

- 16  
14/11  
done  
16/1
1. The ancient forms of the Mogul constitution appear to have nearly expired with Alungeer, and when the Company acquired the possession of the Dewanny, the traces of them were only to be found; it is not therefore surprising that the English should have (p 149) adopted erroneous ideas on this subject, and have confirmed abuses they found to exist; in no instance is this reflection more applicable than to the subject I mean now to discuss, the nature of tenure called Jagheer.
  2. I shall first explain what this tenure was, under the regular constitution of the Mogul empire, in order to point out those abuses which have subsequently prevailed in it, with considerable detriment to the interests of Government. /the
  3. A jagheer is properly an appendage to a dignity called Munsub; which it is therefore necessary to explain.
  4. In the Mogul empire there are no hereditary dignities; the rank of the nobles (p 150) was conferred, by special appointment from the emperor, for life only, and revocable at his pleasure; and it was estimated by the number of Horse which they were supposed to command. This command was denominated Munsub, and a jagheer was an appendage to it.
  5. The mode of granting Munsubs and jagheers was first reduced to a regular system in the reign of Akbar, when the highest Munsub conferred was ten thousand, and the lowest ten, being in all 66, of which those above five thousand were granted only to the sons of the emperor.
  6. The person on whom a Munsub was conferred was styled a Munsubdar; he was raised to this dignity either by the immediate selection of the emperor himself, or from the recommendation of the Nazims of Bengal, (p 151) Kabul, and the Decan, who, by reason of the superior importance of their charge, and the distance of their governments from the court, were allowed the privilege of recommending for preferment those persons whose power and abilities they required for the support of their administration.
  7. The forms attending the appointment of a Munsubdar are detailed in the appendix. It is only here necessary to remark, that the emperor's pleasure signified by his signature, was equally essential for the appointment of a munsubdar, or for increasing his rank. (Note A and appendix No 1 and 2)
  8. The number of Horse which constituted the rank of the Munsub was merely nominal; and the personal pay of the munsubdars though regulated by it, was distinct from that which he received for (p 152) the effective Horse which he was obliged or allowed to maintain. The former commenced from the date of certificate of his appointment; the latter, from the date on which his horses were mustered. (Note B)
  9. The pay of both was issued sometimes in money, and oftener by the assignment of land in Jagheer; in either case, the prescribed official forms were extremely minute and most scrupulously observed. In the Company's provinces there are no assignments in money, and the present discussion relates only to those in land called jagheer. (NOTE C)
  10. All munsubdars were obliged to attend the emperor whenever called upon; sometimes they were bound to specific service. The dignity of Munsub was equally conferred upon the civil and military officers of the state, who (p 153) were supposed to be qualified for the

1996-05-2469-55

IOR: P/51/18: Ben Rev Cons 2.4.1788. Also in HM 442: pp 1-20, app 21-129; and original signed by Shore in HM 381: pp 589-609, 611-721.

Appendices in P/51/18 on pp 553-659

duties of both stations (hence they were called Saheb Seyfocalm; masters of the pen and sword). The jagheers were granted for the purpose of enabling the munsudars to appear with a suitable retinue in the presence of their sovereign, or to enable them to discharge the duties of the station assigned to them. They were all either actually employed, or ready for service when called upon. (App No 3)

11. Jagheers were of two kinds, unconditional and conditional.

12. The former was conferred upon the munsudars for their own maintenance and that of their own retinue, and the effective troops attached to their Munsub; and as the dignity itself was granted for life, so were the funds assigned for it. (Note D) (p 154)

13. It is not to be understood by an unconditional jagheer, that the munsudar was exempt from the performance of any service. All that is meant by this term is that the retaining the Munsub and the troops attached to it, did not depend upon his holding any particular office.

14. A conditional jagheer was granted to the principal servants of the crown, in virtue of their offices, such as the vizier, the buckshees, the nazims, and their principal officers. The grant generally specified the name of the employment, and the number of troops to be maintained for the exercise of it; and the jagheer was to remain in possession of the land assigned in jagheer under this form as long as (p 155) he held the office. The assignment had no relation to the Munsubzaat or personal rank of the jagheer, being exclusively allotted for the support of the troops attached to his official capacity. Upon the removal of these officers their lands were usually transferred to their successors. (App 4 and 5)

15. Jagheers could only be conferred with the royal sanction, but when the power of the emperor declined, the nazims of the distant subahs, who were originally allowed only to recommend Munsub, usurped the privilege of granting jagheers both conditional and unconditional. This act was so avowedly derogatory to the authority of the emperor, that an evasion was practised to conceal it. (p 156)

16. The sunnud for the jagheer was prepared by the Dewan of the soubah in which the lands assigned were situated, and attested by his seal and the signature of the nazim. His authority for issuing this grant was a perwannah from the vizier, in consequence of his majesty's previous sanction, and hence this grant has obtained the name of sunnud Matabik, or grant in conformity to the order from the Presence, under the seal of the vizier.

17. This sunnud is the foundation of all the rights and privileges annexed to a jagheer, and it is therefore necessary to consider it with attention.

