to mouth, and that owing to over-population and excessive rents, a slight vicissitude of season would bring them in vast numbers on the hands of the Government for relief.

39. While the Behar raiyat was in 1788 described by Mr. Grant as prosperous, the Behar zamindar was, on the other hand

Comparison of material condition of Behar zamindars in 1788 and 1888.

(see Appendix No. 5 to Mr. Shore's Minute, dated 18th September 1789), in a degraded condition compared

compared with the zamindars of Bengal; "unnoticed," says Mr. Grant, "by Government, and left at the mercy of the aumils or farmers. They, in fact, considered themselves proprietors of only a tithe of their real estates." Since then the circumstances have entirely changed. The Behar zamindars, when they have not squandered their substance in extravagance, are now rich, their income from the land having, as shown in paragraph 15 above, increased stupendously in three generations. They are powerful and united, and have advocates in the Press and in the Legislatures both here and in England. Every prejudice that can arise from possession of great wealth or from European ideas of property is entirely on their side. On the other hand, the condition of the raiyats has become most lamentable. In Sir Ashley Eden's words, which are truer now than when they were uttered 15 years ago, they are "poor, helpless, discontented men, bound down to a state of extreme depression, tenants of the richest province in Bengal, yet the poorest and most wretched class in the country."

It has been contended that exaction of excessive rents and insecurity of tenure have had nothing to do with bringing about this state of things, which, it is said, is all due to over-population. If there were fewer people in Behar they would doubtless be better off than they now are, but at the same time I point out that the Bengal districts of Dacca, Backergunge and Mymensingh, where rents are not excessive and where the people are prosperous, well-fed and well-clothed, are more densely populated than Darbhanga, Champaran and Gaya, where 40 per cent. of the population, according to the estimates of 1888, but let us say only 20 per cent., subsist on one meal a day. Over-population, no doubt, has much to do with the poverty of the Behar raiyats, but there can be as little doubt—every competent witness, official and non-official, admits it—that insecurity of tenure and rack-renting are largely responsible for the difficulties with which we are now, and have been for twenty years, confronted, in connection with them. We cannot deal effectively with over-population; our best efforts to induce the people to emigrate have proved failures, for emigration is a plant of very slow growth, which cannot be forced. We can by means of the record of rights deal effectively with illegal enhancements of rent and illegal ejectments, and on these facts who can say that we ought not to hasten the completion of a work from which such good results are to be expected?

#### NECESSITY OF THE SURVEY AND RECORD OF RIGHTS IN BEHAR—*continued.*

##### *Section II.—After the passing of the Bengal Tenancy Act (VIII. of 1885).*

40. So far I have dealt with the condition of the raiyats of Behar before the passing of the Tenancy Act in 1885. The evidence as to the intolerable nature of the abuses which prevailed in the province was conclusive, and suitable remedies were applied in the Tenancy Act. The remedies applied were of two kinds. The first kind consisted chiefly of legislative declarations conferring greater fixity of tenure, provisions regarding receipts, and limitation on enhancements of rent. The second or executive remedies, as they may be called, consisted in the record of rights which had been recognised in 1822, after all other possible means had failed, as indispensable, and had been recommended by the Faune Commission as the only certain way of securing to the Behar raiyats the enjoyment of the benefits of security of tenure at fair rents, which the law assigned him. It is now alleged by the zamindari advocates that the first kind of remedy is sufficient without its executive complement; and shutting their eyes to the lessons of the past, they say that without executive action the raiyats will henceforward, by the mere operation of the Tenancy Act, have all the protection they stand in need of. In my reply to their memorial at Muzaffarpur, I differed from that view, and said that "the record of rights was far more important to the raiyats than the recent change in the organic written law; for the written law among an ignorant, struggling people remains a dead letter—witness Act X. of 1859—unless executive action steps in to do for the people what they cannot do for themselves. This is the justification of Chapter X. of the Tenancy Act, as it is of protective agrarian legislation wherever it has been undertaken." But I shall not content myself on this

Improvement in Rent Law affected by Bengal Tenancy Act.

occasion with utterances which may be criticised as academic. I proceed to show that the amended tenancy law does, as a matter of fact, afford no sufficient protection to the depressed and ignorant raiyats of Behar, that its most important provisions have been already systematically set at naught by the zamindars, and that since its enactment in 1885 the same illegalities have prevailed as before. If I can do this, the necessity of a survey and record of rights will not, I presume, be any longer contested even by partizans, nor doubted by careless observers.

41. I begin with the provisions of the Tenancy Act regarding receipts for rent. It has been asserted that these provisions, which required the landlords to give receipts to their tenants, specifying the area of the holding and amount of the rent, would in the long run have the same effect as a record of rights in certifying to the raiyats the amount of the landlords' demand upon them and the areas and incidents of their holdings, and that these receipts would in the course of time furnish the Civil Courts with trustworthy evidence on which disputes might be adjusted and arbitrary enhancements checked.

This I say has been asserted; but on historical grounds was the assertion reasonable? If Lord Cornwallis' injunctions upon zamindars to adjust the rights of the raiyats by the grant of pattas proved to be wholly ineffectual, was it reasonable to expect that the same object could be effected by an injunction to grant receipts? If for 100 years we had failed to compel zamindars to give in pattas information as to the area of the raiyat's holding, and the amount of his rent, were we likely to succeed by merely enjoining on them to give it in receipts? The Bengal Government, when engaged on the Tenancy Bill, was under no such delusion, and pinned its faith, as regards Behar especially, to the record of rights.

42. But passing from the region of speculation to the domain of fact, what has actually happened? These things have happened. Mr. Collin found that, after the passing of the Tenancy Act, receipts in the prescribed form were not being generally given by native landlords; that where they were in some cases given, fictitious rentals had been entered in the landlord's part of the counterfoil receipts; and that the provisions regarding granting of receipts were in reality being had recourse to in order to fabricate evidence to show that rentals in excess of what were really paid were the then existing rentals, and that unless and until the raiyat becomes an educated man with a knowledge of his rights and power to enforce them, or unless and until the area and incidence of his holding and the amount of his rent are certified to him by a public officer in the manner contemplated by Chapter 10 of the Tenancy Act, he will continue to be in the hopeless condition that he occupied before the Act was passed.

Evidence of local officers as to continuance of abuses against which Tenancy Act was aimed.

Again the Honourable Mr. Stevens, who was Commissioner of Patna in 1890, wrote thus:—

“ In Shahabad the number of books and forms sold from the Government Treasury is given in the margin. Many zamindars, among whom is the Maharaja of Dumraon, now prefer to make their own arrangements for these forms; but it is feared that a considerable proportion, especially of the smaller landlords, neglect the law. The collector suggests that the civil courts should be instructed to report to the magistrate all cases of omission, that he may take action

Years.	Books.	Forms.
1885-86	102	60,023
1886-87	934	900
1887-88	184	31,000
1888-89	691	36,200
1889-90	150	13,700
1890-91	277	14,900

under Sub-section (3); he further remarks that he does not see why neglect or refusal to grant receipts should not be punishable by a magistrate, since the present procedure laid down in Sub-section (2) is not resorted to. He would also in patwari cases require the counterfoil receipt and account books of the village to be filed, and the landlord or patwaris brought to book, according as the one or the other is to blame. As at present advised, I cannot support this last proposal, for I think it would seriously complicate these cases. I should fear that side issues would be raised, and the proceedings drawn out to an inordinate degree.

“ In Darbhanga it is reported that the provisions of the law regarding giving of

of receipts are neglected. The following remarks of the Munsif of Darbhanga are quoted :—

‘ In the majority of rent suits that came before me for trial, I found that the landlords had systematically neglected to follow the provisions of Sections 56 and 57 of the Bengal Tenancy Act. I found that in 99 cases out of 100 the landlords still followed the old system of granting rent receipts in unprinted slips without specifying at all the particulars pointed out in Section 56. Counterfoil receipts are seldom kept by the landlords.’

“ The Collector of Saran reports that the forms prescribed by law are regarded as unfavourable to the landlords. Only the larger ones use them.

“ The Collector of Champaran makes the following remarks :—

‘ Landlords in many instances either do not grant receipts at all, or grant them in some manuscript form of their own. Much litigation would possibly be avoided, and many cases would certainly be more easily decided by the courts, were proper and formal printed receipts regularly given and received. It is not always, however, the landlord who is in fault, for it is often the raiyat who refused to accept the receipt. Where either party is actuated by a dishonest motive, the receipt is ignored, the landlord taking care not to grant it if he wishes to have his hands free in future, and the tenant declining to accept it when he hopes that on the occasion of the next landlord he will be able to obtain better terms than those on which he actually holds his land, and which he thinks he would not be able to dispute if he accepted receipts setting them forth. The Act provides penalties for neglect or refusal on the part of the landlord to grant receipts, but the provisions are practically, so far as this district is concerned, a dead letter, while there is no penalty that I am aware of for refusal on the part of a tenant to accept a receipt. If both the granting and the receiving of receipts in the prescribed form could be insisted on, results would be much more satisfactory, but so long as neither party interests himself in the matter, it is not easy to recommend any remedy for the existing state of affairs.’ ”

The present Commissioner, Mr. Forbes, in March of the present year, writes, to the same effect :—

“ I have frequently brought to notice the almost universal disregard of the civil courts to the provisions of Sections 56, 57, and 58, regarding the giving of receipts. \* \* I think I am correct in saying that it is still a common practice to allow rent receipts of any form and kind to be filed before them.”

It may, I think, be regarded as certain that the provisions of the Tenancy Act regarding rent receipts are wholly insufficient to give protection to the ignorant raiyats of Behar. A typical illustration of the insufficiency will be given in paragraph below.

43. It has not been, so far as I know, alleged that any of the other provisions of the Act can without a survey and record of rights have any more practical effect than the provisions of the previous law in certifying to the raiyat the land he holds or amount of the rent he is to pay for it, or in checking illegal and arbitrary enhancements. Act X. of 1859, as well as all the previous rent laws, gave the raiyats extensive rights in theory, but left them to assert them in the civil courts if infringed; this they were unable to do, because, owing to the subjection of the patwari to the landlords, the latter monopolised all the evidence as to the occupancy of the lands and the amount of the existing rent, and when landlords sought an enhancement, they did not resort to the courts in order to obtain it, but simply demanded the enhanced rent as being the existing rent already agreed upon. The raiyat having no document in his possession to show the amount of the previously existing rent, was unable to resist the landlord's demand, and thought in practice it was safer to yield at once rather than be harassed in the first place in the civil courts and be worsted in the end. What the raiyat primarily wants is a document which will be accepted by the courts as proof of the actual rent payable by him. This the proceedings under the survey and record of rights alone can give him, and it is as futile to expect that the provisions regarding giving receipts will secure this end now, as it was in Lord Cornwallis' day to suppose it could be attained by the grant of pättas. The experience of the past 10 years confirms the futility of expectation.



The zamindars' memorial calls attention to the fact that some landlords have had surveys made of their estates at considerable expense, and that it is unfair to call on them to bear the burden of a further measurement.

Character of surveys made by zamindars, and possibility of utilising them.

I am personally acquainted with some of the cases alluded to, and as regards others I am advised that the surveys were not made with scientific accuracy, while there was no real record of rights made out at all. A record of rights is an impartial document defining and limiting the reciprocal duties and rights of all parties claiming an interest in the soil. These zamindari surveys and records were made out for rent collecting purposes only, and I am advised in none of the documents was the status of the raiyat shown, nor had the officers who made the surveys any legal authority to make out a record of rights. Moreover, had a record been prepared under the rent law as it then stood, it would necessarily fail to exhibit rights and status conferred on raiyats by the Tenancy Act of 1885. We shall in our cadastral operations use the landlords' survey maps and record of rents payable so far as they are correct and sufficient, and thereby we shall strive to spare him expense; but as the best kept zamindari papers fall of necessity far short of a record of rights, we must ourselves prepare such a record.

44. Turning now to the question whether the same illegalities prevail in Behar since the passing of the Tenancy Act, as before, I find the Commissioner of Patna (the late

Evidence of local officers as to continued existence of old abuses—contd.

\*Parliamentary Return, page 65.

Mr. Boxwell) reported in 1889\* that—  
 "Uncertainty about rent and tenure prevailed generally over the whole division, not equally, of course, in all places, and perhaps to an excessive degree in some ascertainable smaller tracts, but uncertainty was the rule for which a survey and record of rights was the best known remedy."

The collectors of the northern districts wrote thus in the same year:—

The collector of Darbhanga—

"There are many estates in this district in which Government may properly interfere if the propriety of a judicial determination of rents, as affecting a survey and record of rights, is held to depend on the grounds of dispute or confusion. \* \* \* has of late years very greatly and severely enhanced his rents, but he managed to get kabuliyats out of his raiyats. There are various stories as to how he effected this, but it would be useless to repeat them."

"By far the worst offender is \* \* \*, who has been implicated in several criminal cases during the past year, some of whose men now stand charged with riot and murder brought about in trying to coerce a jeyt raiyat of a village to come to terms. This gentleman's property extended over 115 villages. I strongly recommend a survey and record of rights of his property."

The Collector of Muzaffarpur writes—

"It is reported \* \* \*, who bears the worst character for unscrupulousness, and who lately sued in the Civil Courts on a bond which was judicially declared to be forged, is in constant turmoil with his neighbours and the raiyats in his district."

The Sub-divisional Officer of Tajpur in this district wrote—

"In spite of legislation the tendency of rent is to rise. Some of the parganas are unusually fertile. Many of the landlords are unusually rapacious."

The Collector of Champaran reported in the same year thus—

"The \* \* \*, who is a zamindar, claims more than double the rents which the raiyats are willing to pay, and successive district officers have failed to bring about agreement. The dispute was in full force previous to the discussions which took place in connection with the Tenancy Act, and is no nearer settlement now than it was ten years ago. In the general interests of the peace, a survey and record of rights is essentially necessary."

Writing of villages not leased to indigo planters, he remarked:—

"That they are practically auctioned to native farmers whose income solely depends upon any increase of rents they are able to collect on the head rents they pay to the proprietors; their object is to obtain from the raiyats as large a rent as possible, and to effect this they are compelled to resort to devices which sufficiently show that the tenants generally require further safeguards than those provided by the Tenancy Act."

All these abuses are identical with those which Sir Ashley Eden so vigorously denounced in 1875.

45. I shall finish this portion of my remarks by quoting from a letter which the Settlement Officer of one of the North Behar districts has just written to the Secretary to the Board of Revenue:—

“In a case in which \* \* \* was personally interested, but was acting nominally as the Agent of \* \* \*, he caused a patwari to prepare and have filed before me a number of rent receipts for the years 1296 and 1297 Fasli, which were written on forms bearing the \* \* \* press mark 9-12-91, a date about half-way through the Fasli year 1299. I enclose one of the receipts for your inspection. The raiyats had been instructed to swear that they had recorded these receipts in the course of the years for the rent of which they purport to have been given.”

I have the “receipt” before me as I write. The headings are printed in Nagri and the details filled up in manuscript in the same character. It purports to have been executed partly in the month of Asin, partly in the month of Jeyt, and partly in Bhadro 1296 Fasli. The paper bears the following press mark:—“\* \* \* No. 47. 9-12-91. 200,000.” Could there be a more significant or a more pitiable episode? The wretched raiyats are induced to swear to the execution in 1888 of a document (showing a fictitious rental) the very form of which had not been printed till 1891. What a comment the case affords on the state of things in Behar, and how it emphasises the necessity of carefully scrutinising all so-called agreements, and every entry that is made in the record before it becomes final! I am quite certain that the landlord (and chief manager) of the estate in which these raiyats live knew nothing of what was being done in his name in this matter, but the moral I wish to point is that if such things can happen in an estate claiming to be well-managed, what things do not happen in the many estates which are ill-managed? If we have such things in the green tree, what have we not in the dry?

46. I now come to a portion of my demonstration to which I invite special attention; for it depends, not on the reports or opinions of local officers, but on the figures of rentals furnished by the zamindars themselves, under the Road Cess Act. I quote in support of my case the evidence of rent enhancements which zamindars themselves admit. According to the Road Cess papers filed by the zamindars in the collector's office, the rental of the Muzaffarpur district was in 1876, Rs 44,15,325. According to the papers filed at the valuation of 1891 it had risen to Rs. 67,27,909. In other words, it had increased during the 15 years preceding 1891 by more than 50 per cent. There was no appreciable room for extension of cultivation, and there was no such rise in prices\* during this period, as would justify more than a small part of this enormous increase in rent. How far this increase, as well as the increase in the other three

districts, is due to a higher valuation (at the recent revision) of *nijjote* or home-farm lands cultivated by the landlords themselves, I am unable to say. No doubt there has been some increase in the valuation of these lands, to keep touch with raiyati rates. Possibly also there may have been some concealment of assets at the first valuation in 1876. But discounting these sets-off, and allowing for the considerations noted in the next succeeding paragraph, enough remains to prove that since the passing of the Tenancy Act, as well as before, there have been heavy enhancements of rent in this district, which were not authorised by any provision of the law, and must have been effected in an arbitrary and illegal manner.

The rental of the Darbhanga district, in which there was little or no culturable waste land, increased from Rs. 63,19,138 in 1876 to Rs. 71,37,004 in 1883, or by more than 8 lakhs, or 12 per cent., in seven years. The district, as stated in paragraph 15 above, is now being revalued, and the estimate of the collector is that the valuation will show the rental to be 78 lakhs of rupees, or an increase of 25 per cent. in 17 years.† During four out of these 17 years, the Government was compelled

\* A common abuse illustrated by an actual case.

Evidence of enhanced illegal enhancements of rent deduced from road cess returns filed by zamindars.

\* See paragraph 34 above for the legal rule for the enhancement of rent; the average price of rice during the quinquennial period 1876--1880 in North Behar was 16'88 seers the rupee; from 1887 to 1890 it was 15'01 seers, the rise being thus 12 per cent. against an increase of rent of 50 per cent. in Muzaffarpur.

† I believe the smaller comparative increase in Darbhanga to be due to the greater poverty of the people and the greater prevalence of large estates.

compelled to open relief works in the district and distribute charitable relief in aid of the destitute. Further comment is superfluous.

The district of Champaran was revalued under the Road Cess Act in 1888, the previous valuation having been made in 1876. The rental increased from Rs. 26,20,942 in 1876, to Rs. 30,73,556 in 1893, or by 4½ lakhs of rupees, equal to 17 per cent. on the previous rental. In this district there was and still is room for extension of cultivation, and this fact may account for the increase in rental, as well as for its comparatively moderate pitch, without importing the idea of enhancement. When there is much unoccupied culturable land, raiyats will desert their holdings if pressed for more rent than they care to pay.

In Saran the first valuation made in 1876 gave a rental of Rs. 55,06,769. By the revaluation made in 1883, the rental was Rs. 59,87,760, or an increase of about 9 per cent. in six years. Rent rates are very high in Saran, and as there is hardly an acre of culturable land lying idle in the district, the increase of rent is great and, apart from the possible sets-off referred to in the case of Muzaffarpur, must be entirely due to enhancements of raiyats' rents. A revaluation now would bring out no doubt a still further increase.

47. How small a part the civil courts have taken in effecting these enhancements will be understood from the fact that the total number of suits for enhancement or abatement of rent instituted in the four districts of North Behar during the seven years 1886 to 1892 inclusive, is, according to returns for which I am indebted to the High Court, only 760, or 109 on an average per annum in an area embracing more than 12,000 square miles, and in which the size of agricultural holdings is not on an average more than three acres each! While the number of holdings in Muzaffarpur and Darbhanga is over 800,000, and enhancement of rent very heavy as we have seen, the suits for enhancement and abatement of rent do not average more than 90 per annum!

48. The only other legal method, apart from a suit in court, of enhancing an occupancy raiyat's rent, is by registered agreement out of court. The Registrar-General of Assurances has supplied me with the following statistics as to the extent to which this method has been utilized since the passing of the Tenancy Act. In Muzaffarpur from 1886 to 1892 only 830 agreements to enhance rents had been registered, and this means that Sections 29 and 43 of the Tenancy Act, which were intended as a check upon arbitrary and excessive enhancements of rent, have been practically inoperative in the Muzaffarpur district. In Champaran, during the same period (1886-1892), only 10 agreements were registered, and all of these exceeded the limit on enhancements prescribed by Section 29 of the Tenancy Act! But in addition to these 10 illegal agreements, 680 *sharanamahs* were registered in Champaran. A *sharanamah* is an admission by the raiyat that rent is payable at a certain rate, and as the document makes no reference to the rate payable before its execution, it evades the limitation on enhancements prescribed by the Bengal Tenancy Act. What effect such practice can have on an ignorant tenantry will be perceived from my remarks in paragraph 45 above.

In Saran only 36 agreements for enhancement of rent out of Court have been registered since the passing of the Tenancy Act, and total amount of the enhancement under them was only Rs. 259-1-8.

\* If in the estates of the Maharajas of Darbhanga and Hatwa, there has been harsh treatment, I shall, from my acquaintance with them, acquit both Maharajas of personal knowledge of it. Besides the great zamindar is always a more lenient and considerate landlord than the petty proprietor.

In Darbhanga\* not a single agreement for enhancement properly so called was registered, but I hear that in parts of Darbhanga the *sharanamah* business has been, and is being, sedulously worked.† Enough has been said to show that enhancements are not effected now any more than they were before the passing of the Tenancy Act, by recourse to the Civil Courts or by the other methods provided in that Act. They are effected in an arbitrary and illegal manner, as of old, by entering the enhanced rent in the patwari papers as the existing rent, and leaving the raiyat at his peril to dispute the demand. Could there be any better demonstration of the practical necessity of that appeal to the Civil

Courts

† See on this point the Honourable Mr. Stevens' Note (Appendix A.), paragraphs 14 and 16.

Courts before enhancements are allowed, which I dwelt upon in my reply to the memorial of the Planters' Association, or of the urgent need of the record of rights which will afford the raiyat a means of resisting these illegal and never-ending enhancements of his rent?

49. And if all the preceding considerations combine to prove that the Behar raiyat is in a wretched condition, and that his position has been in no way alleviated by the mere substitution of Act VIII. of 1885 for Act X. of 1859 or its Provincial equivalent, and that the

*Opinions of Executive Officers as to necessity of Survey and Record of Rights. Inaccurate statements of Zamindari Association on this point.*

only hope of alleviation lies in the Record of Rights which we are striving to make, we are not without tangible evidence to show that the alleviation will, as a matter of fact, and not of mere speculation, be afforded by that Record when made. From the nature of the case the evidence cannot be abundant, as it is connected only with the experimental area settled by Mr. Collin; but so far as

*Practical evidence as to the beneficial effect of the Record of Rights.*

\* Board's Land Revenue Report for 1885-86, paragraph 246.

it goes it is most significant. Writing of the results of these operations, Mr. Halliday, the Commissioner of the Patna Division, reported\* as follows in 1886:—

“The survey operations under the Bengal Tenancy Act are progressing as smoothly as possible; disputes as to boundaries and possessions are few, and are chiefly connected with pieces of waste land and roads: organised opposition there is none; and it is now clear that apprehensions as to relations between landlords and tenants being embittered by the survey are groundless. Among the zamindars the survey seems on the whole not unpopular, inasmuch as they see that it will provide facilities for identifying the whole of their lands, and for realising their dues on account of every portion of their estates. The raiyats are quite indifferent in the matter, and see no cause for resistance or opposition to the proceedings.

“The criminal cases connected with the demarcation and survey proceedings have been extremely few, and have mostly on investigation turned out to be false or exaggerated. Nothing in the shape of a riot has been proved in any instance. The survey will effect much good in the way of determining rights and facilitating the identification of land. *It is probable that the survey record will be looked upon as a charter of rights by all classes interested in land, and no transfer will be negotiated without reference to it.*”

It will be noticed that Mr. Halliday, who wrote the preceding observations while still Commissioner of Patna, and personally acquainted with the facts, is one of the officials whom the memorialists (paragraph 13 of memorial and head (d), paragraph 7, above) quote as among the chief opponents of the cadastral survey. When subsequently member of the Board of Revenue, Mr. Halliday at first counselled caution in extending the survey operations to the

† Parliamentary Return, 17th May 1892, page 62.

whole Patna Division,† and afterwards expressed his views in the following words:—

“The Board's own view, on the fullest consideration of the case, is (1) that to the Government it would not be worth the cost at eight annas per acre unless it was accompanied by a re-organisation of the patwari system for the continuous maintenance of the records; and (2) that at the same cost, whether with or without the re-organisation of the patwari system, the survey would not repay the zamindars and raiyats. It seems to them that in view of the difficulty as to cost, and so long as it is not removed, the Government should confine itself to the survey of estates in which uncertainty as to rents are proved to exist on the evidence of constant disputes between the landlords and tenants.” (Parliamentary Return, pages 156 and 157.)

From the preceding it will be seen that although Mr. Halliday apparently modified the views he held while Commissioner of Patna, as to the survey being regarded as “a charter of rights by all classes interested in the land,” he still remained of opinion that the survey, if made, should be maintained up to date.

The memorialists in the same paragraph go on to say that “the only district officer who would seem to have favoured the idea of this present survey, with perhaps the exception of Mr. Beadon, was Mr. Boxwell, the late Commissioner of Patna.” Some relevant opinions of the local officers have been quoted in

paragraph 44 above: but I would now invite a reference to the Parliamentary Return, pages 64 to 71, which will show (I restrict my observations to North Behar, though the evidence from the southern districts is also significant) that Mr. Henry, Collector of Champaran, Mr. Beadon, Collector of Darbhanga, and Mr. Bourdillon, Collector of Saran, that is to say, the collectors of three out of the four districts of North Behar, have all expressed opinions to the effect that "in these districts uncertainty about rent and tenants' right does prevail to an extent that calls loudly for a survey and record of rights." Mr. D'Oyly, Collector of Muzaffarpur (an officer of small knowledge of the district), was the only District Officer of North Behar, who said that the survey was wanted only in isolated villages, an opinion which is contradicted by the actual results of Mr. Collin's inquiries, by the facts as to excessive enhancements noted in paragraph 46 above, and by general repute. It is thus clear that the memorialists have been misled as to the opinions of local officers in Behar regarding the necessity of the Survey and Record of Rights, and have been betrayed into endorsing a statement which is entirely incorrect. It may be added that of the three high officers whose names are mentioned in the same paragraph of the memorial, Mr. Beames alone had any local experience of North Behar, and Mr. Beames' connection with that locality ceased a quarter of a century ago. Moreover, what Mr. Beames wrote had, it seems, reference, not to North Behar, but to the Purnea, Malda, and Monghyr districts of the Bhagalpur Division (Parliamentary Return, page 63).

As a matter of fact the necessity for such a record as we are now engaged in has been a common place of administrative reform with Behar officers, and in proof of this I may say that the following Commissioners of the Patna Division from 1874—namely, Sir Steuart Bayley, Mr. Metcalfe, Mr. Halliday, Sir John Edgar, Mr. Boxwell, Mr. Stevens, Mr. Lyall, and Mr. Forbes—have been uniformly in favour of a Survey and Record of Rights of North Behar.

50. The late District Judge of Muzaffarpur, Mr. Brett, who had had long experience of that district, has the following remarks on the result of the experimental operations, in his annual report for 1888:—

"An administration report of this district would be incomplete without some observation on the recent cadastral survey which had been commenced in two parganas of Muzaffarpur.

"I pointed out in my last report the immense good that was expected to result from the measure, and I mentioned also that the work had been stopped. I regret to have to record that in the numerous villages in which the work remained incomplete, the mischief caused has been so great as to make one wish that the work had never been commenced in these villages at all. The work embraced survey and determination of the rents of the lands of each tenant. False hopes were raised, and at the outset the proceedings created a disturbing influence in the minds of the peasantry. This disturbing effect could have been obviated only by the completion of the work; for in the villages in which the work has been completed, the result has been beneficial, and both the landlord and tenant have in most cases agreed to the entries in the jamabandi slip as correctly giving the incidents of the tenancy. This is further apparent from the very small ratio of appeals which were referred to me as Special Judge from the decisions of the settlement officers. But in the villages which were surveyed and the ascertainment of rents was not completed, or in which the final publication of the jamabandi could not be made, the tension which had arisen between the parties remained, and is manifesting itself in the large number of rent disputes and rent suits that are coming before the courts."

And the Munsif of Muzaffarpur writes thus in a letter to the Government in the present year:—

"There has been a marked decrease in litigation in the surveyed tract since 1889. In the few cases which are contested, areas and boundaries of holdings and rates or amounts of rent are seldom disputed. Even if they are disputed, the opposite side produces an extract from the Record of Rights, and this settles the dispute. Contested cases of this tract are now much simpler, inasmuch as

in most of them the only point to be determined is whether the amounts claimed have been paid or not."

Finally the Collector of Muzaffarpur, in his Annual Administration Report for the past year, makes the following remarks, in which the Commissioner of the Patna Division, Mr. Forbes, agrees:—

"Although the measure (the cadastral survey) is yet unpopular, especially with the zamindar, the advantages of a record of rights is now better appreciated by all classes, the spirit of opposition and consequent agitation which existed before the introduction of the measure has disappeared, and as far as I have been able to ascertain, the action of the Government is now regarded as beneficial to all parties interested in the land, as likely to place the present unsettled relations of landlord and tenant on a better footing. \* \* \* The comparatively low condition of the raiyats and peasantry in these parts is due largely to the want of an accurate record of each tenure and each raiyat's holding within the estate, and the status of everyone who has rights in the land, and of the rent paid by each raiyat to the tenure-holder. That the object of the Government is simply to supply this want is now understood by the tenants and landlords alike."

This statement agrees with my own belief. The opposition to the cadastral survey now comes, from the zamindars alone, and not seriously from all of them.\* "It is," writes the Commissioner of the Patna Division, "the class of petty zamindars, who prefer unsettled relations with their raiyats, who are the chief opponents of the measure." Owing to the unlimited exercise of the right of partition or subdivision, of landed property, the number of petty zamindars in North Behar has grown enormously, and the increase still continues. Every addition to the number of these petty landlords connotes an enhancement of the raiyats' rents, and increased exaction afterwards. The Government of Bengal has more than once considered the propriety of imposing some limitation to this subdivision of property which injuriously affects the general administration of the country, as well as the raiyats; but it has not hitherto seen its way to effective action. The Record of Rights will check this abuse, among others, affecting the agrarian condition of North Behar.

51. This concludes what I have to say on the condition of Behar after the passing of the Tenancy Act, and I think it has been conclusively shown that the Act has been in no way effective in Behar to suppress the evils at which it was aimed; that it will remain ineffective so long as the people continue in their present terribly depressed condition, or a Record of Rights is not made and maintained; and that where a Record of Rights has been made, the results have been in every way satisfactory and beneficial to all concerned. There is not now, and there has not hitherto been, any practical limitation to the power of the Behar landlord to enhance rents, except his own sense of moderation, and the capacity of the raiyats to pay. That this should be so is unfair to the general tax-payer, and a negation of the moral responsibility which rests upon the Government to see justice done to people who are among the poorest and most helpless of Her Majesty's Indian subjects.

#### PART IV.

##### THE MEMORIAL OF THE ZAMINDARI ASSOCIATIONS.

52. In the margin of paragraph 7 above I summarised the chief objections to the Survey and the Record of Rights which are urged in the memorial submitted by the Zamindari Associations for transmission to the Secretary of State. One objection is that the zamindars were kept in ignorance of the intention of the Government to survey Behar, that "they were not aware that such a measure was in contemplation until the Secretary of State's sanction had been obtained." The refutation of this objection was given in paragraph 24 by quoting the words of the Government of India and of the zamindari representative in the Legislative

\* See paragraphs 73A and 73B below. I think these paragraphs justify me in saying that the Indigo Planters, who are landlords to a very large extent, are no longer in opposition

lative Council, the Honourable Kristo Dass Pal, which leave no doubt that it was from the very beginning the openly expressed intention of the Government to survey Behar, and that this intention was perfectly well understood by the zamindars at the time, as evidenced by Rai Kristo Dass Pal's words, "the expenses which may be incurred by enforcing the provisions relating to record of rights and settlement of rents will be cast upon the landlords and tenants, though no application as been made by them."

53. Another objection noticed is that the Cadastral Survey of Behar should not be undertaken without legislative sanction, and that the provisions of section 101 of the Tenancy Act do not provide for the survey of a whole district, still less of a whole province. The refutations of these objections are given in paragraphs 25, 26, and 27, which place beyond question, *first*, that the survey of Behar was one of the particular objects for which the Tenancy Act was passed, and *secondly*, that, in the words of the Honourable the Advocate-General (repeating in substance the explanation given in the Legislative Council on the passing of the Act), section 101 "authorises the survey of a province, district, or sub-divisions of a district."

54. A third objection noticed is the assertion that all District Officers having local knowledge were opposed to the survey. In paragraph 49 it is pointed out on the authority of the Parliamentary Return, that this assertion is altogether incorrect, that three out of the four District Officers concerned declare that the circumstances of these districts "call loudly for a Survey and Record of Rights," that the fourth—a gentleman of limited local experience—says the operations are required in isolated villages, and that for 20 years the necessity for a Survey and Record of Rights had been a commonplace of Behar administrative reform.

55. A fourth objection, that no provision had been made for maintaining the record, was dealt with in paragraph 28, where it is shown that it always was the intention to legislate on this subject by way of supplement to the Tenancy Act, and that before the Tenancy Act became law, the Bengal Government was called on to give effect to that intention. The zamindars further complain (paragraph 17 of their memorial) that the Government of Bengal has not stated the agency by which it is intended "to maintain the survey records when finished, and whether the zamindars and raiyats are to pay for the expense of this agency, and if so, what additional burden will be thrown upon them." The memorial ignores everything that has occurred on this subject since Sir Charles Elliott went on leave. But after the publication of the results of the Muzaffarpur Conference, the zamindars were in possession of sufficient information as to (1) the agency by which it is proposed to maintain the survey records, and (2) as to the liability of zamindars and raiyats for the cost of that agency, and (3) as to the additional burden to be thrown upon them—though, as will presently appear, I prefer to regard the matter of cost more in the light of a relief afforded to, than a burden imposed upon, the zamindars. The Associations' complaints on these points, then, are somewhat misplaced, and their attitude would have been more helpful if they had addressed themselves to the actual facts, as communicated to them through the "Calcutta Gazette" of 10th of last August.

56. A fifth objection made in the zamindars' memorial is that the Cadastral Survey will cause general litigation, be a great expense to all concerned, and do no good; and the case of the Cadastral Survey and Record of Rights made in the Srinagar estate is cited in proof and illustration of these assertions. These are the facts about the Cadastral Survey and Record of Rights in the Srinagar estate.

The Srinagar-Banaili estates were taken under charge of the Court of Wards in 1882, with a total nominal rental of Rs. 4,48,715. The arrear demand was Rs. 14,68,440, or 3½ times the current demand.

In 1884 a sum of Rs. 10,15,036 out of this arrear had to be remitted because it consisted of fictitious and illegal demands which the raiyats repudiated and which the Court of Wards was legally unable to enforce. The Court of Wards, with all its power under the certificate procedure, was only able

able to realize 72 per cent. of the current demand in 1884, owing to the inextricable confusion that prevailed in the zamindars' accounts. In 1885 difficulties arose in connection with giving receipts under the Tenancy Act; the raiyats alleging that the receipts offered exhibited fictitious rentals and areas. In 1886 the collections amounted to only 63 per cent. of the current demand, and the arrears had increased by more than 3 lakhs of rupees. To extricate the estate from this intolerable state of confusion, a Survey and Record of Rights was undertaken with these results. All the confusion that had prevailed was cleared up, the raiyats were given, and they accepted, documents showing the exact area of their holdings and the amount of their rents, while the landlords' rental was increased to Rs. 4,96,498, or by Rs. 47,783. The total cost of survey and settlement was Rs. 2,94,328, which will be recouped in six years by the mere increase in rental. For the landlords, therefore, the operations have been a signal financial success.

The immediate result of the operations was that whereas only 63 per cent. of the current demand could be realized before the record was made, the collections in 1889-90 amounted to 112 per cent. on the current demand, and in 1890-91 to 125 per cent., or nearly double the amount realized in 1886. All this was affected without having recourse to compulsory processes for realisation of the rent.

As to the "litigation" which attended the operation, the facts are these—

- (a) 1,883 "suits" were instituted by landlords against tenants, and 1,079 suits by the tenants against the landlords, under sections 104 and 106 of the Tenancy Act, for settlement of a fair rent. As the tenants, &c., in the estate number 69,561, the number of suits filed was less than 6 per cent. of the number of holdings, which is an excellent proof of the judgment with which the preliminary proceedings were conducted.
- (b) Of these 2,962 suits, 1,153 were decided in favour of the landlords, and 803 in favour of the tenants, and 1,006 were compromised, withdrawn or never came to trial.
- (c) Besides the suits between landlord and tenant, there were 517 suits for settlement of fair rents between tenants, thus making a total of 3,484 suits, which is considerably less than the figure given in the Memorial.
- (d) The total number of appeals was 338 (not 388, as stated in the Memorial): of these 67 were appeals on questions of boundaries under the Survey Act, and 271 were appeals on the merits to the Special Judge in connection with settlement of rents.

If it be remembered that the settlement of fair rents under section 104 of the Tenancy Act is one of the particular objects of such proceedings (should the parties so wish), and that applications to have fair rents settled *are* in fact the "suits" in question, it must, I submit, be admitted that the litigation in connection with the settlement of the Srinagar estate, with its 69,561 tenants, the management of which had fallen into such confusion, was extraordinarily small. It would have been smaller still if the landlords had not, as they were quite entitled to do, sought to enhance their rents by "suits" or applications to the Settlement Officer.

As to the attitude of the raiyats, the Settlement Officer, Mr. Collin, reported in 1891 as follows:—

"The raiyats as a rule showed no disposition to hold aloof from the proceedings. They readily came to the Settlement Officer's camp to have the entries explained, and appeared to take great pains to have the records correctly prepared. The large number of objections filed is a proof of the interest taken in the proceedings."

The objections, which numbered 20,777, or one objection to every three holdings, had reference to measurement of fields; to mistakes in writing up the records, and generally to the adjustments of petty errors and discrepancies inseparable from every undertaking of the sort. These objections, which are disposed of as the work goes on, and which every Settlement Officer knows to be a proof of the people's healthy interest in the proceedings, are construed by the memorialists into damnatory evidence of embitterment and litigation!



It is true, as the Memorialists observe, that the cost of the Srinagar survey and record of rights was in excess of the estimate of eight annas an acre. But if the condition of confusion in which the estate was involved, and the fact that the lands were scattered throughout five separate districts and 23 parganas be considered, I think it will be admitted that the actual cost of 10 annas 9 pies per acre is not in itself excessive, while the benefits to zamindar and raiyat were cheaply bought at the price. If it cost only 10½ annas per acre to settle the Srinagar estate, we may confidently expect that it will cost much less to make a record of right in North Behar, where the land to be dealt with is of course not scattered, but can be surveyed continuously. The only drawback to the satisfaction which the whole episode inspires is that no adequate arrangements could be made to maintain the record up to date. Without such a law for maintaining the records as I now propose, this was impossible.

I may, on the authority of the Board of Revenue, say that since the record of rights has been completed in this estate two years ago, suits for arrears of rent have been instituted against 1,759 tenants, or about 1½ per cent. of the total number per annum. In 1,663 of these, decrees for the full demand were readily procured on the basis of the record of rights. In 80 cases only was there any modification of the sum claimed, and this was owing to clerical discrepancies in the abstracts of the records produced by both parties. Six cases only were dismissed, and out of the total number of 1,759 decided cases, there were only ten appeals. In the Banaili portion of the estate, in which a record of rights was also made, 701 suits for arrears of rent were within the same period instituted, and decrees were given on the basis of the record of rights in 699 cases. In only two cases was there any modification of the demand. The conclusion is that the record of rights was entirely effective in enabling the landlords to recover their rents without delay or difficulty, and in restoring order, peace and contentment to nearly 70,000 tenants.

I think it will be admitted that if the Zamindari Associations had desired to cite a remarkable instance of the necessity and advantages of a survey and record of rights, they could not have selected a better example than the Srinagar estate. The settlement, as a matter of fact, has been a financial success for the landlords, and for the raiyats it has been a charter of peace and protection. And this is only one of many examples\* which could be cited of the immediate substitution of order and contentment for chaos and strife under the operation of Chapter X of the Bengal Tenancy Act.

