

to corrupt practices in measuring and collecting it as well as in disposal and credit to the treasury. It is proposed therefore that no rents shall in future be fixed in kind with the proviso that in areas inhabited by aboriginals, if cultivators favour it generally, rent in kind may be fixed. Commutation of present rent in kind is made optional with the cultivator. As regards the disposal of produce-rent, it is dealt with at present as elephant fodder, for use in jails or is appropriated by the domestic department. Produce rent does not appear to be shown in the budget in every case and it would appear desirable that this is done. Subject to proper accounts, so long as rent continues to be received in kind, direct disposal of it in jails would appear to be the best way rather than sales by auction; there should be a formal sale to the jail department. I suggest that sale to the *khamar* or *Bhandar* or *debottar* department should not be encouraged. Goats, I suppose, will have to be auctioned and the proceeds credited to the State. The disposal of produce-rent is being left to be governed by special rules in the States which have such rent though auction is being prescribed as the normal course. See para. 3 of the note on draft Law.

CHAPTER X.—The Collection of Rent and Land Revenue

105. *The Part of the Village Headmen.*—The collection of land revenue may be regarded as falling into two distinct parts, according as the village or land concerned may be regarded as directly under the State or as an "alienated" village held by a zamindar, *khorposhdar* or other tenureholder. "*Khamar*" villages or villages regarded as held by the Ruler in his personal capacity will, I think, have to be regarded as alienated in as much as the revenue of such villages does not enter the State accounts though in some States such as Talcher, the revenue of villages held by *khorposhdars* is credited to the treasury under a separate head. In unalienated villages, it has already been proposed that the collecting agency will be the local headman, who gets a commission based on the total land revenue of the village; such a headman acts simply as a collector and has no responsibility for the revenue of the village.

106. *Objections Considered.*—States which favour a headman with responsibility may object on the ground that as the headman has no responsibility he will not trouble to collect and land revenue collections will therefore suffer. This is not a correct appreciation of the position. It is well known that normally the great majority of tax payers, whether it is land revenue or any other tax, only have to be asked in order to pay up their taxes without any trouble; in some cases a little insistence is necessary but it is only in a few cases that coercive action cannot be avoided. If this were not so, the system of headmen with responsibility would break down at once; for, if a large number of ryots would not pay except on coercion, the plight of the headman would be hard indeed. It may also be said that collections are better the greater the insistence on payment, and if there is a local man, there is greater opportunity of frequent and insistent demand than if there was an itinerant tax collector with several villages under him. Thus there is every reason to expect a high standard of collection in a village where there is a collecting headman; it must be understood of course that collection of revenue is one of the primary duties of the headman for the proper discharge of which he is expected to make strenuous efforts and for the dereliction of which he is liable to be punished. If for instance it is found that collection in any village are not satisfactory on account of slackness of the headman, one of the penalties to which he could be made liable would be payment of his commission on the actual collections. This of course cannot be made a general principle for the reason that some ryots will not pay in spite of the best efforts of the headman and will have to be coerced; it is only therefore where there is good reason to believe that the headman is not making adequate efforts that the penal measure can be applied. More serious measures such as suspension from the post, fine or dismissal could be taken for serious neglect of duty or incompetence.

Another objection which some people seem inclined to put forward is that in the absence of his personal responsibility the headman may misappropriate the money collected by him. This is not really possible except

for short periods as the ryot who has already paid and obtained a receipt will have to be shown as a defaulter, and as soon as he is proceeded against, the truth is bound to come out. Of course if a receipt is not given the ryot will not be able to prove payment but this can and does happen even under a system of responsibility. Again, under a system of responsibility, cases of *gaontias* and *sarbarakars* who have effected recovery from the ryots but have themselves not paid the amount are known, and in some such cases, the *gaontias* have surrendered the village or fled to another place. I have come across such cases in Udaipur and other States. The position cannot be any worse under the system where there is no responsibility and, if it is provided that where payment to the readman is proved recovery can be effected from him by sale of his movable or immovable property, apart from his liability to prosecution for criminal breach of trust, there is an adequate safeguard. These are not theoretical arguments but are based upon the actual satisfactory working of the system existing elsewhere. In Berar, of which I have personal experience, there have been indeed a number of cases where the headman recovered money but did not credit it for a considerable period (*i.e.*, several week) after collection, but these have come to light as soon as an officer went to the village or the tahsildar took action for default against the ryot or for unsatisfactory collection against the headman. On the whole, there is no greater danger here than there is in the case of the headman who can recover the revenue, give up the *bhogra* lands in which he has no permanent right and leave the State; the chances are indeed much less if the headman owns land in ryoti right in the village.