18. All jagheer sunnuds consist of two parts: the body, which is properly the (p 157) grant; and the endorsement. The former is general, stating that an assignment of a certain specified amount has been granted to such a person from a certain date, and refers to the endorsement for the particulars, which are fully detailed there. The particulars which require notice are the following:

First: The rank of munsubdar; and the pay annexed thereto;  
Second: The number of effective Horse allowed him and the pay thereof;  
Third: The amount of the assignment in Dams, or in rupees, on a proportionate calculation thereof;  
Fourth: The number of months for which the assignment was granted.

(p 158)

19. First: The rank of the munsubdar, and pay annexed thereto.

It has been already observed, that the rank of a munsubdar was constituted by the number of Horse which he was supposed to command. But in each rank there were three degrees, according to which his pay was regulated. Thus it did not follow that every munsubdar of

the rank of one thousand, received equal pay; this depended upon the degree of that rank in which he stood, and that degree again upon the number of effective Horse which he was allowed. If the number of them was equal to the amount of his Munsub, he was of the first degree; if less than that number, and more than half, of the second degree; and if less than half, of the third. These distinctions (p 159) applied only to Munsubs of and under the rank of five thousand. According to these distinctions the pay of a munsubdar of one thousand, if of the first degree, would be 20,00,000 of Daams; if of the second 19,00,000 and if of the third, of 18,00,000 only. A table of the pay of the munsubdars, for their personal rank, is inserted in the appendix, which will point out that annexed to each rank, and its three degrees. It may also be verified by a reference to the grant of Fakruddeen Hossein. The rank of his Munsub is specified at two thousand, and the effective Horse allowed him 500; by the rules laid down he is in the third degree of the rank of 2000, and his pay is regulated accordingly, viz

Amount assigned by the table for the (p 160) pay of a munsubdar	
/of the rank of 2000, /in the third degree	Daams 34,00,000
Add 500 effective Horse at 8000 Daams for each	40,00,000
per anum	
	Daams <u>74,00,000</u>

amount of the jagheer assigned according to the established rates of the empire. (App No 6)

20. Secondly, the number of effective Horse allowed him. This was entirely unconnected with the number which fixed the rank of Munsub, although it ascertained the degree of it, and on this account on the revision of Jagheeree sunnuds is particularly worthy of attention. The prices assigned for each Horseman was at the rate of 8,000 Daams for twelve months, (p 161) but the actual sums received by the jagheerdars bore but a very small proportion to these allowances which were little more than nominal; and hence it was that the munsubdars were not obliged to muster above a certain proportion of their effective troops, beyond which the number was nominal only. (App No 7 and 8)

21. Thirdly, the amount of the assignment in Daams. The Daam was an imaginary coin, at the rate of forty to a rupee; but in paying the troops this imaginary coin was valued according to the number of months for which the assignment was granted, and was in fact much below the general computed rate.

22. Fourthly, the number of months (p 162) for which the assignment was issued. This is a very material point, as the value of the jagheer or assignment greatly depended upon it. The munsubdars and their effective troops never received above eight or nine months pay, and often only three; about five months was the medium; this will appear from a comparison of the Daams granted in the sunnuds and their valuation in rupees. A table is annexed for the purpose of exhibiting the actual value of a lac of Daams, by a rule of proportion formed on the number of months for which the assignment was drawn out. This calculation was made by the Dewan, as the perwannah of the vizier only specified generally the amount of the Daams according to the established rates of (p 163) the empire, and the number of months for which the assignment was granted. (App 9 and 10)

23. From the preceding explanation, a jagheer may be defined to be an assignment in land or money for the support of a certain dignity, and for the troops annexed thereto. That it was either conditional or unconditional: the former implied, that it was granted for the expences of a particular office or station; the latter, that it was independent of any office or station, being appropriated for the maintenance of a dignity, a suitable number of attendants, and the effective troops annexed to it: that in the latter case it was granted for life, or untill the emperor should (p 164) please to resume the dignity, or diminish it; in the former case it existed whilst the possessor continued in office only, and upon his removal

4

(134)

or dismissal devolved, either in whole or in parts upon his successor. The services required from the jagheerdars were either specific, or they were bound to the performance of whatever duties might be assigned to them, and to attend in person with their effective troops whenever required.

first,

The actual value of a jagheer depended, upon the degree of the rank of the munsudar, and secondly, upon the number of months for which the assignment was granted. These considerations will suggest the rules to be observed in the revision (p 165) of the sunnuds, but it is first necessary to explain the restrictions by which a munsudar in possession of a jagheer was prevented from receiving more than he was entitled to.

24. As an equivalent for the pay which a munsudar was entitled to receive, either on account of his personal allowance, or that of the troops under him, he received possession of certain lands, the rent of which was calculated in Daams, according to the assessment of Tooreen Mull. If they were found to produce more than the jagheerdar was entitled to, he was obliged to account for the overplus, under the denomination of toufeer (?) or excess. This obligation extended also to the arrears of the rents of the lands assigned in jagheer, for the time which had elapsed previous (p 166) to his acquiring possession, or for any anticipation of rents, in case of his dismissal previous to that period. And secondly, a proportion was deducted from the amount of the assignment for any deficiency in the number of effective troops which he was obliged to maintain. It was often usual in assignments of any considerable amount to suspend a part thereof until the accounts of the munsudar had been adjusted. (App No 9)

25. To render these restrictions more binding a jagheerdar was obliged to sign an obligation previous to the receipt of his grant, making himself accountable for whatever might be due on the above grounds.