Now I do not for a moment believe that the signatories to the memorial have cited the Srinagar case in support of their views, knowing what the real facts were. The gentlemen who have signed the memorial are all honourable men who would never knowingly put forward misleading statements or endorse inaccuracies of this description. But the very circumstance that on a material point the memorial is so misleading affords a suggestive illustration of that levity of assent with which many of the great zamindars of Bengal and Behar receive representations made to them in depreciation of the Cadastral Survey.

57. In paragraph 7 of the Memorial, some words of Sir Charles Elliott's are quoted, and on them the assertion is based that the survey is required for "administrative purposes," or collection of economic facts merely, and as such is outside the scope of the Tenancy Act. The objection, if seriously made, is surely not supported by the Lieutenant-Governor's words. It should be perfectly well known to everybody that the record of rights in North Behar has been undertaken, not with a view to collecting economic statistics, but in the interests of the population of that part of the province. The chief object of the survey and record of rights is more of a judicial than of an executive nature. The statistics which the record of rights will establish are those which will tend to prevent disputes, facilitate the decision of disputes when they arise in the courts, and secure the enjoyment to ten millions of people of their legitimate rights. These rights have been withheld for a century, and the memorialists must excuse me if I do not take their word for it, that the raiyats are now animated by a violent desire to forego these rights still longer. We are not without ample knowledge on this head. We know, from the constant enquiries

\* I mention a few:—Dubulhati, Churaman, Sunkerpur, Maidwar, Mollarpur, Dakhin Shabazpur, and others containing an aggregate area of about 2,500 square miles.

of a quarter of a century, what the raiyats do really think upon the matter, and we have been lately told by the President of the Indigo Planters' Association that the raiyats are willing to pay four times as much for the record of rights as they will be charged. And as for the maintenance of the record, I would again call attention the words of Mr. Gibbon, Manager of the Bettiah Raj (quoted in paragraph 62 above): "Half the amount of money now expended by zamindars on the present (patwari) staffs, if paid into Government treasuries, would be sufficient to secure the services of efficient men to maintain the record." We undertake to do it for a small fraction of that amount.

58. The Zamindars in paragraph 8 of the memorial [head (c), paragraph 7 above] raise an objection to the enforcement of Section 114 of the Tenancy Act, by which the expenses of making a survey and record of rights in Behar are to be defrayed by the landlords and tenants concerned. It is, I understand, now contended that this section is invalid, inasmuch as the public had not full notice of the intention of the Legislature to enact it. That this objection is founded on a misapprehension of fact will have been observed from the quotation given in paragraph 24 above from the Honourable Kristo Dass Pal's Minute of dissent from the report of the Select Committee on the Tenancy Bill. The fact is that the section as it stands now consolidates and modifies Clauses 163 and 164 of the first edition of the Tenancy Bill published in the English and Vernacular Gazettes in 1883. These provisions were reproduced with amendments in Clauses 121 and 133 of the second edition of the Tenancy Bill, which was published in the English and Vernacular Gazettes in 1884, and was widely commented upon by the public of Bengal during 1884 and 1885. Those sections provided for charging the costs of settlement operations to landlords and tenants. It was this second edition of the Bill as modified in Select Committee that became Act VIII. of 1885. It is therefore incorrect to say that the proposal to charge the expenses of the survey and record of rights to landlords and tenants was not specifically before the public for a long period before the Act was passed.

In regard to the fairness of this provision of the Act, I would again call attention to the fact that the Zamindars of North Behar have now a rental of about 2½ crores of rupees (Rx. 2½ millions), out of which they only pay 34 lakhs (Rx. 340,000) as Government revenue, while at the time of the Permanent Settlement their rental was only a quarter of a crore (Rx. 250,000), out of which they paid something over 22 lakhs (Rx. 220,000) to the State. Their net income now is about 80 times greater than it was three generations ago. They have always been under the obligation to certify to their raiyats *at their own expense* the facts which the survey and record of rights will now establish; they have persistently refused to fulfil this obligation; and the Government is now only doing for them what they have themselves failed to do. This plea of hardship because of their being made to fulfil their obligations is, therefore, an unreasonable plea to put forward.

59. In paragraph 16 [head (e), paragraph 7 above] of their memorial, the Zamindars object to the survey and record, because they say the litigation it may produce will not be conducted in the ordinary courts, "which are well known and trusted by the people," but must be heard and determined by Revenue officers, "whose decisions for obvious reasons will not be considered with the same respect." Herein the memorialists are altogether mistaken, for, as stated in paragraph 34 of my Minute of the 24th June, and in my reply to the Indigo Planters' memorial at Muzaffarpur, it will rest with the Zamindars whether they will, in any litigation they may wish to raise, take the matter into the ordinary Civil Courts, or have it dealt with by the Settlement Officers. In the latter case the Appellate Court is the Principal Court of Civil Jurisdiction of the district, or a Special Civil Court of equal rank with such Principal Court. The objection therefore is based on a misconception of law and fact.

60. Before ending this portion of my paper, I wish to quote the following extract from the despatch of the Secretary of State, No. 95 (Revenue), dated 24th December 1891, on the point of the costs of the survey:—

"In regard to the third objection, it is true that in other parts of India the

general treasury bears the cost of a cadastral survey and record of rights. But in temporarily-settled districts the treasury reaps an immediate increase of land revenue as the result of these operations; and so it is just that the cost should be borne by the general taxpayer. Although in the permanently-settled districts of the Benares Division the landed classes were not called upon to pay directly for the recent re-survey and record of rights, it must be remembered that one-half the cost of these operations was defrayed from the unexpended balance of a special fund contributed by the landholders. The other half was paid from the general treasury. In the case of North Behar it is proposed that the general treasury shall bear one-eighth of the cost, the remainder being defrayed, half by the landlords and half by the tenants. The reason for thus limiting the State share of the cost is apparently because the decision of 1877 regarding the cost of the Benares survey is regarded as an unnecessarily liberal concession; and because the land revenue paid at present by the Benares districts is very much heavier than that paid by North Behar. The North-West Provinces' Government Orders of the 15th June 1889 show that the five permanently-settled districts of Benares pay on the average a land revenue of 26½ annas for each acre of cultivated land, and that the total land revenue amounts to 39 per cent. on the corrected rental. At present there is no precise information of this kind regarding North Behar; but I am informed that the land revenue there probably does not exceed 10 annas per acre, and perhaps does not exceed 20 per cent. of the total rental. I consider that there are good reasons for the treasury bearing a smaller share of the cost of the Behar survey than it did of the Benares survey."

Circumstances have somewhat changed since this despatch was written. It will be perceived from paragraph 15 above, that the Government revenue of North Behar is in round numbers 34 lakhs, while the rental is in round numbers 250 lakhs. The Land Revenue, therefore, is now less than 14 per cent. of the rental, and as the rental of two districts was valued ten years ago, and one six years ago, no doubt the percentage of revenue on rental is at present appreciably less than 14 per cent., and probably not more than 12 per cent. I am informed that the zamindars of the permanently-settled districts of the Benares Division do pay a cess for the maintenance of the settlement records.

61. I have seen it stated on behalf of the zamindars that the Cadastral Survey will cost over one million pounds sterling, and, more recklessly still, that it will cost more than the capitalised value of the land. Now what are the facts? The area of North Behar is 12,821 square miles, or 8,205,440 acres. The estimated cost of the Cadastral Survey is eight annas an acre, which would, if not exceeded, give in round numbers a total expenditure of 41 lakhs of rupees, of which Government pays one-eighth under present arrangements. I am in hopes that the estimate will not be exceeded, but assuming that the cost will even be so much as Rs. 400 per square mile, which I am assured it will not reach, even then the total cost would be about 51 lakhs, of which the Government pays one-eighth, leaving 45 lakhs to be shared between landlords and tenants in equal parts. That would still be only about 300,000/., or less than a third of the sum which the zamindari advocates estimate. It would be only 4½ pence per acre each on the landlord and tenant. The expense, whether it be fourpence or threepence per acre, I propose to recover at or about the rate of one penny per acre per annum. Where then is the probability of impoverishment to either landlord or raiyat from the Cadastral Survey?

## PART V.

### THE LAND RECORDS ESTABLISHMENTS BILL.

62. I now return to the point at which in paragraph 7 of this Minute, I digressed, and proceed to comment on the Bill which I propose for the creation and maintenance of a Land Record Establishment. The Bill itself, with a Statement of Objects and Reasons, is printed in the Appendix C.; and as the Government of India may wish to know at once how I should propose to give effect

effect to its provisions if passed into law, I also append a draft set of rules (to be made under the Bill) which might form the basis of further discussion. The rules would of course be susceptible of such amendments as experience might show to be necessary on all points, more especially as to the unit of area to be entrusted to each Land Record-Keeper, the salary to be allotted to him and to all supervising officers, and the number of inspections to be made. I should welcome, and so far as possible give effect to, any suggestions which, consistently with maintaining a correct record, will be acceptable to the landlords, and guarantee the status and trustworthiness of the Land Record Staff.

Objection to Land Record Establishments Bill.

63. The objections against the Bill may be considered as falling under three heads—

- (a) that the cess for which it provides is a violation of the terms of the Permanent Settlement, and an excessive burden on the landed interest in Behar;
- (b) that it is unnecessary to maintain the record at all, or, if necessary, that a decennial revision would suffice;
- (c) that the scheme proposed in the Bill will lead to an intolerable degree of interference with landlords, and would be ineffectual for the object in view.

64. The first and the most important objection to the Bill is that the cess it provides for is a violation of the Permanent Settlement and an excessive burden on the landed interest in Behar. The last portion of the objections is the burden of much of the memorial to the Secretary of State. I shall deal with this objection at some little length.

Objection on the ground that the Bill conflicts with Permanent Settlement considered.

In Part II. of this Minute I stated that when making the Permanent Settlement, Lord Cornwallis reserved complete power to interfere in any way the Government liked for the protection of the raiyat. This reservation is contained in Article VII., Regulation I. of 1793, which runs thus:—"It being the duty of the ruling power to protect all classes of people, and most particularly those who from their situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection and welfare of the dependent talukdars, raiyats, and other cultivators of the soil; and no zamindar, independent talukdar, or other actual proprietor of the land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have agreed to pay."

Apart from the general and indefeasible power of the Government to make laws as circumstances require, that is the authority which empowers the Government to pass the Land Records Bill into law, and who can say that its terms are limited, or its meaning or expression doubtful? There is here no question of enhancing the Government revenue. The Government "seeks no fiscal advantage, but the prevention or diminution of human suffering." It is merely a question of providing "regulations for the protection and welfare of the dependent talukdars, raiyats, and other cultivators of the soil." But besides this authority, there is another and a more specific justification for this clause of the Bill, which I proceed to state.

65. When introducing the Bill for amending the law relating to kanungos and patwaris into the Bengal Legislative Council in 1885, I thus explained the status and functions of the kanungo and the patwari, and their relationship to the zamindars: "I will now say a few words regarding the collection of the revenue under the Muhammadan system. The revenue was actually collected by officials who were the prototypes and doubtless in some few cases the progenitors of the zamindars of to-day. But to secure the interests of Government, it was obviously essential that the dealings of these tax collectors and their subordinate agents, or gumashtas, with the actual cultivators should be subjected to some check. Accordingly, in order to obtain and preserve the accounts necessary to exercise such a check, the system of patwaris was remodelled, and the system of kanungos established. As originally constituted, the kanungo, or 'expounder of the laws,' was an agent

Objection to the Bill on the ground that it imposes a cess on the land considered. The origin and nature of the system of kanungos and patwaris.

of the Imperial Government who was associated with the tax-collector or zamindar for the purpose of checking and supervising the zamindar's proceedings in regard to the collection of public revenues. The patwari was the kanungo's subordinate, just as the village Gumashta was the zamindar's, and he bore to the gumashta the same relation that the kanungo bore to the zamindar. Thus there was created a double check on the proceedings of the zamindar, while there was also established an office of record and account to which the cultivators could appeal in defence of their rights and privileges."

The kanungo and patwari were therefore under Akbar's system entirely unconnected with the actual collection of revenue. Their business was to see that no more than the due amount was taken from the people by the zamindar and his agent, the village gumashta; that the fact of payment was duly recorded; and that other matters connected with the agricultural well being of the community were duly attended to. In the language of the Fifth Report of the House of Commons on Indian Affairs, "the kanungo was the confidential agent of Government—the depository and promulgator of the established Regulations—whose office was intended as a check on the conduct (in financial transactions) of all the other village officials. Under the superintendence of the kanungo or of one of his appointed agents was placed a certain number of adjacent villages, the accounts of which, as kept by the patwaris, were constantly open to his inspection, and the transactions in which, with regard to the occupancy of land and the distinction of boundaries, came regularly under his cognizance in a form which enabled him, at any time when called upon, to report to the Government the quantity of land under cultivation, the nature of the produce, the amount of rent paid, and generally the disposal of the produce. To this officer, moreover, reference might be had to determine contested boundaries, the use of rivers or reservoirs for irrigation, and generally in all disputes concerning permanent property or local usage without the limits of his official range."

66. The preceding extract makes it clear that under the *régime* to which we succeeded in Bengal, the kanungo and the patwari were public servants and in no way subordinate to the zamindar, but on the contrary a check upon his proceedings. But in the lapse of years, and amid the confusion attending the break up of the Mogul Empire, the office of kanungo fell into abeyance; and when we took over the Dewany or fiscal administration of the country, the kanungo was little more than a name. In the arrangements for the Permanent Settlement, therefore, no provision was made for him; but "the allowances of the kazis and kanungos heretofore paid by the landholders" were added to the jama (section 34, Regulation VIII. of 1793), the Government taking on itself the payment of kanungos should the same institution be again revived, of course on the same basis. But the patwari system met with a very different fate. In origin Hindu, and not Muhammadan, it had all the vitality among the Hindu population which an indigenous institution always possesses. So that in 1793, Lord Cornwallis found it in full vitality in Behar. He resolved, as I have stated in paragraph 13 above, to make use of it as one means of effecting that record of rights which he intended to establish, and he accordingly (by section 62, Regulation VIII. of 1793) re-affirmed the obligation imposed by ancient custom on every zamindar of maintaining a patwari in each village to keep the accounts of the raiyats. The words of the law are these:—

"Every proprietor of land who may not have established a patwari in every village in his or her estate to keep the accounts of the raiyats, as required by the original rules for the decennial settlement of the three Provinces (i.e. Bengal, Behar, and Orissa), shall immediately appoint a patwari in each village for that purpose."

I invite particular attention to the words "to keep the accounts of the raiyats." The patwari was under the Regulation to be, not the zamindar's servant, but the custodian of the raiyat's interests as against the encroachments of the zamindar, which was indeed his true position and function from immemorial times.

Subsequent Regulations provided that, if the zamindar failed to appoint the patwari,

patwari, the Collector was to do so; that where there were more proprietors than one, the Collector was to appoint without reference to the zamindar (section 4, Regulation I. of 1819); and that the Board of Revenue might "increase or reduce the amount of remuneration paid to the patwari, and alter or modify the mode of its payment," whenever they deemed this necessary (section 18, Regulation XII. of 1817).

67. It is thus established (and indeed it never has been seriously or intelligently questioned) that at the present moment the zamindars of Behar are bound to pay, as one of the conditions on which they hold their estates, the salary of a patwari for every village—such patwari to be, not their private servants, to keep *their* accounts, but public servants, "to keep the accounts of the raiyats." Now if it be remembered that the Board of Revenue has authority, under section 18, Regulation XII. of 1817, to fix the remuneration of patwaris and the mode of paying it; that Rs. 8 per month, or say Rs. 100 per annum, is not too high pay for a patwari; and that according to the last census there are over 18,000 villages in North Behar, it will be apparent that if the Government decided to maintain the record of rights through patwaris, it could recover, under the existing law and the terms of the Permanent Settlement, more than 18 lakhs of rupees annually from the zamindars of North Behar on account of the pay of patwaris, unless in the rare cases where the zamindars could show that by immemorial custom the patwari was paid by the raiyats. *The Government can do this without any legislation whatever, and merely by enforcing the legal obligations which now rest upon the zamindars.\** The zamindars at the Muzaffarpur Conference knew this as well as I did, and they very naturally rejected the patwaris, and chose a scheme for maintaining the record, which, with a minimum of interference, will probably not cost them one-fifth of what they are now liable to pay for the patwaris. I acquiesced in their choice for reasons which I stated at length in my Minute of the 24th June, although by doing so I was throwing on the raiyats one-half of a mitigated obligation which under the terms of the Permanent Settlement the zamindars should as a general rule bear. It is, then, surely too unreasonable for the zamindars of North Behar, when a choice was allowed them, and their selection of a greatly reduced responsibility conditionally approved, to ignore all reference to these transactions, and say they cannot be made responsible for any contributions at all! If the zamindars unsay what they have said, and the Land Records Bill fail to become law, then they should remember that the Government can fall back on Regulation XII. of 1817, and enforce the registration of patwaris, their payment in such mode as the Board of Revenue directs, and the maintenance of the record of rights through them. But that the zamindars of North Behar will not face that extremity, and that in their hearts they are thankful for what I have done for them in this matter, can be perceived clearly enough from the Resolution (among the enclosures to this Minute), in which the Tirhut Landholders' Association express their gratitude to me for the arrangement I have made.

68. I have thought a good deal over the clauses of the Bill, which, following the Road Cess Act, make the land records cess of one-fourth of an anna per rupee of rent† recoverable in equal shares from the raiyats and the landlords.

I was induced to have the Bill drafted as it stands by the consideration that, no matter what was the case in the distant past, it certainly is the case now that the raiyats do pay for the patwari either in the shape of customary fees or of an enhancement of rent, and that the zamindars have in the process of time, to some extent, transferred their own liability in this respect to the raiyats' shoulders. We cannot undo the past; we can only take precautions for the future; and therefore in this, as in other points, I accept

\* On this point reference is invited to the opinion of the Hon'ble Sir Griffith Evans (Enclosure 11, p. 131, *infra*), which confirms that of the Hon'ble the Advocate-General referred to in paragraph 31 of my Minute of 24th June last.

† I notice that in replying to a question put in the House of Commons by Mr. Henniker-Heaton in August last, Mr. Russell, Under Secretary of State for India, said: "The cost of maintaining the record of rights would be about  $\frac{1}{4}$  of an anna per rupee of rent." Mr. Russell was, it will be noticed, incorrectly informed as to the facts, and made the cess three times more than I propose it should be.

accept existing facts, and do what is best for the future on that basis. *I am the more willing to do so, as the land record establishment now proposed will, I estimate, not cost the raiyat more than one-half anna or about one-half penny per annum per acre of his holding.* I trust that the full significance of this fact will not be lost on the opponents of this measure both in England and in India. For a cess of one-half anna (or one-half penny) per acre *per annum* each raiyat will enjoy the means of protection from illegal enhancements of his rent and arbitrary ejection from his land. This is surely an insignificant price to pay for such advantages, and no sensible addition to the raiyats' existing burden. The incidence on the zamindar of the land record cess will be no heavier than on the raiyat.

But I shall not, when the facts are known, be surprised if the Bill on this point is adversely criticised as unfair to the raiyat, having regard to the landlord's existing responsibility for the whole pay of the patwari, when he cannot show that by custom before Regulation XII, of 1817 the raiyats were responsible; and I should not object to leaving the point an open one for the Legislative Council to decide, without any declaration of policy from Government, except that the rate of  $\frac{1}{4}$  of an anna per rupee of rent shall not be reduced, nor any greater burden be imposed on the raiyat than that one-half of that rate (or  $\frac{1}{4}$  of an anna—that is, half-a-farthing—per rupee of rent) which the Bill as drafted imposes.

69. I now propose to consider the second objection stated in paragraph 62 above. In my speech at the Bankipore Darbar, I referred to this objection in the following terms:—"I have spoken to many landlords within the last two months on this subject, and there was not one who did not confirm my own long-standing conviction, that if the survey is made at all, it ought, when completed, to be maintained up to date. We know that changes in holdings are of constant occurrence through deaths, transfers, successions, reclamation of waste lands, division of fields (and I might have added, enhancements or divisions of rent). So that if no means of annually adjusting the record to these changes is adopted, the record will have become wholly obsolete in a few years, while from the first year it would be growing more and more discredited for judicial and administrative purposes." Experience in other provinces where records of rights are maintained shows that the annual changes vary from 5 to 10 per cent. of the entries. If no adjustments were periodically made, we should be in a very few years confronted with the state of chaos and the numberless embarrassments we suffer from to-day. If the record be not maintained, the survey and settlement of Behar will be a very one-sided business indeed. In my letter of the 6th July, to the Government of India, it was said: "By the survey and record the landlords will gain substantially not only in that the recovery of existing rents will be materially facilitated and its cost reduced, but by the increase of rents in cases in which the survey enables the landlord to prove that the tenant is holding land in excess of the area for which he is paying rent. \* \* \* They will further gain by the stereotyping of *sir* or demesne land, which plays so important a part in the agricultural system of Behar, and over which raiyats henceforward will be debarred from acquiring occupancy rights. The planters who are not solely landlords, and who regard the acquisition of rights in land as merely subsidiary to the cultivation and manufacture of indigo, will find their position enormously strengthened and their initial expenditure reduced by the survey placing on record the exact nature and extent of all proprietary rights; so that in future the planter will know exactly with whom to deal when taking a lease of a village. He will also be enabled, on occasions, to ignore the zamindars and to acquire effective rights for the purpose of cultivating indigo by entering into agreements with the raiyats direct. So far, then, looking at the matter from the raiyat's point of view, it will be seen that for a survey and record which will lead probably to an enhancement of their rents, and certainly to a curtailment of the area within which the rights conferred on them by the Tenancy Act can take effect, the raiyats will have to pay a sum amounting in the aggregate to one-half of the charges imposed upon the land. Clearly they have the strongest equitable claim to some substantial counterbalancing equivalent

Objection that the Bill is unnecessary considered.

Maintenance of the record of rights essential in the interests of the raiyats.

equivalent for proceedings which are likely, or which have a tendency, to produce such results. This equivalent is chiefly to be found in the maintenance of the Record of Rights, which, if it mulcts the raiyats now, will, it must be hoped, give them freedom from illegal demands and adequate protection in the future."

The maintenance of the record up to date thus, in my opinion, lies at the very root of the whole matter, and it is not to be wondered at that the zamindars are concentrating their opposition on this point. If they are successful—if even by agreeing to the survey the zamindars can avoid the subsequent maintenance of the record—then in a very few years the raiyats will be in as bad a plight as if we had never interfered on their behalf. The examples of Chittagong and of Cuttack have been cited in support of the view that a survey without subsequent maintenance of the record confers a lasting benefit on the raiyats. But I submit that the cases are not in point, for the raiyats in Chittagong and (in a lesser degree) in Cuttack were strong and their landlords weak, while in Behar the case is entirely reversed; even in Chittagong and Cuttack it is certain that the condition of the raiyats would be better than it now is had the records been kept up. Moreover the experience of the Benares district, which adjoins North Behar, points the other way, and indicates the necessity of maintaining the record. My great fear is that to the ignorant Behar raiyat the survey alone would, after a very few years had passed, be a mere fig-leaf of protection.

70. At the Muzaffarpur Conference the zamindars met my proposal for an annual revision of the record by a counter proposal for a decennial revision. But it was pointed out that, having regard to the frequency of changes in the record, a decennial revision was practically equivalent to no maintenance at all. I objected, and still object, to any limitation on the discretion of the Government as to the time when the record shall be revised. We are to be responsible for the accuracy of the record, and we must not be fettered as to the time or method of keeping it up to date. The only limitations we can allow are those imposed by financial considerations. For these we have provided in the Bill, and subject to them we must have power to revise the record at such periods as we may find most desirable. If we find an annual revision necessary, we must be able to make an annual revision; if we find a biennial revision will suffice, we must be at liberty to make our revision biennial. If in well-managed estates, where we find that changes are regularly reported to the Land Record-Keeper, a revision once in three years will meet practical requirements, we may have a triennial revision; but no longer period than three years should ever be permitted to pass without revising the record. Three years is the period of limitation which the law allows in regard to the recovery of arrears of rent. On one point perhaps I ought to guard myself against misconception. There is no intention to have the whole of the record re-written each year, but merely to have entered up annually mutations or changes which have taken place during the year. The re-writing of the record *de novo* will depend on the number of intermediate mutations that may have been entered, and administrative convenience.

71. The third objection (*see* paragraph 62 above) I have to notice is that our scheme of maintenance of the record involves intolerable interference between landlord and tenant. To see the fallacy of this, one has only to consider what information has to be maintained in the record. In Appendix B. to my Minute of the 24th June, I gave provisional forms of records of rights, and an examination of them will show that they involved no unnecessary interference between landlord and tenant at all. All that they involved was the adjustment of the record of a previous year to the circumstances actually existing at the subsequent time when the Keeper of the Land Records visited the village. If all the changes are reported by the landlord and raiyat, or by either, at the time of occurrence, and before the date of the Land Record-Keeper's visit, all the Keeper will have to do is to verify their accuracy on the spot. Wherein, then, does the intolerable interference exist? Where does it come in? There is to be no interference by the Land Record-Keeper with



agreements regarding rents, no interference with the letting or resumption of lands, no meddling in the zamindari management of the village. There is to be no interference at all beyond the adjustment of the record to the existing facts. The people who make this charge of "intolerable interference" are themselves either unacquainted with the scheme which is before them, or, being averse from the check on arbitrary action which a record of facts and legal conditions implies, they permit their judgments to be warped by baseless apprehensions.

But it is said the Officiating Lieutenant Governor's scheme for maintaining the record will be ineffectual. No reasons are given; the scheme is condemned off-hand by those who have had themselves little or no practical experience in such matters. My reply is, that the scheme as it stands is the handiwork of men who have been dealing with land records on the largest scale now in operation in India. It is, no doubt, susceptible of improvement—every human contrivance is—and it will be improved with time and experience; but it is, as it stands, based on principles which underlie all valid schemes of the sort that have been from time to time approved by men competent to form an opinion on the subject. We have succeeded in the Central Provinces, and we must be given some credit for knowing what we are about when we say that with ordinary care and attention the land records of North Behar can be maintained up to date.

72. At the Muzaffarpur Conference the scheme found a critic in Mr. T. M. Gibbon, C.I.E., whose advocacy of Chapter X. of the Tenancy Act (concerning surveys and record of rights), when he was a Member of the Legislative Council of the Governor General, will have been noticed in paragraph 26 above. But Mr. Gibbon has not always been in opposition on this question. In 1878, in a communication to the Behar Rent Law Committee, he advocated the maintenance of the record of rights in the following terms:—

"The patwari should be nominated by the district officers, be the servant of Government paid by the Government; he should be, as originally intended, a 'record-keeper,' and nothing but a record-keeper, entrusted with no executive powers. He should have nothing to do with the village collections, granting receipts, giving pattas and kabuliyats, &c., &c.; the zamindar should be compelled to do all this through his own servants.

"The patwari being the record-keeper, the zamindar should be compelled to hand him copies in duplicate of the past year's rent-roll (*jamabandi*) and balance sheet (*wasil-baki*), the current year's *ticca* land accounts (*arsatta*) and instalments paper (*behri*), quarterly returns of all assessment papers (*khasras*), and also collections made (*seahas*), memoranda of lands relinquished by raiyats and new lands "bandobasted" (settled) with raiyats, with a list of pattas given and kabuliyats received.

"One copy should remain with the patwari, the other be signed by the patwari and returned to the landholder. The patwari should be a good accountant and know something of surveying, in case you think it necessary that all measurement of *jotes* should be made by the patwari. The raiyat should at all times have access to the patwari's papers, and the patwari be bound to afford him all the information as to the state of his account.

"Instead of each petty village of from one to two hundred rupees rent-roll having a patwari of its own, the district should be divided into circles with rent-rolls of not less than Rs. 5,000, not more than Rs. 10,000. It should be optional with landholders to dispense with the present staff of men. Half the amount of money now expended by zamindars on the present staffs paid into Government treasuries would be sufficient to secure the services of efficient men, and would be a saving to the zamindars, as it would enable them to get rid of the men who cannot afford to be honest on the small salaries they receive.

"All returns called for by district officers should represent the exact terms of the holdings, however ridiculous to them such terms may appear."

These were the proposals regarding the maintenance of a record of rights which Mr. Gibbon advocated in 1878. He was not, I believe, against some sort of maintenance in 1892, but we are unfortunate in finding him in apparently

apparently an altered mind in 1893. The following extract from the Minutes of the Conference shows the grounds which Mr. Gibbon gives for his change of opinion, and the support my proposals borrow from his earlier views. I quote from Mr. Stevens' remarks in the Minutes of the Conferences:—

“He (Mr. Gibbon) replied \* \* that there was nothing in it (his letter to the Behar Rent Law Committee) regarding which he had changed his views as to the conditions which then existed, but that circumstances have since become altered. When the letter was written there was no survey or immediate prospect of one. But the difference which this change has made seems to be, at the most, one of convenience rather than of principle. In other words, the suggestions then made were proper in themselves, though the survey now, in Mr. Gibbon's opinion, makes it unnecessary that they should be carried out. You will notice that the following considerations underlie those suggestions:—

- (1) It is right that Government should have at its disposal a local agency of contemporaneous record.
- (2) That agency should have no connection with the collection of rents, but should be entirely at the service of Government, and should be nominated and paid by Government officers.
- (3) It is reasonable that the zamindars should pay at least a share of the necessary expenditure direct into the Government treasury.
- (4) It is possible to secure, consistently with due economy, the services of efficient men.
- (5) The areas to be dealt with by these record-keepers should be re-adjusted, and the district divided into convenient and fairly uniform circles considerably larger than those of the existing patwaris usually are.
- (6) The present staff of patwaris should be placed at the disposal of the zamindars, to keep or dispense with at their option.

“These considerations, gentlemen, are, you will perceive, exactly those on which the scheme now before you is based, and the only question is, whether the survey has superseded them. In the opinion of Government it has not done so.”

73. Reading this extract with the memorial presented by the indigo planters at Muzaffarpur, it might be inferred that the attitude of the Planters' Association towards the survey and records of rights was somewhat of this kind. They desire to have the survey made, but do not want to have the record subsequently maintained; they want to have rent assessed summarily by the revenue officers, and not by the judicial tribunals, on “excess” areas which the survey may apparently bring out; they want to have patwaris abolished, without any substitute being supplied in their places, and the last potentiality of Government control over village agrarian economy thus wiped out; and, lastly, they want to have a summary method for recovering arrears of rent. In my reply to the memorial \* presented to me at Muzaffarpur by the

\* See Enclosure II.

Indigo Planters' Association I endeavoured to show what these claims really signify, and I am now loth to believe that the Behar indigo planters do mean all this. I prefer to think that they wish as earnestly as I do that there should be impartiality and fair dealing throughout this business. They wish for the survey and record of rights; so do I. But I wish, further, to have the record maintained, so that we may escape the errors of the past and secure in future protection and certainty for all concerned where there is now none. The planters agree, as I understand, to the theory, but fear corruption, interference, or harassment in practice. I have dealt with this objection in paragraph 71 above, and here I would only add, cannot the Planters' Association bring itself to let us try? If it agrees with us on all other points, why should it break away from us on this question of maintaining the record up to date? I can understand the opposition of the zamindars who object to the survey and every consequence of it. But I am unable to understand the attitude of the indigo planters, who profess goodwill to the raiyats, are eager that the record should be made, but oppose its maintenance up to date, the only good the raiyat can get out of the whole business. I can only indulge in the hope that further reflection will bring the Indigo Planters' Association round to see that, on the ground of expediency as well as of justice, the maintenance of the record up to date is conducive to their own best interests, and as

essential for the protection of the raiyat as it is for the more speedy recovery of arrears of rent through the civil courts.

73A. I caused the preceding paragraphs to be communicated to Mr. Macnaghten, Secretary to the Indigo Planters' Association, who happened to be in Darjeeling, and I have his permission to quote from his reply as follows :—

“Indigo planters of Behar as a body approve of the survey and record of rights, but they hold that a very much larger proportion, if not the whole, of the costs should be borne by Government.

“They believe that the proposed method of keeping up the record is a fair one, but they recognise, more than any Government servant can do, the wide opportunities for bribery and corruption that will be open to subordinate officials. They do not think that a record will be kept up with any degree of accuracy, and they have reason for believing that such record is not kept in the North-West Provinces.

“Many planters think that the officers appointed for a circle, a subdivision, or whatever it may be called, should be of superior grade, a European, if possible, and of the Survey Department ; that the area of each circle should be such that the officer in charge would complete it in the ordinary course in three years. He may, if necessary, have to visit some villages oftener in the interval.

“Objection is not taken to the Government cess. If the record is to be kept up it must be paid for ; but planters do most strongly urge on Government the absolute necessity of curtailing, so far as possible, the opportunities for the exaction of illegal cesses, the extortion, bribery, and corruption which will inevitably follow the introduction of the record, and which will, in the opinion of many, more than do away with any good that should otherwise accrue.

“It is by spreading the Government employés over as large an area as is consistent with efficiency, and widening the intervals between their visits, that this may be most easily effected.”

73B. The preceding extract went far to justify my belief that in point of principle there is no substantial difference between the Indigo Planters' Association and ourselves in connection with the cadastral survey and the maintenance of the record, and that whatever differences do exist touch matters of detail which are susceptible of a justment. I have since communicated these proposals to Sir William Hudson, President of the Indigo Planters' Association, who now authorises me to say that, while endorsing Mr. Macnaghten's remarks, he accepts my scheme for maintaining the record, subject to the condition that an European officer of the Survey Department with the powers of a Deputy Collector (*i.e.*, of a revenue officer) be appointed to supervise the working of the scheme in each district.

Compliance with Sir William Hudson's condition is consistent with my scheme ; and it is in itself desirable that expert survey officers who have had experience in making the record should be employed in maintaining it. It may therefore be, I think, assumed that we shall be able to satisfy the Planters' Association, and that they will not persist in their opposition to the maintenance of the record. In matters of detail, I need hardly add, we shall be forward to meet all reasonable wishes.

74. There is one clause of the Bill, Clause 12, on which I am particularly anxious to say a few words. The memorialists are very pressing in their representations that the costs of the cadastral survey and record of rights will be a heavy burden on the landlords and tenants. I have shown in paragraph 61 above that there is extreme exaggeration in this complaint, but I admit that the work cannot be done for nothing, and I am anxious to adapt the method of recovering the cost to the convenience of all concerned. The method of recovering the cost of a cadastral survey and record of rights prescribed in Section 114 of the Tenancy Act has been found by practice to be in some cases defective. It is suitable in the case of small estates ; it is less suitable when large areas are concerned. In the latter cases it involves very intricate calculations, especially where subinfeudation has gone to any considerable length ; it must cause some, though transitory, inconvenience to the poorer classes of people by making the debt payable in a single instalment ; and by necessitating the employment of a collecting agency of tahsildars, peons, &c., it not only adds something in the shape of fees to the original

original burden, but opens the door to the irregularities which the memorialists connect with the employment of low-paid and ill-supervised agency. To the preceding objections against the existing arrangements from the landlords' and raiyats' side might be added the additional objection from the side of the Government (which advances the cost of the operations), that when the expenses are divided among, and have to be collected from, several millions of people there is risk of short collections, unauthorised exactions on the part of process servers or collecting peons, and the certainty of intricate accounts and protracted proceedings. All these conditions point to the desirability of devising some means whereby the costs of the cadastral survey and record of rights may be recovered in such instalments as will not be felt by any party, and under such conditions that there will be no addition to the original apportionment, and no opportunity for exactions on the part of a collecting agency. By the plan proposed in Clause 12 of the Bill these requirements will, I think, be met, and if the clause becomes law, I should propose to spread the recovery over so many years that in any one year the raiyat or landlord would not have to pay more than one anna per annum per acre of the holding or estate.

To prevent such a transitory cess being continued in permanence, it would be specially mentioned in the "*parcha*" or extract from the record given at attestation time to each raiyat that the additional anna would only be payable for a number of years, which might be fixed as the period over which recoveries might be spread.

This proposal ought, I think, to obviate the objections raised to the cadastral survey on account of the cost and hardship to raiyats and zamindars which the collection of the expenses would, it is alleged, entail, while it is desirable on its merits. The procedure I now propose would be an alternative to that provided in Section 114 of the Tenancy Act.

75. With these remarks I bring this Minute to a conclusion, hoping that I have shown :—

Summary of conclusions.

- (1) That in these provinces raiyats were from the earliest times entitled to have a record of their rights in their holdings prepared at the landlords' expense ;
- (2) That it was the duty and intention of the Government from the earliest times to establish a record of rights ;
- (3) That the raiyats of Behar have grievously suffered from the non-fulfilment of that duty and intention ;
- (4) That the rentals of Behar landlords have within three generations increased to an amazing extent (the figures show eighty-fold), and out of all proportion to what was contemplated at the time of the permanent settlement, or to what was justifiable by any subsequent legislation ;
- (5) That this increase in rent and the destruction of raiyats' rights which it entailed have reduced the raiyats of Behar to an extreme state of poverty and depression ;
- (6) That illegal enhancements of rent are still going on, and that the same abuses exist now in Behar, and the same necessity for a record of rights, as before the Tenancy Act was passed ;
- (7) That without a cadastral survey and record of rights maintained up to date these abuses cannot in Behar be adequately and permanently checked ;
- (8) That a cadastral survey and record of right, wherever undertaken, have proved an immediate remedy for such abuses as exist now in North Behar, and that they have, far from stirring up litigation and strife, produced peace and goodwill between landlord and tenant ;
- (9) That our proposals to create a land record agency are justified alike by law, expediency, and moderation ; that the cess proposed, *one-quarter anna (or one farthing) per rupee of rent*, is not only moderate in itself, but must be regarded, not as fresh taxation, but as a great alleviation of a legal obligation which now rests upon zamindars ; that the *annual* incidence of this cess on the *land* will not exceed one anna (one penny) *per acre*, payable half by the landlord and half by the tenant ; and that for such an insignificant charge the landlord will be able to recover arrears of rent through the civil court more speedily than at present, while the raiyat will secure protection against illegal demands and arbitrary eviction ;

- (10) That it is not incumbent on the Government to make, at the expense of the general taxpayer, any large contribution to the expenses of operations rendered necessary by the laches of landlords, whose income from the land has, largely through extra legal means, increased enormously in three generations, and who now contribute far less to the public exchequer than landlords similarly circumstanced in any other part of these provinces or perhaps of the empire ;
- (11) That the memorial of the zamindari associations submitted to me for transmission to the Secretary of State is inaccurate on all material points.

The draft of this Minute has been considered by the Board of Revenue, and I am glad to be able to append to it the opinion of both members of the Board, endorsing and accepting it. I would especially invite attention to Mr. Stevens' interesting and valuable note.

20 September 1893.

*A. P. MacDonnell,*  
Officiating Lieutenant Governor.

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Enclosure 4 in No. 2.

APPENDIX A.

Note by the Honourable *C. C. Stevens*, Senior Member of the Board of Revenue, on His Honour the Officiating Lieutenant-Governor's Minute, dated 20th September 1893.

1. I have read this Minute carefully, and have no hesitation in expressing my complete concurrence with both the statements of fact and the arguments which it contains. Both are dealt with so fully that very little besides acquiescence is left for any other writer.

2. Too much prominence cannot be given to the refutation of the wholly groundless assertion that the survey and record of rights in North Behar constitute a violation of the Permanent Settlement. For the nature of the English people is to abhor a breach of faith, and the assertion, by persons who profess to be well informed, that an offence so repugnant to the national character has been committed, will always command attention. This charge has been persistently pressed against the Tenancy Act, and is now being urged against these proceedings, which have for their purpose the enforcement of the provisions of that Act, defining and maintaining the rights of the raiyats. And, just as the light thrown on the project of law by the discussions in and out of the Legislative Council dissipated the baseless accusations brought against the legislation as a whole, so it is well that the futility of these same accusations should be exposed, now that they are revived and directed against its practical application.

3. The position of the zamindars before the introduction of the English rule may readily be understood from the following facts :—

- (1) All the settlements, from that of Todar Mull downwards, dealt primarily with the individual raiyat, and fixed by an Act of State the payment to be made by him.
- (2) The profits of the zamindar were derived, partly from lands granted to him on account of official services, and partly from a definite share or a commission upon the revenue collected from the raiyats.
- (3) The commission received by the zamindar was very small, not exceeding 5 per cent. of the gross produce of the soil.
- (4) That the zamindar was an official rather than a proprietor may be inferred from his responsibility for the police, for the administration of justice, for the collection of transit duties, for the preservation of roads and bridges, and (when occasion required) for military service.