Another objection which may be raised is that under the ryotwari system individual accounts will have to be maintained for each ryot whereas under the present system an account is maintained only for the village as a whole. This objection is also not a sound one. At present, the *sarbarakar* with responsibility has to maintain a rent-roll in his village for his own information and will have to satisfy himself that each cultivator has paid his dues. If this rent-roll is maintained as an annual register of demand and collection, this is all that is necessary. At the headquarters there is no need to maintain individual accounts, if the village *jamabandi* is maintained at the headquarters, the revenue staff will be able to say at once in which village there are arrears. These arrears will have to be collected and paid in by the headman, or he will have to file a list of defaulters accounting for the arrears, against whom action can immediately be taken. Thus it is not necessary to keep individual accounts and such accounts will be left to the village officials. There will be some difficulty in areas where literate headmen are difficult to get, but for efficient revenue administration it is essential to have a literate official and patwaris will be necessary in such areas in any case. Of course the revenue staff at headquarters will be able to verify the correctness of the amounts entered in the list of defaulters by referring to the settlement record of the village. One other criticism which may be made is that the revenue staff will have to deal with a larger number of cases of default than under the system of responsibility. This again is more apparent than real and in fact it may be just the other way round. True, the State has to deal in the first instance only with the headman; but recovery has to be effected from the defaulter ultimately either as a result of cases started at the instance of the headman where he is allowed to file a list of defaulters for 'certificate procedure', or a number of civil suits will have to be taken up. In most States it is already permissible for the headman to file a list of defaulters and the position is thus not radically different. There are many villages in which collection is actually being made in the manner proposed (villages without headmen). Under the 'responsibility' system, the ryot has an incentive to be slack in payment knowing that it is the headman who will be called upon to pay in the first instance while, under the proposed system, he will have to be more prompt in payment. This, I think, is a desirable feature on the whole. Under the present system, the cultivator often has to make payment at a time when he is either busy with his harvest or the prices for his produce are the lowest in order to enable the *sarbarakar* or *gaontia* to pay sometime in January (in many of the States) but if the date for ryoti payments

is so fixed that the harvest is over and prices are also better, recovery will be easy. As in practically all States the financial year begins on the 1st of April, the "collection season" from, say, the third week of January to the end of March will be adequate for the recovery of the bulk of the revenue. There will be thus no appreciable difference between the existing position and the proposed one in the matter of collections; this matter will be discussed further later on. During this discussion it must not be forgotten that the *sarbarakar* system and the *gaontiahi* system are not successful except where a considerable portion of the State revenue is sacrificed and it is precisely for this reason that it is proposed to alter it.