26. The following instance in proof of (p 167) the strictness with which the government exacted the toufeer (?) is so remarkable, that I shall insert it at length from a book of good authority.

Bechanday Khan (?) and other munsudars, having obtained an assignment of their pay in the pergunnah Beranee, they laid claim to the possession of the whole district, as the amount of the rents of it in Daams corresponded exactly with that specified in the vizier's assignment; the Dewan refused his assent, and insisted upon their receiving their pay in money, which compelled the munsudars to accept the assignments according to the established rules, which left them no portion of the toufeer. By this adjustment, the government was saved from a loss of 1,09,791-10-6, being the excess of the rents of the district, beyond the valuation of Tooreen (p 168) Mull. (App No 11)

27. If therefore a revision of the sunnuds should take place, the following points must be attended to; first, the authenticity of the perwannah from the vizier; secondly, the number of months pay granted in the assignment; and lastly, the ~~numbers~~ difference between this sum and the actual produce of the lands.

28. Under the Mogul government there was a certain Mehal or jurisdiction, consisting of such lands as were set apart for being granted in jagheer, under the denomination of Paibakee. (?) The other lands in the seubah were called Khalsa Mokerrey, or fixed exchequer lands; these were supposed to be most productive and were (not ?) granted in Jagheer. (p 169)

29. Under this jurisdiction, jagheers when resumed or escheated, fell, and here the toufeer or excess was brought to the credit of the state; as well as the amount of arrears, or anticipations, for broken periods, as already explained. The produce of the last three

articles was called the share of the exchequer, and under this term the jagheerdars were compelled to account for it. (App No 12 or 13,14)

30. Such were the ancient and regular forms of the Mogul constitution regarding the dignity called Munsub, and its appendage jagheer; and from these it will appear that a jagheerdar had not originally or constitutionally any right of property in the lands.

31. In Bengal there are few jagheers, (p 170) and of no considerable amount; but in Beyhar, they exist to the annual value of 4 lacs of rupees, according to the estimation upon which they were made over to the jagheerdars; four fifths of these grants were obtained during the anarchy of the reign of Shah Aullum's immediate predecessor, and at the commencement of his accession when he invaded Beyhar.

32. Under such circumstances we are not to expect much attention to the forms or to the spirit of the constitution, and on examining several of these grants, it appears that most of them contain nothing more than a simple assignment of Daams without any specification of the rank of the Munsubdar, the number of Horse he was bound to entertain, or months for which he received pay; (p 171) or whether the grant was conditional or unconditional, nor the customary engagement to pay into the Khalsa, the excess, or amount resulting from anticipated rents, or arrears of a broken season. Of eight grants which have , only two specify any service to be performed. By a comparison however, of the number of Daams assigned, with the amount of the revenue lands delivered over to the jagheerdar, most of the assignments will appear to be four or five months as in Bengal and elsewhere; and from the evidence of the oldest and most intelligent officers, it appears that untill the end of Behadur Shah's reign, the regular forms were observed, and the accounts of the munsubdars examined with the usual severity. From these circumstances it is concluded, that the lands in Beyhar assigned by the jagheeree grant, were (p 172) held under the same tenure as in other parts of the empire. (App No 15, 16)

33. It is also probable that many of the grants in Beyhar were fraudulently or surreptitiously obtained.

34. In deciding the question regarding the resumption of jagheers in Beyhar (on account of informality and collusion in procuring them) or of the excess appropriated by the jagheerdars, beyond the assignment in the grant, many circumstances require consideration; I shall state such as occur to me.

35. First, it is to be remarked that the sunnuds in Beyhar have undergone these/revisions by Mahomed Reza Cawn, in 1766, by /((their?) Mr Vansittart, in 1771, and by Mr Busby, in 1783, and have been confirmed each time.

Secondly: that under the sanction of these (p 173) confirmations, the jagheerdars have enjoyed the rents of the lands made over to them in perfect security, without being compelled to account for any overplus to which they may receive beyond the amount of the assessment, or to perform any service.

Thirdly: that the persons who held these lands have not any other means of subsistence, and if they were resumed would be driven to poverty and distress.

36. These considerations may indeed be shortened, and the whole reduced to this question: How far the faith of Government may be considered pledged to the possessors, under the accounts described; and admitting it not to be absolutely pledged, will policy and humanity warrant a decision that must reduce many of its subjects to distress? (p 174)

37. It may on the other hand be contended, that no fraud ought to receive a sanction from the inability of Government to detect it; that a jagheerdar who benefits by the indulgence of Government,

ought not to avail himself of that indulgence, for a greater emolument than he is entitled by it to receive; and that ~~the~~ he cannot have any claim to an immunity, merely because the Government has from ignorance suspended the exercise of its own rights, in reclaiming its just dues.

38. Between these opposite considerations, I shall not at present offer my opinion. It may be further observed, that many persons now enjoying jagheers have succeeded to them by virtue of inheritance, in direct violation of the constitution of the empire. Such has been the lenity or want of information of (p 175) of the British Government in India.

