CHAPTER - III

HISTORICAL BACKGROUND OF LAND REVENUE ADMINISTRATION IN ASSAM.
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I. Land Revenue Administration during Ahom Rule:

In 1826, Assam Proper, comprising the five districts of the Brahmaputra Valley of Assam,\(^1\) was ceded by the Burmese to the British Government (East India Company) just after the Anglo-Burmese War. The Burmese who had taken possession of Assam from the Ahom king, Purandar Singha, ruled over this territory during the period 1819-1824.

Under the Ahom rule, land was the absolute property of the State. The peasants were allowed to cultivate land in lieu of personal services rendered by them to the king or to his high officers. For this purpose the entire population was divided into a number of small communities (Khels) and each such community usually consisted of 1000 to 5000 persons. These little communities were further subdivided into a number of groups (Gots) each group consisting of four soldiers called 'paiks'.\(^2\) One 'paik' of each 'Got' in rotation was bound to

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1. These were Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur.

2. A 'got' originally consisted of four 'paiks' but in the reign of Rajeswar Singha (1751-1769) the number of 'paiks' in each 'got' was reduced to three in the Upper Assam districts of Sibsagar and Lakhimpur.
serve the monarch or his high officers throughout the year in lieu whereof he was allowed to hold about three acres (2 'puras') of land for crop cultivation free of rent. Such rent-free land was called 'guamati'. The other 'paiks' of the 'got' cultivated their own shares of land as well as the share of the other man who was servicing the State. In addition, each 'paik' was allowed a piece of land for his homestead called 'basti' or 'bari mati' in payment of a Rupee as an annual hearth tax. If any 'paik' cultivated land in excess of the two 'puras' allotted to him, rent was assessed on the excess land at the rate of one rupee per pura and he was allowed to hold it so long as it was not required by the State. The non-cultivating section of the community paid higher rates of hearth tax. Likewise 'pam' cultivators and cotton growers had to pay a plough and hoe-tax respectively.

As the king was the owner of all the lands he made considerable grants of land to be held revenue-free (Lukheraj) for religious and charitable purposes. The different types of Lukheraj or rent-free estates were classified as: (1) Brahmottara, lands given to Brahmanas, (2) Dharmottara, lands for the support of religious institutions, and (3) Devottara. Devottara lands were further classified under two kinds - Bhogadani and Paikon. The ryots on the former were required to

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3. E.A. Gait states the period of such personal service was three or four months in a year for each 'paik', E.A. Gait, A History of Assam (1967 Reprint), p. 345.
4. 'Pura' is a local measure of area containing 4 standard bighas measuring 14,400 square feet.
supply one daily ration ('bhog') to the temple for each unit of land. The ryots on the latter were required to render certain prescribed personal services for the State, for which they could enjoy about three puras of land on revenue-free system. 5

Thus, during the Ahom rule, there were two types of rights on land: (i) absolute proprietary right of the 'Lakhirajdars' who were totally exempted from payment of land revenue, and (ii) occupancy right of the 'paiks' who had to render service to the King in lieu of cultivable land allotted to them. It will thus be observed that from the original situation where absolute ownership in all lands vested with the State, a stage was reached when the Lakhirajdars started having absolute proprietary rights occasioned by outright revenue-free grant or gift of land by the State.

The system of absolute State ownership of land was also prevalent in the Cachar district of Assam under the Kachari rulers during their rule from 1531 to 1830. Rights on land were exercised at the pleasure of the monarch. In course of time groups of cultivators united and formed associations known as 'khels' for the purpose of acquiring land from the king on the condition that they would pay revenue to the king besides rendering personal services, like supply of labour and food-grains, etc. All the members of such 'khels' were jointly and severally responsible for rendering personal services. This

system of land tenure was known as the 'Mirasdari' system.

II. Early British Rule:

With the annexation of Assam by the British in 1826, the then prevailing local tenurial system was continued by the British till 1832. However, the practice of personal service by a 'paik' of each 'got' was stopped. Instead each such 'paik' had to pay a lump sum of Rs.3/- as a poll tax. The duty of collecting this tax was initially entrusted to the chief of the 'khels', called 'kheldar', but this system of tax collection was subsequently changed from a personal to a territorial one owing to the fact that the 'paiks' were dispersed over a large area which was not manageable by the kheldar for collection purposes.