107. *Headman in Tenure villages.*—Coming to the second category, in the zamindaris or analogous tenures of alienated villages, the collection of revenue has generally been regarded not only in the States but also elsewhere as primarily the business of the tenure-holder, and the usual procedure is to let them file civil suits for the recovery of the revenue. (This has also been the position with reference to headmen with responsibility except where it has been found that the system does not work). If the same attitude is maintained now, the question arises as to what should be done with the headmen. It has been pointed out already that in the tenure-holder's villages also, the headman system with responsibility usually prevails except where the tenure-holder may himself be regarded as the headman, that is, holds the village direct. In a number of States, the headmen cannot be removed except at the instance of the State but in others where the *theka* system prevails, the zamindar can generally do as he pleases. Considering the interest which the State has in the management of villages, whether alienated or unalienated, and the need for the safeguarding of the ryot's rights, the maintenance of land records, the reporting of crime and other matters, it is essential that there should be an agent responsible to the State for the various matters connected with proper administration, apart from any question of collection of revenue. The chowkidar or *kutwar* is in my opinion not a suitable person for this purpose for several reasons. Nearly always he is a low caste individual in indigent circumstances with little or no influence in the village and not respected or looked up to by the rest of the villagers. He is also for the same reason illiterate except very exceptionally and is not capable of maintaining any records. Further he is generally made use of as a sort of messenger for the purpose of carrying reports to the local police station or other place and where these are distant he will be absent for several days; a chowkidar is appointed often for several villages. Thus it is not possible for a single individual, generally of the lower classes and illiterate, to perform all the duties which may be expected of the village headman in a State with an efficient land records and revenue administration, and it is extremely desirable that there should be a headman as well as a chowkidar. The existing *gaontias* and *sarbarakars* have of course in nearly all cases paid for the position they hold and it is necessary to settle the home-farm lands with them if it is agreed that the present position of leasing out or selling villages is not satisfactory. In view of the position they have held, often for many generations, it is in the highest degree desirable that they should be appointed headmen. There appears no objection to the headmen holding the same position as in '*khalsa*' villages *i.e.*, as collectors of revenue; only they pay the revenue collected to the zamindars instead of to the State and the zamindars pay them the commission. This is in fact the practical position in many villages. In case default is made by the zamindars in payment of the headman's remuneration there will have to be a clause for recovery; also a separate clause for penal action against the headman if he fails to discharge his obligation properly. It is proposed to let the zamindars and others who have either exercised the right to appoint their own *gaontias* or who have exercised the right of nomination as in Patna to exercise the right of nomination so long as the nomination is made according to the general principles of appointment of all headmen and does not override the rights of heredity except for sound reasons. According to these proposals there will have to be a headman in every village even if it is managed direct by the tenure-holder unless the tenure-holder himself agrees to be appointed as headman.

Assuming then that the system of *thekas* and headmen with responsibility is not permitted in the zamindaris and alienated villages also, should tenure-holders continue to proceed against defaulters by filing civil suits or should procedure similar to that of the State be open to them? Assuming that ryots in the zamindari and tenure villages are given the same rights in their lands as the ryots in the *khalsa* area and that no zamindar or other tenure-holder has the right to eject a tenant, the position roughly will be that the ryots instead of paying land revenue to the State, simply pay it to the tenure-holder. This again is the practical position nearly everywhere. The zamindar or tenure-holder will of course have the responsibility for the payment of the *takoli* or other payment imposed on him and if only the dilatory method of a civil suit is open to him while the responsibility is enforced, wherever the *takoli* is a heavy sum, difficulty may be experienced in payment. I may point out that even where the *takoli* is a nominal payment zamindars often make default and action has to be taken against them. The history of recovery in zamindaris in Bengal and Orissa shows that civil court procedure is often an unsatisfactory method and unless powers are given to zamindars which they are likely to abuse, recovery will not be easy. Though on account of the small number of zamindaris in the States the problem is not of any magnitude, I am of opinion that, it should be possible for zamindars to recover revenue from defaulters by applying to revenue officials, costs of course being recovered from the tenure-holders in the first instance. Thus the only difference between a zamindari area and *khalsa* area will be that it will be the zamindar who files a list of defaulters rather than the headman, and the costs, as prescribed, will also be paid by the zamindar in the first instance and recovered later from the defaulter. This procedure will facilitate prompt recovery of land revenue or rents from the cultivators and of *takali* or quit-rent from the zamindars. One of the grievances of the latter will also have been removed. It may be felt that this step will result in a large increase in the number of recovery cases the revenue staff will have to deal with but such a happening would be more apparent than real. The revenue staff is not different from the civil staff in the States and the adoption of revenue recovery procedure will result in a reduction of work. Even in the Central Provinces the tahsildar who recovers land revenue is empowered to try and execute rent suits as a civil court and the distinction is largely fictitious.

In this connection it is necessary to mention that the dues other than land revenue of the *debottar* department and sometimes loans of the *khamar* or private department of the Ruler are recovered in the same manner as State demands. It is not proposed to permit the recovery of such dues as arrears of land revenue and the normal agency of civil courts must be resorted to.