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- (5) The zamindars were liable to dismissal.
- (6) Zamindars were appointed and hereditary successors received sunnuds. These were asked for by petition, and granted on conditions including promises to conciliate and protect the raiyats, to pay in the rents after receiving credit for their own allowances, to refrain from prohibited exactions, and to deliver the official village accounts.
- (7) Incompetent zamindars were excluded.
- (8) Zamindaris were not transferred as of right without the sanction of the State.
- (9) Kanungos and patwaris were appointed to declare the law, to keep the village accounts for the protection of the raiyats, and generally to check the zamindars.

4. In 1769, shortly after its succession to the Dewani, the East India Company appointed supervisors to inquire into the condition of the lands and the revenues in addition to other duties. The following passages from the orders appointing these officers are instructive:—

“A third and equally important object of your attention under this head is to fix the amount of what the zamindar receives from the raiyats as his income or emolument, wherein they greatly exceed the bounds of moderation, taking advantage of the personal attachment of their people and of the inefficiency of the present restrictions upon them. When the sum of the produce of the land and of each demand on the tenant is thus ascertained with certainty, the proportion of what remains to him for the support of his family and encouragement of his industry will clearly appear, and lead us to the reality of his condition.

“Among the chief efforts which are hoped for from your residence in that province, and which ought to employ and never wander from your attention, are to convince the raiyat that you will stand between him and the hand of oppression; that you will be his refuge and redresser of his wrongs; that the calamities he has already suffered have sprung from an intermediate cause, and were neither known nor permitted by us; that honest and direct applications to you will never fail producing speedy and equitable decisions; that after supplying the legal due of Government, he may be secured in the enjoyment of the remainder, and finally teach him a veneration and affection for the humane maxims of our Government.”

A third passage directs that—

“The raiyat should be impressed in the most forcible and convincing manner . . . that our object is not increase of rents or accumulation of demands, but solely by fixing such as are legal, explaining and abolishing such as are fraudulent and unauthorised, not only to redress his present grievances, but to secure him from all further invasions of his property.”

Seven years later a Committee was appointed by the Governor-General (Warren Hastings) to inquire in detail into the value of the land. It was suggested as an object, among others, of the inquiry—

“to secure to the raiyats the perpetual and undisturbed possession of their lands, and to guard them against arbitrary exactions. This is not to be done by proclamations and edicts, nor by indulgences to the zamindars and farmers; the former will not be obeyed unless enforced by regulations so framed as to produce their own effect, without requiring the hand of Government to interpose its support; and the latter, though it may feed the luxury of the zamindars or the rapacity of the farmers, will prove no relief to the cultivator, whose welfare ought to be the immediate and primary care of Government . . . It is the interest of the zamindar to exact the greatest rent he can from the raiyats; and it is as much against his interest to fix the deeds by which the raiyats hold their lands and pay their rents to certain bounds and defences against his own authority. The foundation of such a work must be laid by Government itself.”

Sir Philip Francis, in the course of these discussions, though opposing the Governor-General generally, confessed that—

“the idea of guarding the raiyats against arbitrary exaction is just and attainable.”

Mr. Barwell said—

“I deem it to be the first object of this Government to fence and secure the raiyats against the arbitrary power of the zamindars; otherwise, no one regulation we may resolve on can, in its immediate or remote consequences, answer the beneficent design for which it was formed. . . . I acknowledge the task is extremely difficult and arduous; *but unless the rights of the common people are well defined and well secured, I am persuaded that all our speculations will only tend to enrich the zamindars.*”

5. Thus we see that in the times preceding the British rule, the raiyat was the person with whom the State had to deal, the zamindar was the agent of the State, and officers were appointed for the purpose of keeping the raiyats' accounts and of serving as checks upon the zamindars. The necessity for defining and securing the rights of the raiyats was recognised and forcibly expounded by the British rulers in the earliest days of their accession to power; and it was even then clearly seen that such a definition and maintenance of the raiyats' rights was not a work in which the zamindars could be expected to co-operate, but that its foundation must be laid by Government itself.

6. I can find no evidence whatever that in the 24 years which elapsed between the accession to the Dewany and the Permanent Settlement there was any change, either in England or in India, of sentiment on this question. On the contrary, the Statute 24 Geo. III., cap. 25, was interpreted by the Court of Directors in their letter of the 12th April 1786, as intending to declare general principles for the regulation of the conduct of Government to the natives—

“Not to introduce any novel system or to destroy those rules and maxims which prevailed in the well-regulated periods of the native princes, an adherence to which must be most satisfactory to the natives, and most conducive to the safety of our dominion.”

In the discussions which ensued in India, the protection of the raiyats was the first consideration with the disputants on both sides—

“We know from experience” (says Mr. Shore in his Minute of the 18th September 1789) “what the zamindars are; and I am not inclined, in opposition to that experience, to suppose that they will at once assume new principles of action, and become economical landlords and prudent trustees of the public interests. The necessity of some interposition between the zamindars and their tenants is absolute; the Government interferes by establishing regulations for the conduct of the zamindars, which they are to execute, and by delegating authority to the collectors to enforce their execution. If the assessment of the zamindari were unalterably fixed, and the proprietors were left to make their own arrangements with the raiyats, without any restrictions, injunctions or limitations, which indeed is a result of the fundamental principle, the present confusion would never be adjusted.”

The necessity for imposing these restrictions, injunctions and limitations is thus used as an argument against the hasty conclusion of the Permanent Settlement. But the Governor-General, in his reply, maintained most vigorously that the prevention of arbitrary and unjust conduct on the part of the zamindars was in no way inconsistent with the contemplated measure—

“To permit him (the zamindar) to dispossess one cultivator for the sole purpose of giving the land to another, would be vesting him with a power to commit a wanton act of oppression from which he could derive no benefit. . . . The rents of an estate can only be raised by inducing the raiyats to cultivate more valuable articles of produce, and to clear the extensive tracts of waste land which are to be found in almost every zamindari in Bengal.”

7. In his Minute, dated 18th September 1789, Lord Cornwallis writes—

“I understand the word permanency to extend to the jama only, and not to the details of the settlement; and many regulations will certainly be hereafter necessary for the further security of the raiyats in particular, and even of those talukdars who, to my concern, must still remain in some degree of dependence

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on the zamindars; but these can only be made by Government as abuses occur, and I will venture to assert that either now or 10 years hence, or at any given period, it is impossible for human wisdom and foresight to form any plan that will not require such attention and regulation. I cannot, however, admit that such regulations can in any degree affect the rights which it is now proposed to confirm to the zamindar, for I never will allow that in any country Government can be said to invade the rights of his subject, when they only require for the benefit of the State that he shall accept of a reasonable equivalent for the surrender of a real or supposed right which in his hands is detrimental to the general interest of the public, or when they prevent his committing cruel oppressions upon his neighbours or upon his own dependents."

8. The views of the Court of Directors may be ascertained from the following extracts from their letter dated the 19th September 1792:—

"We therefore wish to have it distinctly understood that while we confirm to the landholders the possession of the districts which they now hold and subject only to the rent now settled, and while we disclaim any interference with respect to the situation of the raiyats, or the sums paid by them, *with any view to any addition of revenue to ourselves*, we expressly reserve the right which clearly belongs to us as sovereigns of interposing our authority in making from time to time all such regulations as may be necessary to prevent the raiyats being improperly disturbed in their possessions, or loaded with unwarrantable exactions. A power exercised for the purposes we have mentioned, and which has no view to our own interests except as they are connected with the general industry and prosperity of the country, can be no object of jealousy to the landholders, and instead of diminishing will ultimately enhance the value of their proprietary rights."

Again —

"Our interposition, when it is necessary, seems also to be clearly consistent with the practice of the Moghul Government, under which it appeared to be a general maxim that the immediate cultivator of the soil, duly paying his rent, should not be dispossessed of the land he occupied. *This necessarily supposes that there were some measures and limits by which the rent could be defined, and that it was not left to the arbitrary determination of the zamindar, for otherwise such a rule would be nugatory*; and, in point of fact, the original amount seems to have been annually ascertained and fixed by the act of the Sovereign."

9. Such being the plainly expressed opinions and intentions of those who framed, and directed the enactment of, the regulations constituting the Permanent Settlement, there can be little difficulty as to the true meaning of the right of interference reserved in Section 8 of Regulation I. of 1793—

"It being the duty of the ruling power to protect all classes of people, and more particularly those who from situation are most helpless, the Governor-General in Council will, whenever he may deem it proper, enact such regulations as he may think necessary for the protection of the dependent talukdars, raiyats, and other cultivators of the soil; and no zamindar, independent talukdar, or other actual proprietor of land, shall be entitled on this account to make any objection to the discharge of the fixed assessment which they have respectively agreed to pay."

10. It ought never to be forgotten that the Permanent Settlement was a transaction between the Government and the zamindars, to which the raiyats were not parties, and that whatever rights and privileges were bestowed on the zamindars were carved out of those belonging to the State, and not out of those belonging to the cultivators. The zamindar was never intended to be, and never was, the absolute proprietor of the soil. Yet there is no doubt that the use of the word "proprietor" and of others gave rise in early times to misunderstanding on the part of persons unfamiliar with the history of the zamindari tenure in Bengal. And precisely this ignorance is the great hope of the agitators in England at the present day. "The use of these terms" (say the Court of Directors in their Revenue Letter to Bengal, dated 15th January 1819)—

"Which has ever since continued current, has in practice contributed, with  
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other causes, to perplex the subject of landed tenures, and thereby to impair, and in many cases to destroy, the rights of individuals; yet it is clear that the rights which were actually recognised to exist in that class by the enactments of the Permanent Settlement, were not intended to trench upon the rights which were possessed by the raiyats."

And further on they say--

"It is also a circumstance which is not to be overlooked, that although so many years have elapsed since the conclusion of that Settlement, yet no resort has been had to the exercise of the power we then expressly reserved, of interfering for the purpose of defining and adjusting the rights of the raiyats."

10. The truth is that it is not the zamindars, but the raiyats, who have just cause to complain of us. They may righteously say—

"Before the British rule our dealings were with the State, whose officers the zamindars were; our right to hold our lands without disturbance, so long as we paid the established rent, was acknowledged; exactions beyond this were forbidden; kanungos and patwaris were appointed by the State to keep our accounts and to protect our rights against the zamindars; when the British took the Dewany it was thoroughly understood that we were entitled to these privileges and to the protection of the State; your own Governor-General saw that the obvious interest of the zamindars is to exact the most he can from us, that it is against his interest to accept any limits to his authority, and that to establish such limits is the work of Government. When the Permanent Settlement was being arranged, it was understood that our rents were to be paid according to fixed rates, and the zamindars' profits were to be derived only from inducing us to grow more valuable crops, and from the settlement of waste lands. At the Permanent Settlement made 'with a view to promote the future ease and happiness of the people' the Government reserved to itself the fullest power to interfere for our protection. Now what have you done? How have you fulfilled your acknowledged obligations? In 1799, thinking your own revenues in danger, you handed us over to the zamindars practically without reserve, that they might realize their rents by summary measures of the severest kind. In 1812, to remove the 'considerable abuses and oppressions' which you had enabled the zamindars to practice, you empowered them to distrain our property. Up to 1817 you had admittedly neglected to afford us any of the promised protection. You made a feeble effort to revive and strengthen the kanungo and patwari for our benefit; but the kanungo has vanished, and the patwari has become the servant of the zamindar, on whom he was intended to be a check. Your sale laws and laws for partition of estates have brought us nothing but mischief. In 1859 you passed a Rent Law which in Behar was inoperative, except as authorising distraint and enhancement against us. In 1885 you passed the Tenancy Act, which was intended to limit the mischief caused by your previous negligence. But up till now, what have you done to secure to us the benefits of that law? Have you educated us to a knowledge of our rights? Have you defined those rights? Have you recorded them, so that, surrendering as lost for ever all that of which we have been deprived, we may maintain the residue safe against future encroachments?"

And to this complaint it would be difficult to give any satisfactory reply; the institution of the survey and record of rights now going on in Behar can only be regarded as a tardy realization by the Government of the obligations which in theory it has always recognized. It is not the zamindar, but the raiyat, who has had reason to complain of disregard of the Permanent Settlement.

11. The importance of the subject must be my apology for writing at such length on the origin of the general question, and I feel that after all I have added little, and perhaps need have added nothing, to the exposition contained in the Minute.

12. It appears to me that paragraphs 24 to 26 of the Minute effectually dispose of the zamindars' contentions that the survey of Behar has taken them by surprise, and that a district is not such a "local area" that the Government is justified by the Act in surveying it. As for the latter point, it has always been

been a matter of surprise to me that the zamindars, holding the views which they profess, should not at the outset have protested against the Act itself. But allowing that they have permitted the opportunity to pass, it is strange that, if they believed the action of Government to be illegal, they should not have taken the advice of counsel. The adverse opinions of a few eminent lawyers would have doubtless induced the Government to pause in its undertaking. Or the institution of a test suit would have procured a judicial decision long ago. That these obvious measures have not been taken leads to the inference that the advisers of the zamindars have more hope from popular agitation than from law and facts. And this is confirmed, now that the Advocate General has given an unequivocal opinion in support of the wider interpretation of the law, which has commended itself to all the responsible authorities.

13. I can think of nothing either to modify, or to explain or illustrate, in that large part of the Minute which deals with the necessity of the survey and record of rights in Behar up to the passing of the Tenancy Act.

In reference to paragraph 40, in which it is shown that the remedies supplied by the Act are of two kinds, the legislative and the executive, I would invite attention to a passage which I have already quoted from Warren Hastings, to the effect that the "perpetual and undisturbed possession of their lands" is not to be secured for raiyats by "proclamations and edicts" unless "enforced by regulations so framed as to produce their own effect, without requiring the hand of Government to interpose its support." This is a prophecy which has been exactly fulfilled. A right known by all concerned to exist is more than half secured, and in Behar the great difficulty has been, and still is, that the people know so little of their rights. The Board are now frequently receiving applications from landlords or tenants in other parts of the province for survey and record of rights; and it is argued that it would be wiser to take up only cases in which interference is thus applied for. But the obvious answer is that, where both parties are fully aware that the law is available, the objects of the law are in some measure attained, even without direct recourse to it. But where one party knows the law and takes advantage of it, while the other is ignorant, the case is quite different. Here "the foundation of such a work" (as Warren Hastings said) "must be laid by Government itself."

14. In paragraph 45 of the Minute, his Honour the Officiating Lieutenant Governor mentions a case which has come to light in the course of the proceedings now in progress in Behar, in which raiyats have been induced by an unscrupulous agent to swear to the authenticity of certain forged receipts, to their own detriment. I may mention another instance of a different kind, which has still more recently come to my notice. It is that of a document which has been impounded by a registrar, and has been brought before the Board for adjudication of the proper stamp duty, but deserves consideration on account of the nature of its conditions. The following is a translation of extracts from the body of it:—

"That I am Jeyt raiyat and cultivator in the said bearing  
 tauzi No. in the proprietary right of  
 and for the above reason the collection of rent from tenants of the said mauza  
 is entrusted to me.

II. That I being the jeyt raiyat, have no power of making any settlement, &c.,  
 without a written order from the or some one  
 appointed in his behalf, with the exception of collecting rents from the tenants,  
 and if I do so it will be null and void.

III. I, the Jeyt raiyat, will not allow any one to excavate a tank or well in  
 the culturable or fallow land, situated within the aforesaid mauza, belonging to  
 the raiyats or *Sir*; nor will I do so myself. I will not plant bamboos and  
 groves, nor will allow any raiyat to do so, and nor will I erect houses myself or  
 allow others to do so. In case tanks and wells are dug or gardens and bamboo  
 groves are planted or houses are built, the tanks and wells will be liable to be  
 filled up and the gardens and bamboo groves will be liable to be dug up and the  
 houses will be liable to be demolished. If any raiyat without the sanction of the

the Maharaja Bahadur or his amlas and mukhtars aforesaid [tries] to excavate tanks, dig wells, plant gardens and bamboos and erect houses forcibly, I will not allow him to excavate, plant and build. In the event of failure to carry out these actions [orders] I will be held responsible for them and will have to make up the loss which will accrue to the Raj and shall pay it [loss] out of my own person and property to the aforesaid malik.

\* \* \* \* \*

V. That I shall collect rent according to the prevailing rates of the village and remit the same to the Tahsil Amla, instalment by instalment, receiving my annual commission of Rs. 17, *commencing from 1290 Fasli*, which will be set off against my rent, and that I shall discharge the duties of jeyt raiyat faithfully.

\* \* \* \* \*

VII. I, the Jeyt raiyat, will pay the rent of my jote lands which are in my possession up to the present time and the details of the rates of which are given below, with effect from the beginning of 1290 according to the *Bhawli* rate detailed below, and another (*sic.* in original) and the fixed rates of the villages, year after year, kist after kist, without objection. I will take receipts and *Farighkhati* (written acquaintance), [for payments]. If I fail to pay in due instalment, I shall be liable to pay *khelâfi* (interest on arrears) as is customary in the village. In the event of my non-payment and repeated default [of the payment] of instalment, the \* \* \* \* \* and his heirs and representatives and amlas and mukhtars will be at liberty to take such steps for the realisation of the amount, as they may deem proper. I, the jeyt raiyat, will not have any right of any objection to their claims."

\* \* \* \* \*

A list of rates of rents is attached.

15. The points to be particularly noticed are these. The conditions of the third clause are in direct violation of Sections 76-79 and 82-83 of the Tenancy Act, although Section 178 of that Act lays down that nothing in any contract between a landlord and a tenant shall take away or limit the right of a tenant, as provided by the Act, to make improvements and claim compensation for them. It is further to be observed that the rents are fixed with *ten years' retrospective effect*. What the exact object of this last stipulation is, cannot be ascertained from the document itself, but it can scarcely be consistent with the interests of the raiyat. This document comes from a very large estate in North Bihar, and the reason why the stamp question is brought before the Board is that many such contracts have been executed.

16. It is perhaps unnecessary for me to say that I entirely concur in the reply given by paragraph 62 *et seq.* to the argument that to compel the zemindars to pay for the maintenance of the record is a breach of the Permanent Settlement. The argument is otherwise of a very hollow kind, since it appears only too certain that, unless very stringent precautions are taken, the raiyat will ultimately pay all and the zamindar nothing. I do not feel quite sure that the maintenance of the records will cost so little as an anna per acre, but the rough calculations which have been made show little more than that amount. I have little hope that the raiyat's share will be but half this; but I have no hesitation in expressing my belief that it would be to his interest to pay the whole expense if only his tenancy and his rights and conditions attached to it are recorded.

C. C. Stevens.

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*Postscript.*— Since the above was written I have had the advantage of seeing Mr. Lyall's note, and I now desire to add a few words which it has suggested to me.

2. I differ from Mr. Lyall in the opinion that the opposition to the survey and record of rights has been increased by the precipitation with which the work was begun. It appears to me that the opposition was lessened by the belief

belief prevalent (to some extent wrongly) among the zamindars, (1) that, where they chose, their own patwaris would be used to do the work; (2) that the patwaris as Government servants would be abolished without the substitution of any other machinery; (3) that a summary procedure for the realisation of rents would be given them; (4) that there would be considerable enhancement of rents; (5) that, to facilitate this enhancement, there was at least a chance that the former zamindars' measurements might be accepted as a basis. They have now been disabused by the later proceedings, and have seen that they are not likely to gain some of these expected advantages; the result is that the opposition has, for the time, gained something in strength. But, on the whole, it appears to me by no means greater than might have been anticipated. From the earliest times it has been thoroughly understood that the interests of the raiyats and those of the zamindars, as understood by the zamindars, are antagonistic; and it would have been unreasonable to suppose that a measure, primarily intended to define and defend the rights of the tenants against the landlord, was likely to pass unopposed by the party whom it was meant to re-train. The opposition in this country is strengthened by the belief which is to some extent current, that, after Behar has been dealt with, the turn of Bengal will come. I do not think that the Government can very well disclaim such an intention, though it is conceivable that wholesale proceedings may not be regarded as necessary. In what has reached me of the opposition in England, I can trace little knowledge of the subject from original sources, but much repetition of information more or less inaccurate, and argument more or less unsound, which have been furnished from India. It is to be hoped that when the real facts and the correct law are better known, the British virtue of candour will re-assert itself.

3. I am sorry to find that Mr. Lyall is still in favour of a summary system of enforcing the payment of rents. There was far greater excuse for such measures in 1799 and 1812, when the Government revenue was in a very high, probably an excessive, ratio to the assets; and if under such conditions the revenue was to be punctually paid, extreme punctuality must in time be exacted from the raiyats. Now even our most recent settlements of revenue are by far more liberal; and the ratio of assets to revenue elsewhere, as the Officiating Lieutenant Governor has shown, has increased enormously.

The advocates of a summary system appear to be searchers for a scheme, rather than supporters of one already thought out. Those who have given up the attempt to square this circle have done so on the broad ground that they can consent to no plan which would be based on misplacing the burden of proof on the raiyats' shoulders. They hold that, when a private person wishes to make use of the machinery of the State to collect debts, whether they are his rents, or whatever they may be, he must be compelled to make a statement of his claim. And this he must authenticate with some solemnity, being subject to a severe penalty for fraud. Such a claim having been made, it is manifest that it would be unjust to proceed at once to seize the property or person of the alleged debtor, without giving him an opportunity of stating his own case. It is easy to imagine to what oppressive uses such a power could be put; and if it could, there are certainly cases in which it would. Notice then must be given to the debtor. He comes forward and contests or admits the claim, and an order is given. Suppose he does not appear, it then becomes unnecessary to proceed further; but equity requires that, if he presents himself before the court, explains his absence, and proves the injustice of the order, that order must be rescinded. But this is the procedure of a regular suit, and can no more be abbreviated than a proposition of Euclid.

4. I am, however, decidedly in favour of giving the zamindars such assistance as can legitimately be given in realising their rents. The most important step in this direction is to make a survey and record of rights and to maintain the latter up to date. This being done, the existence and conditions of the tenancy are beyond dispute, and except in special cases the only question will be that of payment; therefore, though the form of procedure remains unchanged, the practical facility of proof will remain much increased. Then arrangements may be made executively to provide for a sufficient staff of officers to try rent suits; perhaps some of these might be peripatetic, if such a

course should be convenient. When decrees have been obtained, excessive indulgence should not be shown in execution to judgment debtors who have defaulted without reasonable cause. Perhaps stamp duties might be reduced. But, however this might be, when the results of the survey and record of rights have once been secured, anything more that can be done for the zamindars will be in the way of executive orders rather than of shortening the judicial procedure.

C. C. Stevens.

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Enclosure 5 in No. 2.

APPENDIX B.

NOTE by the Honourable *D. R. Lyall*, C.S.I., Member of the Board of Revenue, on the Officiating Lieutenant Governor's Minute, dated 20th September 1893.

I AM at one with his Honour the Officiating Lieutenant Governor in nearly every point of his Minute II., and agree in all the vital points. But to avoid any appearance of inconsistency, as I was, and still am, opposed to some parts of the Tenancy Act, particularly as applied to East Bengal, I think it well to record my views on the Minute at more length, instead of noting a simple concurrence.

2. I look on the Settlement Chapter of the Tenancy Act as quite the most valuable part of the Act, and I hold it was necessary to work it in North Behar.

At the same time I should oppose it being worked in the same wholesale way, *i.e.*, by districts or divisions, in a very large part of Lower Bengal, because such a settlement is not needed there, the raiyats being the stronger party and not requiring to have their rights safeguarded.

3. I think that much of the opposition in Behar is due to the work having been begun too precipitately, but I fully recognise that the work was a necessary one.

4. Coming to details, I strongly endorse what his Honour says in paragraph 15 regarding the Permanent Settlement terms being very severe on the zamindars. The cause of this is explained in paragraph 9. Estates had been let out to *ijaradars* over the heads of the zamindars, provided they paid higher rates, and these rates were very generally adopted as the basis of the Permanent Settlement.

While Collector of Dacca I made detailed inquiries into this point, and the percentage of estates which passed out of the hands of the original zamindars in the first 20 or 25 years after the Permanent Settlement was enormous. In fact comparatively few representatives of the original zamindars were found to still hold estates. We now allow 10 per cent. for cost of collection alone. In the Permanent Settlement 10 per cent. was nominally allowed to cover cost of collection and profit of the zamindar, and, as above stated, the percentage really fell short of this figure. Now, 25 per cent. is given to outsiders and 30 to zamindars, of which 10 per cent. is for cost of collection and 15 to 20 per cent. for profits.

5. I am still of opinion that where there has been a survey and settlement, and where the record is kept up, zamindars should have a summary procedure for the realisation of rents admittedly due (paragraph 16 of the Minute). I would not re-enact Regulation VII. of 1799, but even that law would have worked very differently had there been a record of rights.

6. I support the views of the Officiating Lieutenant Governor in paragraph 38. During the short time I was in Behar I had to deal with a year of scarcity, and, looking at the reports of 1888, I expected that relief works would be wanted in the early part of the cold weather. This was not the case, and the people of Darbhanga held out nearly three months longer than they would have done had the reports of 1883 been correct.

In

In Gaya, where the harvest was exceedingly bad, and which Mr Grierson has recently depicted as a district normally deficient in its food supply, no relief at all was necessary, and there was no importation of grain.

7. I have no doubt whatever that "local area" may be held to include a district or even a division. The phrase was intentionally inserted to include large as well as small areas; and, apart altogether from the dictionary meaning of the word, the discussion in Council shows that large as well as small areas were included.

8. I have also no doubt of the legal right of the Government to pass such an Act as that proposed, but it should apply in the first place only to Behar, and I doubt if it will ever be wanted in East Bengal. It would be equally legal there, but as the conditions are so widely different to those of Behar it is not wanted there, and it would be impolitic to introduce it.

*D. R. Lyall,*  
Member, Board of Revenue, L.P.

Enclosure 6 in No. 2.

#### APPENDIX C.

- (1.) The Land Records Maintenance Bill, with Statement of Objects and Reasons.
- (2.) Draft Rules under the above Bill.

(1.)

#### STATEMENT OF OBJECTS AND REASONS.

1. A survey and record of rights has been undertaken of Behar under Chapter X. of the Tenancy Act, with the previous sanction of the Governor General in Council, and similar operations have been completed in various parts of Bengal; but as circumstances alter from time to time, and a record of facts and rights true in one year will be inaccurate the next if there be no competent agency for its correction up to date, it is obviously desirable that such an agency should be provided.

2. The zamindars of Behar and Bengal are bound by Section 62, Regulation VIII. of 1793, and Regulation XII. of 1817, to keep in every village or circle of villages a patwari, one of whose duties it would be under the existing law to keep the village accounts corrected up to date, and by whom, therefore, the records might be maintained under the present law; but as the Patwari Regulation is cumbrous and some of its provisions difficult to work, while the agency of patwaris is deemed to be unnecessarily expensive, and as the landholders prefer to it a more economical agency, by which it is considered that the records can be properly maintained with less expense to the landholders, and less inconvenience than would be entailed by the rigid enforcement of the provisions of Regulation XII. of 1817, it is therefore deemed expedient to repeal Regulation XII. of 1817, and to make provision for the maintenance of the record of rights in the manner provided in this Bill.

3. The Bill will be only extended to areas in which a record of rights has been made under Chapter X. of the Tenancy Act, or any other law for the time being in force.

4. The maximum rate of cess leviable under the Bill will be altogether one-quarter of an anna per rupee on the rental, or about half-an-anna per acre, to be realised from the zamindars and raiyats respectively. This amount will be about one-fifth of the cost of keeping a patwari in every village under Regulation XII. of 1817.

5. Advantage has been taken in the Bill of the opportunity to facilitate the recording of changes of proprietary rights, and generally to make more

efficacious the provisions of the law for notifying transfers of proprietary and occupancy raiyats to the landlords and tenants concerned.

6. Power is taken under the Bill to make rules regulating the selection, duties and procedure of the establishment engaged in the maintenance of the records, but the maintenance of the land records will be confined to a record of changes in the more permanent facts of holdings and estates, and will not include facts relating to the payment or non-payment of rent for any particular period or holding.

7. Power is also taken to recover the costs of a survey and record of rights and a settlement of rents (not incurred in connection with a settlement of land revenue) by means of a temporary cess, instead of apportioning the costs under Section 114 of the Tenancy Act. The effect of apportionment would be, in the case of Behar, to necessitate the issue of some millions of bills, upon each of which recovery would have to be made. The issue of those bills, besides involving great delay, intricacy, and inconvenience, would impose on the people additional cost in the shape of peons' fees and the pay of tahsildars and similar establishments. Doubtless also there would be the possibility of illegal exactions, all of which would be avoided by the procedure now proposed. Moreover, under the proposed procedure the cost of recovery of the survey and record of rights can be spread over a series of years instead of being realised in one lump sum.

## A BILL

TO

Provide for the Maintenance of Land Records in the Lower Provinces of Bengal.

**WHEREAS** it is expedient to provide for the maintenance of survey maps and of records of rights and of settlement records, and to repeal the law relating to kanungos and patwaris in Bengal, it is hereby enacted as follows:—

Preamble.

Short title.

1. This Act may be called "The Land Records Maintenance Act, 1893."

Extent.

It shall come into force only in districts or parts of districts in which a survey and a record of rights has been made under Chapter X. of the Tenancy Act, or under any other law for the time being in force, to which the Lieutenant Governor may from time to time extend it by an order published in the "Calcutta Gazette," and thereupon

Commencement.

this Act shall commence and take effect in the districts or parts of districts named in such order, on the day which shall be in such order provided for the commencement thereof.

2. On the commencement of this Act in any district or part of a district, the enactments specified in Schedule A. shall be repealed to the extent mentioned in the third column thereof.

Enactments repealed.

Section 23 of India Act XIX. of 1873.

3. The Collector of the district, with the previous sanction of the Board of Revenue, may for the purposes of this Act combine the villages in the district of which he is Collector into circles, and may fix the number of circles in the district or part of the district to which this Act may be extended, and the respective limits of such circles, and may, with the like sanction, from time to time alter the number and limits so fixed.

Power to form and alter circles of villages.

Appointment of a sub-kanungo to each circle.

4. For each such circle the Collector shall appoint a keeper of the land records of the circle, who may be styled Land Records Keeper, or by such other name as the Board of Revenue, having regard to local custom, may designate.

Section 2 of Bengal Act II. of 1877.

5. From and after the commencement of this Act all immoveable property situated within the districts or part of districts in which this Act may from time to time be in force, shall be liable to the payment of a cess (hereinafter called "The Land Records Cess") to be applied for the purpose of defraying the salaries of the keepers of the land records appointed

Levy of a cess for payment of land record-keepers' salaries and charges incurred for efficient maintenance of records.

appointed in such district, and any charges incurred on account of the correct and efficient maintenance and supervision of the records, and it shall not be lawful, save under the provisions of this Act, to levy, or continue to levy, within such districts, or parts of such districts, any cess, whether under the name of patwari *neg* or other designation, and whether credited separately in the zamindars' accounts or consolidated with the rent, for the purpose of keeping the accounts of the raiyats or for any similar purpose.

6. All valuations of immoveable property which have been, or may from time to time be, determined under the Bengal Cess Act, 1880, shall be deemed to be valuations of immoveable property for the purposes of this Act. Section 3 of Bengal Act II. of 1877.

Valuations under the Cess Act, 1880, to be deemed to be valuations under this Act.

Provided that in local areas in which a record of rights has been made under Chapter X. of the Bengal Tenancy Act, or any other law for the time being in force, the aggregate amount of the rents recorded as payable or settled, as the case may be, may, in the discretion of the Collector, be deemed to be the valuation of immoveable property for the purposes of this Act.

7. The Local Government shall, by an order published in the "Calcutta Gazette," determine the rate at which the cess for the maintenance of land records shall be leviable in each district or part of a district, and the date from which it shall take effect; such rate shall not exceed one-quarter of an anna in the rupee of the annual value of the lands in such district or part of a district.\* Section 4 of Bengal Act II. of 1877.

Rate of cess to be levied not to exceed a quarter of an anna in the rupee.

8. Every holder of an estate shall yearly pay to the collector the entire amount of the cess for maintenance of land records calculated on the annual value of the lands comprised in such estate at the rate which may be determined for such cess as in this Act provided. Section 41 (1) of Bengal Act IX. of 1880.

Proportion of cess to be paid by holders of estates.

9. Every holder of a tenure shall yearly pay to the holder of an estate or tenure within which the land held by him is included the entire amount of the cess for the maintenance of land records calculated on the annual value of the land comprised in his tenure at the rate which may have been determined for such cess as in this Act provided. Section 41 (2) of Bengal Act IX. of 1880.

Proportion of cess to be paid by tenure-holders.

10. Every raiyat shall pay to the person to whom his rent is payable his proportionate amount of the cess for maintenance of land records calculated at *the rate not exceeding one-eighth of an anna* in the rupee upon the rent payable by him, or upon the annual value ascertained under the provisions of the Bengal Cess Act, 1880, of the land held by him. Section 41 (3) of Bengal Act IX. of 1880.

Proportion of cess to be paid by cultivating raiyats.

11. The provisions of Sections 42 to 49 (both inclusive) of the Bengal Cess Act, 1880, shall apply as far as practicable to the cess for the maintenance of land records. Section 41 (3) of Bengal Act IX. of 1880.

Provisions of Sections 42-49 of Cess Act to apply to the land records cess.

12. It shall be lawful for the Local Government, instead of passing an order of apportionment under Section 114 of the Bengal Tenancy Act, to recover either in one year or several years, and in the manner specified in Sections 8, 9, 10 and 11 preceding, all costs, declared by the Local Government to be recoverable from landlords and tenants, which have been incurred in making a survey and record of rights and a settlement of rents under the Bengal Tenancy Act, such costs not having been incurred for the purposes of a settlement of land revenue.

13. The salaries of the keepers of the land records and of their establishments, if any, and of all establishments entertained for the supervision of them, shall from time to time be fixed by the Board of Revenue, under the order of the Local Government. Section 32 of Indian Act XIX. of 1873.

Salaries of land record-keepers.

14. Every person succeeding, whether by purchase, inheritance, gift, or otherwise, to any proprietary right in any estate or revenue-free property, and every manager of such estate or revenue-free property, shall within six months from the date of such New.

Successions to proprietary rights to be reported to land record-keepers.

\* So far as inquiries have gone it is anticipated that the rate need not be exceeded.



such succession or assumption of charge give notice of the fact; (i.) to the Collector, or (ii.) to the Land Record-keeper of the circle in which the estate or property is situated, in such form as may be prescribed by the Board of Revenue.

Notice given to the Land Record-keeper may under the orders of the Collector be held to be a compliance with the provisions of Section 42 of the Land Registration Act VII. (B.C.) of 1876; and on receipt of such notice the Collector shall take the action prescribed in Sections 47, 48, and following sections of that Act. The Collector shall inform the Land Record-keeper of any mutations ordered by him under Section 55 of the Land Registration Act.

15. Nothing in Section 43 of Act VII. (B.C.) of 1876 shall be held to exempt proprietors and managers of petty estates and petty revenue-free properties from the obligation to give the land record-keeper the notice required by Section 14.

New.

16. (i.) Every person succeeding, whether by purchase, inheritance, gift, or otherwise, to the position of a tenure-holder or under-tenure-holder as defined in Section 5 (1) of the Bengal Tenancy Act VIII. of 1885, or to a raiyati holding at fixed rates within the meaning of Section 4 of the same Act, or to the holding of an occupancy raiyat as defined in Section 4 of the same Act, shall within four months from the date of such succession give notice to the Land Record-keeper of the circle in such form as may be prescribed by the Board of Revenue.

Succession to tenures, under-tenures, raiyati holdings at fixed rates, and occupancy holdings, to be reported to land record-keeper.

(ii.) Such notice shall be held to be sufficient compliance with Section 15 of the Bengal Tenancy Act VIII. of 1885.

(iii.) It shall be the duty of the Land Record-keeper to notify the fact of such reported succession to the landlord or landlords of such person in the manner which may be prescribed by the Board of Revenue.

Provided that when the person succeeding has caused the instrument by which the transfer has been made to be registered in the office of a registering officer, it shall not be compulsory on him to give notice also to the Land Record-keeper of the circle. It shall be the duty of the registering officer in all such cases to inform the Land Record-keeper of the succession or transfer.

17. A person giving the notice required under Sections 14 to 16 shall be bound at the same time to tender such fee in cash or in stamps as may be prescribed by the Board of Revenue.

Such fees, other than fees payable to landlords, shall be credited to a fund to be called the "Land Record Fund" for the district.

All fees paid for copies of records maintained under this Act, searching fees and fines imposed under this Act, shall be credited to the same fund.

Section 65 of the Land Registration Act VII. (B.C.) of 1876, so far as regards proprietary rights.

18. Whoever being required by this Act to give notice of succession to a proprietary right, tenure, or holding, shall omit to give such notice within the prescribed time, shall be liable to such fine as the Collector may see fit to impose, not exceeding 100 rupees, and to a further daily fine not exceeding 50 rupees for each day during which he shall omit to apply for such registration after a date fixed by the Collector in a notice requiring him to apply for registration. Such fines shall be credited to the Land Record Fund of the district.

New.

19. Every holder of an estate or tenure, and every raiyat, shall, if so required by the Collector, within such time and in such manner as the Collector shall in a notice to that effect prescribe, and may at any time of his own motion, file in the office of the Land Record-keeper for the circle in which the land is situated such statements and shall furnish such information relating to the records and the changes to be made therein as the Board of Revenue shall from time to time by rule direct.

Holder of estates and tenures and cultivating raiyats to file prescribed returns.

New.

20. It shall be the duty of the Land Record-keeper of the circle to verify statements filed under the last preceding section or under Sections 14 to 16 by local inquiry in the villages in such manner as the Board of Revenue may by rule direct.

21. If any holder of an estate or tenure or any raiyat fail to file, or is not required to file statements under Section 19, the Land Record-keeper shall prepare such statements, from information gathered by local inquiry on the spot or otherwise, as the Board of Revenue may by rule direct. New.

22. All Courts of Justice shall have regard to the statements prepared and verified under Sections 19, 20, and 21 so far as they may be relevant on any question under inquiry before it affecting— New.

(a.) The situation, quantity, or boundaries of any holding.

(b.) The class to which any tenant belongs.

(c.) The rent payable.

(d.) The incidents of the holding.

and the contents of such statements may be proved by producing a certified copy signed by the land record-keeper.

23. When any mutation entry made by the land record-keeper or brought upon his records has been attested by a revenue officer, in a manner to be prescribed by the Local Government, the courts shall presume that all entries shown as undisputed entries are correct until the contrary is proved.

24. Whenever the holder of an estate or tenure, or whenever any raiyat, shall file in the office of the Land Record-keeper, the statements mentioned in the foregoing sections, the Land Record-keeper in whose office such statements are filed shall forthwith grant a receipt for the same, which shall bear the signature of such Land Record-keeper. New.

25. All holders of estates or tenures, and all raiyats, who shall without sufficient cause being shown to the satisfaction of the Collector, refuse or omit to furnish statements required under Section 19, shall be severally liable to such fine as the Collector may think fit to impose, not exceeding 50 rupees for each such omission, and the Collector may impose such further daily fine as he may think proper, not exceeding ten rupees, for each day during which such holder or raiyat shall omit to furnish the statements required after a date to be fixed by the Collector in a notice warning the holder or raiyat that such daily fine will be imposed. Section 18 of Bengal Act IX. of 1880.

Such notice shall be served by tendering to the person to whom it may be directed a copy thereof attested by the Collector, or by delivering such copy at the usual place of abode of such person, or to some adult male member of his family; or in case it cannot be so served, by posting such copy upon such conspicuous part of the usual or last known place of abode of such person; and in case such notice cannot be served in any of the ways hereinbefore mentioned, it shall be served in such way as the Collector issuing the notice may direct, and the date fixed by such notice shall not be less than 15 days after service thereof.

The Collector may proceed from time to time to levy any amount which has become due in respect of any fine imposed under this section notwithstanding that an appeal against the order imposing such fine may be pending:

Provided that whenever the amount levied under such order shall have exceeded 100 rupees, the Collector shall report the case specially to the Commissioner of the Division, and no further levy in respect of such fine shall be made otherwise than by the authority of such Commissioner.

26. All fines imposed under this Act shall be recoverable by process of any law in force for the recovery of arrears of Government Revenues.

27. From and after the expiry of the time allowed by the notice issued by the Collector under Section 19, or from and after the time the statements are prepared under Section 21, no holder of an estate or tenure, and no raiyat, shall be entitled to sue for or recover rent for any land or tenure situated in the district, Section 19 of Bengal Act IX. of 1880.