Moreover, several difficulties arose in the collection of the poll tax. There was an insufficiency of currency in Assam. The people grew and made what they needed, and there was very little necessity for using money. The ryots were unaccustomed to the payment of taxes and it soon became unpopular.\(^6\) As a result, the system of 'mauza' and 'mauzadar' developed. Thus, in 1832 each district was divided into 'mahals', which were resettled annually. This practice continued up to 1835. These were commission agents variously called 'Chaudhuris';

Further, in so far as the settlement of land for tea plantation, then called 'special cultivation', is concerned in 1838, a set of special rules were framed which were applicable to Assam. According to these rules, the minimum grant of land for special cultivation (for tea plantation) was fixed at 100 acres and the maximum at 10,000 acres. Under these rules 25 per cent of the land granted was to be held revenue-free in perpetuity, and the balance 75 per cent was exempted from payment of revenue for the first five years if the land was under grass, for 10 years if it was under reeds and high grass and for 20 years if it was under forest. On the expiry of these terms, revenue was to be assessed at graded rates. A second set of rules were issued in 1854 under which, as in the previous rules, one-fourth of the grant was exempted from revenue in perpetuity but the remaining three-fourths were granted exemption from revenue only for the first fifteen years. The period of lease was also extended to 99 years on the expiry of which period the grant was to be subjected to resurvey and resettlement. These rules were extended to Sylhet and Cachar in 1854 and were in force till 1861 when they were superseded by the Fee-Simple Rules. The Fee-Simple Rules were issued in 1861 and were revised in August, 1862. These rules provided that the plots should be auctioned and grants were normally to be limited

to 3000 acres. It was soon realised that if this process of granting land continued, entire Assam would be converted to tea field and valuable forests and minerals could not be protected. Thus the Lieutenant Governor of Bengal stopped further grants pending revision of the rules. In 1876, new rules were issued under which land was leased for 30 years at progressive rates and the leases were auctioned. 9

During the period 1836-1842, villages were grouped into 'mauzas' and were settled on short-term basis. The Mauzadar or the revenue-collector who was in charge of such a Mauza undertook all the risks of lesses or arrears in collection. In return he enjoyed the additional rent that he would derive from the extended cultivation. In 1851 the annual settlement with the Mauzadar was revived and the lands were classified into three categories: (a) 'Basti' or homestead, (b) 'Rupit' or low paddy fields and (c) 'Faringati' or high lands. The assessment of revenue was different for these different categories. In addition, there were differences in the rates of revenue between the districts. A conference of the Board of Revenue was held in which then Lieutenant Governor of Bengal desired that the revenue be raised. Consequently in 1860 land revenues were revised upwards and made uniform in the five districts of Assam (Kamrup, Nowgong, Darrang, Sibsagar and Lakhimpur). The rate was increased to Re.1/- per bigha for homestead, 10 annas for low rice lands and 8 annas for high

9. Ibid., pp. 24-25.
lands. The conference also decided to confer cultivators with permanent, heritable and transferable rights in their lands. It may be noted that Colonel Hopkinson who was the Commissioner of Assam wanted the existing nominal land tax to be doubled. As a result it was felt that not only the land tax should be revised but a more advantageous and convenient mode of settlement of land should also be introduced. The Board of Revenue advocated long-term settlements with Mauzadars. Colonel Hopkinson was in favour of a 'raiyatwari' settlement system in Assam, the collection being made directly from the raiyats by the Government officials. After considerable discussion during the period 1861-1866, the Government of Bengal, with the approval of the Government of India, decided that in Assam it was in every way of preferable course to give the actual occupant of the soil a full security of tenure upon him, subject to payment of revenue to the Government at rates fixed for long periods, and to preserve a clear distinction between the rights and obligations of proprietorship and the duties of fiscal and official administration.

With a view to giving complete security to the tenants who would pay revenue directly to the Government at rates fixed by it the Government laid down the following principles: (i) the measurement of the fields; (ii) a ten-yearly settlement with the occupant cultivators; (iii) provision for heritable

10. Ibid., p. 11.
11. Ibid.
and transferable rights on the land settled; (iv) collection of land revenues by the Mauzadars on commission basis. The Commissioner, Deputy Commissioner, Mauzadars and Mandals were regarded as revenue officers and they would deal with revenue matters. For efficient revenue administration, the whole province was divided into Mauzas districtwise. Each Mauza was further sub-divided into villages and a Mandal was appointed in each village who was regarded as the concerned Mauzadar's assistant. With the introduction of this system, the Poll tax was abolished. Under this new system, the cultivable lands were divided into two groups, viz. (i) fixed or 'permanent' cultivation and (ii) 'irregular' or non-permanent cultivation. Low paddy fields and land for homestead were included under the first group. The cultivators under this group had permanent, heritable and transferable rights on land.* High paddy lands and lands where mustard seed and different pulses could be grown were included in the latter group.