108. *Coercive Processes*.—The coercive processes for the recovery of revenue may now be considered. Existing processes in the States usually follow the processes prevalent in the neighbouring provinces though not always strictly. In some States the procedure of leasing out the land is followed. Taking up the common methods one by one, arrest and detention of defaulters hardly ever seems to be practised in the States and in view of this and the fact that the method is not popular and was recently abolished in the Central Provinces and Berar, I think it is not necessary to consider it as a method of recovery. Attachment of movable property is a universal and usually effective method of recovery. It does not usually do any harm unless the means of a person's livelihood and payment is taken away, and though concealment is possible, generally a warrant of attachment of movables makes most defaulters pay. In some of the States, plough cattle, agricultural implements and other articles which it would be a hardship to attach are not exempted from attachment but in most of the States this exemption is granted at least on paper. Subject to exemptions, attachment of movable property is to be recommended as a process fit for adoption. Apart from this method, the only other processes which may be used are those affecting immovable property and standing crops. In most of the States the land revenue is at present not a first charge upon the land, and questions of recovery of land revenue when a transfer is about to take place crop up. Land revenue is, in most places, and should, in my opinion, be a first charge on the land as the

ultimate source from which it is to be paid, irrespective of who is in possession. This is necessary to safeguard the States' interest as in the event of failure of other methods of recovery the land can be sold. Ejectment of a cultivator from his holding should now, I think, be regarded as a discarded method which is considered in many ways unjust. As has already been pointed out, the cultivator has either paid the value of the land or has given it the value it possesses, and to deprive him of the whole of the land for the land revenue which is usually a small amount is unfair, and deprives him of his source of livelihood and makes him a labourer. Sale of an entire holding for paltry areas of revenue, (though not the same as ejectment because the balance is paid to the cultivator) also reduces him to the position of a labourer. Ejectment from a portion of the land or sale of a portion sufficient to cover the arrears may be considered but the method does not seem to offer a satisfactory solution. There are already innumerable uneconomic holdings all over the country and sale of small bits of land, sandwiched perhaps between other holdings, are not attractive to any persons except a cotenant, and thus, in the absence of competition, is not likely to fetch a satisfactory price. Neither sale nor ejectment should be a common or readily practised mode of recovery; if a cultivator fails to pay his revenue even at the possibility of his land being put to sale it is usually because of genuine inability to pay, and if this process has to be resorted to except rarely, it is a sign that there is something wrong which only an unimaginative administration will overlook. It is unnecessary for me to expatiate further on a principle which is now accepted everywhere that land should not be put to sale except as an extreme measure and on this principle I proceed to suggest less drastic modes of recovery as intermediate steps. Failing recovery through the attachment and sale of movable property, I think that either the arrear may be allowed to remain till the next season and the crops attached or the land may be leased out to a person other than the defaulter who is thus temporarily excluded from the land, for as long as may be necessary to wipe out the arrears. If all these methods fail and there is no reason to write off the arrears, such portion of the holding as will cover the arrears but usually not less than a whole field should be sold. Generally I think it would be sound policy not to sell land unless at least three years' revenue is outstanding and recovery cannot be effected by other methods. It is also proposed not to permit sales after the commencement of the rains as in my experience it causes hardship to the holder as well as the purchaser. In the matter of sale of property, movable or immovable, the procedure contemplated in the Central Provinces Laws or the Bihar and Orissa Public Demands Recovery Act will be adopted and it is not necessary to discuss this further. It States where immovable property is sold for arrears it is this procedure which is said to be followed, in theory, if not in practice.

Regarding recovery from zamindars and tenure-holders, if a warrant of attachment and sale of movable property does not produce the desired results the only alternative is to take the estate under management. If the arrear is due on a land grant, the land may be leased out. In case of habitual default the grant may be resumed, the defaulter being ejected.

109 *Sales by Officers only.*—The practice of ministerial servants like nazirs, or police constables, or peons, selling movable or immovable property is proposed to be abolished and sales must be held in the presence of, or, in the case of immovable property, be conducted by, a responsible officer. Sales of land for land revenue should be avoided altogether if possible in aboriginal areas or if held should be governed by the general rule regarding the sale of land belonging to aboriginals. Taxes such as poll taxes can only be recovered, of course, by the sale of movable property.

