



GOVERNMENT OF ORISSA

REPORT
OF
THE LAND REFORMS COMMITTEE
ORISSA

1958
REVENUE DEPARTMENT

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ORISSA

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THE LAND REFORMS COMMITTEE, ORISSA

CHAPTER I

INTRODUCTORY

1. *Appointment of Committee and terms of reference—*
The Committee was appointed under Resolution No. Re. 14/57-22873-R., dated the 11th December 1957 of the Government of Orissa in the Revenue Department. The resolution is reproduced below :

“ The legislative measures for introducing comprehensive Land Reforms on the lines suggested by the Planning Commission in their Second Five-Year Plan have been under the consideration of Government for some time past. Legislation for abolition of intermediaries at all levels has already been undertaken and a temporary measure to give effective protection to cultivating tenants from ejection has also been enacted. It is essential in the interests of evolving a fairly uniform pattern of ownership conforming to commonly agreed rights and obligations and for defining all the rights of ownership of tenants who will now hold lands directly under Government, to bring on the statute book a permanent legislative measure. The proposed reforms should also keep in view the interests of agricultural production and security of rural credit.

Government have decided to appoint a committee consisting of the following members to consider and suggest measures in conformity with the recommendations and directions given by the Planning Commission in their Second Five-Year Plan. Government desire to bring

forward the permanent legislative measures before the date of expiry of the Orissa Tenants Relief Act and accordingly expect that the Committee would be able to furnish their recommendations for the necessary legislative measures before the end of January 1958 so that the draft Bill can be introduced in the March session of the Legislative Assembly :—

- (1) Shri Satyapriya Mohanty, Minister, Revenue—Chairman.
- (2) Shri Sadasiba Tripathy, M.L.A., Member
- (3) Shri Rajkrushna Bose, M.L.A., Member
- (4) Shri Madan Mohan Patnaik, M.L.A., Member
- (5) Shri Nisamoni Khuntia, M.L.A., Member
- (6) Shri Mohan Das, M.L.A., Member
- (7) Shri Raj Ballabh Misra., M.L.A. Member
- (8) Shri Sundar Mohan Hembrom, M.L.A., Member
- (9) Shri Brundaban Naik, M.L.A., Member
- (10) Secretary to Government of Orissa, Revenue Department—Secretary

The Committee is expected to formulate their recommendations on the basis of the recommendations of the Planning Commission and in particular on the following :—

- (1) The incidents of tenancy where tenants are brought into direct relationship with Government.
- (2) Grant of voluntary right of purchase of ownership to cultivating tenants from the owners of land of non-resumable areas.
- (3) Ceiling on holdings.
- (4) Administrative implementation of necessary land reforms.

- (5) Consolidation of holdings.
- (6) Land Management.
- (7) Co-operative Farming.
- (8) Land Records.

The Committee is expected to formulate definite recommendations to enable a Bill to be prepared for presentation in the Assembly. ”

2. *Meeting of the Committee*—The Committee had altogether five sittings. The first sitting was attended by all the Members except Shri Sadasiba Tripathy, M.L.A. In the second sitting, on the first day all the Members attended but on subsequent two days of the sittings Shri Rajkrushna Bose, M.L.A., could not attend. The third sitting was attended by all Members except Shri Sadasiba Tripathy, M.L.A., who could not attend. In the fourth sitting Shri Sadasiba Tripathy, M.L.A., Shri Raj Ballabh Misra, M.L.A., and Shri Sundar Mohan Hembrom, M.L.A., could not attend. In the fifth meeting all Members were present except Shri Nisamoni Khuntia, M.L.A.

3. *Scope of the Committee*—The subjects on which the Committee is expected to give definite recommendations are very comprehensive. In the Government resolution it has been indicated that Government are desirous of bringing forward a permanent legislative measure before the expiry of the life of the Orissa Tenants Relief Act on the 30th June 1958. The time at our disposal is short and definite recommendations had to be given in time so as to enable Government to prepare a Bill to be presented to the Orissa Legislative Assembly during the Budget session of 1958. We, therefore carefully took to consideration the terms of reference on which we are to furnish recommendations and we are of the unanimous view that in consideration

of the intricate land tenure systems prevailing in the State of Orissa, and also of the vastness of the ground that each of the terms of reference cover, we will not be able to do justice if recommendations are formulated on all the subjects mentioned in the Government resolution immediately. The problems are to be gone into at length and the details of the complexities that arise in the implementation have to be studied carefully. This will take time. Hence our considered view is that the programme we recommend should be a phased one. We are of the opinion that our present recommendations should be confined to the following subjects only so that Government may be able to prepare a Bill for presentation in the Assembly in order to replace the Orissa Tenants Relief Act, the life of which is expiring on the 30th June 1958 :—

- (i) The incidents of tenancy where tenants are brought into direct relationship with Government ;
- (ii) Grant of voluntary right of purchase of ownership to cultivating tenants from the owners of the land of non-resumable areas ;
- (iii) Ceiling on holdings ;
- (iv) Administrative implementation of necessary land reforms ;
- (v) Land Records.

We want to make it clear that the other three subjects on which we have been asked to give our recommendations are equally important measures relating to Land Reforms. But as these matters need further detailed examination, we consider it desirable to defer our recommendations on these subjects to a later date.

The Committee regret that the delay in finalising the report was unavoidable. With a view, however, to facilitate the early presentation of the Bill in the Assembly, most of the paragraphs in the Report have been drafted almost with legal precision avoiding elaborate theoretical discussions.

4. *Acknowledgement*—We acknowledge with pleasure the valuable help we have received from the Secretary of our Committee, Shri R. P. Padhi, I.A.S., whose work has been excellent. We are also thankful to Shri V. Ramanathan, I.C.S., Member, Board of Revenue and Dr. S. K. Rau, I.A.S., Director of Land Reforms, for their invaluable advice and assistance in our work. We wish to place on record our appreciation also of the work of the staff of the Revenue Department and Directorate of Land Reforms, who have discharged their duties efficiently.

CHAPTER II

FUNDAMENTAL CONCEPTS

5. *Elimination of all intermediate interests, a pre-requisite to land reforms*—We are unanimously of the view that all the tenants in the State should be brought into direct relationship with Government as expeditiously as possible. Any measure of Land Reforms can be implemented successfully only when all the intermediate interests are completely eliminated. Government have already taken steps to implement the policy of the abolition of the Zamindaries and other intermediate interests. A systematic attempt has been made from 1952 to eliminate the intermediate interests as far as possible. From the fact placed before us we find that there are still a large number of revenue-free estates, tenures, inams, maufis and other intermediary interests to be eliminated. We find that in Cuttack, Puri and Balasore districts alone there are over 111,000 revenue-free estates with a total area of about 407,000 acres. The area of subsisting tenures in these three districts alone is about 313,000 acres. In other districts, there are a number of inams, maufis and other subsisting intermediate interests. We quite appreciate the magnitude of the problem that has to be faced by Government in abolishing these subsisting intermediary interests. But all the same, we are strongly of the view that unless these intermediary interests are eliminated soon, in a planned manner, the progress of Land Reform measures will be impeded to a great extent.

6. *The problem of bringing all tenants directly under Government*—If all the intermediate interests are not

abolished, many difficulties are likely to be confronted in implementing the Land Reforms measures, like fixation of ceiling, resumption by the landlord for personal cultivation, etc., some of them are indicated below :—

(i) There are different classes of tenants like tenure-holders Jagirdars, occupancy-tenants, under-ryots, etc., under the holders of estates that have not so far vested. It would be difficult to enforce ceilings in respect of holders of such estates and also to bring in direct relationship with the tenants under these intermediaries with Government.

(ii) There may be unreclaimed waste lands in these estates. When applying the ceiling limit, it is to be considered whether this limit will apply to such lands. The extent of such land also will have to be ascertained.

(iii) The Orissa Estates Abolition Act allows an intermediary to retain all land under his *Khas Possession*. Some alterations in the existing Act may be necessary, after a decision is taken regarding the ceiling limit.

(iv) Up-to-date Land Records are not available. It may, therefore, be difficult to know and determine the extent of Khas-possession, Anabadi, bought-in and other private lands held by the subsisting intermediaries. The absence of correct Land Records is the greatest hurdle in the implementation of any Land Reforms measure.

We, therefore, recommend that Government may immediately take up a planned programme for the elimination of all intermediary interests within a period of three years. Only after all intermediate interests are eliminated and up-to-date land records are prepared, it will be possible to complete the implementation of Land Reforms measures successfully.

7. *Unification of Tenancy Laws an absolute necessity*—The problem of bringing all tenants directly under Government is complicated in the State of Orissa. Different Tenancy Laws are in force in different parts of the State. In the regular areas of the districts of Cuttack, Puri and Balasore, the Orissa Tenancy Act is in force. The ex-Madras areas of Ganjam and Koraput had the Madras Estates Land Act for the Zamindari areas in these districts. This Act has been repealed by the Orissa Estates Abolition Act. Now these areas are being managed as ryotwari areas. For the ryotwari areas in these districts there are series of instructions contained in the Board's Standing Orders. In the Sambalpur district, the Central Provinces Land Revenue Act, 1881 and the Central Provinces Tenancy Act, 1898 are in force. In Nawapara subdivision of the Kalahandi district, the Central Provinces Land Revenue Act, 1917 and the Central Provinces Tenancy Act, 1920 are in force. Every ex-State area has its own tenancy laws or rules. The Angul subdivision is governed by the Angul Laws Regulation, 1936. For the Kondmals subdivision there is also another set of regulations known as the Kondhamal Laws Regulations. The tenancy and the system of land tenure varies from area to area. We realise that to bring about uniformity in the tenancy laws will be a difficult task ; but we feel that it is time that earnest attempt should be made by Government for bringing about uniform tenancy law in the entire State. Until this is done, we are afraid, it will not be possible to bring all types of tenants in the State to the same footing.

