CHAPTER III.

REVENUE HISTORY AND ADMINISTRATION OF THE LAND.

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CHAP. III. REVENUE HISTORY, &c.

Early history.

Of the early administration of the land revenue of South Canara little is known except what has been placed on record by Sir Thomas Munro, and the information thus recorded cannot now be amplified, or even verified, as the materials from which he derived it no longer exist. In a letter to the Board of Revenue [1] written about six months after he came down to organize the district on its acquisition by the British after the close of the last Mysore war in 1799, Sir Thomas—then Captain—Munro thus describes the records of which he was able to obtain possession :

"The great value of land in ancient times led the curnums to "adopt every expedient they could think of for the preservation of "their accounts, because they were not only a register of the public "revenue, but of all transfers of land among individuals. They "wrote their accounts in black books which lasted above a century, "and to guard against accidents they always made two or three "copies, which were distributed among different branches of the "family to be kept separately. Whenever a volume became much "worn from length of time and frequent use, a fresh copy was made, "and a memorandum was usually inserted in the title page, men-"tioning the year of Shalivahan in which it had been written, and "also the date of the original or older copy from which it had been "transcribed. The use of these registers having been prohibited "during the Mysore Government, a great part of them had been "lost from negligence and other causes, but enough still remains

[1] Dated 31st May 1800, para. 5.

"to furnish a complete abstract of the land rent during a period "of more than four hundred years."

Early history.

None of these black books or 'kaddatams' are now forthcoming. Sir Thomas Munro states that in his time many had been lost. The remainder were called into the taluk kutcherries in the early part of the century, with the view of checking the distribution of the assessment over the different estates, and there they have been eaten by white ants and other insects, and in many cases destroyed by fire owing to the burning of the kutcherries in which they were stored.[2]

Early tradition assigns one-sixth of the gross produce as the share claimed by Government[3] up to 1252 A.D., when a local prince added about ten per cent. to this by directing that the Government share should be assessed in rice, thus throwing on the landholders the cost of removing the husk. The revenue was payable, even at that early date, either in money or in kind *at the discretion of the Sirkar*,[4] and under the rate and method of conversion adopted the money assessment was one ghatti pagoda for three 'kuttis' of land.

Vijayanagar assessment.

This arrangement continued until 1336 when, in the early days of the Vijayanagar or Byjanugger dynasty, Harihar Ráya's minister published a manual for the use of the officers of State founded on the text of Parásara with a copious commentary, in which the assessment of the land and the conversion of the grain revenue into money are elaborately dealt with. Briefly he took the Śástra rate of one-sixth of the crop as the Government share, and assuming that the average outturn was twelve times the seed sown, he distributed 30 'kuttis' of paddy, the produce of $2\frac{1}{2}$ 'kuttis' of land, as follows :[5]

To the landlord, one-fourth	$7\frac{1}{2}$
To the cultivator, one-half	15
To the Sirkar, one-sixth	5
To the temples, one-thirtieth	1
To the Brahmins	$1\frac{1}{2}$
Total ...	30

[2] Sheristadar's memorandum forming enclosure to a letter from the Collector in 1830, referred to as a valuable paper in Board's Proceedings, dated 16th November 1843, para. 54.

[3] *Historical Sketches of the South of India*, by Lieut.-Colonel Mark Wilks, p. 95, *et seq.*

[4] Sir Thomas Munro's letter, dated 31st May 1800, para. 6.

[5] *Ibid.*, para. 7.

Vijayanagar assessment.

The share of the temples and the Brahmins was collected by the Sirkar and paid over by it, so that the share payable by the landholder was really one-fourth of the estimated gross produce, and the result of the rules laid down for the conversion of this into money was that one ghatti pagoda was the revenue for 2½ kuttis of land. With regard to this Colonel Wilks remarks:[6] "It "is evident that Harihar Ráya called in the aid of the Shasters "for the purpose of raising the revenue, and did actually raise it "exactly 20 per cent. by his skill in applying that authority to "his calculations; the result of the whole detail being that he "received one ghatti pagoda for 2½ kuttis of land, the same sum "only having been paid for 3 kuttis." The Bombay High Court describe the transaction as a thinly-veiled violation of the law,[7] and state that although he affected to adhere to the Sháster, he exceeded the prescribed limit of one-sixth of the gross produce.[8]

Whether he did so or not seems really to depend upon the money-value of rice in 1336, and it is in fact simply impossible to say what was really the share of the gross produce then exacted by the Government. In arriving, on the method above described, at a money assessment which would bear any fixed proportion to the gross produce of the district, it was necessary to know three things definitely: First, the proportion of crop to seed; second, the amount of land sown; third, the money-value of the grain. With regard to the first, the Sháster proportion of 12 to 1 was taken, and, as a general average of the kind cannot apply equally well to every district, it is probable, when the climate and agricultural condition of Canara are considered, that Sir Thomas Munro was right in holding that it was too low.[9] With regard to the second, it is known that no actual measurements were made,[10] and with regard to the third, there is no reason for supposing that the available information was in any degree accurate.

Bednore additions.

Whatever the proportion of the gross produce claimed by the Sirkar may really have been, it remained unaltered until 1618 when the Bednore family imposed an additional assessment of fifty per cent., except on the Mangalore Hobli, more than one-third of the present district of South Canara, which was then held by poligars who were subjected to only a portion of this increase, and between 1618 and 1660 a special assessment was imposed on cocoanut and other fruit trees. In addition to this a number of

[6] Wilks' *South of India*, p. 95.

[7] Canara Land Assessment Case, p. 84. [8] *Ibid.*, p. 210.

[9] Sir Thomas Munro's letter, dated 31st May 1800, para. 16.

[10] *Ibid.*, para. 8.

paltry extra assessments were imposed on various pretexts,[11] but they were always treated as extras, and the sum of the impositions up to 1660, viz., the assessment of 1366, *plus* the fifty per cent. added in 1618, and the assessment on cocoanut and other fruit trees made prior to 1660, were alone considered and recorded in the accounts as the standard rent, *rekah*, or *shist*. As mentioned above, the Bednore additions were not so heavy in the tracts in the possession of poligars, but it is not to be supposed from this that the condition of the landholders under the poligars was better than elsewhere, for though the Bednore Rájas adhered to the principle of a fixed land rent, they did not interfere with the exaction of imposts by the poligars on their own account.[12] At the time of the close of the Bednore Government, the extra assessments and village taxes amounted to nearly twenty-five per cent. of the *shist*,[13] and with regard to the whole assessment levied in 1762 at the time of the conquest of Canara by Hyder, Sir Thomas Munro was of opinion that whatever proportion it might have borne to the gross produce, it still seems to have been sufficiently moderate to have enabled the country, if not to extend its cultivation, at least to preserve it in the same flourishing state in which it had been in earlier times.[14]

Bednore additions.

Immediately after the conquest of Canara, Hyder ordered an investigation into the revenue, and being informed that deductions on account of waste lands had been allowed on false statements, he ordered an imposition of 30,000 pagodas on them, and on afterwards learning that the lands were not in cultivation, he ordered the amount to be added to the rent of those that were so. He ordered the extra assessment of 1711 to be imposed on the lands of potails and influential ryots who had been excused, and imposed the full fifty per cent. addition of 1618 on the poligars who had before been only partially subjected to it.[15] Between 1779 and 1782 a number of other additions were made, so that when Hyder died in 1782, the extra assessments or *shamil* amounted to more

Mysore assessments.

[11] Amongst the more important of these paltry extra assessments were the *pagadi* imposed in 1711 on account of the marriage of Basappa Naik; the *patti* imposed in 1718 for the discharge of the Mogul peshcush; the *chucker* imposed in 1720 in lieu of interest paid to soucars who advanced certain kists which the Sirkar claimed at an earlier date than had been usual in Canara, and an addition made in 1758 on account of the Mahratta Chaut.—(Sir Thomas Munro's letter, dated 31st May 1800, para. 10.)

[12] Sir Thomas Munro's letter, dated 31st May 1800, para. 16.

[13] Bombay High Court Report, appendix to vol. xii. Canara Land Assessment Case, p. 124.

[14] Sir Thomas Munro's letter, dated 31st May 1800, para. 17.

[15] *Ibid.*, para. 11.

Mysore assessments.

than the shist or standard assessment. When Tippu succeeded to the throne he ordered the resumption of all inams, and added, in the course of his reign, a number of other new oppressive extra assessments, most of which, however, he was never able to collect.[16]

Regarding the state to which the excessive taxation imposed by Hyder and Tippu had reduced the country, Sir Thomas Munro writes :[17]

"Hyder received Canara, a highly improved country, filled "with industrious inhabitants, enjoying a greater proportion of the "produce of the soil, and living more comfortably than those of "any province under any native power in India ; but, instead of "observing the wise and temperate conduct which would have "secured to it the enjoyment of these advantages, he regarded it "as a fund from which he might draw without limit for the ex- "penses of his military operations in other quarters. The whole "course of the administration of his deputies seems to have been "nothing but a series of experiments made for the purpose of "discovering the utmost extent to which the land rent could be "carried, or how much it was possible to extort from the farmer "without diminishing cultivation. The savings accumulated "in better times enabled the country to support for some years "the pressure of continually increasing demands, but they could "not do so for ever ; failure and outstanding balances became "frequent before his death.

"The same demand and worse management increased them in "the beginning of Tippu's reign. He was determined to relin- "quish no part of his father's revenue. He knew no way of making "up for failures, but by compelling one part of the ryots to pay "for the deficiencies of the other. He made them pay not only "those which arose from the waste lands, but also of dead and "deserted ryots which were annually increasing.

"Severity and a certain degree of vigilance and control in the "early part of his Government kept the collections for some time "nearly at their former standard, but it was impossible they "could remain so long, for the amount of land left unoccupied "from the flight or death of its cultivators became at last so great "that it could not be discharged by the remaining part of the "inhabitants, and the collections, before the end of his reign, fell "short of the assessment (column 71) from 10 to 60 per cent. "The measure which he adopted to preserve his revenue was that "which most effectually destroyed it. He forced the ryots who

[16] Sir Thomas Munro's letter, dated 31st May 1800, para. 13.

[17] *Ibid.*, paras. 20 and 21.

"were present to cultivate the lands of those that were absent, but "as the increased rent of their own lands required all their care "and labour, by turning a part of it to those new lands, the pro- "duce of their own was diminished, and they became incapable "of paying the rent of either.

Mysore assessments.