110. *Instalments of Revenue.*—Reference has been made earlier to the instalments in which land revenue is payable. In many States, both instalments of revenue are recovered between the month of December and April. In Orissa the landlords pay their revenue in April and November. In the Central Provinces the instalments are in January-February and April; in Berar the instalments are similar. Essentially the Orissa and Central Provinces practice amounts to the same thing, that is, the land revenue payment in anyone financial year consists of the payment of one instalment out

of the previous season's crop and one out of the current season's crop. In most of the States on the other hand both payments are made in the last few months of the financial year. In the Central Provinces and Berar, the whole land revenue is payable at the end of January if more than $\frac{2}{3}$ of the land is sown with a crop which is harvested in December and the whole revenue is payable in April if $\frac{2}{3}$ of the land is sown with a spring or *rabi* crop. As the main crop in the States is rice there appears no strong objection to recovery in two instalments. Of course if the *kists* are equal, allowance has to be made for recovery from defaulters before the close of the financial year though this is not likely to make much difference as the following examination will show: If the 1st instalment is fixed on the 15th January and the second on the 15th March, we may resume that by the end of March all or practically all arrears of the first instalment will be recovered; of the second instalment there will be some arrears; now if we take the next financial year, the recoveries will be (1) balance (negligible) if any of the first *kist* of the previous year (2) arrears of the second *kist* of the previous year (3) whole (or nearly so) of the first *kist* of current year (4) bulk of second *kist* of current year. We may compare with Central Provinces or Berar: the payments in any financial year will be (1) whole of second *kist* of previous year (2) arrears of first *kist* of previous year (3) practically the whole of first *kist* of current year. In both cases, I think, the recovery should be equal to the demand for one year. In view of the varying customs in the States, it is proposed to leave the exact dates to be fixed by rules and it will only be provided in the rules that the first instalment shall not be earlier than 15 January and the second the first of March; this should afford sufficient protection to the ryots and allow enough latitude to the States.

111. *Receipts*.—Receipts for land revenue in the Central Provinces form are used in the Chhattisgarh States; this has been described already. I learn on enquiry that these *rasid-bahis* are sold at 0-3-3 to the cultivators through patwaris whose commission of 0-0-6 is included in the price, in the Central Provinces and Berar. This shows that the States are making an appreciable profit on the sale of these *rasid-bahis*. Some of the Orissa States seem to be doing likewise and it would appear necessary to advise the States that they are not expected to make a profit out of these sales. It is strongly recommended that the Orissa States should be advised to introduce the Central Provinces system of *rasid-bahis* prevalent in the Chhattisgarh States.

CHAPTER XI—Cesses.

112. *States' Cesses*.—It has been pointed out already that there are levies over and above the land revenue in the States which have often been imposed at any time, and without a definite purpose being mentioned, in some cases. Some of these 'cesses' are rates imposed in lieu of levies formerly prevalent such as *bethi begar*, various kinds of *mangans*, *abwabs* and the like and are regarded as a commutation of these levies. The cesses are imposed at so much per rupee of land revenue and thus form an addition to the land revenue. They vary in nature from a religious cess to cesses meant for schools, roads or dispensaries, apart from the commutation rates called 'miscellaneous' or 'local' cesses.

113. *Meaning of cess*.—Before making any suggestions regarding cesses it is necessary to see what is understood by a cess and whether any generally accepted principles regarding their imposition exist. A cess, according to the dictionary, has no more definite meaning than "a kind of rate or tax in Scotland, Ireland, India". In this loose sense it is sometimes used, but in this country a cess is nearly always used in conjunction with the object for which it is levied; thus one speaks of a lac cess or education cess. Usage in India is further based on the principle that a cess, being levied for a specific object, the revenue from the cess should be spent also on that object. To give one or two examples: The Indian Soft Coke Cess Act provides for the levy of a cess on soft coke with the object of creating a fund for the promotion of the interests of the industry; the proceeds of the cess are to be used for promoting the sale, manufacture of soft coke and connected matters; then again, the lac cess under the Indian Lac Cess Act is also meant to be funded for the improvement of the cultivation, marketing and other matter connected with the industry; the cotton cess