8. *Certain classes of tenants to be given occupancy right*—We have carefully taken into consideration the diverse tenancy systems at present prevalent in the State. After taking all factors into account, we recommend that the following classes of tenants should have priority

and should be immediately given occupancy right on conditions as mentioned hereunder :—

- (i) Recorded non-occupancy ryots ;
- (ii) Ryots who hold permanent and heritable rights in land held as such under Government ;
- (iii) Sub-tenants under the Central Provinces Tenancy Acts or any other law in force in the State.
- (iv) Under-ryots under the Orissa Tenancy Act.
- (v) Recorded under-ryots under any law in force in any part of the State.

9. *Recorded non-occupancy ryots*—“Non-occupancy ryots” are those who have no right of occupancy in their land held as such. Their incidents are governed by sections 49 to 54 of the Orissa Tenancy Act. They have been recorded as “Dakhal Satwa Sunya” in the Settlement Reco.ds. This is because they had not acquired occupancy right by the time the Settlement records were last prepared. Since they have been in possession of these lands for more than 12 years we recommend that these tenants should have the right to acquire occupancy tenancy. For getting this right they should not be required to pay any compensation.

10. *Ryots having permanent and heritable rights in the land held as such under Government*—There are tenants particularly in the inam Estates of Ganjam and Koraput districts who have permanent and heritable rights over the land held by them as such. After the abolition of inams in these two districts they have been brought directly under Government. Since they have already permanent and heritable rights we recommend

that such tenants who have come directly under Government, should be given all the benefits of an occupancy ryot without payment of any compensation to Government.

11. *Sub-Tenants*—The recorded sub-tenants under the Central Provinces Tenancy Act, 1898 or Central Provinces Tenancy Act, 1920, or any other law in force in the State also deserve to acquire occupancy right in respect of the lands held by them as such. We do not, however, consider it equitable to recommend declaring the recorded sub-tenants to be occupancy tenants in respect of the lands, held by them as sub-tenants and to extinguish the right of the recorded occupancy tenants, without payment of any compensation to the latter. The recorded occupancy tenants or their fore-fathers must have spent money for the reclamation and improvement of the land or might have paid a large sum to acquire the same. We therefore recommend that sub-tenants may acquire occupancy right on payment to the landlord compensation which shall be 50 per cent of the compensation recommended in paragraph 54 payable by tenants commonly known as 'Bhag Chasis' for acquiring occupancy right.

12. *Recorded under-ryots under the Orissa Tenancy Act*—Tenants holding land whether immediately or mediately, under the ryots are classed as 'under-ryots' in the Orissa Tenancy Act. Their status has been entered as Sikmi in the Settlement records. Similar under-ryots exist also in other parts of the State. Since they have been in long possession of their land as such, we recommend that they should be given occupancy right on payment of compensation as recommended in case of sub-tenants in paragraph 11 above.

13. *Definitions*—Before outlining the incidents that he tenants who are brought into direct relationship

with Government should have, we desire to indicate the types of tenants and the definitions that we recommend giving to different terms connected with tenancy and land reforms.

(a) *Ryot*—There should be one class of tenants-ryots holding land directly under Government. “Ryot” will mean a person who holds land for purposes of agriculture, and shall include—

(i) his successors-in-interest ;

(ii) a ryot in Ganjam and Koraput districts ;

(iii) all persons who are deemed to be ryots under the existing Tenancy and Revenue Laws.

(b) *Tenant*—A ‘Tenant’ popularly known as “Bhagchasi” in this State should be protected in the matter of fixity of tenure. We recommend giving such tenants occupancy right in respect of the land held by them as such after allowing the landlord to resume certain extent of land for their personal cultivation. This has been discussed in detail in Chapter V. A tenant of this category may be defined as a person having no permanent and heritable rights who under the system generally known as Bhag, Sanja, or Kata or such similar expression, or in any other system, law, contract, custom, or usage, cultivates the land of another person on payment of rent in cash or in kind, or in both or on condition of delivery to that person—

(i) either a share of the produce of such land ; or

(ii) estimated value of portion of the crop on the land ; or

(iii) a fixed quantity of produce irrespective of the yield from the land : or

(*w*) produce or its estimated value partly in any of the ways described above, and partly in another.

(*c*) *Land-holders*—‘Land-holder’ shall mean Proprietor, Sub-proprietor, Malguzar, Thikadar, Gauntia, tenure-holder, under-tenure-holder and should include Inamdar, Jagirdar, Zamindar, Kharposhdar, Parganadar, Sarbarakar and Maufidar including Rulers of Indian States merged with the State of Orissa and all other holders or owners of interest in land between ryot and the State.

(*d*) *Landlord*—‘Landlord’ should mean a person whose land is cultivated by a tenant on payment of rent.

EXPLANATION—A ryot shall be deemed to be a landlord in relation to the tenants under him.

(*e*) *Land*—‘Land’ will mean land which is used for agricultural purposes.

(*f*) *Holding*—‘Holding’ will mean a part or parcel of land held by any ryot and forming the subject of separate tenancy.

(*g*) *Agriculture*—‘Agriculture’ will include horticulture, raising of crops, grass, or garden produce, dairy farming, breeding and keeping of live-stock and use of the land as pasture and for forest, where such use is an ancillary to agriculture.

(*h*) *Agricultural year*—‘Agricultural year’ will mean, where Oriya year prevails, the year commencing on the first day of Baisakh of the Oriya Year, where Fasli year prevails, the first day of July and where any other year prevails for agricultural purposes, that year ;

EXPLANATION—In the event of any question as to a particular agricultural year or any other year, a notification by Land Reforms Commissioner on this behalf, shall be conclusive.

(i) *To cultivate*—‘To cultivate’ with all its grammatical variations and cognate expressions will mean to till or husband the land for purpose of raising or improving agricultural produce, whether by manual labour, or use of cattle, or machinery or to carry on agricultural operation thereon, and the expression ‘uncultivated’ shall be construed accordingly.

EXPLANATION—A person who takes up contract to cut grass or to gather fruit trees of any land shall not on that account only be deemed to cultivate such land.

(j) *To cultivate personally*—In any measure of Land Reforms, the concept of personal cultivation is an important one. If agricultural efficiency has to be increased with a view to stepping up food production the element of absentee landlordism has to be carefully eliminated. If any one is to be allowed to hold land in future, he must cultivate it personally. We have carefully considered the aspect as to what would constitute personal cultivation. Personal cultivation may be said to have three elements, namely, right of cultivation, personal supervision and labour. If we confine the definition of ‘personal cultivation’ so as to cover only the actual tillers of the soil, then in our opinion, it will be too narrow a definition. There are numerous people living in villages having their lands cultivated through retained labourers, farm servants, hired labourers, supplying cattle, implements, seed and manure and exercising personal supervision over all the operations without actually undertaking any physical operation with the tillage itself. This class will be excluded if the definition is limited in scope to mean

tillers of soil only. On the other hand, the definition cannot be expanded wide enough to cover all land-holders. An absentee landlord who seldom sees his land, which he lets out on lease, and who merely advances money for cultivation cannot be held to cultivate his land personally. We consider personal supervision to be a very essential roll in cultivation and this element should be one of the main factors in judging whether a land is being cultivated personally or not. After carefully taking into account all aspects, we consider that the following may be an appropriate definition; "To cultivate personally" will mean to cultivate on one's own account—

(i) by one's own labour ; or

(ii) by labour of any member of one's family ; or

(iii) under personal supervision of one-self or any member of one's family by hired labour or by servants on wages payable in cash or kind but not in crop share.

EXPLANATION I—A widow or minor or a person who is subject to physical or mental disability, or member of the Armed forces of the Union, (provided none of these categories has an adult member in the family), or a religious, charitable or educational institution engaged bona fide in a work of public benefit, or a trust dedicated exclusively for public purposes, shall be deemed to cultivate land personally, if such land is cultivated by her/his or its servants, or by hired labour or under personal supervision of the trustee, marfatdar, or manager in case of religious, charitable and educational institutions, engaged bona fide in the work of public benefit or trust dedicated exclusively for public purposes through tenants.

EXPLANATION II—In the case of an undivided family, land shall be deemed to have been cultivated personally, if it is cultivated by any member of such family.

Tenants under excepted category will however, not be liable to eviction. The rent payable by such tenants shall be the same as now laid down in the Orissa Tenants Relief Act, *i.e.*, $\frac{1}{4}$ th of the gross produce subject to the maxima prescribed therein.

(*k*) *Economic holding*—The limit of economic holding is fixed taking into consideration the minimum area of land needed for allowing a minimum liability to sustenance to a family and the minimum area which will be necessary for forming an economic operational unit. Taking into account, all the incidental aspects consistent with the conditions of our State, we recommend that this unit should be seven standard acres. This will apply in relation to land held by a person, whether he be a land-owner or a tenant.

We may however, clarify that we have not entered into any theoretical discussion as to whether the seven acres would provide the optimum acreage for cultivation, etc. We have not also gone into the question as to whether all families in the State can be provided with this extent of an economic unit. These considerations can be taken up much later after watching all the other types of influences coming into play for increased agricultural output.

