

**THE
BOMBAY LAND SYSTEM AND
—VILLAGE ADMINISTRATION—**

THE
BOMBAY LAND SYSTEM
AND
VILLAGE ADMINISTRATION

IN SIX PARTS.

*Legal, Technical, Administrative, Historical,
Practical and Agricultural.*

*With Special Chapters on Agricultural
Industry, Agricultural Indebtedness,
Small Holdings and Rural Reconstruction.*

*(Incorporating the Land Revenue Code as amended upto date
with the latest and important rules, relevant
Government Resolutions and recent Case-law.)*

BY

D. S. MODAK, M.A., LL.B., J.P., A.I.R.O., F.S.Sc.,
Bombay Civil Service.

Price Rs. 8/-

(All Rights Reserved)

9660

Printed at the Oriental Watchman Publishing House, Salisbury Park,
Poona by Mr. J. C. Craven Parts I to IV, pages up to 287, and
at the Aryabhushan Press, 936/3 Peth Bhamburda, Poona
City by Mr. Anant Vinayak Patwardhan the re-
maining pages, Parts V, VI and the Index.

Published by Mr. D. S. Modak,

13 Kahn Road, Poona

Cantonment.

FOREWORD.

By

Sir Chunilal V. Mehta, K.C.S.I., M.A., LL.B.

I am very glad that Mr. D. S. Modak, M.A., LL.B., has found time to write his book entitled *The Bombay Land System and Village Administration*. He has had special opportunities both as a Revenue Officer and as Superintendent of Land Records to study the complicated Bombay Land Revenue System. During my tenure of office as Revenue Member I came across Mr. Modak's work. I found him an able and conscientious officer and I think his book consisting of six parts and dealing with all the important problems of assessment, settlement, survey, the different systems of land tenure, village administration and rural economy will serve a real need. There are of course publications dealing in detail with these matters, but they are generally technical and intended for the use of Government Officers. Several of them moreover are out of print. There is also available to the public Mr. Joglekar's book. Mr. Modak, however, has set out to deal with the various complicated problems of land revenue administration in non-technical and readable form for the benefit of the general public. It is unfortunately true that the ordinary member of the public or the college student has generally kept away from these subjects. With the enlarged councils, however, that will soon come into operation and the transference of reserved subjects to the control of non-officials in the councils, these questions will demand close and detailed attention. There is already a wide interest created by complaints against the assessment of various

tracts and the general land revenue administration of this presidency, and every publication which sets forth true facts will be of great use. I think Mr. Modak's record in his official capacity and his contact with the cultivators in various ways and his sympathy for them ought to be a guarantee of the value and usefulness of his book.

3-11-1932.

(Sd.) CHUNILAL V. MEHTA.

PREFACE.

There is no up to date book on the Bombay Land System and Village Administration. No separate book has yet been written on the Village Administration. There are books written on the Indian Administration in which the powers and duties of Ministers, Presidents of Councils and other High Officers are described, but very little is said in them about the Patel and Kulkarni who are the most important functionaries in the villages. India is mostly a land of villages; the constitution and position of the village are of great importance in the Bombay Land System, and the Village Administration is the key to the Land System.

There are various subjects connected with the Land System. Different books have been written on these different subjects *e.g.* the Land Revenue Code, Survey and Settlement Manuals, the Watan Act, the Revenue Accounts Manual. The first two are out of print. Some of these books are too voluminous and too technical for the average member of the public, the average subordinate Revenue Officer, the busy Legal Practitioner, and the law student who has neither the time nor the inclination to wade through each of these. In the summary of the replies to the Questionnaire issued by the Land Revenue Assessment Committee, the Author of the Survey and Settlement Manual who was an experienced and senior Collector stated "From the replies received from the local people to the questionnaire as well as from the debates in Council—it is clear that there is the most appalling ignorance among the educated public as to the most elementary points about the system and there can be no doubt that the ignorance constitutes a serious political danger in present circumstances. The Survey and Settlement

Manual does contain a statement of the history and principle, but it is now out of print and is in any case rather too detailed for ordinary consumption. What is wanted is a summary of the history for popular consumption dwelling on the main points." Page 212 Land Revenue Assessment Committee's Report. One branch of the Land System is Survey and Settlement, there are other branches Viz: Tenures, Watan, Revenue Procedure. This book deals with all the branches.

The purpose of this book is to convey within a moderate compass, general information on the Land System and to present in one single book its main principles without giving unnecessary details. Many readers do not care for full details and the official students want the leading principles indicated or need only to be enlightened on such points as bear directly on their daily duties. Now has arisen the necessity to provide such a book as shall answer the purposes of the ordinary student of the Land System, and shall yet give sufficient practical information on technical points. It is easier to write a detailed account of a particular subject than it is to select the precise features of the whole system which will give the correct information in a short form and in comparatively untechnical language. It is designed to help all those who are interested in, connected or concerned with the Land System and Village Administration—Non-Officials, Officials, Landholders, Revenue Officers, Legislative Councillors, Lawyers, Jahgirdars, Inamdars, and Law-students. It is hoped, it will be also useful to the students abroad, in England and on the continent and in America, who are required to know something of the Land and Village Administration of this country. It is essential that both the electors and their chosen representatives should know more fully about the land system than they do at present. One of

the objects of compiling this book is humbly to assist those who will be responsible for guiding the future Revenue Administration of this Province as well as those who will have to deal with the problems of district work.

Strenuous efforts have been made to avoid all but the most necessary expressions of editorial opinion leaving the facts to speak for themselves. I have aimed at setting forth the true facts and a careful avoidance of all exaggeration and extenuation. For the accuracy of the statements and for expression of opinions whenever I could not avoid giving it I alone am responsible. There are many questions that can hardly be said to have two sides. There are a few questions of a debatable character that call for an early decision.

In the First Part, all the salient aspects of the system of assessment and Settlement are given. The Second Part deals with Survey, Land Records and Classification; these are the foundation of the Land System. In the Third Part Land Tenures, Watan and the main principles of Inams are described. The Fourth Part deals with Village Administration and with subjects vitally connected with it such as agriculture, small holdings, and tenancy. In the Fifth Part and this is a special feature of the book, the Land Revenue Code is given as amended up to date with all the sections together with the important rules under the sections, the latest important relevant Government Resolutions, Case-law, (recent High Court cases) to facilitate ready reference. The recent G. Rs. and Land Revenue Rules have superseded a number of the old G. Rs. It no doubt detracts considerably from the usefulness of a book if unnecessary and old G. Rs. and case law are piled up. In order to provide a helpful and reliable manual for every day use, with regard to the

G. Rs. and case-law, I had to go carefully through a selective process. In the Sixth Part technical terms and vernacular expressions are given such as it is necessary to know, in order to understand the land system. A word of special gratitude is due to my old college friend, Professor, C. D. Pinto, M.A., LL.B. who was good enough to carefully go through all the parts of the book. Also I am grateful to Mr. N. S. Joshi, Retired District Inspector Land Records, who was one of the ablest officers and who knew the technical work well, for valuable suggestions. I wish to record the great help I got from Mr. N.K. Pongshe in correcting the proofs and in arranging the index and table of cases and the table of G.Rs. I must acknowledge the great assistance I have derived through various works too numerous to mention here. I am obliged for the assistance given by Mr. K. V. Kulkarni B.A., LL.B., High Court Vakil, Satara, and by Messrs. A. K. Buddhanavar, D. G. Deshpande, G. D. Zankar B.A.

Poona,

D. S. MODAK.

1st November 1932.

the whole land belongs to the King. (100)
(en) till it for 1/4 produce in lieu of wages".
(o-Megasthenesis and Koutilya, p. 93). Bernhard
(16) our, whose work was published so recently as 1927,
(17) arks about the above statements "The conjoint testimony
Diodorus and Strabo regarding State-Ownership of land is
ported by the fact that the same view is an axiom of the
cient Indian Public Law". There is complete corrobora-
on of this found in Koutilya's chapter on the replenishment
f the treasury, Artha-Shastra V. 2. Prof. Buhler of Vienna,
ne of the foremost scholars declared "As a distinct
ecognition of the principle that the ownership of all land is
vested in the King".

(18) Chandragupta, the Great, had to raise money for his
rs. He and his Chancellor were at their wits' end to
lect a sufficient amount of money. The legal taxes were
t productive enough for the purpose. They had to—as is
ident from Artha-Shastra—have recourse to other methods
hich demonstrated the majesty of the law on the one hand
d the inconvenience of a rigid legal revenue on the other.
(20) ishymitra, while commenting on Panini V. 3, 97, humo-
e usly remarked that the Mauryas who wanted gold raised
er by instituting images of gods for worship. In the Jaina
tradition Chanakya is alleged to have issued 800 million
debased silver coins called Karsh-panas to fill the treasury
Koutilya mentions "half cultivation (Ardh-sitika)", land
being cultivated in return for 1/2 produce. Also non-agri-
cultural revenue was collected as mention is made

(21) House-Tax in Yajna-Valkya II. 153 Vide Prof. Dil

(22) "Hindu Administrative Institutions" page 318.

(23) From the ancient authorities quoted above
(24) the ruler of the country, for the time
entitled to appropriate a

produce of all land for the public use. In these days land revenue does not exceed even 1/5th of the agricultural and pastoral produce in India as compared to the 1/3 taken by former Governments.

In 1835 the early British System commenced. P. Ray, Professor of Economics in the Calcutta University states in his book 'the Land Administration in India' "Government now takes a very much lower share of the gross produce than was customary in the pre-British Days".

The smallest administrative division was a grama (village) reckoned by Koutilya as constituting 100 to 500 families. The next administrative division was a Sangrahaṇa, group of villages, 7 and upwards, Dronemukha consisted of 400 villages and Sthawira of 800 villages. The area of a grama comprised roughly 2 square miles. It had different Margas (roads), Raja Marga was the King's road. The width varied from 3 to 15 haths (cubits) Vide Sukra I, 198. The Gramani was the village officer who had both Civil and Military powers. The headman was an officer of position held in high esteem by the King. "He treats with Havi the headman of the village corporation because he assuredly is one of his jewels".

India, I repeat, is fundamentally agricultural. 3/5 of the population are cultivators who live in villages. The population of India is 338,170,632* composed of 45 different races speaking 170 different languages, and divided into 1600 sub-castes. This population is largely dependent on agriculture and is crowded in flat lands which depend on the rain.

There is no accurate estimate of all the arable land of the whole of India, but a large part of the area still

of the U.S.A. is 122,775,046 and

INTRODUCTION.

The Indian problem is the land problem. The study of the land system is of the utmost importance to everybody interested in the advancement of India. Anyone who aims at understanding India and its administration must first know this system. For the land-owners, agriculturists, Inamdars, Legislative Councillors, Economists, Revenue Officers, Lawyers, Social Reformers, and for all those who aim at the welfare of India, the comprehension of the broad features and main principles of the land-system is absolutely necessary. But, owing to the supposed difficulties of the subject as also for want of simple books on it, a large number never tackle it at all or care to learn its principles. Consequently they lack a good deal of knowledge which would help to confirm and improve, strengthen and establish the principles and practice on which so much depends in India. By understanding the Land system one can gain greater knowledge of Indian Government than in any other way. The State derives its principal revenue from the land. As agriculture is the basic industry of the Bombay Presidency, on the prosperity of which so largely depends the welfare of the masses, a study of the land-system and village administration is urgently needed in order to improve agriculture in this country.

Importance of the study of the land system:

The land system formed the subject of primary consideration in the economic history of Ancient India in conformity with the Artha-Shastra (Science of Wealth). The most ancient literature available in India is of the Vedic times. The land system in most ancient times.

It is held to be the foundation of the whole social system over a number of the Vedic days. The Vedic Aryas lies largely from abroad, from the west of the economic and rural. In hymn VII,

6, 5, King Nahusa is said to have ordered the people to pay taxes. According to the last verse of a hymn in Rig Veda, the King becomes the sole taker of taxes from the people. A couplet runs in the Artha-Shastra "Those who are well-versed in the Shastras admit that the King is the owner of both land and water and that the people can exercise their rights of ownership over all other things excepting these two." Long before the close of the Vedic period the land tax was obligatory. The King was "Lord paramount of the soil", Manu VIII, 39. In the Mahabharata days the King got the revenue from land as his wages for the service of administration.

"The 1/6 Bali tax, import and export duties, fines and forfeiture collected from offenders—gathered in accordance with the Shastras (law and constitution), as your wages, (Vetanena) shall constitute your revenue." Mahabharata, Santi P. LXXI. 10.

Also in Sukranitisara I, 188, it is mentioned 'getting his wages in taxes for the purpose of continuous protection and growth though Master in form, the Servant of the people'. In ancient India revenue was derived partly from taxation and partly from other sources. An appreciable proportion of revenue came from the land. Koutilya estimated it to be 1/3. There were crown lands "Swabhumi",—Artha-Shastra Book II, St. 24. The mainstay of the revenue was the King's Bhaga Cf. Manu VII. 130-132. The evidence of Megasthenes concerning the Land Revenue System of the Mauryas is interesting. There are two translations of his writings as follow:—

"They (Viz: husbandmen who formed the second of Megasthenes' seven castes) pay to the King a land rent because all land belongs to the King, while private individuals are not allowed to acquire property. ^{of} contribute 1/4 to the royal share' _{of}

th uncultivated and untenanted, it is waving with trees
D armuring with water, and within it are immense
y es untapped, and cultivation can be multiplied if there
ness and energy applied in the right direction.
ervation of water during its flood rush may irrigate still
more lands than now and those almost desert. A further
hope lies in the subteranean water supply that can be reached
by boring. The Presidency may be divided into two portions,
the Deccan Plateau and the Maritime Plains. In these
portions there are different tracts in which different crops
grow. In the coastal districts there is more rice than in the
interior, that is above the ghats, and the desh where the
Jowari, Bajri, Gram, Groundnuts, Cotton and Wheat are
grown. But the wheat plant grows practically in all parts of
a where there is soil fertile for its production. Wherever
t grows the human race can find a congenial home,
in t h for comfort and cold enough for vigour. What
wa ed is a development of the wheat crop in India.
ensive cultivation and better methods of agriculture
an raise the present out-put per acre.

onsider Belgium where 7,932,000 people live, or 675
e square mile. It is a country of intensive cultivation of
oil, of land improved, drained and utilized to the last
ee. The greatest part of the population lives directly
ndirectly on the land and its produce. This does not
t that they are all farmers; there are shop-keepers of a
e where the farmers (and no others) deal, there is a
urme (and no one else) who k eeps the farms in order,
acher (and nobody else) who exorts the farmers. If
e farmers, who are supporting these people? But in
um there are also great industries employing in the
ies over a million men and w omen and ing their
es largely from abroad, from t he Congo, fi

Comparison
with
Belgium
and its
industry.

from America. Belgium imports raw material, and manufactured goods abroad to the extent of 2½ times she buys from foreigners. (17,000,000 francs against 7,000,000 francs).

The part of the population responsible for this does not live off the natural resources of Belgium. Even if it consumes homegrown food, this is set off by the export land surplus which it creates, whereas in England the people engaged in agriculture comprise but 6 per cent of the population, while in France they form 40 per cent., in Italy 35 per cent., in Russia 72 per cent. and in Jugo-Slavia 80 per cent.

The memory of the reader will be refreshed by a reference to the history of India in general and of the Bombay Presidency in particular, to ascertain what influence the Muhammadan Kingdom and later the Marathas brought to bear upon the land-system. In the early days, there were series of loosely connected states constantly at war with one another, overrun from generation to generation by Dravidians, Greeks, Northern Br Rajputs, Jats, Afghans, Mughals and the Marathas. The early history of the Deccan is traditional; though in the Deccan the various successive conquests followed one another, and one rule succeeded another. In the 6th Century under Vikramaditya, it formed part of the Malwa Kingdom. In the last years of the thirteenth Century, the Deccan Districts were first conquered by the Muhammadan Empire at Delhi having completed the conquest in 1338 A.D. At this time the great Bahamani Kingdom arose. For a very brief period the Mughal sway was established over this; but it was divided into five parts, Ahmednagar (Nizam Shahi), Bijapur (Adil Shahi), Golkonda (Kutub Shahi) and two lesser ones B

The Mughals from Delhi attacked these Kingdoms and there was a suicidal struggle between the two, till at last the Deccan was subjugated by Delhi. The Marathas took advantage of the struggle. They sided with one and then with the other, and subsequently crushed both. Traces of the Maratha Power are clearly seen in certain parts about the Deccan villages. When there were invasions from the North, the invaders who adopted Budhistic faith left their marks in the well known caves that the visitors see at Ellora, Badami, Karla. The great development of the Maratha Power commenced with the rise of Shivaji; other branches also came forth, Viz: Nagpur (of the Bhonsla) Indore (Holkar) and Gwalior (Scindia), Baroda (Gaikwar). The great Confederacy of the Maratha clans was designated as *Maharashtra—Magna-regio* and a special dialect "Marathi" was developed. Bengal and Orissa were attacked by the Bhonsla. The Central power was that of the Peshwa who was defeated in the North by Lord Lake and the treaty of Sirji-Ajangaon was signed in 1803. Then there was cession of some Bombay territory. At last owing to the disruption of the Peshwa's Kingdom in 1817, the other territories of Bombay came under the British; the Maratha Confederacy had a downfall. The six districts of Gujarat, Northern Division, were long under the Muhammadan rule. The Deccan districts of the Central Division, and Karnatak—Belgaum, Dharwar and Bijapur were under the Marathas. The District of Kanara was attached to the Bombay Presidency in 1862; formerly it belonged to Mysore. The sea side districts, Konkan, were under the Marathas. The peculiar revenue farming system there gave rise to the Khoti tenure. The Government of Bombay was formally vested in a Governor with three Councillors in 1793. During 1803-1818, several of the territories of Bombay were taken from the Maratha—Peshwa and the Nizam. The

Island of Bombay was ceded to the Crown of England by Portugal by virtue of a treaty entered into on 23rd June 1661, on the marriage of King Charles II with Catherine Infanta of Portugal. The land revenue administration of the Presidency Town (Bombay City) differs from that of the Mofassil. There are special tenures, freeholds, leaseholds (tokas), and there is a separate Act for the Bombay City "The Bombay City Land-Revenue Act No. II of 1876."

Direct
relation
between the
Government
and cultiva-
ting classes.

The most important legacy which the British Government received from the Maratha administrative system was the direct relationship between the Government and the cultivating classes through the hereditary Village Headman. The Village customs, ways of living, prejudices, social codes, habits of thoughts are not those of the official classes. The Patel is a medium between the Officers of Government and the inhabitants of the village. The Patel interprets the orders of Government to the villagers, he is the spokesman who explains the villagers' view to Government. With this object the Patel was given a watan (grant of land for service). The highest Maratha Chiefs prized these watans more than high sounding titles. For a village organization to be vigorous the Patel must remain in a position of dignity as well as of responsibility.

Unit of ad-
ministration
is the
village.

In the Bombay Presidency, the unit of revenue administration is the village (called Mouze a small village, a Kasba a big village). When the races passed from a nomadic stage to the agricultural and settled upon lands, they formed certain groups of landholdings more or less connected, and these were called the "Village." They have a central aggregate of residence and a common bond. The village system is the key-stone to the arch on which the stability of the whole revenue administration of the Province depends, and so the efficiency of the Village Officers is a

matter of supreme importance. More than 3/4 of the people in India live in villages and less than 10 per cent. of the population is urban as compared with 78 per cent in England or 48 per cent in Germany. In the Bombay Presidency, 18 per cent of the population is urban; this high percentage is due to the existence of cotton Mills in Bombay, Ahmedabad, Sholapur and Hubli. There are 19 districts in the Presidency proper and 8 districts in Sind, (Dadu is the new district) and 215 Talukas and 38 Mahals in the Presidency proper and 59 Talukas and 2 Mahals in Sind. There are 22,905½ villages in the Presidency proper and 5,389 in Sind. Including the States, Agencies and Aden, the total population of the whole Presidency is 3,03,22,512. The village problem is very difficult, and most urgent reforms are needed in the village. If India is to advance, the village must first advance; it is no use beginning at the wrong end in the cities and improving the intelligentsia before the villages which remain for centuries together as they are.

The present wasteful, uneconomic and primitive methods of agriculture and the living of the villagers need change. Strenuous efforts are required from those who are interested in the real renaissance of India to effect that change in the psychology of the farmer and in his personal and social habits without which his condition in life cannot be improved. There will be opposition, from those who are sunk in conservatism, and apathy, but, if the aim is to improve the village, then it is necessary to show to the villager what his actual condition is.

India being mainly an agricultural country, the revenue derived from the land is the greatest item of the financial administration. At present the revenue realized from this source in the Presidency proper (Gross fixed revenue including non-agricultural and other uses) is Rs. 4,50,13,582 and in

Rural Re-
Construction and
Village
Uplift.

Bombay
Land
Revenue
System is
splendid.

Sind it is Rs. 3,93,49,109. The settlement of revenue is one branch and the collection and administration of revenue is another. Under the pre-British system, there was no distinction between the two branches, because settlements were made annually, demand being fixed for each village by the District Officer. The method of administration differed in different territories which form the Bombay Presidency as now constituted. There was no uniformity. So long as the pre-British Governments were strong, they continued, though under altered names, the Aryan System of administration, but when the officers were left with less control than they had before, there appeared the revenue contractors who became Zamindars. Out of confusion order was evolved and a land revenue system was created by the British Government which was capable of being administered from one supervising and responsible centre for the mutual benefit of the Government and the governed. Of all the Provinces in India, the growth of land revenue in the Bombay Presidency has been most satisfactory on account of the careful and scientific system of assessment and survey. In no other provinces are there such detailed rules and regulations of Classifications, Measurements and Boundary Marks as are found in the Bombay Presidency. In no other provinces are the Survey Records, which are as valuable as the currency chests in the treasuries, so well prepared, arranged and kept, and assessment so minutely and precisely worked out as in Bombay. A visit to the District Survey Office will convince the reader how elaborately and accurately the survey records had to be prepared and how they are preserved.

Criteria of
a sound
System of
revenue.

The criteria of a sound system of land revenue are (1) that it should provide accurate maps, accurate Survey Records, (2) that the revenue realized should be adequate, equitable and collected without difficulty or hardship, (3) that

it should be simple and inexpensive. Judged by these criteria, it can be safely said that, although there are certain important matters which call for adjustments and alterations both in doctrine and practice on account of the changes gradually accumulated in the last hundred years, the Bombay Land Revenue System fulfils all the necessary requirements and is unique. Cultivation has greatly increased and population has increased owing to the sound land system.

The Committee appointed to examine the Land Revenue Systems of Burma, after examining the detailed working of the land system of Bombay, the Punjab, Central Provinces, Madras, remarked "We hold that it should be possible to justify to an intelligent land holder the grounds on which he is assessed and no revenue system can be regarded as satisfactory which does not provide for this. Mysterious calculations in the Settlement Office should be reduced to a minimum and the assessment, as far as possible, should rest on a basis of fact which can be challenged and verified. Some people do, and an increasing number will, desire to know the grounds on which their assessment to land revenue is based. We regard this as a good thing, and we regard it as the duty of Government, by providing the information, to stimulate the desire". When in the land revenue system popular control is introduced and increased, the people will be required to take an increasing interest in it. The people will expect the reformed Government to adjust its demands to its necessities and the assessment will vary with the needs of Government and with its other resources. As expenses are likely to go up for nation building and other activities, and there will be so many calls on the purse of Government, the increase from land cannot afford to go down. This will only be possible when the principles of assessment are generally realized and in the First Part the principles are briefly explained.

It would be worthwhile to remember that Land Revenue is not the cause of the indebtedness of the raiyats as is frequently asserted by some who seem to be ignorant of the actual state of affairs. In fact in England the taxation on land is heavier than in Bombay. If it is held, though incorrectly, that agriculture is bankrupt; it would be just the same, if no assessment were levied. Assessment is not the real cause of the prevailing indebtedness and lowering of the assessment will not in any way improve it. On the contrary the money lenders are sure to be greatly benefited. As compared with the pre-British times as well as with foreign countries, the land revenue assessment is pretty low. If any step is taken in future to reduce the land revenue further, the country will meet with disaster. The Indian Taxation Enquiry Committee has taken the right view that there is likely to be more harm than good by making the assessment unduly light. This Committee has also held that the land revenue is a tax on land and not on persons and that ability to pay can have only a limited application.

Land Revenue is the first charge on land.

The happiness of subjects and the stability of Governments depend upon the way in which revenue is assessed and collected. We know from the History of Europe that in France the old Monarchical Government had conferred much benefit on that country, but when it failed to distribute the taxation fairly over the different classes of the Community and to collect it without oppression, it fell at last with a crash which shook the whole of Europe in particular and the world in general. The collection of land revenue is an important as well as sometimes a difficult matter. The State claims the soil as its own and the income of the Indian Governments, whether Native or British, has always been derived from the share of the produce of the soil. One of the chief duties of the head of the district is to collect the revenue and the local cess. He is not merely the Collector

of the assessment. An American lady who happened to call on the wife of a Deputy Collector asked the latter what kind of work her husband was doing, the answer came that her husband was a Deputy Collector. The American lady thereupon enquired on what Railway Station her husband was collecting tickets!

The Subedar and Diwan of Bengal and Orissa, has been praised by his biographer for his "rigid and impartial justice," his whole administration is stated to have "tended to the benefit of mankind." Yet the same author tells us further that this admirable ruler had the defaulters bastinadoed and in winter stripped naked, and sprinkled with water. But his successor who was related to him out-heroded herod. The infernal pit, mockingly called "Vaikunth" (Paradise), into which he thrust the defaulters is graphically described by Mr. Gladwin and quoted in the II Volume of Harrington's "Elementary Analysis of the (Bengal) Laws and Regulations." These rulers were more prone to screw the revenue out of land holders by personal indignities than by the threat of forfeiting the lands, because, if the cultivator was driven away, there was no one to take his place. When the East India Company became responsible for the Government of Bengal and the United Provinces, the gist of the regulations was that it was more logical and humane to recover arrears by proceeding against the land than against the person of the land holders. The final major coercive processes of arrest of the defaulter are very seldom resorted to and, as a last resort only, the land is forfeited in exceptionally contumacious cases. The land revenue of a holding, being the right of Government to a share of the crops grown, is properly declared to be "the first charge upon the profits, produce and rents thereof. Without the Collector's consent no Civil or Criminal Court

can attach the rents or profits" until the current year's land revenue and arrears are paid.

One of the most important principles of the Bombay Land System is the granting of several concessions and facilities to the agriculturists. The greatest possible latitude and facilities are afforded to the farmer; because so many facilities are given to the agriculturist a well known pleader once humorously remarked that the agriculturist was the "Son-in-law of Government." Nowhere is the farmer treated more liberally than in the Bombay Presidency. The concessions of suspension and remission were unknown before. The levy of increase of assessment is always gradual as will be seen from the Igatpuri Concessions and the Bhiwandi Concessions.

During the last hundred years cultivation has spread vastly, population has much increased, and the demand for land is growing. Fragmentation of holdings is rapidly going on and if the holdings are to be worth cultivation, the evil of excessive sub-division needs to be checked immediately. Owing to these causes as well as through immigration, the rise in prices, rents are now nearly double of what they were 40 years ago. What is needed is a Bombay Land Alienation (Transfer) Act to prevent the agriculturists from becoming landless labourers. Agriculture should be for agriculturists alone. In order to improve agriculture it is necessary to prohibit the land passing out of the hands of the true peasants. Tenancy Legislation is necessary to protect the tenants from arbitrary ejections by landlords, and from frequent enhancement of rent. If there is any improvement effected, there should be some compensation given for it.

From the study of the Modern Land System and Village Administration in the Bombay Presidency, the reader

will be convinced that Great Britain justly claims credit in the eyes of the civilised world for the single-mindedness and upright views with which the Land Revenue Reforms have been approached both by the Local Officers and the Controlling Authority in England. In the various proposals of the former and the final orders of the latter, there is discernible but one tone, that of moderation and justice.

Abbreviations.

Bom. L. R.	...	Bombay Law Reporter.
G. O.*	...	Government Order.
G. R.	...	Government Resolution.
I. L. R.	...	Indian Law Reporter.
L. R. C.	...	Land Revenue Code. Act V of 1879.
L. R. C. R.	...	Land Revenue Code Rules, made by the Government of Bombay under section 214 of the L. R. C.
N. A.	...	Non-Agricultural.
R. D.	...	Revenue Department.
S. N.	...	Survey Number.
T. F.	...	Taluka Form.
V. F.	...	Village Form.
V. O.	...	Village Officer.
W. A.	...	The Watan Act (The Bombay Here- ditary Offices Act.)

* G. Os. *i.e.* Government Orders are different from Government Resolutions; they do not bind the public but the Revenue Officers.

N.B.—The matter printed in small type is meant for advanced and technical study; Case-law and a few opinions expressed by the Editor are also in small type.

PART I.

1. Assessment.
2. Settlements.
3. Collection.
4. Suspensions and Remissions.
5. Annewari.
6. Riverain Law.
7. Record of Rights.
8. Boundary Marks and Settlement of Boundaries:
9. Trees, Grazing Rights, Minor Products and Water Assessment.
10. Revenue Courts and Appeals.
11. Non-Agricultural Land.

CONTENTS

CHAPTER I.

Para.	Assessment.	Page.
1.	The Ancient System	1
2.	Pre-Muhammadan Period	2
3.	The Muhammadan Period	2
4.	The Maratha Period	3
5.	The Method of Levying Assessment	
	Early British Period	6
6.	The Famous Joint Report	11
7.	The Distance from the Village Scale	13

CHAPTER II.

Settlements.

8.	The Original Settlement	15
9.	The Revision Settlement	18
9-A	The Gradual Levy of Enhancements	20
10.	The Basis of Assessment	23
11.	Rents	26
12.	Non-Taxation of Improvements	27

CHAPTER III.

Collection.

13.	Law of Collection	30
14.	Procedure for Collection	30
15.	Collection of Dues by Inamdar	33
16.	Where Inamdar Holds no Commission	33
17.	Madat Suits	33
18.	What is a Tenancy	35
19.	Landlords can Enhance the Rent	38

CHAPTER IV.

Suspensions and Remissions.

Suspensions and Remissions	39
-----------------------------------	----

CHAPTER V.

Annewari.

20. Annewari	46
---------------------	----

CHAPTER VI.

Para.	Riversin Law.	Page.
21. Alluvion and Diluvion	51
22. Alluvion formations	58

CHAPTER VII.

Record of Rights.

23. What is Record of Rights?	... ..	55
24. The Law of Record of Rights	... ..	56
25. Importance and Benefits...	... ..	57
26. Index: Village Form VII	... ..	63
27. Re-writing of the Record of Rights	... ..	64
28. Duties of the Village Accountant	... ..	65
29. Duties of the Patel ...	... ..	65
30. Duties of Circle Inspector	... ..	65
31. Duties of Mamlatdar	... ..	65
32. Duties of District Inspector, Land Records	... ..	66
33. Crop and Tenancy Register	... ..	66
34. The New Combined Form	... ..	66
35. Index and Village Form VII-B.	... ..	68

CHAPTER VIII.

Boundary Marks.

36. The Functions of the Boundary Marks	... ..	69
37. Determination of Village Boundaries	... ..	72
38. Determination of Field Boundaries	... ..	72
39. Boundary Disputes	... ..	73

CHAPTER IX.

Trees, Grazing Rights, Minor Products and Water Assessment.

40. Trees	... ..	75
41. Irrigation Assessment...	... ..	79

CHAPTER X.

Revenue Courts and Appeals.

42. Revenue Courts	... ..	81
43. Appeals	... ..	82
44. Acquisition of Land for Public Purposes	... ..	84
45. The Revenue and Financial Year...	... ..	87

CHAPTER XI.

Para.	Non-Agricultural Land.	Page.
46.	The Non-Agricultural Use	88
47.	Ordinary Altered Rates .. .	90
48.	Special Rates	90
49.	Important and Latest Government Resolutions ...	99

PART II.

1. Methods of Survey.
2. Cross Staff
Plane Table
Theodolite } Surveys.
3. Cadastral Survey.
4. Hissa Survey.
5. City Survey.
6. The Working of the District Survey Office.
7. Classification.

CONTENTS.

CHAPTER I.

Para.	Methods of Survey.	Page
50.	Instruments of Survey	97
51.	Cadastral Survey.	100

CHAPTER II.

Hissa Survey.

52.	Original Hissa Survey.	105
53.	Up-keep Hissa Survey.	107
54.	Minor Triangulation Survey.	108
55.	Inam Village Survey.	111

CHAPTER III.

City Survey.

56.	City Survey Law.	114
57.	Enquiry.	116
58.	Maintenance.	120
58A.	Village Site Survey.	123
59.	Maps.	124
60.	Survey Number	125

CHAPTER IV.

Working of the District Survey Office.

61.	Staff.	128
62.	Record Room	128
63.	Tab System.	132
64.	Pigeon Hole System	134
65.	Prat Phalni.	134
66.	Classification	136

PART III.

1. Land Tenures.
2. Inams.
3. Miscellaneous Tenures.
4. Watan.
5. Hereditary Village Officers in Gujerat.

CONTENTS.

CHAPTER I.

Para.	Land Tenures.	Page.
67.	Meaning of a "Tenure"	143
68.	Advantages of a Study of Tenures	143
69.	State Ownership versus Proprietorship	144
70.	The Bombay Tenure	146
71.	The Raiyatwari Tenure	146
72.	Survey Tenure Rights	148
73.	Occupancy Obligations	149
74.	Occupants' Right	150

CHAPTER II.

Inams.

75.	What are Inams?	151
76.	Creation of Inams	152
77.	Kadim and Jadid Inams	152
78.	Purposes or Motives for Inams	152
79.	Construction of Grant	153
80.	Continuation of Inams	153
81.	Recovery of Dues... ..	155
82.	Right of Enhancing Rent	156
83.	Extinction of Inams	156
84.	Resumption	157
85.	Effect of Resumption	158
86.	Inamdar and Inferior Holder	158
87.	Inam Commission and Summary Settlement Acts	160
88.	Personal Inams	162
89.	Devasthan Inams	162
90.	Saranjams and Jahagirs	163

CHAPTER III.

Miscellaneous Tenures.

91.	Talukdari	169
92.	Vanta Tenure	170
93.	Mahwasi Tenure	170
94.	Naravadari Tenure	170

Para.	Page.
95. Bhagdari Tenure	170
96. Khoti Tenure	170
97. Shilotri Tenure	171
98. Deccan Tenures	171
99. Comparison of Occupancy Tenure with Proprietary Tenure ...	172

CHAPTER IV.

Watan.

100. Brief History	173
101. Important Interpretations	174
102. Succession of Females to a Watan	176
103. Classes of Watan	177
104. Alienation and Resumption	181
105. Commutation of Watans	185
106. Adoption... ..	187
107. Succession of Representative Watandar	188
108. Periods of Service	189
109. Proceedure of Appointment	191
110. Punishment	194

CHAPTER V.

Matadar

111. Hereditary Village Officers in Gujarat	197
--	-----

PART IV.

1. Village Administration.
2. Village Officers.
3. Revenue Accounts.
4. The Basic Industry of India.
5. Agricultural Indebtedness.
6. A Case for Tenancy Legislation.
7. Small Holdings and Excessive Fragmentations.
8. Rural Reconstruction.

CONTENTS.

CHAPTER I.

Para.	Village Administration	Page.
112.	Ancient Administration	201
113.	The Present Scheme of Administration	202
114.	(Superior Revenue Officers) The Commissioner	202
115.	The Collector	205
116.	The Assistant or Deputy Collector	211
117.	The Mamlatdar and Taluka Officers	213
118.	Land Records Officers	217

CHAPTER II.

Village Officers.

119.	The Patil	222
120.	Kulkarni	225
121.	The Inferior Village Servants	226

CHAPTER III.

Revenue Accounts.

122.	The Village Forms	230
123.	The Taluka Forms	235
124.	The District Forms	238

CHAPTER IV.

The Basic Industry of India.

125.	Necessity of Intelligence and Hard-work	241
126.	City Versus Village	243
127.	Restrictions on Transfers	244
128.	Modern Implements	248

CHAPTER V.

Agricultural Indebtedness.

129.	Causes of Indebtedness	254
130.	Tagavi	257
131.	Co-Operative Societies	258

CHAPTER VI.

Para.	A Case for Tenancy Legislation.				Page.
132.	Tenancy and Land-lords	...	...	...	262
133.	Rental Statistics	...	...	...	263
134.	Improvement by tenants	...	...	...	270

CHAPTER VII.

Small Holdings and Excessive Fragmentations.

135.	Small Holdings.	...	...	...	273
136.	Evils of Excessive Fragmentations	...	...	...	275
137.	A Summary of the Bill	...	...	...	276

CHAPTER VIII.

Rural Reconstruction.

138.	Village Schools	...	...	...	282
139.	Important Amenities	...	...	...	284
140.	Amusements	...	...	...	286

PART V.

1. The Land Revenue Code as amended upto date.
2. Latest and Important Land Revenue Rules.
3. Important and Relevent Government Resolutions.
 ,, ,, Recent Case-Law pages 1 to 172.

(For detailed Contents see Part V.)

PART VI.

Technical Terms and Vernacular Expressions
pages 175 to 185.

INDEX.

Parts I to IV have the index in bold type.
Parts V and VI have separate index.

ERRATA.

Parts I to IV.