"The effect of this violent regulation was to hasten the extinc- "tion of the class of ancient proprietors or landlords, for many "who might have still contrived to have held that rank had they "been permitted to confine their stock to the cultivation of their "own lands, when they were obliged to employ it in the cultiva- "tion of those of other people, and when the consequent decrease "of the produce left no surplus after paying the rent of Govern- "ment, sunk to the state of labourers. Nothing can more strongly "indicate the poverty of the country than when its lands, so far "from being saleable, must be forced upon the cultivators; but "this practice prevails more or less through Canara, and is very "general everywhere to the northward of Coondapoor."

Sir Thomas Munro's assessment.

Notwithstanding his views of the impropriety of the Muhammadan assessments, Sir Thomas Munro, in making his first settlement of the land revenue of the district under British administration, did not feel himself at liberty to depart widely from the system which he found established, and accordingly made no reductions beyond such as were absolutely necessary to ensure the collection of the rest of the revenue. Setting aside altogether such imposts as had been merely nominal, and taking the balance actually levied as his guide, he remitted all assessments on account of waste lands, and imposed a settlement on Canara and Soonda, amounting to pagodas 4,65,148, of which pagodas 2,84,604 were composed of the ancient standard land rent or 'shist,' and pagodas 1,80,545 were made up of extra assessments or 'shamil.' This settlement, he observed, was, on the same quantity of land, nearly as high as ever Hyder's was at any time, and higher than Tippu's collections were except during a few years in the early part of his reign.[18]

In reporting this settlement Sir Thomas Munro remarked that he considered himself merely as a Collector who was to investigate and report upon the state of the country, but who was to leave it to the Board to decide the expediency of lowering its assessment.[19] He then proceeded to describe the condition of the country and submit his proposals in detail. Assuming that no native Government is ever more indulgent in the assessment of its subjects

[18] Board's Proceedings, dated 15th September 1831, para. 11.

[19] Sir Thomas Munro's letter, dated 31st May 1800, para. 16.

Sir Thomas Munro's assessment.

than the British ought to be, he thought it might be admitted that the whole of the land in cultivation ought not to be assessed at a higher rate than it was under the Bednore Government at the time of Hyder's invasion,[20] but as reductions were to be made in road customs and grain duties, which would have an effect similar to a reduction in the land rent, it would not be necessary to abandon all the Mysore additions to the assessment, and as regards the present district of South Canara he proposed that the fixed assessment of the northern portion should be the Bednore assessment, *plus* twenty-five per cent. of Hyder's additions, while for the rest of the district it should be the Bednore assessment, *plus* thirty per cent. of the additions.[21]

In a letter written about six months later, however, he reported that information since obtained had induced him to think that a smaller abatement would suffice, as many circumstances, and above all the great value attached to the possession of land, had led him to judge more favourably than he formerly did of the condition of the inhabitants of Canara.[22] Abandoning his recommendation of a hard-and-fast rule of fixing the assessment at the Bednore shist, *plus* a certain percentage of the Mysore additions, he states that he thinks many other points are entitled to as much attention as the shist which was probably extremely unequal originally and had been rendered more so by the falsification of accounts, and expresses an opinion that no guide is so sure as collection.[23] Taking this as his guide, and likewise considering the advantage which must result to particular districts from lowering the customs,[24] he states that the facility of collection and the growing confidence of the landholders convince him that his original settlement of fasli 1209 might always be collected without a balance, but as the aim of the Government should be not merely to raise a certain revenue, but to give a new spirit to agriculture and raise the country to prosperity, he thinks it necessary to recommend certain reductions, varying as regards South Canara, from twelve to thirty-seven per cent., with the object of bringing down the assessment to not more than half the net produce of the land, the result being a settlement about seven and three-fourths per cent. lower than that for fasli 1209. Being transferred from Canara before orders had been passed on this letter, he wrote,[25] at the request of the Board of Revenue, to his successors in charge of the district

[20] Sir Thomas Munro's letter, dated 31st May 1800, para. 34.
[21] *Ibid.*, para. 36.
[22] Sir Thomas Munro's letter to Board, dated December 1800, paras. 2 and 3.
[23] *Ibid.*, para. 9.
[24] *Ibid.*, para. 10.
[25] Letter, dated 9th December 1800.

Sir Thomas Munro's assessment.

of Canara, then divided into two divisions,[26] and recommended that in settling the land rent for fasli 1210 much caution should be observed in imposing any new assessment on any land that pays the Bednore rent and half of Hyder's additions, and none should be laid on any land that pays the Bednore assessment and three-fourths of Hyder's additions. He also expressed a decided opinion that the rent of land, however productive it may be, should never on any account be raised higher than it had been at some former period, pointing out that such favourably-rated lands were very few in number, and that many of the holders in purchasing them from former proprietors had given a high price in proportion as the rent was low.[27] He further recommended that a general reduction of two and-a-half per cent. proposed by him for the settlement of that year should not, as a rule, be extended to lands which were not assessed equal to the Bednore rent and half of Hyder's additions.

The settlement for fasli 1210, based generally on these proposals, was considered by the Board of Revenue to be satisfactory, and in submitting it to Government the Board remarked that after an attentive consideration of every information relative to the province of Canara that had come before them they were impressed with a strong belief that its assessment was lighter than that of any other district under the Presidency, and that therefore any permanent remission of its land rent would be unnecessary. They also intimated an opinion that a reduction of the export duty on rice was not required.[28]

For about ten years the revenue seemed to be realized without difficulty, but in the settlement reports from 1810 to 1812 allusions were made to large demands for remissions, and an opinion was expressed that the inhabitants were beginning to feel the effects of over-assessment every year. On this the Board called for a special report, which was submitted by the Collector, Mr. A. Read, on the 17th January 1814. In this Mr. Read explained that although Sir Thomas Munro's recommendation, that the rent of an estate should never be raised "higher than it has been rated at some "former period," had been strictly adhered to, yet the same attention had not been paid to his suggested maximum of the shist with three-fourths of Hyder's additions. Increases had gradually taken place from a decline of agriculture and various causes of poverty among the ryots rendering it necessary to make up by a small

[26] The present district of South Canara is the southern division of 1800 with the addition of the taluk of Coondapoor and two máganés of Lower Coorg.

[27] Letter, dated 9th December 1800, paras. 3 to 5.

[28] Board's Proceedings, dated 15th September 1831, para. 16.

increase to low-rated lands the rent of others which had failed altogether.[29] In a supplementary letter he recommended a reduction of the assessment varying from four to seven per cent. in different localities.[30]

Sir Thomas Munro's assessment.

On the 28th April 1817 the Board transmitted to Mr. Read's successor, Mr. Harris, an unrecorded minute expressing regret that the *shist*, with the full amount of the *shamil*, had been declared the maximum demand, and requesting further explanations after communication with Sir Thomas Munro who was then in the district. This officer expressed his opinion that the adoption of the *shist*, with the whole of the *shamil* as the maximum liable to be imposed, was calculated rather to discourage than give confidence to the landlords, because it held over them an assessment which few would ever be able to pay; but he also stated his opinion that Canara was more able in 1817, than it was at the time it came under the British Government, to pay its assessment, and that though there had been partial failures, particularly in districts near the ghauts, the country in general had improved.[31] In forwarding this the Collector, Mr. Harris, alluded to the acknowledged inequality of the ancient assessment, and stated that in making his settlement he had been guided by his estimate of the actual productive powers of each estate, and had not limited his demand to the standard of the *shist* and three-fourths of the *shamil*, as Sir Thomas Munro had not himself adhered to it in his first settlement, and many estates assessed by him above that standard had continued ever since to pay the higher assessment.[32]

Reviewing this correspondence on the 30th October 1817, the Board remarked that the *shist* and the whole of the *shamil* was known to be greatly beyond the resources of the country, and never had been realized, and that to the approximation made to this high standard in the actual assessment on more than half the landed property in Canara they attributed the deteriorated state of the province. They were of opinion that the best standard of demand would be the average collections realized from each estate since the province had been under the British Government, and directed that the settlement for fasli 1227 should be formed on this basis.

Tharáo assessment.

The principle thus enunciated is the basis of the 'tharáo' (fixed, determined) or 'sarásari' (average) settlement, which is still in force throughout the district of South Canara, though some

[29] Mr. Read's letter, dated 1st January 1814, para. 5.

[30] Board's Proceedings, dated 15th September 1831, para. 27.

[31] *Ibid.*, para. 32.

[32] *Ibid.*, para. 31.

Tharáo assessment.

modifications have been made in favour of a certain number of estates. Though the Board directed its introduction in fasli 1227, it was not found possible to do so before fasli 1229 (1819–20), owing to the necessity of references for instructions as to the applicability of the principle to certain peculiar cases, and eventually it was decided not to apply it at all to some portions of the province which now form part of the district of North Canara. It was, however, introduced throughout the whole of the present district of South Canara, with the exception of the old taluk of Puttúr, which was then attached to Coorg and was not taken over until some years later.

In their orders passed on the references above alluded to, the Board directed that the average collections should be the limit of assessment:

First.—For all estates fully cultivated and which had at various times been assessed beyond the maximum fixed by Colonel Munro.

Second.—For estates cultivated in such proportion as to be capable of yielding the maximum assessment.

Third.—For estates of which the progress of improvement had been slow under the hitherto fluctuating assessment; but if the average collections, from any considerable fluctuation in their amount, did not appear fitly to apply, it might be advisable, through the medium of a jury of neighbouring proprietors, to fix a progressive and ultimate maximum assessment.[33]

On a further reference as to whether it was intended that a new assessment should be limited in all cases to the standard of Colonel Munro, they observed that remission was chiefly required in those over-assessed estates, the revenue of which it had not been practicable to raise beyond Colonel Munro's standard, or which, though assessed at it, had been unable to pay it; that on the other hand many of the estates, which had been assessed above Colonel Munro's maximum, were understood to be fully capable of paying their present assessment. They accordingly desired that the average collections might be taken as the basis of the new settlement, but that in applying that standard the Collector should personally grant such remission for a term of years not exceeding ten, as particular estates might require: it was supposed that in a few cases he might find it proper to raise the assessment beyond the standard of the average collections. Finally, the Collector was informed that he must endeavour to keep the aggregate of the

[33] Board's Proceedings, dated 15th September 1831, para. 36.

Tharáo assessment.

remissions within the total reduction that had been estimated by him.[34]

The correspondence having been submitted for the orders of Government, the instructions issued were approved, and the Collector was authorized to make such remissions in the settlement of the year as might be found to be necessary.