(*l*) *Ceiling areas*—The Congress Agrarian Reforms Committee and the Planning Commission have recommended that there should be a maximum size for land holdings and have suggested that this should be about three times the size of the economic holding. Land is a social asset and social justice demands that there should be no unnecessary concentration of land in the hands of a few. We are

therefore, unanimous that there should be a ceiling limit to the holdings that can be held by a person.

We have taken into careful consideration as to what will be the suitable limit of the maximum size for individual holdings. In arriving at a definite conclusion on this matter, the following considerations naturally come into the picture :—

(i) The unit should be such as would be an efficient operational unit ;

(ii) The maximum extent of land that may be left to an individual should yield a certain average income as will enable the family to have a standard of living consistent with other sectors of national economy, like commerce, industry and other avenues of life.

We endeavoured to come to an unanimous decision in regard to the ceiling area that may be prescribed under law. We regret, however, that it was not possible to come to any definite conclusion in view of the divergent views held by some of us. Hence, we would recommend that this question of prescribing a ceiling on holdings should be considered by Government and they may prescribe such limits for different areas in the State as may be considered suitable and just. We are also of the opinion that Government may take into consideration the administrative and financial difficulties in arriving at a decision whether ceiling should apply to the present holdings. We would like to indicate, however, that ceilings should apply to the future acquisitions, including acquisitions arising out of resumption for personal cultivation by the landlords or purchase by tenants as indicated in Chapter V.

Ceiling area—There will, of course, be a few exceptions of the nature indicated below :—

- (i) Coffee and Casurina plantations ;
- (ii) Orchards where they constitute reasonable compact block ;
- (iii) Specialised farms engaged in capital building and Dairy ;
- (iv) Sugarcane farms operated by sugarcane factories ;
- (v) Efficiently managed farms consisting of compact blocks on which heavy investments have been made and whose break-up is likely to lead to fall in production, as may be notified by the State Government.

NOTE—The State Government may carefully examine the question of pressure of population on land before granting any exemptions to the future farms.

- (vi) Co-operative farming societies provided no individual member in a co-operative society or societies holds land either for personal cultivation or as member of the co-operative society or societies not exceeding the ceiling area.
- (vii) All State Farms
- (viii) Public religious, charitable or educational institutions ; engaged bona fide in a work of public benefit and trusts dedicated exclusively for public purposes.

(m) *Standard acre*—As there are different types of land, namely, canal irrigated, rain-fed, and dry in the State and the fertility of the land varies from area to area, we do not like to indicate precisely what will be the

standard acre in respect of a particular area. We recommend that the State Government may prescribe the standard acre as such either for a particular area or for the State as a whole taking into consideration all connected factors. But in no case should a standard acre exceed three acres of any type of land.

(n) *Improvement*—‘Improvement’ will mean with reference to any land, any work which adds to the value of the land and which is suitable thereto as also consistent with the purposes for which it is held and includes—

(i) the construction of wells, tanks, water channels, and other works for the storage, supply or distribution of water for the purpose of agriculture, or for the use of men and cattle employed in agriculture ;

(ii) to the preparation of the land for irrigation ;

(iii) the drainage, reclamation from rivers or other waters, or protection from floods, or from erosion or other damage by water, or land used for agricultural purposes or water land which is culturable ;

(iv) the reclamation, clearance, enclosure, or permanent improvement of land for agricultural purposes ;

(v) the renewal or reconstruction of any of the foregoing works, or alterations therein or additions thereto ; and

(vi) the erection of a suitable dwelling house for the ryot and his family together with the necessary out-houses required for the convenient or profitable use of such land for agricultural purposes.

(o) *Rent*—‘Rent’ shall mean what is lawfully payable or deliverable in money or in kind or both by a tenant to the landlord in respect of the land held by him.

(p) *Person*—‘Person’ will include undivided family.

CHAPTER III

THE RYOTS

14. *Tenants recommended for giving occupancy right to pay fair and equitable rent*—We recommend that the Ryots mentioned in paragraph 8 shall pay to the landlord fair and equitable rent. This may be fixed in the prescribed manner by the Lands Tribunal, the formation of which we have recommended in paragraph 65 where it has not already been fixed in course of Rent Settlement or otherwise by a competent authority. We further, recommend that until compensation is paid in full by categories (iii) to (v) mentioned in paragraph 8 they shall be governed by the incidents for such tenants provided in the Tenancy Law or Rules or Regulations or usage, or custom or contract in force in the particular areas of the State of Orissa except that such tenants will pay rent at the rate at which the land-owner was paying to his superior landlord. If they fail to pay compensation either in lump sum or in instalments as indicated in paragraph 50, the occupancy right deemed to have been conferred on them will be treated as cancelled and they shall be liable to pay rent according to the rates prescribed under the Orissa Tenants Relief Act minus the rent that might have already been paid by them to the land-owners concerned.

15. *Right of Ryots in respect of his land*—The holding of a Ryot shall be heritable and transferable. He shall however, not be entitled to the sub-soil rights.

16. *Termination of tenancy by default of Ryot*—For giving a ryot fixity of tenure we recommend that

notwithstanding any agreement, usage, decree or order of a Court of law, the tenancy of any land held by a ryot shall not be terminated except on the following grounds :—

(i) has done any act which is destructive or permanently injurious to the land ;

(ii) has sub-let the land or failed to cultivate it personally ; or

(iii) has used such land for a purpose other than agriculture.

EXPLANATION— Construction of a house for the residence of the ryot and his family will be considered as for agricultural purpose.

17. *Notice by landlord before termination of tenancy*— The tenancy of any land held by a Ryot may not be terminated on any of the grounds mentioned above, unless three months' notice is given in writing intimating the ryot the decision to terminate the tenancy and the ground for such termination.

18. *Tenancy of certain excepted classes not to be terminated on ground of sub-letting*—A tenancy of any land held by a ryot who is a minor or a widow or who is subject to physical or mental disability or who is a member of the Armed Forces of the Indian Union or held by a public religious, charitable or educational institutions engaged bona fide in a work of public benefit or trust dedicated exclusively for public purposes, shall not be liable to be terminated only on the ground that such land has been sub-let on behalf of the said ryot.

19. *Bar to eviction from dwelling houses*—We are aware of a large number of cases where tenants are at the mercy of their landlords with regard to the house sites on which

they have constructed dwelling houses at their own expense. We are strongly of the view that these cases need protection. We therefore recommend that if in any village a ryot or tenant is in occupation of dwelling house or farm house, built at the expense of such ryot or his predecessor-in-title on a site belonging to his landlord, such ryot or tenant shall not be evicted from such dwelling house or farm house (with the materials and site thereof and the land immediately appurtenant thereto and necessary for its enjoyment) subject to the maximum limit of 20 decimals unless—

the landlord proves that the dwelling house or farm house was not built at the expense of such ryot or tenant, or his predecessors-in-title :

Provided that the ryot or tenant shall acquire occupancy right on the land on which the dwelling house or farm house has been built and the land appurtenant thereto subject to the maximum limit of 2 decimals on payment to the landlord compensation equal to ten times the rent. After the ryot or tenant acquires occupancy right in the house site he will be liable to pay only a fair and equitable rent as may be fixed in respect of the land by the Lands Tribunal.

20. *Dwelling house of Agricultural labourers and artisans*—There are instances of agricultural labourers and artisans having dwelling house constructed at their own expense on the land of their landlords. Since this appears to be a general problem in all the areas of the State we recommend that the protection as recommended in paragraph 20 above shall be extended to the dwelling houses and house-sites occupied by agricultural labourers or artisans in any particular area to be specified in the notification by the State Government.

21. *Relief against termination of Tenancy in certain cases*—We feel that before the tenants are evicted for doing an act which is destructive or permanently injurious to the land they should be given an opportunity for restoring land to its original condition. We, therefore, recommend that where the tenancy of any land held by a ryot is terminated on the ground mentioned above, no proceeding for ejectment against such ryot should lie unless and until the landlord has served on the ryot a notice in writing specifying the act of destruction or injury complained of and the ryot fails within a period of one year from the service of notice to restore the land to the condition in which it was before such destruction or injury.

22. *Transferability of a holding of a ryot*—In order to provide credit facilities to the ryot we consider it desirable that they should have no restriction on the transfer of holdings except the one mentioned hereunder. But in order to safeguard against any malpractice we recommend that all transfers of holdings of a ryot or share or portion thereof should be made by a registered document. The instrument conveying the transfer should contain particulars about the sale price or value of the holding or portion or share thereof transferred. For giving notice to the competent authorities for correction of Land Records we also recommend that like the provision contained in section 31 of the Orissa Tenancy Act there should be a similar provision for giving notice in the form to be prescribed for transmission to the competent authority. This should also be insisted upon in case of bequest and Court sales of holdings. We also feel that another notice should be given to the co-sharers or contiguous tenants so that they may be aware of the transfer and may apply for purchase of the holding as recommended in paragraph 25 below. This we consider necessary in order to prevent fragmentation of holdings and to enable uneconomic holdings to be converted to economic holdings.

23. *Transfers to non-agriculturists barred*—Land is the only asset of the peasantry and in the past it is noticed that on account of no restriction on the transfer of agricultural holdings considerable land has concentrated in the hands of the non-agriculturists. This tendency is extremely prejudicial to the interest of efficient agricultural production. We, therefore, recommend that no sale, gift, exchange or lease or mortgage of any land or interest therein, should be valid in favour of a person who is not an agriculturist. There may be special cases when this restriction may have to be waived. This may be left to the discretion of a competent authority to be prescribed by Government for the purpose. We do not recommend that this restriction should apply for sale, gift, exchange or lease of a dwelling house or site thereof or of any land appurtenant to it, if it is made in favour of an agricultural labourer or artisan. This restriction should also not apply in case of transfers in favour of Co-operative Societies.