Page	Para or line	For	Read
15	Second para	Muhals	Mughals
"	"	existi g	existing
31	Side heading	Village form 10	Village form II
32	11th line	Part IV	Part V
51 to 54 to page 203		Alluvian and dilluvian	Alluvion and dituvior
58	21st line	a e	are
61	Sixth para	Mamlatdars	Mamlatdar's,
87	Third para	Village form IX	Village form XI
125	Para heading	Nnnumber	Number
152	Sixth line	tenured	termed
	Twelfth line	Geramia	Gerania
	Side heading	Purposes of Motives	Purposes or Motives
176	Fourth para	devoling	devolving
202	First line	Head Quartean	Head Quarters
210	First para	Cimmissioner's	Commissioner's
211	Second para	cleak	clerk
243	" "	is mill bands	as mill bands
251	Second line	granding	grading

Parts V. and VI.

Page	Line	For	Read
77	Marginal note	6883, 12-10-88	6883, 16-10-88
35	Line 14 from the end	2384, 26-11-84	9384, 26-11-84
24	Last line	9881, 19-12-84	9981, 19-12-84
50	2nd line for the end	8554, 10- 5-95	8504, 10-5 -95
36	Line 8	9424, 6- 9-18	9124, 6- 9-18
25	Line 11	589, 19-10-10	5989, 19-10-10
9	6th line from the end	7018, 8-10-08	7018, 8-10-08
25	Line 2	410, 30- 5-83	4100, 30- 5-83
19	Line 14	Seecurity	Security

Note—Figures in bold type indicate reference to pages in part V. L.R.C.

CHAPTER I.

Assessment.

THE ANCIENT SYSTEM.

The earlier races, before the Aryans, allotted to the King the entire produce of certain lands. The practice of taking a grain-share gradually developed. So remote as in the times of the Old Testament, the Pharaoh took $\frac{1}{5}$ produce (Genesis XLVII 20-26) "Ye shall give the fifth part unto Pharaoh, and four parts shall be your own" and "Joseph made it a law over the land of Egypt unto this day, that Pharaoh should have the fifth part." In the very olden days of Mahabharata even it is written "Mankind were continually opposing each other, and they at last went to Brahma to ask him to appoint a king over them. Manu was directed to be their King." He replied, "I fear a sinful action, Government is arduous, especially, among everliving men." They said, "Fear not, you will receive a recompense, of beasts $\frac{1}{50}$ th part, and also of gold, and we will give you $\frac{1}{10}$ th of the corn, increasing your store." Manu Chapter VII 127-130 "of cattle, of gems, of gold and silver added each year to the capital stock (the King's share) $\frac{1}{50}$ th part, of grain $\frac{1}{8}$ th part, or $\frac{1}{6}$ th or $\frac{1}{12}$ th according to the difference of the soil and the labour necessary to cultivate it." In Chapter X, verse 118, it is mentioned that the share may be raised to $\frac{1}{4}$ th. In those days the King did not have so many demands as are found in modern Governments for development of various nation building activities. The Aryan system was one of territorial revenue administration. The author of Hidaya (Text Book on Muhammadan Law, Book IX Chapter 7) speaks about the limit of khiraj being $\frac{1}{2}$ the produce and says, "But the taking of one half is no more than strict justice." There are instances of the raising of revenue freely. Campbell remarks, "In later times the practice in all

The King's
Share.

States—a practice that can be traced back, before the end of the 17th Century, at any rate,—was to take half of the grain in some cases, and in places where money assessments were levied, as much as could be got without driving the raiyats to abscond into the jungle and by the careful elastic mode of exaction which the old rulers were so clever in applying.” In the time of Shah Jahan, the land was measured with standard measures and was assessed at $1/4$ of the calculated average produce commuted into cash, for the period of 10 years and it was called “tankha” (fixed assessed). Malik Amber, the Minister at Ahmednager, in the Deccan Kingdom, levied varying assessments; if in kind it was $2/5$ th of the produce, but if in cash it was valued at $1/3$ produce. The Marathas ignored the “tankha” but made a new assessment called “Kamal” (total) field by field based on classification of the soil. The rates varied from Rs.5 to Rs.10 per bigha.

2. Pre-Muhammadan Period.

Method of
Collection.

In the pre-Muhammadan times, the country consisted of villages proper which were large estates and the surrounding tracts of land attached to them. The village boundaries were at first undefined and irregular but as cultivation increased, they were more or less defined. The village lands were held by the aristocratic class, but as they were averse to agriculture, the actual work of cultivation was done by their vassals. The pay of these vassals of the village proprietors who were called Kunbis, as also the assessment paid by the landlords to the local Rajah was at first a share of the crop collected at the harvest time on the threshing floor. Later on there was an improvement and the assessment was calculated by an estimate of the crop standing in the field.

3. The Muhammadan Period.

It was during the Muhammadan period that the rent as well as the assessment came to be levied in cash. The

introduction of cash payments led to the collapse of the old village Community, and the landlords being unable to take the responsibility of heavy cash-assessments had to give up all the surplus lands which were so long in their possession. These vacant lands were then leased by the Ruler to the tenants-at-will who were "Upri tenants." Sher Khan, one of the wisest rulers during the period under consideration, who had defeated Humayun in the famous battle of Kanauj in 1540, first originated a system of Survey and Settlement. It was perfected by the ablest Minister of Akbar, Todarmal. He based the assessment on a sort of land classification. The soils were divided into three classes, the produce from each class was ascertained from the average of these and it was fixed for a term of years. In Akbar's time, it was 10 years. Malik Amber of the Adil Shahi Dynasty imitated this system. Aurangzeb, who was always in want of large funds for his extensive wars, exhibited his revenue talents by attempting to increase the assessment by 50 % of the tankha; the result was that cultivation considerably contracted and many lands remained uncultivated.

4. The Maratha Period.

The collapse of the landlord classes already referred to continued throughout the Muhammadan period. During the Maratha period which followed it the number of tenants-at-will was very large. The tenure by which these tenants held their land was known as Upri as against the Miras tenure by which the land holders held their lands. The main difference between the two tenures was that unlike the Upri land, Miras land was heritable and transferable and the right of the landlord to it was inalienable. Further the Miras land was considered to be the source of some social distinction. The interest of the tenants-at-will in their lands was temporary, because they held their lands from year to year; consequently their rates of assessment were comparatively low. The Settlement of the land revenue

was made annually. The revenue for each individual village was settled by the Mamlatdar on the one hand and on the other the representative of the raiyats, who was the Patil assisted by the District Officials like the Deshmukh and Deshpandes. The revenue so agreed upon was subsequently distributed by the Patil over the holding of the individual cultivators. The revenue to be collected from the cultivators consisted of the land-tax proper, and various levies called Pattis, and other Miscellaneous taxes. The Government had interest only in the total amount settled and not in the individual assessment which was left to the whim of the local officials and the village custom. The Pattis or extra levies were over and above the land tax proper. These were imposed by the local officers at first for making occasional expenditure but later on were commuted into annual demands. Some of them were very curious e.g. The Kate Modnaval Patti—while surveying the village lands the feet of the Mamlatdar used to get hurt by the Babul thorns and prickly pears, so a fine was levied on each house owner to compensate the Mamlatdar. The Dasara Bakara Patti for a goat at Dasara; the Toop-Patti; as ghee was supplied to officers on tour; from each khatedar a sum was levied to meet these charges. The Saudir Varid Patti levied originally to form a fund for bribing the Ministers at Court but afterwards treated as a usual part of the ordinary revenue and audited as such by the official Accountants, was the heaviest of all. There were 24 different kinds of Pattis. The miscellaneous taxes were levied on cattle, sheep, goats, horses, trade, transport. The worst of the whole affair was that the shares of these taxes, which the hereditary officials were privileged to keep as their emoluments, were collected by them, often independently of the Government agents, with the result that the administration of the Land Revenue was highly confused and complicated. In addition to these in Government accounts, there were recognized additional

fractions such as Sardeshmukhi (10th part), Chouth (1/4th part), Sahotra 1/6th part and Mokassa. An unusual feature of this system was that the Mamlatdar was required to advance out of his pocket half the amount of the Revenue for his district before the collections began and the remainder was paid by instalments but always in advance. He could use any means to recover the dues from the raiyats.

However, under Nana Fadnavis, the Mamlatdars were men of position and influence. Owing to their long-standing, they had acquired a thorough knowledge of the people and though they were naturally alive to their own interests, they were careful not to press hard upon the raiyats and adapt their demands to the necessities of each case. But under the last Peshwa, Bajirao II, the method of land administration took a turn for the worse. In order to meet the cost of his wars and the extravagance of his court and the too heavy cost of administration, he had the office of the Mamlatdar, which was hitherto conferred upon men of status and experience, put to auction among his attendants who were encouraged to bid high.

The office of the Mamlatdar was transferred to the highest bidder. This operation was repeated year after year. The Mamlatdar of this type had no reason to show forbearance nor did he care to make enquiries in any particularly bad cases. The Mamlatdar let his district out at an enhanced rate to under farmers who repeated this operation till it reached the Patil. No moderation was shown in fixing the sums settled. As the tenure of office was uncertain, every means of rigour was made use of to extract the utmost from the raiyats. The "Revenue Farmers," as they were called, were mere middlemen with no more than a transitory commercial interest. The arrangement was not conducive of any healthy village organization with the result that the Head-man "the Patil," dropped out of the

Under Nana
Fadnavis.

The Farming
System.

consideration. This system was adopted by the Marathas when their position was not secure.

5. THE METHOD OF LEVYING ASSESSMENT.

Early British Period.

At the period, when the Peshwa's dominions were conquered by the British, from 1803 onwards, opinion was in favour of the Raiyatwari System of Land Revenue, as it had proved a success in the Madras Presidency where it was introduced by Col. Read and given wide currency by Sir Thomas Munro, the father of the Madras Revenue System. The other system of Land Revenue *Viz*: the Zamindari had been tried in Bengal by Lord Cornwallis, who had introduced it there in 1790 but the Zamindars had failed to take an interest in their lands and tenants, with the result that the tenants were rack-rented and Government had no real and direct information regarding the condition of the tenants. It was as a reaction from the Zamindari system that the Raiyatwari system was introduced first in Madras and later in the Deccan.

The Honourable Mr. Mount Stuart Elphinstone, the first Commissioner of the Deccan, laid down "moderation and no innovation" as the main principle of the Early British Administration. The principles laid down for the guidance of his officers were "to abolish farming, or otherwise to maintain the native system; to levy the revenue according to the actual cultivation, to make the assessments light, to impose no new taxes and to do away with mere useless, obvious and unjust; and above all to make no innovations*." But these principles were not for long translated into practice, and the assessments continued as high as under the last Peshwa. The reasons for the failure were as follow:—

*The Hon'ble Mount Stuart Elphinstone's Report on the Territories undered from the Peshwas 2nd Ed. 1872.

(1) The first collectors, being mostly officers who belonged to the Military Department, had no experience of the complicated Civil Revenue System and even as such, a large part of their time was taken up by Political and Police duties arising out of the late troubles.

(2) Most of the first Mamlatdars under them were imported from Madras and were not conversant with the conditions obtaining in the Bombay Presidency. Their language was different.

(3) The working of the system lay in the hands of the Kulkarnis, whose accounts of past years were misleading and false. They had a direct interest in raising the assessment rates to the highest pitch. Remissions were given in the time of distress, but the remitted amounts though shown as such on paper were actually collected by the Kulkarnis and the amounts so collected went into their pockets.

This system of Land Revenue was nominally Raiyatwari, but differed from that under the Peshwas in one respect only. The Mamlatdar and the Hereditary District Officials not only settled the district village total but also fixed the contributions that the raiyats were required to pay. This state of affairs continued till 1827 when Mr. Pringle, the Assistant Collector of Poona was placed on special duty to devise a system of Survey and Settlement for Poona and the surrounding districts.

Mr. Pringle's system comprised of two operations—(i) he got a survey made of all the cultivable land field by field (ii) assessment was made for every field that was measured. The fields measured were the sub-divisions of the ancestral fields as entered in the Kulkarni's accounts. The measurement was done by Chain and Cross-staff. The uses of these instruments of measurement are explained in the Second Part on Survey. The standard of area was the acre, with its sub-division, the guntha. He did the field assessment in the

Failure of
Pringle's
Settlement.

following manner. Land was divided into classes. The principle observed in the divisions was the average net produce, meaning by this expression the surplus of the gross produce which remains after deducting the cost of cultivation. Fields containing more than one class of soil were placed in the class determined by the average of the class in it. Next, the area of the cultivated lands was reduced to acres of the first class in accordance with the "net produce scale" i.e. if the net produce of the 1st class was Rs. 16 and of the 4th class was Rs. 4, then 4 acres of the 4th class were counted as one acre of the 1st class. The Survey and Settlement conducted by Mr. Pringle on these principles proved to be a failure for the reasons which follow :—

(1) The nature of the enquiries which were required to ascertain the net produce was intricate. One European officer was not sufficient to supervise a large body of subordinates, and supervision became impossible.

(2) He failed to realize that what was needed was reduction of assessment and not enhancement.

(3) There were a series of famines which succeeded one another so that all calculations made proved incorrect and impracticable of achieving the desired object.

The Settlement, however, was noteworthy for the following good points:—

(1) The introduction of acre and guntha, (2) the introduction of the method of basing the assessment on the value of the land, (3) the disappearance of the complicated Patis and other unjust levies and land measures.

The Beginning
of the
New System

When all attempts to make Mr. Pringle's system workable failed, Government very reluctantly decided to commence the whole operation *de novo*. Accordingly, in 1836, they directed Mr. Goldsmid of the Civil Service and Lieut. Wingate of the Engineers to commence the operations in Mohol and Madha Talukas of the Poona District. At

present these two Talukas are in the Sholapur District between the Kurudwadi and Sholapur Railway Stations. These two officers appointed for the special work inaugurated the new system at Indapur. At first the Survey work was confined to a test of Mr. Pringle's measurements. They were accepted if found within 10% of the truth, otherwise the lands were remeasured. No maps were regularly prepared but a descriptive record of the boundaries was kept. As for classification, the soil was divided into three orders according to the fertility (1) Black, (2) Red, and (3) Gravelly. Each order was sub-divided into 3 classes according to the depth, making 9 classes in all. To determine the assessment of a field, trial pits were dug in various parts of the field and the quality and depth of the soil were examined in each. The average acre rate was then found by multiplying the shares of each class by its rate, adding up the total and dividing it by the total number of the shares. Multiplication by the area would then give the assessment of the whole field. In these proceedings, the acre rates expressed not only the rates of assessment but also the relative value of the soils which were, under Mr. Pringle's system, determined according to the complicated 'net produce' scale.

The success of this new system at Indapur was very great. Though the total assessment of the Indapur Taluka was reduced from Rs.200000 under Mr. Pringle's system to Rs.84000 under the new system, the actual collections, during the very first year after its introduction were higher than the highest collections during the period of Mr Pringle's system! The result was that there was an immense increase in cultivation and the prosperity of the Taluka increased by leaps and bounds. The success of the new system is to be attributed to the following causes:—

(1) Moderation in demand. The aim was to let the raiyats have all that the Government could spare and not to

let Government have the utmost the raiyats could spare.

(2) Guarantee of the assessment for a period of 30 years. The raiyats being assured that during the following years in their generation there would be no more enhancement than the rate then fixed, it gave them a great incentive to take keen interest in the betterment of their lands.

Encouraged by the success of the new system at Indapur Government extended it to the neighbouring Talukas and Districts; the result of this was that with the acquisition of experience many improvements were made in the new system. Some of these were as under:—

(a) The descriptive record of the boundaries was displaced by a rough sketch map which in turn gave place to a scale map.

(b) Erection of official boundary marks. They were at first narrow mounds of earth circling the whole field which since 1840 have given place to the large, broad, earthen mound pointing the boundary of the field. This improvement was due to the efforts of Col. Davidson.

(c) The Rupee scale of classification was introduced. The number of classes was accepted as 9. The rise in the anna valuation from the lowest to the highest is based neither on the equality of the steps (which would bear hard on the lower classes) nor on their relative equality (which would bear hard on the higher classes) but on a good compromise between both of them. The valuation of each class depended upon the quality of the soil, its depth and the presence or absence in it of deteriorating factors *i.e.* Doshas.

Classes of
Motasthal
Garden
lands.

In classifying Motasthal lands (well irrigated lands) three factors of value were considered *Viz*:

- (1) The Soil Factor.
- (2) The Rotation Factor.
- (3) The Water Factor.

The factors taken into consideration while classifying Patasthal (canal irrigation land) were (1) the soil factor, and (2) the water factor. Patasthal
Classifica-
tion.

The factors taken into consideration in the case of rice lands were 3 *Viz*: (1) soil, (2) moisture, and (3) embankment. They were first devised by Mr. Fraser Tytler who divided the rice lands into four classes. Classification
of Rice lands.

6. The Famous Joint Report.

When the new survey extended to the other parts of the presidency, an authoritative statement of the principles for maintaining uniformity was thought necessary, and for this purpose Government in 1847 directed the three Superintendents of Survey *Viz*: Mr. Goldsmid, Captain Wingate and Captain Davidson to hold a conference at Poona. The result of their deliberations was the famous Joint Report. The subjects dealt with were:—

- A. The unit of assessment.
- B. The assessment of the unit.
- C. The joint rules for the Revenue system to be based upon them.

The area that could be cultivated by a pair of bullocks was set up as the standard unit of size and was called a Survey Number. For this purpose large holdings were split up into 2 or more Survey Numbers of the standard size and small ones were clubbed together. The survey unit so constituted was to have its boundaries permanently fixed by the official boundary marks. A
A Unit of
Assessment.

The Survey
Number.

The principle laid down was to assess the land not according to the status of the holder but according to the capabilities of the soil. The methods enunciated were (i) to find and express the relative value of Survey Numbers by means of classification and (ii) to fix the absolute rate of assessment by maximum rates settled by the system of "Aggregate to Detail." B
The assess-
ment of the
unit.

Classification
of the soil.

The cultivated land was divided into two main heads *Viz:* the Dry crop and the Irrigated. The latter has been sub-divided into two (1) Garden and (2) Rice. A further sub-division was made of garden lands into (a) lands irrigated from wells or Motasthal, (b) lands irrigated from tanks or dams by channels and were called Patasthal. The factors of value taken into consideration while determining the valuation of the dry crop and Irrigated lands were (1) quality of the soil, (2) certain extrinsic circumstances in the case of the Dry crop lands, (3) facilities for irrigation in the case of the Irrigated lands. The system of soil classification was virtually the same as that devised by Col. Davidson, except that the value of the lower classes was somewhat raised. By "extrinsic circumstances" is meant "the distance of the Survey Number from the village and other circumstances which may affect its value." Under "facilities for irrigation" the supply, depth and quality of the water were to be considered in the case of the Motasthal lands and the amount and duration of the water supply, in the case of Patasthal lands. The irrigation facilities in the case of rice lands were two—the inherent moisture due to the position of the field and the supply derived from tanks and other sources. The present method of classification with the changes and improvements made in the last seventy years is described fully in the Second Part.

So far as the assessment is concerned this part of the Report may be divided into three heads:—

- I. Grouping.
- II. The Determination of the Aggregate.
- III. The Distribution of the Aggregate.

Grouping.

The unit of settlement was the Taluka. When within the Taluka, there existed marked and permanent distinctions between the different tracts such as called for a variation in the standard of assessment, the villages were divided into

groups *i.e.* tracts of land for which a uniform standard of assessment was fixed. This division into groups was based upon considerations of more or less of a permanent character such as (a) climate (which is of a permanent character) and (b) proximity to markets and (c) husbandry (which too are more or less permanent in character).

The peculiar feature of the Bombay Settlement is that ^{The Deter-} it works from aggregate to details. The aggregate was ^{mination of} determined by a judicious analysis of the past revenue ^{the Aggregate.} history of the Taluka aided by a comparison of the capabilities of the neighbouring Talukas.

The distribution of the aggregate was done by means of ^{The Distribu-} the Maximum Rates which when applied through the medium ^{tion of the} of the classification of the Survey Number to the classes of ^{aggregate.} land within each group produced the sum required.

A number of rules were framed with a view to ensure ^C the surveys being turned to the best account and maintained ^{The Joint} in their original integrity in the future management of the ^{Rules.} district.

7. The Distance From the Village Scale.

The classification depended upon the distance from the village and the size of the village. If a field were within $\frac{1}{4}$ mile, one anna was added in the case of a small village and two annas if the village was of a medium size to the dry crop classification. In Konkan the people lived in scattered hamlets, so this system was not applied. Thus to give an illustration, the result of the different scales was that a dry crop field with a soil classification of 12 annas enjoying moderate advantage of sub-soil water would receive an anna and an additional anna if within $\frac{1}{4}$ mile; thus the total annas in the latter case = 14 annas.

For the classification of rice lands, two methods were adopted, the Rupee Scale System in Gujarat, Konkan and parts of the Deccan; the Dharwar System was subsequently introduced in parts of the Deccan and Karnatak. In the Deccan, the soil and water factors were considered to have generally equal values; 8 annas were assigned to soil and 8 annas to water; classification annas of each portion were added together and one maximum rate was applied to the combined annas in working out the assessment. In Gujarat, the device of separate maximum rates was applied. In the Dharwar System, there were six

water classes according to the duration of the water supply. The average water class was worked out for the whole field in the same way as if the figures of the water class were annas *e.g.*

	Class	Shares	Annas
	3	1	3
	4	1	4
		<hr/>	<hr/>
		2	7
Average water class			3.5

CHAPTER II.

Settlements.

8. The Original Settlements.

The process of determining the amount of land-revenue payable is called a Settlement. The Bombay Settlement is a Raiyatwari Settlement because each field is separately assessed. What is a Settlement?

Akbar and his great Minister Todarmal and Malik Amber in the Deccan had introduced an equitable rule of assessing land but their successors were not bound by it. The Muḡhals only stabilized the old system. During the Muḡhal period, the revision of the revenue was made not by any regular process of revaluation, but by the expedient of adding on "Cesses" to the existing amounts. Various names were given to these cesses. But under the British Government such a device was not followed to enhance the assessment. But a plan was devised for fairly assessing the land revenue. There was a gradual modification of this plan and improvements were gradually effected up to the present. We shall first deal with the original settlements which were also called "Revenue Settlements" and then with the Revision Settlements up to the present time.

For the Original Settlement work, the officers generally appointed were the Superintendents of Survey. Three operations were necessary for determining the assessment:—

- (1) The villages in the Taluka were divided into groups.
- (2) The total amount for the area under settlement was ascertained by an examination of the revenue history of the tract.
- (3) The distribution was made of the aggregate for the whole area over the groups by means of the maximum rates for the various classes of land.

The object of grouping was to divide the Taluka into homogeneous groups of villages, comprising those parts of the whole area the relative condition of which called for a variation in the "Standard of assessment," in order to allow for advantages and disadvantages. The pitch of assessment was graduated for the several classes of lands. Within each separate group the same maximum rates were applied to the different classes of lands, difference of fertility having been already taken into account by the classification. The principles for grouping were such marked and permanent distinctions as climate, situation and the state of husbandry. The grouping of the Original Settlement was to a large extent of a transitional character. The success of the settlement depended on the determination of the demand. The Settlement Officer had to bear in mind two points when coming to a conclusion regarding a suitable demand. He had to enquire whether the existing assessment was suitable to the existing conditions, whether it was equitable or too high or too low. He had to take into account the probable future changes. He was expected to base his conclusions on a careful study of the revenue history of the tract.

The Settlement Report comprised:—

(1) The description of the physical features of the area to be settled and also its relation with the neighbouring tracts, if any, previously settled.

(2) The conditions and means of communication, roads, railways, facilities for transport, transit, bridges on rivers.

(3) Modes of cultivation and the state of husbandry and facilities for irrigation.

(4) The condition of the people, the agricultural stock, schools or no schools, the health of the people.

(5) Statistics of Land Revenue, including the actual demand, collections, remissions for the past as many years as possible, an estimate of the incidence of the assessment.

(6) Statistics of occupation of land and its bearing upon the question of the pressure of assessment.

(7) A careful study of the prices, whether they were stable or showed any upward or downward tendency.

(8) A study of the leases, rental statistics and sale statistics, mortgages. The information was called from the various offices and sources e.g. the Educational Department, the Agricultural Department and Railway as regards the extent and kind of goods traffic and so on.

The last operation was the distribution of the aggregate over the individual Survey Number; this was done through the medium of the maximum rates fixed for the different classes of land. It may be noted that the maximum rate is not the same thing as the maximum assessment. The maximum rate is the rate applied to the 16 annas land. For various advantages the land may be classed above 16 annas. If rice is grown from tank irrigation, the classification may be even 32 annas. If the maximum rate is Rs. 8/-, the maximum assessment will be

$$16 : 32 : 8 = \text{Rs. } 16/-.$$

An important adjunct to the Bombay Settlements ^{The Jantri.} deserves notice; this was the *Jantri*, it is a ready reckoner of assessments, showing the acre rates for the different classification values according to the sanctioned maximum rates, which were worked out ready to hand, in order to save the trouble of calculation for each Survey Number. The acre rates were those which a clerk could have worked out for himself. Later on the rates shown were not such as could have been calculated by a clerk, but were modifications of those drawn up by the Superintendent personally and embodied his ideas as to what the rates ought to be.

At present, in the Inam villages only in which the Survey and Settlement were not introduced, the Original Settlement is made. This work is now done by the Superintendent of Land Records of the Division

in which the village is situated. Generally the factors enumerated above are taken into account, but the most important factor is that of leases. Leases and rental statistics are personally verified by the Superintendent of Land Records on the spot by personal enquiry with the kabjedars and tenants in the field. There are no Talatis in Inam villages. There being no Record of Rights, no statistics are prepared by the Kulkarni; so the Superintendent has himself to collect all the information and data necessary for formulating his proposals. The rate which obtains in the surrounding villages of similar groups and with the same conditions is usually applied.

All the Original Settlements of Talukas have now expired and even most of the Revision Settlements. The Second Revision Settlements have been completed in many Talukas, so it is desirable to know the principles under which the Revision Settlements are conducted.

9. The Revision Settlements.

From 1868 the period of Revision Settlements commenced. The original revision settlements were nothing but in name original settlements, because the work of survey and demarcation was done *de novo*. Later on improved methods were introduced. At first the field work was reduced to a test of the old measurement and classification and finally abolished altogether and the original work continued in its entirety. The operation then performed was the fixing of the assessment rates. It is laid down in Sec. 106 Land Revenue Code that, where a general classification of the soil is approved as final, no such classification shall be again made with a view to the revision of the assessment of such area. In 1892, the work of settlement was handed over to the Revenue Department after the abolition of the separate Survey Department. The work of the Revision Settlement is now entrusted to the Prant Officer, either an Assistant Collector from the Indian Civil Service or a Deputy Collector from the Bombay Civil Service. The Prant Officer is then called the Settlement Officer. For the collection of statistics he is given the assistance of a clerk. The Settlement Officer has nothing to do with classification as is sometimes wrongly

supposed. The way in which the Settlement Officer can revise the relative assessment of the villages is by changing their grouping or by enhancing the previous maximum rates up to a certain limit and thus there is a gradual levy of the enhancement. The new assessment on the group must not exceed the former assessment by more than 33%. No increase exceeding 66% should be imposed on a single village without the orders of Government; no more than 100% should be levied on an individual holding; G. R. No. 5739 dated 29th October 1874 and G. R. No. 2619 dated 26th March 1884.

It is not enough that the Assistant Collector or the Deputy Collector should have learnt some rudiments of survey and settlement in the course of a short deputation of three weeks for receiving training in Survey and Settlement matters under the Superintendent of Land Records. There is a danger that the Settlement Officer may become so much occupied with details and forget the principle needs as not to realize the state of the villages and sometimes see the wood for the trees. For the efficient discharge of this work, experience and knowledge are essential, and those who have continuously worked in the Survey and Settlement line for a number of years are no doubt preferable.

The proposals are forwarded by the Settlement Officer to the Collector who with his remarks submits them to the Commissioner. And the Commissioner sends them on to the Settlement Commissioner and the Settlement Commissioner with his remarks submits them to Government for approval.

The
Publication
of Settlement
reports.

The rates are published, with a precis being made, and objections are invited. Generally the objections are irrelevant because the raiyats seldom study the principles of settlement or the basis of assessment; the rental statistics are an important factor for determining the enhancement. The new rates are introduced by the Collector before the Revenue year begins. The new Akarbands (Village Form No. I) are prepared by the Superintendent of Land Records for each Survey Number or Hissa. The Akarbands are sent to the Taluka Office. The Talatis or Kulkarnis then prepare the new Khatavani for collecting the revised assessment.

The period of settlement in the case of Talukas is 30 years. In the case of temporary settlements the period is less than 30 years. Considering the upward tendency of the rental values and of the other factors on which the revision is made, the period of 30 years does not appear suitable. Several Settlement Officers have pointed out that the period of settlement is too long and needs to be lessened. Another reform called for is that, as far as possible, the prescribing of a uniform or a fixed share of rent which in all districts should be alike, that is, the percentage of the rental value taken should be the same in the case of all districts in the Presidency.

9-A The Gradual Levy of Enhancements.

In the case of individual holdings, the principal causes of increase as stated in para 5 of G.R. No. 2619 dated 26th March 1884 were :—

- (1) The assessment of Pot-kharab.
- (2) The assessment of encroachments.
- (3) Changes in the system of classification.

The system of relief was meant to apply only in cases in which the increase was over 100 per cent. and it was apparently contemplated that increases falling short of this would be collected in full. In actual practice the system went much further than this.

The Igatpuri
Concession.

At the Revision Settlement of the Igatpuri Taluka of the Nasik District, it was laid down by Government in their G. R. No. 3541 of 4th May 1885, para 11. "The proposed rates are fully approved by all the officers who have expressed an opinion and they no doubt represent a very moderate assessment. Much of the best dry-crop land has in fact during the past settlement been held at a quit-rent. But as there has been both a rectifying of classification and an enhancement of assessment on general grounds, the increase is in many cases very considerable, and though the rates are approved it is a question whether they can be at once collected in full without disturbing the domestic economy of the raiyats. His Excellency in Council is therefore pleased to direct that, while the Akarbands should in all cases be made out according to the full sanctioned rates, it should be notified that enhance-

ment in excess of 4 annas in the rupee or 25 per cent. of the assessment on a holding will be remitted for the first two years of the Revised Settlement, enhancement in excess of 8 annas in the rupee for the third and fourth years, and enhancement in excess of 12 annas in the rupee for the fifth and six years of the Revised Settlement, so that the cultivators may adjust themselves to the increased payment by degrees." Subsequently this system was extended to all future settlements in the Deccan and Southern Maratha Country by G. R. No. 2981 dated 20th April 1886, and the system is called "Igatpuri Concession" because it was first originated at the Revision Settlement of Igatpuri. The remissions were granted upon the "holding" i.e. upon the revised, as compared with the original, assessment of all the lands standing in the raiyat's name in the village Register as a whole and not upon the assessment of individual Survey Numbers.

The Igatpuri Concessions do not apply to Konkan. The Bhiwandi Concessions are applicable to the districts of Thana, Kolaba and Ratnagiri. The scale of enhancement is 33 per cent for the first 3 years; 66 per cent for the 2nd three years and 90 per cent for the third 3 years. For Kanara a separate scale has been prescribed.

In the Kanara District a special system of concession for the villages below ghats is in force, which is as follows:—

(1) In the case of holdings in the same village liable to an assessment amounting to or exceeding Rs. 25 a remission of 14 annas in the rupee is given on all waste numbers included in the holding for the first 5 years of the Revised Settlement. After that period all numbers in the holding, whether cultivated or not, are liable to the full survey assessment.

(2) In cases where the assessment on the cultivated numbers in a holding in the same village amounted to Rs. 25 or more and the increase on the previous assessment is not less than 30 per cent, then a partial remission of the increase is given as follows:

1st year	...	50 per cent.
2nd year	...	25 per cent.

after which the full assessment is payable.

(3) The above concessions apply only to whole holdings. If any portion of a holding be transferred during the remission period, such part at once becomes liable to the full assessment, unless the transfer is on succession.

The system of concessions may be summarized as follows:—

Summary.

In what tracts.	Concessions.
1. The Deccan and Southern Maratha Country.	Remission of enhancement in excess of 25 per cent for first 2 years. Do. 50% for 2nd 2 years. Do. 75% for 3rd 2 years. on the whole khata.
2. Gujarat.	Ditto.
3. The Konkan	Remission of 33% for first 3 years. " 66% for 2nd 3 years. " 99% for 3rd 3 years. on the pot or phalni number.
4. Kanara.	Waste numbers. Remission of 14 annas per rupee for the first 5 years when the khata is Rs.25 or over. Cultivated numbers. Remission of 50% for 1st year. " 25% for 2nd year. when the revised assessment of the cultivated numbers is Rs.25 or over.

These concessions under the Igatpuri and Konkan systems are now granted when the new Pakka Akar exceeds the old Pakka Akar by more than the prescribed limits, provided that the excess is 4 annas and above.

(G.R.RD. 9575-24, dated 18-5-1928).

10. The Basis of Assessment.

In Sec. 107, Land Revenue Code, it is laid down "In revising assessments of land revenue regard shall be had to the value of land, and in the case of land used for the purposes of agriculture, to the profits of agriculture." The expression "Profits of agriculture" is capable of various interpretations and the most remarkable thing about this provision is its vagueness, vide the Report of the Special Enquiry Officers into the II Revision Settlement of Bardoli. The reports of the Land Revenue Assessment Committee are interesting. In paras 50 and 51 of the Indian Taxation Enquiry Committee the system is described, and at page 85 it is pointed out that the accurate record kept of all leases afforded material for calculating the annual value. But the Land Revenue Assessment Committee was divided in opinion. The view of the officials was that, when rental value can be ascertained, it should be adopted as the sole basis for fixing the assessment, all other considerations being regarded as subordinate factors. The Indian Taxation Enquiry Committee in their report recommended that for the future settlements the basis of settlement should be the annual value, that is, "the gross produce less the cost of production, including the value of labour actually expended by the farmer and his family on the holding, and the return for the enterprise." In G.R. No. 1790/24 dated 13th May 1927, Government accepted the view of the official members of the Land Revenue Assessment Committee and expressed the view that, "rental value is generally speaking a factor which can be determined with a high degree of certainty and accuracy." A Bill was introduced to the effect "The revision of assessment of land revenue shall be based primarily upon rental value, regard being also had to the history of the tract and to its general economic condition." But this Bill has not yet been passed. In the Punjab the standard of assessment is the net assets, which mean the

average surplus which the field may yield after deducting expenses of cultivation including profits of stocks and wages of labour. "A full fair rent paid by a tenant-at-will, though sometimes falling short of the net assets, may generally, in practice and for the purpose of assessment, be taken as sufficiently near approximate to those on the land for which it is paid." In the U.S.A. land tax is based on the capital value, selling value, whereas in England it is on the rental value.

Rental values are not the same as rents. Rental values are abstracted from the actual rents and can be ascertained from cash rents, and also from a sale which is rent capitalized. There is considerable difficulty in ascertaining it correctly. Mixed leases are to be omitted. When in a village large houses are seen, it is an indication not so much of the prosperity as of the extravagance and ostentation; and so utmost caution is required in the use of rental statistics; it must be seen that they are compiled accurately and all irrelevant figures of rents are eliminated and their real meaning is understood. In the following cases a careful scrutiny is called for:—

(1) The rent may be interest *e.g.* in a conditional sale the tenant undertaking to repay.

(2) The money lender in some villages gets the tenant into his debt and the debt exceeds the capacity of the tenant to pay; the tenant is compelled to cultivate the Savkar's lands for nothing, the crop is seized. Such rents are unsafe for settlement purposes.

(3) Transactions between relations are not true rents but family arrangements.

(4) Sometimes the rent on a field includes the rent of also a house in the Gaathan; often this fact is not mentioned in the Tenancy Register.

(5) Competition. A villager in order to put down his rival will bid higher amounts, though the rent be unfair and uneconomic.

(6) Superior holders cite bogus figures of rents and show bogus receipts of previous years to attract better bidders for the future.

(7) Affinity of the villager to the land. He would rather pay any rent than go out to Bombay or elsewhere in search of employment.

(8) High rents are paid when his land adjoins the land of the lessee.

(9) Tenancy registers show rents agreed upon but not those actually paid.

The rental value depends on the actual and not the potential value, and the rental statistics required for settlement purposes cannot be got by mere compilation from the Tenancy Register. "The Tenancy Register is the least reliable Register," vide the Report of the Special Enquiry Officers into the II Revision Settlement of Bardoli. The mistakes and omissions actually noticed are given in detail at page 22 para 38 *Ibid*.

If the rental value is to be determined from true rents, it would seem desirable to lay down when the rental value should be deemed to have been determined from the rental material available, or how it should be expressed when ascertained and what is to be done when there are no rental statistics, as in the case of the unsurveyed and unsettled Inam villages. It is not stated in the Bill, that the old principles of grouping, involving the Settlement Officer's own knowledge of local conditions to qualify the rental results, are now superseded.

Assessments cannot be dictated by a theorist in his study, they elude dogmatic treatment, and can only be safely worked out by the Settlement Officer in the village and in the fields; while they admit of statistical analysis, they are liable to be hampered by premature statistical definitions. To lay down broad and generous principles for the guidance of officers is the function of the authorities "with becoming regard to the traditions of the

province and the circumstances of the locality and to prescribe moderation in enhancement and sympathy in collection."