Disability to sue for rent unless accounts filed.

district, or part of a district, in which this Act is in force, unless at the time of instituting such suit or proceeding such holder or raiyat shall—

File in the court in which such suit or proceeding is instituted an extract from the record of rights relating to the holding, together with extracts of mutations of the khatian (if any) prepared and verified under Sections 19, 20, or 21; or—

Afford such other proof as shall satisfy the court that such holder or raiyat has filed in the office of the Land Record-keeper the statements mentioned in Section 19 of this Act.

Section 33 of India  
Act XIX. of 1873.

28. One or more Land Record Inspectors may be appointed in each local area for the proper supervision and control of the Land Record-keepers in the discharge of their functions under this Act.

29. One or more District or Subdivisional Supervising officers of the rank of Deputy or Sub-Deputy Collector, who may be called Superintendents and Assistant Superintendents of land records, may be appointed for each district for the supervision and control of Land Record-keepers and Inspectors of Land Records.

30. It shall be lawful for a Land Records Superintendent and Inspector within the limits of his local area or part of a local area, and for a Land Record-keeper within the limits of his circle, to enter upon any lands situated within such limits respectively, and to make such inquiries and investigations as may be necessary for the purpose of obtaining information which he may be authorised to obtain under rules in that behalf made by the Local Government.

All persons shall, so far as possible, supply such information and facilitate such inquiries and investigations, subject to the penalties provided by Chapter X. of the Indian Penal Code concerning contempt of the lawful authority of public servants.

Section 35 of India  
Act XIX. of 1873.

31. Every Land Record-keeper, every Land Record inspector, every Land Record Superintendent, and every person appointed temporarily to discharge the duties of any such office, shall be deemed to be a public servant within the meaning of the Indian Penal Code, and all official records and papers kept by any such officer under this Act shall be held to be public records and the property of Government.

Every order passed by an officer engaged in the maintenance of Land Records in any district shall be appealable to the Collector of the district.

32. Every order passed by the Collector of the district under Sections 18 or 25 shall be appealable to the Commissioner within one month of the date of such order, and the decision of the Commissioner shall be final.

33. The Local Government and the Board of Revenue, subject to the sanction of the Local Government, may from time to time make rules consistent with this Act,—

(a) Regulating the appointment, control, discipline, and payment of all Land Record establishments;

(b) Prescribing the method and periods for making entries of mutations in the record of rights and village maps, preparing new editions of such records and maps, and republishing them from time to time, or otherwise making them available for public information;

(c) Generally for the purpose of giving effect to the provisions of this Act;

and may from time to time, with the like sanction, repeal or alter any such rules.

34. In this Act the words and expression "annual value of land" (subject to Section 6), "district," "estate," "holder of an estate or tenure," "the Collector," and "the Collector of the district," shall have the meanings attributed to them, respectively, in the Bengal Code Act, 1880.

## SCHEDULE A. OF ENACTMENTS TO BE REPEALED.

*See Section 2.*

Number of Year.	Enactments Repealed (abbreviated Titles).	Extent of Repeal.
Regulation VIII. of 1793	Decennial Settlement -	Section 34 so far as it relates to kanungoes, and Section 62.
Ditto V. of 1816	Kanungoes, Katak, &c. -	So much as has not been repealed.
Ditto XII. of 1817	Patwaris - - - -	ditto - ditto.
Ditto I. of 1819	ditto - - - -	ditto - ditto.
Ditto VII. of 1822	Settlement, Ceded and Conquered Provinces, Katak.	Section 33, Clause third.
Ditto XIII. of 1825	Kanungoes - - - -	Sections 2, 3.

(2.)

## DRAFT RULES UNDER THE LAND RECORDS MAINTENANCE BILL.

## CHAPTER I.

*Pay, Appointment, and Punishment of Land Record-keepers.*

“Collector” in these rules includes a Deputy Collector.

*Extent of Land Record-keeper's Circles.*

1. The extent of the circle of one Land Record-keeper may be regulated, in the discretion of the Collector, either by extent of cultivated area or by amount of rental. If regulated by extent of area, it shall not ordinarily contain less than 20,000 nor more than 30,000 survey numbers.

*Pay of Land Record-keepers.*

2. The monthly pay of each Land Record-keeper shall be fixed by the Board of Revenue, but shall ordinarily not be less than Rs. 25 nor more than Rs. 50.

*Qualifications of Land Record-keepers.*

3. No person shall be appointed Land Record-keeper who is under the age of 18 years, or over the age of 45, or who has not passed a satisfactory examination in the following subjects:—

- (1) Reading and writing clearly in the language current in the district.
- (2) Elementary arithmetic.
- (3) Surveying by chain and offsets or by plane-table, map drawing, and elementary mensuration.
- (4) The Rules regarding the duties of Land Record-keepers.
- (5) Board's Survey and Settlement Rules.
- (6) The Bengal Tenancy Act.

*Disqualifications for the office of Land Record-keeper ; fines and dismissal of Land Record-keepers.*

4. The holding of any land, whether as tenant or proprietor, within or without his circle, shall be reported by every Land Record-keeper to the Collector, and may be a reason for his removal or dismissal if the Collector considers that he is thereby prejudiced in the proper performance of his duties.

5. A Land Record-keeper shall not engage in trade or money-lending.

6. Every Land Record-keeper shall reside within the circle unless he shall receive the written permission of the Collector to reside without it.

7. If, after due inquiry, misconduct or neglect of duty is proved against a Land Record-keeper, he may be punished as a public servant under the Penal Code, or fined in a sum not exceeding three months' pay, or suspended or dismissed, by order of the Collector.

8. A Land Record-keeper who is in debt to a zamindar or cultivator of his circle, or is in such a condition of pecuniary embarrassment as to render him, in the opinion of the Collector, unfit to discharge his duties, may be dismissed.

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CHAPTER II.

*Duties of Land Record-keepers.*

It shall be the duty of every Land Record-keeper appointed under the Land Records Maintenance Act—

I.—To make local enquiries and village inspection in the manner herein-after prescribed for purposes of preparing returns of mutations or changes to be made in the survey and settlement records, and returns of areas sown under the principal crops of each harvest.

II.—To receive from the landlords, tenure-holders and raiyats of his circle, and to preserve and maintain, reports of successions to proprietary, occupancy or other rights, and the returns and statements hereinafter prescribed, and to verify such returns and statements in the prescribed manner.

III.—To keep up such registers, to prepare such returns, and to perform such other duties not inconsistent with the Land Records Maintenance Act, as the Board of Revenue may prescribe.

*Statements to be prepared by Land Record-keepers, or to be filed by Landlords and Tenants and verified by the Land Record-keepers.*

I. The following statements and returns shall be filed by landlords and tenants, if so required by the Collector, in the Land Record-keeper's office:—

(1.) By landlords.—*Dakhil kharij khewat* statements showing mutations occurring from time to time in the character or extent of proprietary interests.

(2.) By landlords.—*Dakhil kharij khasra* statements showing the mutations necessary to be made from time to time in the khasra, so far as they relate to lauds unoccupied by raiyats, such as parti, jungle, waste, &c.

(3.) By landlords, or tenants, or both.—*Dakhil kharij khatian* statements showing the mutations necessary to be made in the khatians.

These statements, when filed, will be verified by the Land Record-keeper in the manner hereinafter described.

II. Should the landlords and tenants not be required by the Collector to file these statements, or, if being required to file them, they fail to do so, the statements shall be prepared and verified by the Land Record-keeper himself in the manner hereinafter prescribed.

*The Dakhil Kharij Khewat.*

The proprietary rights and interests of every person who holds any right or interest in each mahal is recorded in the settlement khewat.

1. Every proprietor shall, if so required by the Collector, file in the Land Record-keeper's office, within two months of the termination of each year, a statement showing the changes, if any, in the character and extent of proprietary interests which occurred during the preceding year.

2. The Land Record-keeper shall file the *dakhil kharij* statement given by the proprietor under the preceding rule in the Collector's, or subdivisional, office. He shall also note in his diary, and report from time to time to the Collector, any changes in proprietary interests of which he may have received information in the course of the year.

*The Dakhil Kharij Khasra and Khatians and Field Inspections.*

3. The Land Record-keeper shall make one or more visits to the village within the year, for the purpose of ascertaining the changes which should be made in the khasras and khatians, and for ascertaining the crops grown at the time of inspection. The dates of these inspections shall be fixed by the Collector of the district.

4. Before the date of the first visit after the commencement of the agricultural year of the district the Land Record-keeper shall notify to the landlord the date of the proposed visit, and shall call upon him, if he wishes, to file in his office before such date, which shall not be less than two months after the termination of the agricultural year, a written statement showing the changes, if these have not been already reported, in the entries in the previous year's khasras and khatians which he (the landlord) alleges to be necessary on the ground of change of occupancy or otherwise, since the settlement records were made by the Settlement Officer, or since the last annual visit, as the case may be, and he shall also call upon him to attend personally or by authorised agent at the time of such visit. He shall also notify to the tenants collectively the dates of his visits, and shall call upon those of them in respect of whose holdings changes may have occurred since the commencement of the previous year to attend for the purpose of causing such changes to be entered, if such changes have not been already reported.

5. If the landlord file statements in accordance with the preceding rule, the Land Record-keeper shall proceed on the specified date to verify them in the village by inquiry from each tenant regarding the correctness of each proposed entry. Discrepancies between the landlord's and tenant's statements will be dealt with in the manner prescribed below :—

I. If the landlord and the tenants concerned agree that the proposed change should be made, it shall be recorded accordingly, a note being made that it was made by mutual consent and is an undisputed entry. No entry to which the landlords and tenants do not agree shall be recorded as an undisputed entry.

II. If the landlord and tenant differ as to the propriety of the proposed change, the change shall not be entered in the record of mutations as an undisputed entry, but a note shall be made of the statements of both parties

III. If the proposed change relate to the transfer of a holding or part of a holding, to which the landlord has not already agreed or does not agree, it shall be dealt with according to the following rules:--

- (a) If the tenant named in the settlement record is dead, the holding should be recorded in the name of all the sons inheriting, and a remark to that effect will be made in the remarks column.
- (b) If a tenant has sold the whole or part of his holding, and the purchaser holds a registered deed of sale, and is in possession, his name will be entered in the khasra and khatian under the name of original tenant, and a remark will be made in the column of remarks that the transfer has or has not been recorded in the landlord's office, as the case may be. The same applies to a holding or part of a holding alienated in any other way.
- (c) Holdings purchased at auction sales by the owners of the estate, if cultivated by a tenant, will be entered in the name of the tenant, and the words "purchase at auction sale by the owner" will be entered in the column of remarks.
- (d) When a tenant has purchased a holding at an auction sale in execution of a decree of a Civil Court, the name of the purchaser will be entered, and if mutation has not been recorded in the landlord's office, the name of the original tenant and the fact of sale will be recorded in the remarks column.
- (e) In the case of holdings sold in execution of decrees for debt to mahajans, &c., if the mutation has not been recorded in the landlord's office, but the purchaser is in possession, the name of the original tenant will be entered, and the name of purchaser shown below it.
- (f) In the case of partitions of holdings by mutual consent, which have not been recorded in the landlord's office, the name of the tenant given in the lists of tenants in the settlement records will be entered first, and the names of co-sharers after, as joint tenants, and a remark may be made that partition has not been recorded in the landlord's office.

6. If the landlord or tenant do not file the statement mentioned in Rule 4 on or before the date specified, or do not attend himself or by agent at the time of inspection, the Land Record-keeper shall make the inspection in his absence, and shall prepare the *khasra* and *khatian dakhil kharij* statements from information obtained from the opposite party or otherwise in the village, and the party who does not attend is, for the purposes of Sections 22 and 27 of the Land Records Maintenance Act, bound by such statement so prepared.

7. Either landlord or tenant may, at any time during the course of the year, before the date of the Land Record-keeper's inspection, notify to the Land Record-keeper any change which he may consider necessary to be made in the khasras and khatians in consequence of change of occupancy or otherwise during the year, and request him to make a record of the proposed change. It shall be the duty of the Land Record-keeper, as soon as conveniently may be after receipt of such request, to verify the correctness of the proposed change by inquiry from the opposite party. If the proposed entry is admitted by the opposite party to be correct a record of the change shall be made accordingly. If not so admitted, the statements of both parties shall be recorded and filed in the Land Record-keeper's office.

8. It will be the duty of the Land Record-keeper, on the request of any party who is interested, to survey any plot which may be the subject of dispute, or in respect of which it may be necessary to make a change in the khasras and khatians, and to assist, so far as practicable, either landlord or tenant in the preparation of the *dakhil kharij khewat*, *khasra*, and *khatian* statements.

### DAKHIL KHARIJ KHATIANS.

9. *Dakhil kharij khatians* shall be filed by the landlord, or tenants, or both, if so required by the Collector, on the same date, or prepared by the Land Record-keeper himself, and verified in the same manner as the *dakhil kharij khasra*, provided that the Land Record-keeper shall himself prepare a statement showing the names of non-occupancy raiyats who have, by lapse of time, become settled raiyats.

#### *Correction of Maps at Annual Field Inspection.*

10. During every annual tour the Land Record-keeper will carry a certified copy of the last year's khewats, khasras, khatians, and map with him, and before making any fresh entry will himself ascertain whether any alleged change in the condition or occupation of the land has really taken place. The corrections, if any, will also be entered up in the original record.

#### *Rabi and Aghani Field Inspections.*

11. At the time of making annual visit for the purpose of correcting up to date the khewat, khasras, khatians, and map described in the preceding rules, the Land Record-keeper will ascertain and record, field by field, the crops grown at each harvest of the agricultural year.

\*12. He will, if possible, make two other inspections on dates to be fixed in accordance with Rule 3 of this Chapter, for the purpose of ascertaining and recording separately the crops grown, field by field, for the *aghani* and *rabi* harvests.

13. He will ascertain the crops grown in each field by personal inspection, and shall himself prepare the statements of cropped areas in such forms as the Collector may direct with reference to the principal crops grown in the circle.

## SUPERVISION OF LAND RECORD-KEEPER.

### CHAPTER III.

#### *Revenue Supervising Officers, or Superintendents of Land Records, of Local Areas.*

1. Land Record-keepers will be supervised by Land Record Inspectors, and both Land Record-keepers and Land Record Inspectors by Supervising Officers of the rank of Deputy Collector and Sub-Deputy Collector, to be called Superintendents and Assistant Superintendents of Land Records.

#### *Pay and Establishment of Land Records Inspectors.*

2. One or more Land Records Inspectors will be appointed in each local area for the supervision, maintenance, and correction of Land Record-keepers' records.

The salaries of Land Records Inspectors will, from time to time, be fixed by the Board of Revenue.

3. Ordinarily one Land Records Inspector will be in charge of 15 to 30 Land Record-keepers' circles.

4. There will be one Land Records Inspector at the head-quarters of each local area, who will be called the Sadar Land Records Inspector, to whom all the other Land Records Inspectors shall be subordinate.

\* One inspection per year may probably be sufficient for all purposes.



*Qualification and appointment and duties of Land Records Inspectors.*

5. A list of approved candidates will be maintained in the Revenue office, and a copy of it will be forwarded to the Board of Revenue.

6. No person will be qualified for the office of Land Records Inspector unless he satisfies the Collector—

- (1) That he has passed the Entrance examination of the University, or is educated up to that standard.
- (2) That he bears a good character.
- (3) That he is not incapacitated by any physical infirmity for the performance of the duties of a Land Records Inspector.

7. Approved candidates will be required to pass examination in the following subjects before being appointed Land Records Inspectors :—

- (1) Mensuration, *i.e.*, surveying by plane-table and by chain and offset; computation of areas.
- (2) Land Record-keepers' and Land Records Inspectors' rules.
- (3) The Bengal Tenancy Act, Bengal Land Registration Act and Bengal Cess Act, and rules made under these Acts.
- (4) Board's Survey and Settlement Manuals.

But if the candidate has a certificate of competency as a surveyor from the Superintendent of Surveys, he will be excused from passing in (1), and will *ceteris paribus* have a preferable claim to appointment.

*N.B.*—The intention is that ultimately all Inspectors shall be certificated by the Survey Department.

8. The Land Records Inspector may be vested with the powers of a Revenue officer, under the Tenancy Act, for the purpose of Section 23 of the Land Records Maintenance Act, and when vested with powers of a Revenue Officer shall attest all the undisputed entries of mutations made by the Land Record-keeper.

9. The Land Records Inspector will be responsible that the maps and records of every village in his circle shall be corrected and brought up to the prescribed date in accordance with these rules within four months of the termination of the agricultural year by the Land Record-keeper.

10. Each Land Record-keeper will be allowed a chainman-muharrir to be paid out of the Land Record Fund. One set of measuring instruments will be furnished by the Field Land Records Inspector to each Land Record-keeper in his circle, for the safe custody of which he will be responsible.

*Duties of Office Land Records Inspectors.*

11. The Sadar Office Land Records Inspector will be responsible—

- (1) For the custody and issue of forms to Land Record-keepers.
- (2) For the distribution of Land Record-keepers' salaries and keeping their pay accounts under such rules as may be issued by the Board.
- (3) For the supply of any information required by the Collector or other duly authorised public officer respecting entries in village records.
- (4) For the carrying out of procedure connected with the mutation of proprietary rights.

12. The Sadar Office Land Records Inspector will also maintain, under the control of the Superintendent of Land Records, registers showing—

I.—Statistics of each year's cropped area.

II.—Abstracts of mutations.

*Superintendents of Land Records.*

13. One or more officers for the supervision of Land Record-keepers and Inspectors will be appointed by the Local Government for every subdivision of a district.

The Superintendent of Land Records appointed under these rules will be a gazetted officer of the Imperial Civil Service, the Provincial Civil Service, or the Survey Department. He will be vested with all the powers of a Collector under the Tenancy Act, and with the powers mentioned in Section 189 *b, c*, of that Act, provided that, except where otherwise prescribed by law, all orders passed by the Superintendent of Land Records shall be subject to the supervision and control of the Collector of the district.

*Duties of Superintendent of Land Records.*

14. The Superintendent of Land Records shall be generally responsible for the supervision and control of the Land Record-keepers and Land Records Inspectors of his local area.

15. It shall be the duty of the Superintendent of Land Records to visit the circle of every Land Record-keeper at least once every year, to examine registers kept in the Land Record-keeper's office, to attest the accuracy of as many as possible of the undisputed entries which have not been attested by a revenue officer in the manner prescribed.

16. He shall be responsible for the preparation and maintenance, in accordance with these rules, of all such registers, returns, and reports as are prescribed, or as may hereafter be prescribed.

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*Rules relating to reporting of transfers of proprietary and occupancy rights,  
Sections 13, 14, and 15.\**

- (1) All transfers of proprietary rights shall be reported to the Land Record-keeper under Section 14 in the form given in the Appendix (Form E. of Board's Land Registration Manual, page 65).
- (2) Every such notice for recording mutations shall, as at present (Rule 4, chapter V., Board's Land Registration Manual), bear a stamp of 8 annas.
- (3) The Land Record-keeper, on receipt of such notice, shall satisfy himself that the form has been properly filled up, and that the application has been subscribed and verified by the applicant, and shall transmit such notice through the Post Office in a cover prepaid with service stamps to the Superintendent of Land Records.
- (4) The Collector shall ordinarily delegate to the Superintendent of Land Records, under Section 84 of the Land Registration Act, all the powers which he is empowered or required to perform under that Act, except in respect of appeals; and the Superintendent shall exercise all such powers on receipt of such notice under Rule 4, Section 85, of the Land Registration Act rules.
- (5) Every order passed by the Superintendent of Land Records shall be applicable to the Collector of the district.

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\* NOTE.—The effect of these rules will be that notice of mutations in proprietary rights will be given to the Land Record-keeper in the circle instead of to the Collector at headquarters of the district. The Land Record-keeper will transmit the notice to the Superintendent, who will take such action as the Collector now takes, subject to appeal to the Collector. The scale of fees will be that now paid.

As regards successions to occupancy rights, the effect of the rules will be that notice of such successions will be served on the Land Record-keeper, who will have them given to the landlord. The scale of fees to be paid for service of such notice will be that now paid for service of notices under Chapter V. of the Tenancy Act Rules, with an additional mutation fee of eight annas for each succession.

- (6) The Superintendent of Land Records shall discharge the functions of a Collector for the purposes specified in Sections 12, 13, 14, 15, and 16 of the Tenancy Act, and in the rules made by the Local Government under these sections relating to the service of notices (Rule 1, Chapter V., of the Tenancy Act Rules).
- (7) The Scale of fees for service of notices to be served by the Superintendent under the preceding rule shall be those prescribed in Chapter VII. of the Bengal Tenancy Act Rules.
- (8) Notice of succession to occupancy holdings, whether by purchase, inheritance, gift, or otherwise, shall be given to the Land Record-keeper in a form to be prescribed by the Board.
- (9) The Land Record-keeper, on receipt of notice under the preceding rule, shall cause it to be served on the landlord in the manner prescribed in Rule 7, Chapter V., of the Tenancy Act Rules.
- (10) A mutation fee of \_\_\_\_\_ shall be payable on each transfer reported under the preceding rule, and a fee for service of notice on the landlord in the scale prescribed in Chapter VII. of the Tenancy Act Rules (1, 2, 3, and 4).

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Enclosure 7 in No. 2.

*Extract from the Officiating Lieutenant-Governor's Speech delivered in Darbar at Bankipore on the 31st July 1893, referred to in paragraph 3 of Enclosure 3 in No. 2.\**

GENTLEMEN, I now wish to say a few words to you in connection with a subject which is engaging your thoughts, namely, the survey and settlement in progress in the northern districts of the Division ; and the points to which on this occasion I wish particularly to invite your attention are, how the work can be best and most cheaply done ; and how, when done, its good effects may be perpetuated. I will first speak to you on the second point, namely, the maintenance of the record when it has once been correctly made. Gentlemen, I have spoken to many landlords within the last two months on this subject, and there was not one who did not confirm my own long-standing conviction that if the survey is made at all, it ought, when completed, to be maintained up to date. We know that changes in holdings are of constant occurrence through deaths, transfers, successions, reclamation of waste lands, division of fields, and so forth. So that, if no means of annually adjusting the record to these changes is adopted, the record will have become wholly obsolete in a few years, while from the first year it would be growing more and more discredited for judicial or administrative purposes. That would mean the speedy renewal of the state of chaos and the numberless embarrassments we suffer from to-day. No one, and perhaps least of all myself, can regard that result with equanimity ; and in this I only express the view of the Government of India. The case with which we have to deal is therefore simplified. We have to maintain the village map and revise the village record by annual corrections made on the spot ; for under these conditions only can the record be effectively used for those judicial and administrative purposes for which it is intended. The maintenance of the record can be effected by more agencies than one, and the initial question for you, gentlemen, now to consider is, will you have the record maintained through the patwari after he has been brought under Government control in all respects, or will you have it maintained through another agency to the exclusion of the patwari altogether ?

It is to learn your wishes on this point among others, and having learnt them, to discuss with you a plan of maintenance, that I am going to Muzaffarpur. The survey and settlement now in progress will bring on record such essential facts as the proprietary rights in each estate, the ownership and occupancy of each field, the status of the tenants, the conditions of the holding, and the rent payable. These are facts which the State should have permanently on record. If such a  
record

record were available always we might with confidence look forward to an era when there would be in Behar due protection of agrarian rights and due and speedy disposal of disputes in the courts or out of them.

The other point to which I referred above, namely, the means by which the survey and record can be most cheaply and efficiently made, is one of detail, which can perhaps be more conveniently discussed in conference than in Darbar, but there is one important aspect of it on which I wish to say a word, and that is the employment of the patwari on survey work. I have invited the landlords of Behar to register their patwaris under Regulation XII. of 1817, and thus enable the Government to employ them as public servants in making the survey, whereby a substantial reduction would be effected in the cost of the work. But my invitation has not been largely responded to, landlords being unwilling to give patwaris the status of public servants, though willing, I understand, to lend us their services gratuitously, while themselves retaining the control of a master over them. Gentlemen, I am entirely opposed to employing any person in making the survey or preparing the record who is not absolutely under the control of the Government and liable to punishment as a public servant for misfeasance. The survey and the record must be prepared under conditions which shall relieve it, so far as we can guarantee, from any suspicion of one-sidedness, and for this reason I cannot agree that a mere servant of the landlord or of the raiyat shall make the survey or prepare the record. As the record is to be an impartial statement of the rights and obligations of both landlords and raiyats, it is obviously unreasonable that the work should be done by a partisan of either party. No; there must be no room for doubt in this matter or for such a rebuke as the Judicial Committee of Her Majesty's Privy Council recently administered to the authorities in another Province who allowed a record of rights to be prepared by one of the parties to a settlement. I cannot allow any patwari to be employed in these operations unless he has been previously registered under Regulation XII. of 1817, and so brought under Government control as a public servant.

Gentlemen, when I invited you last June to register your patwaris under Regulation XII. of 1817 my object was to reduce the cost of the survey, the registered patwari being bound to survey his village as part of his statutory duties. I had not at that time worked out the problem of the subsequent maintenance of the record. I have since done this to some extent, and I now wish to say that if you elect for maintenance of the record through the patwari under Regulation XII. of 1817, or such amendment of it as may be found necessary, the patwari must be registered, and it is in that case obviously convenient and proper to register him at once, and so save expense in the survey, while fitting him for the work he will have to do later on. But in case you elect for maintenance of the record otherwise than through the patwari, then I am not greatly concerned to press you to register your patwaris under the Regulation. If you elect to have the work done through the more expensive agency of amins to the exclusion of the patwari altogether, I shall not contest your choice, though I may regret it on the grounds of economy. All I would insist on is that you make a definite choice one way or the other.

Gentlemen, there are other important points connected with this subject which I have to discuss with you or your representatives, but I do not think that it is necessary for me to say more on the present occasion. I am going to Muzaffarpur with the object of discussing all these matters with you, and I trust our discussion may result in an agreement equally satisfactory to you, to the raiyats, and to the Government. I wish to meet you in a friendly spirit, and with the desire to adjust differences of opinion amicably, and so far as the best interests of zamindars and raiyats will permit; for, apart from the general well-being of the Province and the people, the Government itself has no interest, pecuniary or otherwise, in the matter. As the Governor-General in Council said in his Despatch of 21st March 1892 to the Secretary of State in connection with this very question of the record of rights in Behar: "We seek no fiscal advantage, but the prevention or diminution of human suffering." I would remind the landlords—and in that term I include the Indigo Planters of Behar—that we are now engaged with no question of organic change in the Tenancy Act, but in giving effect to those provisions of that Act which were specially made in the interests of Behar. The task ought not to be difficult to those approaching it in a fair and reasonable spirit. Gentlemen, I do hope that

between us the rights of all parties will be attended to and secured, and that we shall prevent this great measure, conceived in the best interests of the class most connected with the soil, from proving as prejudicial to them as some well intentioned enactments—the *Haftum* and *Panjam*, for instance—before now have done. It only now remains for me, gentlemen, to thank you for the attention with which you have listened to me, and to bid you for the present farewell.

Enclosure 8 in No. 2.

*Memorial presented to the Lieutenant Governor at Muzaffarpur, on the 4th August, 1893, by the Behar Indigo Planters' Association, and enclosure:*

**MOST RESPECTFULLY SHEWETH—**

1. That Your Memorialists desire most sincerely to welcome Your Honour on your visit to the Province of Behar. Your Memorialists feel that it is a great privilege to be brought into personal contact with the ruler of the Province; and Your Memorialists will therefore avail themselves of this opportunity of respectfully submitting for Your Honour's consideration the following representations in connection with the administration of the Province.

2. That Your Honour is aware that Sir Charles Elliott directed that a cadastral survey should be made of that part of the Province of Behar, which comprises the districts lying to the north of the River Ganges. One of the great inducements held out to the landed proprietors of Behar to compensate them for the harassment and expense which a Government survey necessarily involves, was that on the completion of the survey, the patwaris, who are admitted to be notoriously corrupt, should cease to be Government servants, and that it should be optional with the zamindars, who paid them, to retain them or not, as they pleased, for the purposes of collection. The second inducement held out to the zamindars to consent to the survey, was that the survey would be obviously to their advantage, as all excess land found in the possession of the raiyats would be assessed with rent, and instances were given in official papers, published in the *Calcutta Gazette*, of several estates which had been surveyed by the Government, with the result that the rent-roll of the zamindars of those estates had been considerably increased owing to the assessment of this excess land which the raiyats had annexed to their holdings. That a further inducement was also held out to Your Memorialists that on the completion of the survey the Government would give to the zamindars by a summary procedure increased facilities for the collection of their rents.

3. That, moved by these considerations, many of Your Memorialists submitted without remonstrance to the orders of Government. They trusted to the promises of Government that the patwaris should cease to be retained as Government servants, and that the excess land, misappropriated by the raiyats, should be assessed with rent; and that after the completion of the survey, a simple procedure would be provided, to enable them to realise the rents which the survey record might declare them to be entitled to.

4. That Your Memorialists now desire to bring to Your Honour's notice that so far none of these promises have been fulfilled. During the survey operations of the present year in no case has excess land been assessed; and though Sir Charles Elliott said that the present survey would put an end to all litigation, Your Memorialists have been told that if they desire to assess the excess land held by the raiyats, they must bring a separate suit either before the Revenue Officer or in the Civil Court for such assessment. The discovery of excess land by the survey officers is of no avail, if the survey measurements are not to be accepted as evidence of such excess, and if after all the trouble and expense of the survey the zamindars have to recommence proceedings afresh by instituting a separate suit against each raiyat. The survey authorities, Your Memorialists submit, are bound to take cognizance of such excess, unless such excess is so small as can be accounted for by the increased accuracy of the present

present survey measurement as contrasted with the former chain measurement. Where this excess is apparent the onus clearly lies on the raiyat to show that he is entitled to hold the excess land without an increase of rent. This is all Your Memorialists ask for: and if this is not granted Sir Charles Elliott's promises are simply illusory, and no possible advantage can be obtained by the zamindars from the present survey.

5. That Your Memorialists would next submit that nothing could be clearer than Sir Charles Elliott's promises with regard to patwaris. He accepted the universal opinion of the Behar landholders, that the patwaris as a body were thoroughly corrupt, and that they ought no longer to be retained as *quasi* Government servants. In direct opposition to this opinion and promise is the circular of the Director of Surveys, No. 133 R.B.T. of the 5th June 1893. That circular is stated to have been issued under the orders of Government; and so far from abolishing patwaris as *quasi* Government servants, it is ordered that patwaris are to be professionally instructed to survey their own villages, to extract the areas of the raiyats' holdings, and generally to prepare the village record, and when the village record has been prepared, these same patwaris are to be retained as Government servants, to enter in the survey map and record any changes which may have taken place in the village holdings. Your Memorialists therefore would respectfully ask whether the promise of Sir Charles Elliott with regard to the abolition of patwaris is to be carried out or not.

6. That Your Memorialists would further observe, with respect to the Government orders of the 5th June, alluded to in the last preceding paragraph, that in no part of Behar, as far as their experience extends, have patwaris ever been placed in charge of survey work. When a survey of a village is made by the zamindar, it is always made by independent amins; never by a patwari. The great object of a survey is to check the proceedings of the patwari; and Your Memorialists strongly object to the Collector being directed to employ their patwaris on survey work without their consent. The patwari is the zamindar's servant and is paid by him, and if the patwari is withdrawn from his legitimate duties to be employed as a Government amin, it is obvious that the collection of rents will be most seriously interfered with. Your Memorialists would further remark that they have been advised by eminent counsel in Calcutta that the Collector has no authority under Regulation XII. of 1817 to take away the patwaris from their legitimate duties as village accountants to be employed on Government survey work. Your Memorialists beg to annex a copy of this opinion; and they would ask Your Honour to take into your consideration and pass such orders as to Your Honour may seem proper.

7. Your Memorialists have watched with satisfaction the evident desire of Your Honour's Government to reduce the cost of the survey to both landlords and tenants, but they fail to see how the cost of this survey will be in any way lessened to them by the employment of their registered patwaris on survey duties, unless it is thoroughly understood by the patwaris that such employment is not to excuse them from the fulfilment of their other and to them more important duties, and that should it be necessary to employ other agencies to carry on such duties, the extra expense will be met by Your Honour's Government or by the registered patwari whose duty it is to fulfil them.

8. That Your Memorialists would further ask Your Honour explicitly to declare what is the intention of Government with regard to the maintenance of the record of rights. In preparing this record of rights the Government are professedly acting under the procedure of the Bengal Tenancy Act. That Act makes no provision for maintaining the record when once complete. The record is a judicial record, and no changes can be made in it without the zamindar's consent or by an order of the Civil Court. To allow patwaris to make changes in a judicial record seems to Your Memorialists utterly indefensible, and Your Memorialists must respectfully protest against any power being given to the patwaris, or to any one else, to make alterations or changes in their rent-roll without their consent. To allow executive officers of Govern-

ment or a patwari to make changes or alterations in a village rent-roll, would simply deprive the proprietors of all control over the management of their estates.

9. That Your Memorialists have further been informed that it is in the contemplation of Government to maintain a staff of Inspectors to keep up and maintain the survey records, and that a cess is to be imposed upon the zamindars to defray the expense of these establishments. Speaking from their practical knowledge of zamindari affairs, Your Memorialists are convinced that it is impossible for Government to devise any scheme by which they can, without a re-survey, ascertain and record the innumerable changes which take place in these small village holdings. Your Memorialists are further of opinion that it will be impossible to devise any scheme for keeping up the record that will not be inquisitorial and onerous in its methods until the law of transfer of occupancy holdings has been put upon a firmer and more satisfactory footing. At the same time Your Memorialists are aware that the Government attach great importance to the maintenance of the record, and they are prepared to consider any scheme by which this object can be effected with the minimum of interference and the minimum of expense.

10. That there is one further matter which Your Memorialists would respectfully submit for Your Honour's consideration. This survey, as Your Honour is aware, was ordered by the Government of its own motion. Neither the zamindars nor the raiyats applied for a survey. In other parts of India, including the permanently settled districts of the North-Western Provinces, the whole expense of the cadastral surveys was borne by the Government. In Behar the Government have decided to bear only one-eighth of the cost. As the survey is the Act of the Government and is required for administrative purposes, Your Memorialists naturally are unable to understand why the province of Behar should be treated less liberally than the permanently settled districts of the North-Western Provinces, and they would respectfully ask Your Honour to take this matter into your serious consideration.

And Your Memorialists as in duty bound will ever pray.

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Enclosure 9 in No. 2.

#### OPINION ON THE EMPLOYMENT OF PATWARIS ON GOVERNMENT SURVEY WORK.

WE have before us a case stating the views of certain zamindars and planters as to patwaris and their present duties, the Blue Book of Behar correspondence published and printed by order of the House of Commons on 17th May 1892, and a letter from Secretary, Government of Bengal, to Secretary, Board of Revenue, dated the 6th June 1893. The main questions are:

- (1) Whether it is part of the customary duty of a patwari to make a survey of his village, cadastral or otherwise.
- (2) Whether he can be compelled to learn professional or scientific surveying.
- (3) Whether he can be compelled to do the work of a professional surveyor or of a survey amin.
- (4) Whether he can be dismissed for refusing to learn scientific surveying or for refusing to make or fill in a map of his village on modern scientific principles or in any way.

(1) *As to the duties of patwaris.*—This question arises on Section 16 of Regulation XII. of 1817, Clause 1 :—“To keep such register and accounts relating to the village or villages to which he is appointed, in such manner and form as has hitherto been the custom, or in such other mode as may be hereafter prescribed by the Board of Revenue, together with such further registers and accounts as may

may be directed by those authorities respectively." . . . . "To perform all other duties and services which it has been customary for him to execute."

It is now proposed by Government that the Board of Revenue should order the patwaris to make or fill in the details of village maps by scientific survey, and to order that they should attend instruction in surveying and should be dismissed by the collector on the ground of "neglect of duty or other sufficient cause," under Section 15, should they not qualify themselves in surveying and make the survey. *Prima facie* it would not occur to any one that the making of maps and surveying was included in keeping "registers and accounts relating to the villages," and as regards customary duties, it must, we think, be admitted that no patwari has from 1817 to the present time ever made a map as part of his duty as patwari. But we understand it to be stated by Government that under the rules of the Board of Revenue as at present existing, they are bound to make and keep a register of the area of each raiyat's holding and of the amount of waste land, &c., in each village, and that for this purpose they are bound to and are in the habit of making a rough pole or latakhatta measurement, amounting to a rough survey of the villages.

On this it is contended that it would not be beyond the power of the Board to order them to make, in addition to the measurement of the area of holdings, a map or sketch showing the relative position of the various plots mentioned in their register or account of areas, so as to render it readily intelligible.

It is further contended that if it be within the power of the Board to order them to make such rough measurement as *they are said now to make*, and further to embody it in a rough or a sketch map, it must be within their power to order them to make an accurate measurement and an accurate map. That this can only be done by a survey on modern scientific principles by means of a compass and by observing and recording angles in such a manner that the plots of land shown in the field book and map can be accurately laid down on the ground by competent surveyors as soon as any two points in the map are identified in the locality.

This is going a great way, and if this view be carried to its full extent, it will enable the Government to convert the ancient village accountants (which was the original function of the patwaris) into a trained body of scientific survey amins to be paid by the zamindars.

The zamindars in the case laid down before us contest the view held by Government as to the existing duties and actual work done by the existing patwaris in Behar in zamindaris not owned by Government or worked through Government officials; they state that it has not been the practice for patwaris to measure, but only to record the measurement made by the zamindar's amins or register the areas according to his measurement, and that if in filling up the Board's form as to the area of each raiyat's field in details, the patwari writes out something like a khasra, it is not an independent measurement, but taken from the zamindar's measurement chittas. If this is so, an essential fact upon which the contention of Government rests being wanting, this contention would apparently have no basis to stand on. On this question of fact we can express no definite opinion. But it is to be noted that when it was stated by Mr. Finucane in his note of 2nd January 1891 (Blue Book, page 170) that "the survey of their several villages is admittedly one of their customary duties and one which they in fact now perform in every district in Behar, though in a rough and unscientific manner," the Board of Revenue remarked (page 150)—"It is not clear, although patwaris now occasionally measure lands in the villages, that surveying is part of the customary duties"; and the collector of Champaran says, "almost every patwari can roughly measure land, and they are often employed by the zamindars for this purpose." But the collector evidently was not aware, nor was the Board, that patwaris were habitually being employed under the rules of the Board itself to make measurements as now asserted as part of their official duties. In Mr. Risley's letter it is put thus: A specimen of the village survey record as now proposed was produced at the meeting, and it was pointed out what it was proposed the patwaris should do. "This, it was pointed out, does not differ materially from the field measurement which admittedly forms part of his customary duties. It was also argued that the khasra or register of fields is such a register as the Board might reasonably prescribe, and *have in former years prescribed, as a register to be kept by the*



patwaris under the Regulation, and that the keeping of such a register necessarily involves and implies the preparation of a village map without which the khasra would be incomplete and unintelligible."

We have referred to the Board's rules, Manual of Powers, &c., of Revenue Officers (1888), pages 37 to 41, and do not find this statement borne out.

Rule 14, page 38, provides that patwaris shall keep registers and accounts relating to the village in the forms annexed to the rules. Form No. 1 is headed "Annual account current of the village of..." It contains amongst others the following columns to be filled up—

- (a) Total quantity of land. (This, we take it, he is to get like the Government revenue from the existing records.)
- (b) Quantity not paying any rent, arranged under different heads. (It does not appear from what sources he is to get the information, nor is it stated that he is to measure or produce or keep a measurement paper or khasra of these matters.)
- (c) Quantity of land held by each raiyat, with detail of field B, C, D. *Name or number of field.*

(The last direction appears to mean that if the fields happen to be numbered, which they would be where a "khetbat" measurement existed, he was to record the number of the plot. If there was no such measurement, and the field had therefore no number, he was to give the name only. This rather rebuts the idea that he was to make a khasra measurement of his own for the whole village; certainly he is not expressly directed to do so).

The result of this form is that he is nowhere told to make a khasra measurement, though it is possible that he might in some cases have to make rough measurements of separate holdings in order to ascertain the area, though if there was a patta he would, it may be supposed, take the area from that or from the jamabandi or the zamindar's chittas of measurement.

Rule XVII, which provides it shall be the duty of the patwaris to carry out any orders given by the collector with reference to the survey or measurement of land by order of a competent court or officer, evidently refers to ordering the presence of the patwaris to give information, and is against the idea that the collector could order the patwari himself to make an independent survey. Assuming, however, that patwaris, or some of them, have, for the purpose of keeping these accounts and registers in the prescribed form, been in the habit of making a rough measurement of holdings with a pole or rope, and calculating the area, this is quite a different thing from surveying, and particularly from the land surveying of modern days. The main object of a survey is not only to get the area of any particular plot, but so to describe each plot in reference to other plots, that the position on the earth's surface of that plot and all other plots in relation to each other shall be in future ascertainable by a scientific process by means of the map and field book of the survey as soon as any point in the map is identified with any existing mark on the land.