24. *Restriction on alienation of land by Scheduled Tribes*—The difficulties to which the members of the Scheduled Tribes have been put as a result of the transfers of land to non-aboriginals are well known. For raising the standard of the members of the Scheduled Tribes, we consider it absolutely necessary that there should be restriction in the alienation of land by Scheduled Tribes. We, therefore, recommend that the transfer of the holding or part of the holding of a ryot belonging to the Scheduled Tribes shall be void if the transfer is made to a person who does not belong to the Scheduled Tribes. In special cases the competent Revenue Officer may, however, have power to grant permission for transfer of a holding belonging to an aboriginal to a non-aboriginal. This permission should be given only when the Revenue Officer is satisfied that a purchaser belonging to the Scheduled Tribe is not available to purchase at an adequate price.

25. *Right of purchase by co-sharers or contiguous tenants*—For increased food production it is absolutely necessary that size of holdings should be made economic by all means and there should be restriction to the division of holdings so that this may not be made uneconomic for the purpose of efficient cultivation. With this end in view, we recommend that if a portion or share of a holding of a ryot is transferred to any person other than the co-sharer in the holdings, any co-sharer ryot of the holding, within a specified period, say three months, or any contiguous tenant, may apply to the competent authority for transfer of the said portion or share of the holding to him, subject of course, to the ceiling limit, on deposit of consideration money. If a co-sharer ryot or a contiguous tenant adjoining such land both apply for such transfer, the former should have the benefit of prior right to purchase. As among the contiguous ryots preference should be given to the ryot having the longest common boundary with the land transferred. This restriction may not apply to the following cases :—

- (i) transfer by exchange, or by partition ; or
- (ii) transfer by bequest or gift ; or
- (iii) usufructuary mortgage ; or
- (iv) a transfer for public charitable, religious, or educational purposes or for a trust dedicated exclusively for public purposes, or any of these purposes without reservation of any pecuniary benefit for any individual.

26. *Sub-letting and assignment prohibited*—It is by now an accepted fact that ownership of land can go to one who cultivates personally and there is no strong justification for the absentee landlord to figure in the agricultural economy. We are strongly of the view that land can be held only for

personal cultivation and that no sub-letting of the land or assignment of any interest held by a ryot shall be valid. Such sub-letting or assignment should make tenancy liable to termination. There should, however, be exception in the following cases where sub-letting may be allowed :—

(i) Widow, (ii) Minor, (iii) a person who is subject to physical or mental disability, (iv) a Member of the Armed Forces of the Indian Union (provided none of these four categories has an adult member in the family) and (v) a public religious, charitable or educational institution engaged bonafide in the work of public benefit or trusts dedicated exclusively for public purposes without any pecuniary benefit to any individual. In such cases, the tenant should not be evicted till the disqualification is removed and he should pay rent in accordance with the provision made in the Orissa Tenants Relief Act. After the disqualification is removed the provisions of Chapter V will apply.

27. *Diluviated Land*—If holding of a ryot or a portion of it is lost by diluvion, rent of the holding should, on application made by ryot to the prescribed authority, be remitted or abated by him, which in the opinion of the prescribed authority, is fair. The right, title and the interest of the ryot should, however, subsist in such holdings or portion thereof during the period of loss by diluvion not exceeding 20 years and the ryot should on its appearance at any time within that period be entitled to possess such land and be liable to pay such rent as in the opinion of the prescribed authority, is fair.

28. *Right in land gained by recess of river or sea*—It is a recognised principle that any land gained by gradual accession to any holding whether from the recess of river or of the sea, shall form an addition to that holding. We recommend that such accretion should form an addition

to the holding of the ryot who shall be liable to pay such rent on re assessment as may be determined by the competent authority. This will be of course subject to the ceiling area. If any portion of the accreted land is left beyond the ceiling area, it shall vest in the State Government free from all encumbrances.

29. Under the Orissa Merged States' (Laws) Act, 1950 it has already been laid down in section 7 (*h*) that when a person holds Khamar, Nij-jote or any other private lands of a Ruler, which has been recognised as such by the State Government, he shall not be liable to ejectment but shall be liable to pay such fair and equitable rent as may be fixed by a competent authority appointed in his behalf, and thereupon he shall acquire right of occupancy in respect of such land. A large number of tenants have already acquired rights of occupancy in the lands cultivated by them under the above provisions of law. The Committee are, however, aware that some tenants have not acquired rights of occupancy due to the delay in the fixation of fair and equitable rent. The Committee would like to recommend that in all cases in the Merged States Territories, where tenants are entitled to acquire rights of occupancy under the above mentioned provisions, they should be allowed to do so and recommendations made in paragraph 8 or in Chapter V, should not be made applicable to them as it would be to their disadvantage to be asked to acquire rights of occupancy by payment of compensation.

30. *Ryot to have incidents of occupancy ryot*—Save and except the rights, liabilities and restrictions recommended in the preceding paragraphs, we recommend that ryots should have the same incidents as enjoyed by occupancy ryots under the different tenancy laws, rules and regulations or customs that are in force in different areas of the State.

CHAPTER IV

CEILINGS

31. *Maximum extent of land to be held by a person*—Taking all factors into consideration we have already recommended in paragraph 13 (l) that there should be a ceiling on land holdings in respect of future acquisitions. There should be a few exceptions as indicated in that paragraph. The extent of the ceiling and the date from which the ceiling limits should be enforced may be decided by Government as already recommended by us.

32. *Power of Government to vary the ceiling area*—We are aware that the productivity of the land and its situation vary from place to place and it may therefore, be difficult to strictly adhere to the limit of the ceiling area. We, therefore, recommend that the State Government may have power, if it is satisfied that it is expedient to do so, to vary, by a notification in the official gazette, the acreage of the ceiling area in any locality having regard to :—

- (i) the situation of the land ;
- (ii) its productive capacity ;
- (iii) the fact that the land in the area is held by a member of Scheduled Caste or Tribe or any other person belonging to special and economically Backward Classes or that the land is situated in hilly areas as may be declared by notification by State Government ;

(iv) any other factor which may be prescribed by Government.

33. *No person entitled to hold lands if he fails to cultivate it personally*—In the interest of food production and efficiency in land management we are insistent that a person should be allowed to hold land only to cultivate it personally in an efficient manner. We are therefore, strongly opposed to any person being allowed to hold land, if he fails to cultivate it personally. We, therefore, recommend that any person who fails to cultivate the land or any portion thereof personally, such of the land not cultivated personally should be disposed of in the manner recommended in paragraph 37 below.

34. *Submission of returns by persons holding land*—We appreciate the problems that the administrative machinery will have to face for enforcing the ceilings. All the same we are convinced that no useful purpose will be served if effective steps are not taken to enforce ceiling limits for future acquisition. In order to enable the administrative machinery to get detailed information about it we recommend that Government may retain powers under the Law to direct any person to submit to the prescribed authority a return in the prescribed form and in the prescribed manner giving particulars of all lands held by him, at any time.

35. *Collection of information through other agencies*—The competent authority should have also power to collect information as to whether a person holds land in excess of the ceiling area through such agencies as may be prescribed.

36. *Preparation of statement of properties held by person*—On the basis of information given by the person as recommended in paragraph 34 above, which shall be

duly verified through such agency as may be prescribed or the information obtained by the competent authority it shall prepare a draft statement showing among other particulars as may be prescribed the total area of land held by each person, specific plots held for retention by him for his personal cultivation remaining after such selection. The draft statement should be published at such place and in such manner as may be prescribed and objections invited. After hearing objections the competent authority, shall make the draft statement as amended, if any, final and republish it. There may be provision for appeal within a period of 30 days. After the statement is finally published and there is no alteration in the appeal, it shall be conclusive evidence of the facts stated in the statement and no person shall be entitled to question it in any Court of law.

37. *Disposal of land in excess of ceiling*—Any person who comes into possession of land in excess of the ceiling, shall dispose of by sale, or permanent lease, the land held by him in excess of the ceiling to persons in order of priority as recommended below :—

- (i) Tenant if any, in actual possession of the land ;
- (ii) A ryot who holds land less than the ceiling area having his land adjacent to the land to be granted ;
- (iii) landless person ;
- (iv) a partially landless person ;
- (v) a Co-operative Farming Society ;
- (vi) any other ryot holding land less than economic holding for cultivating personally ;

(vii) any other agriculturists holding land less than the ceiling area for cultivating personally.

The State Government should, however, have the power to take over on payment to the land-holder or ryot as the case may be, the compensation for the land as may be fixed by Government any land in excess of the ceiling area. Our recommendation on the compensation that has to be paid for disposal of land in excess of the ceiling to the tenants on the land have been given in paragraph 50 below. In case there are no tenants on the land, the excess land should be sold at the market value to be fixed either by agreement between the parties or in case of dispute as may be fixed by Government.