In Government Resolution No. 9628 dated 22nd October 1910 instructions are given for the Settlement Officers and these do not appear to be obsolete. From the instructions it will be clear that the original grouping based on permanent characteristics (including fertility of soil) will be respected in subsequent operations. The Settlement Officer is emphatically warned in instructions (15) & (18) against placing too much reliance on rental statistics which are to be used as a check. These instructions were amplified in 1919 in the Belgaum and Chandgad Reports, G. R. 6958 of 10-7-1919 Para 8. However, from the subsequent Settlement Reports it seems from the reliance placed on rental indices, that so much importance is not attached to the original principles of grouping.

The Method of Obtaining the Index.

- (1) An average multiple is obtained by dividing the actual rents of the lands examined by their actual assessments.
- (2) The average multiple is applied to the maximum rate of the village to give the rental value of 16 anna land.
- (3) The rental value of the 16 anna land is divided by 2 and is called an "index" of the full standard rate applicable to the whole village.

The value to be attached to this depends on the fact whether the rents are typical not only of the lands leased but of all lands in the group and the material collected is sufficient, accurate and representative.

II. Rents.

The difficulty of determining the true rents is great indeed. Tests which rents should satisfy may be given as follows:—

- (a) Are the rents correctly recorded in the Tenancy Register by the Village Accountant or the Kabulayats of the parties?
- (b) How far do they fluctuate with the rise and fall of prices?
- (c) Are they paid in full and with regularity?
- (d) Is the land paying cash rents a fair average of its class?
- (e) Are the rents "full fair rents" for the land for which they are taken?

The result of cash rent estimated may be compared with the produce estimates and attempts made to trace the causes of any large discrepancies between them.

If rental data are collected with care and are tabulated so as to bring their importance, and if they are used with due reference to the meanings of transactions, they will un-

doubtedly afford a very good evidence for the Settlement Officer, while revising the assessment; and the time and labour spent in obtaining the data will give valuable results.

12 Non-Taxation of Improvements.

One of the main principles of Revision Settlements was that the assessment of land should not be enhanced on account of the increased value due to improvements effected by the holder during the currency of the past settlements. The advantage of all improvements effected by holders or at their cost in their holdings has now been fully assured to them. By an "improvement" is meant any improvement made to his land by a raiyat at his own expense and not at the expense of the State. A well constructed by a cultivator with his own capital or with the aid of Tagavi is an "improvement." If he converts the dry crop Jirayat land into rice at his own cost it is an "improvement." But if this conversion was due to the construction of a Government Canal, it would not be called an "improvement." During the time of the Original Settlement rice land was assessed as rice and bagayat land as bagayat, that is in accordance with the condition in which it was found, though the lands must have been prepared by the raiyats at their own cost. But it was the then Collector of Poona who protested against the special assessment of bagayat upon this very ground. When the first Survey Act (I of 1865) was passed, the need for the encouragement of agricultural improvements, and specially of the construction of wells, had impressed upon Government the advisability of adopting a benevolent and liberal policy in assessing lands and this policy was given effect to in Sec. 30 "Such revised assessment shall be fixed, not with reference to the improvements made by the owner or occupants from private capital and resources during the currency of any settlement under this Act, but with reference to the general considerations of the value of

land, whether to soil or situation, prices of produce or facilities of communication."

In the Land Revenue Code (Act V of 1879) the section first quoted reappeared as Sec. 106. Immediately after this there was a new Sec. 107. The whole question was finally reconsidered and settled in 1884 and the important pronouncement on the matter was made in G.R. No. 2619 dated 26th March 1884. Everybody interested in the land system should read this document fully. In this book only the salient features can be given as under:—

(1) Enhancements of assessments shall be based upon "general considerations" and not on the increase of value of particular fields.

(2) The occupant shall enjoy the entire profit of improvements made at his own cost.

'Reference to the general consideration of the value of land' means reference to the increased value due to extraneous causes distinct from the result of the expenditure or labour of the cultivator. When better access and transport facilities are provided by a railway, it is such a cause. Its value can be judged by examining the trend of prices for a fairly long period and noting the proportion of increase of a permanent character. The occupant pays for the use of all advantages inherent in a soil such as subsoil water, rain water, but if he utilizes these through labour or capital, he is free from taxation. The whole profit due to improvements is guaranteed for ever. This is a very noteworthy feature of the Bombay Land System not to be found elsewhere in the world. This was a great encouragement for investing capital in agriculture. Section 106 and 107 were repealed by Acts IV of 1886 and the present Section 107 was substituted.

The question of improvement is not so easy as is generally supposed.

The Spanish Law allows an "improving tenant," to retain his holding even against the Landlord's will, to cover his costs. The French Law provides against the Landlord, between the Landlord and the tenant, so far as the execution of improvements goes.

Ploughing and sowing would be as much an improvement as irrigating it because it goes to increase the net profits of agriculture. Improvements are unobtrusive such as grading, draining, applying the improved methods, or obtrusive, *i. e.* visible improvements such as embankments, tanks, wells. The question which deserves consideration is whether the improvement is more than a full and fair return? By keeping the extra produce until its value is completely repaid upon all the work, the extra produce must be paid for, or from the gross value of the holding the cost of improvement is deducted.

All short termed improvements may remain free from taxation but it is a question whether permanent and durable improvement should go free for a generation or two and then be taxed. To illustrate this an example may be taken. In Ratnagiri the mangoes produced are the best in the whole of India. In order to improve the land the cultivator had to expend a sum of money and labour during the past 20 years but now he has not to spend so much, his cost has been repaid and he gets a large unearned increment as compared with the cultivators who sow other crops. Similarly in converting the Warkas land into rice during the past years, the occupant had, no doubt, to incur much expenditure, but now, the cost has been repaid by the profit he got during the succeeding years, and in future too he gets the profit and continues to pay as before, less than the owner of the old rice land. In Konkan there are large tracts of new rice lands, nearly half. But the owner of the old rice land has to pay more assessment than the owner of the new rice; the former had to expend as much money and labour as the latter. So far as the perpetual exemption of improvement goes, Bombay alone seems to be an exception in the whole of India; in other provinces the improvement is not taxed for a period of 30 years only but thereafter it is taxed. The Warkas land converted into rice land is called Position Class Warkas. Warkas is the dry crop land on the slopes of hills and Mal land on which inferior crops like Nachana, Sava, Vari are grown.

Position
Class
Warkas.

CHAPTER III.

Collection.

13. Law of Collection.

All lands are liable to land revenue, wherever situated, whether applied to agricultural purposes or not, unless specially exempted. Land Revenue under Sec. 137 L. R. C. being the first charge on the land is leviable under the provisions of the Land Revenue Code Sec. 45. The responsibility of the holders is joint and several.

L.R. Code
Sec. 45 & 137.

Land
Revenue
Code Sec. 146
and Rules
115, 116.

Instalments are arranged so as to become payable shortly after the harvesting of crops. The revenue is usually paid in two instalments, the dates of which are fixed under Land Revenue Code Rules 115 and 116. If the dates fixed are found unsuitable for any particular district, they can be altered with the sanction of the Commissioner. The dates fixed for the Taluka are identical for all the villages.

14. Procedure for Collection.

Except in years of famine, when there will be special orders on the subject, the ordinary procedure for collecting the land revenue is as follows :—

L.R. Code
Rule 119 (a).

The Village Officers are responsible for warning the land-holders verbally, from time to time, of the dates on which their instalments are due, and for using their personal influence in securing prompt payment without resort to notices of demand or other compulsory processes.

Village Form
No. 9 and
L.R. Code
Sec. 58.

During the period fixed for payment of instalments, the land-holders pay the money (in the Chavdi where there is one) to the Patel; and the village Accountant, Talati or Kulkarni, at once gives them a receipt in the printed form, duly filling in the counter foil.

G.R. No. 727
of 28-1-85.

The practice of crediting the amount of land revenue collected in the first instance against any arrears which may

be due for former years is not to be allowed. The demand of the current year must first be met, and the arrears of former years should, if possible, be recovered afterwards. The registered occupant is primarily responsible for the payment of land revenue, but it may be accepted from any co-occupant, tenant, mortgagee or other person interested in the occupancy; and in practice it is commonly so received. Care must be taken to see that the name of the actual payer of each sum as well as the amount of the sum itself are entered in the receipt. At the same time the Village Accountant must enter the payment in the Ledger; the Wasul Baki Patrak is the important register; one sheet is allowed to each village. The money so collected should be remitted to the Taluka Treasury with a chalan (or memo) within such interval after collection as the Collector may have prescribed for his district; a receipt is given for the money at the Treasury. If, when the instalment falls due, it is not realized, then the presumption of law which makes the land revenue a first charge is a dead-letter. The Savkar takes the grain which should have been sold to pay the State's share.

L. R. Code
Sec. 136.L. R. Code
Sec. 80.Village Form
No. 10.G. R.
No. 8573 of
9-12-01.

When the date, prescribed for payment of an instalment, is past, the Village Accountant prepares notices (in form S, referred to in Rule 118 L.R.C.) and calls on all defaulters (Defaulter is a person liable for arrears of land revenue.) to pay their assessments after obtaining the Mamlatdar's signature on them. When it appears in any village that neither the land revenue is received into the Treasury nor are the notices of demand issued for signature, the Mamlatdar comes to know that there is something wrong which needs looking into. (Indiscriminate issue of notices is deprecated,—Resolution 7175 of 1893. They should be issued only when such a course is absolutely necessary.) Fees are levied for all notices issued, whether they are actually served or not. The rules under which remissions are granted make sufficient provision for the avoidance of undue hardships. A notice is held to have

Notice of
Demand Rule
118: Form S.

Vide Standing Orders R.D. Page 1205 also G.R. No. 6730 of 25-9-02 and G.R. No. 7918 of 12-11-03.

G.R. No. 1194 of 16-2-98.

Precautionary Measures Sec. 140-144. L.R.C.

Process for recovery of arrears. Sec. 154 Land Revenue Code.

L.R.C. Sec. 170.

L.R.C. Sec. 153.

L.R.C. Sec. 155.

L.R.C. Sec. 148 and G.R. No. 2485 of 27-3-83.

L.R.C. Sec. 157.

been issued when it has been signed and dated. After the period for payment is over and it is found that in some cases personal influence and the issue of notices had failed to procure the payment, then from that period up to the end of the year is a period when well-organized measures have to be taken for the recovery of the out-standing due e.g. if the instalments were fixed in December and February, this period will be from March to July. Under Sec. 146 L. R. C., land revenue is leviable at any time during the revenue year. For securing the land revenue the precautionary measures are prescribed in Secs. 140-144 L. R. C. please see Part IV of this Book.

The steps taken to realize the payment of land revenue are as follows:—

(1) Dstraint and sale of the defaulter's movable property. This power is usually delegated to the Mamlatdars and Mahalkaris, and is generally the first coercive measure to be applied after the notice has been disregarded. When the defaulter is in good circumstances and wilfully withholds payment, the best course is to distrain the most valuable article of his private property. The sale of a holding is a measure which can be adopted when all the foregoing processes are deemed to be ineffectual, and only when the defaulter is contumacious. If the sale is sanctioned, all the previous contracts and grants become void and it is sold free of encumbrances. The justification for this lies in the paramount claim of the State. The papers are then submitted to the Prant Officer to sanction the sale of the property attached.

(2) Forfeiture and disposal by sale or otherwise of the occupancy on which the arrear of land revenue is due. It is important to note that a clear order of forfeiture is necessary to extinguish encumbrances on the land; but it is desirable, before issuing such an order, to give full notice to all persons in any way interested in the land. The Record of Rights gives all the particulars of such persons.

(3) The sale of the right, title and interest of the defaulter in any immovable property other than the land on which the arrear is due.

(4) Deliberate and contumacious or negligent failure to pay on the part of a well-to-do person, must be promptly reported to the Authorities who then can proceed to levy by dstraint the whole assessment due, together with a penalty which may amount to one fourth of the land revenue overdue.

(5) Arrest and imprisonment of the defaulter. This is very seldom necessary, but it may be desirable in some peculiar and exceptional

circumstances. Only the officers who are authorized by the Commissioner can exercise these powers.

15. Collection of Dues by Inamdar Who Holds A Commission.

Where the Inamdar holds a commission under section 88, he is responsible for applying the precautionary and coercive measures necessary to collect his own revenue, and the Revenue Officers can take action only at his request for (a) to order the sale of the attached property; (b) to inflict fines on contumacious defaulters. It has been ordered by Government that, in the absence of any special reason to the contrary, every Inamdar who accepts the introduction of a Survey Settlement into his village should be granted a commission under Sec. 88, provided that he agrees to give suspensions and remissions according to the scale applicable in Government villages. Such commissions confer powers under all clauses of Sec. 88, except (d). Powers under (d) are granted on special recommendation only, to Inamdars who agree to levy special assessment and on terms similar to those in, at terms not exceeding those of, Government villages. Vide G. R. No. 6984 dated 16th July 1907. An agreement on stamp paper is necessary embodying the condition, Preamble to G. R. No. 511 dated 18th January 1909.

L.R.C.
Sec. 90
and
L.R.C.
Sec. 148.

In the case of villages whose accountants are paid by the Inamdar, the latter must execute an agreement to supply Government with agricultural statistics for his village before a commission can be granted to him.

16. Where Inamdar Holds No Commission.

Where Inamdar holds no commission, assistance can be granted him to recover his revenue on his applying for it under Sec. 86.

The application for assistance has to be made within the revenue year in which the revenue became payable (i.e. before the end of July); and if it is not made in time the Inamdar has no means of recovering his outstanding revenue except through the Civil Court.

In order that the Inamdar may make his application in time, the Kulkarni must supply him some time before the end of the revenue year with a list of the defaulters for the year (Wasul Baki Patrak). Delay in performing this duty by the Kulkarni may sometimes be intentional. The application should be made to the Mamlatdar or Mahalkari who has authority to dispose of it under the provisions of Sec. 87. A single application against several inferior holders is sufficient and can be sent by post.

G.R.
No. 2598 of
31-3-83,
G.R.
No. 6924 of
15-8-83,
G.R.
No. 8721 of
23-12-87
and G.R.
No. 8027 of
12-11-90.

17. Madat Suits (Rent Suits.)

(1) Superior holders are entitled to assistance for the recovery of rents or the land revenue due to them from the inferior holders.

L.R.C.
Sec. 86.

L.R.C.
Sec. 3,
Clauses
4, 11, & 13.

(2) The definition of "Land" in the Code is such as make the terms "Holder" and "Superior holder" apply persons entitled to a share in or a charge on the revenue, well as to persons in the possession and the enjoyment of the land itself.

G. R.
No. 4379 of
20-8-80.

The "Superior holder" may, therefore, be the holder of the Inam rights or one of his co-sharers, "hakkadar", the holder of the occupancy rights or merely a mortgagee in possession.

L. R. C.
Sec. 83.

(3) A person is said to be an inferior holder when the existence of an agreement (written, verbal or customary) whereby he binds himself to pay rent to the superior holder is proved.

G.R.
No. 5841 of
30-10-80

If the amount of rent lawfully due or the identity of the superior holder is in dispute, and the questions are of a complicated or difficult nature, the assistance may be refused and the parties referred to the Civil Court.

When the assistance is granted under Sec. 86, a notice to the defaulter is issued, calling on him to pay the sum awarded against him within 10 days; if he fails to pay up within this period, every compulsory process used for collecting Government revenue as described before can be applied: and if other measures fail, the land can be forfeited and made over to the Inamdar.

In Madat cases, reliance is placed on an entry in the Record of Rights, "The Tenancy Register." An entry in the Record of Rights is presumed to be correct, Sec. 135-1. If the assistance suit is to succeed, it must be supported by Record of Rights. When in some Talukas where the number of such cases is large, a special staff is often employed for the execution of these decrees.

G.R.
No. 5084 of
20-7-01.

Government have attached particular importance to the prompt collection of Inamdar's dues.

18. What is a Tenancy?

Tenancy is the relation which exists, arises, or is brought into existence, when the right to enjoy the immovable property of one person is found to be in, or transferred to, another person for consideration, but not by way of security for the satisfaction of a debt, in which case the transaction will be akin to a mortgage.

Rent payable by tenant.—A tenant is regarded as holding the land at the rent or for the the services agreed upon. In the absence of any satisfactory proof of the agreement, the usage of the locality governs the same. If there be neither, then the test is, what is just and reasonable, having regard to all other circumstances of the case.

The Duration of Tenancy.—Presumptions as regards Permanent Tenancy.

Section 83.

There are various kinds of tenancies: some are only annual, some for the life-time of the tenant and some permanent. So far as the duration of a tenancy is concerned, the general presumption of law is that the tenancy is an annual one; if the tenant wants to rebut this presumption he must do so by proving the nature of the duration of his tenancy; he may prove an agreement to the contrary or prove the duration of his tenancy by means of a local law or usage to the contrary.

There is no distinction between a tenant and an inferior holder so far as the question of rent goes. G.R. No. 5843 of 30th October 1880.

Circumstances under which a tenancy is presumed to be co-extensive with the duration of the tenure of the superior holder and of those who derive title under him. (Sec. 83).

Part 2 of section 83 lays down that a tenancy shall be presumed (as against landlord or superior holder) to be co-extensive with the duration of the tenure of the landlord under the following circumstances:—

(1) By reason of the antiquity of a tenancy, no satisfactory evidence of the commencement is forthcoming.

(2) No evidence as to an agreement between the landlord and the tenant (as to an agreement) regarding the period of its intended duration.

(3) No usage of the locality about the duration of such tenancy.

There was an exhaustive discussion of the principle in *Maniklal V. Bai Amba*, 22 Bom. L. R., 1894. There it is laid down, that in a suit (it was an ejectment suit) the plaintiff landlord has not to prove that the tenancy is an annual one. The presumption is that the tenant is an annual tenant and the onus lies upon the tenant to prove that he is something more. A defendant, who wishes to prove that he is a permanent tenant, must prove, first of all, if he has not got a document of permanent tenancy, the antiquity of his tenure. Where the antiquity of the tenancy at a uniform rent is established, it is for the landlord to prove that there is evidence of the intended duration of the tenancy either by agreement or by usage. In the absence of this, a presumption arises that the tenancy is co-extensive with the duration of the tenure of the landlord.

It may, however, be noted that even in such a case, there is no presumption, as to what the terms of the tenancy are, that is to say with regard to the rent and other matters. *Siddhanath V. Chiko*, 23 Bom. L. R. 533.

Section 83 of the Land Revenue Code is applicable only when the evidence as to the commencement and duration of tenancy is not forth-coming by reason of its antiquity, which in the case of a tenancy is 40 years. *Kalidas Laldas V. Bhaiji Naran I. L. R. Bom. Vol. XVI page 687, 1892.*

1. Section 83 comprehends every possible kind of tenancy to which the Act can relate. The use of the word 'tenant' is essential in it, because the section settles the general relationship existing between the landlord and the tenant for the purposes of the Act, and includes certain tenancies in respect of which there is a presumption as to tenure.

2. There is thus really no distinction between a tenant and an inferior holder except in the use of terms, the one to express derivatory right from the landlord, the other to express a liability to pay rent to the landlord.

3. An Inamdar is a superior holder, primarily liable to pay the local fund cess under Sec. 8 of Bombay Act IV of 1869.

4. In the absence of a satisfactory evidence the presumption is that the person in possession of land, in respect of which he pays rent, holds it as a tenant.

5. Section 83 does not affect the right of the landlord, if he has any, by usage or agreement, to enhance the rent.

6. A grant to an Inamdar may be either of the Royal share of revenue or of the soil; but ordinarily it is of the former description and the burden rests on the Inamdar that he is an alienee of the soil. Where an Inamdar is an alienee of the land revenue then his relations towards those who hold land within the area of the Inam grant vary according to well recognized principles.

The following cases are noteworthy :

(1) A tenant repudiating the title under which he entered becomes liable to immediate eviction at the option of the landlord. *Vishnu Chintaman V. Balaji Raghunath*, 12 Bom. 559.

(2) Where there is no satisfactory evidence of the commencement of a tenancy by reason of its antiquity, or any evidence of the period of its duration, nor of any usage of the locality regarding the duration, the tenancy must be presumed co-extensive with the duration of the tenure of the landlord. *P. J. 179 Jaikrishna V. Lakshmanrao 1890 I.L.R. XIV Bom. page 392.*

(3) Inamdars can enhance the rents even of permanent tenants i.e. Mirasdars in the Inam village within the limit of the custom. *Vishwanath Bhivaji V. Dhondappa*, 17 Bom. 475. The case of the Chief of Kagwad may be quoted.

(4) (i) No distinction could be drawn between the public and the private property of an absolute chief.

(ii) That in the absence of a contrary intention, the resumption by the British Government of a Saranjam or Inam leaves the occupancy rights of the Saranjamdar or Inamdar untouched. That a Saranjamdar or Inamdar may acquire occupancy rights during the continuance of the Saranjam or the Inam.

(iii) That the fact that the revenue officers placed the defendant's name in the Government books as the occupant paying assessment did not make the defendant's possession adverse, and could not prejudice the plaintiff's right as landlord. *Ganpatrao Trimbak Patwardhan V. Ganesh Babaji Bhat*, 10 Bom. 112.

(5) The admission by the defendants that they had paid rent to the plaintiff was sufficient in law to raise a *prima facie* presumption of title in the plaintiff's favour and to throw the *onus* upon defendants of proving that the land belonged to Government and that the rent had been paid under a mistake. *Vithaldas V. Secretary of State*, 16 Bom. 410.

(6) To claim the benefit of the presumption created by Sec. 83, it is not sufficient that there should be no satisfactory evidence of the commencement of the tenancy but the absence of that satisfactory evidence must be by reason of antiquity of tenancy. *Vishwanath V. Tatya*, 6 Bom. L. R. 645.

(7) With respect to holdings later in origin than the Inam grant, direct contractual relations would be established between the Inamdar and the holder. If no such contracts can be proved then recourse must be had to Sec. 83, *Rajya Walad Imam V. Balkrishna Gangadhar*, 29 Bom. 415.

(8) Section 83 creates no new rights; it simply insists on the Courts adopting a better method of ascertaining whether in fact the rights existed. *Mohanchand V. Modi Kekhushru*, 31 Bom. 185.

(9) A lessee, who may have lost possession of a portion of the lands covered by his lease, is not entitled to suspend the payment of rent, if the dispossession has been effected not by the landlord but by other lessees under him. *Kali Prasanna V. Mathuranath*, 34 Cal. 191.

(10) The saving clause of Sec. 83 seems to contemplate that, though the commencement and duration of the tenancy may be lost in the obscurity of antiquity, still there may be vested in the landlord a right by agreement to enhance rent and evict for its new payment. *Raghunath V. Lazman*, 2, Bom. L. R. 93.

(11) A permanent tenant, the origin of whose tenancy is lost in antiquity and who has planted trees upon the lands devised has a right to cut them down and to use them. *Sitabai V. Sambu Sonu*, 38 Bom. 716.

(12) Unless authorised by the terms of his grant, an Inamdar cannot enclose lands at will, and certainly not lands which have been immemorially used as village pasture lands. *P. J. 3, Vishwanath V. Mahadaji*, 1879.

(13) A tenancy cannot be presumed to be co-extensive with the duration of the tenure of the landlord, even though its commencement cannot be traced to a particular period. *Narayan V. Pandurang*, 24 Bom. L. R. 331

(14) Where a tenancy is shown to have originated at some time between 1768 and 1857 a presumption can arise under Sec. 83, L. R. C., that the tenancy is permanent. The period of a century is too long and indefinite a period to constitute a satisfactory evidence of the commencement of a tenancy within the meaning of the section. *Shripad Bhat V. Rama* 29 Bom. L. R. 274.

(15) Where there is not satisfactory evidence of the commencement of the tenancy, the tenancy is presumed to be permanent under Sec. 83, L.R.C. Such a tenant is not, however, a Mirasi tenant.

19. Landlord Can Enhance the Rent.

In the case of a permanent tenant, not an occupancy tenant, the landlord has the right by usage to enhance the rent. *Vyasacharya V. Vishnu*, 22 Bom. L. R. 717.

Section 84.—Tenancy runs from the end of one cultivating season to the end of the next. The revenue year ends 31st July. Three months' notice before the end of the year 31st of March is necessary on either side; the notice must be clear and unambiguous. Section 84 does not affect special conditions embodied on a lease, for the section applies only in the absence of proof to the contrary.

Suspensions and Remissions.

Between the fixity of assessment and the fluctuation of customs, there is occasional incompatibility. Two important factors *Viz*: the climate and the people are to be taken into account. In some parts of the Presidency—in the precarious tracts there is seen at times vicissitude of the harvests. A considerable proportion of the peasants are lazy and thriftless a large number is hardworking and thrifty and a small proportion is both industrious and thrifty. When fluctuations are great owing to large areas dependent on rainfall, it is judged best to give up a fixed demand.

The circumstances which call for suspensions and remissions may be—(1) Wide spread, ordinary, such as deficiency of rainfall, (2) local, isolated, extra ordinary such as locusts, fire, flood. Loss of crop may be due either to the deficiency of rainfall or excessive moisture by exceedingly heavy rain. A flood which ruins the autumn crops may be of great value for the second crop harvested in Spring. The Collector has to satisfy himself that distress really exists owing to the drought, nonseasonal rainfall, fluctuations in areas sown and areas harvested, loss of cattle, decrease of population owing to the effects of famine. The grant of suspension is a matter within the discretion of the Collector. But the action taken must be reported at once to the Commissioner who may cancel or modify the Collector's orders.

A 4 anna crop will leave the cultivator much less than half the margin which will be left by an 8 anna crop, out of which to pay revenue or rent, the relief should be more than double in the former of what it is in the latter case. In deciding suspensions and remissions the interest of the tenants deserves first consideration. Rich landlords are

willing to pay because of the power to recover which vests in the capitalists and money lenders. The Revenue Officer may consider the following points when enquiring into such cases:—

The preceding harvest and the prospects of the next, the presence or absence of agricultural stock for food or for seed, condition of the cattle, kinds of crops grown whether for food, fodder or sale, the character of the cultivation, whether dependent on rain, pats or wells, nature of rents, migration, if any, of tenants, the presence or absence of the sources of income other than the crop, the size of the holdings.

Suspended revenue ought to be recovered whenever the return of better season permits. From the abundance of future years the State is entitled to recover what it is compelled to forego in the bad year. When three years' suspended revenue cannot be realized, then remissions are given in the interval to its recovery and the officers must feel satisfied that there are good reasons for not enforcing payment.

The commissioner's control in the matters connected with suspensions and remissions is great and, if there are reasons, he will not hesitate to modify the Collector's orders, if they appear to be ill-advised and ill-conceived.

The detailed rules are in G.R., R.D., No. 4966/24 of 1-5-1929.

When the Collector has ascertained by local enquiries that owing to a partial or total failure or destruction of the crops throughout any tract on account of drought or any other cause, it will be necessary to suspend the collection of land revenue (or judi under the Gordon and Pedder Settlements) assessed for agriculture in any area, he is authorized, especially when the tract is already impoverished or the previous harvests have been poor to grant suspensions according to the scale below to all occupants, agriculturists and non agriculturists alike and to superior holders of alienated land (R. 9402-19) without enquiry into the circumstance of individuals :—

Classification of crops.	Amount of assessment to be suspended.
4 annas and under	... The whole.
Over 4 annas, under 6 annas	... Half.
6 annas and over	... None.

The normal crop, or average of satisfactory seasons is reckoned at 12 annas.

(But in the system of Revenue Accounts since 1915, Land Revenue and L. F. Cess are consolidated, and thereafter the demand, collection, suspension, remission and credit of all items is consolidated: so that no distinction remains.)

Where the area affected is homogeneous or whole villages are more or less uniformly affected, the suspensions should be announced for such tract or villages without detailed inspection.

The Collector shall cause the occupants and superior holders of alienated land whose revenue is suspended to understand distinctly that such suspension is provisional only, and that it will be decided subsequently whether the revenue suspended shall be ultimately remitted or collected.

Remissions should be granted to occupants and to superior holders of alienated land in the manner explained below; there should be no enquiry into the circumstances of individuals.

(i) Except as provided in sub-paragraph (ii), the grant of remission should depend on the character of the three seasons following that in which the assessment is suspended. The oldest arrears shall be remitted first (R. 9402-19). Suspended revenue should be collected to the extent permissible under the table given below. In accordance with this table, all suspended arrears which either (a) in Gujarat and the Konkan are in excess of one year's revenue or (b) in the Deccan are in excess of two year's revenue or (c) more than three years old should ordinarily be remitted by the Collector:—

Anna classification of crop	Proportion of assessment the collection of which would be justified.	
	Current.	Suspended arrears.
11 annas and over	...	1
8 annas and under 11 annas	...	$\frac{1}{2}$
6 annas and under 8 annas
Over 4 annas and under 6 annas	...	$\frac{1}{3}$
4 annas and under

(ii) In the tracts noted below,* the grant of remission should depend on the character of the four seasons following that in which the assessment is suspended. In other respects the instruction in sub-paragraph (i) will apply except that the suspended arrears shall not be due for—remission until they are more than four years old (R. 4966-24-27th March 1928).

(iii) The amount of suspended revenue to be collected with any particular instalment should be fixed by the Collector and announced before the collection of the instalment begins.

(iv) Cases in which owing to the impoverishment of a tract by a succession of bad seasons, or for any special reasons, it appears to the Collector desirable to remit or collect suspended revenue otherwise than in accordance with the ordinary rule, should be reported through the Commissioner for the orders of Government.

When the assessment includes a separated rate for water-advantages then, if the water fails to such an extent that no irrigated crop, or an irrigated crop not exceeding $4/6$ annas can be grown, the whole $\frac{\text{whole}}{\text{half}}$ of the portion of the assessment which represents the water-rate should in the case of all occupants and superior holders be remitted without suspension (R. 5087-07, 5824-08). If such remissions are extensive, the Collector should first consult the Irrigation Officer of the district, and in case of difference of opinion should refer the case to the Commissioner.

When much land which would ordinarily be sown is left unsown because present or recent calamity renders sowing impossible, the case is identical with that of the failure of crops and should be similarly treated.

Suspensions may be granted to superior holders (including Mewasdars) (R. 11946-07) in accordance with the orders and the provision of Sec. 84-A of the Bombay Land Revenue Code. Such grant entails the suspension and remission of rent (other than crop share) payable by the inferior holders or tenants to the extent provided by that section, under which the Collector must also record his order.

Relief on the occasion of local calamities, including the loss by fire or flood of harvested crops or other property (R. 8507-11), should be determined

* Sholapur District.

Bijapur District.

Ahmednagar District (including Akola, Kopargaon and Sangamner Talukas).

Indapur and Bhimthadi Talukas and Sirur and Dhond Petas of Poona District.

Gadag, Ron and Navalgund Talukas and Mundargi and Nargund Petas of Dharwar District.

by the investigation of individual cases. Before relief is granted the resources of the owner should be taken into account.

When the damage amounts to total or nearly total loss of crops, immediate remission is preferable to suspension (R. 650-07, 2702-07, 8507-11).

(R. 8714-12).—In order to carry out these rules it is essential that each autumn, not later than 1st October, each Sub-Divisional Officer should obtain from each Mamlatdar a list of the villages in the Taluka (printed lists should be available). This list should show against each village the full normal year's demand of fixed consolidated revenue in round figures, omitting annas. The next column should show the total amount of suspended revenue in each village. When these suspensions are not given uni-formly to all occupants, this fact should be made clear, together with the production (half, whole or more than one year's demand) which stands suspended. The next column should show the Mamlatdar's Final anna valuation for the village. For orders as to methods of valuation see R. 3750-09, 7392-11, and 7760-12, para 2, and 7773-B. 27. A duplicate of these statements must also be sent to the Collector.

Upon this information the Remission and Suspension Rules can be applied. If there is no suspended revenue, no orders about its collection will be needed. If the crops are plainly well above 6 annas, there will be no suspensions for the current year. If they are unmistakably above 11 annas, the collection of the current revenue together with one full year's demand of suspended revenue could be ordered without further enquiry. But when the reported anna-valuation is close to one of the critical figures,—say $5\frac{1}{2}$ to $6\frac{1}{2}$, so that perhaps suspensions may be needed in the current year, or $10\frac{1}{2}$ annas, so that it is doubtful whether two years' dues can be demanded,—then a careful test of the valuation must be made. For this purpose the Sub-Divisional Officer will, if necessary, go out on inspection in October (R. 438-12). It is imperative that the crops should be seen before they are reaped, and the Sub-Divisional Officer must ensure that the list reaches him in time for this to be done and should call for and proceed to act on the Mamlatdar's provisional estimates, should there be danger of his final estimates being received too late. He will select villages for test from the lists so as to take a fair sample of the average condition of the taluka and should specially select villages for which the figures are critical.

Reports of the extent and result of this test must be submitted weekly to the Collector. Duplicates of the original lists should have been sent to the Collector, so that, as he receives the results of the tests, he can modify his estimate of the effect upon the probable demand and collections for the year. He can also see that proper progress is made in the tests. The Collector must see that reports required by Order below (F.2325-10) are submitted promptly. He must not wait until the last tests have been taken and the conditions of both

kharip and rabi crops are ascertained. If this first estimate requires material modification, he should intimate the revised figures later. These estimates can be made upon the schedules showing the normal demands (or indeed upon the District Returns up to the end of July which will exhibit by Talukas the exact suspended revenue). He should not attempt accuracy to a single rupee and not delay while figures are collected, a task that should not be placed upon the subordinate establishment. (R.8714-12)

Only in cases where some special remission of water-revenue, or collection of the full revenue from irrigated holdings, while other holdings are granted suspensions, has been ordered, will it be necessary to collect estimates (or actual figures) of the financial effect in detail from the villages concerned. The general intention of these orders is that the village should be the unit, not the aggregate 'khata' of the single field.

The lists of suspensions and remissions should be published in the following manner. As soon as the statement for any village is sanctioned, the Mamlatdar should cause a copy to be sent to the village officers, who should be required to read and explain the orders to all the villagers and to post the copy in a conspicuous place in the village chavdi, if any, or otherwise in some building to which the villagers resort. The Collector's orders, if any, under Sec. 84-A should be published and explained in the same manner. The village officers should be required at the same time to enter in the raiyat's ledger (Village form VIII-B) the remission and suspensions which have been sanctioned, and in due course to note in the rent column of the Tenancy Register (Form XII) for each hissa concerned the suspension or remission granted by Collector's orders under section 84-A unless these orders are of a general character, when they may be recorded in a remark at the end of the Register. All Revenue Officers from Circle Inspectors upwards should satisfy themselves (by personal observation) that the publication has been made as directed and that any torn or defaced notice has been replaced and (by direct enquiry) that the remissions and suspensions and the Collector's orders under section 84-A have been read and explained to the villagers. The Circle Inspectors and other Taluka Officers must examine not less than 25 per cent. of the raiyats' receipts and of the entries in the Tenancy Register within three months after the remissions and suspensions have been declared, giving special attention to receipts and entries affected by the orders. The District Officers should pay special attention to ensure that this examination has been properly carried out.

In alienated villages the same procedure should be followed throughout as far as practicable, and in those in which forms VIII-A and B and the Tenancy Register or corresponding forms do not exist, the Inamdar should be invited to provide every inferior holder who is entitled to remission or suspension and whose dues are not collected through the village officers with a combined demand and receipt form showing the remission or suspension sanctioned for each and the balance due for payment.

The Collector as soon as he issues his orders, should report to the Commissioner his proceedings as regards both suspension and remission of land revenue stating fully the reasons for these orders and the extent of their application, with other relevant particulars.

Annewari.

20. Annewari is the method of finding out in terms of annas the value of any crop. As a Rupee has sixteen annas, the cultivator usually speaks in terms of annas when calculating or estimating his out-turn from the crop growing in his field. There is a different anna value of each crop. The Annas (Bhag Annas) which are used for the purposes of classification are different from these.

One of the chief duties of the village officers specially the Kulkarni or Talati is to inspect the crop field by field of each harvest. This is known as Pik Pahani. For the Kharip crop (From June to July sown with the aid of early monsoon rain), it usually begins in October and for the Rabi (September to November sown with the aid of late rain), about the end of February or beginning of March. Some crops like Macca (Maize) Ratals (sweet potatoes), Melons are sown late in the Rabi season. The object of crop inspection is—

- (1) to collect information regarding the crops, their annewari in tracts subject to scarcity or famine;
- (2) to notice changes in the Record of Rights, rents possession of land;
- (3) to note changes required in the map, hissas newly accrued.

In the new combined village form VII-XII, all the particulars are mentioned which the Talati or Kulkarni has to verify in the fields. For any sound method of land revenue assessment and collection crop inspection is indispensable.

The responsibility of the Revenue Officers, Circle Inspectors, Mamlatdars, Prants and Collector regarding the inspection of crops is great. These officers are expected to

have a clear idea of the state of crops in each circle and in all important villages, special attention being given to the villages in which there was previous suspension or remission or in which suspension of the demand is likely to be required. In bad seasons other ordinary work must not be given preference because a thorough examination of the harvest which is still standing on the ground is desirable.

A 12 anna crop is a normal crop or the average of satisfactory seasons, a cultivator is expected to get in 2 or 3 years out of ten years.

A 16 anna crop is considered a bumper crop or full crop got once in 10 years.

A 10 anna will be the average crop in the best climate, where famine is rarely experienced e.g. Belgaum Taluka or talukas in Konkan.¹

An 8 anna crop is the average of an ordinary tract.

A 6 anna crop is near to the minimum out-put upon which the raiyat can just live and pay the land revenue.