This scientific survey has been going on on a large scale under a regular Survey Department of the Government of India since the Act of 1847, and is now governed as to Bengal by the Survey Act of 1875. The patwaris have never been employed by Government as survey amins so far as we can learn. As to the older measurement that used to be made, there is no trace in Regulation XII. of 1817 of any duty of patwaris in connection with measurements. Had it been the duty of patwaris to make measurement chittas or khasras of the villages, we should have expected to find such papers produced in courts of justice as entries made by an official in the course of his official duty or as official registers, and we are aware of no such case. It is noteworthy that it was the duty of the kanungo under Regulation V. of 1816, Section 7, Clause 6, to "assist at all admeasurement of land, whether undertaken by the officer of Government in conformity with the Regulation, or by the landholder or raiyat, and to record the same." The opinion of the Advocate General referred to by Mr. Risley appears to have been given orally at the conference upon

upon hearing the views and arguments then set forth, and assumes the accuracy of the statements and views laid before him. It is to be noted that the other members accepted the opinion as an exposition of the law, but it is not stated whether the members of the Board altered their views as to what the patwaris had actually been in the habit of doing.

Reviewing all the materials available to us, we are of opinion that unless it can be shown that surveying was one of the customary duties of patwaris by ancient and general custom, the new rules will radically alter the scope of the patwaris' duties and cast entirely novel duties upon him and turn him into a surveyor; that such a change is not warranted by the Regulation and does not come under the head of "Keeping registers and accounts"; that the patwaris cannot legally be compelled to learn scientific surveying or discharge the duties of surveyors, though illegal pressure may be brought upon them to do so; and that the attempt to make the zamindars support a body of trained surveyors under the name of patwaris is not warranted by the existing law.

G. H. H. Evans.  
W. C. Bonnerjee.

The 11th July 1893.

Enclosure 10 in No. 2.

#### THE OFFICIATING LIEUTENANT-GOVERNOR'S REPLY.

GENTLEMEN,—I thank you for your welcome to Behar. Though I come among you now for the first time as Lieutenant Governor, you all know that I am no stranger to the province. Some of you will even remember that I served here for seven years during times of difficulty, and that I then took an active interest in the questions to which you refer in your memorial. In returning to those questions now, I claim to speak, not as a novice in the law and custom of Behar, but as one who has studied the subject carefully, and who has at least had exceptional opportunities for learning what the intentions of the Government and the Legislature were in respect of the Behar land question when the Tenancy Act was under discussion. With these introductory remarks, gentlemen, I will proceed to examine the substance of your memorial.

The first statement which I have to notice is the following:—"One of the great inducements held out to the landed proprietors of Behar to compensate them for the harassment and expense which a Government survey necessarily involves was that, on the completion of the survey, the patwaris, who are admitted to be notoriously corrupt, should cease to be Government servants, and that it should be optional with the zamindars, who paid them, to retain them or not as they pleased for the purposes of collection." Gentlemen, I have been unable to ascertain on what authority you base this statement. So far as I have been able to ascertain from the official records, it has never been, and it is not now, the policy of the Bengal Government to abolish the existing patwari system without substituting for it another agency to maintain the record. Such a policy as you impute to the Bengal Government would require the sanction of the Government of India, and I greatly doubt, having regard to the importance rightly attached in all other provinces to the correct maintenance of the record of rights, whether the Government of India would have countenanced it, even if recommended by the Government of Bengal. If you desire to abolish the patwari, your road lies through what Sir Charles Elliott described as "a complete and practical scheme of maintenance of the settlement record" by an agency other than that of the existing patwari.

The next statement which I have to consider is to the following effect:—"The second inducement held out to the zamindars to consent to the survey was that the survey would be obviously to their advantage, as all excess land found in the possession of the raiyats would be assessed with rent, and instances were given in official papers, published in the *Calcutta Gazette*, of several estates which have been surveyed by the Government, with the result that the rent-roll of the zamindars of those estates had been considerably increased owing to the assessment of this excess land which the raiyats had annexed to their holdings." Here too, gentlemen, I must say that I have been

unable to find in the records of the Government any evidence to bear out the statement made in the memorial. Indeed, gentlemen, there are certain important considerations conflicting with it to which I would beg your leave to invite attention. The various matters dealt with in a survey and record of rights are of two kinds—matters which the Government can deal with within certain limits by executive order addressed to the Settlement Officers; and matters fixed by substantive law, concerning which the Government is not competent to issue any orders at all. Now this question of land, said to be held in excess of that for which the tenant is paying rent, belongs to the latter class. It is regulated by law, and the interpretation of the law rests, not with the Executive Government, but with the Judicial authorities. In a recent case arising out of the settlement of the Burdwan estate—a case to which your attention has doubtless been drawn in connection with this question—the High Court observed: “It is for the zamindar who seeks for a settlement of these lands to show that they are in excess of those for which rents are being paid, and to do this it is for him to show what those lands are, what were the terms of the original settlement, and whether it was by any, and if so by what, process of measurement.” That decision gives an authoritative exposition of the law on the subject of excess lands, and the Government is unable, even if it were inclined, to do anything to alter it.

The procedure in the matter seems clear to me. The landlord who considers that his tenant is holding land in excess of that for which he is paying rent, may, while the settlement is still going on, apply to the Settlement Officer to fix a fair rent for the entire holding; and that application will be adjudicated on by the Settlement Officer acting as a Civil Court. Or he may wait till the settlement is over, and file a suit for the assessment of the land alleged to be in excess. He will not, I am advised, be estopped or hampered in these proceedings by the entry in the settlement record as to the rent of the holding, for that entry, even if allowed to go undisputed, will not be conclusive as between the parties.

It is suggested, however, by your memorial, that if on a comparison of the survey measurement with the area entered in the landlord's jamabandi, a tenant seemed to be holding more land than he was paying rent for, the Settlement Officer was bound *suo motu* to assess rent on the apparent excess, and the Government is, I presume, urged to direct him by executive order to do so. That opinion, gentlemen, struck me at once as erroneous. It seemed to me out of the question that Government should have the power by executive order to require the Settlement Officer to take judicial notice of the landlord's private papers, and more especially when the effect would be to shift the burden of proof from one party to the other, and thus to reverse one of the most important provisions of the substantive law. But in a matter of such importance I did not wish to rely upon my own judgment, and I therefore referred the question to the Law Officers of Government. I am now advised by them that the opinion I have referred to is without doubt erroneous, and that the burden of proof which the law imposes on the landlords cannot be removed from their shoulders by any order of the Executive Government. The Settlement Officer cannot proceed to assess rent on excess area unless it appears from legal evidence, which would ordinarily be adduced by the landlord in discharge of the burden of proof laid on him by the law, that the land for which rent is claimed is in fact in excess of that for which rent is being paid.

Gentlemen, I feel bound to add, though the opinion will hardly be welcome to some of you, that I entirely agree with the law officers, not merely on technical grounds, but in view of the general equities of the case. It is known to those with experience of Behar—I refer especially to the more densely populated district—that in past years the enhancement of a raiyat's rent by the order of a landlord was not a matter of uncommon occurrence. Nor is the fact a remarkable one. Such things have been done in most countries in the world, where circumstances rendered them possible. But the practical effect of such enhancements was to impose an assessment on the excess area, and whenever this has occurred, the existing rent in Behar is really a consolidated rent for the holding. Moreover, it must be remembered first that, under the indigenous system of measurement, the *ails* or partitions between fields were excluded from survey, while under the scientific system they are included; secondly, that under the scientific system

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of measurement now adopted the area brought out for a field is itself considerably in excess of what the area of the same field would be if obtained by measurement according to the native system. Taking these facts into consideration, it must, I think, be admitted that the question of dealing with lands claimed as excess is one which ought not to be disposed of by executive order, but demands careful judicial inquiry, in which the whole facts and history of the holding must be examined and the landlord must be content to discharge the burden of proof which the law has laid upon him. And if this be the conclusion justified by the equities of the case to which I have referred, is it not strengthened by the consideration that, according to the concurrent testimony of enquirers into the subject, the Behar tenant's rent, even 10 years ago, was in many places a rack-rent? Since then, population has increased, the competition for land has grown more intense, and as a natural consequence the agrarian situation has become more precarious. All these considerations point to the desirability of careful judicial examination before rents are fixed, and to the administrative necessity of giving the province rest and security by such a record of rights as the Government has now undertaken to effect.

The last statement which I have to notice in the second paragraph of the memorial is "that a further inducement was also held out to Your Memorialists that on the completion of the survey the Government would give to the zamindars by a summary procedure increased facilities for the collection of their rents." It is no doubt the case that in a speech delivered in the Governor General's Council on the 25th March 1892, on the amendment of the Bengal Court of Wards Act, Sir Charles Elliott spoke as follows:—

"There is a provision now in the Tenancy Act, under which rent suits below Rs. 50 may be tried summarily like a Small Cause Court suit. But this provision has not been put into force hitherto, because rent suits generally have turned, not merely on the question whether the rent had been paid or not, but on the question how much the rent really is, or whether rent is due at all. Whenever disputes of the sort have been cleared away, it seems probable that the provision referred to may be utilised, or even that some simpler procedure may be invented."

The Lieutenant-Governor then intended that the subject should be taken in hand at the earliest opportunity, and trusted that he "might be able to introduce a Bill of this kind." It was not, however, until the 17th September 1892 that Sir Charles Elliott found it possible to take any further steps in the matter, and in the official letter then written, great stress is laid on the fact that a summary procedure is only possible when "a regular survey and record of rights have been effected under the Tenancy Act, and the maintenance of the record is duly provided for." Gentlemen, I invite your special attention to these words: "When . . . the maintenance of the record is duly provided for." I am not aware that much progress has been made towards inventing the simpler procedure referred to in general terms by Sir Charles Elliott. It may be that that problem "passes the wit of man." In any case, however, I may remind you here that it was this very demand for a summary procedure for the recovery of rent which stirred into active life the discussion which ended in the passing of the Bengal Tenancy Act. For seven years that demand was examined from every conceivable point of view by the keenest intellects, not of Bengal alone, but of all India. Their answer to that demand was the Act as you have it now. I repeat, gentlemen, what Sir Charles Elliott has already practically said, that the only road to the summary recovery of arrears of rent lies through a regular survey and record of rights under the Tenancy Act and adequate maintenance of the record up to date.

Two enquiries are made in your memorial which call for a definite answer. You ask to be informed as to the intentions of the Bengal Government regarding the maintenance of the record of rights and the employment of the patwari on the survey.

Both of these points were, I think, fully dealt with in my speech in Darbar, and you can, I think, no longer have any doubt as to what is proposed. My intention is—and in this I have the support of the Governor-General in Council—to maintain the record. If you reject the patwari, and we can agree

on an efficient plan of maintenance independently of Regulation XII. of 1817, I shall propose to the Government of India to abolish that Regulation and release the patwari from Government control. If we cannot come to an agreement, I must only do what I can to protect you against yourselves and to secure the due maintenance of the record in the best interests of all concerned.

In regard to the right of the Government to employ patwaris on survey work, to which you refer in paragraphs 5 and 6 of the memorial, I am advised by the Law Officers of the Crown that beyond any doubt the Government has that power. I am aware that a contrary opinion has been given by eminent counsel; but I also know that the grounds on which the Government is proceeding, and on which the opinion of the Law Officers is based, were not placed before those gentlemen, who approached the question therefore at a disadvantage. I have no objection whatever to your seeing the entire Government case on this point. My wish is that our objects and the grounds of our action in this whole matter should be displayed and made public as completely as possible. The strength of the Government case lies in its being widely known and fully understood.

There remain only two matters which it seems necessary to notice at length. The first matter is your reference in paragraph 5 of the memorial to the circular of the Director of Surveys of 5th June 1893. That circular does not in some respects correctly represent my intention; and portions of it were cancelled shortly after it was issued. But reading the circular carefully—I hold it now in my hand—I cannot find that it contains the statement you allege, enjoining the retention of the patwaris as Government servants for the purpose of maintaining the record of rights. As a matter of fact, my plans for the maintenance of the record had not been matured when the circular was issued, and Colonel Sandeman, if he made such a statement, would have known my intention better than at the time I did myself.

The second matter I have to notice is your statement that the Tenancy Act makes no provision for maintaining the record of rights. On this point let me read you the following extract from a letter, dated 20th November 1884, addressed by the Government of India to the Government of Bengal:—"It is hardly necessary to remark that the value of the survey and the record of rights will be incommensurate with the cost unless an efficient staff of patwaris and supervisors is organised. . . . If it be decided to commence operations in 1885 or 1886—and on this point the Government of India will expect to be advised hereafter by the Government of Bengal—His Excellency the Governor-General in Council trusts that no effort will be spared to obtain at an early date the requisite legal powers to organise the patwari staff, and that the work of organisation will be vigorously prosecuted."

It was in pursuance of those orders that the Bengal Government actively took up the question of patwari re-organisation. But the re-organisation of the patwari staff in Behar was from the beginning part and parcel of the scheme for amending the Rent law: and it always was intended that legislation on the patwari question should be undertaken as supplementary to legislation on the substantive Rent law. It is unnecessary for me to explain here why this intention has hitherto remained in abeyance: it will suffice to say that, until it is fulfilled, these provisions of the Tenancy Act, specially intended for the protection of the raiyats of Behar, will remain ineffectual. In these circumstances, gentlemen, you will not be surprised, nor, I trust, angry with me, if I am doubtful of your title to speak on this matter in the name of the raiyats of Behar, or to say that they are opposed to the survey and settlement. I am informed that they are, as a matter of fact, whenever they understand the matter, in favour of a settlement fairly conducted. I have even seen it stated in the public newspapers by Sir William Hudson himself, that they were willing to pay as much as one rupee per acre for it, while under arrangements they will, I hope, not have to pay a quarter of that amount.

Gentlemen, we are now face to face with the essential facts which underlie the whole burning question of the relation of landlord and tenants in Behar. Far more important to the raiyats is this question of the record of rights even than the recent change in the organic written law; for the written law, among  
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an ignorant, struggling people, remains a dead letter—witness Act X. of 1859—unless executive action steps in to do for the people that which they cannot do for themselves. This is the justification of Chapter X. of the Tenancy Act, as it is of protective agrarian legislation wherever it has been undertaken. Gentlemen, I do entreat you to regard the question in a considerate and conciliatory spirit. I am here to discuss every point with you in a friendly and amicable way. I will do everything I can do within reason and the law to meet your wishes; and if only you will meet me in a similar spirit, as I feel confident you will, then I do think that between us we shall be able during the next few days to arrive at a reasonable understanding and a workable agreement on the matters that have to be settled between us. Gentlemen, I conclude by thanking you for giving me this opportunity of speaking my mind to you on these most important matters openly and frankly.

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Enclosure 11 in No. 2.

*Opinion of the HONOURABLE SIR G. H. P. EVANS, K.C.I.E., on the position and duties of Patwaris.\**

I HAVE had laid before me papers bearing on the position and duties of patwaris, which I had not before seen, and which throw much light on the subject. They consist of (1) correspondence between the Board and the Government of India and the Directors of the East India Company ranging from 1811 to 1824, and the reports of collectors during that period; (2) of the correspondence between the Local Government, the Board, and various collectors in 1880; (3) further information collected in 1893; and I have discussed with Mr. Finucane the nature of the duties the patwaris are now required to perform in respect of the present survey of Behar under the Tenancy Act. Upon these materials, it appears that the reform of the office of patwari sought to be effected by Regulation XII. of 1817 was connected with the restoration of the office of kanungo, and was to a great extent intended to provide the Government with such authentic information as to the area cultivated by each raiyat and the rent payable by him therefor in money and in kind and the amounts actually paid, as should enable the Government to protect the raiyats from oppression so far as practicable; and generally to provide the fullest information as to the area and tenure and nature of the lands in each village.

With this view the Board in 1819 prescribed a form of account by which the patwaris were to record the length, breadth, and area of each plot held by each raiyat in the villages and the rents payable for his holding, as well as many other particulars, and were held liable for the accuracy of this return. Strenuous efforts were made to have complete returns made by the patwaris and checked by the kanungos and kept as records. These efforts were continued with more or less, but generally with very indifferent success, till 1824 or 1825, when the correspondence ceases.

The correspondence of 1880 shows that, though the system had apparently failed entirely in Bengal, it was still alive in Bihar, and that the returns prescribed by the Board of Revenue in 1876 (which are the same as now found in the Revenue Manual) were much the same as those originally prescribed in 1819, but that the registration of patwaris and the insistence on their returns being filed in the collector's office had fallen very generally into disuse. The conclusion came to was that the patwaris should be registered, and that the rules compelling them to keep the accounts should remain in force, but that the patwaris had so far become servants and rent collectors of the zamindars, and were so ignorant and corrupt that the accounts prepared by them were worthless and misleading, and that it was not worth while to attempt to enforce the duty of filing them yearly in the collector's office, and that things should be left as they were for the present.

In the course of this correspondence it was reported by several collectors in Behar that measuring land was one of the duties then performed by these  
patwaris

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\* Referred to in foot-note on p. 91 *supra*.

patwaris, but the collector of Saran did not mention this as one of their existing functions. It appears, however, from the report of the Settlement Officer in 1893 that the patwaris from Saran and Gaya who appeared before him stated that they had been in the habit of measuring land roughly with a luggi, but that they had never made maps.

On the whole history of the matter it appears that patwaris were compellable to measure the plots of the raiyats under order of the Board existing since 1819, and that to keep up the register showing the length, breadth, and area of each plot was one of their duties, though it has been little, if at all, enforced during the last 60 years by Government, and that this duty was imposed mainly to supply information of what land the raiyats paid rent for, and how much they paid for each bigha.

Their registers and accounts were apparently intended in 1817 to form the basis for some kind of record of rights as to all the land in the village. That the original object has lamentably failed is clear, but the patwaris remain legally liable to perform their original duties, though after so long a disuse and under present circumstances there are great practical difficulties in carrying out the original scheme through their agency.

I think it is made out that patwaris can be called on to make and file measurement khasras of the lands of the raiyats, and for the purpose to measure the lands in such manner as patwaris have been accustomed to do; that is, in the old native style with a luggi. I think also that if the Government desire some improved but still simple means of measurement to be substituted and adopted by them (not requiring scientific instruments or the education of a professional surveyor), they could in course of time effect such improvement in the accuracy of the measurements by the powers they have as to the appointment of patwaris and by encouraging them to adopt the new method.

I also think that the duties prescribed for them as to recording all mutations of tenants, &c., would enable the Government to make use of them for the purpose of keeping up the record of rights when made, though it does not appear that they could safely be entrusted with such duties or any duties out of which they could make money unless there were an efficient check upon them.

But though the duties of patwaris appear to me to be as above stated, and it is evident that the Government has much greater rights to demand services from them in the way of measurement and otherwise than it has been in the habit of exacting, yet there are great difficulties in the way of any attempt at utilising the existing patwaris in the manner proposed for the present survey of Behar under the Tenancy Act, viz. :—

- (a) A fresh qualification for the office has to be introduced suddenly. For though, as explained by Mr. Finucane, the work required from them is comparatively simple, and does not involve their being able to make scientific maps as I had previously thought, yet it admittedly involves the acquisition of knowledge which neither they nor any of their predecessors have ever possessed. It is not, I consider, possible to force an existing body of officials, who are only subject to dismissal for neglect of duty or other just cause, to come away from their villages and attend classes for the acquisition of this new knowledge on pain of dismissal; nor is it possible to dismiss them if, having attended, they do not become proficient in the new art.
- (b) This survey is an exceptional thing ordered once for all under the Tenancy Act of 1885, and if the existing body of patwaris, though able to, and compellable to, undertake measurements of raiyats' lands by the old method, are unfit to perform this special and unusual task which is demanded of them on this occasion, and which may never recur if the work is properly done and means taken for its being kept up, it is very difficult to hold that such a task is legally demandable from officials who admittedly are and always were unable to perform it. From the reports it appears that none  
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can perform it without a course of instruction, and that many, if not most, are incapable of acquiring sufficient proficiency to be able to fulfil the requirements.

- (c) It is noteworthy that they have hitherto had nothing to do with maps, though possibly, considering the very extended meaning given by the Board ever since 1819 to the words "registers" and "accounts," it might not be *ultra vires* for the Board to prescribe some simple form of map which it was within their power to prepare.

If the old patwaris are to be dismissed, it must be for some other reason than the non-acquisition of the knowledge necessary for the survey. Difficulties will arise as regards fresh appointments, the nomination being in the first instance with the zamindar, and the Government power of appointment arises only on failure to nominate or nomination of an unfit person.

Assuming the zamindar to be hostile and to set up the patwaris to fight the point and provide them with funds, difficult questions will have to be decided, and it will be possible to question the action of the Board in the civil courts, unless the Government are prepared to work the change gradually. This would involve immense delay in carrying out the survey.

The zamindars will have a grievance from the fact that the patwari is now in many estates the only rent collector, and although they may have no legal right to insist on his collecting rents, unless it was a customary duty in 1816, of which I find no evidence, yet as his whole time will be taken up first in learning and then in doing survey work for a considerable period, there will be a great outcry at the sudden loss of what by long use the zamindars have come to consider as a right to his services.

My final conclusions are that the Government have a right to the services of the patwaris for the purpose of ascertaining and recording facts connected with the villages such as would be recorded in the record of rights, and possibly such as would be required for census purposes, and that this right, though fallen into practical disuse, still exists legally. That the enforcement of the right by Government will involve a great change in the present relations of patwaris and zamindars. *That the Government is entitled, if they think fit, to employ patwaris to keep up the record of rights. That they are entitled to require the patwaris to give assistance and information in framing it and in ascertaining the identity and measuring the area of the various plots of land in the village to the extent of their ability, and in other matters.*

That the proposed scheme for their immediate utilisation for the survey now in progress is not practicable, and in any event bristles with difficulties legal and practical, which it is not easy to see our way through, unless the zamindars agree to it.

That if time were no object it might be possible in the course of years to secure a set of patwaris who might be so used. But that it is most probable that the experience of the past would be repeated, and that the patwari serving two masters would mainly serve the one who paid him and who was nearest to him and mainly affected his daily life.

G. H. P. Evans.

The 30th July 1893.

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Enclosure 12 in No. 2.

*Letter from BABU RAM DHARI SAHAI, Honorary Secretary, Tirhut Landholders' Association, dated the 21st August 1893, to the Secretary to the Government of Bengal, Revenue Department, forwarding two Resolutions of the Tirhut Landholders' Association.*

I AM directed to have the honour to enclose herewith two Resolutions which have been passed by the members of the Tirhut Landholders' Association, with a request that you will be pleased to lay them before His Honour the Lieutenant Governor of Bengal, for His Honour's information.



*Tirhut Landholders' Association, Muzaffarpur.*

## RESOLUTION I.

PROPOSED by Babu Parmeshwar Narayen Mahtha, seconded by Babu Ram Dhari Sahai, that the thanks of the zamindars of this district be communicated to the Honourable Sir A. P. MacDonnell, Officiating Lieutenant Governor of Bengal, for withdrawing his recent orders regarding the registration of patwaris in this district—an order which has given great relief to us at present.

## RESOLUTION II.

PROPOSED by Babu Bhugwati Churn, seconded by Babu Vishnath Pershad Mahtha, that thanks be communicated to the various officers of the Government, who have spared no pains to apprise the Government of the inconvenience to which the zamindars would be put to by the registration of patwaris and its following consequences.

RAM DHARI SAHAI,

*Honorary Secretary, Tirhut Landholders' Association.*

## Enclosure 13 in No. 2.

*Letter No. 896T.—R., dated the 1st September 1893, from the Officiating Secretary to the Government of Bengal, Revenue Department, to the Honorary Secretary, Tirhut Landholders' Association.*

I AM desired by the Officiating Lieutenant Governor to acknowledge and thank the Tirhut Landholders' Association for the copy of the resolutions adopted by that body in connection with the suspension of the registration of patwaris in Behar. The registration of patwaris was undertaken with two objects, namely, with the immediate object of reducing the costs of survey, and with the ultimate object of providing an agency for maintaining the record when the survey had been made. The zamindars were, however, averse to their patwaris being registered and employed on either duty, and preferred a scheme of maintenance through officers of a superior status, which had been submitted by the Lieutenant Governor as an alternative plan for their consideration.

In view of this preference, and of the reluctance of the zamindars to allow their patwaris to be brought under clear Government control, His Honour agreed to suspend the registration of patwaris and to propose the abolition of the Regulation XII. of 1817, should the alternative scheme for maintaining the record be legalised. He is glad to learn from the Resolution forwarded with your letter that this decision on mature consideration continues to be approved by the zamindars of Tirhut. These zamindars have already agreed to assist the Lieutenant Governor in reducing the cost of the survey by supplying unskilled labour free of cost, and His Honour is sure that this conciliatory spirit on the part of the Tirhut landholders will evidence itself in still further acts of helpfulness during the progress of the operations.

In conclusion, I am to say, with reference to the second Resolution, that the Tirhut Landholders' Association is labouring under a misapprehension of facts in attributing his Honour the Lieutenant Governor's action on this matter to information received from local officers. As a matter of fact, no information was received by Government which induced any change in the Lieutenant Governor's plans, or excited any doubt as to the suitability in the circumstances of the action taken under his Honour's orders.

## Enclosure 14 in No. 2.

*Joint Memorial addressed to Her Majesty's Secretary of State for India in Council by the British Indian Association, the Behar Landholders' Association, the Bhagalpur Landholders' Association, and the Zamindari Panchayet, and the Indian Property Association.\**

THAT Your Memorialists most respectfully desire to bring to Your Lordships' notice the strong objections which prevail to the cadastral survey now being proceeded with in Behar.

2. That various memorials were presented to the Government of Bengal, protesting against the grievance of this then proposed survey before it was commenced, but Your Memorialists regret to state that such memorials have proved entirely ineffectual in obtaining redress.

3. That, after the rejection of these memorials, Your Memorialists, on the 15th September last, presented a joint memorial, protesting against such proposed survey, to the Government of Bengal, for transmission to the Government of India. The Government of India rejected the prayer of Your Memorialists, under orders dated 7th December 1892, but these orders were not communicated to Your Memorialists by the Government of Bengal till the 3rd February.

4. The first information given to the public regarding the contemplated survey is contained in a Resolution by the Lieutenant Governor, which is dated the 9th November 1891, and was published in the *Calcutta Gazette* of the 18th November 1891. In that Resolution it is stated that "the four districts of the Patna Division which lie north of the River Ganges" are to be brought under the operation of the survey, and that seven-eighths of the expenses of this survey are to be paid by the zamindars and the raiyats, the remaining one-eighth of the expense being charged to the Government.

5. Your Memorialists cannot but think—as, indeed, the Board of Revenue also thought—that, before so heavy a burden was imposed upon the landed interests of Behar, an opportunity should have been given to the landholders and their tenants of stating their objections to the proposed scheme, and Your Memorialists regard it as a matter of hardship, and of just complaint, that they and all other persons interested were kept in complete ignorance of the proposed survey until the papers had been placed before Your Lordship's predecessor for sanction, with the result that the sanction of Your Lordship's predecessor was obtained without his having had the advantage of hearing both sides of the question.

6. The Lieutenant Governor, in directing this survey, purports to be acting under provisions of Section 101, Sub-section (1) of the Bengal Tenancy Act. Now Section 101 of the Bengal Tenancy Act is as follows:—

"(1) The Local Government may in any case, with the previous sanction of the Governor General in Council, and may, if it thinks fit, without such sanction in any of the cases next hereinafter mentioned, make an order directing that the survey be made, and a record of right be prepared, in respect of the lands in a local area by a Revenue Officer.

(2) The cases in which an order may be made under this section, without the previous sanction of the Governor General in Council, are the following (namely):—

(a) Where the landlord, or a large proportion of the landlords or of the tenants, applies for such an order and deposits, or gives security for such amount, for the payment of expenses, as the Local Government directs.

(b) Where the preparation of such a record is calculated to settle or avert a serious dispute existing, or likely to arise, between the tenants and their landlords generally.

(c) Where the local area is comprised in a state or tenure which belongs to, or is managed by, the Government or the Court of Wards.

(d) Where

\* Forwarded with Letter from Government of India to the Secretary of State, No. 80 (Revenue), dated 8th November 1893.

(d) Where a settlement of revenue is being made in respect of the local area.

(3) A notification in Official Gazette of an order under this section shall be conclusive evidence that the order has been duly made."

7. The fact that the sanction of the Government of India to this survey has been obtained shows that the Government of Bengal are aware that they are not entitled to take action under Sub-section (2) of Section 101. Action has accordingly been taken under Sub-section (1) of Section 101, but Your Memorialists most respectfully urge that Sub-section (1) also does not warrant the exercise by Government of the power of ordering a survey in the present case, and that any survey proceedings thereunder are, in this instance, *ultra vires* and illegal for the following reasons:—

The provisions of the section are expressly limited to the survey of a "local area" only, and the survey of a whole Province, or of four entire districts of a Province, can, with no expansion of language, be described as the survey of a "local area." Your Memorialists respectfully urge that the expression "local area" in the Act must necessarily mean a limited area presenting some special features, as is the case with the local areas described in Sub-section (2), Clauses *a, b, c, and d*. It must, in other words, be a "local area" in which, though none of the conditions mentioned in Sub-section (2), Clauses *a, b, c, and d*, may exist, some special state of things not in existence in other local areas of the Province is to be found. It is clear that the words "in any case," in Section 101, must have the limitation contended for by Your Memorialists. It must be a "case" falling within the scope of the Act as defined in its preamble. Your Memorialists submit the more confidently that the present survey could not have been intended by the section in question, as it occurs in an Act that deals only with the respective rights of landlords and tenants within the territories under the administration of the Lieutenant Governor of Bengal. Had it been the intention of the Legislature to empower the Executive to make a survey of the whole Province for whatever reason the Executive might think such survey necessary, nothing would have been easier, or, considering the nature of all the rest of the Act, more natural, than to have used language which would have warranted such a survey. With Section 101 framed as it actually is, Your Memorialists submit that it is impossible to direct a survey of the vast extent of country officially described as "the four districts of the Patna Division which lie north of the River Ganges" as being one of the "local areas" dealt with by that section. Had, moreover, Section 101, with its express limitation of "local area," been intended to apply to a Government survey of a whole province, or of the greater part of a province, provision would have been made in the Act for maintaining and keeping up to date the records of such survey. But no such provision is made. The Legislature clearly intended that the proceedings should be purely judicial proceedings between the zamindars and their raiyats, and that the record of the proceedings, when completed, with the necessary appeals to the judicial tribunals, should be treated as other judicial records in litigation between private parties.

It is also worthy of observation that since Your Memorialists submitted their memorial to the Government of India on the 15th of September last the Government of Bengal have attempted to escape from the limitation imposed by the section by issuing a long series of notifications, under each of which operations are directed in respect of only a small portion of the area which the Lieutenant Governor has announced to be the subject-matter of the present survey operations. But Your Memorialists submit that if it is *ultra vires* of the Government to direct the cadastral survey of four entire districts of a province by one notification, it is equally illegal to effect the same purpose by issuing piecemeal a number of notifications covering the entire area of the four districts. The question is, is it the intention of Government cadastrally to survey the four districts; if so, it makes no difference whether this object is effected by one notification or by a hundred notifications.

The Bengal Tenancy Act (Section 101, Sub-section 2*a*) provides that either the landlords or the tenants can apply for a survey under the Act. But, in the present instance, neither the landlords nor the tenants have applied for a survey.

survey. On the contrary, both the landlords and the raiyats have petitioned against the survey, well knowing the harassment and expense to which a survey would expose them. The present survey has been forced upon them by His Honour the Lieutenant Governor of Bengal, and both the zamindars and the raiyats say, why should they be called upon to pay for a survey which has been undertaken against their express wishes. The Act gives both zamindars and raiyats an option to obtain a survey if they desire it, and the Act then provides for the payment of the expenses on such application. But it is unreasonable to expect that either the zamindars or raiyats should be called upon to pay for a survey to which both are opposed. If, therefore, your Lordship should unfortunately be of opinion that the present survey proceedings should be continued, notwithstanding the protest of your Memorialists, then it seems to your Memorialists only reasonable that your Lordship should direct that the Government of India should bear the whole of the expenses.

The Lieutenant-Governor, in the 8th paragraph of his Resolution of the 9th November 1891, says that this survey-settlement is an absolute necessity "if administration is to be conducted with complete and accurate knowledge of economic facts, if famine is to be successfully combated when it comes, and if the relations of landlords and tenants are to be put on a secure and definite basis by the authoritative registration of areas held and rents fixed." Your Lordship will observe from the above extract that the objects which His Honour has in view in making the present survey and settlement, lie altogether outside the scope of the Bengal Tenancy Act. The Bengal Tenancy Act deals simply with the relations between landlords and tenants. It is not concerned with administrative knowledge of economic facts, or with the prevention of famines, or with placing on an ideally secure and definite, or a supposed ideally secure and definite basis, the relations between landlords and tenants, where no question bearing upon them has arisen requiring the intervention of the regular Courts or of special Tribunals under the provisions of the Bengal Tenancy Act. It is a well-settled principle of law that all charges upon the subject must be imposed by clear and unambiguous language, and that he is not to be taxed unless the language of the Act clearly imposes the obligation, but there is nothing in this Act which justifies the supposition that the expense of a survey for State purposes, as is the one now in question, shall be borne by the zamindars and raiyats. If the survey is required for administrative purposes, or to enable the Government to deal successfully with famines, these are matters of Imperial interest, and should be paid for out of the general revenues of the State. The Bengal Tenancy Act is not concerned with such objects, and when the Legislature provided that the expense of surveys made under that Act should be borne by the zamindars and raiyats, they certainly could not have intended that the zamindars and raiyats should pay for a survey made for administrative purposes, or purposes not falling within the scope of that Act, which deals only with the respective rights of landlord and tenant. Nor is there anything in the Act which contemplates that a survey is to be made where no question affecting those rights arises between a zamindar and his raiyats. The Executive in India, no less than the Executive elsewhere, is bound to conform to the recognized rule of construction that a discretionary power cannot be exercised except for special and substantial reasons, and for objects within the scope and spirit of the Act conferring such power. Your Memorialists have, as they submit, shown that the objects of the present survey-settlement are not within the scope and spirit of the Bengal Tenancy Act, and they equally with the Board of Revenue have failed to discover either from the official publications on the subject, or from any other source, the special and substantial reasons for the survey of North Behar, or for that survey of the whole Province of Behar of which the present survey avowedly is only a part. In whatever view, then, the present settlement proceedings are contemplated, whether with reference to the words "local area" or the general scope of the Act itself, they cannot, as your Memorialists contend, be supported by any section of the Bengal Tenancy Act.

8. Apart from the question of legality already dealt with, your Memorialists most respectfully submit that a momentous measure, such as the cadastral survey of a large portion of a Province, imposing heavy land taxation, ought not to be undertaken without special legislative sanction; in which case the

persons upon whom this taxation will fall would have an opportunity of urging their objections to the measure before the Legislative Council. The Council then has an ample opportunity of considering the policy of the measure and of weighing the objections to it, and then, if satisfied that the proposed measure is necessary and expedient, it is able to determine the manner in which the expenses of the survey should be defrayed.

9. Your Lordship is doubtless aware that in all other parts of India, when a cadastral survey has been undertaken, the whole expense of the survey has been borne by the Government. The survey of a Province in India, as in England, has always been a charge upon the general revenues of the country. The survey of the North-Western Provinces is a case in point. The districts included in the Benares Division of the North-Western Provinces are permanently settled. The zamindars in these districts are the proprietors of the land, exactly as they are in Behar and Bengal. When, however, these districts were surveyed, the whole expense of the survey was borne by the Government. No separate cess or tax was imposed upon the zamindars or raiyats. To impose therefore upon the zamindars and raiyats of Behar seven-eighths of the expenses of the survey (a survey, too, to which they are strongly opposed, and which they regard as oppressive, harassing, and unnecessary), instead of defraying those expenses from the general revenues of the country, is subjecting your Memorialists to a burden which no landholders in any other part of India have borne; and that, too, by a mere Executive order, and not by the authority of a special enactment passed in due form by the Legislative Council.

10. In the Resolution of His Honour the Lieutenant Governor of the 9th November 1891, reference is made to an experimental survey which was undertaken by Sir Steuart Bayley in the district of Muzaffarpur. But there is an essential difference between that survey and the proposed cadastral survey. In that survey, as in the case of the survey of the permanently settled districts of the North-Western Provinces, the whole of the expenses were borne by the Government. In the proposed survey, practically, the whole of the burthen of paying for the survey is to be imposed upon the zamindars and raiyats.

Your Lordship's predecessor, in the 8th paragraph of his Despatch, dated 24th December 1891, has in part anticipated your Memorialists' objections in the following passage:—"Although in the permanently-settled districts of the Benares Division the landed classes were not called upon to pay directly for the recent re-survey and record of rights, it must be remembered that one-half of the costs of these operations was defrayed from the unexpended balance of a special fund contributed by the landholders. The other half was paid from the general treasury." Your Memorialists are not aware what the special fund alluded to was, but, if this fund was contributed by the landholders for a special purpose, it is difficult to understand how the Government of the North-Western Provinces could have converted it to another purpose, without being, at least technically, guilty of a breach of trust. But, even after appropriating this fund, the Government paid half of the expenses of the survey and not merely one-eighth, as proposed by the Government of Bengal.

11. Your Lordship may not perhaps be aware that it is customary for every zamindar to make a survey and settlement of his estate, whenever it is found necessary. Some of the largest estates in Behar have been surveyed and settled by Government officers. The cost of these surveys has been very great. In one of the large estates of Behar, the cost of the survey and settlement carried out by Government officers exceeded six lakhs of rupees. It is difficult to conceive any measure that would work more oppressively and inequitably than that, in such cases, an unwilling landholder should be forced to submit to bear the expense of a second survey for purely administrative purposes. In his Resolution of 9th November 1891, His Honour the Lieutenant Governor (paragraph 11) remarks as follows:—

"The objects of the cadastral survey and settlement of Behar are to obtain an accurate record:—

- "(1) Of the area and situation of all villages and estates, and of each raiyat's holding within an estate, and
- "(2) Of the status of every one who has rights in the land and of the rent paid by each raiyat and tenure-holder.

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“In other words, the intention is to carry out accurately, what every zamindar is understood to attempt to carry out more or less accurately, but often fails in doing.”

But, if both zamindars and raiyats are satisfied with the accuracy of the survey made by the zamindars, a further survey appears to your Memorialists as gratuitous and oppressive. Neither zamindars nor raiyats have asked for, or desire, a new survey, but if the Government, for purposes of its own, wishes for a more accurate survey than the zamindars have themselves made, it is surely only reasonable and fair that the costs of the survey should be borne by the Government.

12. Your Memorialists would next call your Lordship's attention to the estimated cost of the survey. In his Resolution of the 9th November 1891, His Honour the Lieutenant-Governor calculates that the actual expenses of the survey, apart of course from the expenses of litigation and sums exacted by the survey amins or spent in watching them, will average 8 annas an acre. The cost of Mr. Finucane's experimental survey of 413 square miles was nearly 9 annas an acre, and the cost of a later survey of 1,208,680 acres was 11 annas an acre. Even calculating the survey expenses at 9 annas an acre, the total outlay necessary for the survey of 44,192 square miles of Behar will be nearly 1½ millions sterling. The Province is admittedly suffering at the present time from the effects of the recent general failure of the crops, which was so grievous that many landlords were obliged to suspend the collection of rents. In the present impoverished state of the Province it is therefore absolutely impossible that the raiyats, or even many of the zamindars, can meet the expenses of the survey, calculated though it be at the Lieutenant Governor's low estimate of 8 annas an acre, with regard to which the Board of Revenue have remarked that “it would certainly not be prudent to estimate a lower rate.” To all zamindars and raiyats this would mean a land-tax of a very severe character; to very many it would mean absolute impoverishment; and, in some cases, even without the indirect expenses hereafter referred to, actual ruin.