The Mauzadar was responsible for the measurement of the land and for its proper recording. The assessment made on the basis of these measurements yielded the total revenue demand for the year. The Mauzadar was also required to execute an agreement which held him personally and fully liable for the collection of the revenue demand. On the basis of his measurements, regular and supplementary settlements were made.12

* However, in the case of extended cultivation, no heritable and transferable rights was to be enjoined.

Under the Settlement Rules of 1870 lands belonging to the fixed cultivation group were settled permanently and were known as 'settled assessments'. Such settlements were rarely revised. Lands included under the non permanent category were settled on an annual basis, the settlement terminating at the end of the financial year. In the case of 'settled assessment' or permanently held estates, the cultivator was allowed the option of taking a lease for any period extending upto ten years and the lease so given guaranteed him against enhancement of assessment during the term of his lease. Holdings so settled were declared to be heritable and transferable during the term of the lease subject to their being registered. These settlement Rules of 1870 may be considered the first evidence of Government's recognition of rights in land possessed by the tillers of the soil. They recognised a permanent, heritable and transferable right in land.

In 1883, the Decennial Settlement Rules were passed under which lands were settled decennially and such lands were held permanently. These settlements continued upto 31st March 1893. It may be mentioned that during this period too the British Government was offering land in sparsely populated tracts of the State on specially favourable terms for tea cultivation and settlement. In every district there were large
areas of unclassed and uncultivated land which were unsuita-
ble for the cultivation of transplanted rice but were suita-
ble for the cultivation of tea. Most of the Special Rules
framed for this purpose of settlement of land for cultivation
of tea were made favourable to investors, mostly British
nationals, so as to induce them to take up the cultivation of
tea in Assam. These rules clearly stated that the intention
of settling these sparsely populated lands was not to collect
revenue but to attract a good number of Britishers to have
large tea plantation estates in Assam.

The Assam Land and Revenue Regulation of 1886 was
enacted by the Governor General in Council in accordance with
the provisions of the Government of India Act, 1870. This
Regulation granted legal sanction to the 1870 settlement Rules.
It also repeated several of the earlier Regulations and Acts
and defined the rights of the different classes of owners of
land. It was brought into force in districts of Cachar,
Goalpara, Kamrup, Darrang, Nowgong, Sibsagar and Lakhimpur
with effect from July 1, 1886. This Regulation, together with
the Rules issued thereunder, provided a comprehensive legal
basis to the entire system of land revenue administration and
procedures in the plains districts of Assam.

The Regulation defined three types of rights,
namely, (a) the rights of the proprietors, (b) the rights of
the land holders and (c) the rights of the settlement-holders.
The Regulation also recognised the rights acquired by transfer
or succession as well as the rights acquired through leases from the proprietors or landholders.

In defining the rights of the proprietors the Regulation took the rights and privileges of the proprietors which they were enjoying at the time of the commencement of the said Regulation as a fait accompli (Section 7). Proprietors were classified under two categories. Under the first category were the proprietors of revenue-free estates, popularly known as Lakhirajdars. All proprietors holding land revenue-free and possessing heritable and transferable rights were included in this category. Such proprietors of Lakhiraj estates were allowed to create encumbrances at the time of sale of the estates for recovery of arrears of revenue. They could grant leases for any portion of their estate although the power to enhance the rent was limited by law. They also had the rights of mining and fishing. Likewise, the proprietors of estates, who were also included in this first category, enjoyed the same rights as the Lakhirajdars but their estates were subject to the general taxes and local rates imposed by the Government. The Government could also levy royalty on mining and fishing on such estates. In the second category were included the proprietors of permanently settled estates. They possessed rights inferior to those of the Lakhirajdars. They were liable to pay a fixed amount of revenue to the Government. Further, their estates could be sold for recovering arrears of revenue free from all encumbrances. These proprietors
also enjoyed permanent, heritable and transferable rights. They could grant leases for the whole or any portion of their estate either for a term of years or in perpetuity. However, in this case too the power to enhance the rents payable by the tenants was limited by the Goalpara Tenancy Act, 1929, and the Sylhet Tenancy Act, 1936. They had the right of mining and fishing in return whereof they were to pay to the Government a fixed amount of revenue. They were also subject to all cesses, taxes and local rates as imposed by the relevant laws in force.