A 4 anna crop is such that the cultivator cannot pay the land revenue, nor rent to the landlord by the tenant.

A 2 anna crop means famine.

For the purposes of suspension of revenue, annewari is required only when there is doubt as to whether the season is below 6 annas, or, if there are suspended arrears, when there is doubt as to whether the season is below 8 or 11 annas according to the amount of arrears to be collected is half or the whole of one year's assessment.

G.R., R. D.
No. 6365
dated
2-2-1931

The procedure for making the anna valuation is prescribed in Government Resolution No. L.C. 1145-B dated 24th June 1927:—

(1) A Committee shall be formed for every village for which an anna valuation is to be prepared consisting of the Circle Inspector (as Chairman), the Kulkarni, the Patil and two representative agriculturists selected by the Circle Inspector.

(ii) The Circle Inspector shall give not less than 3 clear days' notice of his visit.

(iii) The Committee shall meet in the month preceding the harvesting of the main crops and record its opinion as to what the anna valuation should be for each of them.

(iv) The opinion shall be signed by each member who (if the Committee is not unanimous) shall record his opinion over his own signature or mark.

(v) The opinion or opinions thus recorded shall be forwarded by the Circle Inspector to the Mamlatdar, who shall proceed to make a provisional decision.

(vi) The Mamlatdar shall fix a date by which the opinion or opinions referred to in section (v) above shall reach him.

(vii) If the opinion or opinions are not received by that date, he shall make his provisional decision on such other data as may be available.

(viii) The Mamlatdar shall publish his provisional decisions in the taluka kacheri and in chavdis of all the villages concerned.

(ix) Any objection to the provisional decision of the Mamlatdar shall be made within 15 days from the date of its publication, and he shall take into account all objections which have been submitted to his superior officers, in person or by petition.

(x) Unless the Mamlatdar, on a consideration of the objections or for any other reason, sees fit to amend his provisional decision, such decision shall stand as his final decision. In any case where he amends his provisional decision, the amended decision shall be published in the same manner.

(xi) If the Collector revises the Mamlatdar's decision, this further decision similarly shall be published.

(xii) The Collector may select any field in any village for a crop test with a view to checking the accuracy of any anna valuation.

(xiii) The Collector or the Mamlatdar as the case may be should supply to the public on payment of the copying fees, information relating to the anna valuation of the crops of a village embodied in the following documents:—

- (1) the opinion of the Village Committee as to the anna valuation of each of the main crops.
- (2) the provisional decision of the Mamlatdar,
- (3) the final decision of the Mamlatdar, if any,
- (4) the Collector's decision.

Where possible, the Mamlatdar's decision should contain the area as well as the anna valuation of each of the main crops of a village. The

information should be furnished in the form appended to R. 4866/24 of 19th June 1930.

If on one acre the crops are 4 annas and on 500 acres the crops are 8 annas, then the average is not 6. In estimating the average anna valuation of one crop, such as rice, the total area of the crop, how much has failed totally, and how much in a less degree, has to be considered.

Let us take an example. 2000 acres is the occupied and assessed area. The average unsown (rotation fallow) in ordinary years is 200 acres and the crops for the year in question are:—

	Acres.	Annas.
Unsown owing to deficiency of rain	500	Nil.
Jawari.	240	5
Bajri.	172	7
Rice.	128	1
Cotton.	560	14
Gram.	80	10
Wheat.	320	10

The average will then be the sum of $500 \times 0 + 240 \times 5 + 172 \times 7 + 128 \times 1 + 560 \times 14 + 80 \times 10 + 320 \times 10$ divided by 1800, the normal cropped area = $14372 \div 1800 =$ Total Anna valuation of the village, 7.98 or 8 annas. Fluctuations in prices are not to be taken into account. Grass intentionally kept is a crop.

Each officer should put down in maunds per acre what he considers to be the fair normal yield of that crop on land of the best class in the village. If he puts down 40 maunds as the produce in his judgment of land of 16 annas classification, and the field before him is of 12 annas classification, then it ought to produce 30 maunds in a normal year with a 12 anna crop. If the crop is actually only 20 maunds, then its valuation will be 8 annas. When the valuation is doubtful or is challenged, the Officer can test it by cutting and weighing the produce of a small area. But the important point to bear in mind is that it should be known to the valuing officer and to the testing officer or to any other person who challenges the annewari precisely how many maunds per acre he had in view as the full normal crop. The Agricultural Department have maintained a table of standard and output for each Taluka. In some places Dugota crops i.e. double crops are grown e.g. rice followed by Pawata, such a land in a good average year will bear 12 annas Kharip and 12 annas Rabi crops, but in a bad year it may have 2 annas Kharip and 6 annas Rabi or vice versa. The anna valuation of each crop has to be taken into account and the area will have to be shown twice e.g. 2 acres of 6 annas rice followed by 2 acres of 2 anna Pawata. For all second crop lands the area must be repeated

twice and anna valuation of each crop must be given. The anna valuation of village can be worked out as under:—

Crop.	Normal yields (12 as. crop on land of 16 as. classification)	Area sown.	Average classification value of that land.	Estimated yield this year.	Anna value.	Total annas X acres.
Normal fallow	...	100	...	...	...	...
Unsown	Nil.	150	...	Nil.	Nil.	Nil.
Grass	(6 as. pays the assessment.)	80	...	4 as.	4	920
Juvari	12½ m.	120	10	6 mds.	9	1,080
Bajri	10 m.	86	12	3	4½	409
Rice	40 m.	64	8	2	1½	80
Val	9 m.	37	8	1	2½	92
Other pulses	8 m.	68	12	1	2	126
Cotton	4 mds. (kapas)	180	12	3	12	2,160
Wheat	8 mds.	100	14	3	5	500
Gram	4 mds.	20	14	1	8½	70
		750				
Linseed (second crop)	3 mds.	25	12	3	16	400
Gross area	1,025					925) 5937
Net valued area	925	...	...	...		5.66

The formula for each area or the average of the area under the crop is:—

(1) 192 X (3) Actual

(2) Soil—annas of the area under the crop produce

standard produce (16 annas soil in a 12 anna season.)

(4) can be supplied as a constant by the Agricultural Department.

(3) is to be estimated for each crop: i. e. for jowari the soil-valuation in annas of the whole area under jowari must be ascertained. The most exact method of doing this upon the crop-register of a village is this:—

Full assessment of the jowari area = anna-value.

Acres of jowari X maximum dry crop rate
of soil under jowari.

CHAPTER VI

Riverain Law.

21. Alluvian and Diluvian.

terms are borrowed from the Roman Law. Alluvian and Diluvian.
in Law may be said to be *Res accessoria sequitur rem*.
Upon it depended the Roman Law doctrine
of it was a mode of acquiring property whereby
of the principal became *ipso jure* the owner of
the principal as accessory to it.

the process by which land is
acquired by the deposit of a river
Land and loss are described as alluvian
and loss are described as alluvian
shifting of the stream from one bed
much of the land unaffected, whereas
movement of water, and not of land.

may be observed:—

acquired gradually owing to the "recess"
is considered an increment of the property
whose holding it has been annexed;

however, by a sudden change in its course,
intersects an estate or by the violence
takes a considerable piece of land from
it to another, or without destroying
venting the recognition of the land
remains the property of the original
stream rule.

in large rivers are at the disposal
land will come in the village nearer

The work of relaying the boundaries and demarcation of riverain villages with fluctuating banks yet to be completed in order to put an end to the constant source of interminable disputes. Alluvial former Government lands is dealt with in sections 63 and 64 of L. R. C. but section 46 refers to alluvial former alienated lands.

Sections 64
and 63
L.R.C.

In the case of unalienated land, the occupant of the bank or shore is entitled to the temporary use of the area and until the area exceeds one acre. When it exceeds one acre, it shall be sold at not more than three times the annual assessment thereof, the occupant has the right of pre-emption. There is a limit to his right of enjoyment and no limit to his right of purchase if he pays the revenue.

Section 46
L.R.C.

In the case of alienated land which exceeds half an acre and also exceeds one acre of the original holding, then only the area of the original holding can be assessed, but it must be first decided whether the area is a new or abandoned shore or river bed does the Inamdar. It will not vest unless the area had covered the area now reformed or reaped under the original artificially formed upon alienated land as Actual Inam. Full

As regards diluvian, section 47 is applicable to alienated and unalienated land. When the area is not less than half an acre, the holder is entitled to a decrease of assessment.

When a holding is bounded on any side by a river or shore of a river, creek or nallah, or of the sea, it will be permitted, subject to the provision of sections 46, 47, 63 and 64 to occupy and use such bank or shore, notwithstanding that the boundary may shift from time to time.

Claims to decrease of assessment on account of diluvian under section 47 shall be disposed of by the Collector. L.R.C. Rule 72 (a).

It is the duty of the village officers to ascertain and to record the increases due to alluvial and losses due to diluvian in any holding subject to such changes. When the area exceeds the limits prescribed they must report to the Mamlatdar. L.R.C. Rule 72 (b).

Alluvial lands artificially formed in the vicinity of Inam lands cannot be granted as Inam G. R. 8011 of 25-8-1912.

Alluvial land is bounded on one side by the water of a river or stream while an abandoned river bed is bounded on both sides by other lands.

Land artificially formed by obstructing flow of water is not alluvial land.

Beds occasionally under water in the rains should not be treated as alluvial land. A foot-path adjoining alluvial land is sufficient to extinguish riparian rights.

22. Alluvial Formations.

Whether a particular accretion is alluvial or not is a question of fact in each case. Certain general propositions, however, may be stated for the determination of the question:—

(1) Justinian describes alluvial as an imperceptible increase, "So gradually that one cannot say how much is added at any particular moment of time." In order that an accretion may be alluvial, it must be slow and gradual and not caused by sudden alteration of the course of the river or by violent avulsion (1915 A.C. Page 595 as interpreted in 40 Madras 1083; *Narendra V. Acchaibai, Allahabad 647*). The condition of gradual changes does not attach to diluvian.

(2) It is immaterial whether the accretion is produced or accelerated by artificial means, provided

(a) the artificial means are lawfully employed by the owner (13 Madras 369), and (b) the artificial means are not employed solely for the purpose of causing accretion (1915 A.C. P. 599 at pages 615-616; 13 Mad. 369 at pages 377 and 378).

(3) A gradual and imperceptible accretion brought about by the operation of nature is a natural accretion (alluvian strictly so called), even though it has been unintentionally assisted by and would never have taken place but for the erection of groynes provided for the purpose of protecting shores from erosion (1924 1 Ch. 390). The principle of accretion therefore applies to all changes caused by natural means or artificial means lawfully employed; for the rule applies to the result and not to the manner of their production. (28 Halsbury P. 363).

CHAPTER VII.

Record of Rights.

23. What is Record of Rights?

The Record of Rights is a mine of information and of very great value for administrative and revenue matters. It is the basis of the accounts of liability to pay land revenue, and also of the audit of alienations of land revenue. The maintenance of the Record of Rights is one of the most important duties of the Village Officers, specially the Talati or Kulkarni. It is one of the most important business of the Revenue Officers to see that the Record of Rights is kept up to date. Section 135-J attaches a presumption of truth to entries standing in the Record of Rights.

The rights, the acquisition or loss of which, gives rise to the mutations in the Record of Rights may be classified as follows:—

- | | | |
|---|---|--|
| A. Rights of persons to pay assessment to Government. | } | 1. Kabjedars (occupants) |
| | | 2. Mortgagor with possession called Kabjegahandar. |
| B. Rights of persons responsible to the Inamdar or land owner for rent. | } | 3. Mirasdars (perpetual tenants). |
| | | 4. Lease holder. |
| | | 5. Tenants-at-will. |

The first three are legally bound to report to the Village Accountant, the right which they have acquired. Failure to do so within the prescribed time, three months, renders them liable to the payment of a small fine—which does not exceed Rs. 25/-. The fine is generally assessed according to the status of the kabjedars, and after taking into consideration the period of negligence and the size

and quality of the fields. As regards sales and mortgages the Sub-Registrar sends an extract to the Talati or Kulkarni, so such transactions need not be reported by the holders to the village officers. But the kabjedars have to report redemptions of mortgages. Tenants-at-will are not under any obligation to report to the Talati, but they are required to furnish information regarding the tenancy when called upon by the village officers. Mere acquisition cannot effect an alteration of the entry in the Record of Rights unless and until the Talati or Kulkarni makes a mutation and obtains the sanction of an officer of the rank of a Head Karkun, or Mamlatdar or other higher officer of the Revenue Department. The officer will refuse to sanction the mutation unless he is satisfied that the transfer has actually been completed. The Revenue Officers have to decide only on the fact of actual possession.

In some districts the number of entries to be attested is very large, and it is found necessary to appoint an Extra Head Karkun selected from the list of qualified (those who have passed the Departmental Examination) hands of the rank of Head Karkuns. In examining the mutation work of the subordinate officers, the higher officers should pay special attention to the orders passed in the absence of the parties; as far as possible no order affecting the right of any kabjedar should be passed without giving him an opportunity to appear personally or by an agent. No detailed record of the statements of parties and witnesses is required but the order should be based on facts of actual possession. Any complicated rights involving taking of detailed documentary evidence should be left for decision by the Civil Courts and parties referred to the Civil Courts.

Definition
of the law
L.R.C.
Sec. 135-A
to L.

24. The Law of Record of Rights.

Record of Rights is a register in the form of a diary of the private and public rights in the lands, earned

by the occupants or the permanent tenants by means of:—

- (1) registered and unregistered documents,
- (2) oral transactions,
- (3) succession or inheritance,
- (4) superior's orders,
- (5) or any other reasons.

Application of the Law.

This law is applicable to all agricultural lands in Government villages and to all surveyed Inam villages except in Ratnagiri and to all Sharakati villages and to all N. A. lands and sporadic plots assessed to N. A. outside the village site.

Record of Rights is also applicable to the city surveyed gaathan but in a separate form called the Property Register dealt with in the City Survey Offices: in some places property cards are introduced as in Hubli and Dharwar.

L.R.C.
Sec. 131.

General exemption from the application of this law has been notified, therefore the method of extending the Record of Rights to a new area is not directly to apply the law, but indirectly to withdraw the exemption.

G.R. 263-04.

R. 4136-15.

Object of the Law.

The object of the Record of Rights is to base the Land Revenue accounts and to do away with the old system of Pokalist Khatedars and to make every land holder directly responsible to Government for the payment of the Land Revenue.

25. Importance and Benefits.

(1) The occupant of the land, whether Inam or khalsa, however small in extent, becomes a khatedar.

(2) His holdings will be separately measured, mapped and assessed.

(3) No suit or application will be entertained without the production of a copy of the Record of Rights.

(4) It checks litigations.

(5) It enables the Court to dispose of the cases early and easily.

(6) The certified entry is presumed to be correct unless the contrary is proved.

(7) It is a mine of information for the Revenue Officers and the public.

(8) It facilitates collection.

(9) It is very important for collecting statistics for settlement purposes.

(10) Very useful for election purposes and ascertaining Voters' lists.

Rights.

The rights to be recorded in this register are of two kinds.

(1) Rights with possession and (2) Rights without possession. No. (1) Rights with possession are further divided into two, superior rights and subordinate rights. No. (2) Rights without possession are also of two grades *Viz*: Rights above the line, and rights below the line as they are actually to be written in the column in the register. Superior rights mean rights of owners of lands, and Inamdars. Subordinate rights mean rights of permanent tenants or Kayam Kuls as in the Deccan, Mulgenidar and Nadgidars in Kanara and Mirasidars under Inamdars.

Right above the line is a right under the Head "other rights" which is to succeed the right in column 6 of village Form VII. The right below the line is a right without possession.

Records.

The Record of Rights is divided into three Village Forms *Viz.*—

1. Village Form No. VI—Record or diary of Rights.
2. Village Form No. VII—Index or Register of lands.
3. Village Form No. XII.—Crop and Tenancy Register.

Village Form No. VI

This is a simple form with four columns.

1. Serial number.
2. Nature of rights.
3. Survey numbers or hissas affected.
4. Initials or remarks by testing officers.

At the time of first preparing this register, all the rights as they stand at that time should be scheduled first. The competent Revenue Authority will have to promulgate this record according to the rules. While promulgating the record, the date and the number of corrections made should be noted at the foot of the form by giving references to the pages where corrections have been made. After promulgation no further correction is allowed without authority.

Any change in the existing rights after promulgation is a mutation and it should be entered as it occurs.

Column No. 1.—The serial number in this register should continue up to 100,000 and afterwards A1 and A2 and then B1 and B2 and so on.

For each distinct transaction, there should be a separate serial number whatever may be the numbers of Survey Numbers affected. All changes in the existing rights relating to:—

1. Survey Number,
2. Hissa Number,
3. Area,

4. Judi or N.A.,
5. Assessment,
6. Name of person,
7. Right with possession,
8. Right without possession,

are to be recorded here in column 2 with particulars of dates of transactions, considerations, registered or unregistered and date of the dakhla given.

In case of lands held jointly, the sharers' names with the shares enjoyed or if jointly enjoyed, then the manager's name, and if by rotation, the rotation period should be entered as the case may be.

In Inam villages the tenancies of 21 years and upwards are long tenancies and they are to be noted in the Record of Rights while for Government villages the permanent tenancies are to be shown. The tenancies of short periods are to be notified by Government, if they are to be brought in the Record of Rights.

The change in the guardianship is a mutation while, if a minor becomes major, it is not a mutation. The guardian's name is to be struck off.

No mutations are to be made without authority. Mutations arise in the following ways :—

(1) Registered deeds. Monthly abstracts are received from the Sub-Registrars for the transactions. These are to be filed by months after making the mutations. Under the Registration Act Rule (G.R.R.D. 6412 of 1910) it is required that all properties must be described by the identifying Number in the maps prepared under chapter X-A. That all land titles and transfers should be evidenced only by inscription in the State Cadastral Records is an ideal which is to be achieved.

(2) Unregistered deeds, oral agreements, succession and inheritance.

Information is given by the persons concerned; for these transactions the Kulkarni or Talati is to give receipts to them. On the information the mutations are made.

(3) Orders from the superior officers.

These orders are filed after making the mutations for the same.

In the case of registered deeds and superior orders, the acquirer of the right is not bound to give information to the Village Officers. In all other cases, the acquirers of the rights are required to report the rights to the Village Officers within three months from the date of acquisition. L.R.C. Sec. 135-C.

In all cases if the Village Officers require any further information or the document itself, the Village Officers may issue a notice in writing to produce the document or to supply the required information within one month from the date of the issue of the notice, the persons to whom notices are issued are bound to comply with the requisition. L.R.C. Sec. 135-E.

The persons failing to comply with the above two requisitions within the prescribed time, are liable to a fine not exceeding Rs. 25/-. The Mamladars Head Karkuns, Mahalkaris and District Inspectors of Land Records are authorized to fine up to Rs. 15/-. L.R.C. Sec. 135-F.

In order to maintain the mutation register up to date, the Village Officer has to maintain the following registers and files:—

1. The file of registration extracts.
2. The Wardi Book.
3. The file of superior's orders.
4. A Late Fee register.
5. The Deceased Kabjedars' or other right holders' register (Warsa Register).

6. The register of disputed cases.
7. New hissa register.

After the mutations are made, it is important to note that an extract of the entries must be posted in the village chavdi or any other conspicuous place, so that the interested parties may know them and make complaints, if any, against them to the Village Officer within one month, and in addition an extract of such entry should be sent to the known interested persons. Every entry must remain on the board in the chavdi for three months and not more than 12 months.

L.R.C.
Rule 105.

When the Record of Rights is first introduced in any village, as soon as the preparation begins, the Village Accountant must give notice by beat of drum and by posting a written notice in the chavdi and, at the head of the record, a certificate that this was done must be given.

L.R.C.
Rule 106.

Every mutation is to be posted in the Diary *i.e.* V.F. VI by the Kulkarni or Talati, the Circle Inspector must examine each entry and explain it to all persons present and initial it.

If persons adversely affected admit entries, the Circle Inspector then notes the admission. If any interested person disputes the correctness of an entry, the Circle Inspector shall correct errors admitted by both parties by bracketing the errors and inserting the correct entries and authenticate them by his signatures, if the error is not admitted by either party, the dispute is to be entered in the Register of Disputes.

L.R.C.

Rule 106 (4)

Any objection raised by a private person after the entries are published or the notices are issued or any entry is objected by Government these are to be entered in the register kept for entering Disputed Cases.

L.R.C.
Rule 108.

Disputes regarding tenancies and succession are not to be brought in the Disputed Register. The disputes entered in the disputed register should be disposed of

promptly by the Mamlatdar or Head Karkun or District Inspector, Land Records, or any revenue officer of superior rank. Generally the Mamlatdar when he visits the village or the Prant or the District Inspector, Land Records, disposes of the disputes on the spot in the village.

While deciding these disputes, the possession is the main factor to be taken into consideration without making any elaborate enquiry about the equity or legality of the claims; otherwise much valuable time of the Revenue Officers would be taken up if they were to make long detailed enquiries as if they were Sub-Judges. The Officer shall certify that entry in the Diary to be correct. There is only one appeal and according to the appellate authority's orders the mutation will be entered. Entries from mutation are to be transferred to the Index as soon as possible.

L.R.L.
Rule 109.

Rule 111, lays down the procedure for inspection of the newly Re-written Record of Rights.

L.R.C.
Rule 111.

All mutations involving new hissas and amalgamation of hissas should be brought to the new hissa register for being measured and mapped. A copy of this register should be sent at the end of July every year to the Land Records Department, this Department makes further arrangements for the measurements and a durasti Akarband Patrak is prepared and map corrected.

V. F. VI is to last for many years and requires no rewriting.

26. Village Form VII

Index or Schedule of Lands.

This form contains the following headings:—

Serial number.	Hissa number.	Area	Assessment in V. F. I	Assessment in V. F. II & III.
1	2	3	4	5

Occupant.	Record of Rights No.	Other right holders.	Mutation number.
6	7	8	9

Soon after the promulgation all the rights scheduled in V. F. VI are to be indexed in V. F. VII and afterwards every mutation when it is tested by a competent authority is to be taken to the V. F. VII. This form also continues for several years until it becomes so clumsy with too many corrections and the entries, as to be overcrowded, then this is to be copied out under the Prant's order. Rewriting will become desirable after every settlement. In this form survey numbers and hissas are to be arranged serially, sufficient space being left to admit of subsequent entries *i. e.* corrections for several years.

The kinds of Inams, tenures and the local name of the field, if any, are to be entered in column 1.

Different two grades in the rights with and without possession should be carefully distinguished as above and below the line in columns 6 and 8.

27. Re-copying or Re-writing of the Record of Rights.

(1) To see that all the mutations are brought to Village Form VI.

(2) To see that all the mutations are certified by the proper authority.

(3) To bring all the mutations to the Village Form VII.

(4) To check the references from Village Form VI to VII.

(5) And to recopy it.

L.R.C.
Rule 108.

to. After it is recopied both the new and the old copies enteredd be sent to the Prant for signature who will then issue

a public notice inviting objections within one month and finally promulgate it after taking 10 per cent check of the copied entries to ensure the accuracy.

28. Duties of the Village Accountant Regarding Record of Rights.

- (1) The Kulkarni should always keep the records up to date.
- (2) He should properly maintain the necessary files and registers.
- (3) He should post the mutation entries to the village chavdi.
- (4) He should properly return the documents obtained by him.
- (5) He should report the disputed cases to the officers for orders.

29. Duties of the Patel Regarding Record of Rights.

- (1) He is to assist the Kulkarni in maintaining the Record of Rights up to date.
- (2) He must sign every entry in token of its correctness.
- (3) To serve the notices issued by the Kulkarni or other officers.
- (4) He is to assemble the right holders for inspection.
- (5) He is expected to spread and impress on the villagers' minds the importance of Record of Rights.
- (6) He should warn the villagers of their obligation and liability of the fine if they fail to comply with their obligations.

30. Duties of the Circle Inspectors.

- (1) To see that all the Village Officers in his circle understand the rules of Record of Rights and if not to instruct them in the matter.
- (2) He is generally responsible for the correctness and upkeep of Record of Rights in his circle.
- (3) To check all mutations and sign them.
- (4) To see that documents obtained by the Village Officers are punctually returned.

31. Duties of Mamlatdars.

- (1) To see that all the Village Officers and Circle Inspectors in the Taluka are acquainted with the rules and if not, to instruct them.
- (2) To pass orders on the Disputed Register and Late Fee and Deceased Kabjedars' Register.
- (3) To check the mutations on the spot, these are to be verified by reference to the extracts from Sub-Registrars, the Deceased Kabjedars' Register, the Wardi Register and personal enquiry with kabjedars and others.

L.R.C. Rule
107.

32. Duties of the District Inspectors of Land Records.

Same as those of Mamlatdar in the whole district, wherever it is convenient to him, he is to do this work. He is expected to observe uniformity.

Duties of the Prant.

1. Same as those of Mamlatdar in his Division.
2. To promulgate the Record of Rights.

Alphabetical Index to Village Form VII.

The names of all kabjedars and other right holders appearing in Village Form VII should be arranged alphabetically and shown in the form prescribed. This will have to be kept up to date as changes occur.

33. XII. Crop and Tenancy Register.

As soon as Village Form VII is prepared, the first four columns of this register are filled up. The changes that occur thereafter are effected in this. The form is to last for 5 years. Therefore 5 columns for crops and 5 columns for tenancies are provided for noting the crops and names of tenants.

This is the third part of the Record of Rights. Both the landlord and tenant are responsible for supplying information regarding tenancies. Tenants' names together with all particulars of tenancies are to be shown. If there are sub-lessees their names with similar particulars should be shown below the principal tenants' names. If there is no tenant, the word, Self or Swata, should be written.

Crops and fallows are to be entered as per instructions laid down.

34. The New Combined Form VII and XII

This combined form has saved much writing work in Village form XII, such as entering particulars of each parcel of land, area, assessment, Pot Kharab, survey number, hissa number, etc., and correction of these particulars, whenever

the subject to changes, which had to be done in addition to Village Form VII.

It is to last for 10 years instead of 5. All the rules for the new form VII apply to it. There is no special column for the new form for entering mutation number (Village Form VI). So the number should be written after the mutation and then enclosed in a ring as (17).

It is divided into two parts. The upper part is first prepared by Village Form VII (1922), Index of lands, using one leaf for each parcel, the lower part being used for recording tenancies and crops every year. The form is a loose sheet. One form should be used for each parcel of land and these sheets should be filed into convenient volumes according to blocks formed. In order to make up convenient volumes the Kulkarni should take the village map and divide the village into well marked sections. While doing so he should follow the natural boundaries such as Roads, Railways, Rivers, Canals, etc. By this procedure the survey numbers will not run in each block in unbroken serial order. It is, therefore, necessary to note on the cover of the volume what survey numbers the block contains. Each volume should be of about or upto 150 leaves which should be numbered and the numbers quoted on the cover of the volumes. The pages of the volumes are to be stamped with the Taluka seal. When new pages are inserted owing to the new sub-divisions they are to be given the serial number of the preceding leaf with alphabetical letters A, B and so on and they are to be stamped with the Taluka seal. These serials should also be entered on the cover of the volume.

This new form has introduced 6 modes of tenancies as shown below:—

Mode.

1. Cultivated by the holder with his own hands.
2. Cultivated wholly by hired labour by the occupant.

3. Given for cash rent.
4. Given for a share of the crop.
5. Given for a fixed quantity of produce.
6. Given for a rent in service or involving of the foregoing forms of rent.

These modes or classes of tenancies are recorded to be entered against the tenancy entry in the column provided.

35. Village Form VII-B.

Index of Tenancies.

After the modes of tenancies are noted in Village Form VII-A, they are finally summed up in the new form VII-B. This form will help in preparing the Electoral Roll. Under section 135-K copies of entries in the Record of Rights, the register of mutations and the register of tenancies can be made and may be given to the applicants by the Village Accountant or Mamlatdar. Under Rule 136 (2) any person may himself or by an agent make a copy of any public document of which he has duly obtained inspection but no copy so made shall be certified by the officer. Copies of maps or Property Register can be had from the City Survey Office under Rule 137. Under Rule 139, officers in charge of the documents can grant copies on payment of copying and comparing fees prescribed in Rule 142 to applicants who have a right to such documents.

Boundary Marks and Settlement of Boundaries.

36. Functions.

The functions of a Boundary Mark are:—

- (1) To show the raiyat where his and his neighbour's boundary is.
- (2) To prevent him from removing that boundary.
- (3) To facilitate finding upon the ground the Survey Number as mapped.
- (4) To make easy the restoration of a partially removed or destroyed boundary.

The difficulties during the last 75 years have been of two sorts (1) to prevent the removal of marks or their falling into disrepair by inspection, (2) to prevent the system of repair being burdensome and expensive to the cultivator.

The marks put up by the old Survey Department were not based upon any second line of support, such as a demarcated traverse. As soon as a fair number of marks have disappeared, the whole system breaks down. Besides the village maps supplied are too small, often 10 or 20 chains to an inch. The Survey Numbers also are not fitted together with exact relation.

The earliest idea of a ridge of earth was abandoned as impracticable. Mounds connected by unploughed strips were retained unploughed, as a relic of the earlier system, to serve as boundary marks. The result was that corners were well guarded, but side boundaries were easily encroached upon.

The existing system is prescribed in the Land Revenue Code Rules 24 to 28.

I. The kind of Boundary Marks authorized and their preservation.

II. What boundary marks are to be considered out of repair and how they are to be repaired.

III. Determination of responsibility for maintenance.

I. The authorized marks are:— Continuous marks *s.g.* (1) Boundary strips, (2) hedges and walls. Discontinuous marks *s.g.* (3) Conical earthen mounds, or *burus* of loose stones, (4) pillars of stones or brick, (5) prismatic or rectangular earthen mounds, (6) roughly dressed stones, (7) any other marks found suitable for the special localities by the Collector or Survey Officer, such as teak posts in the marine marshes.

In districts where the experiment authorised in G.R., R.D. 7671 of 1914 is extended the authorities can permit the substitution for one kind of marks any other within the following limits,

(a) A continuous mark of class (2) may be substituted along the true boundary line for single or discontinuous marks, or *vice versa*.

(b) Single marks (3) or (4) may be substituted for groups of two or more* of (5) or (6) on the intersections of boundaries of 3 or more Survey Numbers or *vice versa*.

(c) Any sanctioned single discontinuous marks may be interchanged at the corners or bends of the boundary common to only two survey numbers.

Marks so substituted, if themselves in proper repairs, shall not be deemed to be marks out of repair. Nor shall it be necessary to alter the map so long as the marks occupy the same position and show the same boundary.

When the survey is completed, the Superintendent furnishes the Collector with a map and statements showing the position and description of the Boundary Marks.

A general notification, under para 2, of section 122, requiring all land-holders to repair the boundary marks within a period of 10 days shall be issued for each village, fifteen days before the Circle Inspector expects to commence the periodical complete boundary mark restoration. The inspection and restoration should be simultaneous. Every land holder is expected to know the position of the prescribed marks and, if he does not, he can find out the same from the Kulkarni or Talati and the map.

Maintenance
of Boundary
Marks L.R.

C. Rule 26. Boundary strips or ridges are not to be ploughed up. The minimum width of the strip to be (a) in dry crop lands $1\frac{1}{2}$ feet, (b) in rice and garden lands 9

inches, provided that, where the boundary strip is well defined by banks, hedges, or the like, the actual width of such banks or hedge shall be sufficient.

II. Marks out of repair :—

L.R.C. Rule
27.

1. A Continuous strip deviating more than three feet from the straight line of the boundary.

2. Pillars, Stones, Mounds falling below fixed areas.

3. Any stone out of the ground or loose.

4. Any stone or other mark out of its proper position.

5. Any mound within four feet of which earth has been dug for repairs.

6. Any mark overgrown by vegetation.

7. Any natural boundary strip or barrier which is discontinuous in places or too indefinite to define the boundary.

8. Stones less than 2' long and 6" thick.

9. Missing marks.

The mode of repair is to place the correct mark or new marks. This is laid down in G.R. No. 556 of 19-1-1918.

Determination of responsibility for maintenance. The responsibility for a common boundary lies on the holder of the survey number which is numerically lowest. But when the survey number is unoccupied or assigned for public purposes or Government purposes, the responsibility for repairs is on the land holder on the other side of the boundary. Repairs are made at Government expense only when the marks lie between survey numbers either of which has no holder except Government. Within each survey number the holder of each sub-division is responsible for the marks, if any have been prescribed, to the same extent as if sub-division were read instead of survey number.

L.R.C. Rule
28.

A mark on the common boundary of two villages must be repaired by the holder of the land in the village which is under restoration when the marks are found out of repair.

Now the field maps are prepared on the scale of $2\frac{1}{2}$ chains to an inch (82½ feet to the inch) and if triangulation stones and 3 feet high buruzes marking two or three important junctions of 3 or more Survey Numbers in each triangle are accepted as Boundary Marks, the work of boundary mark repairs and restoration will become very light; if not altogether disappear, because it is not necessary that the marks must be erected on the boundary line, in the present

method of survey by Plane Table on a frame work of triangles, large stones are interred to mark the triangulated points. In this case in an average village there will be 30 theodolite stones and 50 Trijunction marks, all of which could be easily inspected in about 3 days. The result will be a total number of marks equal to about 1/10th of the present burden. By removing numerous unimportant marks the power of easily, quickly and certainly restoring any mark can be acquired.

One Mark System.

Mr. C. N. Seddon, I.C.S., who was Commissioner, C. D., introduced the one mark system. It had proved satisfactory in Baroda and Jamnagar States. All districts except Ratnagiri tried this system. The main objects of the system are :—

(1) To reduce the number of boundary marks.

(2) To make the kind of mark used for the remainder to a certain extent optional.

(3) To insist on the preservation of the strip.

The single mark system was sanctioned in G. R., R. D., No. 7671 dated 18th August 1914. The new system was left to the choice of the raiyats in Konkan because rice fields require many marks.

37. Determination of Village Boundaries.

L.R.C. Sec.
118.

The boundaries of villages situated in the British territory shall be fixed and all disputes determined by Survey Officers, or such other officers nominated by Government as laid down in sec. 118 L.R.C., Vide Part IV.

38. Determination of Field Boundaries.

L. R. C.
119.

When there is no dispute, the boundary will be laid down as pointed out by the kajibedar. If he is not present, it shall be fixed by the Survey Officer according to the land records or occupation as ascertained from the Village Officers and holders of adjoining lands.

If any dispute arises after the survey is completed, it shall be determined by the Collector who shall be guided by the land records, if they afford satisfactory evidence of the boundary previously fixed, and if not, by such other evidence he may procure. The Collector's decision as to the position of the

boundary line and the rights of the land holders is determinative, G.R. No. 3416, dated 7th May 1904; also Section 121, Land Revenue Code.

The boundary disputes can be settled by arbitration if the parties agree to submit to settlement. A committee of not less than three persons will be nominated and, within a fixed time, the decision is to be arrived at.

The Collector's jurisdiction becomes final so as to oust the jurisdiction of the Civil Courts. Laxman V. Antaji I.L.R. XXV Bom. 812.

It is lawful for any Survey Officer, authorized by the Superintendent of Survey or Settlement Officer, to cause to be constructed or maintained boundary marks of such dimensions and descriptions as laid down in the rules. If the land holders will not comply, then the officer mentioned above shall get this done and assess all charges incurred on the holders or others interested. L.R.C. Sec. 122.

Instructions for the maintenance and repair of boundary marks are laid down in G.R. No. 10527 dated 6th November 1906. The villages are arranged into groups and boundary marks in each are repaired in five consecutive years. A permanent advance of Rs.50/- is granted to each Circle Inspector.

Every land holder is responsible for the maintenance and good repair of the boundary marks of his field and for any charges reasonably incurred by Revenue Officers in cases of alteration, removal or disrepair. It is the duty of Village Officers and Servants to prevent the destruction or unauthorized alteration of the village boundary marks. L.R.C. Sec. 123.

When the survey is completed, the charge of maintenance and constructing or repair of the boundary marks vests in the Collector, similar to that conferred on Survey Officers under section 122. L.R.C. Sec. 124.

In alienated villages in which survey settlement has been introduced, the Collector can take action under section 124. G.R.R.D., No. 7167 dated 24th July 1909.

39. Boundary Dispute Cases and Penalty.

If a person wilfully erases, removes or injures a boundary mark, a Summary enquiry will be held by the Collector, or Survey Officer, or Mamlatdar, or Mahalkari and, if the person is convicted, he is liable to a fine not exceeding Rs.50/- for each mark. This is an important section and often many cases under this are decided in each district annually. L.R.C. Sec. 125.

One half of the fine may be awarded to the informer and the other half is chargeable for the cost of restoring the mark.

For giving special rewards to the Village Officers who keep the boundary marks in thorough repair a discretionary grant for expenditure not exceeding Rs.100/- was sanctioned. G.R. No. 309 dated 14th January 1889.

CHAPTER IX

Trees, Grazing Rights, Minor Products and Water Assessment.

40. Trees.

Trees do not necessarily follow the soil or occupancy. In the case of villages of which the original settlement shall be completed after the passing of the Act V of 1879, trees not expressly reserved go with the occupancy, when an unoccupied number is applied for and granted, in lands under settlement made before the Act V of 1879, all trees are held to belong to the occupant of the number unless reserved under special orders. All trees otherwise belong to Government; all road side trees planted and reared by Government, and all trees planted and reared at the expense of Local Funds by the side of any road vest in Government. So long as they live they belong to Government; and when they fall or die then they belong to the occupant of the land. The usufruct, including the loppings of such trees, shall vest in the holder but the trees shall not be lopped without the Collector's orders.—Sec. 42. Encouraging road side trees planting by private agency shall be subject to the decision of the Commissioner. G. R. R. D., No. A 1970, 5th October 1911. Trees inside Railway Fence belong to the Railway, G. R. No. 237 of 11th January 1890.