From Mr. Harris's report for fasli 1229, the first year of the 'tharáo' or 'sarásari' settlement, it appears that of the revenue of the portion of the province to which the 'tharáo' was applied, sixty-seven per cent. came from estates assessed above Sir Thomas Munro's maximum, twenty-one per cent. from estates assessed at that maximum, and twelve per cent. from estates assessed below it.[35] Of the estates assessed below Sir Thomas Munro's maximum the majority were assessed at rates exceeding the average collections but much below that formerly entered as the old assessment, to which the estate was still held to be liable, and in explanation of his adopting rates in excess of the average collections, Mr. Harris remarked:

"In his patta the ryot had that ancient *bériz* inserted, together "with his annual assessment, which was very far below it. It "may, therefore, be well imagined the effect this discouraging load "of nominal *teerva* had upon his exertions; as, on the other hand, "the removal of it may now lead to a fair expectation of its bene- "ficial consequences, and as a stimulus to exertion in bringing his "lands into more complete cultivation."[36]

The above explanation applies to most of the cases, but a number of the estates in inaccessible parts and at the foot of the ghauts were assessed at the *shist* only, because the actual state of the lands was not sufficiently known to enable the settling officer to come to a final decision as to what would be a suitable assessment.[37] During the eleven years succeeding the introduction of the 'tharáo' assessment, the annual settlement never came up to the 'tharáo' standard; low prices led to difficulty in realizing the demand of each year; successive Collectors represented the prosperity of the district as on the decline owing to the highness of the assessment, and as these statements seemed to be borne out by riotous assemblages or 'kúts' in the year 1831 in which the ryots met together and tumultuously declined to pay their kists, the Government deputed[38] Mr. Stokes, the Third Member of the Board of Revenue, to inquire into the state of the district.

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[34] Board's Proceedings, dated 15th September 1831, para. 39.

[35] *Ibid.*, para. 46.

[36] Settlement Report for fasli 1229, para. 16.

[37] *Ibid.*, para. 19.

[38] Minutes of Council, dated 8th March 1831.

Mr. Stokes' report.

Mr. Stokes found that the 'kúts' had not been caused by the state of the assessment,[39] but had been suggested, fomented and sustained by the intrigues of the Head Sheristadar and other Brahmins for the purpose of throwing discredit on the administration of the Collector, and effecting the removal of the Naib Sheristadar and other Native Christians employed in the department. In addition to the direct evidence on this point, he drew attention to the punctuality with which the revenue had been realized since the disturbances, and expressed an opinion that all unfavourable inferences regarding the assessment deduced from the occurrences of 1831 might therefore be discarded.[40]

On the question of the assessment of the district he formed a very decided opinion that reduction was called for in a few cases only, and that to attempt any general modification of it would be as unnecessary as it was dangerous.[41] In explanation of the different opinions formed by the Collectors, he pointed out that there were no accounts of the rent produce of the land, except in the case of estates which were known to be over-assessed; that a Collector's duties familiarize him almost exclusively with the dark aspects of his district; the poor obtruding their circumstances on his attention, while the wealthy try to evade observation.[42] Even if poverty existed, it was not necessarily due to over-assessment, though it was manifestly to the interest of the ryot to make it appear that it was so,[43] and he further doubted whether the agricultural classes really were poor, pointing out that the poverty had been inferred to some extent from the frequency of transfers of land as compared with other districts, which might really be due to the land being more lightly taxed and having a greater saleable value, in support of which latter view he showed that the sales were most frequent in the lightest assessed taluks,[44] the lands being usually bought by men of capital as a desirable investment for money.[45] He admitted that the fall of prices must have tended to increase the pressure of the assessment, and in some cases might have caused distress, but he considered that temporary relief was all that was required until it was known that the fall was permanent, and such relief had been amply afforded.[46]

Referring to the want of detailed accounts which had been so much deplored, he remarked that this want was a strong presumptive proof of the lightness of the assessment, as, if the ryots had

[39] Mr. Stokes' report, dated 12th January 1833, para. 13.
[40] *Ibid.*, paras. 14 and 15. [41] *Ibid.*, para. 6. [42] *Ibid.*, para. 22.
[43] *Ibid.*, para. 23. [44] *Ibid.*, para. 26. [45] *Ibid.*, para. 27.
[46] *Ibid.*, para. 36.

Mr. Stokes' report.

believed their resources were over-estimated, they would rather have demanded, than resisted as they did, close scrutiny into the circumstances of their estates.[47] Taking such accounts as were available, he pointed to the steadiness of the settlements and the general success with which they had been realized,[48] to the small number of distraints[49] and to the increase of cultivation,[50] as arguments in favour of the moderateness of the assessment.

Such distress as was occasioned by over-assessment he attributed entirely to the inequality of its distribution, as an assessment unequally distributed must necessarily press injuriously in particular cases,[51] and he showed that the tendency to inequality, which is to be found everywhere, had been aggravated in Canara by the Shánbógs having availed themselves of the confusion, incident to the transfer of the province to a new power, to make many fraudulent alterations in the public accounts,[52] while the apportionment of the assessment on sub-divided estates had prior to 1820 been left to the discretion of the parties and was frequently arbitrary or designedly unequal.

The remedy he recommended was the extension of the principle of the 'tharáo' assessment, which was, by fixing the maximum demand on each estate at an easily attainable standard, to encourage improvement, and put an end to the annual fluctuations in the settlement. The adoption of the average collections had answered well as a rule, but in some cases these collections had been greater than was consistent with the prosperity of the estate, and where a rate above the average collections had been adopted it was often not adapted to the circumstances of the estate owing to the want of information regarding the actual rent produce.[53] He therefore considered that in the case of estates on which the 'tharáo' assessment was believed to be too high, a careful scrutiny of their circumstances should at once be made with the object of calculating the rent produce of all the fields and fixing the assessment on the estate at a stated proportion varying perhaps from forty to seventy per cent.[54] In such cases, the boundaries should, he thought, be recorded and, where the proportion of uncultivated land was large, a portion of the full demand should be suspended for a term of years.[55]

When the standard had thus been reduced to a level always under ordinary circumstances easily attainable, he thought that the demand should seldom be disturbed by remissions, as had up

[47] Mr. Stokes' report, dated 12th January 1833, para. 50.
[48] *Ibid.*, para. 51. [49] *Ibid.*, para. 53. [50] *Ibid.*, para. 54.
[51] *Ibid.*, para. 61. [52] *Ibid.*, para. 59. [53] *Ibid.*, para. 63.
[54] *Ibid.*, paras. 65 and 66. [55] *Ibid.*, para. 67.

to that time been done usually on a consideration of the circumstances of the ryot rather than of the state of his land.[56] He also deprecated the practice of allowing the collections to lie over as an act of indulgence.[57]

Bharti and kambharti.

The settlement for fasli 1243 (1833–34) was conducted by the Collector, Mr. Viveash, in accordance with the views expressed in Mr. Stokes' report, and the settlement reports for that and the preceding fasli, as well as Mr. Stokes' report, were reviewed by the Board in their Proceedings, dated 11th January 1836, No. 24.

Mr. Viveash divided all estates into two main heads:[58]

(1) *Bharti*, or those able to pay the full 'tharáo' assessment.

(2) *Kambharti*, or those unable to pay the full 'tharáo' assessment.

The second class he sub-divided as follows:

(1) *Vaide*, those to be advanced to the full demand by instalments.

(2) *Board sipháras*, those on which a permanent remission was recommended.

(3) *Taniki*, those whose resources were still under investigation.

The Board of Revenue considered the arrangement likely to be beneficial both to the proprietors and to Government, but before confirming it they thought it necessary to call for further information in order that the proposals might be examined in detail[59] and issued full instructions as to the nature of the information desired and the manner in which it should be obtained.

The reports submitted in accordance with this call were reviewed at length in Board's Proceedings, dated 16th November 1843, in which, after expressing an opinion that inequality in the distribution of assessment should be adjusted by a revision of the bériz and not by a sacrifice of revenue,[60] they arrived at the conclusion that the latest revision of the assessment had not been more successful than the preceding attempts directed to the same end. The principal object, that of a fixed and permanent revenue, had not been obtained, nor had the revenue been materially increased. This unfortunate result appeared to the Board to be in no degree chargeable on the local officers, but to be entirely owing to radical errors in the revenue system of the district, occasioned by the absence of correct registers of the land and to the defective

[56] Mr. Stokes' report, dated 12th June 1833, para. 73.

[57] *Ibid.*, para. 76.

[58] Board's Proceedings, dated 16th November 1843, No. 602, para. 7.

[59] Do. dated 11th January 1836, para. 14 *et seq.*

[60] Do. dated 16th November 1843, para. 36.

Bharti and kambharti.

character of the accounts generally.[61] After showing in detail that there was no regular system of accounts in the district and that those in use were inaccurate, they remarked that even if the *rekha* or 'shist' had been founded on accurate data, which it was not, the extra cesses composing the 'shamil' were limited only by the ability of the ryots to bear them, and the principle of the 'tharáo' was liable to similar objections, for a tax regulated by past collections alone must fall to a great degree on the means and industry of the cultivator, not on the land.[62] Though the assessment, as a whole, was extremely moderate, it could not be easily borne unless redistributed, but all attempts to do so had ended in failure through the fallacious nature of the accounts, and similar disappointment must necessarily follow the further prosecution of schemes founded on the same data.[63]

The Board then proceeded to consider the plans which had at different periods been suggested to remedy these evils, and expressed their opinion that the only decided remedy which would enable the Revenue officers to introduce a more equable and fair settlement was a survey founded on an entire measurement of the lands. The advantages of such a measure considered by itself they held to be indisputable, the objections being its expense, its interference with the existing state of property and of conveyances executed in anticipation of the permanency of the present state of things, and the consequent distrust and dissatisfaction which would be engendered. The expense they thought would be in some degree compensated by the increased revenue derived from concealed and misappropriated land. The Government were in no way pledged to the permanency of the present state of things, and the ample evidence of fraud and encroachment deprived of all force any objections to interference with the existing state of property,[64] while distrust and dissatisfaction might be got over by conciliation and decision.

The above Proceedings of the Board of Revenue and a later Proceedings, dated 3rd September 1846, were reviewed by Government on the 2nd January 1847, and on a consideration of the strong representations against a survey made by a Collector of experience, who had, however, not been in possession of the Board's views and arguments as expressed in their Proceedings of the 16th November 1843, they were not disposed to proceed further in the matter until the opinion of the then Collector had been obtained, and he was accordingly instructed to give his deliberate and best consideration to the subject and submit his views

[61] Board's Proceedings, dated 16th November 1843, para. 41.
[62] *Ibid.*, para. 62. [63] *Ibid.*, para. 63. [64] *Ibid.*, para. 69.

at as early a period as might be consistent with the attainment of sufficient local experience.