39. The hon'ble the court of directors, from motives of humanity, have suggested the idea of attempting to convert the jagheer into permanent property, by constituting them zemindarries. I have some doubts myself of the possibility of effecting this, and am of opinion that objections would be made by the jagheerdars, upon a general principle which appears universally to govern the natives of this country, that of an attention to temporary actual advantages, in opposition to permanent remote benefits. But there is another, and stronger objection, that the lands held as jagheers, are actually at present portions of zemindaries, to the proprietors of which the jagheerdars pay a stipulation under the name of Malikana. This (p 176) term means the right of proprietorship. There can be little doubt that the zemindars would not be silent in claiming their property, upon any attempt on the part of Government to assign it over in perpetuity to others, particularly those who retain their lands, and pay the rents thereof to the jagheerdars. This is the case, as I am informed, with many zemindars, and a curious proof of the inversion of right and property. It may however be immediately declared, that no person shall be allowed to proceed to the possession of a jagheer, by right of inheritance, and that all jagheers upon the demise of the possessor, shall revert to Government. This declaration is indispensably necessary to annihilate that idea, which appears to be entertained that jagheers are hereditary (p 177) permanent property.

(40.) If the Government should act in conformity to this declaration, the rents of all the jagheers in Beyhar will in time revert to the Company.

41. A ~~similar~~ decision on the previous question must also determine how far an investigation shall take place into the actual produce of the lands, with a view to the resumption the toufeer, or excess. To this the objections stated will not apply with the same force as to a total resumption.

42. But at all events, I deem it highly expedient that the most accurate account should be procured of the present state of the jagheers in Beyhar, and of the possessors thereof; and for this purpose orders have been issued; with this account (p 178) before them, the Board may be enabled to carry into execution any orders that the court of directors may think proper to issue respecting jagheers, in case the question which I have stated should remain over for decision. /their (?)

43. This account has been compiled from authentic records, and good information. The proofs of what is here asserted will be found in the appendices, which contain a variety of information, of a detail too minute to be inserted in this account without interruption of the connection of it. I cannot conclude without pointing out for the notice of the Governor General in council, the great assistance which I have derived from Mr Barlow in the discussion of this subject, his abilities are never exerted with (p 179) more zeal than for the information or interest of his employers.

J. Shore

Ordered, that the papers referred to in the above minutes be entered in the appendix. Ordered, that the minutes be circulated for the perusal of the members of the Board. Appendices pp 553-659

16.2 J. Shore Minute on Zemindary Rights: 2.4.1788  
(Extract)

Mr Shore delivers into the Board, copies of his minutes, which were transmitted to the court of directors by the Rodney.

1. The court of directors, in their general letter by the Swallow, directed the Government to ascertain, as (p 94) correctly as the nature of the subject would admit, the real jurisdictions, rights and privileges, of zemindars, talookdars, and jaghiredars, under the constitution and customs of the Mahomedan, or Hindoo, Governments, and what were the tributes, rents, and services, which they were bound to render, or perform, to the sovereign power; and, in like manner, those from the taloodars to their immediate leige lord the zemindars, and by what rule or standard they were or ought severally to be regulated.

2. Previous to my return to this country, in 1786, the Board of Revenue had been called upon for their opinion, on the rights of the zemindars, and had declared a zemindary to be, a conditional office, annually renewable, and revocable on (p 95) defalcation, and had applied to the supreme council, for their decision upon this opinion, as essential for their guidance, in the recovery of arrears of rent, and for making the ensuing settlement of the revenues (App No 1 and 2)

3. Mr Grant, who has employed much labour and ingenuity in researches into the finances of Hindostan, has also combated the prevailing idea, that the zemindars are proprietors of the land, and in opposition to it has maintained, that the sovereign ruler throughout Hindostan, is the sole virtual proprietor of the soil, in right and fact the real acting landlord. (App No 3)

4. These opinions, stand in contradiction to others of high authority, and are too important to be lightly admitted or hastily rejected; they affect the rights and interests, both (p 96) of this Government and its subjects; and this consideration alone would induce me to discuss them; if the orders of my superiors did not prescribe it.

5. The general question may ~~be~~ with propriety be divided into two parts, of right and policy: if the former can be clearly ascertained, it will probably tend to elucidate the latter; which, at all events, deserves a separate consideration.

6. In a discussion of this kind, some principles should be established on the outset, for deciding the points in issue: but, here a material difficulty occurs; the constitution of the Mogul empire, despotic in its principle, arbitrary and irregular in practice, renders it sometimes almost impossible to discriminate between power and principle, fact (p 97) and right; and, if custom be appealed to, precedents, in violation of it, are produced. In tracing such a system, where even natural rights are often sacrificed to power, we must carefully observe what, under successive administrations, has been left to the people; and explore those usages, which have subsisted for the greater length of time, with the fewest variations and infringements. We must hear what the subjects of the state claim for themselves, and try these claims by the result of the investigation prescribed, and by the standard of reason, policy, and natural justice.

7. ~~In~~ ~~the~~ opposition to this, it has been asserted, that the sovereign alone in a despotic state, is competent to decide the question about zemindary rights, because it goes to ascertain (p 97) the limits of his power, in defining the rights of his subjects: that the will of the Company, as possessing the rights of the emperor, is absolute, and that it rests with them to make, explain, and execute the laws. If this reasoning be just, all discussion ought indeed to cease, for it reduces the question to this simple proposition: that the Company having despotic power, are entitled to

IOR: P/51/18: Cons 2.4.1788: pp 93-148, App pp 315-552

exercise it as they please. Rights are incompatible with these principles. (App No 4)

8. Of the customs and laws under the ancient Hindoo Government, as far as regards finance, I can supply little further information, than is contained in the translation of the code published in Europe. From that it is evident, that property in land existed; and the system of taxation (p 99) as far as I can learn, was moderate. The natives whom I have consulted on this point, affirm, that the ancient Rajahs exacted a sixth proportion of the produce of the lands, which the possessors were authorised to sell, or alienate, subject to the sovereign's claim for rent.