L.R.C. Sec.
40 to 47.

Road side
trees.

A person unauthorizedly felling a tree is liable for the value, which is recovered like arrears of land revenue—and also to a penalty and criminal prosecution under section 76 Indian Forest Act of 1878. The value is to be decided by the Collector.

The Collector regulates the supply of fire wood and timber for domestic purposes in villages.

For the general reservations *e. g.* teak, black wood and Sandal wood or any trees specially reserved see L.R.C. Rule 58. The procedure for disposal of trees on occupied lands is laid down in L.R.C. Rule 60.

Special
Reservations
L.R.C.
Rule 59.

Trees in groves, or round temples, or places of encampment declared to be such by the Collector and trees other than teak, black-wood, or sandlewood which for any reason are of special value or utility, shall be specially reserved at the settlement and entries made in settlement records.

Whenever the right to unreserved trees in any land is at the disposal of Government, simultaneously with such land all such trees shall be invariably disposed of to the same person who acquires the holding and not to any other person, Rule 61.

When the right of Government to the trees in a holding has been once disposed of to the occupant, or when all the reserved trees have been once cut and removed either:—

- (a) at the grant of the land, or
- (b) after such grant, or
- (c) in Sind, at any time before such grant, or,
- (d) elsewhere than in Sind, within five years before such grant,

Government will have no further claim to trees which may afterwards grow in the holding, or which may spring up from the old roots or stumps, so long as the land continues in occupation.—Rule 62.

Sale of
produce of
Government
trees. Rule
64.

(1) The produce of trees belonging to Government may be sold by auction annually or for a period of years. (2) Where any such trees are sold under section 41, L.R.C. the sale may be by auction or otherwise as the Collector directs. The grazing or other produce of all unoccupied land vesting in Government, whether a survey settlement extends to such land or not, and whether the same is assessed or not, and of all land specially reserved for grass or grazing (except land assigned to villagers for free pasturage) may be sold by public auction or as the Collector deems fit year by year or for a term not exceeding five years.

Grazing and
other
produce.
Rule 65.

Removal of earth, stone and sand.

L.R.C.
Rule 66.

The Collector may, at his discretion, sell by public auction or otherwise dispose of the right to remove, earth, stone, kankar, sand, murum, or any other material which is the property of Government for such period and for such quantities and on such terms as he thinks fit. The rate may be lump sum, or so much per cubic foot.

All quarry fees and fees for earth, stone, sand, are allotted to the Local Boards. G. R. R. D. 4550 of 1874.

The occupant of survey number may remove earth, stone, etc., from his survey number for his own bona fide domestic or agricultural purposes without obtaining the permission of the Collector or paying any fee, but he must not materially injure the land for cultivation.

If he wishes to remove earth, stone, etc., from a survey number for the purpose of trade, he must apply to the Collector. Then sections 65 and 66 of Land Revenue Code apply to the case and altered assessment and fees are payable. G.R. No. 6883 of 12-10-1888.

A kabjedar need, however, pay no fee for gathering loose stones from his survey number even if he sell them. G.R. No. 4788 of 11-6-1885.

A scale of fees for removing earth, stone, etc., from Government land (in waste land, rivers, creeks etc.) has been prescribed in G. R. No, 6262 of 2nd September 1886.

Any person may, within the limits of the village in which he resides, remove, earth, stone etc., from the sea or from the beds of the creeks, rivers and nallahs or from any unassessed waste land not assigned for special purposes, for his own bona fide domestic or agricultural use, without payment of fees, on obtaining the permission of the Revenue Patel. L.R.C. Rule 67.

Potters and brick-makers are allowed the same privilege for the purposes of their trade, unless their operations are extensive or exceptionally lucrative, in which cases fees are charged. Rule 69.

Any person may, with the sanction of the Revenue Patel, take free of charge from the village tanks as much earth, stone, kankar, sand, murum, or other material as he requires; no stone shall be removed that may have fallen from Rule 70.

the banks of built tanks; no excavation shall be made within 10 cubits of the foot of the embankment of any such tank.

Disposal of
water vest-
ing in
Govern-
ment. Rule
70-A. to D.

No person shall, without the previous permission of the Collector in writing, make use of any water of a river, stream or nala which is the property of Government, for the purpose of irrigating by a *Budki* or a pumping plant land other than that subject to the existing nala-chad.

Rule 70-B.

The Collector may grant permission for the use of the water of a river, stream or nala, which is the property of Government and for which no water-rate is levied under the Bombay Irrigation Act, 1879, for the purpose of irrigating by a *Budki* or a pumping plant land other than that subject to the existing nala-chad, on payment of such water-rate as he may deem fit, but not exceeding the rate per annum per acre which may have been fixed for the locality by Government for occasional irrigation by *Pats* under section 55 of the Bombay Land Revenue Code, or where no such special rate has been fixed, the maximum *Patashthal* rate sanctioned in the current settlement for the group in which the village in which the land in question is situate may have been included. Provided that in precarious tracts irrigation by *Budkis* or pumping plant shall be exempt from the water-rate leviable under this rule.

Rule 70-C.

Any person who, without the previous written permission of the Collector, makes use of any water of a river, stream or nala which is the property of Government and for which no water-rate is levied under the Bombay Irrigation Act, 1879, for the purpose of irrigating by a *Budki* or a pumping plant land other than that subject to the existing nala-chad, shall be liable to pay such water-rate as the Collector deem fit, but not exceeding Rs. 50/- per annum per acre of land so irrigated.

Rule 70-D.

The water-rates payable under rules 70-B and 70-C shall be recoverable as arrears of land revenue.

41. Irrigation Assessment.

Irrigation is of two kinds:—

(a) by flow (Patasthal),

(b) by lift (Motasthal).

(a) Irrigation by flow, by means of canals and channels from tanks, rivers and streams.

There are three ways in which rates for the use of water, the right to which vests in Government, may be imposed, *Vis*:— Bom. Act
VII of 1879.

(1) Under the Irrigation Act by the Irrigation Department. This is a crop-rate, the crops being classified according to the amount of water they require. The work connected with irrigation from sources to which the provisions of the Irrigation Act have been applied is done by the Irrigation Department. The provisions of the Irrigation Act are usually applied to large tanks and irrigation works, the creation or up-keep of which is costly.

(2) Under section 101, Land Revenue Code, water-rates are levied under varying conditions on lands, irrigated by canals or from tanks or streams to which the Irrigation Act is not made applicable.

Irrigation from tanks is a general feature of the Southern Maratha Country and of Gujarat. There are a number of tanks in Dharwar *e.g.* Medleri, Dambal. In Southern Maratha Country a consolidated rate for soil and water valuation is charged; but in Gujarat separate rates are levied.

Irrigation by "Pats" or channels from streams is an important feature of the Deccan, and consolidated Patasthal rates for soil and water are charged, the details of which are shown in the Akarband. These assessments under Land Revenue Code, section 101, fixed at the time of Survey, form an integral part of the land revenue and are included in the guarantee given at the time of settlement. They are fixed on an average of good and bad years and are leviable irrespective of the actual water supply available in any one year, and irrespective also of the actual use made by the raiyat, who is at liberty to irrigate any part of his field, whether less or more than the area assessed at patasthal rates. Remission, however, of this assessment, may be granted in years of scarcity when water is not available. If on account of erosion, silting up or for any other reason, irrigation becomes impossible on lands assessed to water-rates under section 101, application may be made to Government to sanction the permanent abatement of the water-rate.

G.R.
No. 5324 of
27-5-08
and G.R.
No. 1788 of
7-3-04.

The main difference between rates levied under section 101 and rates under Irrigation Act is that the former are fixed for a term of years, irrespective of the

use made of the water, while the Irrigation Department charges are governed by the amount of water actually taken in each year.

Under section 55, Land Revenue Code, water-rates may be applied when no rate is levied under Irrigation Act or has been fixed at the time of Survey, under Land Revenue Code section 101. Such rates are imposed when land has been brought under irrigation since the introduction of the settlement, or as an *ad interim* measure pending the imposition of rates under the Irrigation Act.

Under this section Government fixes maximum rates for each district and the Collector fixes the actual rates each year within these limits. They are quite distinct from the soil assessment and are usually charged in the form of a crop-rate, but are sometimes assimilated to survey rates imposed under section 101.

(b) Irrigation by lift from wells, rivers and streams. Wells and Budkis:— In some parts of the Deccan and Southern Maratha Country and Gujarat the soil classification of land with a greater command of sub-soil water or situated favourably for irrigation from a budki has been fixed higher on that account. No additional assessment whatever can be imposed either at the time of the construction or at the time of revision settlement on account of new wells or budkis, nor is any distinct water-rate levied in the Deccan, Konkan or Southern Maratha Country for irrigation (or irrigation facilities) by lift from wells, rivers or streams.

In parts of Gujarat, however, "dekhudiat" rates (*i.e.* rates for facilities for irrigation by lift) are imposed, *Viz*, in the Surat and Panch Mahals Districts a fixed water-rate is imposed under section 101, Land Revenue Code, on lands irrigable by dekhudis (or budkis) from Government rivers. In actual practice, the land has been classed similar to "old rice" land.

Over most of Gujarat, also, a kos rate (*i.e.* a rate per water-bag), is levied under section 55, Land Revenue Code, for water drawn from wells belonging to Government. Further details will be found in the Survey Selections.

G.R.
No. 652 of
27-4-04;
G.R.
No. 3969 of
25-5-04 and
G.R.
No. 2986 of
20-4-04.

G.R.
No. 4347 of
25-6-82,
item 5.
G.R.
No. 2847 of
14-4-1904.

Sec. 107
L.R.C.

Revenue Courts and Appeals.

42. Revenue Courts.

A Revenue Officer acting in a judicial instead of in an executive capacity is a Revenue Court. As there are classes of Revenue Officers, so there are classes of Revenue Courts. A Revenue Officer ordinarily of any grade is a revenue court of the same grade and his jurisdiction in one capacity is co-extensive with his jurisdiction in the other *e.g.* The Special Head Karkun appointed for Record of Rights cases can hear disputed cases throughout the Taluka. The distinction between the Revenue Courts and Civil Courts is rather of the agency than of the procedure. Under section 192 a Revenue officer holding Summary enquiry is to be deemed a Civil Court. The procedure for parties applying for summonses for witnesses is given in order XVI of the Code of Civil Procedure, Act V of 1908. Costs can be levied under the provisions of Chapter XI (G. R. No. 4468 of 10th July 1882). The statements and pleadings made by or on behalf of parties to a revenue proceeding, whether oral or written, shall be as brief as the nature of the case admits and are to be confined as much as possible to a simple and concise narrative of the facts, which the party by whom or on whose behalf the statement or pleading is made believes to be material to the case, and which he either admits or believes that he will be able to prove. In proceedings under the Record of Rights Chapter X-A. no detailed record of the statements of parties and witnesses is necessary but the brief statements as to actual possession. It is well that the cases of the kind which come under the Land Revenue Code, Watan Act, Land Acquisition Act should be heard by officers whose daily work is concerned with revenue and the produce

of land, Record of Rights; because these officers come in close and daily contact with the rural population. The knowledge and experience acquired as Executive Officers conduces to a readier appreciation of the points at issue and they possess adequate skill in appraising the evidence. The idea that revenue litigation is less regular and that it depends more on the whims of Revenue Officers than in the Civil, is wrong. The enquiry in Revenue cases has to be every whit as careful as that in Civil cases and respect has to be paid to the provisions of law as well as to the considerations of equity. The following are the Revenue Courts and the kinds of cases which generally they try:—

Revenue Court.	Kinds of cases.
Aval Karkun or Extra Head Karkun.	} Record of Rights disputes,
Mahalkari. Mamlatdar. }	{ Possessory Suits. Assistance (Madat) Suits. Boundary disputes and Encroachment cases.
Prant.	{ Watan appointment, heirship cases, City Survey cases. Land Acquisition cases.
Collector.	Appeals.

A Mamlatdar holding an enquiry relating to Record of Rights under Chapter XII, is a Revenue Court (*Emperor V. Narayan*, 16 Bom. L.R. 678.) A Mamlatdar cannot summon any person to attend before a Deputy Collector. (*Queen Empress V. Vidya Dhar*, 62 Reg. 52 of 1889).

43. Appeals.

Every appeal is to be made in the form of a petition addressed to the authority to whom an appeal lies, and must be drawn up in concise, intelligible and respectful language;

and shall bear the mark or signature of the appellant, L.R. Rule 130. The petition should give particulars of the appellant's name, occupation, address and should contain a statement of facts on which the appellant relies and the grounds of objection to the order or decision appealed against. Appeals may be personally presented or forwarded by post, L.R. Rule 131.

Under section 203, Land Revenue Code, an appeal shall lie for any decision or order passed by a revenue officer under the Land Revenue Code, or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

No appeal shall be brought after 60 days if the decision or order is of an officer inferior in rank to a Collector or Superintendent of Land Records in their respective Departments, nor after 90 days in any other case. Time required to prepare a copy of the decision or order appealed against is to be excluded, section 205, Land Revenue Code. An appeal under Chapter XIII, Land Revenue Code may be admitted even after the period of limitation if the appellant satisfies that he had sufficient cause for not presenting an appeal. This is a very great facility to the cultivators. Provisions of section 5 of the Indian Limitation Act apply. In case the last day is a Sunday or recognized holiday, it may be presented the next opening day. A certified copy of the order or decision appealed against must accompany the petition of appeal, section 208, Land Revenue Code. A pleader cannot claim to appear in proceedings under this section, (G.R. No. 8915 of 8th December 1897). The appellate authority may either annul, reverse, modify or confirm the order or direct the subordinate officer to make further enquiry, section 209, Land Revenue Code, and can suspend the execution of the order pending appeal, sections 209-210.

Periods of
Appeal.

Revision.

Government and Commissioner, Collector, or Superintendent of Land Records in their respective departments, have powers of revision, to call for and examine the records and to satisfy themselves as to the legality or procedure of the order. Even Prant Officers and Mamlatdars can revise except in cases in which Formal or Summary enquiries are held; they themselves cannot pass orders but submit the record with their opinion for final orders. Orders passed on revision can be revised or modified by Government alone, Sections 211 to 212.

Sections 203 and 211 empower a Commissioner to take action in appeal or revision on any orders passed by the Collector. See also *Parapa V. Secretary of State, P. J. 1891 p. 230.*

Chapter VIII does not apply to appeals under Record of Rights. A Collector cannot set aside a Darkhaast sale, but can confirm or refuse to confirm it, G. R. No. 2172 of 1915. A notice of demand issued by a Mamlatdar to pay assessment is not a decision or order. *Nathuran V. Secretary of State, 46, Bom. 811.*

44. Acquisition of Land for Public Purposes.

Main Principles.

If land is acquired for public purposes such as for roads, public schools, Dharamshallas, public buildings, railways or in town-planning schemes, it should be taken up through the Collector. But Officers of Government, Engineers, who have obtained permission from the head of their department, can endeavour to arrange for the purchase of land by private negotiation. The advantage of a voluntary agreement is that the addition of 15 per cent for compulsory acquisition, to the market price which the Land Acquisition Act allows as a solatium is saved, as also much of the time and energy required in going through the detailed procedure. On the other hand, under the Statutory procedure, there is less risk of an extravagant valuation

and loss to the State, and compliance of all the formalities ensures the vesting of the land completely in the purchasers. The procedure is described in sections, 4, 6, 9, 11, 15, 21 of the Land Acquisition Act. The Prant Officer, who is generally the Acquisition Officer, unless in large cities like Poona and Ahmedabad this work is done by the Consulting Surveyor to Government or his Assistant, has to determine the true area, the amount of compensation. The amount of compensation is determined by taking into consideration the sale deeds and rental values from which the market value is ascertained. The most recent sales or rental statistics are taken into account and carefully scrutinized, all bogus sales and rents are to be discarded. The Prant Officer visits the sites and after consulting the Record of Rights and Sub-Registrar's extracts, hears what the land owners have to state. He takes into account any houses, structures or valuable trees. After hearing the parties and determining the market value, the next step is to record and announce the award. The Land Acquisition Officer must take into consideration any claim for consequential damages *e. g.* the loss of standing crops, damage to other land. The condition of the land at the time of notification should alone be taken into account. If the owners of the land object to the award within a certain time, the Land Acquisition Officer refers their objections for decision to the Civil Court. The District Judge or the Assistant Judge will then pass orders, after hearing the petitioners and their pleaders as well as the Government Pleader, either confirming, modifying or reversing the orders of the Land Acquisition Officer.

The Executive Engineer forwards to the Collector duplicate plans showing the Survey Numbers or portions of Survey Numbers which are to be notified under section 6. In the case of Railway acquisition, a Circle Inspector is deputed to inspect the land in company with the Railway Surveyor

Procedure.

and to make a list of all the Survey Numbers from which the land is to be acquired. With the help of the Railway plan the land is plotted roughly on a copy of the village map. The statement required is then prepared and sent to the Collector for further action under clauses (2) and (3). The Collector causes the description of the land as given in columns 1-3 of the statement to be verified by comparison with the village map and makes such enquiry as may seem to him to be necessary in order to ascertain if there are any objections on general grounds, such as excessive cost, public inconvenience, he prepares and submits for publication the draft notification with the least possible delay. The Executive Engineer, after the publication of the notification, arranges, if that has not already been done, for the complete demarcation of the land notified. Boundary stones are set up if the land is required for a road. In other cases the demarcation is made with a trench or by substantial stakes or pegs. The Circle Inspector or the Surveyor meets the Engineer or his representative on the land as soon as possible after the notification. The Cadastral Surveyor measures the land to be acquired in accordance with the standing orders. After completion of measurement, the Cadastral Surveyor returns the Engineer's plans, corrected, if necessary, by the Engineer's representative and prepares the statement which is signed by the Cadastral Surveyor and also by the Engineer's representative; it is then sent to the Collector.

Final Stage
Correction
of Survey
Records
and Maps.

When the acquisition is completed, the Officers of the Land Records Department arrange for a final comparison of the measurement papers with the state of things on the ground and order any corrections that may be required and arrange for setting up the Survey Boundary Marks and for the correction of the records and maps.

45. The Revenue and Financial Year.

The Revenue or agricultural year begins from 1st August and ends on the 31st July as the provincial climate, rainfall and agricultural season render it convenient. But the financial year begins from 1st April and ends on 31st March.

Akbar, the wise Emperor, during the Mogul Days, desired to adopt an universal Official year to correspond to the harvest season better than the Hijri year which depends on the lunar month or the Samwat era of the Hindus. He started with September 10, 1555 and called it "Fasli 963," being the Hijri year of his ascending the throne. This era can be found by deducting 592 or 593 (according to the month) from the year A.D. The Fasli used in the Deccan, was however, begun by Shah Jahan in A.D. 1636.

The new village registers are written from the Revenue Year, village Form IX is commenced from 1st August for the next year; the financial year changes from 1st April. However, in the villages the local merchants start their accounts from Kartik Shudha Pratipada and end in Aswin Vaidya Amavasya which falls during the Divali days when all the accounts are finally adjusted.

Non-agricultural Land.

46. In the Pre-British Days there were other sources of revenue "Shiwai Jama" as additions to the "Ain Jama." Among the former, mention is made of the *Gharpatti* or *Ambersaree*, a house tax levied on all but the village officers.

Next to the agricultural assessment, the revenue which the non-agricultural use of land brings to the State is great and growing, because throughout the Presidency more land is utilized for trade and buildings than it was in the last Century; this subject demands more attention and needs more recognition than has been given hitherto, it will be an important item of income in the near future as buildings spring up and industry develops.

In 1872 the principle that land held by non-agriculturists was liable to assessment was affirmed. In the past different rules were followed at different times. But in sections 48, 61, 65, 66 and 68 of the Land Revenue Code and in rules 80 to 103, the law in force now regarding the use of land to non-agricultural purposes and the procedure for levying the altered assessment are laid down.

The Law
on the Non-
agricultural
use of land.

Under sections 45, 48, all land is liable to payment of assessment irrespective of the purpose it is put to, unless it is exempted under a special contract or by any law for the time being in force, G. R. No. 4344 dated 18th June 1884. But when agricultural land is subsequently used for any purpose unconnected with agriculture, first, the Collector's permission is required under section, 65, and, secondly, the assessment is altered under sub-section (2) of section 48 and the alteration of assessment is made by the Collector under Rules 81, 82. No permission is required for the better cultivation of land or

for its convenient use for agriculture such as the erection of farm buildings—residence of the cultivator or his tenants, his barns, granaries, cattle sheds and all that is inseparable from cultivation; the style or cost of the farm-building is not to be considered. Some farmers are now living in substantial and commodious buildings. So long as these buildings are on the holder's own land and form an integral part of his farming operations, they are exempt. Storing manure, a dairy farm, cane crushing and jaggery making are held essential to agriculture and are not non-agricultural uses; (nor is the growing of trees or flowers for pleasure in a garden.) but a Co-Operative Dairy is non-agricultural. In this connection it will be interesting to read 29 B. L. R. 1350 and G. R., R. D., No.10/23/24 of 19-1-1929. As the value of land changes because its use for buildings, trade and other non-agricultural purposes brings more profit than agriculture, the assessment also must change. Section 48 does not apply where the land revenue was assessed before 17th July 1879 until that settlement expires. It was not the intention to alter the assessment in temporary diversion of agricultural land to a non-agricultural purpose such as when a cultivator builds a plague-hut, because it is not for the purpose of profit. As to the period within which assessment can be claimed there is no limitation. *Secretary of State V. Bai Kuvarbai*. However, claims to fines and assessment accrued due more than 60 years ago are barred under the Limitation Act. Vide G. R. No. 6887/24 of 7-6-1928, e.g. fine due in 1860 could not be levied in 1930, but the assessment since 1871 could be levied. Section 65 is not applicable to Inam lands. The permission must be express and unconditional. Section 65 clause 3 (b), with its proviso, contemplates enquiry and reply to be completed within 3 months; it does not contemplate a purely arbitrary refusal in order to get an indefinite extension of the statutory period for decision. *Shivalpalsing Bhagwantsing V. Secretary of State, Bom. H. C. Appeal 247-22 of 14-2-1924*.

47. Under L.R. Rule 81, the villages, towns and cities are divided into two classes and a sum per square yard within the following limits is fixed by the Collector.

Ordinary altered rates.	Maximum	...	...	...	For I Class land 2 pies.
		...	...	...	For II Class land 1 pie.
	Minimum	...	...	...	The Agricultural assessment.

In fixing the rate, due regard shall be had to the general level of the value of lands in the locality. A higher rate than the maximum shall not be levied without special reasons. The Collector can levy higher rate in case of lands in exceptionally favourable position, or in the case of land temporarily used for non-agricultural purposes or when the purpose is of a special kind. Such rate shall not exceed 50 per cent of the net profits. Within the limits the assessment is fixed at the Collector's discretion. By discretion is not meant that the proper pitch should be relaxed or the rate should be the highest when circumstances point out differently. For different "Zones" in the locality the rates will vary *e.g.* 800 yards from the Railway Station, or 200 yards from the road with frontage, further from the market or gaathan, access, elevation are the circumstances to be taken into account. Rates will vary in short distances in cities and towns.

Special Rates where there is keen demand.

48. Where there is keen demand or for any special reason, Government may direct by notification that the rates shall be determined as laid down in L.R. Rule 82.

I. The altered assessment shall be a percentage on the full market value of the land as a building site.

II. The market value should be estimated on the basis of actual sales of unoccupied land for building purposes in the locality. When the demand is for other special purposes, the market value shall be estimated on the basis of actual sales of unoccupied land of which the value is enhanced by the existence of the special demand.

III. Government determine what percentage is to be charged, in place of the current rate; this standard rate will be charged. At an interval of ten years or even short intervals, the rates shall be revised with the sanction of Government. The sanctioned rates shall be published in the Government Gazette, a public notice being given one year before.

IV. In the case of land situated in an exceptionally favourable locality with the sanction of the Commissioner, the Collector can levy a higher rate than the standard rate.

V. The rates in the Bombay Suburban Division shall be reduced to such extent as Government may specify in the Government Gazette.

The rate is now fixed at 5 per cent on half of the full market value. Government Notification 8693-B-24 of 22-10-1928. In Resolution 144/24 of 2-6-1928, market value is defined as the market value plus the capitalised assessment in force or expected to be in force at the time of sale. A standard rate is a sanctioned rate which will be applied to any new case of conversion arising. The interval between the standard rates is governed by L.R. Rule 82 (iii) and is fixed for 10 years. The period for which an assessment runs is 30 years prescribed in the Land Revenue Rule 87. The Sanad is to be in form M if for land used for building, and in form N in other cases and in form N-1, if used temporarily for non-agricultural purpose other than building. In the Bombay Suburban District owing to special conditions the term is 50 years.

On land used for the manufacture of bricks an additional rate of Rs. 2½ for every lakh of bricks manufactured in one year shall be levied plus the annual assessment of Rs. 40 per acre. When no accounts of manufacture are kept, the Collector fixes the number according to the known capacity of the Kiln, L.R. Rule 82-A. There is a separate form of agreement for brick manufacture.

Rate on
land used
for trade in
bricks.

When industrial use is made of land such as storing timber, bales of grass, bales of cotton near Railway Stations and wharves, then maximum rates are sanctioned irrespective of the classes fixed for building as such and the maximum rates are applied according to the situation, facilities and profits of each site.

In hill stations like Mahabaleshwar, Matheran and such other localities as Government may direct, permission shall be granted only on the express conditions regarding the style of the building, the period of construction and observance of the Sanitary and Municipal laws, such conditions shall be incorporated in Sanad N.

Hill
Stations.

Modern building regulations for notified areas will be found in (Salsette) G.R. 3543 of 1906 and G.R. 6315 of 1918. In South Salsette for accepting restrictions there has been concession and reduction in the full rate. In such agreements there could not be sub-divisions but if modification is desired a fresh Sanad on new terms is given. A building form sanctioned by Government cannot be modified, G.R. 9787 of 1917. Under L.R. Rule 85, altered assessment is levied on the whole land within the compound. But in certain cases this has been reduced, vide G.R. 1-231/24 of 19-1-1929. Non-agricultural assessment in a holding at Alibag of Khan Bahadur Bhiwandiwala was levied on a portion of the big compound including the building, while agricultural assessment was levied on the remaining area.

The altered assessment is levied from the first day of the revenue year in which permission was granted or in temporary cases the first day from which the use begins. Where no permission was granted, it will be levied from

the first day of the revenue year in which the use commenced. R. 911924, dated 3rd January 1928.

Under L.R. Rule 88, if the altered assessment does not exceed one rupee, it can be commuted for a lump payment of its present value, at a rate of interest not more than half per cent above the market rate at the time of commutation upon public securities the interest on which is liable to income-tax.

Under L.R. Rule 89, the Collector shall maintain maps (land value maps) showing by different colours the different classes of the land in his district.

When any holding, which has been assessed or is held for a non-agricultural purpose other than building, is, with the Collector's permission, used for residential building, the Collector shall levy the rate of assessment imposed on land used for such purpose in the locality.

When any land assessed for anyone non-agricultural purpose is proposed to be used for another non-agricultural purpose, the permission of the Collector is required under section 65, 66 and assessment is altered under section 48. The alteration is usually enhancement.

A mill compound was assessed for stacking cotton, but no particular use was specified; when altered to building, it was held, no further rate was leviable R. 5059/24 of 19th January 1926.

Alteration Assessment in surveyed and settle-Inam village.

Under sections 48, 65, 66, 92 and Rules 81 to 87 the powers of the Collector can be exercised by the Inamdar who holds Commission under section 88 (d) of the L.R.C. other than the power of estimating full market value or fixing standard rates. Further procedure as regards fine and when information is received is prescribed in Rules 98 to 95.

When permission of the Collector is obtained and land is used for non-agricultural purposes, no fine is ordinarily imposed vide Rule 99. The idea of fine under section 65 was a sort of a premium on alteration of tenure; in certain commercial and non-residential uses when a penalty is desired, it may be levied.

In G. R. 15159 of 1919 will be found a discussion of the conditions and extent to which the Collector can altogether refuse permission. Sanitary, civic, aesthetic considerations are to be taken into account.

Maximum fine leviable under Section 66.

In cases of unauthorized use, the fine shall be fixed by the Collector at his discretion but, subject to rule 101, shall not exceed ten times the altered assessment imposed. L.R. Rule 100.

When the material of the soil of any occupied land is employed for making bricks or tiles or pottery or any other non-agricultural purposes, without the

Collector's permission, and the value of the land is adversely affected, a fine may be levied at a rate not exceeding double the rate prescribed in Rule 100, Rule 101.

The Collector may, in such cases as Government deem exceptional or unusual, impose a fine under section 65 or 66 at such rate as fixed by may be Government. When, under section 61, land is unauthorizedly occupied and used for non-agricultural purposes the limit of fine shall be double of that leviable under section 61 and Rule 100, if the same land, being in lawful occupation, had been used by the holder for the same purpose without Collector's permission. Provided a fine up to Rs. 100 may be levied irrespective of the area of the land.

All house sites in villages, known as Gaothan, and all plots for whatever purpose they are used which were excluded from the Revenue Survey are exempted. Since that survey any site now converted to non-agricultural use is now taxed. The tenure period of non-agricultural rents was at first 99 if imposed before 1906, it was 50 years if imposed between 1906 to 1928. Now after 1928 it is 30 years according to G. R. 144/24 of 1928.

49. Below are given some of the latest important Government Resolutions on the subject of Non-agricultural assessment:—

G. R., R. D., No. 8418 dated 18th July 1923. *Non-Agricultural Assessment*.—Altered assessment is to be levied according to the rules under section 48, current at the time of conversion (Note: 196 (2) of the Land Revenue Rules). The principle is that imposition of revised assessment cannot ordinarily have retrospective effect. (9 Bom. 486).

G. R., R. D., No. 1834/24, dated 20-4-25. *Section 61*.—Collectors are authorized to permit the projection of balconies on Government land on payment of rent.

G. R., R. D., No. 2249/24, dated 21-4-1925. Land may be granted free of occupancy price to Co-Operative Societies if a public purpose is to be fulfilled.

G. R., R. D., No. 3490/24, dated 11-5-1925. A Pot Kharab land, used for non-agricultural purpose by erection of a building was left unassessed at the time of both the Original and Revision Surveys and is liable to assessment under section 45 in the absence of a special contract granting exemption. Only non-agricultural assessment is leviable but no fine under section 66.

G. R., R. D., No. 2032, dated 13-11-1926. *Section 48*.—Lands held by Municipalities for Municipal purposes let out for building purposes. There is no

change of user as contemplated in section 48, though in fact a change has taken place from the use of Municipal purpose to one for private purposes. Though section 48 does not apply, the lands can be assessed as newly assessed lands.

G. R., R. D., No. 3586/24, dated 29-11-1926. *Section 48.*—In the case of Municipalities, no assessment should be levied on lands occupied by water and drainage works, unless they yield a return.

G. R., R. D., No. 1483-28, dated 16-11-1928. *Kouli Katuban Tenure at Malwan.*—Sections 65 and 66 apply to these tenures. Collector to evict under 66 and take formal possession and then grant to each present occupant non-agricultural occupancy at non-agricultural rates under Land Revenue Code. (Lands were allowed to be built on).

G. R., R. D., No. B. 463, dated 5-1-1928. *Altered Assessment.*—Increased assessment can be levied on landed property at owner's expense in Town Planning Schemes. It is legitimate to base altered assessment on full market value.

G. R., R. D., No. 9598/24, dated 14-3-1929. Telephone Companies to pay a monthly rent of 1 anna per pole per annum.

G. R., R. D., No. 1996/28 of 18-4-1929. Application to build on land within 35 feet of transmission lines. Railway Company to give opportunity by notice to acquire it.

G. R., R. D., No. 2585/28, of 23-12-1929.

Lands used for hostels, Teachers' quarters and play grounds are exempted from revenue and are granted revenue free.

G. R., R. D. No. 4649/24, dated 18-5-1929. Local Boards can sell the spoil from non-agricultural village tanks and wells, subject to the condition that existing rights of the public or the villagers are not interfered with.

G. R., R. D., No. 4999/24, dated 2-6-1930. *Erection of Buildings near a Railway Station.*—Collector should allow the Railway authorities one month's notice for putting in their objections to the granting of permission to build on land in the vicinity of Railway stations. (The statutory limit of 3 months should not be exceeded.)

G. R., R. D., No. 9598/24, dated 30-7-1930. *Levy of rent of lands on which telephone poles are erected.*—The rent should be one anna per pole per year.

G. R., R. D. No. 141/28, dated 10-10-1930. When *Maf Kacho* lands are used for building purposes, exemption from assessment should not be continued. They are exempt from assessment only so long as they are used for cultivation or for purposes auxiliary to cultivation. G. R., R. D., No. 6406/28, dated 11-11-1931 authorizes Mamlatdars and Mahalkaris to grant permission in unimportant II class villages to use lands for non-agricultural purposes.

G. R., R. D., No. 6284/28, dated 7-5-1931. *L. R. R. 32*.—In all growing towns, full market value of Rs. 3000 per acre is the point at which standard rate should be fixed, provided there is a revision of standard rates at a period of 10 years.

G. R., R. D., No. 6235/28, dated 24-7-1931. *N.A. Assessment*.—Collectors to obtain the advice of the Consulting Surveyor while formulating proposals for revision of standard rates.

G. R., R. D., No. 5202/28, dated 28-6-1930. *Sections 48 and 66*.—Trespassers who unauthorizedly misappropriate agricultural land and use it for other than agricultural purposes should be summarily evicted under section 66; and the occupant should be given notice why he should not be liable to pay altered assessment and fine under section 48.

G. R., R. D., No. 7321/28, dated 5th February 1932. Powers delegated to Collectors to grant permission to lay underground pipes in Government land for agricultural purposes.

G.R., R.D., No. 2558/28—II 9th June 1932. Projecting and Easements on Government land so much of the air above and of the soil below as is necessary for the user.

PART II.

Methods of Survey.

50. Instruments of Survey.

Lands were first measured in the days of the Moguls. The "Kanungo" had his staff of "Mirdahas" or land measurers. At first the Gaz or a rod was the instrument of measurement standardized by Todarmal. In the Deccan, there was the Kathi method, standard of a stick. What is understood commonly by the word 'Survey' does not convey exactly the same meaning in the technical language. "Surveying" is the art of ascertaining by measurements and of representing the form of the earth's surface and the relative positions of objects upon it, as projected on a horizontal surface. The surface of the earth includes not only its visible portion, but also the bottoms of lakes, rivers, the interior of mines and so on.

The surveying instruments are used for measuring horizontal, vertical or angular distances. The instruments which are in use in modern and common practice are (1) Chain and Arrows, cross staff, (2) Tape, (3) Plane Table and (4) Theodolite. Chain, arrows and tape are the linear measuring instruments and cross staff, Plane Table and Theodolite are the instruments for determining directions.

The Chain is of iron and is composed of 16 links (called annas) joined together by iron rings. The total length of the chain is 33 feet.

Arrows :—These are made of iron 15" long and pointed at one end, and are used for marking chain lengths. The chainmen are supplied with 10 such arrows. Where iron arrows are not available, thick pieces of sticks of trees are used.

Cross staff :—This is an instrument for laying of right angles to a given chain line. This is a round or square piece of wood, $1\frac{1}{2}$ " thick and about 6" in diameter or sides, having two fine grooves, $\frac{1}{4}$ " deep, in it which are at right angles to each other. A staff with a pointed end is stuck upright into the ground, and the cross is fixed to the top of the staff about 5' high. In the original Survey the chain and cross staff were invariably used. Now this method has become somewhat obsolete, it takes more time than the Plane Table and is not so accurate.

Tape :—Measuring tapes are made either of linen, or of linen interwoven with fine brass or copper wires and are called metallic tapes. The length of the tape varies from 50' 66' to 100'. Generally the 100' tape is preferred and is largely used.

Plane Table is a drawing board, made of well seasoned oak or deal wood. It is mounted on a portable tripod stand. The standard plane table of the Indian survey measures 30" x 24" x 1" with transverse edge bars below, to prevent warping and bucking. It is set up on a stand, usually a braced tripod, to which it is clamped by a strong hand screw passing through the head of the stand into a brass socket fixed centrally under the table. The screw when loosened serves as a pivot round which the table may be turned horizontally and set in any required position. The table is firmly clamped so as to maintain a constant position during the subsequent laying off of bearings. The surface of the table is level and well planed. The back of the table has often two battens about 2" x 1" screwed on to it to prevent warping. Each plane table is also provided with an Alidade or sighting rule, made of ebony, teak-wood, or brass about the length of the diagonal of the table available in sizes of from 12" to 30" long, $1\frac{1}{2}$ " wide, $\frac{1}{3}$ " thick having at the ends bronzed sights 5" high either fixed or folding. Besides the

Alidade, a divider, a plotting scale, a pencil, an eraser and some pins and drawing pins are also required when the Plane Table is used. The area is ascertained with the aid of a squared paper called the Area Square or Area Comb, by placing it on the map and counting the squares. Before the Plane Table is fixed the surveyor has to see that the level is all right with the aid of the Spirit Level Bottle.