In accordance with this call Mr. Blane submitted a very able and exhaustive report on the 20th September 1848. After expressing his concurrence with the remark made by the Board of Revenue "that the district generally has greatly improved in "wealth and prosperity, but that the revenue, so far from indi-"cating that any improvement has taken place, would rather tend "to the opposite conclusion, and that too where the progress of "improvement has been the most rapid and perceptible,"[65] he instanced in support of this view the immense increase in population and agricultural stock, the flourishing cocoanut plantations everywhere springing up on the coast, the extension of cultivation over the waste lands, the difficulty of procuring land for purchase and the increase in the price paid for it, the facility with which it was let to tenants and sub-tenants, the obstinacy with which the possession of the smallest spot was contested, and the shameful manner in which every species of fraud and forgery was perpetrated to obtain or hold possession of it.[66] Alluding to the inequality of distribution, which led to an assessment light as a whole being unduly heavy in particular cases, he accounted for it by supposing that in the lapse of time and by the frauds of the shánbógs favoured by each successive change of government, the true *rekha* or 'shist' had in point of fact been gradually abandoned and lost. Under the Mussulman government the use of the old registers of lands had been prohibited, and a great part of them had been lost, and the native accountants or shánbógs, by whom these had been kept, had all been dismissed and their places supplied by strangers, and when estates were found paying not so much as one-tenth of their produce, he thought it might be ascribed to the success with which influential landholders, the shánbógs, and their relations and friends were enabled to conceal the actual state of their farms and lower the original assessment.[67] Under the old government assessments were frequently unfairly distributed upon the estates of the poorer ryots in order to relieve rich and influential landholders,[68] and in accepting as genuine documents the accounts furnished by the shánbógs, we were from the very commencement building on a rotten foundation.[69] With regard to the 'tharáo' assessment, he pointed out that Canara had never been in such a depressed state as it was at the time it

Mr. Blane's report.

[65] Mr. Blane's letter, dated 20th September 1848, para. 3.
[66] Board's Proceedings, dated 3rd September 1846, para. 17.
[67] Mr. Blane's letter, dated 20th September 1848, para. 14.
[68] *Ibid.*, para. 15.
[69] *Ibid.*, para. 16.

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Mr. Blane's report.

came under the British Government, and that an average of seventeen years which immediately succeeded to such a state of affairs would necessarily be nearly the lowest which could be adopted.[70] To take the average of these first years, therefore, amounted to little less than to make the revenue, when nearly at its lowest ebb, the basis of all future demands, and exclude from the calculation all prospect of improvement hereafter.[71] Remissions on account of uncultivated waste belonging to the estate were thus practically made at the 'tharáo' without any provision for re-imposing the assessment when the lands were again cultivated, nor was the waste land separated from the estate,[72] and, in addition to this, the absence of any public record of the extent of any man's land made it impossible to check an encroachment on Government waste under the pretence that it was within the limits of an estate.[73] In cases in which reductions were made on a consideration of the circumstances of an estate, they were based on returns of produce prepared by the shánbógs, which were scarcely ever correct and often grossly fraudulent, as might have been expected, when there was nothing to check them except entries of the 'bíjwari' or amount of seed required to sow the rice land in old accounts, which themselves were totally untrustworthy, while as regards the cocoanut garden land there was not even this amount of check, the produce being calculated only on the actual number of trees then standing.[74] These views he supported by a memorandum of cases selected from the limited number in which the 'bíjwari' accounts had been tested by a survey.

In paragraph 50 of his report, Mr. Blane summarized as follows the causes to which he attributed the stationary amount of the land revenue:

First and principally, to the fraudulent lowering of the assessment upon valuable estates by means of the false accounts of the shánbógs and to its imposition either upon inferior estates which could not bear it, or on land which only appeared in the accounts but had no existence at all.

Second, to the re-occupation of waste lands formerly cultivated but abandoned, and the assessment of which had in point of fact been gradually remitted and deducted from the *bériz*, although the lands were not formerly separated from the estates to which they had belonged.

Third, to the cultivation of waste lands, never before cultivated, but claimed as grazing grounds and jungles attached to the cultivated lands.

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[70] Mr. Blane's letter, dated 20th September 1848, para. 21.
[71] *Ibid.*, para. 22.
[72] *Ibid.*, para. 38.
[73] *Ibid.*, para. 46.
[74] *Ibid.*, paras. 28 and 29.

Fourth, to the concealed appropriation, without any actual claim being advanced, of lands belonging to Government.

Mr. Blane's report.

The Board having decided that "inequalities should be adjusted by a revision of the *bériz*, not by a sacrifice of revenue," and having also observed in another Proceedings that the old maximum assessment should not be interfered with except in cases of proved fraud, Mr. Blane pointed out that the total absence of information regarding the boundaries or even the extent of estates made it impossible definitely to prove fraud, and that if the ancient assessments were to be adhered to, inequalities must of necessity continue.[75] "It would be in vain," he says, "and "worse than useless for me to attempt to blink the fact that no "such revision or equalization of the assessment could be effected "without abandoning the system which has hitherto formed the "basis of all previous settlements, viz., a standard maximum of "assessment upon estates, the limits and resources of which have "never been hitherto ascertained or defined, and this standard "maximum or ancient bériz, as it has been called, derived only "from the accounts of interested district servants, which are now "admitted on nearly all hands never to have been deserving of "credit. It would be necessary, in short, to re-assess the land on "some equitable and uniform principle."[76] It was unquestionable that an accurate survey would be a measure of the greatest utility and benefit if only as a record of private rights which had never been adequately defined and were daily becoming more complicated and difficult of adjustment,[77] and with reference to the objection urged by his predecessor that such a measure as a survey "would be to overturn the ancient principle on which the "land revenue of Canara was fixed," Mr. Blane pointed out that it would be rather to revert to or restore the ancient principle of the assessment by a given portion of the produce, which had already been overturned by frauds, encroachments and false accounts.[78]

Having thus given his decided opinion that a survey would be a measure of the greatest utility and benefit, that no satisfactory revision of the assessment was possible without it, and that it could not be objected to as the abandonment of any ancient recognized principle, Mr. Blane remarked that he had not access to the records necessary to enable him to form a judgment on the correctness of his predecessor's statement that the 'tharáo' assessment had been guaranteed to the people by every pledge that Government can give "and that its very name was a guarantee

[75] Mr. Blane's letter, dated 20th September 1848, paras. 55 to 57.
[76] *Ibid.*, para. 70.
[77] *Ibid.*, para. 69.
[78] *Ibid.*, para. 71.

Mr. Blane's report.

for its fixity,"[79] but apprehended that although no specific pledge might have been given, neither the Board nor Government would be inclined to withhold a due consideration of expectations which the people might have been led to entertain of the various exchanges of property and other transactions which had taken place in reliance upon the permanency of the 'tharáo' settlement, and of the disappointment which would be occasioned thereby when they found them not destined to be realized.[80]

Mr. Blane's long and valuable report concluded with the following warning against a revision with the view of increasing the general rate of assessment:

"If there be anything contained in this report, as I fear there "may be, tending to the inference that I am an advocate for "a high assessment, I am desirous, before concluding, of most "earnestly disclaiming it. No one who has served in so many of "the districts of this Presidency as I have can, on coming to "Canara, fail to observe and appreciate the blessings of a light "assessment and an indulgent settlement. Though it may appear "a paradox, it may, nevertheless, I think, be assumed that the "very ignorance which I have endeavoured to show has ever "existed, and still continues, in regard to the resources of the "country, has in no small degree contributed to the rapid in- "crease of its prosperity which is now so apparent, for no one "can doubt that the energies of the people are more likely to be "stimulated by the prospect of enjoying the full and entire profits "of their exertions than where these have to be shared with the "Government, in however moderate a proportion. As little can "it be doubted that, with the ideas which prevailed thirty or forty "years ago as to the share of the produce which the Government "might fairly exact, no such liberal settlement as would now be "deemed politic and just would at that time have been accorded, "and the consequence would have been that the advancement of "cultivation and general improvement would have been retarded. "This, indeed, is apparent from the rates which are now in force "regarding the apportionment of the estimated produce in newly "occupied lands, by which one-third of the gross produce is "assumed as the Government share and by the high rate put upon "all new land taken up for garden cultivation. Could these rates "really have been exacted I am under the fullest persuasion that "little increase in cultivation would actually have taken place; "and we might have the example in Canara, as in other parts of "the country, of thousands of our labouring population leaving "their homes to seek employment in foreign countries in place of

[79] Mr. Blane's letter, dated 20th September 1848, para. 73.
[80] *Ibid.*, para. 74.

"finding an ample demand for their labour at home, as they now "do in Canara." [81]

Mr. Blane's report was not reviewed by the Board of Revenue until May 1851, by which time Mr. Blane was himself a Member of the Board and had an opportunity of recording his matured opinion on points upon which as Collector he had not thought it necessary to offer a distinct recommendation.[82] Looking to the expense of a general survey and the fact that there were other districts which it was more necessary to survey first, he recommended for Canara only a small survey establishment to be attached to the Collector's office and employed in examining and measuring such estates as were considered most to require it.[83] On the question of disturbing the tharáo settlement, he expressed himself as follows:

Mr. Blane's report.

"10. I have had some doubts whether it would be advisable "that he (Collector) should disturb what is called the tarow "settlement under any circumstances, but on the whole I have "come to the conclusion, that though as a general instruction he "should be directed not to interfere with it without ample cause, "yet there are some cases of manifest fraud or encroachment, and "of needless reduction of the ancient bériz, such as I have given "instances of in the appendix to my report, which the Govern- "ment is by no means called upon to perpetuate, and has both in "reason and equity the fullest right to rectify when they have "been brought to light.

"11. As an act of indulgence, and in consideration of long "tenure, I would in no such cases impose more than a very light "additional assessment, and with this view I would lay it down as "a rule, that additional assessment should not be imposed where "it already amounts to one-fifth of the gross produce of the "estate." [84]

With their Proceedings, dated 8th May 1851, the Board of Revenue sent up to Government Mr. Blane's report and the minutes recorded by two of the Members of the Board, and submitted recommendations substantially in accordance with the proposals made in Mr. Blane's minute.

The Government deferred dealing with the proposals until they obtained the opinion of the First Member who was then on deputation as a Special Commissioner, and further consideration of the matter appears to have dropped. With the general improvement in prices the pressure on particular estates which used to bring the question of the assessment into prominence

[81] Mr. Blane's letter, dated 20th September 1848, para. 102.
[82] Mr. Blane's minute, dated 5th March 1851, para. 5.
[83] *Ibid.*, paras. 7 and 8. [84] *Ibid.*, paras. 10 and 11.

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ceased to be felt, and the survey of the southern division of Canara which alone remained attached to the Madras Presidency after 1862 was treated merely as part of the general scheme for the extension of a revenue survey throughout the Presidency.

Mr. Blane's report.