CHAPTER V

THE TENANTS

38. *Landlord's right to terminate the tenancy of a tenant*—We have carefully taken into consideration the problem of resumption of land by land-holders for personal cultivation. From the statistics available we find that there are a large number of petty landlords in the State of Orissa. The economic circumstances of these small owners are not very much different from the cultivating tenants. As such it may be unfair to treat them on a different footing from the cultivating tenants as may operate to their disadvantage. They also should be given the opportunity to turn good agriculturists if they so want, since they apparently invested all their savings with the hope of so cultivating. We, therefore, feel that if a small owner wants to resume land he should have right to do so only on the ground of personal cultivation and that should be limited initially to the area which would be an economic operational unit.

39. One shade of opinion that has been expressed is that the tenants who have been adjudicated in a Court of Law as Bhag tenants and have incurred some expenditure on this account, should not be disturbed and the right of resumption by the landlord should not be applicable to such cases. It is true that these types of tenants had to undergo some trouble and expense for adjudication of their rights. But all the same, the case of the small landlords cannot be easily ignored when a permanent legislation is being envisaged. Moreover the

distinction between adjudicated Bhag-tenant and another who has not been so adjudicated may lead to discrimination and a large amount of complication and further litigation. Our main anxiety is to avoid further litigation on any of these important privileges to be given to the tenants.

40. On due consideration of all circumstances we think that for an average family of 5 members the unit of profitable cultivation will be 7 standard acres which we have recommended as an economic holding. We recommend that the landlord should have prior right for resumption to this limit to make an aggregate of 7 standard acres irrespective of whether any of the evicted tenants will be left with any land or not in respect of his land held by him on the 1st July 1954. The landlord should, however, pay compensation at rates to be recommended hereafter to the evicted tenants where they are left without an economic holding. Our idea is that the cultivating tenant should get some relief for loss of the privilege of cultivation. No compensation, will however, be paid if Bhag tenant is left with an economic holding.

41. *Tenants' right to the purchase of non-resumable land*—We have always kept in our view the interest of the Bhag tenants and we are strongly of opinion that they should be given protection with regard to the security of tenure as far as possible. We are satisfied that cannot be achieved unless the Bhag tenants are once for all given fixity of tenure in respect of the land that will be left to be retained. Unless this is done there will be eternal conflict between the landlords and the tenants. The Bhag tenants who were in lawful cultivation of the land on the 1st July 1954 and are continuing thereafter have been given some temporary protection with regard to eviction and payment of rent under the O. T. R. Act.

Our considered view is that this protection is not enough and many poor and illiterate tenants have not been able to take the advantage of the provisions of the O. T. R. Act. We are therefore unanimous on the point that the Bhag tenants having no permanent and heritable rights who were in lawful cultivation of any land as such on 1st July 1954 and continued thereafter should be given permanent relief and should be given occupancy right in respect of the lands which are non-resumable on payment of compensation as here in after recommended.

With this end in view we recommend that if the landlord owns land exceeding an economic holding, he can resume first of all, up to the economic holding. Before he is allowed to resume any area beyond the economic holding, it must be ensured that each of the tenants under him has with him an economic holding including his own lands. After this is ensured the landlord can be allowed to further resume any surplus area proportionately from each Bhag chasi subject, of course, to the maximum limit of the ceiling area.

42. *Condition for termination of tenancy*—We are of the view that no tenancy of a tenant can be terminated by a landlord on the ground of personal cultivation unless the landlord gives a notice in writing to the tenant stating therein the reason for which the tenancy is proposed to be terminated. A time-limit should be fixed for serving this notice. This termination will be subject to the further condition that on the appointed day the landlord has not been cultivating personally other land equal to the area more than the ceiling area and that the land leased has been standing in the name of the landlord in the record-of-rights. We emphasise that in no case on the termination of tenancy of a tenant, holding of a landlord should exceed the ceiling area.

43. *Tenants deemed to have purchased lands with effect from Chasi day*—As recommended in paragraph 41 above, a specific date should be fixed with effect from which the tenants should be deemed to have purchased and acquired occupancy right in respect of land that they will be allowed to retain. With effect from this date every tenant mentioned in paragraph 41 shall subject to the conditions mentioned in paragraph 44 below be deemed to have purchased from the landlord the land held by him as a tenant where landlord has not given notice for termination of tenancy as recommended in paragraph 42 or where such notice has been given by the landlord and he has not applied to the competent authority for recovery of possession. This will be of course subject to payment of compensation to the landlord as will be recommended hereafter.

44. *Conditions subject to which a tenant shall be deemed to have purchased land held by him*—No tenant should be deemed to have purchased the land held by him as tenant unless the following conditions are complied with :—

(i) A tenant does not on the appointed day hold any other land either as owner or tenant or both which together with the land in question is less in area than the ceiling area. The tenant's right to purchase will extend only to so much of land as will be sufficient to raise the area of total land held by him whether as a owner or tenant or both to the ceiling area ;

(ii) A tenant cultivates personally the land so purchased ;

(iii) The compensation is paid as laid down in paragraphs 50 and 53.

45. *Mode of determination and payment of price of land by tenants*—We have carefully taken into consideration the interest of the landlords and the tenants. While we agree that land-holders should get compensation for the land which the tenants will be deemed to have purchased as recommended in paragraph 43 we cannot lose sight of the case of the tenants. Those tenants have been in lawful cultivation of the land of the landlords for a long time and have been paying rent at much higher rate than cash rent payable in respect of similar lands with similar advantages in the vicinity. They have also been given temporary protection from eviction. They, therefore, need some consideration regarding the quantum of compensation that they will have to pay for acquiring occupancy right in respect of irresumable areas which they have been recommended to have been deemed to have purchased from the appointed day.

46. *Rates of compensation*—Different views have been expressed with regard to the rate at which the tenant will be required to pay compensation to the landlord. One view, that some of the Members have expressed, is that the compensation may be fixed on a graduated scale, paying higher rate of compensation to holders of land owning 1 to 7 acres and the rate being lower in respect of holders of 7 to 15 acres, and still lower to owners of more than 15 acres and so on. Another view is that compensation should be paid at market rate. We have taken into careful consideration these two views and are of the opinion that in order to avoid any complications it may be advisable to adopt a *via-media* method in between the two views mentioned above. The first mentioned view may be thought by some as discriminatory. On the other hand, if market rate is adopted it may be considerable hardship to the tenants who have been in lawful cultivation of the land for a considerable time. The adoption of

market rate may be too costly for them, to purchase the rights.

47. *Rates of compensation*—Side by side with the idea of market value for taking into consideration in fixing the compensation, another aspect, in our opinion deserves consideration. We feel that compensation, to be determined should have some relationship with the rent that is payable by the tenants. One suggestion is that 12 times of the maximum rent payable by the tenant to the landlord should be the compensation payable in respect of the land. The other suggestion is that it should be 12 times the maximum rent as permissible under the Orissa Tenants Relief Act. The maximum rent fixed under the Orissa Tenants Relief Act for an acre of wet land is six standard maunds. The present price of six standard maunds of paddy will be about Rs. 48 at the rate of Rs. 8 per standard maund. If 12 times of this value is taken as the compensation that may be paid by the tenant to the landlord, then it comes to about Rs. 600. The average market value of one acre of wet land is not less than Rs. 1,000. In such a case if the compensation is fixed at 12 times of the maximum rent payable in respect of one acre of land, then it may be of hardship to landlords. We, therefore, consider that 15 times may be fair and equitable in the existing circumstances and this may be further subject to $\frac{3}{4}$ th of the market value.

48. While indicating these limits we do not consider it necessary that in every case compensation should be fixed by a competent authority. It will be best, if left to be decided by agreement between the landlord and the tenant. Only when such agreement cannot be arrived at, any of the parties may apply to competent authority for fixation of compensation. This will minimise disputes with regard to determination of compensation to a great extent.

49. *Interest on compensation*—Another question which has been the subject matter of controversy is as to whether interest has to be paid on the compensation payable by the tenant. The landlord has already taken the best advantage out of the land by way of produce rent which is much greater in value than the cash rent payable in respect of similar lands with similar advantage in the vicinity. The tenants now need some relief. We are, therefore, of the view that there should be no interest if the tenant pays the compensation in a few instalments. We recommend that the number of instalments may be seven. If the tenant fails to pay his instalment of compensation in time he may be required to pay interest which may not exceed $4\frac{1}{2}$ per cent per annum.

50. *Recommendation*—Keeping in view all incidental factors we recommend that the compensation payable by the tenants to the landlord for acquiring occupancy right may be determined as follows :—

(i) by agreement between landlord and tenant (which may include mutual apportionment of land); or

(ii) in case, no agreement is arrived at, it should be fixed at 15 times of the maximum rent payable by tenant to the landlord in respect of the land as permissible under the Orissa Tenants Relief Act. (The rent is 4 maunds of paddy for dry land, 6 maunds of paddy for wet land and 8 maunds in respect of lands yielding cash crop per acre.)

This will, however, be subject to the limitation that the compensation payable shall not exceed $\frac{3}{4}$ th of the market value of the land. The compensation should be paid in 7 equal instalments. If, however, the payment is made in one instalment a rebate of 10 per cent will be

allowed. No interest should be allowed except for overdue instalment and in such cases the interest should be $4\frac{1}{2}$ per cent per annum.

51. *Compensation payable by landlord*—We recommend that the compensation that will be paid by the landlord to the evicted Bhag-tenant in pursuance of our recommendation in paragraph 38, should be $\frac{1}{4}$ th of the compensation as recommended in paragraph 50.

52. *Reference to Lands Tribunal in case of dispute*—In the event of dispute regarding fixation of compensation in accordance with the principles recommended in paragraphs 50 and 51 the matter will be left to the Lands Tribunal for decision.