The Theodolite is an alt-azimuth instrument which is chiefly used to measure and set out horizontal and vertical angles and for ranging out lines. The theodolites are of various modes of construction. The chief parts of the instrument are:—

The telescope consists of two tubes, one sliding inside the other. The inner tube has at its end the object glass, which forms at its focus an inverted image of the object looked at. The outer tube has, at its end, the eye piece which magnifies the inverted image.

The Diaphragm is either a glass with fine lines etched on it, or a brass ring with a round hole in the middle crossed by 3 spider's lines or equally fine platinum wires, one horizontal and the other two inclined and is placed at the common focus of the object and eye glasses where the inverted object is seen.

The Vernier or upper plate is a round plate fixed on the top of and at right angles to the inner vertical axis. 360 degrees are marked on the circular plate. It is a contrivance by means of which angles may be read or set off to minutes and seconds. It is a very expensive instrument and has to be very carefully handled, and frequently oiled. The survey done by theodolite is very accurate. By means of the angles read in the field and the measurement of one side, all other sides can be computed by trigonometry and logarithm. In the Chamber's Tables the *cos* and *sines logs* are worked out for ready reckoning. The most important theorems in Geometry

to remember are, that the square on the hypotenuse of a right angled triangle is equal to the sum of the squares on the other two sides; the sum of the angles at the centre of a polygon is equal to 4 right angles and of the angles at the sides $(n-2)$ right angles; triangles on the same base and between the same parallels are equal in area.

The survey may be divided into the following six sections:—

1. Cadastral Survey.
2. Hissa Survey.
3. Minor Triangulation survey with Plane Table.
4. Inam Village survey.
5. City Survey.
6. Village Site Survey.

Cadastral
Survey.

51. Cadastral Survey is a field by field survey within a village, or an estate undertaken by Government to ascertain the position, area, and quality of each field. It gives the data on which a settlement is to be based and is necessary for a settlement of Land Revenue as well as for recording the existing rents and fixing the fair rents. The names of the holders and Kabjedars, the area held by them and the tenures are noted on the tippan or the Plane Table sheet. Hissa Form No. III is also called Tippan Book. Survey includes measurement and identification of boundaries and all other operations antecedent to and connected with survey.

In 1836, Mr. E. Goldsmid was the originator of the present system of survey. He first introduced it in the Poona District; it was subsequently extended over the whole of the Presidency. A few years after the Original Survey, the Revision Survey was conducted in 1854 onwards with a view to rectify errors or omissions. Formerly the Original and Revision Survey operations of the villages were carried on

by a special party of the surveyors under the direct control of an European Officer. The Separate Survey Department was abolished in 1892 and the work of settlement was given to the Revenue Officers. After the completion of these operations, the survey records were handed over to the charge of the Revenue Department and no resurvey or classification of all the lands in the village were made during the subsequent settlements of land revenue. So the Cadastral Survey by the Land Records subordinates is now-a-days confined to the measurement of land on account of boundary dispute, land acquisition, Civil Court partition decrees and so on. The Land Records Staff employed on such work was called, prior to 23-2-1923 General Duty Inspectors and Special Measurer Circle Inspectors. But the designation of the surveying staff under the Land Records Department was subsequently changed to that of District Surveyor and Cadastral Surveyor by G.R.R.D., No. 7240 of 23-2-1923. The required staff of Cadastral and District Surveyors is appointed by the Superintendent, Land Records, for each District according to the necessity of each district and the volume of work to be done. These surveyors dispose of the cadastral survey work during the fair season, from November to the end of May, under the direct control of the District Inspector, Land Records, and they come to Head Quarters for recess work during the rains, from June to the end of October. The kind of work that they do during rains, which is called Barsat work, is described under 'District Survey Office work'.

As regards the boundary disputes, the applications for the measurement of the lands in question are received either by the Mamlatdars or the District Inspectors of Land Records. Along with the application, the applicant is required to credit the measurement fees fixed by the Director of Land Records for the district. This fee is fixed taking into account the pay of the measurer and the number of days he is likely to

require to complete the work; usually it is Rs. 6-12-0, or Rs. 9-6-0 but varies according to the Survey Numbers involved. The measurement fee fixed for each district is not uniform, as it is fixed on the conditions of each district. This measurement fee is called the fixed fee. On the receipt of the application, in the District Survey Office, the necessary tippan extracts from the old survey records are prepared and sent along with the application to the Cadastral Surveyor in charge of the village concerned for measuring the survey numbers in question and fixing their boundaries. After fixing the boundaries of Survey Number and ascertaining whether the owner of the adjoining Survey Number has made any encroachment on the land in question, the Cadastral Surveyor sends back the case to the District Survey Office with his report. Then this office informs the applicant of the result of the measurement and files the case. After this, if the owner of the adjoining survey number makes any encroachment on the applicant's land, the applicant has recourse to the Revenue Courts *i.e.* either to the Prant Officer or to the Collector to get the possession of the encroached portion of his Survey Number.

In the Civil Court Partition Decree cases, the Civil Court requests the Collector of the District to get the partition effected. Then the Collector sends the papers to the District Inspector of Land Records for making the partition according to the terms of the Civil Court decision through the agency of his measuring staff. The District Inspector Land Records, sends the papers to the Cadastral Surveyor to effect the required partitions in the land by measurement. The Cadastral Surveyor gives notice of his intended visit to the village and his work on the field for the purpose, both to the plaintiff and to the defendant, calling upon them to be present on the Survey Number. In the presence of both the parties and the Panchas, he effects the partition and obtains the signature of the parties and the Panchas in token of his

having partitioned the lands according to the terms of the decision of the Civil Court. He sends back the case to the District Inspector Land Records, with his report. The District Inspector Land Records, then sends up the case to the Collector for his perusal and approval of the partition made. When the partition made by the Land Records Department is approved of by the Collector, the final order in the prescribed form is drafted by the District Inspector, Land Records and put up to the Collector for his signature. Handing over the possession of the partitioned land to the parties is to be done by a Gazetted Officer of the Revenue Department. The District Inspectors of Land Records can also hand over the possession of the partitioned land to the parties if they find it convenient to do so. The cost of partitioning the lands is recovered from the parties concerned under the fixed fee system and credited to the account of the Land Records Department.

In the District of Ratnagiri alone, there is a separate establishment of surveyors called "Watap Circle Inspectors" to deal with the Civil Court partition decree cases. This establishment is exclusively employed on the Watap or partition work. The cost is met from the fees, which is Rs. 8/- per day recovered from the party concerned.

All sorts of measurement and classification work is done now either by the District Surveyor or the Cadastral Surveyor under the direct supervision of the District Inspector, Land Records. If the parties are not satisfied with the measurement done, either by the District Surveyor or the Cadastral Surveyor, they can approach the District Inspector, Land Records, concerned to get their grievances redressed. The District Inspector, Land Records, can entertain the appeal against the measurement made either by the District Surveyor, or Cadastral Surveyor on payment of the measurement fee fixed by the Director of Land Records. Appeals against the decision of the District Inspector, Land Records in the measurement cases can, in very rare cases, be

entertained by the Superintendent of Land Records on receipt of the fees fixed by the Director of Land Records. The Superintendent, Land Records, when on tour, often tests the work of the Cadastral Surveyors and measurers and gives them instructions and puts right errors noticed by him.

CHAPTER II

Hissa Survey.

52. Hissa Survey or the survey of sub-divisions in the land is the process carried out by the Land Records Department. The survey of sub-divisions of Survey Numbers was ordered to be undertaken by G. R. R. D. No. 10524 of 21-11-1910. The Hissa Survey would give a fuller and more accurate knowledge of actual holdings than before. Its result would be to effect a great improvement of titles by providing an authoritative record of the position, boundaries and dimensions of all agricultural holdings. This improvement of title greatly increases the transfer value and the security value of agricultural land. This would mean an improvement of his credit with the agriculturist. With the aid of Hissa Survey records, the settlement of boundary disputes is greatly and readily facilitated. Another great benefit realized from the Hissa Survey is that it provides a simple and certain means for describing the properties by reference to the indicative number on the map.

Original
Hissa Survey
and
Up-keep.

On the authority of the G. R. quoted above, the Hissa Survey was originally undertaken in all the districts of the Presidency; and during the last two decades, it was carried on in each district. At present the Hissa Survey is going on, in Central Division in Nasik and Satara and in Southern Division in Kanara. For the conduct of the Hissa survey, originally a special staff of temporary surveyors who have been called Hissa Surveyors or Pot Hissa Surveyors, was entertained under an officer called the Survey Mamlatdar. The general control of the Hissa Survey vested in the Superintendent, Land Records of the Division.

Before the commencement of the field operations by the Hissa Surveyors, a notice has to be issued through the Mamlatdar of the Taluka and posted in the

L.R.
Sec. 96.

village chavdi and proclaimed by beat of drum stating that the sub-divisions in the survey numbers in the village are about to be measured according as they have been divided by the holders. The Hissa Surveyor is required to give, as far as possible, daily notices to the kabjedars of the hissas or sub-divisions, mentioning the numbers which he should measure the next day and asking the kabjedars to be present at the time of survey to give the information required. The Hissa Surveyor is also required to refer to the village records and collect the necessary information, for the survey of Hissas, from the Village Accountant and Record of Rights and also the kabjedars of the Hissas.

When there is no dispute, the boundary of each sub-division is confirmed according to the actual vahiwat in the field. Where there is any dispute, the boundary to which the dispute relates is measured and mapped in accordance with the claims of both the parties, the dispute is registered in the register of disputed cases and the papers are sent to the Survey Mamlatdar for disposal. The Survey Mamlatdar is empowered to decide all the disputes arising at the time of Hissa Survey. After the dispute has been settled, the Pot Hissa map is corrected accordingly and the area of the sub-division entered in the Land Records.

The Hissa Surveyors begin the field work early in November and close it by the end of May. From June to the end of October they work on the recess work called the Barsat work. For the conduct of Hissa Survey field as well as Barsat work, Departmental rules have been framed with the approval of the Settlement Commissioner and Director of Land Records which the Pot Hissa surveyors are to follow strictly. There are 12 Hissa Forms prescribed for Hissa Survey work; the most important are the Tippan Book, (the Plane Table Sheet) and the Area Book.

L.R.C.
Rule 10-A.

The proportionate assessment of sub-divisions to the land revenue settled upon the Survey Number should be calculated according to the relative classification value of the several parts of the survey number. When the total of the calculation of assessment of all sub-divisions of Survey Numbers according to this procedure (which method is also called Prat Phalni) falls short of or exceeds the whole assessment of that survey number, the difference is equitably distributed over the hissas by addition or deduction in the assessment of the big Hissas so as to make the total equal to the assessment on the Survey Number. Ordinarily the new assessment over the hissa should not be less than 6 pies in the Districts of Belgaum, Dharwar, Bijapur and the above ghat Talukas of

Kanara and 9 pies in the Districts of Kolaba, Ratnagiri and the below ghat Talukas of the Kanara District. But in certain exceptional cases, where the area of the hissa is very small, the assessment over such hissass will have to be calculated to one pie in order to keep tally with the total assessment of the Survey Number. In no case should the assessment over the hissa be less than one pie. This procedure has been authorized by G. R. R. D., No. 5814/28 of 6-8-1931.

The total cost of the Hissa Survey is first met from the "Advances Recoverable Under Pot Hissa" grant. The practice was for some years to divide all the cost in the Taluka equally over all hissass irrespective of the size or value. But of late a graduated scale of hissa fees considering the area, size and value of each hissa is fixed and levied so as to cover the entire cost of Hissa Survey. The cost of Hissa Survey can be recovered from the kabjedars of each hissa under the authority of section 135-G (b) of the Land Revenue Code. The kabjedar of each hissa is supplied with a sketch or the map of his hissa.

L.R.C.
135-G (b).

53 Up-keep Hissa Survey or the Measurement of New Hissass.

By the up-keep of hissa survey is meant that the hissass formed in the survey numbers are measured and mapped with the aid of the Plane Table, subsequent to the measurement of hissass which had originally existed and had been measured before. The work of up-keep hissa measurement is done by the District or Cadastral Surveyors under the direct supervision of the District Inspector, Land Records. The procedure of measuring such hissass is not different from that laid down for the measurement of original hissass, described under the Hissa Survey. But the method of assessing the survey cost on account of new hissass differs from that adopted for the original hissass described under Hissa Survey. In the case of new hissass no graduated scale of fees is applied but a uniform fee of one rupee per hissa is to be recovered from the kabjedar, irrespective of the size of the new hissa.

Where the existing measuring staff of the district is found unable to cope with the measurement work of new hissass, a special party of surveyors is entertained for this purpose and the cost on account of it is met from the

Advances Recoverable Grant, the fees realized on that account are credited to the Advances Recoverable Head in reduction of the advance made.

Every year the Village Officers are required to send by the end of July, an intimation about the formation of new hissas in their villages to the District Inspector, Land Records, through the Mamlatdar in the form prescribed in the Revenue Accounts Manual. On receipt of this information, the District Inspector, Land Records examines it Taluka by Taluka and takes no action in respect of the villages in which there are a few hissas Viz: not more than Six, but he directs measurers to do the work where the hissas are more than six. The District Inspector, Land Records, prepares a schedule of the villages in which there are a substantial number of new hissas to be measured and sends it to each Cadastral Surveyor together with the measurement cases of the villages pertaining to the charge of the Cadastral Surveyors. If the District Inspector, Land Records, finds that it is necessary to send the Cadastral Surveyor to the village for measurement work, he directs the Cadastral Surveyor to take up the measurement of new hissas in that village even if they are less than 6. After measuring all the new hissas in the village, the Cadastral Surveyor is required to make an endorsement in the Register of New Hissas maintained in the village, to the effect that all the hissas up to that date have been measured.

In some districts and talukas, the hissas have been surveyed on the falmi method by chain and cross staff, prior to the use of the Plane Table in the Hissa Surveys. The Falmi method was a crude method of ascertaining the area by taking measurements of a few sides only. But during the course of the measurement of new hissas, the hissas originally measured by falmi system, are to be measured by the Plane Table.

The Hissa Survey records of the district are lodged in the District Survey Office along with the records of the Original and Revision Surveys.

54. Minor Triangulation Survey with Plane Table.

Minor
Triangulation
and
Plane Table
Survey.

Traversing and the minor triangulation are the processes of survey by means of a survey instrument called the theodolite. In traversing the frame work must consist of lines of known length related to one another by the known angles. Having chosen the points for these lines to run through and about the city, the next step is to link them all together mathematically so that they can be transferred to the paper with such a record that at any time one can replot

or relay any part of that frame work. This operation is called 'Traversing'. In the Minor Triangulation a net work of fixed pillars, is laid down of which every adjacent three necessarily form a triangle. The groups of these triangles form polygons covering the whole area with points whose plane co-ordinates can be exactly determined. In the Minor Triangulation System it is essential that at least two, and if possible all three of the angles of each triangle, should be observed with the theodolite. All the angles which meet at each point being observed at that point, are adjusted to a perfect, mathematical agreement. The three angles of a triangle must be equal to two right angles. It is necessary to measure at least one side of the series and calculate the rest. In traversing, a closed circuit is measured out in successive lengths and bearings, returning to the starting point. In Triangulation the start should be made with one measured side of a triangle and then calculate the other sides in such a net work of triangles that each triangle has sides in common with other triangles. One can, therefore, start from one measured side and calculate all round the net work till he gets back to that side. If the calculations are correct, the calculated side at the end of the series will agree with the value he started with. If there is any error in any side so calculated, it is due to an error in the measurement of the side he started with.

The method of Minor Triangulation can be adopted in the case of the village, the lands of which have never before been surveyed or if surveyed before, the old survey is discarded owing to the fact that 50 per cent, of the total survey numbers stood in need of resurvey on account of hissas and for suspected changes in the boundary or errors in the areas.

In order to survey by Plane Table, it is necessary to set up the table, on which the mapping paper is fixed, at

successive points which are called stations, and from each of the two stations in every pair it is necessary to draw, on the mapping paper fixed on the Table, a ray to each visible mark on the boundary of the field under survey, from that pair of stations. By fixing the Table at each station in such a way that the direction of the base line is the same at each station of the pair, it will be observed that a triangle exactly similar to the triangle on the ground is mapped.

In choosing the position to put down the stones in the Minor Triangulation Survey, it is necessary to select such a ground that the stones can reasonably be seen from the theodolite telescope. The theodolite observations can be taken upon these stones which are called theodolite stones. From the plotted map of the theodolite stones the Plane Table survey of the land can be performed.

Under the Minor Triangulation system of survey, it is not necessary to erect boundary marks to each individual field or survey number. The cairn or Buruzes erected will serve the purpose of the boundary mark to decide the boundary disputes. Therefore the system aims at saving a good deal of amount of the raiyats on account of expenditure on the erection of boundary marks to their survey numbers.

Advantages
of the Plane
Table
Survey and
its compari-
son with
the Cross-
Staff.

With the aid of the Plane Table the survey work is done in the field and the objects are directly plotted on the paper. This survey ensures much accuracy and saves considerable time. As the map is directly plotted off on the spot, any errors liable to arise can be eliminated on the spot and any omissions can be easily detected and corrected. By the aid of Plane Table a complete method of triangulation can be adopted producing results of an accuracy even over an extended area, almost equal to that obtained with good theodolites. In uneven and mountainous ground the Plane Table survey is much more accurate than the cross-staff. In other methods of survey, separate measurement of each distance by links or feet is taken and it is usually the practice to disregard the fractions of links or feet; but the

measurements obtained by the Plane Table survey are much more accurate as no fractions of links or feet are disregarded. In Plane Table survey all the measurements depend on the single simple measurement of unit base lines chosen along the best available ground; so their accuracy is considerably greater than in any other method of survey except the theodolite survey. The chain and cross staff survey required more men to carry the chains, was more costly, took more time and was less accurate than the Plane Table.

55. Inam Village Survey.

The survey of Inam villages is undertaken for two purposes, *Viz*: (1) for the introduction of Survey and Settlement into the village, or (2) for introducing the Record of Rights in the village.

The holder of the Inam village who wishes the extension of the provisions of Chapters VIII - IX of the Land Revenue Code to be made to his village, makes an application in writing to the Commissioner. He also has to pass an agreement in the prescribed form, consenting to pay the Village Officers at the scale fixed by Government and to pay them at the Government rates for the collection of Local Fund cess and to furnish such revenue and vital statistics from time to time as may be required by the Collector. The Inamdar is further required to agree to allow remissions and suspensions of land revenue to his raiyats on the same scale as that fixed in Government villages in similar circumstances.

After the holders pass the requisite agreement, a notification extending the provisions of Chapters VIII and IX of the Land Revenue Code is issued by the Commissioner. The measurement and classification operations in the village are carried out by the survey party under the control of the Superintendent, Land Records. The Superintendent of Land Records fixes the rates of assessment for the village.

The rates of assessment are ordinarily the same as those sanctioned for the adjoining Government villages. Government issues the final orders sanctioning the rates. After the receipt of Government orders sanctioning the rates, the introduction of the settlement into the village is announced. The settlement guarantee is usually fixed so as to expire at the same time as that of the Government villages in the same Taluka.

The cost of the whole operations in all the Inam villages, except those held on Political or Saranjam Inam tenure, is borne by Government. In the case of the Inam villages on political or Saranjam tenure, the Inamdar bears the cost of the introduction of the survey and settlement.

As regards the Inam villages to be taken up for survey for the purpose of introduction of Record of Rights therein, it is necessary to issue a notification by Government withdrawing the exemption from the operations of the Record of Rights Act, granted to such villages. After the issue of such a notification, the village is taken up for survey, by the survey party, under the control of the Superintendent, Land Records. The method of survey to be adopted in such villages is of two kinds, *Viz:* (1) only the hissas in the survey numbers are to be Plane Tabled, or (2) the solid survey *i.e.* the whole-sale survey of the survey numbers on the Minor Triangulation system is done. In order to ascertain what kind of survey is needed, an experienced surveyor or other responsible officer of the Land Records Department is sent to the village before the survey operations are commenced, with orders to inspect some survey numbers selected in two or three different parts of the village so as to represent thoroughly the whole of the village. After the receipt of the report from this surveyor, the survey of the village is finally undertaken. If it is recommended that the village stands in need of hissa survey only, the hissas in the survey numbers of the village will be measured by the survey party with the aid of the Plane Table; and all the survey operations will be conducted on the principles similar to those adopted in the survey of sub-divisions in the survey numbers of the Government or Khalsa village. If it is decided that the village should be surveyed on the solid survey system, the survey on the Minor Triangulation method by the use of the theodolite will be made first and then the Plane Table survey will be made. This survey will also be conducted on the same principles as are followed in the case of Hissa Survey. The survey of Inam villages on the Minor Triangulation method was first sanctioned by Government in their Resolution,

Revenue Department, No. 339 of 18-1-1919. The main difference between the Hissa Survey of the Inam villages and that of Khalsa villages is that, in the former case, no distribution of assessment over the hissass is made by the survey parties, while the assessment in the latter case is distributed over the hissass by the survey party in proportion to the land revenue settled on the survey number.

In the Hissa Survey of the Inam villages, the surveyor is to hand over to the Kulkarni, the Plane Table sheets directly on their completion. The surveyor enters on the back of the Plane Table sheet, the names of the holders and the nature of their titles in brief. But it must be distinctly understood that the Kulkarni and not the measurer is solely responsible for the correctness of these entries. In order to help the Kulkarni to identify the hissass, these entries are made by the surveyor. On receipt of the Plane Table sheets it will be the duty of the Kulkarni to verify the entries regarding the hissass and to correct in red ink any wrong entries of kabjedars' names and titles made by the measurers. The Plane Table sheets are corrected and returned by the Kulkarni before the survey party commences the Barsat work. After the completion of the barsat work, the necessary papers for the compilation of the Record of Rights of the village are sent to the Mamlatdar concerned. Then the Record of Rights of the village will be compiled and promulgated by the Revenue Department.

The cost on account of the Hissa Survey of Inam villages is recovered under the authority of section 185-G (b) of the Land Revenue Code. Here also the sketches of the sub-divisions are issued to the kabjedars.

CHAPTER III.

City Survey.

56. Law.

City Survey
Sec. 131-133
L.R.C.

The City Surveys are carried out, under the authority of the provisions of sections 131-133 of the Land Revenue Code, in a town or city having a population of more than two thousands. The provisions of City Survey law apply only to Non-agricultural lands.

The objects of the city survey are as under:—

1. Administrative.
2. Fiscal and
3. Legal.

As regards the administrative purpose, by the introduction of city survey, an accurate and upto date map of all the houses and buildings is prepared. The fiscal object is to ascertain the revenue due to Government from land and to watch over the development of future revenue and to prevent the encroachment on the Government as well as Municipal land and to detect unauthorized occupation of Government land. The legal object is to ascertain all titles to existing holdings; to support and better define those which are good and to eliminate those which are bad; to prevent vexatious litigation and to settle the litigation between private persons and local bodies or Government.

Sec. 95,
L.R.C.

The procedure for introducing the city survey is that either the Collector or the Municipality should endorse the proposal that the City should be surveyed. Then the Land Records Department will take steps to obtain Government sanction for the introduction of city survey. A notification under section 95 of the Land Revenue Code directing the survey of the lands other than those used for the purpose of agriculture within the site of the particular village, town or city, is issued by Government. Under section 126 of the Land Revenue Code, it is for the Collector to decide and determine what lands are to be included within the site of any particular village, town or city. Under this section, the

site may be extended to any desired limit. The Collector will issue a notification under section 126 of the Land Revenue Code. A public notice under the signature of the Collector will be issued informing the public of the introduction of the city survey in the town and calling on all the house owners to be present and give all possible information to the surveyors on the dates fixed by them so as to enable the surveyors to measure the properties (houses) correctly. The actual operations of the city survey fall into several sections mentioned below:—

1. Traversing.
2. Detail mapping.
3. The final numbering and arrangement of sheets.
4. Powers of Enquiry Officers, procedure and appeals.
5. Map printing.
6. Sanads and Property Registers.
7. Fee calculation and recovery.
8. Maintenance.

As the area to be surveyed cannot be divided into triangles owing to the obstruction presented by the buildings, traversing is usually the only method adopted for the city survey. The main traverse is first made of the whole area to be surveyed. The whole area is then divided into smaller blocks which are surveyed on minor traverses.

The detailed mapping means measuring the houses and roads within each block separately by Plane Table. The detailed mapping is to be done on the drawing paper of good quality ruled with longitudinal lines. The mapping paper is fixed with pins on the Plane Table. It should not be removed from the Plane Table and carried in hand rolled up when no work is to be done. With the aid of the traverse frame work the measurer does the measurement of houses. Under section 200 of the Land Revenue Code, the measurer is required to give a notice to the occupier of the house not less than seven days in advance of his intended entry in the house for measurement.

By the term final numbering is meant assigning of serial numbers to the houses surveyed. It is the practice to give a chalta or running number to the properties by the detailed measurers. After the close of the city survey, it is necessary to assign serial numbers to the properties ignoring the chalta numbers given by the surveyors. The city or town surveyed may be divided into sections or wards; and then the surveyor assigns serial numbers to the properties in those wards. Each ward has a separate serial number of its own. The numbering should run straight up and down the streets. While numbering, the streets should be followed and it should be seen upon which street the front doors of the houses open. The numbering will be useful for administrative bodies like the Post Office, the Municipality and also for the public generally.

The numbering once adopted should not be changed. When the city survey numbering is done intelligently, the Municipalities can be requested to adopt the city survey numbering abandoning their own separate numbering.

57. Enquiry.

After the completion of the measurement of houses, it is necessary to make enquiry into the rights and titles of the house owner and to confirm them. The object of the enquiry is to determine for each piece and parcel of land who is entitled to be confirmed in possession, to detect the encroachments both on Government and Municipal land; and to know what land vests in the Municipality or Government.

Sec. 37,
L.R.C.

Sec. 119
L. R. C.

Under section 18 of the Land Revenue Code, Government issues a notification making the appointment of an Enquiry Officer for the particular city or town which has been city surveyed. He has powers under the Municipal Act to decide disputes regarding the boundary of streets and other spaces vesting in the Municipality; whether streets are public or private. Under section 37 of the Land Revenue Code, he can decide disputes between private persons and Government. He can fix the boundaries between private properties under section 119 of the Land Revenue Code. The Enquiry Officer is a Revenue Officer under section 3 of the Land Revenue Code so, he can summon witnesses to give evidence or produce documents which the parties are required to state before him. In formal and summary enquiries, he can administer oaths. For the purpose of sections 193, 219, 228, Indian Penal Code, his formal and summary enquiries are judicial proceedings and he is a Civil Court,

When the Enquiry Officer commences the enquiry work, he issues a general notice to all the owners of the houses and the citizens informing them of the introduction of the city survey and Enquiry and calling on the mortgagees and absentee owners to be careful that their rights are brought before the Enquiry Officer, when he makes enquiry of their individual properties. He then issues individual notices. In the case of individual notices at least 10 days' time has to be given and one copy of the notice is to be served on the parties and the other

published on the land in dispute and at the specified public offices. There is no right of appearance by pleader before the Enquiry Officer. However, there is no objection to his having legal arguments in important and test cases. The parties, may, however, appear by a duly authorised agent or representative.

The Enquiry Officer records his decision in the Enquiry Register. If the case is uncontested or so simple that the decision as well as its reasons can be summarised in a line or two, the whole proceeding can be written in the Enquiry Register. In disputed cases and in the cases in which documents are produced, the Enquiry Officer gives the substance of his decision in the Enquiry Register and writes "see case papers." After announcing his decision, the Enquiry Officer serves a notice thereof on the land and on the parties. Appeals against the decision of the Enquiry Officer are to be preferred within the period of 60 days, to the Collector of the District.

After acquiring some knowledge about the situation and importance of the sites and buildings in the city, the Enquiry Officer is required to classify the properties and make a rough valuation for the purpose of assessing the sanad fees. As the valuation is rough, it is not necessary for the Enquiry Officer to make any elaborate investigation; it is noted down in one column of the Enquiry Register.

The form of the Enquiry Register is as given below:—

1. The current or chalta number of each property in the sheet.
2. Old city survey or Municipal or Revenue Survey or Hissa number.
3. Area.
4. Supposed name of holder as in Municipal records or otherwise.
5. Date of service of notice (a) upon occupants etc., (b) upon the property.
6. Which of the parties were present.
7. Is the plan and measurement accepted and confirmed or is it contested?
8. Decision as to (a) tenure, (b) rent or assessment, (c) when rent or assessment is to be revised, (d) name of holder, mortgagee in possession, lessee, other right or encumbrance-holders and attached easements.
9. Reference to the file of proceedings when contested.
10. Date of service of decision order.
11. Appeal order, if any.
12. Final City Survey number of the property.
13. Classification for Sanad fee.
14. Amount of fee fixed by the Collector.
15. Number of receipt for collection of fee.

On the top of the register, the name of the Peth or Ward or Tikka sheet should be mentioned.

The Enquiry Officer has to record the tenures of the lands on which the properties are held by the owners. The tenures will not all be the same in every town. The Enquiry Officer should prepare a list of the tenures obtaining in the

city survey and assign a capital letter of the alphabet and he should mention the capital letter in the Register. The following are the tenures that are generally found in the city survey.

- A. Lands within Gaothan held free of assessment by long usage.
- B. Lands paying altered assessment under Chapter XIV of the Land Revenue Rules.
- C. Lands liable to altered assessment under Chapter XIV of the Land Revenue Rules.
- D. Lands held on leases under Land Revenue Rule 48 (old rule 24).
- E. Lands which are the property of Government under Section 37 of the Land Revenue Code.
- F. Lands which vest in the Municipality under section 50 (2) of the Bombay District Municipal Act.
- G. Lands granted Revenue free for religious, charitable or public purposes.
- H. Lands held on Faragana and Jat Inams liable to altered assessment under section 134 of the Land Revenue Code.
- I. Lands which vest in the Local Boards.
- J. Inam lands not liable to altered assessment.

After the completion of the enquiry work, the Enquiry Officer submits to the Collector lists of encroachments both on Government and Municipal lands. The Collector will then take action to legalize the encroachments on Government lands and he will forward the list of encroachments on Municipal land to the Municipality for taking necessary steps in the matter. If the Municipality fails to take steps in the removal or otherwise of the encroachments, the Collector can take steps to remove the encroachments and to recover the cost on that account from the Municipality under section 178 of the District Municipal Act.

On the basis of the Enquiry Register, the Property Register will be written under the supervision of the Enquiry Officer and the City Survey Sanads will also be prepared. The form of the Property Register is as given below:—

1. Serial number or sub-division.
2. Old number (Revenue, Municipal or City Survey).
3. Tenure.
4. Area in square yards.
5. Assessment.
6. Special rent.
7. Year in which assessment is liable to revision or lease expires.
8. Owner's name.
9. Nature and origin of title.
10. Name of lessee and details of title.
11. Mortgagee with possession and details of title.

12. Other rights.
13. Date of mutation and reference to authority.
14. Remarks.

By G. R., R. D., No. 8616 of 16-9-1926, it has been ordered that, where the Property Registers require re-writing, instead of re-writing Property Registers, the Property Cards should be prepared for each property. In future city surveys, the Property Cards are to be prepared in place of the Property Registers. The form of the Property Card is as under:—

S. No.	Area.	Tenure.	Particulars of assessment, or rent paid to Government and when due for revision.
--------	-------	---------	--

Easements.

Holder in
origin of the title (so far as traced).

Lessee.

Other encumbrances.

Other remarks.

Date.	Transaction.	Vol. No.	New holder (H) Lessee (L) or Encumbrances(E)	Attestation.

After the enquiry is finished and the final number of the properties is inserted in the sheets or tikka maps, the sheets are sent to the Photo Zinco

Office, which is situated in Poona, for being traced and printed. After the printing of all the sheets is over, the Photo Zinco Office prepares a consolidated map of the city survey and supplies the required number of copies of both the tikka maps and the consolidated or combined map. The combined city survey map is very useful for knowing the streets, public places and is a good guide for knowing the details of the landed property in the city.

The City Survey Sanads for each property are prepared under the supervision of the Enquiry Officer after the Property Register or Card is written and they are signed by the Enquiry Officer before he relinquishes the charge of his office. If it is not possible to complete the sanad-writing work and to put them up for the Enquiry Officer's signature, before he leaves the charge of his office, another officer, usually the Prant Officer in charge of the Taluka is appointed as Special Officer for executing the city survey sanads. The sanad thus prepared is issued to the holder of each building site under section 182 of the Land Revenue Code, and a fee as fixed by the Collector but not exceeding Rs. 10/- is recovered from him. The property owners then take away the sanads after the payment of the fees fixed, within 6 months from the date of the notice given under Section 183 of the Land Revenue Code. If they fail to take away the sanads, within 6 months, they are liable to an additional fee not exceeding one rupee for each sanad.

As the city surveys are carried on under the supervision and control of the Land Records Department, it is the duty of the Superintendent, Land Records, to inform the Collector of the District of the total cost of the city survey including the enquiry, the sanad and Property Card writing and the map printing; and to send up proposals about calculation of survey fees. The survey and sanad fees are to be calculated on the basis of the classification and valuation of the properties made by the Enquiry Officer so as to cover the entire cost of the survey. The entire cost of the city survey is to be met in the first instance from the grant sanctioned under the head "Advances Recoverable-city survey," and the fees realized are credited to this head of account in reduction of the advance made.

No sanad or survey fees are to be charged for Government and public properties and in fact no sanads are issued. Similarly Railway lands are also exempt from the payment of survey fees. As regards the cost of surveying Government properties a separate provision is allotted by Government to meet the cost.

58. Maintenance.

On the completion of the survey and the Enquiry, all the City Survey records are handed over to the charge of the Maintenance or City Surveyor whose appointment is made by the Superintendent, Land Records. The Main-

tenance Surveyor works under the direct supervision of the Mamlatdar of the Taluka. The records are located in the town itself. The surveyor entertained keeps the survey upto date, and maintains the necessary registers and accounts based thereon. The Officer in charge of the City Survey Office is usually the Prant Officer or the Huzur Deputy Collector (Now in some cities there is a Huzur Mamlatdar appointed as a measure of retrenchment). The Mamlatdar is a ministerial officer in charge of the records etc. The Mamlatdar's duty is to supervise the work of the Maintenance Surveyor and attest the mutations in the Property Registers or Property Cards. The District Inspector of Land Records and the Superintendent of Land Records inspect and test the working of the City Survey Office. The technical measurement work is controlled by the Land Records Department, whereas the work of the Record of Rights and decisions of disputes are looked after by the Assistant or Deputy Collector.

Changes that require to be effected in the city survey records arise from the following:—

1. Government or Municipal action such as land acquisition, granting of land free and so on.
2. Private transactions arising out of the registered documents.
3. Private transactions not registered.

The Revenue Officer in charge of the City Survey Office who conducts Government transactions involving any change in the city survey records, informs the City Survey Office of the change to be made, immediately. The Municipality sends monthly information to the City Surveyor about the new leases, acquisitions made, removal of buildings, grants of permission to build and other changes which require to be incorporated in the Property Register. Unless this is done punctually, the city survey records

cannot be kept upto date. The Sub-Registrar is also required to send to the City Surveyor a monthly statement about the registered documents relating to the properties in the city survey. The people are also required to supply the required information to the City Surveyor under the Record of Rights Act, so as to enable the surveyor to keep the city survey records upto date. The Property Registers or the cards will take the place of Record of Rights in the city survey. Therefore failure on the part of the person acquiring rights within the prescribed time, which is three months, will render him liable to pay the late fees under the Record of Rights Act. The City Surveyor is also required to inspect daily at least 10 properties in order to ascertain other changes. The operations of the provisions of Chapter X-A of the Land Revenue Code are automatically extended to the city surveyed towns along with the survey. So the City Surveyor has to follow the principles contained in the Record of Rights Act in order to keep the Property Registers or cards upto date.

All the correspondences relating to properties in the city survey are to be dealt with under the Self Indexing System *i. e.* they are to be conducted under the serial number of the properties to which they relate. Thus the serial number of the property becomes the index number of the correspondence. Every case relating to the property is placed loose on the Shelf in the serial order of the property.

In the city surveyed area, the village officers keep the village accounts of the lands which are used for purely agricultural purposes; these will remain in Village Form I; while the accounts of all Non-agricultural lands are maintained by the City Surveyor. The Property Register or the Card takes the place of Village Forms I, II and VI and VII. The Maintenance Surveyor has to keep Village Forms III and IV for the Non-agricultural lands in the city survey. Thus there are two sets of accounts. The Kulkarni keeps the Village Forms for the agricultural lands in the city survey and the City Surveyor for the Non-agricultural lands. The Kulkarni maintains a combined Village

Forms VIII, IX, X and XI both for the agricultural and Non-agricultural land within the city surveyed area. The Kulkarni is also responsible for the collection of city survey revenue. The City Surveyor sends the schedules showing the names of the property owners from whom money is due, to the Village Accountant. On the basis of these schedules he begins to recover the amount and sends the amount collected to the City Surveyor for crediting it to the Treasury.

58A. Village Site Surveys.