In a letter to the Government of India, dated 9th February 1880, reviewing the progress of the revision of settlement in this Presidency, the Madras Government having stated that the settlement of South Canara was based on a fixed maximum demand which had been obtained in the majority of cases, the Government of India [85] drew attention to the fact that the question of the permanency or otherwise of the North Canara assessment had been judicially raised and decided in favour of Government in the Bombay High Court, and called for such a report on the settlement of South Canara as would enable the Governor-General in Council to judge whether the claims of the State could there be advanced with the same success as had been attained in North Canara. The Collector's report on the subject was reviewed by the Board of Revenue in their Proceedings, dated 11th November 1882, No. 2747, in which they expressed their opinion that nothing could be clearer than that the Government had never in any way pledged itself not to revise the assessment, and as they believed that a revision of assessment in Canara was expedient in the interests both of the State and of the revenue-payers generally of the Presidency, they submitted proposals for a settlement on principles which they thought would secure the interests of the State at a minimum of violence to private rights and existing institutions and conditions. The Government [86] agreed with the Board of Revenue and the Collector that there is nothing to show that they were in any way pledged to maintain the present assessment unaltered, and, in justice to the inhabitants of the other parts of the Presidency, they recognised the necessity for the revision of the demand on the district, in order that it might contribute its fair share to the necessities of the State. The survey would, therefore, be extended in due time to South Canara and be followed by a revision of the terms of settlement on such a basis as might appear expedient when the time arrived for commencing operations.

Summary of revenue history.

The settlement now in force throughout the whole of the South Canara district, except the small portion once attached to Coorg, is therefore the 'tharáo' settlement of 1819, with certain modifications. As above shown the original basis of this was a one-sixth share of the gross produce [87] of a roughly-estimated area

[85] Letter, dated 6th July 1880, No. 301.
[86] G.O., dated 18th April 1883, No. 459.
[87] Sir Thomas Munro's letter, dated 31st May 1800, para. 7.

of cultivation, the measure of extent (*bijwari*) being that which could be sown by a given amount of seed, and the proportion of produce to seed, twelve to one, as given in the Śástras.[88] Besides the one-sixth a further share was taken for the Brahmins and the gods[89] and additions were made to the assessment and extra cesses added from time to time in accordance with the necessities and the power of the ruling dynasties, until at last in the time of Tippu the nominal demand was much higher than the country in its then state of prosperity was in any way able to bear.[90] Though the assessment was theoretically in proportion to the 'bijwari' of each holding, the early princes did not trouble themselves with the details of distribution, which were left to the *poligars* and *potails*,[91] and in some cases the *poligars* and *potails* were strong enough to resist the imposition of new cesses on them,[92] though it is not on this account to be inferred that they did not themselves levy them from the landholders.[93] Hyder was strong enough to impose them on all, but he openly disregarded equality of distribution and directed that the demand on lands out of cultivation should be levied from those which were being cultivated.[94] The only accounts showing the local incidence of the revenue in the old days seem to have been the 'kaddatams' or 'black books' kept by the *shánbógs*, but their use was prohibited under the Mysore Government and many of them had been lost before the commencement of the British administration.[95] The distribution of assessment in the early British settlements was, therefore, made on returns supplied by *shánbógs* and reports made by the ryots themselves.[96] No information was available as to the boundaries or extent of a man's holding, and the very word used for a holding 'warg' merely meant the 'account' against a ryot for his estate,[97] which was not necessarily a compact block, but often consisted of scattered fields, sometimes even in different villages.[98] As the first assessment made by Sir Thomas Munro was nearly as high as that of Tippu, except that remissions were made on account of land lying uncultivated, it was at first thought that considerable reductions would be necessary, but as the country was growing in prosperity an opinion arose that the demand was moderate enough. The

Summary of revenue history.

[88] Sir Thomas Munro's letter, dated 31st May 1800, para. 7.
[89] *Ibid.*, para. 7. [90] *Ibid.*, paras. 9 to 16.
[91] Sheristadar's memorandum forming enclosure to Collector's letter to Board, dated 18th June 1830, para. 11, sec. 13.
[92] Sir Thomas Munro's letter, dated 31st May 1800, paras. 9 to 11.
[93] *Ibid.*, para. 16. [94] *Ibid.*, para. 11. [95] *Ibid.*, para. 5.
[96] Mr. Blane's report, dated 20th September 1848, paras. 14 to 16.
[97] Bombay High Court Reports, appendix to vol. xii. p. 19.
[98] Mr. Blane's letter, dated 20th September 1848, para. 59.

Summary of revenue history.

prevalence of low prices for many years, however, led to the unequally distributed assessment pressing with great severity upon some estates, and the 'tharáo' assessment was introduced, based, as far as possible, without making what seemed undue reductions, on the average collections on each estate since the commencement of the British administration.[99] This did not, however, afford the full relief anticipated, and in 1833 the estates assessed at 'tharáo' rates were divided into—

(1) *Bharti*, those paying the full 'tharáo' rate.

(2) *Kambharti*, those not paying the full 'tharáo' rate.

The latter being sub-divided as follows:[100]

(1) *Vaide*, those to be advanced to the full demand by instalments.

(2) *Board sipháras*, those on which a permanent remission was recommended.

(3) *Taniki*, those whose resources were still under investigation.

Though the arrangement was approved in principle, it was not formally confirmed pending receipt of further information. With the rise in prices the pressure of over-assessment on the less favoured estates ceased to be a source of difficulty, and attention was attracted on the other hand to the fact that, though the country was growing in prosperity, the land revenue was practically stationary. After full consideration, it has been decided that this can only be rectified by a general survey and revision of assessment, such as is now going on in other parts of the Presidency and will be extended to South Canara in due course.[101] In the meantime, the arrangement of 1833 continues, the demand including assignments to temples, &c., being as follows:

	Wargs. NO.	Assessment. RS.
Tharáo bharti	41,057	13,18,536
Kambharti	2,501	96,316
Total ...	43,558	14,14,852

The further sub-division into *vaide*, *Board sipháras* and *taniki* is now not much attended to. The reduction on the majority of *kambharti* estates is practically regarded as permanent under the existing settlement and only in a small number of cases is it considered necessary to have an annual scrutiny.

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[99] Board's Proceedings, dated 15th September 1831, paras. 36 to 46.

[100] Do. dated 16th November 1843, para. 7.

[101] G.O., dated 18th April 1883, No. 459.

As above stated, there is a small portion of the district to which the 'tharáo' assessment was never applied. The two máganés of Amara and Sullia had been attached to Coorg for about two hundred years before the commencement of the British administration, and the other máganés of the old Puttúr taluk were made over to Coorg in 1804 as a reward for services rendered during the war with Mysore. When Coorg was annexed in 1834 these máganés were all given back to Canara, and, at the first settlement made afterwards, the assessment fixed by the Coorg Government in Amara and Sullia in the year Ángirasa (1812) was taken as the maximum or *bharti* demand for these máganés, and in the other máganés the *bharti* assessment adopted was the ancient *shist* and *shamil* recorded in the British accounts before the cession to Coorg in 1804.

Summary of revenue history.

In his first long report on the South Canara District, Sir Thomas Munro wrote as follows:

Warg tenure.

"I have been the more particular in describing the obstacles "I met with in the settlement of Canara, because, except in the "districts claimed by poligars, they originated entirely in the "inhabitants having once been in possession of a fixed land rent, "and in their still universally possessing their lands as private "property,"[102] and in a later letter he explained that most of the petty chiefs that at ancient times existed in Canara had long since been deprived of all authority and confounded with the mass of the people, and that even the three more important poligars or Rájas of Kumbla, Vittal and Niléshwar, who were then attempting to establish themselves in these districts, had been under the Bednore Government mere hereditary managers of districts, paying not *peshcush* but a rent nearly as high as that paid by *potails* or ordinary renters of districts of equal value.[103]

The exception of the *poligar* districts in the above extract refers to the limitation of the obstacles and not to the nature of the tenure of the landholders, and it thus appears that when the British took over the district of Canara the landholders held their land as private property, but not on a fixed land rent. This point is of importance, as, in the many discussions which have occurred regarding the nature of the tenures of Canara, it has frequently been argued that a fixed rent or assessment is an indispensable element in private property, and that an admission of the existence of the latter necessarily implied an admission of the former.[104]

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[102] Sir Thomas Munro's letter, dated 31st May 1800, para. 4.
[103] Do. dated 16th June 1800, paras. 1 and 2.
[104] Bombay High Court Reports, appendix to vol. xii. pp. 210–212.

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Warg tenure.

In the first of the letters above quoted, Sir Thomas Munro goes on to say that as far as can be gathered from traditions and accounts, it appears that in the fourteenth century the whole of the lands were parcelled out among a prodigious number of landholders paying annual rent in various gradations from five to five thousand pagodas, the average being about fifty pagodas.[105] The alienation of land by sale or otherwise was unrestrained, but nothing but gift or sale or non-payment of rent could take it from the owner. The description given by Sir Thomas Munro applies practically to the tenure of the present day. The estates are known by the name 'wargs,' the word *warg*—from the Sanskrit *varga* a leaf—having originally been used for the leaf accounts kept by the Revenue authorities. In the progress of time the term came to denote the holding for which the account was kept. Though the theoretical basis of the assessment was a share of the produce of each field, the assessment was never fixed on particular fields or portions of a warg, but is a lump assessment for the whole, even although as occasionally happens, the estate or warg is composed of unconnected parts which may be even in different villages. The *wargs* or estates are of two kinds, *múli* and *géni*, and these are classified as '*kadim*' and '*hoságame*' according as they were formed before or after the commencement of the Company's Government.

Múli wargs.

The 'múli' tenure is the characteristic tenure of Canara and the position of the *múlavargdár* with regard to Government has been definitely settled in the suit Vyakunta Bapuji *v.* the Government of Bombay, reported in the appendix to volume xii. of the Bombay High Court Reports, printed in 1876. In the judgment in that suit the origin of the term is explained as follows:

"Wilson, in his Glossary (page 542), says that in Karnata "(Canarese) it signifies an ancestral hereditary estate, and that "*múlavarga* means original proprietary right in land, and that "*múlavargdar* (corruptly *moolwargdar* or *moolgar*) is the pro- "prietor of an ancestral hereditary estate. *Múla* is derived from "the Sanskrit *múl*, signifying literally a root and figuratively, "*inter alia*, the root of a tree or origin of a family. Hence "arises the character of permanence or perpetuity which we find "in it when used in composition as in *múlavarga* and *múlvarg-* "*dar* above instanced, and as also in *múl-gaini* presently to be "again mentioned."[106]

After a full consideration of the revenue history of the country and the question of the bearing of proprietary right on

[105] Sir Thomas Munro's letter, dated 31st May 1800, para. 22.