9. At the period preceding the Mahomedan conquests in India, the countries to the north and the west of Bengal, were divided into different principalities, each under its respective Rajah, and Bengal itself was partly, if not wholly, in the same situation.

10. -13. ( deal with origin of Muslim rule, Akbar's Institutes etc)

14. That such indeed was the ancient constitution of the empire @ (@ that is to "divide the produce of the land, in certain proportions, between the sovereign and the husbandman), although the principle might be occasionally modified in practice, appears highly probable. All the rules of Mogul finance, seem formed upon this principle, and the (p 102) ordinances of the emperors, for increasing the cultivation, and improving the quality of the produce, with a view to the augmentation of the public revenues, the appointment of the inferior officers, for keeping constant accounts of the land and its productions, the annual transmissions of these accounts to Delhy, the regulations for dividing the crops and measurement of the land, as well as the Mustabood investigations of later times, must be referred to this origin. Indeed, the common expression of the people, that the land belongs to the zemindar, and the rent to the king, which, from its universality, is proverbial, affords a proof of it. (App Note A and App No 5)

15. Toorennull was the person commissioned by Akbar to arrange the revenues (p 103) of the empire; and his transactions in Bengal, where he resided two years, from what I can learn, were regulated by this principle. He collected the accounts of the canongoes, and in some places ascertained their accuracy, by local enquiries, and by measuring the lands: from these materials he compiled the Tukseem, or account exhibiting the constituent portions of the rent of each village, district, and principality, and the aggregate formed the Tumar, or rent roll, of the scubah.

16. At what proportion of the gross revenue, he estimated the sovereign's share I know not; one account, in my possession, of unknown authority, states, that he regulated it, according to the situation of the land, and quality of the soil, and by the labour and (p 104) expense attending the cultivation of it in different degrees of proportion, from one half to one eighth of the estimated gross produce; this account is at least probable.

17. But he left with the zemindars the management of their lands, and concluded a settlement of the revenues with them, assigning to them a portion of the land or its produce for their immediate use and subsistence under the denomination of Nankar. (Note B)

17. -21.

22. The settlement of Bengal by Tooren Mull, was completed about the year 1582, and appears to have subsisted, with little variation, for a period of about seventy six years, until the year 1658, near the close of Sultan Sujah's vicerealty. During this interval, a very small proportion of the revenues of Bengal were remitted to Delly; they were applied to the discharge of the public expences of the province, for which they were fully adequate, and no general



attempt appears to have been made, to enhance the assessment of Tooren Mull, by new inquisitions into the produce of the lands. The addition imposed by Sultan Sujah, the result perhaps of (p 107) such an enquiry, partially undertaken, was moderate. (App 6 and 7)

23. Jaffier Khawn who was appointed Dewan of Bengal by Aurangzebe, and afterwards Nazim, by Furoksere, in 1713, prosecuted his enquiries into the finances of the country with a rigour before unknown. He deputed his own agents, to scrutinize the value of the lands, and to raise the rents of them to the highest possible standard, by collecting for the Government all that the ryots, or peasantry paid to the zemindars, to whom he left their established subsistence of Nankar. He did not, however, annul their right of inheritance, and that he considered the zemindars to have a ~~proprietary~~ property in the soil, a striking proof will be exhibited in the course of these remarks. (App No 8) (p 109)

24. From the death of Jaffier Khawn, to the present time, the claim of the zemindars to a property in the soil, and to succeed by inheritance, are supported by usage and fact, ... (p 110)

25. This position has lately been controverted, and has been declared unconstitutional, and inconsistent, with the terms of the sunnud, or grant, which has been pronounced, the sole ground of the rights and privileges of zemindars.

26. The arguments by which this objection is supported, may be reduced to the following terms. That the constitution of the Mogul empire, acting upon a principle, of dividing the gross produce of the soil with the peasantry, annihilates the idea of a tenure conveying property in it, and devolving by inheritance; that the ~~existence~~ existence of the sunnud, proves it essential, for the investiture of a zemindar; that a zemindary is expressly called a service in the sunnud, the terms of which assign duties to be performed, but convey no property; that an acknowledgement (p 111) was constantly paid to the sovereign, previous to a zemindar's investiture, and, lastly, that ~~maratiny~~ for the personal appearance of the zemindar, was demanded and taken, previous to his investiture which would have been an unnecessary precaution, if the lands were considered his property.