The Land and Revenue Regulation of 1886 also provided for a permanent heritable and transferable right of use and occupancy of land to persons who were holding land either on a ten-year lease or for a continuous period of ten years and were regularly paying the revenue assessed thereon. The right was permanent in that the landholder was entitled to resettlement. However, the Government had the option to enhance the revenue in the event of such re-settlement. The right was heritable in that following the landholder's death his heirs were entitled to inherit the property within the initial ten-year period of the lease and such heirs were also entitled to resettlement. The landholder was also entitled to transfer his estate by sale, gift, mortgage, bequest, etc. It much be noted however, that the rights to the quarries, mines, minerals, mineral oils, and buried treasures were withdrawn.

Persons holding land on an annual lease basis were
known as 'Settlement holders' in contradistinction to 'landholders'. They had no right on the land including those of transfer or sub-letting. On the death of the settlement holder his heirs could inherit the estate only for the remaining period of the annual lease (Section 11).

Under the Land and Revenue Regulation, land could also be allotted by the State for the purpose of "Jhum Cultivation", variously called migratory cultivation, shifting field cultivation, cultivation by land rotation, swidden cultivation in economic literature (Section 14). This provision was specifically made for tribal families since they practised shifting cultivation. However, no rules were framed for governing the allotment and control of such lands and the rights thereon, presumably because of the communal system of ownership among tribes. The Regulation also provided in detail the rules and the methods and procedures for the record of rights on land and had spelled out the duties and responsibilities of the revenue and settlement official in this regard. After the preparation of the record-of-rights, all lands were deemed liable to be assessed to revenue except those specifically exempted under the Regulation. In the exempted category were lands in respect of which a hoe-tax or house tax was levied. This tax was payable annually just as land revenue.

The Regulation of 1886 also made certain specific provisions for the protection of the interest of the people belonging to backward classes of the society (Section 160).
The people classed under this category were: (1) Plain tribals, (2) Hill tribals, (3) Tea-garden tribals, (4) Santals, (5) Scheduled Castes, and (6) Nepali cultivator-graziers. The chief protective measure stipulated for these backward classes was the constitution of tribal belts or blocks which were exclusively reserved for their use and occupation for cultivation and allied purposes (Section 161). These lands in the tribal belts were settled on an annual as well as on periodic lease basis for ten years or more. However, the landholder's right to transfer or sublet the holding or any part thereof in these reserved belts was limited only to those persons who belonged to the backward classes. The landholder could of course mortgage his land to the Government or to a State-sponsored Co-operative Society functioning within such belts persons not belonging to backward classes were liable to be evicted from the tribal belts.

IV. Goalpara Tenancy Act, 1929.

It may be noted that in passing the tenancy legislation as enunciated in the Bengal Act VIII of 1869, was made applicable to the Goalpara district of Assam during the 1920's even after this legislation was discarded in Bengal as wholly antiquated and entirely inadequate. Presumably, this measure considered desirable as it was expected to work well in the

Goalpara District because of the comparatively simple conditions of tenancy prevailing there. However, it is on record that the need and urgency for up-to-date tenancy legislation in the Goalpara district was felt for many years, because throughout the 1920's the sparsely populated virgin and exceptionally fertile territories of this district were being indiscriminately and surreptitiously occupied by immigrant settlers for cultivation purposes. The then Governor Sir John Kern in the course of a visit to Dhubri held a Conference and discussed the whole matter. He found that there was an almost unanimous feeling that a modern and more comprehensive tenancy legislation was required in the district both in the interest of the landlords and the tenants. Thus, the Goalpara Tenancy Act was enacted in 1929 in specific response to a resolution of the Assam Legislative Council passed in September, 1925 which amended and consolidated the earlier enactment relating to the laws of landlord and tenant in the Goalpara district. It was made applicable to the permanently settled areas of the Goalpara district.