[106] Bombay High Court Reports, appendix to vol. xii. p. 19.

fixity of assessment, the High Court arrived at the conclusion that the *múli*, the *mirási*, the *kániyátchi*, the *svasthyam* and *janmakári* tenures are merely so many various names for the ancient proprietary right of the ryot in the soil recognized by Mr. Ellis of Madras, Mountstuart Elphinstone, Lord William Bentinck, Professor H. H. Wilson, the Madras Board of Revenue and other eminent authorities, that this proprietary right was subject to payment of the sovereign's share of the produce as assessment, that no fixity of assessment existed prior to the British conquest,[107] and that the assessment had not become unalterably fixed in law since the British acquisition of Canara.[108] In arriving at this conclusion, no binding decision was given with regard to the effect of the 'tharáo' settlement as it had not been applied to the lands forming the subject of the suit, but in the course of the judgment it was pointed out that when the Board submitted the principle of the 'tharáo' for approval, the Government authorized the Collector to make a settlement on that basis for that year and it was admitted by the plaintiff's counsel that no final sanction has been accorded to the *tharáo* system by Government.

Múli wargs.

Géni or *Sirkár-géni wargs* are estates which have escheated to Government by lapse of heirs, or by abandonment by proprietors. During the time of the Mysore Government when the exactions of Hyder and Tippu and their officers were more than many estates could bear, such escheats were very numerous, but in a large number of cases the lands were still cultivated by tenants or 'génigars,' who were either the old tenants, or new occupiers put in by Government, and who paid their rent direct to the 'Sirkár,' hence the name 'Sirkár-géni.' During the early years of the British administration efforts were made to induce people to come forward to take up the 'múli' right of these escheated lands, formal title-deeds called 'múl-pattas' being granted on favourable terms conveying to the grantee full proprietary [109] or 'múli' rights within specified boundaries, and they were eventually offered to all tenants on *Sirkár-géni wargs* in a circular order by the Collector, Mr. Viveash, dated 24th October 1834, in which, after stating that either *múl-pattas* would be issued, or the lands would be entered as 'múli' in the accounts on application being received, it is added: "In the event of the "*múl-pattas* not having been obtained or the lands not having been "entered in (the accounts) as '*múli*,' even though (the lands) be "included in the *Sirkár-géni*, he who has, up to this time, paid the

Sirkar-géni wargs.

[107] Bombay High Court Reports, appendix to vol. xxi. pp. 210–212.
[108] *Ibid.*, pp. 214, 215.
[109] Indian Law Reports, Bombay Series, vol. iii. 1879, pp. 552–555.

"full assessment according to the settlement, will be in the same "position as the múlgar so long as he continues to pay the full "assessment according to the settlement." But few of the holders thought it necessary to apply for either múl-pattas or change of the designation in the accounts, and the full effect of Mr. Viveash's circular seems to have been somewhat lost sight of, for in 1853[110] the Government formally sanctioned a proposal to concede to the occupants of *géni* estates proprietary right whenever they were desirous to claim and exercise it. Then also it was proposed to give *múl-pattas*, but the issue of these documents was suspended by the Board in 1859,[111] and further information called for in view to a modification of the form in use which seemed to give away rights over waste and forest land which it had not been intended to give. In 1867, the Collector reported that, though it had not yet been legally decided that a *géniwargdár* could not be ousted otherwise than under Special Acts, there was in practice no more than a nominal difference between him and a *múlwargdár*, and the Board concurring with him considered the issue of 'múl-pattas' unnecessary.[112] In the North Canara Forest case it was held that "the proclamation of Mr. Viveash in 1834 guaranteed "the géniwargdar who should pay the amount of his jamabandi in "every instance against eviction equally with the múlgar" and it, therefore, seems that the legal position of the *Sirkár géniwargdar* and the *múlawargdár* is exactly the same.

Sirkar-géni wargs.

Hoságame wargs.

Wargs formed after the commencement of the Company's rule by the cultivation of immemorial waste are called *hoságame* (new cultivation) wargs. The tenure of a *hoságamewargdar* is exactly the same as that of a *múlawargdar*, except that the privileges and easements over jungle and pasture land attached to *múla wargs* have not been conceded to *hoságame wargs* created since fasli 1276.

Wargs which pay the full 'tharáo' assessment are called 'bharti' and others 'kambharti,' and these latter are sub-divided into Board *sipháras*, *vaide* and *taniki* as explained in an earlier part of the chapter. All *kambharti wargs* except the 'Board sipháras' are brought before the Settlement-officer at the annual *jamabandi*, but only a few of them are now subjected to annual inspection and report, those with regard to which this inspection has been dispensed with being known as '*taukuf*' or '*kaiam kammi*.' There is nothing to prevent a Settlement-officer altering the assessment on a '*taukuf*' or '*kaiam kammi*' warg, but it is not usual to do so.

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[110] Extracts from Minutes of Consultations, dated 11th April 1853.
[111] Board's Proceedings, dated 16th April 1859, No. 1350.
[112] Do. dated 7th May 1868, No. 3349.

Kudutaledars.

The *warg* is the unit of assessment. Prior to 1819, parties buying and selling portions of *wargs* were allowed to apportion the assessment as best suited their own convenience, but as this was found to be one of the causes of inequality of assessment, the Government declared in that year [113] that unauthorized sub-divisions of the revenue payable from an estate to correspond with sub-divisions of the estate itself are not binding on the Government, but that the whole estate continues answerable for the whole revenue with which it is assessed.[114] Subject to this rule sub-divisions now go on freely with an apportionment of the assessment at the pleasure of the parties which is so far recognized that the shares of the assessment payable by the different 'kudutaledars,'[115] as payers of assessment are styled, are entered in the village accounts and a register of transfers of 'kudutales' is kept in the taluks. A *kudutaledar* in South Canara is in exactly the same position as a *pattadar* or joint *pattadar*, as the case may be, in other districts of the Presidency, and if he holds only a portion of a *warg* he is liable, when called on, to pay up on account of a default on the part of the holder of another portion. In practice this but rarely happens, and when it does, the matter is settled by a rough survey or valuation of the *warg* and an authorized sub-division and apportionment of assessment, the ordinary establishment being sufficiently strong to do this, though it could not undertake to apportion the assessment in every case of sale or transfer. When a portion of a *warg* is sold for arrears, it is divided off and numbered as a new *warg*, being entered as *múli* or *géni* according to the designation of the original.

Dhurmati and sarásari chittas.

As again and again stated in the earlier part of this chapter, there are absolutely no records of the boundaries or extent of the different *wargs*. At the commencement of the British administration an account usually known as the 'dhurmati' chitta from the name of the year 1801, in which the majority [116] of them were drawn, was prepared by the village officers for each *warg* showing the *bijwari* or amount of seed required to sow it, the assessment due thereon and the rent produce (*hutwali*) [117] with occasionally other particulars at the discretion or fancy of the officer who prepared the account. The entries in these accounts

[113] Minutes of Consultations, 31st May 1819.

[114] Board's Proceedings, dated 16th November 1843, para. 35.

[115] Probably derived from *kodu*, to give, and *tale*, a head.

[116] The chittas for the Coondapoor taluk were prepared in Dundubhi (1802). Those for the máganés made over from Coorg in Angirasa (1812) and those for the rest of the district in Dhurmati (1801).

[117] Rivaz hutwali = normal rent produce when an estate is in full bearing Hazir hutwali = actual rent produce at time of preparation of account.

are notoriously inaccurate, but, such as they are, they are all we have. When the *tharáo* assessment was introduced a new *chitta* was prepared from the old one called the 'sarásari' *chitta*. The *sarásari chitta* for each estate has been kept up to date and all changes of assessment have been entered in it with notes of any surveys or valuations or inspections which may from time to time have been made.

Assessment on wargs.

From what has been stated in the sketch of the revenue history of the district given above, it will be seen that no estimate of any practical value can be made of the average assessment on the different classes of land forming portions of old *wargs*, but in assessing encroachments or additions to old *wargs* and in granting land for 'hoságame' *wargs* the different fields are classified as follows:

(1) *Bail.*—Low-lying land of good quality with an abundant water-supply capable of producing annually three crops of rice, or two crops of rice and one of some other grain or pulse, or two crops of rice, both of which can be raised without recourse to artificial means of irrigation.

(2) *Majal.*—Land capable of producing annually two crops of rice, or one of rice and one of other grain.

(3) *Bett.*—Land capable of producing one crop of rice annually.

(4) *Bagayet.*—Land specially adapted for cocoanut or areca-nut gardens.

The rates adopted for the above classes of land are—

		RS.
Bail ...	first sort	6
	second sort	4
Majal ...	first sort	4
	second sort	3
Bett ...	first sort	2
	second sort	1
Bagayet.	first sort	12
	second sort	8

In the Collector's letter on which these rates were formally sanctioned by the Board of Revenue,[118] the different rates for each class are shown as for the coast and the interior, respectively, but the distinction is not adhered to in practice. Cocoanut and occasionally areca-nut trees are grown on all classes of land, but the *bagayet* or garden assessment is applied only when the land is specially adapted by nature for that kind of cultivation, gardens

[118] Board's Proceedings, dated 14th August 1863, No. 5087.

on other lands being assessed at the appropriate rice-land rates. There are but few assessed waste lands in this district, except in localities in which they are not now much sought after, and consequently the majority of *darkhásts* are for unassessed waste, and are dealt with as far as possible under the same rules as are in force for applications for assessed waste in other districts. In addition to the preferential claims allowed elsewhere, a preference is usually shown here to a claimant within whose 'kumaki' the land lies, or whose water-supply is drawn from it, or who is shown to have enjoyed exclusive rights to pasture, &c., over it, under the recognised custom of the village. Where no such preferential claim is proved, the land is sold by auction subject to assessment.

Assessment on wargs.

The old *wargdárs* of a village are much addicted to claiming grazing rights over the entire waste of the village and pleading that the cultivation of their lands must fall off if the waste available for pasture is restricted or reduced. At times much attention has been given to their pleas and many applications refused, but as population increases people are becoming clamorous to obtain land on payment of an assessment of at least one rupee per acre, and, as land broken up for cultivation, or properly enclosed and treated as pasture, is more profitable to the community at large than uncared for village waste, the Board of Revenue in their Proceedings, dated 18th December 1883, No. 3815, have authorized the unrestricted grant of land on darkhast at the discretion of the Collector.

Kumari.

The most important of the other assessments on land is that on 'kumari,' a method of cultivation by felling and burning a patch of forest and raising on the ground manured with the ashes a crop of rice, or dry grain mixed with cotton, castor-oil seed, &c. Fuller details regarding the cultivation will be found under 'Agriculture.' Here it is only necessary to say that, for the purposes of assessment, there were originally two classes of *kumari*—'warg' and 'sirkár.' In the case of the former the assessment was collected along with the other assessment on the *warg* and the *kumari* cultivators dealt only with the 'wargdár.' In the case of 'sirkár' *kumari*, the assessment was paid direct to Government and the cultivators were usually a migratory class.