(Note: copied from minute as given in HM 381 pp 303-39, from para 27 onwards; hence the different series of page numbers shown)

27. In answer to these arguments, the following observations occur.

That although the avowed principle of the Mogul constitution, limits the value of landed property, and makes it dependent on the equity and humanity of the sovereign, it is not incompatible with its existence; and goes no further, than to establish the right of the state, to a proportion of the rents of all land. That the inheritable quality of the zemindary tenure, is ascertained by the laws of usage; and prescription, which in all countries, are admitted as legal and indefeasible, where they are derived from any principle of natural right, or are conformable to right reason. That the zemindary sunnuds, were never conferred at discretion, or upon aliens to the prejudice of the heir by kindred, and of course (p 316) confirmed existing rights, but did not create them; and that in fact the principal zemindars only, applied for them, and received them. That the inferior landholders succeeded according to their own laws of inheritance by right and of course without any sunnud. That the term of service in the sunnud, can prove nothing to the prejudice of the zemindars, whilst it can be demonstrated that the tenure was hereditary; property may depend upon services, or service, in the course of time, by usage, be converted into property, and inheritance; that the acknowledgement paid by the incumbent on investiture, is rather a proof of this, than an argument against the right of zemindars; and if it may not be deemed an exaction ought to be viewed in the light of a consideration for the renewal of an estate; that no such consideration, was paid by a corie, or aumil, who were both collectors of the public revenues, but did not succeed by inheritance; and this circumstance makes a strong distinction between the zemindary tenure and a common office; that in a country

subject to frequent (p 317) disturbances and revolutions, in which the zemindars, ~~tenure~~ as often took part against the established government, as for it, the propriety as well as necessity, of a personal obligation by which one subject became bound for the attendance, and good behaviour of another, is obvious without authorizing an inference to the prejudice of zemindary property: the period assigned in the grant, for the duration of the tenure, is unlimited, and the true conclusion, which this silence admits, is, that the tenure is good, as long as the conditions in the grant, are observed. (App No 9)

28. By the terms of the grant, a zemindar is entitled to an established provision, under the name of Nankar, included under the head of Muzkeoraut (?), after compleating his annual agreements for the revenue; there is no proportion between the amount of it, and that of the pecuniary acknowledgement paid for his investiture; it was not sufficient for his subsistence, and it was, still less a fund, for the accumulation of property; nor can the permanent appropriation of the fund itself, be reconciled to the idea of a fluctuating office. (App No 10) (p 317)

29. In addition to the preceding observations I shall add some conjectures on the zemindary tenure, and its establishment, or confirmation by sunnud or grant.

30. In Akbar's time, the zemindars of Bengall were numerous rich and powerful; they were not of his creation, and probably existed with some possible variation, in their rights and privileges, before the Mahomedan conquests in Hindostan. From this circumstance as well as other collateral considerations; there is reason to suppose, that the new invaders, who claimed the revenues of the country, from motives of policy and humanity, employed the ancient possessors of the land, as their agents for the collection of the taxes of the state, superadding the jurisdictions exercised by the collectors of revenue, in their own system of finance: that for this purpose, they confirmed the former proprietors, by sunnuds or grants, conferring services or offices, of an inheritable, and permanent tenure. That hence the zemindars if they did not originally possess, acquired in the course of time a property in the soil, and the rights annexed thereto, of (p 319) disposing of it, by sale, gift and mortgage; subject however under any mode of alienation, to the sovereign's claims for rent, and that for the purpose of securing the revenues from fraudulent or concealed alienations, as well as the increase arising from improvement, the numerous body of inferior officers was appointed, to keep accounts of the land, and its productions; as well as a record of such events, as affected the revenues. That although the zemindars succeeded according to the common course of inheritance, agreeable to their own laws, some form declaratory of the succession of the new incumbent, was necessary for the information of the officers of the state, and ryets, as well as for the security of the new zemindar, whose name was upon his accession enrolled in the public registers. The principal zemindars who enjoyed extensive jurisdictions, and were admitted into the presence of their sovereign or his viceroy, petitioned for and obtained sunnuds, not only as confirmation of their rights, but as an honourable distinction; and these they paid for, whilst the inferior zemindars were contented with a less formal and expensive acknowledgement of their rights. (Notes C and D) (p 320)

31. Formerly the zemindars were bound to take care of the roads and bridges; and whilst the amount of their rents was permanent, and the profits arising from the lands left to them, they had an interest, in fulfilling the dictates of their duty: latterly these functions have been neglected, and the suspension may be dated from the inquisitorial researches of Jaffeir Khawn.

32. The preservation of the internal peace of their districts, and the apprehension of thieves, murderers, and other violators of the laws, were amongst the assigned duties of the zemindars. They were

also obliged to attend and assist their sovereign, for opposing invasion, and suppressing rebellion, but it was not unusual to grant them a remission in their rents, in equivalent for the expenses incurred by them, in the discharge of these services.

33. These functions, may be reconciled to the dependent state of property, under the feudal system, which in many instances appears conformable to that of property, (p 321) in Hindostan: the expenses attending the performance of them, could never be discharged from the allowances made to the zemindars under the general term of Muscooraut (?), but must have been supplied from other sources of emolument.

34. With respect to the jurisdictions exercised by the zemindars, it was very limited; I cannot trace any delegation of power, for the tryal of delinquents, and the infliction of punishment upon them; if this was ever exercised, it must be either considered as an encroachment on the royal prerogative, or to have existed by sufferance; for the enforcing the payment of the rents, they certainly, if practice be deemed authority, were allowed a power of coercion, which has sometimes been exercised, with a cruelty, disgraceful to humanity.

35. The preceding explanation places the zemindars in a double point of view; as hereditary possessors of the soil, and as the servants of the state. Whether the functions of the latter designation, are inherent in the hereditary tenure, or (p 322) not, appears to me immaterial. Long before the Company's authority in India, they were united, and were exercised by the agents of the Company, when they held the dependent proprietorship of two small talooks.