This Act classified tenants into four classes, viz. (1) permanent tenants i.e. holders who had acquired from a proprietor or from another permanent tenant a heritable and transferable right in land either for the purpose of collecting rents or for bringing it under cultivation (either wholly or partly) by sub-tenanting it (Section 6(1)), (2) 'Joteurs' i.e., persons who had acquired from a proprietor or a permanent
tenant or from another 'Jotedar' a right to hold land for the purpose of bringing it under cultivation (either wholly or partly) by sub-tenanting it (Section 6(2), (3) 'Raiyats' i.e., persons who had acquired from a proprietor or a permanent tenant or a jotedar a right to hold land for the purpose of cultivating it himself or by the members of his family, or by servants or by agricultural labourers or as a co-partnership (Section 6(3) and (4) 'Under-raiyats' i.e., persons who were a kind of sub-tenants holding land immediately under a 'raiyat' (Section 6(4). In contrast to the first category of tenants, the Jotedars were not considered as permanent tenure-holders. Further, in the fourth category comprising 'under-raiyats' persons holding land as tenants in consideration of rendering services were excluded.

Generally, the rent of permanent tenure holders was not subject to enhancement (Section 30). The Goalpara Tenancy Act of 1929 continued to vest the rights of occupancy to raiyats who were enjoying this right immediately before the commencement of the Act. It further endowed the status of settled raiyats to persons holding lands for a continuous period of at least twelve years either before or after the commencement of this Act, even where the lands or holdings thus held were different. The only stipulation for endowment of the status of a settled raiyat was that the person must have held land, either singly or as an heir or as a co-partner raiyat, continuously for a period of twelve years. The same stipulation
applied to 'Jotedars' so far as rights of occupancy were concerned. The right to transfer or bequeath holdings was also allowed and the prevalent laws of the land were applicable in this regard. However, when an occupancy tenant transferred his holding, wholly or partly, the transferer and the transferee were both jointly and severally liable for payment of arrears of rent due to the landlord at the time of the transfer. An occupancy tenant was allowed to enter into a complete unfructuary mortgage in respect of his holding, either wholly or partly, for a period not exceeding nine years. A tenant enjoying the right of occupancy over any land was entitled to use the land in any manner so long as the value of the holding was not materially impaired thus rendering it unfit for the purpose of the tenancy (Section 27).

The rent of an occupancy jotedar could be enhanced by three annas in the Rupee once in every fifteen years. Similarly, the rent of an occupancy raiyat (other than raiyats on fixed rate) could be enhanced by 18.75 per cent or three-sixteenths of the rent previously paid by the raiyat. But, the rent fixed under a contract was binding for a period of fifteen years from the date of the contract. Restrictions were placed on the discretion of the landlords enhancing the rents of their holdings given to occupancy raiyats. They could enhance rent of a holding only if (i) it was less than the average rent of a similar holding in the same or adjacent village, (ii) if the average local price of staple agricultural crop
grown in the same or adjacent village had risen, (iii) the landlord had made substantial improvements in land contributing to enhanced productivity. Any enhancement of rent not justifiable according to any of these criterion was barred for a period of fifteen years next following the date on which it had been so enhanced. Similarly, an occupancy jotedar or an occupancy raiyat could claim reduction of rent if (i) the productive powers of the soil of the holding had deteriorated by a deposit of sand or due to any other specific cause for no fault of the raiyat, (ii) there was a fall in the average local price of staple agricultural produce grown in the same or adjacent locality during the currency of the present rent.

Jotedars and raiyats who had not acquired the right of occupancy in the land were known as non-occupancy jotedars and non-occupancy raiyats. Such tenants had a heritable interest in the holding but had no right of transfer, unless specifically consented by the landlord. A non-occupancy tenant was liable to pay the rent as agreed between him and the landlord. The rent of a non-occupancy tenant could only be enhanced by a registered agreement. If so enhanced, the tenant was entitled to occupy his holding at the enhanced rate for a period of five years from the date of such agreement.

The Act also spelled out the methods of payment of rent. Money rent was payable in four equal instalments each falling due on the last day of each quarter of the agricultural
year. Arrears of rent were charged simple interest at the rate of one anna per Rupee per annum from the date of expiry of that quarter in which an instalment fell due.

