ON SOME REVENUE MATTERS CHIEFLY IN THE PROVINCE OF OUDH

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SOME REVENUE MATTERS

CHIEFLY IN THE

PROVINCE OF OUDH.

BY

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PREFACE.

In presenting this little book to the Revenue Officers of Northern India—for it is to them it is addressed rather than to the general public—I wish to say that my object is two-fold : first, to point out a real difference, not generally acknowledged, between the settlement of Oudh and that of the North-Western Provinces ; secondly, to place on record some experience relative to the assessment and collection of the land revenue, which I hope may be of use to those who may be charged with this very important duty in the future.

In endeavouring to carry out the first of these objects I have said nothing of the system of the North-Western Provinces, as it is clearly laid down in the Directions to Revenue Officers, with which I presume the reader to be acquainted ; and I have confined myself to an account of that which in Oudh appears to me to differ, or in the nature of things should differ, from the system in the adjoining larger Government. Matters, therefore, which are not touched upon I consider either are or may be the same in both.

The remarks on assessment and collection are tinged, of course, with the peculiarities of the Oudh

revenue system, and I have endeavoured to show where that system entails modifications unnecessary in the North-Western Provinces ; but the general drift of my remarks in the chapters referring to these subjects may, I hope, be honoured with some attention beyond the province of Oudh. They are intended for a wider application.

I have to acknowledge the assistance I have received in the collection of the information to be found in these chapters, and especially in that on rent, from the following gentlemen :

Lieut.-Col. CLARK, *Settlement Officer, Kheri.*

Capt. DE MONTMORENCY, *some time Deputy Commissioner of Kheri.*

Mr. H. S. BOYS, C.S., *some time Superintendent, Encumbered Estates.*

Mr. J. HOOPER, C.S., *some time Assistant Commissioner of Sitapur.*

Mr. J. C. WILLIAMS, C.S., *some time Assistant Settlement Officer of Kheri.*

I. F. MACANDREW.

INTRODUCTION.

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THE right to the land revenue in Oudh rests on the same basis of the common law of India as it does all over the country. This fundamental principle is affirmed in the preamble to Regulation XXXI of 1803. Nevertheless, in the settlement of the land revenue in Oudh, the Government has departed from the principles which governed that work in the North-Western Provinces, and the deviation in practice has been perhaps still more marked. In Oudh there are to be found tenures of land and customs of rent which, if not peculiar to the province, have nowhere been described by Government authority for the guidance of officers concerned, but which have been recognized by the courts in their decisions, and by the revenue officers in their assessment of the land. The Directions to Revenue Officers is still the text-book for the examination of young officers in the province, though its principles have been so altered by numerous judicial decisions and by the circulars issued under the authority of the Foreign Department letter No. 12, dated 4th February 1856, which received the force of law from the Indian Council's Act of 1861, that the first part of it, the Directions to Settlement Officers, is virtually obsolete. Moreover, the assessment of the land revenue is drawing to a close, and there is now in the province much knowledge and experience regard-

ing that operation which will not be available when the next settlement comes to be made. This knowledge is not always to be found in settlement reports, which, formed perhaps somewhat too exclusively on the old models, deal rather with the relations of the people to the land, which will not have to be determined again, than with the fiscal relations of the people towards the Government which will have to be revised at the end of thirty years.

Now the ancient common law of India declares that the State is entitled to a share of the produce of every acre of land in the country, but it nowhere declares the limit of the Government demand; and immediately previous to our rule, this was a matter of annual bargain between the Government and the people. After two different experiences, in Bengal and Madras, came the settlement of the North-Western Provinces, and the Government, while limiting its demand and fixing it for thirty years, at the same time declared that it had the right to engage, if not with whomsoever it pleased, at least with either party when there were two interests on the land, and as the engagement for the revenue carried with it the right to all the profits left after the payment of the Government demand and such charges as might be imposed by the Government on behalf of third parties, we began to have the phrase "right to engage for the revenue" brought into use.

But in Oudh, those who were found in possession at annexation were declared to be the proprietors, so far as the Government was concerned, and no one was allowed to arraign their title, unless he could show possession within twelve years before annexation. The much-discussed talukdari settlement was formed on this basis, the difference

between men declared to be talukdars and other proprietors being this, that no one was allowed to question a talukdar's title on any ground at all. With the proprietors thus authoritatively and judicially declared the engagement for the revenue was made; and hence, in Oudh, the payment of the land revenue became an obligation contingent on a proprietary right in the soil, and not a privilege carrying proprietary rights with it.

This distinction appears to me of vital importance; for the Government of Oudh does not choose the person who becomes liable for the revenue, and is obliged to recognize and maintain all the rights decreed at the settlement, while in the North-West these were declared so as to suit the fiscal arrangements about to be made. It is therefore but reasonable, that in Oudh the proprietor should strictly abide by the settlement; and, in addition to the rule "that the "revenue is always claimable from the person in possession "of the land it is assessed upon," the further rule should be enforced that "the whole of a proprietor's estate is "hypothecated for the revenue on each part of it, and he "cannot transfer his obligation to pay the revenue on any "particular part of it without the consent of the Govern-"ment thereto." The necessity for this becomes very clear when we consider the case of an under-proprietor paying a rent less than the Government revenue on the lands which he holds (a very common case). The superior in this case has generally either acquired a very much larger estate on the condition that he should pay the revenue on the under-proprietary holding, or he has been paid in hard cash or a full equivalent for the right to hold the land at a fixed rent under him, the obligation for the revenue resting on him as before.

It is quite true that the land is liable for the revenue in the last resort; but the tendency of a rule of law is to establish several rights and responsibility in land, and I hold that it is fair and proper, and the logical consequence of our settlement, that we should do all we can to maintain the tenure as it was at annexation, and in such cases as those put, the proprietary right should be sequestrated or be broken up before the under-proprietary right is made liable under the ultimate common law.

This position is, I am afraid, not generally understood even in the province of Oudh; but the joint and several liability of the proprietor and the under-proprietor bears some analogy to the joint and separate liability of a coparcenary community. It is admitted everywhere that, when the lands are distinct and held in severalty, the responsibility of the individual member of the coparcenary community is to be exhausted before the community is made to pay for what is not their fault; and though the Government has never given up its right to hold the whole community responsible in a pattidari estate, the old Regulations were full of the principle of several responsibility, and Act I of 1841 was enacted to give it clearness and precision. This Act has been repealed, but its provisions have been re-enacted in the Local Revenue Acts which have been passed to define the revenue law in the several Governments to which it applied. Nay more, in the Oudh Revenue Bill, in one under-proprietary tenure (sub-settlement), where there is a coparcenary community holding under a talukdar, the separate right of the co-sharers is recognized in conceding to them the right to partition, and there seems to be no reason, either logical or fiscal, why the same essential right