36. But though the tenure was hereditary, it was nevertheless conditional, and a zemindar was liable to dispossession, either for a failure in the payment of his rents, or for delinquency.

37. The rigour with which this penalty was forced, depended greatly on the discretion of the supreme authority. If the arrears of rent, were occasioned by a severe public calamity, they were excused; if from a cause of temporary operation, they were added to the settlement of the ensuing year; sometimes a superintendent was appointed, or the lands were assigned for a period, to the management of another, or perhaps the tenure was given to a new incumbent. In the case of delinquency the penalty was (p 323) proportioned to the fault of which the ruler was the judge. Rebellion or avowed resistance to the orders of Government was usually punished by a total dispossession; the perpetration of murders or robberies, or a proved connivance at them merited and obtained the same punishment.

38. To remedy the evils arising from the incapacity of a zemindar, and secure the rents of the state, an officer was often nominated to the charge of his lands; in this case the zemindars in Bengall as far as I can learn still received Nankar, and in Beyhar Malikana. (App No 11)

39. I shall conclude these observations on the nature of the rights, privileges, jurisdictions, and services, enjoyed, exercised, or performed by the zemindars, with a remark, that by the Mahomedan laws, the principle which gives the sovereign a right to the produce of the soil, whilst it leaves the property in it to his subjects, is clearly and explicitly avowed; and that if the Mogul empire was in matters of finance, regulated by an opposite principle the system was contrary to the religion, which the emperors of Hindostan, (p 324) professed and maintained. (App No 12)

40. In addition to the arguments derived from the sunnud, against the prescriptive rights of the zemindars, the grant of lands, conferred by Altumgha has been urged as a decisive proof beyond all controversy, that the property in land, is exclusively vested in the crown, and that the emperors, so far from considering the zemindars, as

possessing any hereditary property in the soil, disposed of it in perpetuity to others.

41. It is certain that lands under this tenure, exempt from all claims of rent, and descending by inheritance are possessed to a very considerable amount in the Beyhar province. But there is one observation, and that very important, that all persons holding grants of land under this denomination or jagheers, pay to the zemindars a tenth of the gross produce, or leave with them an equivalent to that amount in land, under the very expressive term of Malikana, which may be rendered the right of proprietorship.

42. When it is considered, that the Altumgha grant has no reserve or limitation, and (p 325) that the persons who acquired by it the possession of land in perpetuity, has generally very considerable interest at court, it may be reasonably supposed, that they would not have relinquished any part of their sovereign's donation, except in compliance with an acknowledged right, whether derived from regal authority, or prescription.

43. This fact exhibits a remarkable difference between the situation of the zemindars in Beyhar and Bengall. In the former province they possess and claim a right to Malikana, whether they have charge of the collections or not; in Bengall, they have Nankar only, which does not in the aggregate exceed one percent on the revenues. There are many other distinctions of which I shall notice a few only. In Beyhar the zemindar, when in charge of the collections, or the aumil who stands in his place on the part of Government, divides the produce of the land with the cultivator in stated proportions. In Bengall the settlement is made with the ryot, upon a standard called the Assul, or original rate, with an accumulation of the taxes successively imposed. (p 326)

44. In Beyhar the extent of zemindary jurisdictions compared with many of those in Bengall is very limited, and though the zemindary property, in the former province, seems more explicitly avowed and confirmed, yet the zemindars themselves have been more depressed and reduced. This is accounted for, by the different systems of management, adopted in the two seubahs, and by the numerous donations of Altumghas, Jagheers, and other rent free lands in Beyhar; yet it is too remarkable to be unnoticed, that notwithstanding the frequent transfers of the land by these grants, the right of the zemindars to Malikana, remains inviolate under every change.

45. Most of the considerable zemindars in Bengall may be traced to an origin, within the last century and half, and the extent of their jurisdictions, has been considerably augmented during the time of Jaffeir Khan, and since, by purchases from the original proprietors, by acquisitions in default of legal heirs, or in consequence of the confiscation of the lands of other zemindars. Instances are even related, (p 327) in which zemindari's have been forced upon the incumbents.

46. I shall be happy if these remarks should be deemed, to have elucidated the principle of the Mogul system of finance, and to have proved the inheritance and property, of the zemindary tenure, to be compatible with it. Every allowance must be made for the difficulties attending researches of this nature, under the practice of an arbitrary form of Government, and with respect, to a country subject to frequent insurrections and revolutions. Still however lest more positive proofs should be required, I have annexed authorities deduced from established practice, and from the ordinances of the emperors Aurangzebe, and Ferookseer, and, the example of Jaffier Khan the Nazim of the country. These will I trust elucidate the preceding arguments, and prove what I understand to be the established principle of Mogul finance as practiced in Hindostan, that the rents belong to the sovereign and the land to the zemindar. (App 13,14,15)  
(p 328)

47. The former ~~systems~~ administrations in this country both wisely and justly consulted the natives upon the rights of the zemindars,

16.3 John Shore, on Charges of Zemindary: Minute: 9.4.1788  
(Extract)

#### CHARGES ZEMINDARY

These charges appear to have been originally introduced and subsequently continued upon one principle, though for different reasons.