13. Your Memorialists would also point out that it appears from the Return ordered by the House of Commons, to be printed on the 13th May of last year, that the District Officers whose opinions have been published are far from sharing the views of the Lieutenant Governor, whose connection with the Province is of a very recent date. Leaving out of account the Settlement Officer, Mr. Collin, who naturally is biased in favour of the survey, the only District Officer who would seem to have favoured the idea of this present survey, with perhaps the exception of Mr. Beadon, was Mr. Boxwell, the late Commissioner of Patna. Under these circumstances, your Memorialists feel that it is unnecessary for them to do more than point out that chief among the official opponents of the measure is Mr. Halliday, who was then a member of the Board of Revenue, and had been for many years Commissioner of Patna, and whose authority to speak on all matters concerning Behar was frankly acknowledged by the Lieutenant Governor himself. If, however, the names of other opponents of a general cadastral survey are required, your Memorialists would beg to refer to those of Mr. Cotton, then acting as Commissioner of a Division and now Chief Secretary to the Government of Bengal, Lord Ulick Browne, then Commissioner of the Rajshahi Division, Mr. Barlow, then Commissioner of the Bhagalpur Division, and Mr. John Beames, one of the greatest authorities on revenue matters in Bengal, who was then Commissioner of the Burdwan Division. Your Memorialists would urge this decidedly unfriendly attitude of the District Officers as an additional grave objection to the general survey now in progress in Behar.

But your Memorialists' case does not rest here. From the voluminous papers which have been published by order of the House of Commons, it is evident that the zamindars and raiyats, who are to bear seven-eighths of the expenses of this survey, have never been consulted. As the Board of Revenue pointed out, the classes who alone are interested in the survey, and who have to pay for the survey, have been completely ignored. They were not even aware that such a measure was in contemplation until the sanction of the Secretary of State had been obtained. His Honour the Lieutenant Governor professes to act upon official opinion, but, even if official opinion had been unanimously in favour of the survey, the important question arises, is a heavy

burden of taxation to be imposed on the agricultural community merely on official opinion, in a Province where there is a legislative Council, and where no burden can be imposed on the subject without legislative sanction. Legislative Councils are useless if they are not to consider such important questions as these.

14. Your Memorialists would further bring to your Lordship's notice that the direct cost already dealt with is very far from representing the total cost of the survey to the zamindars and raiyats. The present settlement proceedings are not likely to escape the common lot of their kind, and they are certain to give rise to grievous litigation and great ill-feeling between landlords and tenants. There are, and must inevitably be, occasional disputes between landlords and tenants in most estates, but these disputes are gradually adjusted either amicably or by the action of the courts. The avowed object of the present settlement proceedings is to decide these disputes once for all. Now, if these proceedings merely resulted in the raising and settlement at the same time only of all those real disputes which probably might have arisen in the course of many years, it would be no light matter, even for the wealthiest zamindars, to have to meet in one year the whole expense of this extraordinary volume of litigation, above all at a time when costly survey proceedings were going on. It is, however, notorious that, in addition to such disputes, both parties are sure to advance numerous fictitious or obsolete claims, which otherwise would never have seen the light. In estimating the costs of this survey, His Honour the Lieutenant Governor unfortunately has not taken into account the crushing cost and harassment of this abnormal litigation to both the zamindars and the raiyats, and has intimated that, in his opinion, your Memorialists' fears on this point are exaggerated. But in justification of their apprehensions, your Memorialists feel that it is not necessary to go further into detail than to refer to the official accounts of the survey-settlement of the Srinagar estate, given in the Lieutenant Governor's Resolution of the 10th December 1891. A great part of that estate is situated in the Purnea district, which is the most thinly populated district in Behar, and consequently the one likely to give rise to the smallest amount of litigation, yet it appears from the official figures that, in the survey of that single estate, 20,000 petitions of objection against the entries in the record were filed and considered, while 3,852 suits were instituted, more than two-thirds of which came to trial and had to be judicially decided, and 338 of which were taken on appeal from such decisions to the superior courts. This, too, as it would seem from a letter of the Board of Revenue, dated the 6th May 1889, took place in spite of litigation so considerable as to deserve special mention having fortunately been terminated by a compromise. It is, however, only wasting your Lordship's time to give illustrations of so notorious and natural a fact as that, when a survey-settlement is in progress, the zamindars and their raiyats invariably assume an attitude of hostility towards each other and to all their neighbours and put forward claims which, in ordinary times, would never be advanced.

Your Memorialists would further point out that these disputes will not be tried in the ordinary courts of the land, which are well-known and trusted by the people, but must be heard and determined by Revenue Officers, and on appeal by special courts, whose decisions for obvious reasons will not be received with the same respect as those of the ordinary civil tribunals, and that, however valuable the interests involved in a case may be, the High Court will not be able to review the Settlement Officers' decisions except in second appeals, in which no controverted questions of fact, but only questions of law, can be raised before the Court.

15: Another reason for the apprehension with which both zamindars and raiyats regard this survey is that they will become the prey of a notoriously untrustworthy body of officials, whose exactions will impoverish the poorer amongst them, at the same time that their dishonesty will compel the zamindars to keep up special establishments for the sole purpose of watching their proceedings, and, what is most serious of all, will considerably detract—to use no stronger term—from the value of that survey-record, which, according to the Board of Revenue, ought, if prepared at all, to be distinguished by a high degree of accuracy in the case of a developed and advanced province like Behar. Even the Lieutenant Governor, in a speech delivered

delivered by him at Bhagulpur in support of the survey, was constrained to admit, as the result of his long experience of India, and of the customs and habits of certain classes of subordinate officials, that it was impossible to rely on the absolute integrity of the amins deputed to make the survey, and that he was not prepared to deny the possibility of illegal demands being preferred and bribes taken by these unscrupulous minor officials. This admission alone, your Memorialists would urge, constitutes an unanswerable objection to the proposed survey, which certainly ought not to be undertaken unless the Government is in a position to guarantee the integrity and trustworthiness of the agency it employs. To turn loose upon the country an army of underpaid and unscrupulous amins is one of the greatest visitations which could be inflicted upon an agricultural community.

16. Your Lordship's predecessor, in sanctioning this survey, seems to have been under the impression that a survey-settlement will be welcome and beneficial, at any rate to the raiyats. On this point also the survey of the Srinagar estate throws valuable light. The raiyats are rarely able to make their desires and grievances known in the ordinary way, but in this case, as in the case of former surveys, the raiyats were able to show, and did show, their dislike to the scheme by active opposition, and, in the last resort, by sullen abstention. Nor indeed was their attitude unreasonable, for that survey was attended by what, according to His Honour the Lieutenant-Governor, are the general results of survey-settlement operation, namely an increase—slight, no doubt, but still an increase—in their rents, and a fuller collection of the same than had ever been dreamt of by the zamindar before the complete ascertainment of his rights enabled him to exact the uttermost farthing. Your Memorialists feel that it is unnecessary to dwell further on this point, as the Lieutenant-Governor himself in his resolution of the 9th November 1891 (paragraph 13) stated that this increase in rental was the ordinary outcome of such surveys, and gave the landlords good value for the outlay they had to incur.

17. In his Resolution of the 9th November 1891, His Honour the Lieutenant-Governor has not stated what agency he intends to employ to maintain the survey-records when finished, and whether the zamindars and raiyats are to pay for the expense of this agency, and, if so, what additional burden will be thrown upon them. It certainly appears from His Honour's Resolution (concluding portion of paragraph 3) that the maintenance of the survey-record is to be a charge on the zamindars and raiyats. But Section 114 of the Bengal Tenancy Act merely provides for the actual expense of a survey made under Section 101 of that Act; it makes no provision for charging the zamindars and raiyats with the maintenance of the survey-record, when the survey operations have been concluded; and indeed it is quite clear from the official papers printed under the orders of the House of Commons that the Government are aware that the maintenance of the record is impossible without further legislation. Mr. Boxwell even admitted that, with the existing machinery, Government could only do mischief if they attempted to keep the record up to date, and the Government do not seem to have solved the problem of establishing a satisfactory machinery. It is only fair to the zamindars and raiyats that the intentions of the Government upon this point should be clearly understood. The Government of India stated in their despatch to your Lordship, dated the 4th May 1886, that "an elaborate survey and record of rights are pure waste of money, unless due provision is made for keeping the information they furnish up to date." In the face of this deliberate opinion it seems strange that the Government of India should have sanctioned the commencement of the survey before proper arrangements had been made by the Lieutenant-Governor for keeping up the survey-records. The Board of Revenue, the highest revenue authority in the Province, shares the views of the Government of India. In their report of the 28th May 1892, they write as follows: "It must be conceded that the advantages" resulting from a general survey "would be greatly reduced if no provision is made for the maintenance of the records after the completion of the survey; and the Board are not prepared to agree with those who think that even in the absence of such provision it would be worth while to carry out the survey. In their opinion the survey should not be undertaken unless arrangements are made to



preclude the necessity for a fresh survey anywhere in the Division for an indefinite period. The vast expense involved should be incurred once for all." But, up to the present time, no arrangement for maintaining the survey-record has been made, and it is impossible that any arrangements can be made without fresh legislation. If the survey-records are to be maintained, the Legislature must provide the machinery, for the existing law makes no provision for maintaining the record when completed. But if the Legislature, on an application being made to it, refuses to provide this machinery, the whole of the present harrassing and ruinously expensive proceedings will be rendered absolutely useless. This seems to your Memorialists a conclusive argument for stopping the proceedings until the necessary legislative sanction has been obtained. Should your Lordship be of opinion, in spite of your Memorialists' representations, to direct the continuance of the present proceedings, your Memorialists would ask that the Lieutenant-Governor be directed to obtain the necessary legislative sanction before proceeding further in the matter.

18. There is but one point more to which your Memorialists desire to refer. It appears from his speeches and Resolution that the Lieutenant-Governor is imposing this survey upon the unwilling zamindars and raiyats as a sort of compulsory benevolence, which he expects will operate at some remote date for their mutual advantages, but he has, as already pointed out, laid special stress on the benefits which the zamindars will derive from the cadastral survey—benefits which, as your Lordship will have seen, cannot possibly be regarded as such from the standpoint of the raiyats. Your Lordship's predecessor, however, seems to have approved the survey as being mainly, if not solely, a measure of relief for the raiyats. This your Memorialists respectfully submit that they have shown to be an error, but, in any event, they would further urge this extraordinary divergence of the views of your Lordship's predecessor and the Government of Bengal as an emphasised argument for stopping the survey. They press this argument all the more especially, as they are fully convinced—and they address your Lordship as experts—that neither the view of the Lieutenant-Governor, nor that of the late Secretary of State, will be justified by results. So far from being an act of relief for the raiyats, it will operate in exactly the opposite direction—and, so far from it proving a measure of utility and advantage to both zamindars and raiyats, it will, on the contrary, be felt by all classes interested in land as a crushing and disastrous measure of gratuitous and wholly unnecessary penal exaction. Had there been any countervailing advantage to the State, your Memorialists would have regarded the proposed survey with less dissatisfaction. But, whilst the landholders and the tenants will be subjected to heavy cost, the State will gain nothing. One or at the most two District Officers in the Patna Division seem to have desired this survey. The Board of Revenue were consistently opposed to it. No one outside the official world has called for it. The whole native Indian community and every organ of public opinion in the Lower Provinces, whether Indian or European, without distinction of political creed, have declared themselves opposed to the scheme, and your Memorialists would strongly urge your Lordship not to allow the infliction upon large classes of Her Majesty's loyal subjects of a measure which is regarded by them as of so oppressive a character and which is so utterly devoid of advantage—political or fiscal—to the State.

Your Memorialists have now placed before your Lordship some of the many reasons which induce them to believe that the cadastral survey in North Behar will be both illegal and inexpedient, and will be felt as a grievous burden by all classes connected with the land, whether as proprietors or as cultivators, and they would therefore respectfully pray your Lordship to direct the immediate abandonment of this survey.

And your Memorialists, as in duty bound, will ever pray, &c.

## Enclosure 15 in No. 2.

*Minute by MR. HENRY COLEBROOKE, Member of the Board of Revenue,  
dated November 1814.*

ON the subject of the reference of Government contained in the Chief Secretary's letter of 21st ultimo, I wish to record my sentiments previous to taking leave of the Board, although the many avocations incident to my approaching departure from India render it impracticable for me to do so as fully and with such explanation of the grounds of my opinion as I should have been desirous of doing if time permitted.

I have no hesitation in saying that I am entirely convinced, after the experience of more than 20 years, that the abolition of the office of kanungo was a radical error in the Code of Regulations framed at the close of Lord Cornwallis' Government, no office of registry and record calculated to supply its place being then substituted in its room. The regulations in question did, indeed, provide for the formation of certain registers of land by officers of the revenue, which, it seems to have been supposed, would collect and preserve all information which Government might have occasion for. The expectation entertained from these and from the further registry enjoined by a subsequent regulation have been entirely disappointed. It must be acknowledged they were ill-devised; and they have also been very imperfectly kept; and those which have been executed are of little utility. In every view, therefore, no doubt can now, I conceive, remain as to the expediency of rescinding all the regulations concerning them, and of only requiring from the revenue officers an annual statement in the manner of an account settlement, readily prepared in a simple form.

But had the proposed registers been more practicable, and been actually and regularly prepared in the prescribed form and within the enjoined period, and were they even effectual for purposes that concern the special interests of Government, still they were totally inapplicable to supply the kanungo's place in regard to such of his functions as concerned individuals and as affected their private interests. That point in particular which has been brought under the notice of Government, and is the subject of the present reference to this Board, is an instance conspicuous and important, as it has led to consequences affecting more than one department of the Administration, and to evils which urgently call for remedy.

At the period of the decennial settlements, subsequently declared permanent, the rights of zamindars and raiyats, as well in relation to Government as to each other, underwent much discussion, of which a great portion is to be found recorded on the proceedings of this Board. Among many important points not unconnected with the present subject, one especially being immediate relation to it, which was then indistinctly admitted, was that certain classes of subordinate tenants, and chiefly those denominated dependent talukdars and khodkasht or chupurbund raiyats, possessed certain rights and immunities, which it was just and expedient to uphold, but for which end (the zamindar's property in the soil being recognised, and he being permanently interposed between the Government and the raiyat) it was become necessary to make special provision for the security of subordinate tenures and maintenance of the rights of the tenants. With this view rules were framed, which were introduced into the amended Code of Regulations for the decennial settlements, from 52nd to 71st Articles of the Code, passed on 23rd November 1791 and re-enacted with other clauses interspersed in them in 51st and following sections of Regulation 8 of 1793.

At the date of this re-enactment of those rules, the permanency of the settlements and assessments of the land revenue having been in the meantime proclaimed, it was thought necessary to make particular provision for the protection of the resources of the public revenue from any permanent diminution through the improvidence of the landholders; and for this purpose chiefly a regulation was then passed (44 of 1793) restricting the zamindars from granting pttas or leases, or otherwise entering into engagements fixing the payments of their tenants, for any period exceeding ten years, and declaring all engagements

between the zamindar or landholder and the tenants, however strictly conformable to regulation, void and cancelled from the day of sale, in the event of the lands being sold by public sale for the discharge of arrears of assessment due by the zamindar, at the same time providing that the purchaser should be at liberty to collect from the tenants whatever the former landholder would have been entitled to demand according to the established usage and rates of the pargana or local division, had the engagements so cancelled never existed. It was subsequently declared by Regulation 4, 1794, that tenants whose pattas might be cancelled or might otherwise determine should not be required to take new pattas at higher rates than the established rates of the pargana for lands of the same quality and description, but should be entitled to have pattas renewed at the established rates.

When it is recollected how large a proportion of the lands of Bengal changed masters in a few following years, it will be easily conceived how prodigiously numerous must have been the cases in which engagements between landlord and tenant were annulled by sales for arrears due by the landlord to Government.

Other clauses of the same regulation last cited show that extreme difficulty had been already experienced in the adjustment of the land rents between the zamindar and raiyats under the previous rules of the permanent settlement, which entitled the tenants to receive pattas at the established rates of the pargana. Yet not only were no means devised for arranging and preserving a record of those rates and of the rules by which they were regulated, but an existing institution, the only one in which information could be then found and might be expected to be preserved, was unrelentingly abolished. It cannot be wondered that the consequence should have been, as is now generally acknowledged, that (with rare exceptions, in which, owing to special circumstances, a record of the rates exists in the collector's office, and of course with the exception of Benares and the ceded and conquered provinces, where a reformed sarishta founded on the kanungo's office has been kept-up) the courts of justice which are by regulation required to decide according to established pargana rates all disputes that arise between the raiyats and their landlords regarding the rates of the pattas which they are entitled to are unable to procure any evidence of those rates or any other satisfactory information to guide their decisions. Consequently the provisions contained in the general regulations for the permanent settlements designed for the protection of the rights of the raiyats or tenants are rendered wholly nugatory, and it has been repeatedly urged by many of the most judicious officers who witness the practical operation of the existing laws through the country, as it is now urged by Mr. Cornish, that it would be better for the tenants to declare them destitute of all immunities and of any right but such as may be specifically conveyed to them by the express terms of the engagements which they may be able to arrange with their landlords, rather than to suffer them to be misled by a vain confidence in supposed or acknowledged rights in which the courts of justice for want of definite information are unable effectually to support them. And certainly there appears to be no complete remedy, but either the sweeping one of abrogating the illusory privileges of the tenantry, or the arduous task of rendering their undoubted rights distinct and palpable, and furnishing the means of upholding them by now doing what should have been done in the first instance for the purpose of ascertaining and preserving the rules by which subordinate tenures should in the various parts of the country be regulated according to ancient and established usage as it subsisted or was understood at the period of the decennial settlement.

There can hardly be any hesitation as to the choice in this alternative. Entertaining, however, but a slender hope of the adequate accomplishment of the latter object, which is now become from lapse of time difficult of attainment, I proposed some time since a palliative remedy, which was adopted in Regulation 5 of 1812, but which, I fear, is but an insufficient relief of a serious and inveterate evil, more especially as the remedy provided applies only to individual cases as they arise, and does not operate with much effect to obviate future recurrence of disputes between other individuals.

I am disposed therefore to recommend, late as it is, that measures should be taken for the re-establishment of fixed rules, as nearly conformable to the  
anciently

anciently established ones as may be yet practicable, to regulate distinctly and definitely the relative rights of the landlord and the tenantry.

The power of making laws for the protection and welfare of the tenants in the several classes of dependant talukdars, raiyats, and other cultivators of the soil was expressly reserved to Government by an article of a proclamation enacted into Regulation 1 of 1793, and rules with correspondent rates may be sanctioned by Government in prosecution of those measures, and in virtue of that power, without any apprehension of violating faith, if they should differ in some degree from the ancient usage, under the difficulty which must now attend the research, and which will impede a perfectly exact ascertainment of it. Still, however, it is due to all interested parties that the best practicable means should be used to make the ascertainment as perfect as it is capable of being rendered.

But if Government should be unwilling to interpose its legislative authority for the purpose of furnishing clear and definite rules, by which the relative rights of zamindar and raiyat may be determined, and which would close an abundant source of mutual grievance and injury, and consequent disputes and litigation, the next best measure is to do what is yet practicable towards collecting and preserving such evidence and information as can be yet recovered; and placing it where persons having an interest therein may inform themselves concerning the existing evidence of their rights; and where courts of justice, when called upon to decide such questions, may find the information requisite to their investigation of the matter.

In either view or for either purpose the re-establishment of the kanungo sarishta or the institution of some analogous office of registry and record appears highly expedient. It would materially assist the recent as well as the earlier enactments of the regulations designed for the protection of the tenant; it would greatly assist the adjustment of numerous disputes of every sort between landlord and tenant which actually arise, and would sensibly tend either to obviate their occurrence, or at least to accommodate them at an early moment, perhaps without previous recourse of either party to a law-suit. But the most important of the objects for which the re-establishment of the office is desirable, no doubt, is the retrieval of a knowledge of these rules and rates, by which all questions between zamindars and tenants are by Regulation to be determined, and without which the relative interests of those parties can no way be settled, unless Government, as before suggested, will enter upon the task of fixing them by fresh enactments of law.

If it be indeed practicable to retrieve the requisite information by any means, it is most likely to be done through an office instituted on the basis of that in which formerly it was expected to be recorded and preserved. Such of the records of the ancient sarishta as yet exist would of course be transferred to the revised office; and the fittest among the persons formerly employed in it would naturally be engaged at the re-establishment of it. Their recollection, or the means of inquiry which they would possess, would be most promptly serviceable to the recovery of such written records as yet remain, and to the collecting of information from various quarters, to supply the defect of records that are imperfect or the want of those which are lost.

On this account, joined with the consideration of the general utility of the office in the affairs of the land revenue as experienced in the provinces under the Board of Commissioners, it appears to be highly expedient that an officer on a footing similar to that of the reformed kanungo of Benares and the ceded and conquered provinces should be established in Bengal, as has been already recommended by the Board for Behar, and as would have been at the same time recommended by us for the entire province of Bengal, had not the Board been withheld by the apprehension that the expense (no fund being suggested to defray it) might be an insuperable objection.

The general functions of the office would be the same with those of the ancient kanungo and of the reformed sarishtas of the ceded and conquered provinces and district of Benares. Their special duty, with reference to a principal object of the revived institution, would be to prepare a statement of the rates, or the rybandee, durbandee, or by whatever other name known, for the pargana or other local division, as they stood in the Bengal year 1197 (the first year of

the permanent settlement), together with the abwab established previously to that year, as well as the rules by which those rates were regulated and applied, ascertaining them from the records and old accounts which they may be able to collect, and from the best accessible sources of information where records may be deficient.

They should be further instructed to prepare statements of the actual rates according to existing engagements and present collections and payments between landlord and tenant. To enable them to execute this essential duty the patwaris should be required to furnish all necessary information, and to allow them to inspect documents and accounts for which they may have occasion, and supply them with copies of accounts and papers wanted for record.

It does not occur to me to be necessary to state more particularly in this place the rules and instructions which it might be proper to prescribe for the guidance of pargana sarishtadars in the execution of these and other duties of their office.

Concerning the expediency of the institution, I shall only add that my recollection of the judicial duties both in a zilla and in a court of appeal in the province of Benares after the pargana sarishtas were there established on the basis of the kanungo, and in zillas of Bengal and Behar before the abolition of the office in those provinces, enables me to affirm that disputes between zamindar and raiyat were less frequent and more easily determined than they now are in the Lower Provinces, and I am assured from more recent local experience and personal observation of other gentlemen, who have communicated their sentiments to me, that in Benares particularly, when the rybundee of a specific year is by Regulation prescribed and is forthcoming in the subsisting sarishtas of the parganas, the controversies between zamindar and raiyat, when any so arise, are by no means difficult of adjustment. The effect of this in lightening the burden of the administration of justice, and in the very important point of promoting the mutual good understanding and consequent ease and happiness of two principal classes of the community—the landowner and the husbandman—requires no elucidation.

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Enclosure 16, in No. 2.

*Extract from a Letter from the Court of Directors, dated 12th July 1820, to the Government of India, Territorial Department, referred to in Paragraph 19 of the Minute.*

PARA. 10. In re-establishing the office of a kanungo you began with the districts of Behar and Benares, and in these districts the re-establishment was at last effected. Correspondence had also taken place with the Collectors and Board of Revenue preparatory to its re-establishment in Hidgelee, Midnapore, Cuttack, and certain districts of Bengal. The actual re-establishment, however, was still confined to Behar and Benares. By this time you must have had some experience of the revived institution in these districts, and we need not tell you how much anxiety we feel to be speedily and fully apprised of its effects.

11. In the operations connected with the re-establishment of this office the circumstance of principal importance is the resumption of lands. Anciently the kanungos were paid, as almost all civil functionaries in India were paid, by lands held exempt from the Government assessment. In Behar and Benares the lands which had been so appropriated and were still held by the families of the ancient kanungos could be distinguished and ascertained.

12. These lands, you have informed us, it is your determination to resume, and upon the principle that the service being discontinued its payment ought to cease.

13. If this was intended to be established as a universal principle, the foundation does not appear to us to be quite sufficient for that important practical conclusion which you have erected upon it. Cases may exist in which it is proper that a payment should continue, even after the service to which it was at first annexed is no longer required. We trust, therefore, that your determination to resume the lands of the ancient kanungos has been formed cautiously and upon a full conviction, after examination of the circumstances of this peculiar case,

case, that no such right was created in favour of their existing descendants. We are aware that by Regulation IV. of 1808 the revenue of the lands held by the kanungos in the ceded and conquered provinces was declared liable to resumption. But we do not conceive that the rule which was then followed ought to govern in future as a precedent, and every case of resumption should depend for its justification upon its own peculiar merits. We require that not only all reasonable claims of right should in those cases be respected, which is justice, but that the considerations of humanity should meet with their due share of attention.

14. The province of Benares was included in the provisions of Regulation IV., 1808, which organised the kanungo office for the ceded and conquered provinces, and rendered the lands held by the kanungos liable to resumption. Mr. Deane reports that "in pursuance of the rules contained in that Regulation several alterations appear to have been made in the appointments of mufassal kanungos in the Province of Benares, and such of the nankar lands of the kanungos as had not been resumed by his predecessors were attached and settled by the late Collector, Mr. Salmon." From this we conclude that the whole of these lands in that province are now resumed. Mr. Deane continues—"No report, however, of the grounds on which the new officers were selected or the former incumbents removed, nor any particulars of the nankar lands, comprising 373 villages, and assessed at a jama of Rs. 45,176-15-15, have been submitted to the Board of Commissioners or laid before Government, nor have any of the official records of the kanungos been deposited with the Collector in consequence of the investigation." Various things of importance which ought to have been done have thus been left undone without notice or complaint. You state what may be in part an apology for the successive Collectors, when you say that the business is too great for a single functionary; but we deem it an apology only in part, because it is surely not fit for the Collector to omit any part of his duty at pleasure without reporting upon it explicitly and declaring the causes of any omission which he may be obliged to make. But if you have stated an apology in part for the Collector you have offered nothing in the way of apology for the Superintending Board, whose duty it was to call for those reports and statements, and not to overlook a remarkable dereliction of duty in the public officers under their charge. We are sorry to observe that a chain of neglect, continued from the inferior to the superior, should have existed so long without making itself known to the Supreme authority; it might, for aught we see, have continued to exist for any length of time had it not been for the appointment of Mr. Deane.

15. In the correspondence respecting the re-establishment of the office in the Hidgelee mahals, in Midnapore, Cuttack, and certain districts of Bengal, we see nothing which very strongly calls for remark except the proposed resumption of lands. As the same considerations apply to that measure in these cases as in the case of Behar and Benares, it is only necessary here to press them again upon your attention. In these several places more difficulty was anticipated in establishing the office than had been experienced in Bihar and Benares where a kanungo had belonged to every pargana, and where in consequence it had been practicable to select persons for the revived office from the families of the ancient kanungos. In other districts this had not been found practicable, because there a few sadar kanungos had formerly performed the business of a whole district by the aid of subordinates. We cannot, however, imagine that the difference between a descendant of an ancient kanungo and another person is so great in this case, where very simple duties are imposed, as materially to increase the difficulty. Where new measures are to be introduced and new labour to be undergone there is a great temptation to raise imaginary difficulties, and though we do not pronounce that those here alleged are altogether of this description, it is highly incumbent upon you to be on your guard against so natural and dangerous a propensity.

16. With regard to patwaris the office did not require to be re-established, for it continued in existence, and the maintenance of a patwari for every village was imposed as an obligation upon the zamindars by the terms of the perpetual settlement. It had been found, however, that the accounts which were kept by those patwaris were altogether unworthy of trust, and were so framed as to

promote the sinister interests of the zamindars, by whom they were paid, both in defrauding the Government and in oppressing the raiyats. When we turned our attention to the means of rendering the ancient accounts of the country subservient to the affording of that knowledge, which might enable us more perfectly to secure both the interests of the Government and those of the raiyats, it was necessary, of course, to consider the means of obtaining true, instead of false accounts from the patwaris. For this purpose it appeared to us to be absolutely necessary to remove them from all dependence upon the zamindars. We accordingly give you explicit directions to make them servants of Government by transferring the choice, the pay and superintendence of them wholly to the Collectors.

17. Your communications to us upon this subject are almost entirely confined to your determination not to follow the plan prescribed by us, but to substitute another of your own. We do not mean to command the repeal of the regulation which you have passed for this purpose. We are willing that what you have begun, and which, no doubt, by this time is in full operation, should not be abruptly interfered with, but should now at least have an adequate trial.

18. Having come to this decision, we do not think it necessary to enter into any minute consideration of your plan. It is proper, however, to inform you that the reasons which you have adduced for considering as impracticable the measure which we recommended, have by no means convinced us, and we see too many reasons for apprehending that the expedients which you have adopted will very imperfectly accomplish the end. We shall merely state as shortly as possible a few considerations which may elucidate the view which we take of the subject, and point out the inconveniences and dangers against which you ought to provide in carrying your scheme into execution.

19. Your objections to place the patwari in dependence upon the Collector are, that this would be a change of system; that the zamindars would be offended; that it would be inconsistent with the spirit of the permanent settlement; that the Collectors would be incapable of making a proper choice of patwaris, or of making them discharge their duties; and that a mode of paying them would not be easily found.

20. That it would be a change, is implied in the very idea of an evil to be removed, or an advantage to be gained. But we are by no means of opinion that it is a change, the inconvenience of which would not be overbalanced by the attainment of the end we have in view.

We expect that the zamindars will be offended by any plan we can adopt which will deprive them of a present advantage, whether derived from defrauding the Government or oppressing the raiyats. It is the loss rather than the mode of losing by which they will be irritated. In the mode by us proposed we see nothing peculiarly calculated to act painfully upon their feelings.

22. That it is contrary to the spirit of the Permanent Settlement to make the patwaris dependent upon the Collectors, or to take any other measures that may be necessary for protecting the Government from the frauds and the raiyats from the oppression of the zamindars, we cannot possibly admit. We cannot indeed forbear expressing a considerable degree of surprise that you should have entertained such an opinion. You know that in enacting the perpetual settlement Government reserved to itself—that of which no Government can lawfully divest itself—all the powers necessary for maintaining justice between one class of its subjects and another.

23. When you state as another objection the inability of the Collectors to make a proper choice of patwaris, or sufficiently to control them, we do most anxiously hope that you have exaggerated the difficulty; for, if not, the objection extends much farther than to the mode of appointment. You have in various places declared, in the strongest terms you could employ, that the control of the Collectors over the patwaris was the only ground of hope from their services, and here you seem to affirm that the Collectors will be unable to control them.

24. We cannot imagine that you lay great stress as an objection upon the difficulty of paying the patwaris. It was not intended to prevent the  
patwari

patwari from keeping the same accounts for the zamindar which it was formerly his duty to keep. It was only intended to use means for making him keep true accounts. As he would have rendered all lawful services to the zamindar in the same manner as before, it appears to us that the zamindar was bound by the very terms of the perpetual settlement to afford the pay in the same manner as before. However, if this had been found to be a point particularly objectionable to the zamindars, a compromise might have been devised.

25. In the plan which you have adopted, several of the expedients for counteracting the influence of the zamindars and preventing it from operating upon the patwaris to the production of false accounts appear to be judiciously devised. But the immediate dependence of the patwari upon the zamindar, which you have allowed to remain, is a source of evil against which it will require an increased and very peculiar degree of vigilance to guard. This, we confess, is the source of our apprehension. Every idea of benefit from this attempted reform is by yourselves attached to the control of the Collectors. But it is impossible we should not be deeply impressed with the evidence which you have forced upon our attention, that a control sufficient for the objects in question is, in the present state of the revenue service, hardly to be expected. Your immediate attention ought to be directed to what it may be possible to obtain from such a control, and generally to render the superintendence of the Collectors more efficient for protecting the raiyats and preventing frauds upon the Government.

26. Unless the Collectors have some ready means of detecting errors in the accounts of the patwaris, it is more than probable that they will abound with errors. We are fully convinced that additional expedients for this purpose are still required, and that under the present system of checks, unless in the rare instances of extraordinary vigilance and penetration combined in the Collector, an understanding to very pernicious purposes may subsist undetected between the patwaris and zamindars.

27. We are not perfectly sure that the old system of patwari accounts, though in general not ill-adapted to the circumstances of the case, yields the whole of the information which that class of accountants might easily afford. One thing is peculiarly important, that their accounts should contain the whole of the payments which under any claim whatsoever are made by the raiyats to the zamindars, and the strongest securities ought to be taken for preventing any payment which they do not record. For ascertaining whether by any addition to the present accounts or any other change you can render them more conducive to the end in view, important information might be received by fit questions addressed to the most intelligent of your revenue servants. The rule which you have prescribed for summoning the patwaris before the Collector, with all their accounts and making them answer questions upon oath, may be attended with advantage, and we trust that you will insist on its being uniformly obeyed.

28. The examination should take place at least once a year, at that period at which the accounts of the year may be considered complete. It ought to be done by the Collector in person in as many cases as possible, where it is possible, and by persons selected by him for that purpose. In all those cases, too, in which it is done by other persons than the Collector, it would be useful that a report containing at least the material points of the examination should be presented to the Collector. If this examination would be useful, it is evidently of importance that it should be made to take place in those circumstances which afford the greatest security for the truth of the answers. The presence of persons acquainted with the facts is the best security applicable to the case, and these are respectively the raiyats of the villages. The proceeding, therefore, should be attended with publicity. The examination should take place in the presence of the raiyats, who should be invited to contradict the statements of the patwari as often as they knew them to be false, and to suggest questions by which the full truth may be disclosed.

29. We have entered thus far into details respecting this examination, because we are fully convinced that, unless the Collectors effectually descend into details, you will never obtain accurate information, and because we are equally convinced



that, unless you prescribe specific details, the Collectors will never undertake them, but will continue to perform the duties of their office in that summary and superficial way of which there is too much reason to complain. We are aware, however, of the disadvantages under which, at this distance, we endeavour to conceive a process of detail, and leave all suggestions of this kind fully open to your deliberation.

30. In the duties which are prescribed to the kanungo, provisions of considerable efficiency are made for detecting the frauds of the zamindars upon Government, but we see very little in those duties which has any tendency to afford protection to the raiyats. We have no doubt that this is a part of your arrangements which will be found susceptible of very great amelioration, and we trust that by this time your experience will have added to your means of rendering the measure complete. The great end of the kanungo office is to make the accounts of the patwaris useful. This is not to be done by merely receiving and preserving them. Two previous conditions are necessary—that the accounts of the patwaris contain all the requisite points of information, and that it be true information. The information which the patwari accounts ought to contain is simple; it is information of what is due and what is paid by the raiyats to the zamindars, and of what is due and what is paid by the zamindars to Government. To find securities for making this information true, is, as it has been justly described by you, most difficult. You are of opinion that much advantage may be derived for this purpose from the agency of the kanungos; and if the fidelity of the kanungos can be secured, and if an appropriate line of duty is prescribed to them, there can be no doubt of the fulfilment of your hopes. These two, therefore, are the objects to which your most strenuous attention is required, and the abilities of your most experienced servants should be called in to your aid in devising a system of means for the accomplishment of so important an end.

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Enclosure 17 in No. 2.

MR. CHAMBERLAIN'S letter, dated 18th April 1819, to Board of Revenue; Board's letter, dated 18th May 1819, to MR. CHAMBERLAIN; and Board's Resolution, dated 11th June 1819, regarding the salary of, and forms of accounts to be kept by, patwaris.

Dated Dinajpur, the 18th April 1819.

From R. Chamberlain, Esq., Secretary, on deputation, to George Ward, Esq., Secretary to the Board of Revenue, Fort William.

THE offices of kanungo and patwari being so intimately connected with each other, that the beneficial results looked to from the re-establishment of the former must in great measure depend on the degrees of efficiency and success with which the reforms in the latter may be carried into effect under the provisions of Regulation XII. of 1817, extended to the province of Bengal by Regulation I. of the current year, I beg to submit the following remarks on the subject of the patwari office for the consideration of the Board of Revenue.

2. The Regulation above quoted clearly points out the situations and manner in which patwaris are to be appointed, and judiciously guards against any material innovation on established usage either in regard to the nomination of these officers, or to the mode in which their salaries or other allowances and emoluments of office are to be paid; but it may be satisfactory to the Board to know in what mode, by whom, and on . . . what scale patwaris are usually paid, and to establish, as far as may be practicable, uniformity in their forms of account.

3. In the Western Provinces, including Benares and Behar, the expense of the patwari more generally falls on the raiyats; sometimes it is exclusively borne by the landholder, and often mutually by both; if paid by the raiyats the amount is usually levied by a cess of half, three-quarters, or an anna on every

every rupee of revenue paid by them, or when paid in kind, by one seer of grain on each maund produced, or by five seers at each harvest on every plough in the village. If the patwari be paid by the landholder, it is either by land or a monthly salary, and sometimes both, the raiyats usually presenting a small present (optional) either at the harvests or on receiving the farkhuttee (annual acquittal). When both parties contribute to the expense, the preceding modes of payment prevail, but in a lighter degree on each. The amount of salary or other emolument receivable by the patwari depends, of course, on the extent of resources of the village he may superintend, but from Rs. 2 to Rs. 5 monthly may generally be calculated on, or a charge of from 3 to 5 per cent. on the amount collections.

4. In Bengal, or in those districts in which I have had opportunities of making inquiry, the patwari appears to be paid by the landholders almost generally either by a fixed monthly salary or by commission on the amount collections of the estate under his superintendence, receiving from each raiyat a small present in cash or kind, either at the time of executing the patta or giving the annual acquittal; this, however, is entirely optional with the latter, though usually observed.

5. From my own inquiries in 35 estates taken indiscriminately in this district, and situated in the parganas of Noorpoor, Punjra, Deora, Suntose, and Sooltanpoor, I find the patwaris are paid exclusively by the several landholders, by a commission of 3 per cent. on the amount collections in 8 villages and  $3\frac{1}{2}$  per cent. in 27 villages. The collections from these estates, respectively, amounting to from Rs. 600 to Rs. 1,800, yield a monthly allowance to these officers of from Rs. 1-8 to Rs. 4-8, exclusive of their fees from the raiyats. Some patwaris, however, have the superintendence of much more extensive estates, keeping muharrirs to assist them. In such cases their receipts and allowances are, of course, proportionately great.

6. Patwaris, as far as I have yet ascertained, appear to be kept up almost generally in this district, and, from the simple mode in which they are usually paid, I should conceive the acting collector will meet with no difficulty in regulating, according to pargana usage, the amount of salary or commission to be received by such officers in villages to which they may yet remain to be nominated.

7. The forms of account used by the patwaris here appear by no means so perfect as they should be; for instance, the total quantity and descriptions of land comprising each village are not stated, only an account raiyatwar of such lands as are in cultivation. I, therefore, beg to submit, for the approval of the Board, the accompanying forms of account in Persian and Bengali, which correspond with those used in the ceded and conquered provinces in Benares and Behar, and which, I think, may be introduced gradually in the districts of Bengal with great advantage. The accounts are quite simple and perfect, and are as follows:—

1st.—First Rukhabundee, or statement of the total quantity and descriptions of land comprising the village.

2nd.—Pymaish Nugdee Asameewar (supposing a part of the village pays in kind and a part in cash, which commonly occurs). A statement agreeably to measurement of the quantity of land cultivated by each raiyat, for which cash payments are made, with the descriptions of cultivation and produce.

3rd.—Hissaub Nugdee Asameewar. A statement of the rates per bigha and total demand against each raiyat for the lands in statement the second.

4th.—Seah Amudunee Asameewar. Statement showing the daily payments made by each raiyat on account of the demand in statement the third.

5th.—Terij Khuttaunee Wussoolee Nugdee Asameewar. Statement exhibiting the dates and total amount paid by each raiyat on account of the demand in statement the third.

- 6th.—Jama Wassil Baqee Nugdee Asameewar. The demand, receipt, and balance against each raiyat on account of the land in statement the second.
- 7th. Khasra Buttaee Pusi Bhudwe Asameewar. A statement exhibiting the quantity of land cultivated by each raiyat which pays in kind, with the description, quantity, and division of produce
- 8th.—Khasra Buttaee Pusi Khureef Asameewar. A corresponding statement to the preceding of the Khureef cultivation.
- 9th.—Khasra Buttaee Pusi Rubee Asameewar. A corresponding statement to the preceding of the rabi cultivation.
- 10th, 11th, and 12th.—Similar accounts to the preceding of the several harvests of two dependent villages, taluks.
- 13th.—Hissaub Saltamaum Asameewar. Annual account of each raiyat's cultivation of lands which pay in kind, as stated in Nos. 7, 8, and 9, specifying the description and amount of produce at each harvest, with the nirik or price at which the proprietor's share of produce is commuted for cash payments. At the back is the khuttaanee or account of the total of each item.
- 14th.—Jamabandi Terij Saltamaum. An account of the annual produce of the village, both nugdee and bhualee, with the amount of each harvest.
- 15th and 16th.—Similar accounts to 13 and 14 of the dependent villages.
- 17th.—Jamabandi Terij Saltamaum. An account of the total annual produce of the original and dependent villages, nugdee and bhualee, with the amount of each harvest.
- 18th.—Jamakhurch Saltamaum. An account of the annual collections and disbursements of the whole village.