53. *Purchase to be ineffective on tenant's failure to pay instalments*—On the deposit of the entire amount of the compensation either in lump sum or in instalment the competent authority should issue a certificate in the form to be prescribed by Government to the tenant declaring it to be the purchaser of the land. Such certificate shall be conclusive evidence of the sale as against landlord and all persons interested therein. A tenant should be deemed to have acquired occupancy right in the land purchased by him from the date of issue of such certificate by a competent authority. He shall pay cash rent according to the rate fixed in respect of such land where such rent has been assessed. In respect of lands where cash rent has not been assessed the rent shall be fixed by the Lands Tribunal in the prescribed manner.

54. If the tenant fails to pay compensation in time and no further time is allowed by the competent authority the purchase which he would have been deemed to have made shall not be effective and any amount deposited by the tenant towards price of the land should be

refunded to him. In such cases, the landlord should be entitled to recover from the tenant rent as permissible under the Orissa Tenants Relief Act.

55. *Dispute regarding priority among tenants entitled to purchase*—If there is any dispute regarding the priority or any other right in relation to the purchase of the land among the tenants *inter se* or regarding extent, kind, location of any particular area of land deemed to have been purchased or amount of price or any instalment thereof such question should be decided by the Lands Tribunal.

56. *Power of the competent authority to resume and dispose land not purchased by tenants*—We feel that there should be a time-limit by which a tenant should intimate, in writing whether he wants to purchase the land. It is recommended that this time-limit may be six months from the appointed day. If within this period the tenant intimates to the landlord and the competent authority his unwillingness to purchase the land or fails to give any intimation the purchase in his favour shall not be effective and it should be lawful for the competent authority at its own motion or on an application made in this behalf, by any person after holding formal enquiry in the manner to be prescribed by Government to direct that the land should be disposed of in the manner recommended by us in paragraph 37. In that case the tenancy of the tenant should be terminated and he shall be summarily evicted. For disposal of land in such cases the price fixed by the competent authority should be the market value of the land and should be payable either by lump sum or by instalment not exceeding 7 with simple interest at the rate of $4\frac{1}{2}$ per cent per annum. The price of the land should be recovered from the purchaser and should be paid to the owner of the land unless in case he choses

to retain land for personal cultivation subject to the ceiling area.

57. *Landlord to restore possession if he fails to cultivate within one year*—We are very much particular that the land resumed by landlord for personal cultivation should be actually brought under his personal cultivation within a specified period. We, therefore, stress that a time-limit should be fixed by which he should cultivate the lands personally. We recommend that if the landlord fails to cultivate the land resumed by him for personal cultivation within one year from the date on which he took possession or ceases to use the land in the aforesaid purposes at any time within 5 years from the date on which he took such possession, the landlord should forthwith restore possession of the land to the tenant whose tenancy was terminated by him or his successor-in-interest, unless he has obtained from the tenant or his successor-in-interest his refusal in writing to accept tenancy on the same terms and conditions or has offered in writing to give possession of the land to the tenant or his successor-in-interest on the same terms and conditions and the tenant or his successor-in-interest has failed to accept the offer within 3 months of the receipt thereof.

Similarly if the tenant fails to cultivate the land personally at any time within five years from the appointed day the landlord should be entitled to take back possession of the land subject to the ceilings. Any land in excess of the ceilings shall be disposed of in the manner indicated in paragraph 37. But till such disposal the landlord may retain the land

58. *Inam Tenants*—We have recommended in paragraphs 8 and 41 special protection to some classes of tenants of the categories mentioned in paragraph 13 (b). We are aware that there are other classes of tenants of

those categories, as for example, the tenants in the Inam Estates not vested in the State Government who have not permanent and heritable rights on their lands held by them as tenants. These tenants have already been given protection under the Orissa Tenants Relief Act with regard to eviction and payment of rent. We recommended that the protection as given under section 3 (1) of the Orissa Tenants Relief Act should be continued in respect of the tenants of the categories mentioned in paragraph 13(b)

Until such Inam tenants come into direct relationship with Government they may be required to pay rent to their immediate landlord (Inamdar) at rates not exceeding those payable by former Inam tenants to Government for now holding land directly under Government after vesting of the Inams. Government may enact such legislation as may be necessary to give effect to the above, because we are aware that this may not be appropriately incorporated in the proposed Land Reforms Bill.

CHAPTER VI

LAND RECORDS

59. *Maintenance of correct land records an absolute necessity*—We consider that the maintenance of correct and up-to-date land records is essential for the adequate implementation of any land reforms measure. We are aware of the unsatisfactory state in which land records exist at present. Most of the ex-Zamindars had not maintained land records properly. Many of them even did not furnish any land records to the Revenue Officers after the abolition of their Estates. Survey and Settlement Operations in many parts of the State are over due. In many of the ex-State areas the existing land records have reached a stage when it is not possible to effect any further changes. Many complications have arisen on account of non-maintenance of up-to-date land records. Considerable difficulties have cropped up in the implementation of the Orissa Estates Abolition Act on this score. Survey and Settlement Operation have, of course, been taken up in some parts of the State. But this will necessarily take time and involve heavy expenditure. The Revenue records that have been maintained do not give up-to-date information in respect of the holdings of tenants and crop-sharers. There is urgent necessity for taking up revision and preparation of village records and this cannot wait until regular Survey and Settlement Operations are taken up. We are told that recently Government have started Milan Khasra Operations in some areas of Cuttack, Puri and Balasore districts. We strongly recommend that

immediate steps may be taken for preparing up-to-date land records particularly to show the holdings of the tenants and the land in cultivation by crop-sharers by extending the scope of Milan Khasra Operations. It is also absolutely necessary that the records that are prepared are followed up and kept up-to-date. We are, therefore, of the unanimous view that there should be adequate provision for maintenance of up-to-date land records in respect of each village by the authorities responsible for such maintenance. These records should *inter alia* incorporate therein the changes on account of—

(i) mutation of names as a result of transfer or inheritance ;

(ii) partition, or exchange of lands ;

(iii) new settlement of lands or of holdings ;

(iv) variation of rent ;

(v) particulars about crop-sharers in lawful cultivation of the lands of landlords ;

(vi) such other cases as necessitates a change in the record-of-rights.

60. *Revision of Record-of-rights*—There should be a systematic attempt for revision of record-of-rights periodically. We recommend that this work may be taken up regularly by Revenue Officers appointed by the State Government for the purpose in accordance with such rules as may be made by State Government in this behalf.

CHAPTER VII

ADMINISTRATIVE MACHINERY

61. *Separate machinery for Land Reforms*—We have given our thought to the administrative machinery that will be needed for the implementation of land reforms. We have noticed that at every stage the existing revenue officers are already overburdened with work. They have been so much burdened with development and other routine miscellaneous work that they hardly find time to give their whole-hearted attention even to their legitimate revenue work. The result has been that revenue work has been neglected considerably to the disadvantage of all concerned. We, therefore, strongly urge that revenue officers should be dissociated from development and other miscellaneous work as far as practicable for some years to come particularly when they have so much revenue work to attend to in the organisational stage after the abolition of zamindari and in the wake of implementation of land reforms measures. In fact there is necessity for a completely separate revenue agency for the implementation of the land reforms measures. We are of the further view that for effective implementation of land reforms there should be statutory bodies consisting of officials and non-officials particularly at the State and District levels so that land reforms measures could be implemented successfully. Taking these factors into consideration we recommend that there should be the following statutory bodies at the State and District Levels.

(i) Land Commission at the State Level ;

(ii) District Executive Committee at the District Level.

The State Government will of course have the full authority and control, over the Land Reforms Commissioner, Land Commission, District Executive Committee and other administrative machinery set-up for land reforms and these authorities will work according to the direction that may be given by Government from time to time.

62. *Constitution of the Land Commission*—For formulating policies for land reforms we consider it absolutely necessary that some non officials who have practical experience and insight in agrarian reforms should be associated. The Member, Board of Revenue is statutorily responsible for land reforms measures in the State. Our considered view is that the Land Commission, we recommend to be constituted at the State Level, should consist of officials and non-officials in order to achieve the best results. We suggest that this Commission may consist of 7 members namely :—

(i) Member, Board of Revenue—Chairman (*ex officio*).

(ii) four non-official members to be nominated by Government for a period of 3 years ;

(iii) two officials of the State Government to be nominated by Government one of whom shall be the Land Reforms Commissioner, who shall also be Secretary of the Commission ;

The Commission may have power to co-opt members for special purposes.

The functions of the Commission may be the following :—

(i) formulating policies in matters relating to and reforms ;

(ii) to give effect to the provisions of the Land Reforms Act when it is passed ;

(iii) to superintend the working of the Land Reforms Act in the districts ;

(iv) to give instructions relating to implementation of land reforms ;

(v) any other functions as may be prescribed or as may be directed by the State Government.

This Commission as visualised by us will be an Advisory body and the administrative and judicial functions will be left to the Executive Machinery.

63. *Constitution of Land Reforms Fund*—We consider that the Land Commission, in order to do any real work, should have some fund at its disposal for implementation of land reforms measures. We, therefore, recommend that the Commission should be provided with a fund which may be known as “Land Reforms Fund”, and the State Government should make annual contribution of such amount as may be decided by the State Government each year from the Consolidated Fund of the State to this Fund. To the credit of this Fund may be placed :—

(i) the annual contribution by the State Government ;

(ii) other contributions received from the State or from the Central Government from time to time ;

(iii) all fines, forfeitures and penalties imposed under the Land Reforms Act ;

The Fund may vest in the Commission and may be administered in the manner to be prescribed by Government in this behalf.