The principle was that of allowing the zemindars as hereditary proprietors of the soil, a provision for their subsistence. The principle is just and the application of it must/equally so /be whenever it is founded on any of the following reasons. (p 428)

First when the management of the lands is taken from the zemindars, and they are deprived of the profits arising from the trust;

Second when a zemindary is taxed to its utmost produce and nothing left for the maintenance of the zemindar or his family; Supposing in both cases that the zemindar has not any lands, or other resources separate from the general rental of his district which furnish a fund for his expences. From this explanation the term of charges applied to this article of expence may not perhaps be deemed strictly proper; for unless the Company mean to appropriate the gross produce of (p 429) the lands as paid by the ryotts to their own emolument and consider these rents as their lawful and established revenues, it is evident that an allowance must be made to the zemindars some way or ~~other~~ another, either by the assignment of land to them for their maintenance, by an allowance to them for that purpose, or by a lowering of their demand for the revenue of zemindars in such a manner as may leave some portion of the produce to the proprietors.

If these principles and remarks are deemed just, and in my apprehensions they are indisputable, the rule prescribed by the resolutions of the Board of the 7th of April 1786, (p 430) for reducing the zemindary allowance, will be found defective, and it has on this account indeed in some instances proved oppressive.

The rule then prescribed was, that the allowances to the zemindars should be totally discontinued in such cases where the actual jumma to Government fell short of the sum at which the lands were assessed the year preceding the establishment of the Moshaira, and that wherever the present jumma exceeded the preceding standard such a proportion of the moshaira should be continued or allowed for as would leave such zemindar on as advantageous a footing as he stood as before any Moshaira was allowed him. (p 431)

Supposing the district not to have been over-assessed at the period when the Moshaira was established and the state of it in 1786 to be the same in point of productive capacity as it was on the former period, the rule was perfectly fair and reasonable, and this point if possible ought to have been ascertained. Considering however the abuses which had gradually crept into the system with respect to these allowances no general rule as far as I know could have been substituted for that laid down, and if it had been adopted with some limitation the objections now made to it could not have occurred. (p 432)

For although the zemindary allowances were originally settled by rule of proportion, irregularly indeed applied, of a certain percentage on the gross jumma, this had remained at the same rate, generally speaking, under the subsequent variations on the amount of the rental, and for want of some fixed principle in the beginning a variety of charges had by degrees been introduced above the original allowance.

These seem again to have varied according to the jumma but were much oftener increased when that was raised than diminished, when

IOR: HM 442:pp 427-40: from Ben Sec & Separate Cons 9.4.1788

that was lowered; and it became almost impossible, to trace in (p 433) the voluminous record, of successive managements either the principles or reasons of these variations.

I have entered into a much longer discussion of the charges than is perhaps proper for this place, but I shall confine it to general remarks only and enter upon the particulars where the subject will be with more propriety introduced.

The charges zemindary contain a variety of articles which may be divided into the following heads:

1. Personal allowance to the zemindars for their subsistence;
2. Allowance for the official servants employed at the cutcherry (p 334) or on the business of the zemindary;
3. Charitable allowances;
4. Religious allowances;
5. Pensions.

The first should hereafter I think be discontinued by fixing the revenue of each zemindar in such proportion with respect to the produce as may render these allowances unnecessary. The second I would recommend to be continued as it imposes upon the zemindar an obligation of keeping the records of his zemindary complete. The mode in which this should be done is hereafter to be considered; (p 435) I advert only to the principle, the application of which would require much explanation.

The third article of charitable allowances should be continued whenever the persons receiving it are fit objects of charity, but I see no reason for leaving the distribution of it with the zemindars. In fact it is not invariably paid by them.

The religious allowances might with great propriety be defrayed by the zemindars themselves, some of these are for Mahomedan and some for Hindoe establishments; I would by no means recommend the abolition (p 436) of them entirely, but that revision of them should take place, and those only be abolished where the allowances are misapplied. When they are granted to Hindoos the disbursements may be made by the zemindars of that sect, and so with respect to the Mahomedans; but the rule ought not to be inverted, and to prevent this the Government may occasionally employ its officers in disbursing these charities. A (p 437) clear explanation of the whole and improved arrangement is required.

Pensions: These are few in number and are given to the families of dismissed zemindars, to claimants to zemindaries; or to persons related to zemindars. The rule respecting them should be, to allow them where charity or necessity affords a ground for doing it. (p 438)

There are some other articles under the head of zemindary allowances which do not fall under the descriptions laid down, but these comprize all the material articles of expenditure.

I now submit to the Governor General in council the following proposition on this article: (p 439)

That the Board of Revenue be directed to prepare an accurate account of every article under the head of zemindary charges as they stood on the 1st January 1787, shewing what reductions have taken place since that period, the grounds of such reductions, and accompany the whole with an explanation of each article as it now stands in the book of establishments for the (p 440) Revenue Department.

*arrangements of the office, which though at present there are many it ought to be, is an institution of the greatest importance in the revenue system.*

Under the head of zemindary charges the Russon or allowances to the canongoes is inserted. The distribution of these allowances as stated in the abstract, was made originally according to an estimate of fees levied on the districts specified but is at present ideal only. The real distribution equal to the whole amount stated is particularized in the report on the canongoes offices before mentioned. The continuance of these allowances will depend on the