8. The only alteration necessary to adapt these forms to the several districts in Bengal is to insert the names of the Bengal seasons in lieu of those of Behar, and which, I believe, has been done in the counterparts in Bengali.

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Enclosure 18 in No. 2.

Dated Dinajpur, the 18th May 1819.

From *George Ward, Esq.*, Secretary to the Board of Revenue, Fort William, to *R. Chamberlain, Esq.*, Secretary, on deputation.

I AM directed to acknowledge the receipt of your letter and its enclosure of the 18th ultimo, and to acquaint you that the Board entirely approve of the forms of the patwaris' accounts which you propose for general adoption. You will be pleased to furnish the Acting Collector of Dinajpur with copies of them, together with such suggestions with respect to their introduction and for the modes of remunerating the patwaris in cases where the appointment of them may become his duty, as may appear to you expedient with reference to the usage of the parganas in which he may have to nominate them.

The several collectors under the Board's authority will be furnished with copies of the forms of patwaris' accounts, with instructions to report whether they can be introduced in their several districts, and in what respects they differ from those already in use. They will likewise be required to supply information with respect to the modes and rates of remuneration of the village officers of account now prevailing.

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## Enclosure 19 in No. 2.

## Circular with the exception of Higilee.

1. As the reformation of the office of patwari under the provisions of Regulation XII. of 1817 is in progress in those districts in which the establishment of the kanungos has been in a great measure effected, and as the collectors of other districts will be required to introduce the prescribed measures under those provisions as soon as the latter institution shall have been established in their respective districts, the Board of Revenue deem it proper to provide all the collectors under their control with copies of the orders of Government of 2nd instant, and also with an extract from their resolutions on the proceedings of the collector of Higilee on the subject of the office of patwari, for their information and guidance.

2. In communicating the above proceedings, the Board resolve that those collectors in whose districts the office of kanungo has been established be required to conform generally to the principles elucidated in the above-mentioned documents, and to comply without loss of time with the following instructions; and that the others, in whose districts it has not been established, conform to them whenever the kanungo arrangements shall have been completed.

3. The malguzars should be required to furnish a statement, of the nature of that alluded to in the annexed resolutions of the Board, of their present private establishment of village accountants; and they should be informed that such requisition is for the purpose of reconciling, as far as may be consistent, the difficulties they may urge with respect to expense. After the delivery of such statement, the collectors might show to the malguzars all the forms of patwari accounts that will be required to be constantly kept up as permanent records of the patwari's دفتر, and to obtain from them categorical answers whether the number of persons now employed by them will be sufficient to perform all the requisite duties of the patwari establishment without much increasing their expenses. In such cases, after having seen and examined the persons to be appointed patwaris, and satisfied themselves of their qualifications, the collectors might report the circumstances to the Board.

4. In the commencement this might be adopted as an experiment, without pledging its continuance; if it should be found adequate, the public interests would not require more; if it be proved insufficient, the malguzars would have the less reason to complain of the alteration.

5. The forms of accounts to be kept by patwaris adopted by the Board will be transmitted with these instructions to those collectors who have not yet been provided with them, together with a copy of a letter from Mr. Chamberlain on the subject of those accounts.

## Enclosure 20 in No. 2.

FORMS of ACCOUNT referred to in Board's Letter, dated  
18th May 1819.

*Fehrisht rahbabandi, or statement of the total quantity, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226.*

Assami.	Mauza.	Asli.	Dakhili.	Total land.	Bs.
Elahipur - Para Rampur and Para Muradpur.	With 2 Mauzas " 2 Paras -	1 —	1 2	Deduct— Lakhiraj Bishunputi - Piran	551 Bs. 10 14 24 527

	Rs.	
Elahipur - - - - -	427	<i>Details.</i>
		Jangalkati Nawabadi Para Rampur and Para Muradpur - - - 100 bighas.
		<i>Details.</i>
		Para Rampur. Para Muradpur. 50 bighas. 50 bighas.
<i>Details.</i>		
Jamai - - - - -	106	
Bhagrakhamer - - - - -	195	
Unculturable waste - - - - -	10	
Culturable - - - - -	40	
Bastu waste - - - - -	20	
Garden - - - - -	10	
Public road - - - - -	10	
Tank - - - - -	15	
Sivalaya and tomb - - - - -	5	
Bush and road - - - - -	2	
Wells (kutchu and pukka) - - - - -	1	
Flowing river - - - - -	7	
Place for Sati - - - - -	6	
<b>TOTAL - - - - -</b>	<b>427</b>	

*Mashuhat Chita Poimaish Jami Jamai, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226.*

Date - - - - - 15th Jaith.  
Day of week - - - - - Sunday.  
Land measured - - - - - Daily.

Assami.	Dag.	Length.	Breadth.	Area.	Produce.
<i>East mat of the village.</i>		B. K.	B. K.		
Tika Kayari - - - - -	1	5 0	4 0	20	Kanja chal.
South of preceding - - - - -	2	2 10	2 0	5	Jali.
East of preceding—Lalu Kayari.	3	3 0	4 0	20	Kanja chal.
East of preceding—Lalu Kayari.	4	2 8	2 0	5	Jali.
North of preceding—Ram Ray	5	4 0	2 8	10	Sugarcane.
East of preceding—Gokul Ray	6	4 0	2 8	10	Ditto.
South of preceding—Kamal Sarnakar.	7	4 0	2 8	10.	Karpa (cotton).
South of preceding—John Ray	8	4 0	2 8	10	Khand.

*Jamabandi Jamai Jami, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226, Bengali era.*

Assami.	Land.	Rate.	Total.	Total land.	Amount.
<i>Tika Kayari:</i>	B.	Rs. A.	Rs. A.	B.	Rs. A.
Kanja chal - - - - -	20	2 0	40 0	} 35	55 0
Jali - - - - -	5	1 8	7 8		
Khand - - - - -	10	0 12	7 8		
<i>Lalu Kayari:</i>				} 31	49 12
Kanja chal - - - - -	2	2 0	40 0		
Jali - - - - -	5	1 8	7 8		
Khand - - - - -	6	0 6	2 4		

*Sehá amduní Rupeya, mauza Elahipur, pargana Rampur, district Jasaratpur, tahsil Nakdi, year 1226, from 5th Baisakh to 2nd Jaith.*

Assami.	Rs.
<b>5th Baisakh, Tuesday:</b>	
Tika Kayari - - - - -	45
Lalu Kayari - - - - -	40
Ram Prosad Ray - - - - -	11
Kamal Sarnakar - - - - -	10
Gokul Ray - - - - -	12
John Ray - - - - -	4
<b>TOTAL - - - - -</b>	<b>122</b>

*Tarihsvari Khatian Rupeya, Babat Jamai Jami, mauza Elahipur, pargana Rampur, district Jasaratpur.*

Assami.	Rs. a.
Tika Kayari :	
5th Baisakh, Tuesday - - - - -	45 0
15th Baisakh - - - - -	10 0
TOTAL - - - - -	55 0
Lalu Kayari :	
5th Baisakh, Tuesday - - - - -	40 0
15th Baisakh - - - - -	5 0
2nd Jaith - - - - -	4 12
TOTAL - - - - -	49 12

*Jamawasilbahi Rupeya Assamian Babut Jamai, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226, from beginning to end.*

Assami.	Jama.	Payment.	Balance.
	Rs. a.	Rs. a.	
Tika Kayari - - - - -	55 0	55 0	--
Lalu Kayari - - - - -	49 12	49 12	--
Ram Prosad Ray - - - - -	20 0	20 0	--

*Khasra Batai Fasal Bhadui, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226, from 15th Bhadra to 16th on the 15th Bhadra.*

Assami.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.
	B.		M.	M. s.
Ram Prosad Ray - - - - -	1	Suna - - -	30	15 0
Gokul Ray - - - - -	15	Do. - - -	45	22 20
Tika Kayari - - - - -	20	Do. - - -	50	25 0

*Khasra Batai Fasal (torn), mauza Elahipur, pargana Rampur, year 1226, date 21st Agrahayan.*

Assami.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.
	B.		M.	M. s.
Ram Prosad Ray - - - - -	15	Sali - - -	45	22 20
Kamal Sarnakar - - - - -	15	Do. - - -	40	20 0
Gokul Ray - - - - -	5	Do. - - -	15	7 50
	35		100	50 0

*Khasra Batai Fasal Rabi, mauza Elahipur, pargana Rampur, year 1226, date 15th Baisakh.*

Assami.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.
	B.		M.	M. s.
Ram Prosad Ray - - - - -	13	Matar (peas) - - -	39	19 30
Lalu Kayari - - - - -	15	Barley - - -	60	30 0
Gokul Ray - - - - -	12	Wheat - - -	28	14 0
Tika Kayari - - - - -	10	Ahar - - -	23	11 20
	50		150	75 0

*Khasra Batai Fasal Bhadni, Babat Jangalkati, Noabadi Para Rampur and Para Muradpur, included in mauza Elahipur, pargana Rampur, year 1226.*

## PARA RAMPUR.

Assami.	Length.	Breadth.	Area.	Produce.	Weight in maunds (so much).	Half share of the Sarkar.
	B. κ.	B. κ.	B. κ.		M. s.	M. s.
Narku Gope -	4 0	2 0	8 0	Janera - -	50 0	25 0
Ditto -	2 0	1 5	2 10	Kodo, - -	30 0	15 0
Ditto -	2 10	2 0	5 0	Do. - -	25 0	12 20
Ganga Ram -	2 10	2 10	6 5	Suna - -	31 10	15 25
Daya Ram -	2 0	2 0	4 0	Jute - -	17 0	8 20
			25 15		163 10	70 25

*Khasra Batai, Fasal Kharif, i.e., Agani Babat Jangalkati, Noabadi, Para and Para Muradpur, included in mauza Elahipur, pargana Kampur, district Jasaratpur, year 1226.*

## PARA RAMPUR.

Assami.	Length.	Breadth.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.
	B. κ.	B. κ.	B. κ.		M.	M. s.
Narku Gope -	1 10	1 0	1 10	Sali - -	6	3 0
Ditto -	0 15	0 10	0 7½	Do. - -	1	0 20
Ditto -	1 0	1 0	1 0	Do. - -	5	2 20
Ganga Ram -	0 12	0 10	0 7½	Sone - -	2	1 0
Daya Ram -	1 0	1 0	1 0	Do. - -	6	3 0
			4 5		20	10 0

*Khasra Batai, Fasal Rabi Babat, Jangalkati, Noabadi Para Rampur and Para Muradpur, included in mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226.*

## PARA RAMPUR.

Assami.	Length.	Breadth.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.
	B. κ.	B. κ.	B. κ.		M. s.	M. s.
Narku Gope -	2 10	2 0	5 0	Matar (peas)	30 0	15 0
Ditto -	2 10	2 10	6 5	Barley - -	32 0	16 0
Ditto -	1 10	1 10	2 5	Wheat - -	12 0	6 0
Ganga Ram -	2 0	1 10	3 0	Ditto - -	15 0	7 20
Daya Ram -	2 0	1 15	3 10	Arhar - -	17 20	8 30
			20 0		106 20.	53 10

*Jamabandi Saliana, from Fasal Bhadoi to Fasal Rabi, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226.*

## FASAL BHADOI.

Assami.	Area.	Produce.	Weight in maunds (so much).	Half-share of the Sarkar.	Rate per rupee.	Amount.
	B.		M.	M.	M. s.	Rs. A. P.
Ram Prosad Ray	10	Suna - -	30	15	3 0	5 0 0
Ditto	8	Jute - -	24	12	2 10	5 5 3
	18		54	27		10 5 3

*Khatian Assamiwar Babat Tin Fasal Bhag Khamar, Elahipur.*

Assami.	Fasal Bhadoi.	Fasal Agani (Kharif).	Fasal Rabi.	Total Amount.
	Rs. A. P.	Rs.	Rs. A. P.	Rs. A. P.
Ram Prosad Ray -	10 5 3	9	4 14 3	24 3 6

*Terij Jamabandi Saltamam Babat Bhag Khamar, from Fasal Bhadoi to Fasal Rabi, mauza Elahipur, pargana Rampur, district Jasaratpur, year 1226, date 30th Jaith.*

## FASAL BHADOI.

Assami.	Area.	Produce (in Maunds).	Half Share.	Rate per Rupee.	Price.
	B.	M.	M. s.	M. s.	Rs. A. P.
Suna - - - -	60	165	82 20	3 0	27 8 0
Jute - - - -	22	65	32 20	2 10	14 4 6
	82	230	115 0	—	42 0 6

*Terij Jamabandi Daran Fasal Bhadoi, Nagaid Fasal Rabi, Para Kampur and Para Muradpur, included in mauza Elahipur, pargana Bampur, Jasaratpur, year 1226 B.S.*

## FASAL BHADOI.

*Para Rampur.*

Assami.	Area.	Produce.	Weight in Maunds (so much).	Half Share of the Sarkar.	Rate per Rupee.	Price.
	B. K.		M.	M. s.	M. s.	Rs. A. P.
Narku Gope -	8 0	Janera -	50	25 0	5 0	5 0 0
Ditto - - -	2 10	Kodo - -	30	15 0	7 10	2 0 0
Ditto - - -	5 0	Kodo - -	25	12 20	7 20	1 12 0
	15 10		105	52 20	—	8 12 0

\* \* \* \*

*Terij Goswara Tin Fasal Bhag Khamar.*

Assami.	Fasal.	Area.	Weight in Maunds (so much).	Half Share of the Sarkar.	Average Price.
		Bs. K.	M. s.	M. s.	Rs. A. P.
Para Rampur -	Bhadoi - -	25 15	153 10	76 25	17 13 0
Ditto - - -	Agani (kharif) -	4 5	20 0	10 0	3 5 9
Ditto - - -	Rabi - - -	20 0	106 20	53 10	16 11 6
		50 0	279 30	139 35	37 14 3



*Jamabandi Assamiwar Daran Tin Fasal Bhag Khamar Babat, Para Rampur and Para Muradpur, year 1226.*

Assami.	Name of Crop.	Amount.	Para Rampur.	Para Muradpur.
Narku Gope	Bhadui - - -	Rs. A. P. 11 6 0	Rs. A. P. 8 12 0	Rs. A. P. 2 10 0
	Agani (kharif) - -	12 6 0	2 0 6	10 0 0
	Rabi - - -	22 9 3	11 5 6	11 4 3
		45 15 9	22 1 6	23 14 3
Ganga Ram	Bhadui - - -	5 6 6	5 0 0	0 1 6
	Haimanti - - -	2 13 3	0 5 3	2 8 0
	Rabi - - -	16 0 0	2 8 0	13 8 0
		24 8 9	8 2 3	16 1 6

*Terij Jamabandi Saltamam Maye Jamai and Bhagra Khamar, from Fasal Bhadui to Fasal Rabi, muuza Elahipur, with Para Rampur and Para Muradpur, year 1226.*

Assami.	Total Land.	Total Produce.	Deduct Raiyats' Share.	Balance Half Share of the Sarkar.	Rate per Rupee.	Amount.	Elahipur.	Para Rampur.	Para Muradpur.
Fasal Bhadui	B.	M.	Mds. s.	Mds. s.	Mds. s.	Rs. A. P.	Rs. A. P.		
Suna	60	105	82 20	82 20	3 0	27 8 0	27 8 0		
Jute	22	65	32 20	32 20	2 10	14 8 6	14 8 6		
	82	230	115 0	115 0		42 0 6	42 0 6		

*Jamakharch Saltamam, mauza Elahipur, including Para Rampur and Para Muradpur, pargana Rampur, district Jasaratpur, year 1226, from the beginning to the end.*

Assami.		
Total collection	Rs. A. P.	1353 12 9
<i>Expenses.</i>		
Remittances	323 8 0	(Details given on the reverse.)
<i>Miscellaneous.</i>		
Expenses	30 4 9	(ditto.)
	353 12 9	

Enclosure 21, in No. 2.

*Letter from the Members of the Board of Revenue, No. 2199, dated the 11th May 1827, to the Honourable Vice President in Council, referred to in paragraph 22 of the Minute.*

No. 2199, dated Calcutta, the 11th May 1827.

From Members of the Board of Revenue to the Honourable the Vice President in Council.

WE have at length the honour to submit, for the consideration of your Lordship in Council, a report upon the kanungo and patwari sarishtas in the several districts under this Board, as far as the information we have as yet obtained

obtained from the several collectors enables us to ascertain the progress made in compiling the records in those departments.

From the records of this office it appears that on 15th July 1825 the senior Member and the late third Member recorded their opinion that the reports of the collectors which had then been received did not contain information of a useful tendency, and that the only mode of acquiring a satisfactory insight into the progress hitherto made in re-establishing the kanungo and patwari system, and of ascertaining the degree of practical utility experienced by the revival of those offices, would be to depute one of the Members of the Board to make full inquiries in every district. From those opinions our second Member dissented, recording his Minute to that effect, which was forwarded with the

Board's address to Government, dated 15th July 1825, with Mr. Money's Minute.

letter of the senior and late third Member, though both have since been returned to this office. They are now resubmitted in the Appendix marked as per margin.

After a diligent perusal of all the documents having reference to the kanungo and patwari system noted in the margin,\* we are

\* Vide Collector's replies to Board's circulars, dated 16th May 1821, 29th July 1823, and 15th July 1824, as per accompanying lists marked A, B, C, D.

† Midnapore.	Jessore,
Murahidabad.	Mymensingh,
24-Parganas.	Burdwan, and
	Dinajpur.

of opinion that, although the replies of the seven collectors noted in margin† to the queries proposed in Mr. Secretary Mackenzie's letter of the 13th April 1821, and forwarded by us on 15th May of the same year, and the statements of those who answered our two circulars of the 29th July

1823 and 16th July 1824 (the first relative to the jurisdictions of the kanungos, the second communicating the Resolution of the Government, dated 25th June 1824, with reference to extracts of the Despatch from the Honourable Court of Directors, dated 18th February 1824), do not contain materials for a succinct report upon the system, which is still in its infancy. Yet many of the reports, particularly those of Mr. Barwell, Mr. Armstrong, Mr. Tulloh, Mr. R. Nisbett, and the Honourable Mr. Elliott, will be found to contain information of great importance. We therefore have the honour to submit them in original, together with a separate abstract of their contents, for the deliberate consideration of Government.

From the documents in question your Lordship will collect that to the 15th July 1825, the date of the latest communication of any information worth noticing, the kanungos, except in Midnapore and Burdwan, had effected but little towards the attainment of the main object of their appointment; they had prepared lists of malguzari and lakhiraj estates, parganawari statements of kismats and mauzas, registers of proprietors, of partition and of transfers of property in their respective divisions; they assisted in investigating particulars relative to char and other lands liable to assessment, and reported on matters connected with khas mahals, but had made little or no progress in acquiring materials for the compilation of a record of the extent and capabilities of the possessions of the malguzar and lakhiraj proprietors, and none which could afford an insight into the details of village management, or into the rights and interests of the agricultural community.

The most intelligent of the collectors are of opinion that labours of the kanungo establishment when properly directed cannot fail to prove highly advantageous to the State, and will be far from prejudicial to the interests of the agriculturalists, but all deplore the repugnance of the zamindars and the lakhirajdars to the measures dictated by Regulation XII. of 1817, and the systematic opposition they have experienced throughout.

It is but too apparent that the zamindars and lakhirajdars are so decidedly averse to any arrangements having for their object the acquisition of information regarding the land tenure of the country and the produce of the soil, that they have long systematically opposed every obstacle, legal or illegal, to the attempts of the revenue officers to obtain any knowledge on the subject. Their most effectual procedure with this view will appear to have been the abolition of the ancient office of village patwari and the substitution of gumashias, creatures of their own, for those servants of the public. On being called on to furnish a list of their patwaris they delayed compliance with the orders or evaded them altogether, and when eventually officers of this description have been appointed by them, or by the collectors, they either did not permit them access to the real records, or refused to pay their allowances,

or dismissed them without ceremony. In one district, Burdwan, the collector reports that, with the view of evading the penalties for a non-compliance with the rules prescribed for the delivery of accounts and the registry of patwaris, purchasers of land have not entered their own names in the register of mutation, but those of persons altogether unconnected with the land.

A very general failure in procuring patwari records has been experienced throughout the country, and the compilation of those records which relate to the extent of proprietary rights, the quality of the soil, the quantity of produce, and the rate of land tax paid by the lower orders of agriculturalists, has been delayed in consequence. The officers of the collectors of Midnapore and Burdwan, Messrs. Barwell, Elliott, and Armstrong, appear to have made the greatest progress in this department of their duty, for they have been able to obtain village accounts for a large portion of their districts, notwithstanding the obstacles opposed to them. This partial success is entirely attributable to the strenuous exertions of their principals, but it is questionable, after all, whether the sources whence these details of village management have been drawn are sufficiently pure to warrant the adoption of the accounts as authentic records, especially when it is recollected that at present there exist no means of verifying their contents.

Under the provisions of Regulation XII., 1817, the patwaris are responsible for the production and for the authenticity of the papers required by the kanungos, but the patwaris, if any are appointed, are entirely at the mercy of the landholders, who for a long period of years past have placed the whole record of management in the hands of their gumashtas and agents, who are able to provide spurious accounts as well as true ones, and when the interests of their employer, co-extensive as they are with their own, are to be affected by their procedure, no doubt can be entertained as to which of the documents, the true or the false, they will make over to the patwari to be filed in the kanungo's office. It is scarcely possible that the patwari should be able to swear to the validity of the record which he thus delivers, and if he should be aware of their falsity, it is not very probable that he will avow his knowledge. He knows but too well that he is completely in the power of his taskmaster, the certain consequences of whose wrath are infinitely more to be dreaded than the remote probability of punishment for perjury. His own fears, combined with the little idea of moral guilt attached by the Asiatics to the crime, will operate to remove all scruples against attesting the validity of the document by his oath, and as his defence would be that he received it from the gumashtas as a true account, and could not prove that it was otherwise, few law officers will be found who would give a fatwa sentencing him to punishment in the law courts. Those patwaris who may be appointed by the collectors on the recusancy of the zamindars will, not be found in any respect superior to the non-effective men set up to avoid the penalty by the proprietors. Poor, and without influence or support, they are easily corrupted into an acquiescence in the zamindar's arrangements, or deterred from opposing them by the fear of his displeasure. The power of a zamindar in the interior of the country to do mischief to one who has offended him is almost without limits. The people well know this to be the case, and are cautious of exciting it into action. Authentic information in respect to the land tenure, the produce of the soil, and the portion of it which, as representing tax or land rent, is available to the zamindar, is not, in short, to be expected under the present system from the patwaris. The zamindars will never allow them to give it.

If the motives of the zamindars for withholding the statistical particulars which are so much required were rigidly investigated, they would be found to originate less in their alleged apprehensions that a new assessment of their lands would be the result of their compliance than in their well-grounded fears that any scrutiny into local usages and rights will end, not only in their illegal actions upon the cultivating classes being prevented, and in the rights of these latter being protected, but in eliciting the discussion of the validity of their own titles to exclusive proprietary possessions, which, they are aware, are by no means indisputable. This being the case, it is questionable whether, in the event of their being now declared responsible for the fidelity of the accounts and records for which the local officers are dependent on the patwaris, a closer and correcter view of the actual state of things would be thereby ensured. If on the first introduction of the kanungo system, the landholders had

had been declared responsible for the fidelity of the accounts and papers required, and if any instance of delay and recusancy had been met by a severe and summary punishment, most of the advantages anticipated for the institution of the office of kanungo would in all probability have been realised; but the Regulations did not permit this, and the people were perfectly well aware that the authorities were directed to proceed with the utmost mildness and caution, and being, it should seem, themselves incapable of appreciating instructions of such a tendency, they immediately concluded that the power to enforce them with severity and strictness was wanting; they have acted accordingly.

After a careful consideration of the subject in all its lights and bearings, we beg to submit our opinion for your Lordship's consideration, that the obstacles opposed by the zamindars and lakhirajdars to the kanungo system have hitherto rendered records of the kanungo office useless as matter of judicial reference; for instead of affording information, they appear better calculated to mislead those who require it; that the advantages realised from the establishment under its present constitution are by no means commensurate with the expense of keeping it up; and that until means are devised for ensuring the authenticity of the documents furnished, whether they relate to accounts, mensuration, or raiyatwar assessments, the office of kanungo will mislead instead of giving any useful information.

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Enclosure 22, in No. 2.

No. 2619, dated Simla, 21st October 1893.

From Sir *E. C. Buck*, Knt., c.s.i., Secretary to the Government of India, Revenue and Agricultural Department, to the Secretary to the Government of Bengal.

WITH reference to the telegraphic communication which has recently passed between the Government of India and Sir A. MacDonnell, regarding the publication of his Honour's second Minute on the Behar Survey, and of the draft Bill and rules which accompanied it, I am instructed to communicate the following remarks and explanations.

2. In the first place I am to convey to his Honour the thanks of his Excellency the Governor General in Council for having drawn up so able and masterly a review of the situation, and at the same time so convincing an exposition of the administrative necessity of maintaining on behalf of the ryots of Behar an accurate record of rights.

3. In view of the Standing Orders forbidding the publication of papers referring to memorials addressed to Her Majesty's Secretary of State in anticipation of final orders except for exigent reasons, his Excellency in Council had some hesitation in acceding to his Honour's request that the Minute should appear in the local "Gazette." In the precedent case quoted in Sir A. MacDonnell's telegram of the 17th instant the permission of the Secretary of State had been previously obtained. In consideration, however, firstly, of the fact that the memorial itself was practically a mere repetition of objections already publicly brought forward and discussed in connection with the Mozufferpur Conference, and, secondly, of the importance of placing before the public at the earliest possible date a clear exposition of the issues involved, with the object of checking misdirected agitation, his Excellency in Council has consented, as intimated in my telegrams of the 16th and 18th instant, to the publication of the entire Minute, together with the draft Bill and rules.

4. To the general principles of the draft Bill the Government of India are able to give a provisional assent, but they must make the reservation, as explained in my telegram of the 18th, that the details shall still be regarded as open to discussion. The exact method in which the cost of the initial survey and record of rights should be recovered, and which is dealt with in the 12th section of the Bill, is specially a question which his Excellency in Council would desire to bring under careful and independent consideration. To the

policy of meeting the cost of maintaining the map and record of rights by a cess the Government of India have already agreed, but I am to suggest that the estimate of the actual expenditure which will be involved is not yet sufficiently precise to justify a definite conclusion that a cess of one quarter of an anna in the rupee of annual value will suffice to cover the entire cost. It would in these circumstances seem desirable to append a note to Section 7 of the Bill to the effect that, "so far as inquiries have gone, it is anticipated that this rate need not be exceeded," with the view of making it quite clear that the Government is not absolutely restricted to this rate.

5. The Government of India feel themselves at some disadvantage in dealing with the draft rules. Although the policy of maintaining an accurate record of rights is one which they have in recent years urged strongly upon all Local Governments and Administrations, they have not at their command the advice of any officials who have had personal experience in the working of the system; nor, even if it were otherwise, would they feel justified in offering any conclusive criticism upon a subject which requires for its proper handling, not only experience of the limits within which an accurate record and map can be successfully maintained in practice, but also an intimate knowledge of local conditions. His Excellency in Council is aware that the rules have been drafted, after the most careful consideration, by those officials in Bengal who are best acquainted with the circumstances of Behar, but he considers that, in launching a system which will largely affect the financial interests and the local prejudices of the landholding and agricultural community, no pains should be spared to take advantage of the experience which has been gained in other provinces, before finally deciding upon the methods to be adopted. His Excellency is the more inclined to advise this course in view of his belief that the practices gradually developed in various provinces are already tending to become inconveniently divergent, and that in some directions mistakes have been made which require early correction. In view of the importance of checking *in limine* any tendency to erroneous practice or to unnecessary expenditure in connection with the maintenance of the map and record of rights in all provinces, his Excellency the Governor General in Council desires to take the present opportunity to have this important subject examined by the light of the best experience that can be brought to bear upon it, and has come to the conclusion that a general conference should, after such communication with Local Governments and Administrations as may be necessary, be convened for this purpose. He appreciates the fact that there must be material difference between any system adopted in Behar and that which prevails in provinces where the patwari establishments are utilised, but is convinced, nevertheless, that there are many details of method in connection with which uniformity of practice may be usefully established, and that the discussion of these matters by experts will lead to useful results, not only in connection with the Behar programme, but also in respect to the improvement of system in other provinces. He desires, however, before addressing other Local Governments, that his Honour's concurrence in this proposal should be invited.

The provinces which will be invited to send representatives would probably be the North Western Provinces, the Punjab, and the Central Provinces.

6. The proposition put forward in the 70th paragraph of Sir A. MacDonnell's Minute meets with the full concurrence of the Government of India. The map and record of rights must be maintained up to date, and the Government cannot be fettered by any restrictions which will preclude the accomplishment of this object. The utmost that can be promised is that the maintenance of the record shall be effected at the minimum cost and with the least amount of inspection compatible with the end in view. The Government of India are not prepared to pronounce an opinion how far the rules as now drafted will secure the minimum of expenditure and inspection which may be possible, but they apprehend that this is the very question upon which the discussions by a conference of experts will lead to a satisfactory conclusion. In any case his Excellency in Council is, as at present advised, disposed to agree with his Honour that no longer period than three years should be permitted to pass without revising the record.

— No. 3. —

Despatch from the Secretary of State for India to the Governor General of India in Council.

Revenue, No. 163, dated 14 December 1893.

My Lord Marquis,

I HAVE received the joint memorial from the British India Association and four other local bodies regarding the cadastral survey in North Behar, and other papers which were forwarded with your Excellency's Revenue letter, No. 80, dated the 8th November 1893.

2. I have read these important papers with much interest; and I desire especially to refer to Sir Anthony MacDonnell's Minute, which is a clear and comprehensive statement of the reasons for undertaking, prosecuting, and maintaining a survey and record of rights in the districts of North Behar. As at present advised, I am not disposed to depart from my predecessor's decision that a survey should be made and a record of rights prepared for the four districts in question, and I am unable to see ground for stopping the proceedings in the manner suggested at the 17th paragraph of the joint memorial.

3. I shall await your further letter on the two points you have reserved, namely, (1) the share of the expenditure that ought to fall upon the general treasury, and (2) the scheme for maintaining the record of rights. When I learn your views on these points I shall be in a position to pass final orders on the joint memorial. Meanwhile a copy of this Despatch should be communicated to the five associations which have forwarded the memorial.

I have, &c.  
(signed) *Kimberley.*

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R E T U R N.

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E A S T I N D I A  
(Behar Cadastral Survey).

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*Ordered, by The House of Commons, to be Printed,  
22 November 1893.*

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WEST INDIA (BEHAR CADASTRAL SURVEY)  
(FURTHER REPORTS).

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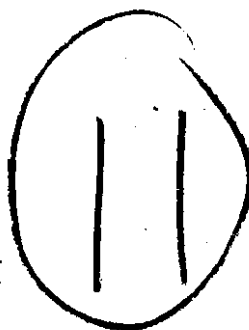
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RETURN to an Address of the Honourable The House of Commons,  
dated 18 December 1893;—for,

“RETURN of Copies of, or Extracts from, the Reports not already presented to  
Parliament, of the Local Divisional, District, and Sub-divisional Officers,  
and other Officers consulted on the Behar Cadastral Survey, and Questions  
connected therewith, such as the Maintenance of the Record of Rights.”

India Office, }  
July 1894. }

A. GODLEY,  
Under Secretary of State for India.



(*Mr. Knatchbull-Hugessen.*)

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Ordered, by The House of Commons, to be Printed,  
6 July 1894.

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LIST OF PAPERS.

1. Letter from Mr. J. A. Bourdillon, Collector of Saran, No. 1056 G., dated 5 October 1888, and enclosure.
2. Letter from Mr. W. H. D'Oyly, Collector of Muzaffarpur, No. 902 R., dated 6 October 1888.
3. Letter from Mr. E. Stewart, Sub-divisional Officer of Sitamarhi, No. 189 R., dated 3 September 1888.
4. Letter from Mr. C. C. Quinn, Collector of Patna, No. 2011 R., dated 31 October 1888.
5. Letter from Mr. G. A. Grierson, Collector of Gaya, No. 680 R., dated 2 November 1889.
6. Letter from Mr. J. A. Bourdillon, Collector of Saran, No. 1205 G., dated 9 November 1888.
7. Letter from Babu Bhubaneswar Dutt, Manager, Raj Hatwah, No. 146, dated 19 October 1888.
8. Letter from Mr. A. W. B. Power, Collector of Shahabad, No. 1744 G., dated 20 November 1888.
9. Letter from Mr. A. W. B. Power, Collector of Champaran, No. 999 G., dated 26 January 1889.
10. Letter from the Board of Revenue, L.P., No. 389 A, dated 23 April 1892, and enclosures.

*C. E. Buckland*, Secretary.

No. 1.

From *J. A. Bourdillon*, Esq., Collector of Saran, to the Commissioner of the Patna Division (No. 1056 G.); dated Chapra, 5 October 1888.

I HAVE read with much interest and more than once the papers submitted for report, together with your Memorandum No. V. Cir. 154 of 21st August last, and after doing so called on two of my Deputy Collectors for their opinion.

2. These were Babus Raghunath Sahay and Ram Anugra Narain Singh. They are both landholders, and both have large experience as Deputy Collectors, and their opinion is worth recording. I forward a copy of their joint memorandum herewith, and commend it to your perusal.

3. My own opinion is that Saran is one of those districts in which uncertainty, as to rents exists, and that this uncertainty is in some cases a serious matter. It is not confined to any one part of the district, but is endemic.

4. I believe that in the Hutwa estate pains have been taken to effect some sort of a survey and record of rights, but I have no details. I have applied for them, and will address you again on the subject, should I obtain them from the Manager. It is, however, the common talk of the district that Hutwa will not allow occupancy rights to accrue, nor permit the establishment of a right to hold land at a fixed rate of rent, and it is quite possible that the records of rents existing in the Manager's office may be used entirely on the landlord's side and against his tenant's interest, so that, though uncertainty has disappeared, equality of benefits has not taken its place.

5. As to other estates in the district, the raiyats are, I believe, for the most part in the condition of those mentioned in Mr. Nolan's letter, who possess occupancy rights, but cannot prove them.

6. I am certain, moreover, that in many estates both parties will shrink from a record of rights: the landlord, because he is naturally unwilling to have the existing rents ascertained and crystallised, and the tenant, because in many cases he has more land than he pays for.

7. Great uncertainty, in fact, exists both as to the rents paid and the size of holdings; obvious instances readily occur. You were yourself a witness to the difficulties which lay in the way of ascertaining the exact position of 70 bighas of indigo and the exact amount of land in possession of the factory at Arwa. In another case a landlord offered to lease to a factory five bighas of *zirat*, which on measurement turned out to be little more than three, to the great astonishment (real or well simulated) of the landlord. The same facts are established in numerous partition cases for it is not too much to say that half the rent rolls filed are fictitious, while the discrepancies found when the *amius* actually apply the *laggi* are surprising.

8. On the whole, then, my answer to the question whether there is uncertainty as to rents in Saran is an emphatic affirmative, and my feeling as a revenue officer is that much as I should like to have charge of a district when survey and record of rights is over, I cannot deny that the same post, while those operations were going on, would not be an easy one.

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Enclosure No. 1, in No. 1.

NOTE on Commissioner's No. 154 V. Cir. of 21 August 1888.

So far as our information goes and extends, we think there are differences between zamindars and raiyats as regards rents. This is the case in no specified part of the district; such differences are scattered over the district. It is especially so when the zamindars are petty ones, and where lands of estates have been divided amicably or under the butwara law.

Besides rates of rent, another cause of friction is in respect of the disputed quantity of land comprised in a holding. A raiyat's holding, if of older times, contains generally more land than is entered in the rent-roll (*jamabandi*). This excess land is generally discovered when the estate in which the holding is situated is measured or divided under the partition law.

A further source of misunderstanding is when a raiyat's holding is scattered in several estates owned by different persons.

A cadastral survey would remove these last misunderstandings. But it is apprehended it would not solve the difficulty in paragraph 1 of this Note. The survey will definitely settle the quantity of holding and rent payable therefore, but what agency will settle the rent payable for fractions of the holding when the same is divided by butwara among different estates; what agency will apportion the rent when a part of the holding is sold by the tenant; what, again, if the holding is divided among several heirs.

A portion of holding is no doubt saleable without zamindar's consent, but, as a matter of fact, portions are sold daily; who will apportion the *jama* proportionately to the area sold and also to the quantity thereof: Estates

Estates are divided by scores every year ; the basis of division is the rent-roll (called *raibundi*) framed on the rates agreed upon by the zamindars. Out of a raiyat's holding one zamindar may get two bighas at Rs. 5, another may get eight bighas at Rs. 3, and a third 11 bighas at Rs. 1-8 per bigha.

They would get land and jama as follows :—

						Rs.	a.	p.
(1)	2 bighas	-	-	-	-	10	0	0
(2)	8 „	-	-	-	-	24	0	0
(3)	11 „	-	-	-	-	16	8	0
21 bighas.						Total - - - Rs. 50 8 0		

But the raiyat's holding passes as consisting of 20 bighas at a rental of Rs. 45 only. What measures will be adopted to reconcile these differences? These difficulties are not conjectural ones; they are of constant occurrence, and therefore on these grounds, as also others which can be ascertained by elaborate inquiry, the value of a cadastral survey would be discounted, unless agency is created to maintain the records subsequent to the survey.

We should say that, as an experimental measure, survey might be ordered in small parganas, say Chirand and Kasmer.

*Ram Angura Narain Singh,*  
Deputy Collector.  
*Raghu Nuth Sahay,*  
Deputy Collector.

---

#### No. 2.

From *W. H. D'Oyly*, Esq., Collector of Muzaffarpur, to the Commissioner of the Patna Division (No. 902 R.); dated Muzaffarpur, 6 October 1888.

WITH reference to the copies of correspondence forwarded with your Memorandum, No. 154 V. Cir., dated 21st August last, I have the honour to report that from inquiries made by me it does not appear that any portion of the district could be said to come under the description of tracts in which uncertainty prevails as to existing rents.

The Subdivisional Officer of Sitamarhi at first reported that in his opinion much uncertainty prevails as to the rents due from raiyats all over the subdivision, and he thought it would be extremely beneficial if the cadastral survey were carried out in the whole subdivision. As an instance of the uncertainty as to rates of rents, he mentioned a large village, called Manik Chuck, in which the farmer, an indigo planter, has got seven years' lease, but is unable to collect any rent either directly or through the civil court in consequence of the uncertainty as to the rents payable.

I pointed out to Mr. Stewart, the Subdivisional Officer, that the case of one village could not be taken as a ground for concluding that the cadastral survey was necessary throughout the subdivision. I now annex a copy of his last letter on the subject, from which it will be seen that there is no ground for denoting any portion of the subdivision as a tract in which uncertainty prevails as to rates of rents.

The same may be said of the Sadar and Hajipur subdivisions.

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#### No. 3.

From *E. Stewart*, Esq., Subdivisional Officer, Sitamarhi, to the Collector of Muzaffarpur (No. 189 R.); dated Sitamarhi, 3 September 1888.

WITH reference to your letter No. 798, dated 8th ultimo, I have the honour to state that, having made further inquiries into the matter through the Munsif of Sitamarhi, I am inclined to change my opinion as to the existence of uncertainty in regard to the rates of rent in this subdivision. It appears to me from

the inquiries that a dispute as regards the rates of rent existed between the tenants of the mauza Kunwali and His Highness the Maharaja of Darbhanga, the landlord, but the rate of rent payable by the tenants has been settled. There were also disputes in some other villages in regard to the rates of rents, but these are not of sufficient importance to be considered as affording ground for the carrying out of cadastral survey in this subdivision. Uncertainty, as regards the rates of rent, exists at present in mauza Pota, and this appears to have given rise to several rent suits during the past five or six years; but this uncertainty is confined to the mauza in question.

Under the above circumstances, I would beg to withdraw my former statement that a widespread uncertainty as to the payment of rent exists at present, though, on the whole, I shall adhere to my opinion that there is a good deal of such uncertainty existing.

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No. 4.