So far as ejection or eviction is concerned, no tenant could be ejected from his holding except in execution of a decree (Section 65). A permanent tenure holder, a raiyat at fixed rates or an occupancy tenant could not be ejected for arrears of rent, but his tenure or holding was liable to sale in execution of a decree for the rent thereof, and the rent being the first charge thereon (Section 68). A non-occupancy tenant was liable to be ejected if he failed to pay arrear of rent or if he had used the land in a manner which rendered it unfit for the purposes of the tenancy or in the case of breach of contract. A holder of a permanent tenure also could not be ejected by his landlord except in the case of a breach of contract. A raiyat holding land at fixed rates or a jotedar or a raiyat having rights of occupancy could be ejected only in the event of use of the land in a manner which rendered it unfit for the purposes of tenancy or for breach of contract. In case of a written lease, the tenant could be ejected on the expiry of the lease. An under-raiyat was liable to be ejected on the expiry of his term of lease or on failure to pay the rent whichever was earlier. Further, the landlord could terminate the tenancy by giving to the under-raiyat a year's notice.
Every tenant thus ejected was entitled to compensation for improvements in land effected by him or by his predecessor-in-interest.

The Act of 1929 also provided for sub-letting by different holders. Accordingly, a jotedar could sub-let his holding, wholly or partly, at a rent payable to the jotedars which was equal or proportionate, to the rent which the jotedar paid to his landlord. Likewise an occupancy raiyat could sublet his holding, wholly or partly with the consent of the landlord for a maximum period of nine years. A non-occupancy tenant was allowed to sublet the whole or part of his holding with the consent of the landlord for a maximum of five years.

A permanent tenure-holder or a raiyat at fixed rates had full rights over all standing trees on his land, unless precluded by a contract. An occupancy also had full dominion or right of possession over the standing trees on his land except the 'sal' or 'sisu' variety of timber. But a non-occupancy tenant and an under-raiyat could not, without the landlord's consent, fell any valuable tree or appropriate its products and fruits, standing on his land.

V. Assam Tenancy Act of 1935

Like the tenants of permanently settled areas of the Goalpara district the tenants of temporarily settled areas of Assam also felt the need for tenancy reform to do away with
the inconveniences and disadvantages faced by them for a long period of time. In such areas a person might be in occupation of land for years and yet was not having any occupancy rights. He could be ejected from the holding at the pleasure or will of the landlord. These disadvantages dissuaded the tenants of the temporarily settled estates to effect any improvement of land and the productivity of their holdings, thus depriving investments in land. Besides, for want of a comprehensive tenancy legislation, the tenants were insecure in respect of their tenancy. With a view to fulfilling this long felt need, the Assam (Temporary Settled Districts), Tenancy Act was passed in 1935. It expressly provided for endowment of rights to the actual tillers of the soil. This Act of 1935 also regulated the relations of landlord and tenant in the temporarily settled districts of Assam, namely Kamrup, Sibsagar, Darrang and Lakhimpur.

Under this Act the tenants were classified into two categories, viz. Raiyats and Under-raiyats. Raiyats were further sub-divided into three types, (i) Privileged raiyats, (ii) Occupancy raiyats, and (ii) Non-Occupancy raiyats. A person holding land for a continuous period of not less than 12 years at a rent not exceeding the revenue rate or half the revenue rate was deemed to be a Raiyat (Section 4(1)). Alternatively, a person who rendered service or paid a "bhog" (articles of food customarily offered to a deity) could also be a raiyat.
A privileged raiyat had the privilege of using the land in any manner he liked so long as it did not materially impair the value of the land or rendered it unfit for the purposes of tenancy. He was also entitled to plant and to enjoy the flowers, fruits and other products on the land, to utilise and dispose of the timber, grown in his holding (Section 15). A privileged raiyat could not be ejected by his landlord except in execution of a decree for ejectment passed on the ground that he had violated any of the above-stipulated condition. If he died without any testamentory succession, his holding would pass on to his heir just as other immovable properties. The privileged raiyat had the right to transfer his holding after giving proper notice to the landlord. He also had the right of sub-letting his holding either wholly or partly.