The village site surveys can be undertaken under section 131 of the Land Revenue Code subject to the condition that the population of the village is less than two thousand. The provisions of chapters VIII and IX of the Land Revenue Code can be made applicable to such villages except the provisions of sections 96, 97, 101, 104 and 118 of the Land Revenue Code. In the case of village site surveys, a notification with-drawing the exemption granted under the Record of Rights to the village sites, has to be issued by Government. The method of village site survey is similar to that of the city survey. In the case of the village site survey no detailed enquiry as in the case of city survey is made, and no sanads are prepared and no Property Register is to be written up. After the completion of the survey, the sketches of the properties are prepared and issued to the property owners. Under section 135-G, the Record of Rights of the village site can be framed and the village accountant or the Circle Inspector is generally entrusted with the maintenance work of such surveys and records. But in city surveys the Maintenance Surveyor is required to record mutations as they occur and to visit about 100 properties a month so as to pass all in review within three years. The Village Accountant is supplied with files of extracts from Sub-Registrars. The Village Accountant has to submit returns of mutations. The entire cost of the village site

survey is recovered under section 135 G (b) of the Land Revenue Code.

The survey of all village sites in the Presidency is feasible but the main difficulty is of maintenance. The scale of pay of Kulkarnis and Talatis does not permit of throwing more work upon them. However, the scale of the pay of the Kulkarnis who are hereditary Village Accountants does not contemplate absolutely full time and exhaustive employment. The Village Accountant will not have to walk from field to field but from house to house and in village sites the mutations will not be so numerous as in cities. If he is paid fees per mutation and also copying fees, he can pull on with this work.

59. Maps.

District, Taluka, Village and Field Maps.

Scales :—

District Map is 2 miles to an inch.

Taluka Map is 2 miles to an inch.

Village Map is 660 feet *i. e.* 20 chains to an inch.

Some maps are 10 chains to an inch.

Field map	is	5 chains	} according to the size of the survey number, the larger the number the smaller the scale.
	or	2½ chains	
	or	1½ chains	

The City Survey map is 40 feet to an inch.

The Village Site map is 25 feet to an inch.

When the maps are prepared by the surveyors they are sent to the Photo Zinco Office, Poona, for printing and copies.

60. The Survey Number.

For the history of the Survey Number one must know the history of Occupancy. Under the original Land Revenue Code the registered occupant of the Code was the middleman; the occupant the unregistered man in possession. In 1908, the registered occupancy was abolished and occupancy made to depend upon possession. This was the establishment of a true raiyatwari system.

The use of the bigha which was introduced in the time of Akbar was abandoned and the English statutory acre was adopted. The authors of the Joint Report had the idea of an acre which was convenient for cultivation *e. g.* what a cultivator could do with a pair of bullocks. This did not apply to jungle waste land. The following area was recognized :—

20 to 25 acres for light dry soil;

15 acres for medium dry soil;

12 acres for heavy dry soil;

4 acres for rice land;

but circumstances have changed which have tended to make them unsuitable now. Originally no Survey number exceeded 20 to 30 acres.

One acre of Rice land was equal to 3 acres of dry crop.

One acre of Garden land was equal to 5 acres of dry crop.

Pot Number was a portion of a Survey Number which was below the area necessary to constitute a Survey Number of the standard size and included in a Survey Number. In the Deccan, these portions were not measured and assessed, but were shown in the accounts against the names of their holders, as constituting as many annas in the rupee of the whole Survey Number. In Gujarat, such subordinate holdings were measured and assessed, calculated by rule of three, and were called "Recognized Shares." In Konkan, owing to the great extent of sub-division of rice and garden land, and there were mixed numbers and so every separate parcel of each class of land, such as garden, mixed with rice was made into a separate "Pot Number." It was measured, classed, assessed and demarcated by boundary marks. The Survey Number in Konkan became an aggregate of "Pot Numbers." For Varkas land on the hills, a Falni number was given.

A scale of minima for the regulation of Sub-divisions of Survey Numbers, was fixed from time to time as under.

Name of District.	Description of cultivation or class of land.	Minimum area.	Authority.	
		A. G.		
Gujarat (all districts).	Dry Crop.	1 0	G.R. No. 2161, dated 29th May 1869.	
	Garden.	0 20		
	Rice.	0 20		
Deccan (all districts).	Dry Crop.	1 0	G.R. No. 6577, dated 16th August 1905.	
	Rice.	0 10		
	Garden.	0 10		
Thana	Rice.	0 10	Government notification, dated 6th October 1869 (B. G. G. Part I, page 1129).	
	Garden.	0 10		
	Jirayat.	8 0		
Ratnagiri	Rice.	0 5		
	Garden.	0 5		
	Varkas.	2 0		
Belgaum, Dharwar, Bijapur.	Dry Crop.	6 0		.
	Rice.	1 0		
	Garden.	0 20		
North Kanara ... settled Talukas of the below Ghat Districts.	Dry Crop.	5 0	G.R. No. 5594, dated 11 November, 1872.	
	Rice.	0 5		
Vis:—1. Karwar.	...	...
2. Ankola.	Garden.	0 5		
3. Kumta.	...	...
4. Honavar.	Kumri	5 0		
Above Ghat Districts.	Dry Crop.	8 0	G.R. No. 8071, dated 13th October 1896.	
	1. Haliyal	...		
	2. Yellapur.	Rice.		1 0
	3. Sirsi.	...		
4. Siddapur.	Garden.	0 20		

But in view of the rank of sub-division under the Land Revenue Code of 1913, the restrictions do not seem to have any practical effect. Sub-divisions which are clubbed together under a Survey Number acquire a joint liability to Land Revenue, section 117-B, Land Revenue Code, and a right of pre-emption.

section 180, Land Revenue Code, not attached to a separate Survey Number. G. R. 9578 of 1908 removed all restrictions on the size of recognized sub-division. For all practical purposes now the sub-division is held as equal in importance as the Survey Number:

Important changes were effected in the Land System by a gradual process,

- (1) by the recognition of joint occupancies and so of recognized shares in the Survey Act of 1865,
 - (2) by the permission accorded by Act IV of 1868 to split up original Survey Numbers on partition and Revision Survey,
 - (3) by recognition of "Possessions" as distinct from registered occupation of land. Act V of 1879.
 - (4) Abolition of registered occupant by Act IV of 1913.
-

CHAPTER IV.

61. The Working of the District Survey Office.

Staff

The District Survey Office is a part of the Collector's Office, and is usually situated within the premises of the Collector's Kutchery. The District Inspector is the Head of this office whose rank is equal to that of the Mamlatdar and acts under the general orders of the Collector. In matters of technical details, he is responsible to the Superintendent, Land Records of the Division as he is the Controlling Officer.

The District Inspector is assisted by a special staff consisting of about 5 to 6 members, namely, (1) the Head Quarter Assistant, (2) Record and Deputy Record Keepers, (3) Record Karkun (Tab Clerk), (4) Copying clerk and (5) Daftarband. The Head Quarter Assistant is the immediate head of the Survey Office and is responsible to the District Inspector Land Records, in respect of records, measurement and survey correction work. The Head Quarter Assistant is responsible for all papers with the clerks; before they are put up for District Inspector, Land Records' signature, he must initial them. In urgent cases he will himself dispose of them, informing the District Inspector, Land Records of the same. The Record Keeper and the Deputy Record Keeper are assisted by the Daftarband; they have to attend to the maintenance and preservation of the records. The Record Karkun is also designated as the Tab Clerk, as he does the Tab (Barnishi) work in the District Survey Office.

62. The District Survey Office is the custodian of Land Records in the District such as measurement, original revision, current, classification, assessment papers and registers both old and new. The Land Records in the District Survey Office, being a very valuable property, in fact, perhaps more valuable than the currency chest in the Treasury Office, a special arrangement is made for their preservation.

all the records are classified into two sections called "A" and "B." Only the important original papers are kept in "A" side Record Room, while papers of minor importance including copies of the important papers are kept in the "B" side. The buildings in which the two sets of records are stored are separated from each other, with the object of ensuring the safety of one building against risk of fire. When there is no alternative but to use one building, a brick or stone partition is the least safeguard admissible without means of inter-communication. As more accommodation is needed for the originals than for duplicates, the proportion between the two buildings should be 5:3. In most of the districts, two separate Record Rooms have been provided for the originals A and duplicates B.

The records are self-indexing *i. e.* filed by villages (alphabetically) and by Survey Numbers. The following papers are kept in A and B Record Rooms under the orders of the Director of Land Records of 1-7-1918.

A. Record Room.

B. Record Room.

Measurement.

- | | |
|--|---|
| 1. Traverse field books (or andaj or Parigh Nakasha Kolaba). Durbin plots (<i>i. e.</i> maps of large hill tracts measured by theodolite only) and fresh traverse books of boundary disputes. | Traverse statements if extant, of Survey and boundary disputes. File of proceedings in boundary disputes. Copy of traverse books. |
| 2. Map of village boundary plotted by protractor. (Contour map: Konkan only). | Map of old survey or last survey. |
| 3. Revenue, Revision and Durasti Kachoha or Tippian books. | 3. Revenue, Revision and Durasti Pakka or Kshetra books. |
| 4. Kachoha Map. | 4. Waslewar book. |
| 5. One copy of up-to-date corrected map (red ink). | 5. Pakka Map. |
| 6. Index books to the old Kachoha and Pakka books. | 6. One copy of corrected map (black ink.) |
| 7. Forest maps and Railway demarcation maps. | |

A. Record Room.

8. Boundary Settlement Register and map in respect of villages adjoining a surveyed Inam or State villages or Foreign territory.
9. Shiveche Rajinama for Settlement Register. Kabulayat of Inamdars.
10. Tikka books and maps (Warkas phalni tippan).
11. Pot Hissa Tippan book.
12. Pot Hissa Gunakar book. (Area calculation book for any unit of measurement.)
13. Plane Table maps. (Jantris : Distance from village scales and maximum rate files. If a file is needed for daily reference, at least one complete set must be kept untouched in Record.)

B. Record Room.

7. Phalni book warkas.
8. Pot Hissa fair sketeh.

Classification.

- | | |
|--|---|
| <ol style="list-style-type: none"> 14. Revenue, Revision and Durasti Prati Book. 15. Bagayat book. (Bagayat Prati book does not show information about water and crops. So information is given in the Bagayat book.) 16. Tari Khushki Mishrit Patrak. 17. Prat Phalni Book. | <ol style="list-style-type: none"> 9. Copies of all Prati books. 10. Bhag anna Patrak (to be destroyed when Kayamdars Takas are prepared at Revision Settlements.) 11. Bagayat Takta. 12. Gadde, Tank and Position class statements (Karjat only in S.D.) 13. Patache Patrak or Himayat Patrak. If the information is given in V. F. I, this may be destroyed. 14. Bagayat and Tari Phod Patrak. (Separation of soil and water assessment for Tari land.) |
|--|---|

A. Record Room.

Final.

18. Original Akarband.
19. Classer's Register or ultimate Darwari, (including mixed Darwari).
20. Revision Akarband and Kamjasti Patraks.
21. Gat book of Pot Nos. (Kanara.) Shows plots drawn to scale of pot numbers, sub-divisions of survey numbers measured at the time of Original Revenue Survey. This measurement is now discontinued.

Miscellaneous.

22. Ahwal Yadi, (Contains information about village sites, schools, water supply etc.)
23. Isamwar Yadi.
24. List of houses.
25. Patrak showing Inam and Government mixed land. (Separate survey numbers of Inam and Government land have now been made.) Form to be kept for twelve years after the separation.

B. Record Room.

15. Patasthal soil and water statement of lands irrigated by wells and Budkis. (Information is also given in Akarband and Prati books. Prepared at the time of introduction of Hissa Survey for above Ghat Districts. Shows Bhag annas for hissas from classification. In Konkan, assessment is worked out by rule of three.)
16. Kayamdar Patrak. (Now prepared instead of Akarband, shows bhag annas and distance from village scale which are not shown in Akarband.)
17. Faisal Patrak.
18. Pahani Sud (Konkan only) Kaohcha Sud (Konkan). Pakka Nimitana Book.
19. File of Naravadari agreements. (Not in S. D.)
- 19-A. Dhare Patrak (Khoti.)

The Survey Records are arranged and kept in the village daftar with a Ferist number (Index) assigned to which

they relate. As the papers in the village daftar are frequently handled by the District Survey Office staff for reference and by the public for inspection, there is every chance of their being either mislaid or lost when they are taken out of the record rooms. With a view to watch the security of these papers, certain methods Viz:—maintenance of Ferist general and pot, introduction of slip system etc., have been devised. The records are periodically inspected by the District Inspector, Land Records; Superintendent, Land Records and the Director of Land Records.

63. Tab System.

Most of the cases dealt with in the District Survey Office are of the following nature:—

- (a) Measurement.
- (b) Classification.
- (c) Correction.

Tab:—To put an end to the inward and outward registers in the District Survey Office and to improve and accelerate the watch over the receipt, despatch and final disposal of documents, the tab system is very useful.

Previous practice.—Every time a Kamjasti Patrak or similar correspondence was sent by the District Inspector, Land Records to the Superintendent, Land Records, or other Officer, a similar entry had to be made in the Barciahi.

No correspondence is really required but simply a check over the receipt, despatch and final disposal of a document.

The Tab has a different colour for each class of work.

The Tab System.—Classes of correspondence to which it is applicable are:—

Measurement	...	...	...	Red
Correction	...	...	...	Green
Classification	...	...	...	White
Maps.	...	...	...	Yellow

All correspondences of one class are treated alike. *e. g.* correction, whether due to boundary disputes, acquisition, accretion or disforestation.

Particulars on the Tab.—Each tab shows dates of receipt, despatch and final disposal, marked by a rubber stamp.

The Tab Board.—One for each Office. Different coloured tabs on the same peg. In the cupboard there are pegs and the tabs are placed with hooks.

Numbering.—Tabs must be numbered serially and are brought into use in the numerical order.

The Movement of a Tab.—Tab remains on the District Survey Office peg until it goes to another office. Then, if sent to Superintendent, Land Record's Office, it is removed to the Superintendent, Land Record's peg. Tab thus changes places until returned for record.

Tabs on a peg must remain on that peg in the sequence in which they were put on to the peg.

The Tab Board will show,

1. How many cases are in arrears.
2. How long and with whom they are pending.
3. How much they have been tossed about.

Mixed correspondences.—A correspondence requiring measurement, classification and correction will begin with a red tab, and then, when that is completed the next step is to proceed to a white tab, with a note 'transferred to classification' on the tab.

Preparation of Monthly Measurement Returns.—All that will be required is to count the tabs on each measurer's peg. This can be done similarly in the case of other officers.

The Tab Register.—Shows

Date of issue.	Tab number.	Taluka.	Village.	Survey number.	Date of disposal.
1	2	3	4	5	6

Four registers are kept, one for each colour.

Columns 1 to 5 to be filled in when the tab is used for the first time.

Column 6 will show final disposal or transference of the case to another class of tab.

The register will show whether there is a tab for any particular correspondence and whether it is disposed of or not. If there is any doubt,

- (1) whether a correspondence has a tab,
- (2) whether it has been destroyed or disposed of, the Tab register will show this.

Enuciation.—When a correspondence issues from any office except the District Survey Office, the tab should show the original outward number of the correspondence to facilitate its being traced.

The object of this system is to do away with all clerical labour involved under the old Barnishi method in cases in which no separate record other than the

correspondence itself is necessary. Such correspondences form the bulk of the work in the District Survey Office. The only check required is proper control over receipt and despatch and final disposal.

64. Pigeon Hole System.

The Pigeon Hole System.—A cupboard is prepared with small compartments as many as there are talukas in the district with two extra.

(1) For general references.

(2) For references disposed of.

Over each compartment a strap of paper bearing the name of the taluka is pasted. The use of the pigeon hole system is to check

(1) Supply of maps (free for official use)

(2) Applications for extracts from Survey Records (free for official use).

References received are numbered in red pencil serially, Talukwar with an abbreviation of the taluka names given to each number and put in the respective compartments.

When the map is sent or extract given, the reference should be removed to the compartment of 'disposed of' references.

The disposed of references should be filed serially at the end of 6 months. The missing numbers will be numbers in the pigeon hole.

But references for the supply of maps on payment, applications for extracts on payment to parties, must not be brought on the Barnishi, Tab Board or Pigeon holes; but must be dealt with in District Survey Office Form I.

Special registers may be opened for special correspondences, *s.g.* References from Nimtandars for the verification of area.

Besides the cases described under the above two systems there are some cases which require to be dealt with as under:—

(1) Reference for the supply of maps on payment.

(2) Applications for extracts on payment to parties.

The two classes of correspondences are dealt with by the copying clerk in the District Survey Office Form prescribed by the standing orders and need not be brought under the Barnishi or the Tab Board or the Pigeon Hole.

If, however, there are any correspondences of special and important nature other than those referred to above, they may be dealt with in a special register in the prescribed form.

65. Prat Phalni.

Prat phalni is a process of distributing the valuations of soil recorded in the Prati Book at the Revenue (Original) or the Revision Survey, or worked out in the Prat Phalni Patrak for the sub-division in the survey number for the purpose of assessment. Land was divided into suitable compartments by the

staff of classers at the time of the classification in view of the varying conditions of the soil and the size. The value of each compartment was then worked out in accordance with "Rupee scale" prescribed by the joint rules, estimating the order of the soil, its depth, the deteriorating faults. Prat Phalni is, therefore, a process by which assessment is worked out subsequently by the Survey staff after a survey number is split up into sub-divisions.

The term 'Prat Phalni' has come to be used since the introduction of Hissa Survey. Before that Prat Phod was in vogue, but no definite rules seem to have been laid down on the subject. But limits in the area, varying with each

	A. G.	} kind of land were laid down as shown in the margin. The object of this procedure was to save clerical labour. When the area of the land under Prat
(A) Khushki (Dry crop)	5 0	
(B) Tari (Rice).	1 0	
(C) Bagayat (Garden).	0 20	Phalni was within these limits, assessment was worked out by the Rule of Three,

but in other cases the assessment was calculated upon the basis of the Bhag Annas actually worked out under the Prat Phod system. The results of this were incorporated in a book called the "Prati Utar." When the Hissa Survey was in its infancy the system was only rough, but was replaced by a better and a regular one known as the "Prat Phalni."

The Rule of Three.—The calculation is made by using the 'Dar' of the number and the Akar Jantri, (i. e. a simple ready reckoner). Proportionate adjustments are made to the pakka assessments of the sub-divisions by making plus and minus, to preserve the original assessment of the survey number. in fact

While doing Prat Phalni, the following are the rules which need to be observed:—

- (1) When the soil classes of the land are as in the margin, the assessments of the sub-divisions are to be calculated by the Rule of Three; as there is no material difference in the valuations of the soil, contained in the several sub-divisions for the purpose of survey assessment. The same holds good of Rice and Pat Bagayat lands where the soil annas are as above and the difference in the water class is more than 1. Where the difference is greater than the prescribed limit, the sub-divisions will be dealt with under the Prat Phalni system.

- (2) When it is obvious at a glance from the comparison of the pakka sketch (Plane Table sheet) and the Prati Book that the Bhag Annas of the

sub-divisions are the same, since the classification compartments are exactly the same in each sub-division, no Prat Phalni will be done and the assessment in such cases will be worked out by the "Rule of Three."

(3) When it is found that the Bhag Annas of the sub-divisions do not differ in any case by more than 2 annas, no Prat Phalni need be done, but the assessment is calculated only by the Rule of Three, provided that, if the Bhag Annas of one sub-division are 8 annas or under, the difference allowable is 1 anna 6 pies only.

(4) In mixed numbers *s. g.* of rice and dry crop or dry crop and Patasthal garden, the rule of Prat Phalni is applicable to each class of land.

Rules 1 to 4 contain only the general principles underlying the Prat Phalni system. As for the technical working, first, the Kshetra is pricked off from the Pukka sketch, the survey number and the Pot numbers being outlined in black ink and the new sub-divisions in red ink. On the tippan thus prepared, the classification compartments are drawn within the dotted lines and may be enlarged to the required scale for this purpose. The classification compartments are then worked out chiefly on the basis of their areas. In calculating the Bhag Annas, parts of less than 1 guntha of a compartment are ignored entirely *i. e.* more than $\frac{3}{4}$ will be treated as one and more than $\frac{1}{4}$ as half, less than $\frac{1}{4}$ as nothing and so on.

The method above described is called the "Ekarman" as the distribution of the Kshetrās (classification compartments) is based upon the area. There is another method of Prat Phalni named "Akritiman." This method is adopted only when the shape of any sub-division is irregular or its area is too small for drawing accurately the classification compartments. Under this method only the shape and the size are taken as the basis for the Prat Phalni work. Of course, the results of the two methods are the same, and there can be no difference.

66. Classification.

Classification is a process by which the value of any piece of land used for agriculture can be determined. Land is divided into three classes, the blackish or reddish black is of the first quality *e.g.* as found in the Satara and Dharwar Districts, this class is shown by the letter P, the second class is one texture inferior *e.g.* the reddish or whitish land and it is called D, and the third gravelly greyish or malland, Barad, it is represented by the letter T. Value here does not mean

the market price of the piece of land but its capacity to produce a crop. It depends mainly on the depth of the surface soil and on its capacity to receive and retain moisture. It is usually found by digging several pits in the soil and ascertaining its average depth. A depth of 3 feet called a Hat i.e. a cubit, is taken as the standard depth so far as dry crop land is concerned. The soil value of the best class of land is taken as 16 annas ($1\frac{1}{2}$ cubits). After the average depth of each piece of land is ascertained, its value in annas is calculated making due allowances for the faults (Dosh), the soil may contain. This is called Prat in the vernacular and the register in which the valuation is recorded is called the Prati Book. The scale is divided into 9 classes. There are 8 faults which are considered as the factors that go to deteriorate the soil:—

Class.	Original Scale.	Joint Report Scale	
1	16	16	1. Chunkhad. ∴
2	13	14	2. Gochu. >
3	$10\frac{1}{2}$	12	3. Utarwat /
4	8	10	4. Valsar ✓
5	6	8	5. Reswat X
6	$4\frac{1}{2}$	6	6. Dupan ~~~~~
7	3	$4\frac{1}{2}$	7. Upalwat □
8	2	3	8. Karal ^
9	$1\frac{1}{2}$	2	

The symbols indicate the faults. Where there is excessive deterioration a double fault is given.

The manner in which the classification value of a piece of land was recorded in the prati books is illustrated below :

No. 1.		No. 2.		No. 3.	
2	V	3	V	7	
1½	P	1½	P	½	D
No. 5.		No. 4.			
		4	V	5	
		1½	P	1	P

Dry Crop

Class.	Shares.	Annas.
2	1	14
3	1	12
4	1	10
5	1	8
7	1	4½
Total	5	48½

Average Bhag annas

A.F.

9-8

Kayan Bhag annas.

9-6

The whole field for purposes of classification is divided into 5 compartments of convenient sizes and after digging 2 or more pits in each compartment, the average depth is entered in the left hand lower corner. The figure 1½ in compartment No. 1 means that the average depth of that compartment is 1½ cubits. Similarly the average depths of compartments No. 2, 3, 4, and 5 have been recorded to be 1½, ½, 1 and 1½ respectively. The upper figure to the left shows the class of land according to the depth of the soil and the faults which it contains. Thus in compartment No. 1, the class of the piece of land is recorded to be 2 and is arrived at as follows:— The depth is 1½; so if the depth merely were considered, the class of the land is 1 but, as allowance has to be made for the fault of valsar i. e. sand, the value is lowered by one class. According to the depth, the land would have been put in class No. 1 but the presence of sand (valsar) reduces it to class No. 2. The kind of land is put in the lower right hand corner in letters P and D. The figure in the upper right hand corner shows the fault (Doah) which the land contains. The faults are

denoted by means of recognized symbols. The symbols have been already noted against the various faults.

As the value of land is decreased by the faults which it contains, so it may be increased by any exceptional advantages that it contains. * The Gunas, as the exceptional advantages are termed, are as under:—

- (a) Proximity to a nallah.
- (b) Deposit of silt from the overflow of rivers.
- (c) Favourable situation so as to receive drainage from higher grounds.
- (d) Capability of irrigation from a well.

Lands situated within 5 chains of a nallah have their classification value increased up to 2 annas. This increase is called the *Nallah Chad*. Lands which are situated near rivers so as to receive silt from their overflow have their value increased by 2 to 6 annas according as they are of even surface and capable of receiving and retaining large deposit of silt. Lands situated in trap countries such as in the Satara and the Khandesh Districts have an advantage over those situated on higher grounds owing to the greater amount of drainage which they receive. Lands having this advantage have their value increased upto 3 annas according as they are situated on the slopes, or in the valleys.

Lands in which it is possible to dig wells and which are so irrigable by well water have their value raised.

Apart from these faults and advantages, the value of a land may be increased or decreased by scale increases or decreases given by the Superintendent of Survey. These scale increases (up to 2 annas) and decreases (up to 1 anna) were given in certain talukas only, as it was thought the poorer soils were in danger of over assessment owing to the maximum rates being high.

There are different rules of classification for rice lands and Bagayat lands. For rice land the depth taken is 1 cubit, and the water classification has also to be taken into account; this depends on the amount of water available e.g. up to January, or March and the moisture that remains and so on. The Rules of classification for Konkan are different from the Kanara classification rules and for Gazani rice, Kharapat lands there are special rules. Detailed rules on Survey and classification are incorporated in a separate selection No. DXXXII, under G. R. No. 7807 dated 22 August 1914.

The Resolution of Government No. 6682 dated 10 November 1881 provides that, where wells existed at the date of the original settlement and as the lands were assessed at well rates, the revision assessment is limited to dry crop rates

(but the maximum dry crop rate) applied to the vicinity. And where new wells have been constructed subsequent to the first settlement, the ordinary dry crop rate without addition is levied. (Government Order No. 13614 dated 24-12-1918. Levy of water rates on old wells is inadmissible.

The soil scale was revised at the Revision Settlement, because the poor soils were over assessed as compared with the richer. Proportionate additions to the soil annas of the highest classes were made according to the scales prescribed by the Superintendent of Survey. The result was that the increase fell more on the good soil than on the bad one. Another change was the introduction of the Position Class and the sub-soil water classes. The former was used in the Deccan and Karnatak and the latter in Gujarat. Dry crop lands were divided into 4 classes e. g. flat low lying lands in the villages receiving best drainage from higher grounds, ridges or slopes retaining no moisture were in the last class. The chief feature of the sub-soil water class system was that the village lands were divided into areas homogeneous in respect of the sub-soil water supply.

PART III.

CHAPTER I.

Land Tenures.

67. The definition of the word "tenure" has not yet been laid down by any law in India. Latin *tenere* or French *tenir* means to hold. The expression has acquired a limited sense under the English law, vide Stroud's Judicial Dictionary 2nd Edition p. 2031. In India, the expression may be said to mean the right and manner in which land is held and possessed and may indicate the duration of holding. It may be said that the State is the owner of land, the holders have subordinate interest. Tenure is the legal relation in which the occupant of any land stands to Government or any other Superior land-lord. This was the view held in *Manohar Ganesh Vs, Chotabai (1884) I. L. R. 8 Bom. 347 P. 354*. A tenure can be said to be the act, manner or right of holding land, the terms or conditions upon which land is held or possessed.

Meaning of a Tenure.

68. Much benefit will be derived from a comparative study of the tenures and the knowledge of tenures will enable the student to gain a certain familiarity with common forms and terms of constant occurrence in revenue matters and to understand the land system in this Presidency. There were some common factors which had been always at work in the creation of tenures that were seen in the several provinces. The different systems of revenue assessment and collection have been adopted on account of the diversity of the tenures. If the tenures had not been properly understood, there would have been faulty systems of assessment and collection resulting in injustice. Land Revenue is, therefore, vitally connected with the Land Tenure.

Advantages from a study of land tenures.

In British India there are two established land systems. One is the Raiyatwari system and the other is the

Two systems in India.

Zamindari. In the Raiyatwari system, the unit of assessment is the holding of the cultivator who has unrestricted rights of transfer: the raiyats are severally responsible for the revenue fixed for the holding. This is also known as the Khalsa system. The word "Khalsa" signifies a tract which pays revenue direct to Government. The Khalsa system has a tradition and history behind it. In the Zamindari system, the normal unit of assessment is the village in which the primary right of proprietorship vests in the landlord. This right may extend over the whole village and includes the land cultivated by the proprietor and that which is leased to tenants. The Raiyatwari tenure prevails largely in Bombay and Madras; whereas in Bengal the system is Zamindari.

State
ownership
Vs.
Proprietor-
ship.

69. As early as 320, B.C. Chanakya said that all land was the property of the State and was let at 1/2 crop share. Manu says that all land is the King's. According to Manu, the Rajah had his own private lands but, as a ruler of the whole country, his right was represented not by a claim to general soil ownership but by the ruler's right to the revenue, taxes and cesses and the power of making grants of the waste land. This type of village is known as the Raiyatwari or the Non-Land-lord village. Shariat lays down that all land is Sultani. Both Manu as well as the author of *Hidaya* (a text-book on Muhammadan Law) assert that the land is the property of him who first clears it. All Muhammadan jurists agree that the person becomes *ipso facto* the lord of the soil who first appropriates the land and cultivates it. Benriar, who travelled in India during the Mughal days, wrote "In Hindusthan every acre of land is considered the property of the King." It is note-worthy to remember that later, during the time of Aurangzeb, the private right to land was recognized.

In the United States of America all lands belong to the Sovereign people and are held from the State. Mr. Baden-Powell wrote in 1899 "When land administration first came

under the direct control of the British Officers in Bengal in the 18th Century, it was a firmly established doctrine that the State was the owner of all land." This statement has been challenged and there has been much controversy on this question. Long before the 18th Century, the right was established *de facto* and is asserted to this day by all the Native States. The Princes in Central India, such as His Highness the Maharajah of Gwalior, His Highness the Maharajah Holkar of Indore unquestionably assert universal ownership over their whole dominions. In introducing the Raiyatwari system no claim appears to have been advanced to the Universal Ownership of the land. "When in Bombay and Madras the individual holding was separately dealt with x x and when the supreme ownership of the State was maintained, at least not formally abrogated, still no restriction was placed on the power of alienating the permanent hereditary occupancy, which, for all practical purposes, was as good as ownership."†

On the other hand the general proprietary right had been disclaimed in Government Circular R. 4239 and 5293 of 73 and again in a despatch of the Court of Directors dated 17-12-1856 and further in Sir C. Wood's Despatch of 1864 and in para 31 of Lord Lytton's Despatch to the Secretary of State dated 8-6-1880. It was expressed by an eminent Judge of the Bombay High Court that the notion of ownership in fee is not at all an unfamiliar one in the minds of the Asiatics. However, the theory prevails in British India that, generally speaking, the holders are merely occupants and the State is the proprietor of all land. Under Section 37 L.R.C. the State is the owner of all lands and the holders are ordinarily occupants. All land is liable to payments of land revenue to Government unless specially exempted, Section 45, Land Revenue Code.

† Village Communities in India 2nd Ed. pp. 144-45.

70. The Bombay Tenures.

The Bombay tenures can be divided into three main classes as follows:—(1) The General Tenure which is known as the Survey Tenure, (2) Special Tenures, the Inams such as (a) Personal Inams, (Jat Inams), (b) Political Inams (Jahgirs and Saranjams), (c) Religious Endowments such as the Devasthan and Dharmadaya Inams, (d) Service Inams which are called Watans, (3) The Miscellaneous Tenure (a) Gujarat—Talukdari, Bhagdari, Narvadari, Vanta, Mehvasi, Makki, (b) Deccan—Mirasi and Upri, (c) Konkan—Northern Khoti in Salsette and Thana, Izafat scattered over, Shilotri along the coast line, creeks. Southern Khoti, Dharekari. There are isolated cases of village estates and big land lords in the Bombay Presidency proper, but in the majority of cases the lands in villages are held by small holders.

71. The Raiyatwari Tenure

The principle of the raiyatwari tenure was laid down in the first Bombay ordinance on the subject of Land Revenue, Bombay Regulation No. XVII of 1827 Sec. 3. The Raiyatwari system was actually extended in the Bombay Presidency in the year 1830.

Principles
of the
Raiyatwari
Tenure.

The settlement of assessment was made with the occupants of land. The cultivator, when, the land was held by him direct from Government, was to be considered the occupant. The person made responsible for the payment of Land Revenue to Government was the occupant. In the Deccan, the lands of such occupants were called "unalienated". The following are the main principles:—

(1) Under Section 37, L.R.C., all land which is not the property of any individual or group of individuals is the property of Government—State-proprietorship, the holders are merely occupants of the land.

(2) Every bit of land is liable to Land Revenue Section 45, L. R. C. Government is entitled to a share in

the produce of every Bigha of land. Claims of Government are entitled to precedence. The occupant can be ejected on failure to pay the land revenue and the land can be disposed of in any way by the Government.

(3) Each survey number is surveyed and assessed and the settlement for the revenue is made with each individual cultivator or holder directly, Section 100-101. There are exceptions to this principle *Viz*: Inams, Jahgirs, Narvadari tenures.

(4) Rights and liabilities with respect to Alluvion Section 63 and Diluvion Section 47.

(5) Government have the right to enhance the Land Revenue under Section 107, L.R.C. But there is fixity for a term of years, usually 30 years. It is now under contemplation to reduce this period to 20 years or less. When the Settlement is once introduced, the land revenue is not increased by Government for the whole period of guarantee *i.e.* 30 years, and even after this period expires, the revenue can be increased by a fair and reasonable percentage. Under Section 107, assessment is not to be increased in consequence of any improvements that may have been carried out by the occupant privately during the period of guarantee *i.e.* 30 years.

There are two forms of the Survey Tenure. The one which largely prevails throughout the Presidency is the unrestricted tenure known as the Old Tenure. This affords the greatest facilities for the conveyance of lands. The other is the Restricted Tenure called the New Tenure. Alienation is allowed only with the permission of the Collector. Leases of this kind have been granted chiefly to backward classes, Bhils, Berads, to safeguard the lands falling into the hands of money-lenders and for the benefit of certain cultivating classes not capable of protecting their own interests.

The Old
and New
Tenures.

72. The rights of the raiyats according to the Survey Tenure are:—

(1) An occupancy is a heritable and transferable property under Section 73, L. R. C. subject to Section 56, L. R. C. and is subject to the payment of the Land Revenue under Section 68, L. R. C.

(2) Under Section 74, L. R. C., an occupant may relinquish his land in favour of Government by giving a notice to the Mamlatdar before the 31st March, provided that no portion of land which is less in extent than a whole Survey Number or sub-division of a Survey Number may be relinquished.

(3) An occupant is entitled to erect farm buildings, construct wells and tanks and make improvements for the better cultivation of the land, Section 65, L. R. C. But he cannot appropriate it to any other purpose without the permission of the Collector. The registered occupant can apply to the Collector in writing for permission. If no answer is received within 3 months of the application, the permission is deemed to be granted.

(4) Under Section 106, until the expiration of the period of guarantee given under Section 102, no enhancement can be made in the assessment.

(5) Under Section 107, improvements made by or at the cost of the kabjedar are not to be taken into account in revision of assessment.

(6) Under Section 40, L. R. C., the rights of Government to trees in unalienated lands are conceded to the occupant except in Settlements before the passing of the Bombay Act I of 1865; the provision is not to apply to teak, black-wood or sandal-wood trees. In Settlements after the Land Revenue Code of 1879, trees not expressly reserved go into the occupancy

(7) Until the alluvial land on the bank or the shore exceeds one acre, the occupant has the right to temporary use; but where it exceeds he has the right to the first refusal that is the right of pre-emption, Section 68 L. R. C. Under Section 47, the occupant has the right to remission in case of diluvion when the area is not less than half an acre.

(8) Succession:—Section 71 L. R. C. On the death of the registered occupant his heirs succeed and village records are amended.

(9) Partition is permissible under the Raiyatwari system.

73. The liabilities and responsibilities of an occupant are:—

Occupancy
Obligations.

(i) Under Section 68, he is bound to pay the assessment; the use of the occupancy is conditional on the payment of the Land Revenue, otherwise the occupancy is forfeited, there being distraint and sale of movable and immovable property under Section 153, 154, 155 L. R. C.

(ii) Payment of cesses, under Section 105 L. R. C. for water rate under Section 55 of the Bombay Irrigation Act, 1879 (Bom. VII of 1879) for Local Board purposes as schools, Dharamshallas, wells.

(iii) On the publication of general and special notices, the land holders are required to attend and give information to Survey Officers Sec. 96 L. R. C.

(iv) When measurement and classification work is going on, the kabjedar must supply flag-holders and coolies, or otherwise pay for the cost of labour charges under Sec. 97 L. R. C. Under Sec. 135-G, L. R. C. the cost of Survey and of preparation of the maps can be recovered from the kabjedar.

(v) Construction and maintenance of Boundary Marks Sec. 122-123 L. R. C.

(vi) All acquisition of rights either by inheritance or transfer are to be reported to the Village Officers. If within three months the information is not furnished, then the kabjedar is liable to a fine which may extend to Rs.25/- Sec. 135-C, 135-E, 135-F. L. R. C.

74. The occupant is bound by no lease and, though the amount of his assessment is fixed for 30 years, his title to the land goes on from year to year. So long as he pays the assessment, his title to the land is indefeasible. One of the important features of the Raiyatwari Tenure is that the cultivator can do extensive or intensive agriculture, can expand or contract the operations according to his means.

CHAPTER II:

Inams.