As soon as more correct ideas regarding the value of forests began to gain ground, attention was attracted to the peculiarly destructive and wasteful nature of this kind of cultivation and the question was exhaustively examined with the result that the Government accepted the conclusion arrived at by the Board of Revenue that the entry of 'kumari shist' in the *patta* on account of an estate or warg gave no validity to a claim to proprietary

Kumari.

rights over forests.[119] *Wargdár kumari* was therefore abolished [120] and the assessment on account of it remitted throughout the district, except in the five southern máganés of the Kásaragód taluk,[121] and Sirkar 'kumari' was prohibited without previous permission, which permission it was directed should be given sparingly, and never for spots in the timber forests.[122] It is now allowed only in a part of the Coondapoor taluk, and within 'kumaki' limits in the máganés near the ghauts in the Uppinangadi taluk, assessment being charged at the rate of Re. 1 per acre on the area cut.

As *kumari* cultivation in the southern máganés was carried on as a regular part of their farming by the resident landholders, it was thought it would be harsh to abolish it there,[123] and its continuance was sanctioned under certain restrictions subject to an assessment of Re. 1 on every acre cut with permission, and Rs. 8 on every acre cut in excess of that for which a permit was granted. The system of permits and annual measurement was found to work unsatisfactorily as well as to afford much room for fraud and corruption, and in 1883 instructions were issued for the introduction of a compounded assessment not exceeding seven times the old *warg kumari* assessment.[124] This compounded assessment was introduced at the next annual settlement, seven times the old assessment being adopted as a general rule, and a lower amount taken only when it was found that the annual payment for a series of years had fallen materially short of that amount.

Nela-terige and ghar-terige.

There is no free village-site in Canara as cultivators reside on their lands or in the immediate neighbourhood. Free sites are allowed on the 'kumaki' or waste land immediately adjoining cultivation for houses for the *wargdárs* or their tenants, but assessment is charged if others are allowed to build thereon, and in the case of sites in bazaars, or streets in large villages, or towns, special rates of Rs. 6 and Rs. 12 are charged under the name of 'nela-terige' or ground-tax. The 'nela-terige' is credited to Land Revenue, Miscellaneous, as the payer is supposed to acquire no proprietary right in the site, thus differing from the old 'gharterige,' the payer of which is supposed to hold on the same terms as an ordinary *wargdár*. Practically there is no difference between them, but *ghar-terige* holdings date from the advent of the British and no distinction was made between them and ordinary *múli wargs* when the first accounts were drawn up.

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[119] G.O., dated 23rd May 1860, No. 830, Revenue Department, para. 8.
[120] *Ibid.*, para. 16.
[121] *Ibid.*, para. 17.
[122] *Ibid.*, para. 19.
[123] *Ibid.*, para. 17.
[124] G.O., dated 29th August 1883, No. 1054, Revenue Department.

The lowest rate on which land is given out on patta is Re. 1 per acre, but a limited amount of dry cultivation is carried on by the villagers on the hill sides and plain wastes under the name of 'hakkal.' When this cultivation is within 'kumaki' limits, that is within the 100 yards from *warg* land on which the *wargdár* has an easement, no assessment is charged, but for *hakkal* cultivation on the ordinary village waste an assessment of eight annas per acre is annually fixed and charged. In parts of the Mangalore taluk the charge is thirteen annas and four pies. *Hakkal* cultivation was everywhere free until fasli 1260 and even now no charge is levied on any *hakkal* cultivation in the Amara and Sullia máganés which once belonged to Coorg.

Hakkal.

In the early days of the British administration of Canara, it was held by the Board of Revenue, as well as by Sir Thomas Munro, that, except in the case of unclaimed waste and escheated estates, the Government had never pretended to any proprietary right,[125] and all the earlier administrators treated a large portion of the waste and forest lands as the private property of the wargdars.[126] This view became modified as time went on. In 1839, Mr. E. Maltby wrote that the extent of the Government right in the jungle and waste had never been very clearly defined, and extensive tracts had been gradually included by persons whose right was extremely doubtful, the just claim to the right of pasturage or of gathering leaves for manure preferred by the holders of the neighbouring estates to the exclusion of other villagers having been changed to a claim of proprietary right in the soil, and many secret encroachments made upon waste to which the parties had no title whatever.[127]

Waste lands.

Mr. Blane went very fully into the subject in his report of the 20th September 1848, and the following extracts from his letter sufficiently show not only the views taken by him, but those which have been more or less consistently acted upon, or even exceeded in the direction of asserting Government rights, by all Collectors who have succeeded Mr. Blane:

"37. The theory at present asserted by the landholders of "Canara and which has been practically acted upon at least since "the tharao settlement is this. That their estates include not only "the land which was in cultivation at the time the former settle- "ments were made, but also tracts of waste of two descriptions. "First the waste lands which had fallen out of cultivation in former "times, and, second, immemorial waste lands which never were in

[125] Indian Law Reports, Bombay Series, vol. iii. p. 587.
[126] Board's Proceedings, dated 21st March 1811, No. 1222, paras. 10 and 18 to 22.
[127] Mr. E. Maltby's letter, dated 22nd July 1839, para. 9.

Waste lands.

"cultivation, both of which kinds of waste they allege that they "have a right to bring under cultivation without any additional "assessment. They assert that the beriz was fixed upon the entire "estate, including lands of every description. Of these waste "lands, as I have before stated, but cannot too often repeat, there "is no account or record whatever, and even of the cultivated "lands as they originally stood at the commencement of the Com- "pany's Government, the only record which exists, and that in "but some of the taluks, is an account called the dhurmuti chitta, "being a bijawari statement furnished by the shanbogues in the "second year of the Company's Government of the lands then "actually under cultivation, but which is said to be only an "estimate, and is not admitted as a correct or authentic record, or "one which can be used practically as a check in all cases.

"38. With respect to the cultivable waste, assuming that it "orginally formed part of the warg or holding to which it is now "claimed as belonging, and that no additions have been made to "it from the lapsed estates or Sirkar waste lands, it seems necessary "to consider how a permanent settlement such as the tharao, made "upon the average collections of former years, would affect the "public revenue. The original assessment or demand on the estate "may be assumed to be or ought to represent, the Government "share of the produce of those lands when under cultivation, but "it has been that very large remissions were made, and continue "to be to the present day on account of waste portions of estates, "which remissions, where the assessment was fixed solely with "reference to the *collections,* would be excluded from the average, "and the rent would be *permanently* reduced by the amount of "*temporary* reductions. No provision was made at the tharao "settlement for re-imposing this assessment when the lands were "again cultivated, nor was the waste land separated from the "estate. It continued to be attached to it, and when again "brought under cultivation may be said to be enjoyed free of all "rent.

"39. In the instructions of the Board for carrying out the "tharao settlement, I find reference made to a question from the "Collector as to 'when the assessment on concealed lands belong- "'ing to private estates should become payable,' and the reply of "the Board that it should commence from the date of the detection "of the fraudulent concealment; but as it does not appear whether "this referred to the additions made to the cultivation within the "limits claimed for the estate, or what was to be considered con- "cealed land, or the means of distinguishing it, no inference can "be drawn from this order.

"40. Upon the whole, I am inclined to the belief that it was "the intention, in fixing the tharao beriz, that no account should

Waste lands.

"be taken of increased cultivation within the limits of the estates, "and to give the ryots the full benefit of all the lands they might "so bring under cultivation, but that it was under the impression "that these lands bore some kind of adequate assessment, and that "neither the extent of such lands, nor the importance generally of "the question, were at the time sufficiently considered or under-"stood.

"41. With respect to the other class of waste lands claimed as "being attached to estates to which I have referred, viz., the imme-"morial waste, they may be considered to form a distinct question "from that of the waste lands just referred to. It is to the claim "to these lands which has been incautiously admitted, or at least "not opposed, that I attribute the absorption of nearly all the "rekahnust or Government waste land. The claim appears to have "recently attracted the notice of Government, for it is apparently "respecting these that it called for some information in its "Minutes of Consultation, dated 5th August 1845. There are "considerable tracts of such kinds of waste land attached to a great "part of the estates, some of which is cultivable and some consisting "of hilly or stony ground incapable of improvement. They are "often termed 'kumaki' lands, or land allowed to assist in the "cultivation, and they were intended to afford to the ryots the "means of procuring leaves from the brushwood or jungles grow-"ing on them as manure for their fields, and to furnish grass as "fodder for their cattle; but they do not appear originally to have "differed materially from the waste lands used for similar purposes "in other parts of the country, except that, in place of being common "to the whole village, they were divided and enjoyed in separate "portions by the individual landholders. The original terms upon "which they were held then I conceive to have been essentially as "an adjunct to, and in connection with, the cultivated lands, and "the right to them to have been a modified right, and only to be "enjoyed for the purposes for which they were held as above stated. "The usufruct of them for such purposes was a necessary concession, "but I do not conceive them to have been on that account the "less Government lands, but only lands which they were permitted "to occupy for particular purposes.

"42. If such were in general terms the nature of the tenure "under which they were held, it has become entirely altered under "our administration. The ryots now claim the absolute proprietary "right in them the same as to their cultivated lands, and, as a "necessary consequence of such a right, the liberty to bring them "under cultivation without the payment of additional assessment, "and even of selling or letting them, and thus separating them, if "they choose, from the cultivation, and alienating them from the

Waste lands.

"original purposes for which they were intended. Another effect "of such a tenure is, they can prevent others from taking them up "on a patta and upon a fixed assessment payable to Government, "and the person occupying them pays the rent to the landlord, not "to the Government, and is in every respect his tenant. It is "necessary to observe, however, that the right to cultivate such "lands is not admitted in theory, but it is, as a general rule, "actually enjoyed in practice, from the simple cause to which I "have so often alluded that we do not know the extent of the "original estates, and cannot tell, therefore, what is new cultivation "and what is old, and the ready answer to all questions on the "subject is that it is part of the original cultivation. I have, "since I have held the office of Collector, endeavoured to set my "face steadily against the admission of such claims; but lands "which have been formerly brought under cultivation in this "manner are beyond recovery, and it may be said generally that "nearly every case in which it is attempted to restrain these "encroachments involves a protracted contest, and nearly the cer-"tainty of having to defend a law suit if there be the most slender "grounds for disputing the award."