A raiyat holding land continuously for a period of 12 years acquired the right of occupancy in that land (Section 13). A clear distinction was made by this Act between a raiyat and a sharecropper. A share-cropper, generally known as a cultivator under the 'adhi' system (also called 'bhog' system) was not included under the definition of a raiyat (Sub-section 6 of Section 13). So far the provisions relating to rights of occupancy and use of land of a raiyat in the temporarily settled districts were concerned, the main provisions incorporated in the Goalpara Tenancy Act, 1929 were included in this Act too. An occupancy raiyat would pay rent for his
holding at fair and equitable rates which were ordinarily deemed to be the rates previously paid. In case of occupancy raiyats too the same provision as those for the privileged raiyat applied in the matter of ejection or in the event of the occupancy raiyat dying intestate. So far as the right of transfer was concerned, the occupancy raiyat had unrestricted right in respect of his holding after giving due notice to the landlord. Similarly, he could sublet whole or part of his holding. The money rent paid by the occupancy raiyat could be enhanced by a written and registered contract provided that the enhancement did not exceed three annas in the rupee. The enhancement of rent was possible only once in every 15 years period (Section 22). Under this Act an under-raiyat was liable to pay the rent as per agreement between himself and his landlord. However, the rent could not exceed by more than 50 per cent of the rent paid by his immediate landlord (Section 38). The under-raiyat was liable to be ejected on his failure to pay arrear rent, refusal to agree to a fair and equitable rent, misuse of land resulting in breach of contract, due termination of tenancy (for which a six months notice was stipulated), or on expiry of the lease (Section 39). The holding of an under-raiyat dying intestate passed on to his heirs as other immovable properties. An under-raiyat could transfer his holding either to a co-sharer or to his heir. The under-raiyat had no right of sub-letting his holding. It will thus be seen that Privileged and Occupancy raiyats, could not be ejected for arrears of rent, but their holdings could be sold, in execution
of a decree for recovery of rent.

With a view to regulating the re-assessment of land revenue in Assam, the State Government enacted, the Assam Land Revenue Re-Assessment Act in 1938. In determining the new rates of rent or revenue, the Act provided that due consideration shall be given to (a) the economic condition of the cultivator, (b) the value of the agricultural product, and (c) its cost and (d) the market value of the holding. For this purpose the villages and the cultivable fields therein would firstly be classified, whereafter a fair rate of rent would be fixed for each class of holding in each village. In case of lands settled or used for special cultivation (tea cultivation), the assessment shall be at a fair allround rate per bigha. In classifying the villages within each assessment group due regard was expected to be given by the Settlement Officer to the existing assessment and to their other relative advantages and disadvantages relating to the fertility of the soil, communication facilities, availability of markets, and the risks of damage and loss by natural causes or from wild animals, besides the economic condition of the agriculturists. It was also stipulated that the comparative value of the land would be reckoned with while making such re-assessments. This Act for the first time clarified the extent to which the land revenue could be changed according to changes in prices. The assessment was subject to revision if the land once assessed as an agricultural holding was subsequently used for commercial
or industrial purposes. It will thus be seen that this Act laid down for the first time the broad principles governing the assessment of land revenue.

VI. Sylhet Tenancy Act, 1936

In 1936 another Act called The Sylhet Tenancy Act was enacted with the objective of consolidating and amending certain earlier enactments governing landlord-tenant relations in the district of Sylhet (now in Bangladesh). The Act classified tenants into three classes, viz. (1) Tenure-holders including under-tenure-holder, i.e., persons who had acquired from a proprietor or from another tenure-holder a right to hold land for the purpose of collecting rent, or for bringing it under cultivation by settling tenants on it (Section 5(1)), (2) Raiyats who had acquired from a proprietor or a tenure-holder or from a land-holder right to hold land for the purpose of bringing it under cultivation by himself or by any member of his family or by successors in interest who had acquired such rights (Section 5(2)); and (3) Under-raiyats holding land immediately under a raiyat (Section 5(3)). This third class of tenants were actually sub-tenants.

Generally, the rent of permanent tenure-holders and of raiyats, once initially fixed, could not be enhanced. To ensure fixation of a fair and equitable rent it could be enhanced only up to a limit which would not leave to the permanent
tenure-holder less than 10 per cent of the balance as profit after deducting from the gross rents payable to him the expenses of collection. The rent could not be enhanced again up to 15 years. A permanent tenure-holder also could not be ejected except in the case of a breach of contract between him and the landlord. Likewise, a raiyat holding land at fixed rates could not be ejected except when he had rendered the land unfit for the purpose of the tenancy, or had violated any term or condition relating to the use and occupation of the land as previously agreed upon by him and the landlord. The permanent tenure-holders as well as the raiyats holding land at fixed rates could not be ejected for arrears of rent, but the tenure or holding was liable to sale for recovery of such arrears.

The Sylhet Tenancy Act of 1936 continued to vest the rights of occupancy to raiyats enjoying such rights before the commencement of this Act. It further endowed the status of occupancy raiyats to persons holding lands for a continuous period of twelve years, wholly or partly, before or after the commencement of this Act. But tenant holding proprietor's private lands could not acquire the right of occupation. The right to transfer the holding was allowed to the occupancy raiyats. However, when an occupancy tenant transferred his holdings, wholly or partly, the transferor and the transferee were both jointly and severally liable for payment of arrear rent.