From *C. C. Quinn*, Esq., Collector of Patna, to the Commissioner of the Patna Division (No. 3011 R.); dated Bankipore, 31 October 1888.

WITH reference to your Memorandum, No. 154 V. Cir. of the 21st August 1888, I have the honour to state that in my opinion the whole district of Patna, with the exception of the Government and Wards' estates, comes under the description of a tract in which uncertainty as to existing rents prevails. This is, I think, the general character of the district. In the majority of cases the rents are not an actual matter of dispute, but in most villages there is a doubt as to the exact amount of rent to which the tenants are legally liable or which they have consented to pay, and I cannot specify any tract in which the rents are really known and admitted, though there are no doubt some estates in which this is the case.

2. The proceedings in the Butwara Department show that the rent-roll is in a large number of cases a matter of dispute among the shareholders, and if the tenants were consulted further discrepancies would certainly be brought to light. It may be argued that the discrepancies in the rent-rolls and raibundis filed by proprietors are due to the desire of the several shareholders to depreciate the value of the particular land which they wish to obtain, and not to any real doubt as to the existing rents; but I think it is clear that, if the rent were known and admitted, such conflicting statements could not be put forward, and that these proceedings show that the rent is really a matter of more or less uncertainty. Experience gained in other departments also supports this view, and I have little hesitation in saying that a survey and record of rents is required for the whole district

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No. 5.

From *G. A. Grierson*, Esq., Officiating Collector of Gaya, to the Commissioner of the Patna Division (No. 680); dated Gaya, 2 November 1888.

REFERRING to your No. 144 V. Cir. of 21st August 1888, I have the honour to state that I can affirm that no uncertainty exists as to existing rents in this district.

2. Owing to the fact that 70 per cent. of the rents are paid in kind, estate papers are usually in better order in Gaya than in other parts of the country.

3. I have fully explained this in my No. 886 W., dated 2nd instant, regarding the question of surveying Tikari, and will not take up your time by repeating my arguments.

4. May

4. May I add that, as you put it in your Annual General Administration Report, landlords in Gaya are really landlords and are not annuitants on the soil. The landlord's interest is inextricably bound up with that of the raiyat, and, owing to the large proportion of waste but cultivable land in the district, there is generally a demand for cultivators, who are consequently not usually ill-treated. There are, of course, isolated instances of oppression on individual raiyats by individual landlords, but this would not make a survey necessary.

5. I hope it will be clearly understood that I am not expressing my opinion as to the general fairness of the rents paid and realized in this district. If I am asked for that, I can give it; I am only saying that there is no uncertainty about the rents, such as they are.

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No. 6.

From *J. A. Bourdillon*, Esq., Collector of Saran, to the Commissioner of the Patna Division (No. 1205 G.); dated Chapra, 9 November 1888.

IN continuation of my letter, No. 1056 G, dated the 5th October, I have the honour to forward herewith copy of a letter from the Manager, Raj Hutwah, No. 146, dated the 19th October. I have of course corrected the error into which he has fallen of supposing that a cadastral survey of Saran is imminent.

2. You will observe that, although the area and boundaries of each field in a raiyat's holding are recorded, the rate of rent for each field is *not* recorded, only the aggregate rent for all the fields in the holding.

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No. 7.

From *Babu Bhubaneswar Dutt*, Manager, Raj Hutwah, to the Collector of Saran (No. 146); dated Hutwah, 19 October 1888.

I HAVE the honour to acknowledge the receipt of your letter, No. 1055 G., of the 5th instant, intimating that it is in the contemplation of Government to extend to this district the cadastral survey and record of rights under the Bengal Tenancy Act, and inquiring what system of land records obtains in the Hutwah Raj.

2. In reply, I beg to state that the Court of Wards, during its management of the estate between the years 1872 and 1874, commenced a field survey of villages, which, however, it could not finish owing to the limited period of its incumbency, as will appear from the following extract, paragraphs 7 to 11, of Mr. Hodgkinson's final report forwarded to the Collector of Saran with his letter No. 819, dated 5th November 1874:—

“Ticcadars were accustomed to obtain illegal profits in three principal ways—*firstly*, by the levy of illegal cesses; *secondly*, by the exaction of rents in excess of the jamabandi; and *thirdly*, by taking possession of choice pieces of land and ejecting the raiyats. The first thing to be done in order to check these practices was to obtain correct rent-rolls of the villages, of which there were none in the office when charge was taken of the estate. Complete rent-rolls for four years have now been filed, and those for 1280, which have been bound up, may be taken to be as near an approach to accuracy as can be obtained without a regular village survey. Abstracts of account, showing the amount of land held by each raiyat, and the rent payable by him, were then prepared; and in the majority of villages they have been distributed to the raiyats. The measurement of all villages in the estate, with maps showing each field, would, if completely carried out, have formed a most thorough check against illegal ejectments. The time of the incumbency of the court has, however, been too short to allow the completion of so large a scheme. Still a good deal has been done. About 275 villages have been completely measured and mapped, and some 50 more are under measurement. In a large proportion of those measured the rent-rolls have been

corrected on the basis of the measurement, and in several cases abstracts have been given to the raiyats.

"I trust that the Maharaja will carry out the measurement of the whole estate in the same way as it has begun——"

3. The Maharaja Bahadur on attaining his majority continued the operations, and the result was a complete measurement and record of holdings of almost all villages of the Raj excepting a few, principally those in which he is only a part proprietor. The khasras, khatiwanees and maps prepared under these proceedings give the following particulars for each village:—

- (a) Serial number of fields.
- (b) Names of raiyats holding the fields, and the number of years for which held.
- (c) Lengths (in poles or *laggis* of 6 cubits or 9 feet) of the boundaries of each field and its areas in bighas.
- (d) Description of soil, viz., muttear, dorus, &c.
- (e) Description of crops grown, viz., rabi, dhan, makai, opium, indigo, &c.
- (f) Rent paid by each raiyat for his entire holding.
- (g) Particulars regarding trees, bamboos, &c., standing in the field.
- (h) Orchards, tanks, wells, roads, &c.
- (i) Particulars about *zirat*, waste and other land not held by raiyats.

4. From these papers a jamabandi or rent-roll was prepared for every village showing the quantity of land held and the amount of rent paid by each raiyat. The rents were settled according to the rates actually paid by the raiyats as per jamabandis of 1280 F.S., alluded to in Mr. Hodgkinson's report quoted above. The patwaris were furnished with copies of these jamabandis, and they had to collect rent and give receipts accordingly. The subsequent annual rent-rolls of the villages have been prepared on the basis of the "measurement jamabandis," any changes in the quantity of land or amount of rent (which have been necessitated by raiyats taking up new, or giving up old, land) being noted in each year's rent-roll against the names of the raiyats concerned. And as the patwaris and village amla have no authority to make any alteration in the jamabandis without the express sanction of this office, the accuracy of the rent-rolls and the integrity of the rates of rent have been maintained.

5. Printed rent receipts in counterfoils have been introduced into the Raj villages since 1288 F.S., corresponding to the year 1880-81. These show the quantity of land held, and the amount of rent and cesses payable by each raiyat according to the rent-roll, and the payments made by him with dates. The counterfoils are at the end of each year filed in this office, where they are compared and tested with the jamabandi wasilbaki of the year, and thus a careful check is exercised over the proceedings of the village amla. I think it would not be out of place to mention here that this form of rent receipt is almost the same as that subsequently adopted in the Bengal Tenancy Act.

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No. 8.

From *A. W. B. Power*, Esq., Collector of Shahabad, to the Commissioner of the Patna Division (No. 1744 G.); dated Arrah, 20 November 1888.

WITH reference to your No. 154 V. Cir., dated 21st August 1888, I have the honour to state that uncertainty as to existing rents prevails, more or less, over the whole district, but more especially in the Bhajpur, Behia and Arrah parganas, where the proportion of rent payable in kind is less than elsewhere. In the Maharaja of Dumraon's estates the uncertainty has mainly arisen from conflicting rulings of civil courts on the question whether patwari's commission ("neg"), exchange (*batta*, i.e., difference between Sikka and Queen's rupees) and village road charges (*sandak*) are illegal cesses (*abwabs*), or whether they are recoverable as being separate contracts, each for a separate consideration and wholly distinguishable from rent.

2. If there be a survey and record of rights in this district, it should be undertaken, first, in the parganas above mentioned, then in parganas Pero, Nanour and Sanwar.

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No. 9.

From *A. W. B. Power*, Esq., Collector of Champaran, to the Commissioner of the Patna Division (No. 999 G.); dated Motihari, 26 January 1889.

WITH reference to your Memorandum No. 154 V. Cir., dated 21st August, I have the honour to state that, except in isolated villages, there is no part of this district where uncertainty regarding existing rents prevails to such a degree as to warrant action under Chapter X. of the Bengal Tenancy Act.

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No. 10.

From *C. W. Bolton*, Esq., Secretary to the Board of Revenue, L.P., to the Secretary to the Government of Bengal, Revenue Department (No. 389 A.); dated Calcutta, 23 April 1892.

I AM directed to submit herewith, for the consideration and orders of The Hon. Sir H. L. Harrison, Kt. Government, the accompanying copy of a letter from the Commissioner of Patna, No. 4R., dated 1st April 1892, with its enclosures, which touches on the following questions connected with the survey of Bihar :—

- (1) The desire of the zamindars that the position of the patwari should be fundamentally altered, legislation for this object being necessary.
- (2) That for this purpose the patwari *neg*, now almost everywhere levied, be made legal.
- (3) The summary realisation of rent.
- (4) The question of how to realise the cost of the survey and settlement.
- (5) The question of the *laggi* or pole of measurement.

2. On questions 3, 4, and 5 it is hardly necessary to say much on the present occasion. His Honour has already intimated his intention of conceding a more summary system of realising rent in estates which have been surveyed and settled, and it is premature to discuss the details of this scheme. As regards the apportionment of the costs of the survey and settlement, the Board have expressed their views, in their letter No. 388A. of 23rd April 1892, and as regards the *laggi*, there is no opposition to Mr. Lyall's proposal to adopt the pargana *laggi*, unless the use of another pole can be in any case proved, the onus of proof being presumably left, on the objector.

3. The patwari question, however, presses for very early solution, as the project of employing this agency for the survey depends on action being taken by the Government. All parties, it will be seen, condemn the present dual system of control, and, as the Government is aware, the whole question was thoroughly threshed out in 1885, and a Bill introduced in Council to place the kanungoes and patwaris on a new footing. The Board can scarcely follow Mr. Lyall's proposals in paragraphs 7 and 8 of his letter. In the former paragraph he proposes to make the patwari the servant of the zamindar exclusively, while in the latter he provides for his appointment by the Collector. The Board would prefer the simpler system sketched out in the Bill of 1885, which was approved by Mr. Finucane, and eventually, with some reservations, by Mr. Reynolds. By this system the responsibility of keeping the accounts is thrown on the zamindar, who is bound to file them before an officer of Government periodically. This officer, whether called patwari or kanungo, or by any other name, will be bound to explain the account to the raiyats, to record objections while not deciding them, and to record all mutations and

changes; but the draft Bill was in general silent about the duties of the patwaris, leaving them to be determined by rules to be drawn up under the Act. This seems to the Board to be substantially in accordance with the views expressed by His Honour in paragraph 2 of Government order No. 46L.R., dated the 22nd February 1892, except that, instead of having patwaris to do the work, supervised by kanungoes, the Lieutenant-Governor proposes to make over the work to the kanungoes direct, giving them a larger area and relieving them from any responsibility in regard to payment of rent. The Board accordingly recommend that the Bill of 1885, modified, if necessary, to meet the views of the Lieutenant-Governor, be re-introduced in Council at an early date.

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Enclosure 1 in No. 10.

From *D. R. Lyall*, Esq., C.S.I., Commissioner of the Patna Division, to the Secretary to the Board of Revenue, Lower Provinces (No. 4R.); dated Bankipore, 1 April 1892.

I HAVE the honour to forward report of a meeting held at Muzaffarpur on the morning of the 29th ultimo, which was attended by the leading zamindars and planters of North Bihar, and to request that it may be printed and 50 spare copies sent to me for circulation among those who attended and others, and that the orders of Government may be obtained on the very important questions now raised.

2. The Board will observe that the basis of the whole of Colonel Sandeman's scheme is that the zamindar shall have a servant over whom he has control, whom he shall be able to send to learn his work, and whose deputation will cost him no more than he already is paying. The zamindar at present has no such servant, and the decision of the meeting practically amounts to saying that if the zamindars had such a servant, they would be glad to employ him in his way.

3. From this springs the next great question—what is to be the future of the patwari? There was absolute unanimity that the present position of the patwari is untenable. This is no new opinion. Mr. A. P. McDonnell's Bill of 1885 was founded on the same principle, and the question is; what is to be done with the patwari?

Mr. Hudson and the Planters' Association ask that he be made the zamindar's servant, or that he be done away with, and the zamindar made directly responsible for the work now done by the patwari. The decision come to on this point affects not only the present survey, but the future keeping up of records which the patwari would be trained to do in the course of the present survey.

No doubt, when the Collector and the zamindar are at one, as at present the Collector of Champaran and Mr. Gibbon are, in regard to the training of the patwari, the patwari may be made to attend and learn survey work, but it will not do to trust for the future to such agreement, and though the work for a season may go on under the arrangement come to at the meeting, it will be necessary to place matters on a proper legal footing before another season.

4. To do this, legislation will be necessary.

It has long been recognised that the records which a survey under the Tenancy Act will create cannot be kept in order unless legal provision be made for their up-keep.

The point to be aimed at, in my opinion, is not only the up-keep of these records, but with their up-keep the legislation of a summary method of realisation of rents, and any legislation should have these points in view.

5. I do not think it will be possible to pass an Act which will work equally well in Bengal and Bihar, and I think it would be wise to attempt only to legislate for such districts of Bihar as had come under a survey under the Tenancy Act.

6. I think the wisest course would be for Government to state broadly its views as to the line which legislation should take, and to publish these views for



for discussion and suggestions ; and that a Bill should then be drafted on the lines thus got at. What is wanted is a practical working Act suited to the people and the country.

It is not difficult to elaborate a scheme which will look well in theory, but will utterly fail in practice.

The main difficulty is pay. Regulation XII. of 1817 is very vague as regards pay, and custom has to this day beaten the law and the Board's rules, and the "neg" is paid by nearly every raiyat.

I think this fact should be acknowledged and made legal.

7. The next question is that of duties. I am opposed to any change in the duties of the patwari as regards the raiyat. Even in the short time I have been in this Division I have seen how necessary such an officer is in Bihar. His duties towards the zamindars and Government may be altered. The zamindar now asks that he should be his nominee and his servant apart from Government control, and that the Collector should punish the zamindar for any failure to keep up records.

If so, there must be local centres for the registration of changes—in fact, the kanungoes provided in the Regulation—but they must be paid, and the question is how they are to be paid. Probably the best solution would be their payment by fees payable on mutations. It would be necessary to make the patwari criminally liable for any mutation not registered. This might be done by making the kanungo give the zamindar or raiyat, as the case might be, a certificate of registration to be shown to the patwari, and failing exhibition of this within a given time, the patwari should be bound himself to report. This is the system adopted by the Vaccination Act. Or the patwari might be held liable to report all mutations on their occurrence.

8. The next question is appointment. The patwari is a village, not an estate's official, and any reorganisation of the system must provide for his appointment by the Collector or some other officers in the event of the zamindars failing to appoint or quarrelling about the appointment.

9. Then comes the question of summary realisation of rent. This certainly ought to be given with proper accounts, and the question is how it is to be done. I doubt much if it can be done if the patwari is the zamindar's servant, but if made independent of the zamindar, I see no reason why an extract from his accounts should not be held to be evidence of the existence of an area sufficient to allow the zamindar to take execution on allowing the raiyat, should he choose to object, to stop execution by a suit. I am disposed to think this would be the fairest solution, and that the zamindar would agree to drop his present connection with the patwari if he were given summary execution. In that case the raiyat ought to pay his share of the patwari's pay as a return for having his accounts kept, and the zamindar would pay his share in return for the boon of summary execution.

10. The question of how the cost of the survey is to be realised requires attention. Colonel Sandeman's plan practically throws all on the zamindar except cost of supervision. To this may be added cost of chainmen and coolies, which the zamindar cannot supply without paying for, and which may fairly be added to the cost of the survey and divided, unless the suggestions made below be deemed feasible.

I think that Section 114 of the Tenancy Act is sufficiently elastic, and that it would be legal for Government to say that the raiyat should pay the cost of supervision which Colonel Sandeman takes at Rs. 70 per square mile. This would leave the zamindar to pay surveying and labour, which, if done by a paid staff, are estimated to cost Rs. 85 per square mile, but which, if done by patwaris, would cost less, and probably make the contribution of zamindar and raiyat pretty even.

11. The meeting were unanimous in supporting the view adopted by me in this office, No. 1261R., dated 22nd ultimo, regarding the *laggi* to be adopted as the standard, and I do not think this point will give any difficulty.

12. Colonel Sandeman will submit his views more at length after he has received printed copy of the proceedings of the meeting.

Enclosure 2, in No. 10.

PROCEEDINGS at a Meeting of Zamindars and Indigo-planters held at the District Board Office, Muzaffarpur, at 7 a.m., 28th March 1892, to consider the proposals made by Colonel J. E. Sandeman for the cadastral survey of Bihar as contained in a printed note, dated 4th idem (copy annexed), which had already been circulated for general information.

Present:

D. R. Lyall, Esq., C.S.I.,

Commissioner of the Patna Division, in the Chair.

<p>The Maharaja of Darbhanga, K.C.I.E. Babu Bisnath Prasad Mahtha. „ Dwarka Prasad. „ Gowree Shankar. „ Isree Prashad. „ Jugdees Kumar Mukerjee. „ Mahadeo Singh. „ Nandan Lall. „ Parmeswar Narain Mahtha. „ Ram Dhary Sahay. „ Surj Deo Narain. Syed Mahamed Ali Khan. W. B. Hudson, Esq., C.I.E.</p>	<p>T. Gibbon, Esq., C.I.E. J. J. Macleod, Esq. T. R. Filgate, Esq. H. Spry, Esq. H. Collingridge, Esq. E. Macnaghten, Esq. E. Dalgleish, Esq. Rudstone Brown, Esq. Maxwell Smith, Esq. C. R. H. Webb, Esq. E. Thorpe, Esq. A. Hume, Esq. A. Macrae, Esq. N. N. Macleod, Esq.</p>
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There were also present—

Lieut.-Col. J. E. Sandeman.  
G. J. B. T. Dalton, Esq., Collector of Darbhanga.  
A. Forbes, Esq., Collector of Muzaffarpur.  
W. D. Blyth, Esq., Collector of Champaran.

The Chairman, in introducing Colonel Sandeman to the meeting, explained that the object of inviting the gentlemen present to meet Colonel Sandeman was to offer an opportunity for free discussion, and to ascertain what plan the local zamindars wished to be followed in making the approaching cadastral survey.

Colonel Sandeman, at the Chairman's invitation, then addressed the meeting as follows:

Maharaja and Gentlemen—With the Commissioner's permission I wish to say a few words which I think will clear the way for discussion. I hope you will kindly give me your attention. I have put down what I have to say on paper that I may not forget anything.

I would like to draw your attention to three things—

- (1) the precautions we professional surveyors take to ensure accuracy;
- (2) the steps which zamindars need take to protect themselves if they still think the amin or patwari has the power to injure them;
- (3) the advantages of the plan proposed by me in a note which you, who are here, have probably read.

Now as to (1), if you examine the map on the table, you will see it is signed by myself and my Head Assistant as a guarantee of accuracy, and if such a map should turn out inaccurate, our appointments would not be worth an hour's purchase. The boundary has been compared and passed after reference to the old revenue survey map, with which it agrees. We can ensure the accuracy of the maps, whether they be surveyed by patwaris or amins, because we run three or four linear miles, if necessary, of independent check lines

lines in any square mile of mapping. These check lines will be surveyed, plotted, traced off, and then applied to the original map for comparison; they will be open to the public for inspection if necessary; and it is in the power of all who may still doubt the correctness of the survey to apply what further checks they please.

We also undertake to ensure correct entries as a rule on the record of rights. The status and rent of the tenant are entered in the presence of the Assistant Settlement Officer, and disputes are settled by him. Therefore there need be no doubt about these.

But let us suppose, for the sake of argument, that the supervision of the survey and settlement staff is not strong enough to ensure accuracy. The question (2) then arises, what is a zamindar or tenant to do to make sure that he will not suffer injustice at the hands of men who are at the present moment ignorant of surveying, and who may, through self-interest or from other motives, prove corrupt?

I have already proposed in the note sent recently to the Commissioner that the representatives of the raiyat and zamindar should write the records simultaneously in duplicate as a check against falsifications.

Further than this, when the papers are completed, the zamindars and tenant will each have a slip given him, on which will be entered all his fields with their boundaries, so that they can be recognised away from the ground even, and statistics of area, &c., and this slip he will hold for at least a month prior to final attestation in his possession. Surely that is giving him time enough and opportunity enough to discover if any entry is wrong. He need not attest, that is, accept the record by his signature, if he finds it to be so.

A month's notice of the date of attestation is given, so that if the zamindar or his agent is present then, it is impossible he can be cheated. I cannot conceive what further than this can be done. Nothing will be *sub rosa*, anyhow, and I do not see how there can be any favouring of the raiyat at the expense of the zamindar, a leaning this way being credited to Government servants by some.

I hope I have shown that any one has the opportunity to protect himself, but if any one will go to the wall it will be the tenant, who is too weak to assert his rights.

I have tried to make it clear that neither the patwari nor amin has the power to injure any one's interests, for the checks are too severe.

A double survey is made of all village boundaries, and they are then compared with the 4" maps of the revenue survey, but some apprehend that many boundary disputes will arise, and that unscrupulous landlords will have the opportunity of encroachment.

But where is the latitude for this in a country such as this, which is so closely cultivated? We have possession to guide us and the old 4" maps of the revenue survey, which are mathematically correct, and from which the boundaries can be transferred to the new maps. What chance can a man then have who makes a false claim? All we have to do is to lay down the old 4" map boundary, which will be upheld in any court of law.

As a proof of how well this is understood, I may mention that we have already surveyed about 800 square miles of boundary traverse lines in Muzaffarpur this season, and my assistant, Mr. Pemberton, tells me he has heard of only one real boundary dispute, and I have been told of the existence of some more this morning, but they are few comparatively.

Some say the survey will cause great disputes about areas, but I hope our procedure will enable us to overcome this difficulty. We will first record all areas in acres to obtain a uniform denomination of comparison, and then, if there be a dispute, wait for the length of the *laggi* to be fixed by arbitration.

There are people who say theamins will not pay for food, will take bribes, and will injure the crops, but I assure you we take every precaution against such malpractices.

malpractices. I will just quote the rules which were in force during the pas-  
experimental survey. They are taken from Colonel Barron's handbook :—

- “ 1. During the survey of a village the amin must take care that no damage is done to the standing crops . . . for the first fortnight or three weeks after indigo is sown theamins must be careful not to go on the fields more than is necessary. . . . The survey of indigo lands will not be stopped, because the crop is sown ; only extra care will be taken that injury is not done when the plant is coming up.
- “ 2. Any member of the establishment who can be proved to have received, on any pretence whatever, any present or gratuity from the inhabitants . . . will be summarily dismissed and prosecuted. He will also be liable to be sent for trial.
- “ 3. All members of the establishment must pay in ready money for all supplies received by them, taking receipts from the bazar men and others, &c.”

When one zamindar has much property, it will be unavoidable not to carry on operations in more than one place at the same time, for if surveying were to wait on the zamindar's pleasure, the cost would rise very rapidly, for the charges for supervision can only be kept under by spreading them over a large area.

A great deal can be done by mutual arrangement with the zamindar to meet his wants. He on his part should engage extra karindas, and, as I have already pointed out, if he is properly represented at attestation, he cannot be cheated as to the entries, and the checks on the surveying he can test for himself in the survey-settlement office.

The maps and papers will always be open to the public. A notice can be inserted in the public prints giving a list of mauzas which are thus ready for inspection from time to time.

As to (3), I have the following remarks to make. When I proposed to work the survey through the zamindars, I thought that in every mauza or farm the patwari and perhaps a gumashta and some menial farm servants might be trained to do the work for nothing, which would have the result of creating the agency required for effecting mutations. But I have met with the difficulty that in Bihar there is a dual control over the patwari. We cannot make him work, as he is paid by the zamindar, and the latter cannot punish him because this is the prerogative of the Collector ! I suppose everyone is agreed as to the absurdity of such an arrangement, and probably there will be legislation—although I have no authority for saying so—either to cast the patwari adrift or to annex him wholly. Let us suppose, for the sake of argument, that the former is an accomplished fact, and that in future the burden of effecting mutations rests with the zamindar. Here, then, is seen with greater force the necessity of some such scheme as I propose ; for how can the zamindar fulfil his obligations in any other way ? He would have to hire an amin at whose mercy he would be, and would not have trained men to turn to on all sides if he could not trust one, as would be the case under my scheme. I have already explained in the note sent to the Commissioner how it will save half the cost of the establishment. The cadastral survey, excluding charges for fairing and attestation, will under it probably not cost more than 2 annas an acre to be divided between the zamindar and tenant. It is certainly worth the latter's while to secure his legal rights at this cost plus that of attestation, which is still a very small fraction of what he often pays for extracts from the cutcherry papers.

For the same charge the zamindar secures a correct rent-roll, which will enable him to make his collections with ease and save him much trouble and expense, as is obvious. When a survey is made through the agency of amins, who are foreigners as a rule, the country operated on is as barren after the operations as it was previously of any agency to keep up yearly mutations on the maps. But where patwaris are employed, the trained local agency required for the purpose is created by virtue of the education he receives *pari passu* with the new maps it will have to maintain. The man who is now totally ignorant of the use of a pair of compasses and scales will be taught mensuration, drawing and

and surveying: he will begin practical work slowly at first, but will soon become efficient, and after he has completed 2 or 3 square miles, he will be an experienced surveyor, and will know every inch of the mauza, the map of which he will be responsible for. He will doubtless transmit his knowledge to his children, and thus the educational seed which will be sown may bear fruit many fold. Zamindars may have their sons, and planters, their assistants, trained in surveying for a trifling fee, and they will thus be no longer in the hands of patwaris or amins in all matters connected with land measurement. Now, after discussion, if you will tell me, gentlemen, what method of survey you prefer, I will do my best to meet your wishes. His Honour has given me *carte blanche* in the matter, and with the approval of the Commissioner I am in a position to do what suits you best. The last word I would say is, that I hope you will freely criticise the operations when they commence, so that we may become aware of our weak points and have the opportunity of repairing them.

The Maharaja of Darbhanga, at the Chairman's request, explained Colonel Sandeman's views in Hindustani.

The Chairman invited criticism or questions by any of the persons present.

Babu Parmeswar Narain Mahtha asked how the nominee of the raiyats, who it was intended should assist the zamindar's muharrir in writing the khasra and khatian, was to be appointed.

Colonel Sandeman replied that he anticipated no difficulty on this point. The zamindar would, in practice, probably appoint both men subject to the approval of their representative by the raiyats. The matter would be one of mutual agreement. Indeed, it might not be necessary to appoint two men if the one man appointed by the zamindar were approved by the raiyats.

Mr. Gibbon remarked that it was important that the meeting should have some information as to the probable time the survey of each district would take. The Bettia estate comprised about 1½ million acres, and it would be a difficult matter to arrange for the large establishment necessary to watch the landlord's interest during the operations.

Colonel Sandeman stated that during the next survey season (commencing 1st October 1892), there would, for the cadastral work in the three districts, Muzaffarpur, Champaran, and Darbhanga, be two survey camps (each with a sphere of 500 square miles), in the next season six, and in the third season there would be eight such camps.

The Chairman explained that Colonel Sandeman would be prepared to concentrate the camps or not according to the general wish of the zamindars themselves.

Colonel Sandeman pointed out that the attestation by the Settlement Officers, a very important part of the work, could always be put off so as to suit requirements in this respect.

Mr. Gibbon remarked that part of the staff would apparently be paid by the zamindar and part by Government. The question arises how will the zamindars recover any share of their expenses from the raiyats. He would also prefer that both the amlas be appointed by the raiyats rather than that friction should be caused between them and the zamindar in this matter.

Colonel Sandeman again observed that this must be a matter of mutual arrangement between the two parties. The zamindar would not be allowed to appoint men inimical to the raiyats.

Mr. W. B. Hudson desired to urge, in behalf of both zamindars and planters, that if the patwari is to be employed as a surveyor, it is absolutely necessary that he should first be disestablished as a Government servant. At present theoretically he is under dual control; practically he is master of both Collector and zamindar. This should be put an end to, and this is the time to do so.

The Maharaja of Darbhanga, when appealed to by Mr. Hudson, said that although personally in favour of the views advanced by him, he could not express any opinion as representing others.

Mr. Gibbon drew attention to the question of keeping up the record of rights in the future. It was very necessary to determine at once by what

agency this should be done, whether by zamindari agency or that of Government:

Mr. W. B. Hudson urged that if the patwari's position were not at once properly defined, there would be complications in future. The following Resolution was then proposed by Mr. Hudson, seconded by Babu Ramdhari Sahay, and carried unanimously:—

“That previous to the patwari being educated and employed in the proposed survey at the expense of the zamindar, his *status* should be altered and his present dual position abolished. That in future his connection with Government should cease, and he should be simply the servant of the zamindar. That in future for the performance of the duties now carried on by the patwari, the responsibility should rest upon the zamindar.”

Babu Ramdhari Sahay inquired if Government contemplates the levy of a cess to pay the kanungoes whom it has been proposed to employ in keeping up the record of rights.

The Chairman stated that this question had not yet been settled, but that if kanungoes were employed they would probably be paid by personal fees on mutations. He was not, however, in a position to give any official information on the subject.

The Chairman then put the question whether the meeting was in favour of Colonel Sandeman's proposals, viz., that the cadastral survey work should be done by the existing village agency (details to be worked out hereafter) or of its being done by paid agency.

The sense of the meeting was strongly in favour of Colonel Sandeman's proposals.

Mr. Gibbon assented, but again pointed out the difficulty in the apportionment of the zamindar's expenses between himself and the raiyats. Government should, in the first instance, pay the patwari and other local agency, and afterwards assess the total costs between the two parties.

Colonel Sandeman observed that if the patwari and muharrir were to be paid separately in respect of their survey work, the expense would be greater than if it were done by trained agency, as the latter would work more quickly. In Jhansi the patwaris did the survey and carried on their other duties, such as recording mutations, at the same time.

Mr. Gibbon desired to place on record the following note which was read out to the meeting by the Chairman—

“In the event of Colonel Sandeman's scheme being adopted, I would ask that Government make such arrangements that the total cost shall fall in equal proportions between zamindars and raiyats, insomuch as Colonel Sandeman's scheme involves the payment by the zamindar of a large portion of the cost in the shape of the salaries of servants whom the zamindar would lend; and without some such arrangement as that asked for, none of this portion of the cost will be recoverable from the raiyats, and the zamindar's costs will thereby be unduly enhanced.”

Babu Ramdhari Sahay wished for time to consider this question.

Mr. Gibbon remarked that there should be one paymaster, not two.

Mr. Macnaghten suggested while the patwari was being educated and during his employment in the survey, he should be paid by Government.

The question of the length of the laggi to be used in the survey was brought before the meeting by the Chairman. Mr. Lyall explained that after receiving full reports from the different District Officers, he had recommended to Government that the parganawar laggi, which was used in the revenue survey, should be adopted as the standard of measurement under Section 92 of the Bengal Tenancy Act.

This met with unanimous approval, it being explained by the Chairman that in any individual case where the use of a different length of laggi could be established by proof it would be adopted.

The Chairman then summed up the conclusions arrived at by the meeting as follows :—

1. That this meeting is in favour of local agency being employed and the patwaris being educated.
2. That this meeting is unanimously of opinion that the dual control over patwaris should cease.
3. That in the opinion of this meeting further time is necessary to consider details regarding the realisation of the raiyat's share.
4. That this meeting is of opinion that one local centre in each district is sufficient for training patwaris.
5. That the revenue survey laggi as adopted in each pargana be adopted as the basis of the survey.

The meeting unanimously assented to the above summing up of the Chairman.

The Chairman then informed the meeting that, subject to the approval of Government, it had been arranged with Mr. Gibbon that Colonel Sandeman should at once remove one-half of his traverse establishment to Bettia, where the proposed system of education of patwaris would be immediately set on foot, so as to permit of the cadastral survey of 500 square miles in Champaran during next cold weather; Mr. Gibbon consenting to send 250 patwaris to be trained at Motihari, and to the principle that each patwari should be employed on survey work in the villages of which he is ordinarily in charge.

The system will thus be worked tentatively on a sufficiently large scale next cold season in Champaran, while in Muzaffarpur the patwaris will meanwhile be trained, and it is hoped that a similar plan will be found to be practicable in that district also.

Mr. Macnaghten and other gentlemen present mentioned the occurrence of several disputes in regard to boundary marks being laid down by the amins attached to the traverse party.

Colonel Sandeman undertook to direct the survey party to lay down the triple junction pillars and other boundary marks according to the revenue survey map, and to instruct Mr. Pemberton to correct any mistakes that may have already occurred in the same manner.

Mr. Macnaghten also complained that notices had not been received by some planters of the intended visits of the survey party to their villages. Colonel Sandeman said that he understood that notices were being issued in the manner required by law, but promised to look further into the matter.

The meeting then separated.

*D. R. Lyall,*  
Commissioner.

Enclosure 3, in No. 10.

**PROPOSED SYSTEM FOR BIHAR.**

THIS is based on the following premises :—

- |   |  |
|---|--|
| <ol style="list-style-type: none"> <li>1. That each zamindar provide a patwari and muharrir or assistant [one or other the nominees of the raiyats] for every circle. That he also provide a chainman and coolies.</li> <li>2. That the patwari and muharrir survey, write the records, extract all statistics of the circle, and finally fair the records.</li> <li>3. If the zamindar fail to provide these individuals or any of them, that he should individually pay for substitutes.</li> <li>4. That no patwari be forced to do the survey as part of his duties, nor pressure be brought to bear on the zamindars in this respect.</li> </ol> | <p>Premises on which the proposed system is based.</p> |
|---|--|

Unit of area of each camp.

The unit of area of each camp per season will be 500 square miles, or 320,000 acres with 640,000 fields approximately.

Supervision and its cost.

The supervision necessary for the above area will be—

	Rs.
One Surveyor and Assistant Surveyor with settlement allowance - - -	610—7,320
Clerks, &c. - - -	140—1,680
Travelling allowance - -	1,730
Mapping draftsman - -	2,580
Tracing - - -	900
Estimating - - -	2,520
Vernacular records - -	4,110

*Field Establishment.*

2 Head Inspectors - -	900
15 Inspectors - - -	4,050
Menials—Chainmen - -	4,050
Ditto - - -	160
Instruction of patwaris and contingencies - -	2,500
Total -	32,500
Share of Deputy Superintendent's charges - -	2,500
Grand Total - -	Rs. 35,000

or Rs.70 per square mile.

The above supervision is ample and is more than double what would be necessary if the patwaris were Government servants and we had complete control over them.

If a patwari be available for every area from 2 to 2½ square miles, then there will be 200 to 250 in 500 square miles, which area they will complete in one year.

If a patwari be available for every area of from 4 to 5 square miles, then there will be the same number (200 to 250) in 1,000 square miles, which area will be surveyed in two years, and the same supervising staff will be spread over this double area.

The results and cost in the end will be identical, but the supervision will work less advantageously in the latter case, as the same number of men will be spread over double the area in each season.

Supposing the patwari represents the raiyat's interests, the zamindar's muharrir will write the khatiyā, while the patwari writes the khasra, entry for entry.

Besides this check on falsification, there is that of the inspectors of the circle, who will purtal 25 of the entries, the head inspector, and the camp officer and his assistant. All these checks should ensure general accuracy.

The final attestation will, moreover, follow when the rents of holdings and status

The agency for the survey and the time it will take.

The cost the same whether the patwaris' circles be large or small.

Both the proprietor and raiyat to be represented to check falsification.

Other checks.

The final check.



status of tenants will be entered in the presence of the Assistant Settlement Officer. Each patwari will require a chainman and three coolies; at Khanapuri one coolie will suffice. The rates of payment will probably be 2½ and 1½ annas a day.

Zamindars will be asked to provide their own farm servants and to induce the raiyats to assist. They will thus save all charges under this head. If the zamindar does not provide labour, the charges against him will be about Rs. 25 a square mile. I need not enter into the calculation here.

It is intended to instruct the patwaris in the hot weather and rainy season, previous to the commencement of the survey. Those to be employed in October 1892 will be trained during May to September 1892. Each man will require three months' instruction.

The instructing staff will be—

	Rs.
1 Head Inspector -	50 × 6 = 300
3 Inspectors - - -	3 × 24 × 6 = 450
10 Chainmen - - -	10 × 6 × 5 = 300
Total - - - -	Rs. 1,050

This charge is already included under supervision.

The patwaris will be taught plotting from field-books, area extraction, drawing, numbering, writing, tracing, chain surveying and plane-table surveying. The method of cadastral survey in ordinary use will be taught by means of a model village of small extent and the use of a miniature chain.

The village will be marked out in a compound, and will contain the fields and ordinary topographical features of a real village.

Standing at one spot in the model village, the patwari has a bird's-eye view of the whole, and learns the system of survey in one-tenth the time that he ordinarily would need. He can, moreover, be taught all manner of ways of overcoming difficulties in a very advantageous manner.

The patwari will begin the survey of his circle in October and complete it in the following order:—

1. The boundary.
2. The field survey.
3. The areas.
4. Khanapuri.
5. The trace and terij.
6. The milan khasra, jinswar, &c.

The duplicate of the areas will be extracted by the muharrir under the eye of the Camp Officer after he has put the original areas under lock and key.

The muharrir will also write the khatians and parchas *pari passu* with the khasra.

Amount of menial labour required and the charges for the same.

Instruction of patwaris.

Details of work to be done.

It is anticipated that the patwari will require the whole year to complete the work of his circle. But if the circles are even smaller than 2 or 2½ square miles, the system will work all the more advantageously. The Director of Land Records tells me there is a patwari in each village.

The supervising staff permits of one Inspector for every area of 30 or 35 square miles, and a Head Inspector to every area of 250 square miles.

The Inspector's duties are to compare and pass all boundaries, and to test the survey and record generally as it proceeds.

If on independent partal any of the work will not stand the usual professional test, the Inspector will be held responsible.

The Head Inspector will also have to answer for the Inspector's neglect of duty.

The new procedure may cause modifications on the plan of final attestation.

The Assistant Settlement Officer must take scattered villages as he finds them ready, and if he does this, he can also overlook the Khanapuri.

Or the final attestation can be taken up in the season after survey.

It is intended that the zamindar's patwari and muharrir should fair the records also, to prevent any charge on this account.

All the work connected with the survey and record should be done in the one office, which should be called the Survey and Settlement Office.

The Assistant Settlement Officer's establishment should consist solely of the men required for case work and for final attestation.

A small staff of munserims and muharrirs will be required for checking the fairing.

When zamindars fail to provide an establishment to make the survey, they must be charged with its cost individually.

The following is an estimate of the charge per square mile:—

	Rs.
Surveying - - - -	25
Khanapuri - - - -	15
Tracing, estimating, and completion of records - - - -	20
Total - - - -	60

Thus the zamindar who does not provide his own survey staff will have to pay—

	Rs.
For supervision - - - -	70
Labour - - - -	25
Survey and records - - - -	60
Total - - - -	155

instead

### Duties of Inspectors.

Final attestation, how affected by the patwari procedure.

The patwaris to fair their own records.

There should be only one office establishment.

Zamindars, how to be charged when they fail to provide establishment.

instead of only Rs. 70, which is all he would have to pay if his servants were trained and made the survey.

This rate of Rs. 155 is a very high one, but perhaps the charge for labour might be reduced; and if amins are entirely employed, the all-round rate would certainly not be so high in Bihar.

Remarks as rates.

There is no doubt the cost of a patwari survey will be a low one, but I would not like to guarantee Rs. 70 or any definite rate per square mile. The little control we have over the patwaris introduces an element of risk into any such plan as I propose, which may upset any estimate.

A patwari survey under professional supervision is, however, past the experimental stage, and if the zamindars have enough influence to induce the patwaris to work, it must succeed.

The above is a rough sketch of the procedure that I propose to adopt, with the approval of Government, if the zamindars and planters agree to co-operate in the manner that is necessary.

*J. E. Sandeman.*

4 March 1892.