Proprietary right to waste lands

From the above extracts it will be seen that, as regards waste lands attached to estates, a proprietary right to the first class, those which had once been cultivated but had fallen out of cultivation (*warg banjar*), was held by Mr. Blane to be vested in the holder of the estate to which the lands belonged, while as regards lands which had never been cultivated he admitted nothing more than an easement. This is the view which has been held ever since; but as regards the latter class of waste lands, an exception must now be made in the case of such waste lands as are included within the limits of the 893 'múl-pattas' or formal title-deeds granted by the revenue officers prior to 1844, chiefly for deserted estates. The boundaries specified in the title-deeds frequently include a considerable extent of waste and forest land, and although the documents contain a clause indicating that it was supposed that they merely made over to the new holder the right vested in the former proprietor, the list of rights conferred is very exhaustive, and, in the course of his judgment in the Bombay Forest case, the Honourable Mr. Justice West discussed the terms of these *múl-pattas* at considerable length and recorded his opinion that "there "can be no doubt that they were intended to convey a complete "ownership subject to assessment."[128] This decision has been accepted by the Madras Government.[129]

[128] Indian Law Reports, Bombay Series, vol. iii. p. 554.

[129] G.O., dated 7th December 1881, No. 1889, Revenue Department.

The waste lands which had never been cultivated but were attached to wastes as aids to cultivation are classed by Mr. Blane in the extract given above as 'kumaki' lands, but this term has now got a much more restricted meaning as will be explained further on.

Easements over waste lands.

Nettikatts.

The most extensive claims to easements over waste and forest lands are those known as 'nettikatt' claims. The district having to provide for the drainage of from 130 to 200 inches of rainfall is necessarily, throughout the greater part of its area, made up of a succession of hills and valleys, the low lands being under rice or garden cultivation, for which the leaves and twigs from the woods and forests clothing the slopes have always been very freely used as manure, while the cattle were grazed on the open grass lands, and this woodland was not in the time of Mr. Blane, as explained by him, common to the village, but enjoyed in separate portions by the individual landholders. The crest of the hill dividing the valleys formed the natural boundary of the holdings of the cultivators on each side of a ridge, and wherever the natural conditions permitted of it, this 'nettikatt' or crest of the hill was very generally adopted as the boundary of estates in *mûl-pattas*, grants from native princes, and old private and public documents of all kinds. As above shown, Messrs. Maltby and Blane questioned the correctness of the view that the forest and waste land attached to estates was held on proprietary right, and the opinions thus put forward by these gentlemen have been acted on, and indeed exceeded in the direction of the assertion of the rights of Government, by the later Collectors, by the Board and by Government. Land within *nettikatt* limits is now treated as in no way attached to any *warg* and the full 'kumaki' privileges are limited to a distance of 100 yards from *warg* land, the cultivators of each valley being allowed in addition the common usufruct of the open hill sides up to the water-shed dividing each valley.[130] In some parts of the district, and notably on the coast, the configuration does not admit of claims to easement being based on the 'nettikatt' rule, but there are always some jungles, coppices, and pasture lands, to which similar claims are put forward, and over which similar privileges are exercised.

Kumaki.

In 1823, the then Collector of Canara, Mr. Harris, called for a list of Government forests and directed at the same time that to estates which had no forest land attached to them, 100 yards should be assigned as 'kumaki' from the Government forests adjoining them. As the opinion gained ground that all waste land was really the property of Government, the term 'kumaki' came to

[130] Board's Proceedings, dated 30th January 1865, No. 490, paras 3 and 4.

Kumaki.

be applied generally to the waste situated within 100 yards of cultivated land, and this view was formally embodied in rule 8 of the Forest Rules of 1864, which ran as follows: "*Kumaki* land "is limited to 100 yards from the cultivated land to which it has "been attached." This limitation is maintained in the revised Forest rules of 1884. *Kumaki* land is not usually given on *darkhást* for cultivation except to the owner of the adjoining land, but the Government reserve their right to do so, and in disposing of applications for land forming 'kumaki' to a *warg*, the revenue officers of the district are guided by Board's Proceedings, dated 13th August 1863, No. 5063, paragraph 2 of which is as follows:

"As a rule, such applications should not be admitted, and "under any circumstances the *wargdar* of the adjoining land is "to have the preferential right of occupancy on assessment and "of thus including the land in his *warg*.

"It should by no means be considered a matter of course "that if the *wargdar* refuses to take the land on assessment, the "*darkhastdár* will obtain it, but at the same time it cannot be "permitted that land of good quality should be kept out of "cultivation to afford manure and pasture for the adjoining land "*in every case* in which a *wargdar* refuses to pay for land which "is sought by another applicant."

In the Amara and Sulia máganés which were attached to Coorg until 1834, the place of 'kumaki' lands is taken by 'bánes' —pieces of waste land or jungle assigned in the settlement of 1812 to each landholder for the provision of pasture, fuel and timber. They do not in all cases immediately adjoin the cultivated land on account of which they are enjoyed.

Sub-tenures.

The two commonest classes of tenants under *wargdars* in Canara are the *múlgénigars* or permanent tenants and the *chálgénigars* or tenants-at-will.

Múlgéni.

The *múlgéni* or permanent lease is of very old standing in Canara and is described as follows in the Proceedings of the Board of Revenue, dated 5th January 1818:

"The *múlgénigars* or permanent tenants of Canara were a class "of people unknown to Malabar who on condition of the payment "of a specified invariable rent to the *múli* or landlord and his suc- "cessors, obtained from him a perpetual grant of a certain portion "of land to be held by them and their heirs for ever. This right "could not be sold by the *múlgénigar* or his heirs, but it might be "mortgaged by them and so long as the stipulated rent continued "to be duly paid, he and his descendants inherited this land like "any other part of their hereditary property. The landlord and his "heirs were precluded from raising the rent of the permanent lessee. "It was, therefore, originally either higher than that procurable

"from temporary tenants, or it was fixed at the same or at a lower "rate in consideration of a certain sum being paid as premium or "purchase-money for the grant in perpetuity, or as a favour con- "ferred by the landlord on some of his dependents. It amounted "in fact to a permanent alienation of a certain portion of land by "the landlord, for it never again lapsed to him or his descendants "except on the failure of heirs to the permanent lessee. This class "of people may, therefore, be considered subordinate landlords "rather than tenants, especially as, though many of them cultivated "their lands by hired laborers or slaves, others sub-rented them "to *chálgénigars* or temporary tenants."

Múlgéni.

The *múlgéni* of the present day differs but little from that above described. In some cases sale is allowed as well as mortgage, but in others, and probably in the majority of *múlgéni* leases now executed, the lessee's powers of alienation are much restricted, and forfeiture of the lease is provided for non-payment of rent, for waste, or for unauthorized alienation. As a set-off against the forfeiture for alienation, it is provided that, if the lessee desires to give up the land, he shall do so to the lessor, receiving from him the value of any improvements that may have been made. In some cases a premium is paid in addition to the rent reserved.

Chálgéni.

The *chálgéni* tenants, though nominally mere tenants-at-will, used often to go on holding their lands from father to son at a rent paid in kind or money or both and determined by the custom of the country and without any written agreement. Written agreements executed from year to year are, however, becoming more generally the rule owing to a variety of causes, one of the most potent being the provision in section 13 of the Rent Recovery Act VIII of 1865 that a landholder shall not be at liberty to proceed under the Act against his tenant unless he has a written agreement with him.

Vaide-geni.

Midway between the *múlgéni* and the *chálgéni* is the *vaide-géni* or lease for a specified term of years.

Both with the *múlgéni* and *vaide-géni* leases it is not infrequent to have a progressive rate of rent. This is especially common when the lease is for land which it is proposed to plant up as a cocoanut garden, and the tenure is then called 'nadagi' in the northern part of the district and *kuikánam* in the south.

Mortgages.

Mortgage of land with possession is known as 'árvar,' 'illadárvar' or 'bhógyádi aduvu,' and simple mortgage as 'aduvu.'

Mortgage with possession may be for a fixed, or for an indefinite period, the mortgagee paying the Government assessment and appropriating the rent or produce as interest on the money

CHAP. III. REVENUE HISTORY, &c.

Mortgages.

advanced. When the produce of the land mortgaged is held in the agreement to be more than sufficient for this, the surplus is either paid over to the mortgagor or applied to the reduction of the mortgage debt. Provision is made for the recovery at the time of redemption of the value of any improvements which the mortgagee may have made to the land, and in some cases it is stipulated that, in default of redemption within a specified time, all right of redemption shall lapse, and the land becomes the absolute property of the mortgagee. When this stipulation is introduced, the mortgage differs but little from what is known as the conditional deed of sale or *yediru-nudi krayachit* under which a vendor reserves to himself the right of redemption of the land sold within a specified date.

Ináms.

In the district of South Canara there are no *ináms* in the sense of land held free of assessment. The *inám* is merely the assignment of the assessment due to Government and though an assignee may happen to be also the occupier of the land of which the assessment has been assigned, his rights as such are entirely independent of his position as *inámdar*. In the time of the Hindu dynasties, a large amount of the revenue of the land was thus assigned to religious institutions as well as to individuals. During the Muhammadan period orders were issued for the resumption of these, but the orders were only partially carried into effect, and in the early period of the British administration the policy of resumption was abandoned. In lieu, however, of assignments of revenue to institutions direct, cash payments known as 'tasdiks' were made from the treasury as a more convenient arrangement, the system of assignments from revenue (*kistbandi* deductions) being continued as regards individuals only.[131]

The two classes of ináms were then known as 'pagoda and mosque allowances' and 'jári brahmádaya ináms.'

In pursuance of the policy which led to the passing of Act XX of 1863 (An Act to enable the Government to divest itself of the management of religious endowments), the plan of making cash payments to religious institutions was again abandoned and assignments made with regular title-deeds issued by the Inam Commissioner. The 'jári brahmádáya ináms' were also carefully examined, and assignments with title-deeds were granted in all cases in which the *ináms* were of a religious nature, while all others were converted into cash payments under the audit of the Accountant-General.

[131] G.O., dated 29th October 1877, No. 3171. Letter from Mr. Blane to Board of Revenue dated 18th September 1846, No. 81.

Ináms.

The system of assignment of land revenue was not found to work altogether satisfactorily. Assignees on the one hand often found it difficult to collect the assessment, and *wargdárs* on the other hand were dissatisfied with a position which might eventually lead to their being regarded as tenants of the assignees. The Government accordingly sanctioned the substitution, where desired, of a system called 'bériz deduction' under which the revenue is collected by the village officers and paid over by them to the inámdárs, the amount thus paid being shown in the accounts as a remission.

As the acceptance of the 'bériz deduction' system involves the loss of an allowance of ten per cent. on account of cost of collection and vicissitudes of season, a certain proportion of the inámdárs have preferred to adhere to the arrangement under which they themselves collect the revenue assigned.