As in the Goalpara Tenancy Act, an occupancy tenant
under the Sylhet Tenancy Act could also enter into a complete usufructuary mortgage in respect of his holding, either wholly or partly, for a period not exceeding nine years. Sub-letting was allowed in the case of an occupancy raiyat for a period of nine years but not more. An occupancy raiyat was entitled to plant and enjoy the flowers, fruits and other products in his holding and had full dominion over all standing trees. He could not be ejected for arrears of rent but his holding or tenure was liable to sale. The other grounds for ejectment were also the same as those laid down for the raiyats holding land at fixed rates. Every ejected tenant was entitled to compensation for improvements in land effected by him or by his predecessor-in-interest.

The under-raiyats would pay such rents as was agreed upon between him and his landlord. However, the rent payable by him could not be less than that payable by the raiyat to the landlord (Section 63). The under-raiyat had no right to transfer his holding even during the period of the lease but his interest on the land-holding would descend to his heir(s) in the event of his death. The under-raiyat was liable to be ejected in the event of his failure to pay arrears of rent or if he used the land in a manner rendering it unfit for the purpose of the tenancy. He could also be ejected on the expiry of the term of period of lease (Section 66). Similarly, the tenancy could be terminated by the raiyat by six months' notice. The under-raiyat had no right of sub-letting (Section 68).

The Act also provided for the methods of payment of
rent. Money rent was payable in three equal instalments, each due on fifteenth day of Bhadra, Magh and Chaitra months (Section 69). Arrears of rent were tenable to be charged simple interest at the rate of 9.375 per cent, per annum, calculated from the date on which the instalment fell due (Section 82).

The Act further provided for the preparation and maintenance of tenant's record-of-rights. It also provided for survey and record of all the lands which were regarded as proprietors private lands (i.e. cultivated as 'Nij-jote' or 'Khamar' by the proprietor himself or were allowed to be reserved by the proprietor for the accommodation of his family and other relatives or for his personal and estate staff). No rent was charged on such private lands.

VII. Assessment of Tenancy Acts in the Pre-independence Days in Assam:

(1) Occupancy Rights: The status of the tenants and their rights were clearly defined by the Goalpara Tenancy Act, 1929, Sylhet Tenancy Act, 1936 and Assam (Temporarily Settled Districts) Tenancy Act, 1935. All these Tenancy Acts defined 'tenant' as a person who held land of another person on the condition that he would pay rent to the latter in accordance with the contract made between them. These Acts recognised different types of tenants and differentiated them with different rights of occupancy. While some had permanent, heritable
and transferable rights, others had heritable and transferable rights without any permanent rights. A non-occupancy tenant in all the Acts had no right of occupancy in the land held by him. A time limit was provided for acquisition of occupancy rights.

(2) *Eviction of Tenants*: All the Tenancy Acts of pre-independence Assam put certain restrictions on eviction of tenants by landlords. All the restrictions were almost similar. The chief grounds on which the tenants could be evicted were - (i) non-payment of rent; (ii) converting the land into one unsuitable for cultivation; (iii) breach of contract and (iv) expiry of the lease in case of under-raiyats.

(3) *Enhancement of rent*: The Acts made provisions regarding enhancement and reduction of rent paid by tenants. They put time limit on such enhancement or reduction. The grounds for enhancement were - (a) increase in production, (b) increase in prices of agricultural products and (c) improvements made on land by landlords etc. Similarly, reduction in rent was provided for (i) decrease in production and (ii) fall in the prices of agricultural products. The enhancement was made by a registered agreement.

(4) **Land Revenue to Government and Rent paid to landlords** :

The tenancy Acts did not specify quantitatively land revenue and rent on land. Rent to be paid by a tenant was termed 'fair and equitable. The privileged raiyat was to pay rent
equal to land revenue and under-riayats had to pay higher rate of rent. The rent was usually fixed by an agreement between the tenant and the landlord.

(5) Sub-letting and Under-riayat: Sub-letting of lands was restricted to only permanent tenure-holders, Jotedars, Occupancy Raiyats and privileged raiyats. The under-riayats had no permanent rights on land. They were generally in occupation of the land for a certain period of time on lease basis which could be terminated by serving a year's notice. The under-riayats had no right of sub-letting and they had to pay higher rents than other raiyats.