64. *Constitution of District Executive Committee*—We recommend that the constitution of the District Executive Committee at the district level may be as follows :—

(i) Collector of the District—Chairman (*ex officio*)

(ii) two non-official members to be nominated by the State Government for a period of three years ;

The functions of the District Executive Committee may be :—

(i) to advise in the execution of the provisions of the Land Reforms Act in the district ;

(ii) to superintend the working of the Land Reforms Act in the district ;

(iii) any other functions as may be prescribed or as may be directed by the State Government or the Land Commission.

The day-to-day administration of the land reforms measures should be the responsibility of the executive machinery employed for the purpose.

65. *Lands Tribunal*—Many disputes may arise in the course of the implementation of the land reforms measures. For settlement of such disputes we recommend that there should be a Lands Tribunal for each district. The Tribunal may consist of one member who may be an experienced Revenue Officer not below the rank of Subdivisional Officer to be appointed by the State Government.

The duties of the Tribunals may be as laid down in the provision of the Land Reforms Act and such other functions as may be prescribed or as may be directed

by the State Government in carrying out the provisions of the Land Reforms Act.

66. *Powers of Tribunal*—The Tribunal may have the same powers in making enquiries as are vested in the Courts in respect of the following matters under the Code of Civil Procedure in trying suits :—

(i) proof of evidence by affidavit ;

(ii) summoning and enforcing attendance of any person and examining him on oath ;

(iii) compelling the production of documents.

67. *Appeals and revisions*—There should be appeals and revision from the orders of different authorities concerned with the implementation of land reforms measures to superior authorities as may be prescribed by Government.

68. *No separate body at levels lower than district*—We do not consider it necessary for constitution of any statutory body at levels lower than the District for the present. The executive machinery should be left to implement land reforms measures at lower levels. The assistance of Grama Panchayat may be taken, whenever considered necessary.

69. *No court fees at levels lower than district*—The Land Reforms measures recommended by us will necessarily result in adjudication and settlement of many disputes between landlords and tenants, and between tenants themselves. In order to give relief to the poor tenants we recommend that no court fee should be charged for filing any petition before any authority lower

than the district authority or the Lands Tribunal in matters relating to implementation of Land Reforms Measures.

70. *Pleaders excluded from appearance*—As we recommend setting up a separate administrative machinery for implementation of Land Reform Measures, and this machinery is expected to settle all disputes and problems arising out of implementation of land reforms measures on the spot, as far as practicable, we do not feel there would be necessity for allowing pleaders to attend at the lower levels. We, therefore, recommend that pleaders may be excluded to appear on behalf of any party in any proceeding relating to land reforms measures at levels other than that of the Lands Tribunal and the Land Reforms Commissioner.

CHAPTER VIII

MISCELLANEOUS

71. Measures relating to land reforms need speedy disposal, the main objective being social. Natural and social equity will, therefore, have more considerations in implementing land reforms measures than going into the niceties of detailed legal procedure. Keeping this aspect in view we recommend that no Civil Court may have jurisdiction to settle, decide, deal with any question which is under the Land Reforms Act required to be settled, decided or dealt with by the machinery set-up for implementation of land reforms measures. We, further recommend that no Civil Court may have power to question any order passed by competent authorities in implementation of land reforms measures.

72. *Indemnity*—We consider it absolutely necessary that the officers entrusted with the implementation of land reforms measures should be given indemnity for any action of theirs done in good faith in due discharge of their duties. We, therefore recommend that no suit, prosecution or other legal proceedings can lie against any person for anything which is in good faith done or is intended to be done in pursuance of the provisions of the Land Reforms Act or any rules that may be made there under. We, further recommend that no suit, or other legal proceedings shall lie against the State or statutory bodies that may be constituted under the Land Reforms Act or any officer discharging his functions under that Act for any damage caused or likely to be caused for any

injury suffered or likely to be suffered by virtue of any provisions of the Land Reforms Act or by anything in good faith done or intended to be done in pursuance of the Land Reforms Act or any rules made thereunder.

73. *Power to enter upon land to make survey, etc.*—In order to enable the officers to discharge their duties properly in implementation of land reforms measures we recommend that in the proposed Land Reforms Act there may be provision that all competent authorities under Land Reforms Act may at any time between sun-rise and sun set enter upon any land, after giving due notice but not a dwelling house, with such officers or other persons as they consider necessary and make survey or take measurement thereof or do any other act which they consider necessary for carrying out any of their duties under the Land Reforms Act.

74. There are certain special cases to which it may be difficult to extend the provisions of this Act. The following are some exceptional cases—

(i) lands held by the State Government or Union Government of India or Local authority or Co-operative Societies or University established by law in the State ;

(ii) any area which the Government may like for being reserved for urban, non-agricultural or industrial development or for any other purpose ;

(iii) lands taken under the management temporarily by Civil, Revenue or Criminal Courts by themselves or through receivers appointed by them till the decision of the title of the rightful owners.

We recommend that such cases may be excluded from the operation of the provisions of the Land Reforms Act which may be enacted.

75. *Temporary lessees in Government lands*—We have no doubt recommended that the provisions of the proposed Land Reforms Act will not apply to Government lands; but we are aware that particularly in ex-Zamindari areas vested in the State Government under the Orissa Estates Abolition Act, large extents of land under the cultivating possession of temporary lessees have vested in the State Government. We would like to recommend that the tenants in lawful cultivation of such lands on the 1st July 1954 and continuing thereafter should be given occupancy rights for such of those lands as would bring the total area held by them on the 1st July 1954 in any capacity up to an economic holding. We would like also to recommend for the consideration of Government whether such occupancy rights should be given on payment of compensation at concessional rates. Some of the members are of opinion that landless persons may get such lands up to an extent of 3 acres on payment of 15 per cent of the compensation recommended in paragraph 50 and others at 25 per cent of the said compensation. This recommendation, however, is intended to benefit the actual cultivating tenants.

76. *Repeal to the existing Tenancy Laws*—Recommendations that we have made will necessarily need repeal to certain extent the provisions of the existing tenancy laws in force in the State of Orissa. To the extent our recommendations are inconsistent with the provisions of the existing tenancy laws, the provisions of those Acts may stand repealed.

77. *Conclusion*—In concluding our recommendations we would like to stress that our considered opinion is that a permanent legislation should be brought out to replace the existing Orissa Tenants Relief Act and this may not

be extended further except for such period as may be essentially required for enacting the permanent land reforms Legislation.

SATYAPRIYA MOHANTY (Chairman)

SADASIBA TRIPATHY (Member)

RAJAKRUSHNA BOSE „

MADAN MOHAN PATNAIK „

* NISAMANI KHUNTIA „

* MOHAN DAS „

* RAJBALLABH MISHRA „

R. P. PADHI SUNDAR MOHAN HEMBROM „

Member-Secretary BRUNDABAN NAIK „

* Subject to a note of dissent

Notes of dissent by Shri Mohan Das, M.L.A.

I agree with the Report (Land Reform) subject to following modifications :—

1. "Land-holder" means the land owner and his family consisting of himself, his wife and children.

2. "Bhag-tenants" may be classified into four classes (a) Recorded, (b) Adjudicated, (c) Bhag-tenants for 12 years or more, (d) Bhag-tenants for less than 12 years but not later than 1st July 1954.

3. A and B class Bhag-tenants will get occupancy right by paying compensation at the rate of $\frac{1}{4}$ of the market rate not exceeding Rs. 200.

4. Small holders, i.e., land owner owning up to 7 acres on the 1st July 1954 and in subsequent years may resume land from C and D class Bhag-tenants by paying solatium at the rate of $\frac{1}{4}$ of the land or the equivalent price whichever the land owner prefers :

Provided that the land in cultivating possession of the Bhag-tenant has not been transferred to a small holder by a big holder by after the 1st July 1947. In such cases the Bhag-tenant will get occupancy right by paying usual compensation.

5. A big holder means a land owner who owned more than 7 acres on the 1st July 1954. He can resume land of (d) class Bhag-tenants. Only to make up his self-cultivation to an economic holding, i.e., 7 acres by paying

solatium at the rate of $\frac{1}{4}$ of the land or the equivalent price whichever the Bhag-tenant prefers. Big holders owning more than the ceiling will not be allowed to resume at all.

6. C and D class Bhag-tenants will pay compensation $\frac{1}{2}$ of the market rate not exceeding Rs. 400 to big holders owning land up to the ceiling up to 50 acres will get $\frac{1}{3}$ of the market rate, those owning more than 50 to 100 acres will get $\frac{1}{4}$, those owning more than 100 up to 200 will get $\frac{1}{5}$ of the market rate, and those above 200 will get $\frac{1}{10}$ of the market rate.

7. Ceiling will be fixed at 15 acres both for land holder and Bhag tenant and it will apply to present and future acquisition.

8. A Bhag-tenant will be entitled to get $\frac{1}{4}$ of the compensation when the land in question is acquired by Government.

9. 'Homestead land, orchard or betel-leaf land will be given up to 50 decimals occupancy right free of cost.

10. Temporary lessee of Government land will be given occupancy right by paying Rs. 100 Salami per acre.

But in case the lessee is a poor cultivator owning less than two acres he will be entitled to get occupancy right free of Salami—

(a) But where the lessee is not the cultivating tenant, the real cultivating tenant will be given occupancy right.

(b) In case a Bhag-tenant under Government is the owner of total holding equal to or more than the economic holding he will be debarred from getting the right of

occupancy in Government land but he will be allowed to make up to the extent of an economic holding.

11. A land-holder possessing 2 acres or less land including his homestead land will be exempted from paying rent to Government.

12. The law will apply to Angul and the Angul Regulation will be abolished.

13. Government will acquire lands from the big holders who have above the ceiling and distribute it to the poor tenants and landless labourers. Compensation to be paid to the land owners will be decided by Government.

MOHAN DAS, M.L.A.

20-3-1958

Notes of dissent by Shri Rajballabh Mishra, M.L.A.

I feel that the economic holding that has been fixed by the Committee at Clause 13 (k) of Chapter II to be 7 standard acres, be raised to 16 acres in inland districts as the lands of those districts are not at all fertile like the lands of the coastal districts and the proportion of available arable lands to population in inland districts is in excess of that of the proportion in the coastal districts. Therefore a parity in incomes from lands in these two divisions should be aimed at and that cannot be achieved by fixing a single rate of standard acres for the whole State.

No provision has been made for safe guarding the interests of the agricultural labourers who help the land-holders or royts in deriving their incomes from the land. Since this class of labour are vital for the Country's economic progress when we take into consideration the ceiling that has to be fixed for a family, it is highly desirable that the following sentence should be added to Explanation I of clause 13 (j) of Chapter II after the words "such land is cultivated by her/his or its servants"—

"who are employed for full one year at the rates fixed by the Minimum Wages Act,".

RAJBALLABH MISHRA

3-4-1958

Note of dissent by Shri Nisamoni Khuntia, M.L.A.

I could not associate myself with certain important recommendations of the Committee and also with the principles upon which the recommendations have been made.

The two principles on which land should be distributed are social justice and efficiency in production. Social justice demands that there should be no scope for exploitation of one class by another. In the agrarian economy of India there can be no place for intermediaries between the tillers of the soil and the State. It is proper that the persons who actually participate in the processes of agricultural operations should be allowed to possess the land. It is also the demand of social justice that the margin of inequality should be reduced as much as possible. Viewing from the above considerations, I am very sorry to note that our Committee has not given much stress upon 'Social Justice' which is a fundamental consideration of Land Reform.

Fixation of Ceiling—The Committee while dealing with the ceiling in Chapter II of the Report has said “the maximum extent of land that may be left to an individual should yield a certain average income as will enable the family to have a standard of living *consistent with other sectors of national economy like Commerce, Industry and other avenues of life*”.

By laying down the above criteria for ceiling the Committee has given much consideration to safeguard the interests of the land-owners and have assured them an income which will be consistent with the incomes as derived from Commerce, Industry and other avenues of life. But they have given no consideration to the interests of the Bhag-chasis who are the actual tillers of the soil and have not laid down any criteria for their average income. According to their recommendations the standard of income fixed for the land-owners can only be obtained at the cost of the Bhag-chasis. Accordingly, the Committee have recommended for the eviction of the Bhagchasis in order to enable the land-owners to resume land upto the extent of the ceiling.

Justice denied—The State Government by successive enactments in the year 1948 and 1954 gave protection to the tenants against eviction by land-owners. At the time of enactment the State Government categorically declared that such legislation is a first step of Land Reform. In the O. T. R. Act, 1954 opportunities were given to the land-owners to resume upto 7 standard acres for personal cultivation which created an impression that no Bhag-tenants will be further evicted even when the final Land Reform would come. With the impression that the Bhag-tenants shall enjoy their land fought tooth and nail both in the Courts and outside to retain their possession. But I am very sorry to note that their hopes have been shattered by these recommendations and the tenants who have proved their possession in the Court of law through costly procedure are to be mercilessly evicted to enable the land-owners to resume for personal cultivation on the plea that the decisions of Courts under the O. T. P. and O. T. R. Acts do not bestow any right on the land. I cannot understand how “the conditions of social justice and agricultural improvements” are satisfied by ousting the actual tillers of the land, who happen to be experts in agriculture and putting in non-tillers in their places.

Resumption—The Committee has recommended that the owner can evict a tenant to enable him to make a holding upto the extent of the ceiling. By this they have assured an economic holding to each such Bhag-tenant under their possession. But the tenants having less than an economic holding shall be the victims of the land-owner under the first series of resumptions as the Committee has not given any protection to such tenants. I propose that even for the first resumption upto 7 acres, the owner can resume proportionately from each Bhag-chasi. This cannot be of any advantage to the Bhag-tenants as it is very difficult on their part keeping their cultivating possession under the present administrative setaup. The administrative machinery is being utilised by the big land-owners to serve their interests and to defeat the very purpose of the O. T. R. and O. T. P. Acts since they have been enforced in the State. Hence in view of the experience I feel that any provision for the eviction of the Bhag-tenants with whatever restriction, will result in large scale eviction and the protection of law will not be enjoyed by the Bhag-tenants as already recommended by the Committee.

Acquisition for Redistribution—The redistribution of land is one of the most important considerations of this Committee which pre-supposes fixation of a limit to the existing holding. So our Committee took up the question of fixation of ceiling but could not arrive at any decision due to sharp division of opinion. The Committee has ultimately delegated its duty to the State Government to fix up a ceiling. But the criteria which has been fixed by the Committee regarding the fixation of ceiling will nullify the whole purpose. The Committee recommends that the maximum extent of land that may be left for an individual with a certain average income for his family to have a standard of living consistent with other sectors

of national economy like Commerce and Industry. It is a pity that in a country like ours, particularly, in the State of Orissa, where about 90 per cent of the people live on agriculture, the standard of income of an agriculturist is being compared with the income derived from Industry and Commerce only in relation to land-owners. If that criteria can be accepted by the Government, I think, no surplus land will be available from any land-owner for redistribution so long as the income is compared with the income from Commerce and industry. In that case, all the Bhag-chasis shall have to be evicted and the non-tillers shall own the land. I hope the State Government shall not take this criteria into consideration and in view of the pressure of population on land in the State, they should on no account fix a ceiling on the present and future holdings which will be more than 15 standard acres.

Compensation—The rate of compensation recommended by the Committee is very high. The Bhag-chasis according to the recommendations of the Committee may enjoy occupancy right if they pay 15 times the maximum rent payable subject to three-fourths of the market value of the said land. This is too much for Bhag-tenants who own one or two acres of land and I am afraid they may not be able to enjoy occupancy right in the land on payment of such huge sum. Similarly also a small owner shall suffer if the rate of compensation becomes too small. Hence I suggest that the compensation should be paid at a sliding scale in the manner prescribed in the Estates Abolition Act and the maximum compensation payable according to this sliding scale should not be more than 50 per cent of the market value of the land. This also should apply to the surplus land which will be acquired by the State after the imposition of ceiling instead of market rate as has been recommended by the Committee.

Exemption from the Imposition of Ceiling—The Committee has suggested that the efficiently managed farms which consist of compact blocks on which heavy investment or permanent structural improvements have been made and whose break-up is likely to lead to a fall in production, should be exempted from the operation of the ceiling. It is a very dangerous recommendation so far as our State is concerned. As a citizen of this State with whatever little knowledge I may have about my State, I know perfectly well that no farms of this particular category are existing at present in our State. But if we provide for such an exemption, hundreds of such farms can crop up in a fine morning, because the structural improvement may mean a store house, a big fencing and a pucca drain, which is very easy to construct within a day or two. The land-owners may take advantage of this recommendation and avoid fixation of ceiling in order to keep land in their possession under the plea of “efficiently managed farm”. Of course, such mischiefs are not very easy in the coastal districts because it is very difficult to have compact blocks of this nature at present. But in ex-State areas, particularly, in the lands of the ex-Rulers and big Gountias such mischiefs are quite possible. Hence this exception should not be accepted by the Government.

Land Reform Machinery—The Committee while recommending the machinery for implementing the Land Reform measures has not associated the Grama Panchayats with the machinery. They have completely depended upon the Government officers beginning from Village level to the State level. I strongly feel that the Land Reform measures cannot be implemented, the settlement of disputes on possession and preparation of Land Records cannot be easily made by the Government officials. It is the Grama Panchayat or the Adalti Panchayat

which can, as a representative of the Community, very easily perform these functions. In this connection I may quote the observations of the Land Revenue and Land Tenure Committee in para. 25 on page 52 in which they have stated :

“ there is no doubt in our minds that any attempt to exercise the authority or control of the Community over the raiyats in the matter of management of land through Government servants working under the direct administrative control of any Department of the Provincial Government is bound to prove futile and would be opposed not only by the raiyats who will come under control but by the whole community as wanton and meddlesome interference with private rights without any compensating advantage to the Community ”.

This is also true in case of implementations of the provisions of land redistribution. Hence the Land Tenure Committee has suggested that the representative people's organisations like Grama Panchayats and Anchal Sasans can play a vital role in the Land reform measures. Similarly also the Congress Agrarian Reforms Committee,, popularly known as the Kumarappa Committee, and Land Panel of the Planning Commission have made definite suggestions for entrusting certain responsibilities to these bodies. So I hope the Government will seriously consider this question and entrust certain functions regarding preparation of Land records and settling disputes of possession to the Grama Panchayats since the entire State has been covered with such Grama Panchayats.

Besides these, there are certain recommendations with which I do not agree. But since they are matters of details I do not like to comment upon them and make the body of my note a long one. I hope the Government and the Legislature will examine these points carefully as they are vital in nature.

N. KHUNTIA

11-4-1958