75. About 1/5th of the occupied land in this Presidency is Inam or "Alienated." Under the Land Revenue Code "alienated" means transferred wholly or partly to the ownership of any person so far as the rights of Government to the payment of Land Revenue are concerned. Alienation of revenue rights called *Inams* does not always include the land as well as the revenue; in many cases the grant is of revenue only, in other words, the land is occupied by another, and the revenue only is paid to the assignee. Alienations generally may, therefore, be said to be exceptions to the two principles of (i) the State proprietorship of all land and (ii) the liability of all land to pay the Land Revenue to Government. Inam, primarily, means a gift by a Superior person to an inferior person and, secondarily, a grant including every species of grant which a granting power can bestow. This is a term of Arabic origin. Wilson says "Inam means a gift, a benefaction in general made by a superior to an inferior." In India and specially amongst the Marathas, it was applied to grants of land held rent free and in hereditary and perpetual occupation. Now it is a general term used widely "to alienated holdings" without the qualification of another term to denote the exact nature of the holding, this term alone will not be adequate. The State grants are generally grants of land revenue and these were made in land directly or in kind or cash. Under the former Governments in India, the transfer of land with the soil, or the public revenue thereof, was considered to be a suitable and better mode of conferring benefits on individuals or institutions, than granting a cash amount from the public treasury. Under the British rule, granting of land or Land Revenue is not unknown.

Creation of
Inams.

76. The right to create Inams belongs to the Sovereign Power alone as the State is the owner of all land. The power to confer grants under the former Governments was exercised by certain specified officers of the Government and by the Heads of Village Communities. The grants by the former were tenured Badshahi grants as opposed to the Non-Badshahi grants, the latter were called Gao-nisbat Inams. The former usually comprised lands in the village which had remained uncultivated or had been abandoned. The latter were granted rent-free by the village out of its own lands, the loss being made good by the village Community *e.g.* the Vechania and Geramia tenures in Gujarat. Altamgha grants (from the Turkish Al-red and tamgha=*a stamp*) were the royal grants under the seal of some of the former Native Rulers of Hindusthan and were recognized by the British Government as sufficient to confer a complete title to the land. The colour of the seal, however, in actual practice was different. The East India Company exercised the Sovereign power of granting Inam and the Inams were recognized as valid.

Kadim and
Jadid Inams.

77. Inamidars may grant a sub-inam in favour of a third person, Inams created by Government before the particular grant to the present Inamdar are known as Kadim Inams (Kadim means old), whereas those created by the Inamdar himself subsequent to the particular grant to him are called Jadid (Jadid means new).

Purposes of
Motives for
Inams.

78. Motives or purposes for which a grant may be made were matters purely of pleasure and discretion of the Sovereign power. An Inam was out of mere favour or as reward for service rendered by himself or his ancestors. Grants may be made (i) for the maintenance of an office or a secular, religious or charitable institution (ii) as a reward for past, present or future services, (iii) for certain duties to be performed by the Office-bearers in a village. They may be

conditional or unconditional. Conditional grants are those in which Civil or Military service is exacted by the State.

79. A grant is subject to all existing rights against Government. The grantor cannot grant more than what belongs to him nor can the rights of others be granted away. When grants are made, it is presumed that they are subject to all rights which are good against the grantor, whether or not the deed of grant contains a reservation of such rights. Usually grants do contain some reservations *e. g.* "Kherij Hakkadar wa Inamdar". Between subjects and subjects, the meaning of doubtful words in a deed is construed strongly against the grantor who is presumed to use utmost cautious words for his own advantage and security. However, in the case of grants made by the Sovereign, the grants must be construed most favourably for the Government. In the Sanads, the expressions "Village" and "land" are used; these are capable of two meanings (i) the proprietorship of the soil, (ii) the right of the Government to the revenue. But as grants to Inamdars are ordinarily of the Royal Share of the revenue only, these expressions in deeds of grants must be taken to mean not the soil proprietorship but Government's right to Land Revenue only. When there are express words in the deed of grant, then the proprietorship of the soil shall be deemed to have been granted.

Construction of Grants.

80. During the continuation of Inams, at least three parties are usually concerned Viz: (a) Government, (b) the Inamdar, (c) the inferior holders. The most important matters for consideration during the continuation of Inams are (i) relations between the Government and the Inamdar, (ii) relations between the Inamdars and their Inferior Holders. Questions of title, succession, rights of transfer between Government and Inamdars are concluded either by adjudication or by the Summary Settlements. For the purpose of these questions, the Presidency is divided into two parts.

Continuation of Inams.

The first comprises Gujarat and the Konkan to which Kanara was added in 1863, and the second comprises the Deccan and the Southern Maratha Country to which Satara was added in 1863. In the former these questions are regulated by the terms of decisions of the Collectors after enquiry or by the terms of the Summary Settlements. While in the latter, they are regulated by the terms of decisions of the Inam Commission or by the terms of the Summary Settlements. Inamdars are liable to pay judi, quit-rent, nazarana. These are levied in the manner in which ordinary Land Revenue is levied. Local Fund is paid by the Inamdars on the whole of the assessment and not merely on the judi alone. Regarding the arrears of Land Revenue Sec. 56 L. R. C. is applicable to Inam lands liable to pay Land Revenue in the form of judi, quit-rent, nazarana. The claims of Government to judi has precedence over all other claims. Precautionary measures which can be resorted to for recovery of Land Revenue and its arrears in the Khalsa lands can also be available in the case of Inam lands. In addition, when the Inam holding consists of an entire village or share of a village, then the measure of attachment is open. If no application is received from the Inamdar for raising the attachment within 12 years from August next following the attachment, the Inam village or the portion thereof under attachment will be made Khalsa and lost to the Inamdar.

Inamdars are liable to Income Tax. Under Sec. 216 L. R. C. Chapters VIII to X of the L. R. C. relating to Survey and Settlement shall not apply to Inam villages except (i) for the purpose of fixing the boundaries of those villages and of determining any disputes relating to the boundaries, (ii) for the purpose of managing such villages when they come under the temporary management of Government. The provisions as contained in Chapters VIII to X have no application to three kinds of lands Viz: (a)

unalienated lands in alienated villages, (b) villages of which a definite share is alienated, (c) alienated villages in which the excess of revenue belongs to Government. When Survey and Settlement are introduced, the holders of all lands shall have the same rights and be affected by the same responsibilities as occupants in unalienated lands.

Government authorize the extension of all or any of the provisions of the said chapters to any Inam village when an application in writing is made by the Inamdar for this purpose. The question whether the Inamdar has right to the minerals and mines and the forest produce in his Inam village depends upon whether he has proprietary right over the soil. In matters of alluvion and diluvion, Sec. 46 and 47 are applicable to Inam holdings.

81. The Inamdar cannot receive his dues direct from the inferior holders but he is to recover them through the hereditary Patil and Kulkarni. On their default and after obtaining the previous consent of the Collector, the Inamdar can recover them direct. In the matter of collection of his dues from the Inferior Holders, the Inamdar is given assistance by Government. A Commission may be issued by the Commissioner of the Division concerned to the Inamdar or his agent empowering him to do certain acts and to take certain measures in the matter of collection of his dues Sec. 86, 88 L. R. C.

Recovery
of Dues.

The Inamdar is bound to respect the rights existing at the time of the grant. If at that time there were Mirasdars or Dharekaris, their rights could not be affected by the Inam grant. Any change in Government villages will not affect the relations between the Inamdars and their inferior holders. Inamdars are entitled to make such use as they can out of lapsed or unoccupied lands in their villages. If the Inamdar is the proprietor of the grant of

if his inferior holder has come upon the land after the Inam grant, then the inferior holder is his tenant and pays rent. When the Inamdar is the assignee of Land Revenue, the inferior holder is his tenant; if he comes upon the land after the date of the Inam grant, but if he has come upon the land before that date, he is not a tenant of the Inamdar and is bound to pay only the assessment. The Inamdar is bound to respect the rights of permanent tenants. Of others introduced by himself he may determine them by a contract.

82. The arrears of an Inamdar's dues from his inferior holders are not a charge upon his holding, much less a permanent charge on it, as Sec. 56 of the L. R. C. applies to Government land only. When the relation between the Inamdar and his inferior holder is that of a tenant, a suit to recover the arrears of his dues must be brought within 3 years from the date on which the right to sue accrues. When the relation is not that of a tenant, then the suit must be brought within 6 years.

Right of
Enhancing
Rent.

The Inamdar has the right to enhance the rent or assessment even of permanent tenants. Permanency of tenure does not necessarily connote fixity of rent. Unless the right to enhance the rent is limited or lost by agreement, age, custom, or prescription, the Inamdar can enhance the rent or assessment. If the rent is to be increased, a three months' notice is to be given in the case of ordinary tenants and a six months' notice in the case of customary tenants.

83. By revocation of the grant, resumption, forfeiture, surrender or by escheat, the holding of an Inamdar terminates. When the Inamdar is an alienee of the Land Revenue and when the lands are in the occupation of Government holders, resumption removes the tie between the Inamdar and the permanent holders and makes the latter

occupants under Government. When the Inamdar is the alienee of the soil or when he is in possession of private lands actually or through tenants, resumption takes away exemption from liability to pay Land Revenue, and makes the Inamdar himself an occupant liable to pay assessment to Government. Resumption does not affect the relation between the Inamdar and his tenants.

84. Resumption means the taking back or resuming the grant given at the will of the grantor. Government takes back by an act of resumption what has been granted, so where the Government has granted the royal share of the revenue, what it can resume is that only and nothing more. It may be noted that resumption is not an act of acquisition. Resumption will not affect the right which the Inamdar grantee has to the land, the revenue of which was excused in his favour and which is subsequently resumed.

Resump-
tion.

In each case, the right of resumption always depends in a great measure, upon the nature of the tenure or the terms of the grant. For the purposes of resumption, grants fall into two chief categories.

(1) Grants of land burdened with service which are always irresumable, unless the grantor shows that they have been specially conditioned so as to enable him to resume for failure to perform these services or at his own will to discontinue the services and resume the lands.

(2) Grants of office to which lands are annexed by way of remuneration instead of or along with cash, which are always resumable unless the grantee shows that they have been specially conditioned otherwise, so as to prevent their resumability. In every case, the burden of proof is upon the grantor seeking to resume to show that either the grant was of a kind falling under the second category, or if the grant of

the kind falling under first category, that it was specially conditioned. *Chandrappa V. Bhima*, 20 Bom. L. R. 779.

In Lashmangauda V. Keshav Annaji, 28 Bom. 305, the first category has been sub-divided into two.—(a) grants burdened with service, (b) grants of services rendered in the past and to be rendered in future. In the former case, the grant determines when the service ceases or when there is no further occasion for it; in the latter case, the grant practically becomes freed from liability to service originally imposed upon the grantee, whenever the service is dispensed with or is rendered unnecessary by the operation of any cause. In the absence of any condition referred to above, lands held under these grants are not resumable at the will of the grantor.

Effect of
Resump-
tion.

85. Government and Inamdar.—In the case of an Inamdar, who is an alienee of the soil, his interest in the Inam lands obviously terminates on the resumption of the Inam grant and he is dispossessed of land. But when an Inamdar is an alienee of the Revenue only, he will be liable to pay the assessment directly to Government *i.e.* alienated lands become unalienated. But in no case can the Inamdar be dispossessed of lands that were in his possession or were possessed by his tenants (as Sheri lands). The relations of landlord and tenant will continue but he will in future be liable to pay the land revenue that may be assessed after the resumption. Thus it means only the discontinuance of exemption from payment of land revenue.

Inamdar
and Inferior
Holder.

86. The holders of land under the Inamdar will be occupants and will have right to deal with the Government directly as in the Raiyatwari tenure since the alienated village has been transferred into an unalienated village,

It may be noted that this is so only in the case of inferior holders and not of tenants who will continue as tenants as before.

The upshot of all this is, that only that which was granted could be taken away and, on such resumption, only the Inamdar's right to exemption from payment of the Government assessment ceases, and the Inamdar becomes liable to pay such assessment; but all his other rights remain unaffected, and, therefore, those who were his tenants before the resumption do not thereby cease to be so. *Gangabai V. Kalapa, 9 Bom. 419.*

These rules do not apply to Saranjam Grants.

Effect of the Introduction of Survey Settlement in an Inam village.

When a Survey Settlement is introduced into an Inam village, the holder of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the land in their occupation as occupants in unalienated villages. The holders of land under the Inamdar will be affected by all the provisions relating to occupants and registered occupants.

The effect of the introduction of Survey Settlement in an alienated village is to render the occupants in alienated villages subject to a settlement like the occupants in unalienated villages; but it does not take away any legal right which the occupancy tenant may have acquired independently of his bare status as an occupancy tenant liable to pay the land revenue according to the survey rates. (*Luzman V. Govind, V. B. L. R. 694*).

The result will be that a field-to-field assessment will be made of the lands of the inferior holders and they will be liable to pay the land revenue so assessed; the rights liabilities and disabilities of these holders will be that of an ordinary occupant of unalienated land, e.g. the Inamdar cannot in their case enhance the rent of the occupants at his will but the rents can be only increased after a regular revision of the settlement. As stated in the case of *Luzman V. Govind*, the

rights such as permanent tenancy, fixity of rent or any other rights which the inferior holder might have acquired by agreement, usage or prescription cannot be violated by this subsequent introduction of the survey settlement.

The survey settlement under S. 217 can be introduced in an alienated village only at the will and on the application of the Inamdar. It is competent to one out of several co-sharers of an alienated village to apply on behalf of and with the consent of all the other co-shares for the introduction of a survey into the village, and it is not open to the cultivators of the lands in the village to question the action of Government in introducing the survey on such application.

When the rent is once fixed after the survey settlement, the Inamdar can enhance the same after 30 years as the Government can do in the case of ordinary occupants. The same rules applicable to occupants in unalienated villages will apply here.

Inam Commission and Summary Settlement Acts.

87. After the introduction of the British rule, many landholders claimed to hold land free from payment of Land Revenue. The original titles were doubtful in many cases, and in several cases fraudulent titles were brought to light. The adjudication of these claims was one of the most difficult tasks for the Government.

The following are some of the chief enactments regarding alienation :—

1. Bombay Regulation XVII of 1827 Chapters 9 and 10.
2. Act XI of 1843.
3. Act XI of 1852.
4. Acts II and VII of 1863.
5. Bombay Act V of 1879.

In 1843, the Inam Committee was appointed to investigate into the claims to hold land free from the liability to pay Land Revenue. After 9 years in 1852, the Committee was transferred to the Inam Commission by Act XI of 1852. The operations of the Inam Commission were too slow and cumbrous. The Act did not apply to Gujarat. Government thought it proper to waive the question of exact proof and to treat the matter summarily on certain broad principles, offering reasonable terms to the claimants. The Summary Settlement was really a compromise effected between the claimant and the Government. Act II related to Deccan, Khandesh and the Southern Maratha Country, and Act VII to Gujarat and Konkan. If the Inamdar chose to accept a Summary Settlement on the entire estate as made by the Collector and to submit to the conditions of the Act, Government decided to waive the enquiry into title. All Personal Inams could, at the option of the holder, be heritable and transferable as free hold on payment of Nazarana, a specified fee. It may be noted that the estate granted under the Summary Settlement Act is of the full proprietary right and is heritable and transferable; adoption is also allowed. The Settlement cured the defects, if any, in the titles of holders against Government and declared the lands to be the private, heritable and transferable property of the holders, their heirs and assignees. The quit-rent payable in the case of Jat Inams was 4 annas in the rupee and Nazarana was one anna in the Rupee. In the Act VII of 1863 applicable to Gujarat and Konkan, the quit-rent was 2 annas in the Rupee and no Nazarana.

The provisions relating to Summary Settlements were declared not to be applicable to

- (1) Lands held under treaty,
- (2) Lands held as Saranjams,
- (3) Lands held for service,

- (4) Lands already formally adjudicated to be not continuable hereditarily,
- (5) Inam lands in villages held on Talukdari, Bhagdari, Narvadari, Khoti and other similar tenures.

Classes of Inams.

88. (a) Personal (Jat) Inams.

These were for services already rendered and were given out of mere favour of the giver. Grants given to Guravs, Jangams were held as Jat Inams. They are settled and Sanads are issued. They are either quite revenue free *i. e.* *Nakra* or they are subject to a quit-rent *i. e.* *Salamia*. These are unconditional grants. They are continuable in perpetuity and are transferable without any restriction whatever. *Wazifa* Inam to religious Muhammadans, *Haira* to support the families of those slain in defence of the village, *Rannatia* for the family of those slain on the battlefield, *Halia* for support of a Brahmin bard, are some of the illustrations of this Inam.

89 (b) Religious (Devasthan) Inams.

The main object of these grants was to support the religious institutions. The former rulers often granted Inams for the support of temples, Maths, Mosques, Schools and similar charitable objects. Sanads were given and the Inams were declared to be permanent. Alienation of Devasthan Inams is strictly prohibited. The land cannot be partitioned though the profits can be taken in rotation. However, if the alienation is expressly for the benefit of the Estate or for a legal necessity, the alienation will be defeasible. Attention is invited to the famous cases *Hanuman Prasad Randey Vs. Mr. Baboee* and *Prosanna Kumari Debi Vs. Golab Chand*. The right to enjoy the Inam is heritable and partible. Devasthan Inams are generally grants of land revenue only unless the Sanad specifies that property

in soil was also granted. Devasthan Inams or Religious endowments, (if they are otherwise used,) it is open to the Collector to levy on them the full assessment. G. R. No. 12302 of 2nd December 1908. The lands can be resumed when the Institute for the support of which or the temple ceases to exist.

90. (c) Saranjam and Jahgir Tenures.

Saranjam is a Persian word, meaning "Supply" or "Provision" for troops; it has the same meaning as Mokasa. *Ja* in Persian means a place or position and *Gir* means taking; literally Jahgir means holding a place or occupying a position or holding a land. It later came to mean a tenure which was common in the Muhammadan period in which the public revenues of a tract of land were made over to a servant of the State. Saranjam literally means materials. During the Maratha period, the expression came to signify a tenure similar to the "Jahgir." The terms Jahgir and Saranjam are now convertible terms and whatever distinction there may have been between the two, it has now disappeared. The term Saranjam is now largely used to mean both Saranjam, and Jahgir. The difference between Jahgir and an Inam is that the former was never an entire free-hold, whereas an Inam is a grant held rent free in hereditary and perpetual occupation. Inam is a genus of which Saranjams, Jahgir and Watans are species. However, in practice a Jahgirdar is supposed to be a big gentleman. Watans are lands granted as service endowments appertaining to a particular office. Watans are fully dealt with in the next Chapter.

Meaning
of the
Expressions.

Saranjams may be roughly divided into 2 classes.

(1) Conditional or Military for the maintenance of troops; forts. These were known as Fouz Saranjams.

Two Classes
of Saranjam

(2) Unconditional or Personal for the support of a family or keeping up the personal dignity of the grantee,

these were known as Jat Saranjams. Temporary assignments of revenue were made to maintain a sort of feudal aristocracy for State purposes. Powers were also given to the Saranjamdars to enable them to collect and appropriate the revenue and to administer the general tract of land which provided it. Great majority of them are inalienable and resumable if alienated. The rules applicable to these are published in G. R. No. 2674 Political Department dated 5th May 1898.

Extent:

Saranjams are usually grants of revenue only, very rarely grants of the soil. Whether it is the one or the other must be determined by a consideration of all the circumstances of each case (*Venkatrao Vs. Ramchandra P. J. 1879 p. 14*). The burden of proving that it is an alienation not of land revenue only but also of the soil lies on the party alleging it. (*Ramchandra Vs. Venkatrao* otherwise known as the *Mantri's case* (1882) I. L. R. 6 Bom. 598). But this view has been modified by the Privy Council decision in a case from Bombay. *The Secretary of State for India Vs. Laxmibai, 25 Bom. 527*. There it was held (following two other decisions of the same tribunal *Suryanarayan Vs. Pattanna and Chidembura Vs. Keerama Reddi*) that a grant of a Saranjam may be either of the soil and the whole revenue derived from it, or a grant of the Royal share of the revenue only. It must be determined in each case upon the facts, what was the quality of the original grant although it may well be that it is ordinarily a grant of the royal revenue only. The effect of this decision is that the former view of the Bombay High Court stands considerably modified and that there is no presumption that a Saranjam grant is a grant of the revenue only. Whenever the original tenancy lapses to the Saranjamdar by reason of extinction of heirs or otherwise and the latter himself becomes the tenant, then on resumption Government

can resume his tenancy rights as well. Because on resumption "Government becomes entitled to resume not only the land revenue but also the rights and benefits that the grantor has acquired or secured by virtue of his grant and *Qua Saranjamdar.*" *Secretary of State Vs. Girjabai* 39 Bom. L .R. 1503.

In column 6 of the Saranjam lists of 1874 and 1900, revenues of the Saranjam villages are debited in the Government accounts, which fact as observed in *Vaman Janardhan Vs. The Collector of Thana* is a clear indication that the grant is of the public revenue only. Saranjams are liable to resumption at the pleasure of Government. The Summary Settlement Acts II and VII of 1863 are not applicable to these tenures. Lands held on this tenure are continuable in such manner and on such terms as political considerations may from time to time require.

Before the accession of the British Government into power in the Southern Maratha Country and the Deccan, there was a good deal of trouble, consequently the Jahgirdars and Saranjamdars were deprived of their powers and possessions. It was the Honourable Mr. Mountstuart Elphinstone who in 1818, first proposed to the Governor General to provide some of these by returning their personal holdings. These suggestions were not meant to apply to those Saranjamdars and Jahgirdars whose cases were protected by treaties. Government of India accepted this proposal in 1820. In 1832, Mr. John Warden, the Deputy Agent for the Sardars, pointed out the need of uniformity of practice in dealing with Saranjamdars. Lists of Saranjamdars and Jahgirdars were more than once prepared. The lists finally prepared in 1847 were approved by the Directors in 1849, but as errors were discovered in them they were sent to the Inam Committee of 1852 for scrutiny, the outcome of which was the Saranjam list of 1874 prepared by Col.

History of
the Tenures.

Etheridge, the Alienation Settlement Officer. In the Saranjam list of 1874, the Saranjams were divided into three classes as under:—

(1) Saranjams granted before 1751. These were considered hereditary.

(2) Those granted between 1751 and 1796. They were to be continued to the holder at the introduction of the British Rule for one generation further, the 3rd generation being granted a pension of half the net proceeds of the Saranjam.

(3) Those granted after 1796 *i. e.* those granted by the last Peshwa Bajirao II. They were to be continued to the holder at the introduction of the British Rule, a pension of half the net proceeds of the Saranjam being granted to the next generation.

Jahgir and Saranjam Rule.

In exercise of the powers referred to in Rule 10 of Schedule B of Act XI of 1852 and in the 2nd sub-clause of clause 3 of Sec. 2 of Bombay Act VII of 1863, the Governor-in-Council issued some rules for determining the terms to which the continuance of Jahgirs and Saranjams is subject. (They are 12 pp. 174-176).

Partition.

Mr. Steele, in his book named "The Custom of the Hindus", states at page 228 that the custom of succession by reason of primogeniture is found among some of the chief Maratha families. This is so as regards the great Maratha principalities only. Amongst the lesser chieftains there is no uniform custom prevalent (*Tucker J. in Bhujanrao Vs. Malojirao (1868) 5 Bom. H. C. R. (A.C.J.) 161 page 168*). In *Ramchandra Vs. Venkatrao (1882 I. L. R. 6 Bom 598)*, a Saranjam was declared impartible on the ground that an estate allotted by Government to men of rank for the

maintenance of rank is indivisible, otherwise the purpose of grant would be frustrated. But in *Govindrao Vs. Dinkar* (P. J. for 1888 p 350), it was said that Saranjams may be impartible but it may be a question in a particular case whether the Saranjam as such is partible or not. The result of all these cases is that large principal Saranjams and Jahgirs are impartible; that there is no general rule applicable to all estates on political tenure; that whether a particular Saranjam or Jahgir is partible or not must be decided after considering (1) the nature and reason of the grant, (2) the custom of the family regarding partibility and the terms of the grant.

In *Krishnarao Vs. Rangrao* (1867) 4 Bom. H. C. R. Alienations.
(A. C. J.) 1 at page 24, Tucker J. said that alienability of a land granted as Jahgir or Inam must be governed by the terms of each grant. If the grant confers on the grantee and his descendants an estate for life and life only, alienation by the holder is inoperative after death. In *Dosibai Vs. Ishwardas* (1885) I. L. R. 9 Bom. 561) Sir Charles Serjeant C. J. and Birdwood J. laid down the following rules:—

“The conclusion.....to be drawn from a perusal of the proceedings of the Inam Commission and the Government records is that the question whether a particular Jahgir is alienable or not must.....be governed by the terms of each grant, in the construction of which.....as pointed out by the Privy Council in *Gulabdas Vs. The Collector of Surat* (I.L.R. 3 Bom. 186) the Court may seek for aid in the surrounding circumstances and the object for which the Sanad was granted.”

Jahgirs and Saranjams being grants of the land revenue, Jurisdiction
of Civil
Courts.
Civil Courts have no jurisdiction ordinarily to entertain any

suit relating to them. This bar is laid down in Sec. 4 of the Pensions Act of 1871 and Sec. 4 of the Bombay Revenue Jurisdiction Act of 1876. Similarly Civil Courts are ordinarily prohibited from entertaining suits against certain persons of rank such as Jahgirdars, Saranjamdars. For trying suits against them, there are the Special Courts of the Political Agent and Agent for the Sardars.

CHAPTER III.

Miscellaneous Tenures.

91. Gujarat Tenures

The most important tenure in Gujarat is the Talukdari; it prevails in the Ahmedabad, Kaira, Broach and Panch Mahals Districts. The Talukdars are of Rajput descent. The Talukdari estate is neither a gift from the Crown nor an occupancy but the proprietary right in full which is claimed before the advent of the British; it includes the ownership of mines and minerals, trees. The Naiks of the Panch Mahal District and Kasbatis of Viramgaon are an exception to this, though Talukdars they are treated as permanent lessees. Talukdari

The Jama or Land Revenue which the Talukdars pay is fixed in perpetuity (Udhad) or fluctuating.

In G. R. No. 2268 dated 22nd March 1909, it was laid down that a proper valuation of land was essential and, in fixing the liability, any claim on account of waste land should not be included and Government might claim upto half the rental; it was intended to depart from the 60% rule; subsequently revision was made for limiting the Jama to such portion not exceeding $\frac{3}{5}$ th or 60% of the aggregate survey assessment and the period fixed was of not less than 30 years. Most of the estates such as Sanad, Gamph, Gangad observe the rule of primogeniture but the bulk of smaller estates are held by co-sharers. The rents are taken in kind or cash levy being fixed by (*Dharo*) customs of the village. The tenants are tenants-at-will but eviction is very rare.

Some of the important aspects of the Talukdari Tenure are:—

- (1) A Talukdar cannot encumber his estate beyond his life time.
- (2) A Talukdar is liable for the cost of the village police.
- (3) Civil Courts have no jurisdiction in partition cases but the Talukdari Settlement Officer.
- (4) There is no interference in the internal management but the management may be taken by Government:
 - (a) if any injury is apprehended,
 - (b) when partition is being effected,
 - (c) on the application of the Talukdar,
 - (d) when under Court of Wards Act charge is assumed by Public Officers.

The Vanta Tenure.

92. The Vanta Tenure prevails in a few villages all over Gujarat, north of the Tapti. The original Chiefs of Gujarat were deprived of all but one fourth of their possession by the invaders. In the majority of cases, a quit-rent was imposed by the Paramount Power, in some cases the Vantas were held free; some lands are called Talpad *i. e.* paying full assessment. The fixed cess is known as Udhad Jama and remains intact even at the revision of assessment.

The Mehvasi Tenure.

93. In the Kaira and Ahmedabad districts certain villages known as Mehvasi villages are held by the descendants of Mehvasi Koli or Rajput Chiefs. The Jama is subject to revision and the holders are proprietors. The shareholders are known as Thakurs. As regards the imposition and levy of a Jama, these are treated in the same way as the Talukdari villages, which is in proportion to the survey assessment and is liable to revision.

The Narvadari Tenure.

94. This tenure prevails in Ahmedabad and Kaira. There are main divisions (Muksh bhag) containing pet-bhags (sub-divisions). The head of Muksh bhag is called Muksh Bhagdar and is responsible for the payment of the assessment on the whole share. The sub-sharers are called patidars and have equal rights. There are some vighotia *i. e.* survey numbers on which assessment is levied individually. The common land is known as Majmun.

The Bhagdari Tenure.

95. This tenure is found in the Broach District. The difference between the Narvadari and Bhagdari is that in the latter there is a fixed bighoti assessment on each field, in the records the assessment is fixed in the lump. In Narvadari and Bhagdari Tenures the cultivators are the tenants of the Bhagdars who alone are responsible for the revenue.

After the introduction of the Survey and Settlement, a record is prepared of the rights of the superior and inferior holders, these records have not yet the force of judicial decisions.

Sarkati Tenure.

In this tenure Government is entitled to a certain proportion of revenue and the holders get the balance.

Khoti Tenure.

96. The Konkan Tenure.—The Khot is the person who manages the collection of revenue. A dharekari is a permanent occupant. The Khots are believed by people to have been at first only farmers holding a lease for the improvement of the village, but now they have acquired rights as limited proprietors. The salient features of this tenure are:—

(i) The lump assessment is fixed by Settlement and the Khots have the right to hold the village on payment of the assessment in instalments. Subject to certain rules, the member of the Khoti watan appoints a managing khot for

each year. On failure to appoint a managing khot or the payment of assessment, the village is liable to attachment. If within 12 years of attachment, the payment is not made, the village is made Khalsa.

(ii) The right to lease the land in which there are no other permanent rights of occupancy is unrestricted as regards the amount of rent.

(iii) From permanent occupants other than Dharekaris, they have right to collect the Mamul rents.

(iv) In the event of absence or failure of permanent occupants the land may lapse; they have a right to such lands.

(v) The assessment from the Dharekaris (permanent occupants) is collected by the khot without remuneration and the khot receives assistance from Government as superior holder.

The Khoti tenants are the Dharekaris who pay only survey assessment which is liable to increase on revision.

The Northern Khoti Form differs from the Southern Form. The Khots of Northern form have never claimed to be the proprietors of the soil; they are leaseholders; the survey tenure is found in all these villages; only in unsurveyed villages the former rights, Suti, Gatkuli are yet existing. In the Southern form-Kolaba excluding Panwel and Karjat and the Ratnagiri District-survey tenure is the exception and the prevailing tenure is the khoti tenure.

97. Lands reclaimed from the sea and where large embankments are erected and the permanence of which depends on the embankments being kept up, are known as Shilotri lands. These reclaimed lands are called Khar. The Khar belongs to the person by whom the land was reclaimed and the Shilotars are considered to have proprietary rights. The lands are let out and a customary maund of rice per bigha is recovered for the repairs of embankment. The second class of lands are those reclaimed by Government; they are on survey tenures. In this class of lands embankments are made by raiyats jointly on a special tenure and this tenure is known as Kulargi, each tenant has the share and assessment recorded against his name.

The
Shilotri
Tenure.

These are occupancy tenants with heritable but non-transferable rights, which cannot be disposed of by the khots. On condition of payment of the rent from time to time, they continue to hold the land.

Wataundar
Kula.

98. Deccan Tenures.

In the Deccan over large areas there was a class of cultivators known as "Mirasdars" (hereditary land holders). There was another class called "Upri" (stranger) "Coming from another place" and the cultivator of the Upri class was

Mirasi or
Upri
Tenures.

of an inferior status, and had no hereditary claim over the land though in long possession. *Miras* is a Persian term used by the Muhammadan Kings. Malik Ambar who made a revenue settlement in the 17th Century restored the "Mirasadars." The land holders had a term of their own "thalwai" (Sthal-patho or shares). The thalwai (Mirasi) right was long respected. When the original holder had disappeared, the holding was called "Gat Kul" (Kul-family, and Gat-Past Participle of Gama to go). The lands of the Mirasadars were alienable and heritable with a fixed assessment. Formerly the status of a Mirasdar carried a degree of distinction. There was no forfeiture for default of payment and he was the freeman of the village, whereas Upri was a tenant-at-will.

The tenures of the Deccan had to undergo several changes, but the present villages, whatever their form originally, are now generally under the Raiyatwari Tenure. In Konkan there is a diversity of tenures owing to the existence of an over-lord. The tenure is derived from the Moslam and Maratha revenue-farming known as "Khoti." In Gujarat, there are side by side "Joint villages" and raiyatwari tenure. These are remains of the Chiefships of the Rajput families.

99. Comparison of Occupancy Tenure with Proprietary Tenure.

There are restrictions on the right of occupancy *e. g.* (1) The right terminates *ipso facto* on failure to pay the revenue, (2) The land cannot be destroyed or rendered unfit for agricultural purposes without express permission and payment of fees; it can be improved. The right of occupancy depends on occupation. When a holding is relinquished or abandoned, the right is lost. It will be thus seen that an occupancy is a limited property akin to an English copy-hold.

Distinction
between a
Holder
and an
Occupant.

A *holder* is a person in whom the right to hold land is vested, whether solely on his own account, or wholly or partly in trust for another person, or for a class of persons, or for the public. It includes a mortgagee vested with a right to possession, Sec. 8 (11), while an *occupant* is a holder in actual possession of unalienated land, other than a tenant. He is called the kabjedar, whereas the tenant is called the Kul: provided that where the holder in actual possession is a tenant, the landlord or the superior landlord, as the case may be, shall be deemed to be the occupant.

CHAPTER IV

Watans.

Main principles of the Watan Act. (The Bombay Hereditary Offices Act III of 1874 with amendments up to date).

100. The local revenue officers were remunerated by the former Native Governments in the form of grants of lands and certain perquisites. These grants were usually hereditary and Sanads were given to confirm them. If the Watandars were accused of misbehaviour or disloyalty, these grants were confiscated. On the accession of the British Power, these rights and the perquisites were duly recognized and the arbitrary will of the former rulers was replaced by making written rules and legislation. To regulate the services of the hereditary officers and to protect the alienation of the rights and the land which formed a large part of the State property, Regulations XVI of 1827 and Act XI of 1843 were enacted. During the period of 30 years after the passing of this Act, there was rapid expansion of the Watandar families, and they began to claim rights to offices with the result that the principle and practice of rotation gradually came to be accepted. It was then found that there were numerous claimants and their disputes voluminous and complex. The right of service was not attended with much pecuniary profits, nevertheless it was highly prized and greatly esteemed on account of the social dignity it conferred, and was therefore sought for even by unscrupulous means to the demoralization of the lower subordinate officials and wasting of the time and patience of the Superior Officers. In order to remove this state of affairs a Committee was appointed consisting of two Commissioners and five experienced Collectors. Recommendations were made by this Committee for the regulation of the duties and defining the status of the district and hereditary officers. After a few intermittent Acts, the Act

Brief
History.

III of 1874 was passed. In Gujarat a special Act VII of 1887 was passed. Act V of 1886 was passed to rectify some errors and supply the omissions in the Act III of 1874, the frame-work of which was not in any way altered. Act III of 1910 was passed for the purpose of registration under Sec. 36. Succession by lineal as opposed to "ordinary" in the absence of any established custom to the contrary, and primogeniture is the established rule. It was also to remove the defects found by experience to exist in the provisions regarding the appointment, removal and punishment of the officiators. Act III of 1915 was enacted for the convenience of administration. By Act XI of 1923 a long expected reform with regard to widows was introduced by the insertion of the words "Mother and paternal grand mother." Act XI of 1925 laid down the principles of joint responsibility of the representative watan-dars for the offence committed by their deputies.

Watan
Property.

101. Important Interpretations.

"Watan property" means the movable or immovable property held, acquired, or assigned for providing remuneration for the performance of the duty appertaining to an Hereditary Office. It includes a right to levy customary fees or perquisites, in money or in kind, whether at fixed times or otherwise.

Hereditary
Office.

It includes cash payments in addition to the original Watan property made voluntarily by Government and subject periodically to modification or withdrawal.

"Hereditary Office" means every office held hereditarily for the performance of duties connected with the administration or collection of the public revenue, or with the village police, or with the settlement of boundaries, or other matters of civil administration. The expression includes such office even where the services originally appertaining to it have ceased to be demanded.

The Watan property, if any, and the hereditary office

and the rights and privileges attached to them together constitute the Watan.

“Watandar” means a person having an hereditary interest in a Watan. It includes a person holding Watan property acquired by him before the introduction of the British Government into the locality of the Watan, or legally acquired subsequent to such introduction, and a person holding such property from him by inheritance. It includes a person adopted by an owner of a Watan or part of a Watan, subject to the condition specified in Sections 33 to 35 of this Act. Watandar.

“Family” includes each of the branches of the family descended from an original Watandar; Provided that no sub-division shall be recognized except as hereinafter provided in section 26. Family.

“Head of a family” includes the Chief representative of each branch of a family. Head of Family.

“Representative Watandar” means Watandar registered by the Collector under Section 25 of this Act as having a right to perform the duties of an hereditary office. Representative Watandar.

“Officiator” means the person actually performing the duties of an hereditary office for the time being, whether he be a representative Watandar or a deputy or a substitute appointed under any of the provisions of this Act. Officiator.

“Guardian” means a relation or other person to whom the care, nurture, or custody of any child falls by natural right or recognized usage, or who has accepted or assumed directly the care, nurture, or custody of any child, or in case of dispute the holder of a certificate of guardianship from a competent court. Guardian.

Noteworthy Cases.

The daughter of a watandar who succeeds to her father's watan or share thereof, before 1886 becomes an absolute owner. Her heirs succeed to her inherited property and are watandars of the same watan within the meaning of the term. *Dadu Vs. Lalbi, P. J. 1896, 715.*

By Act V of 1886 females came to be postponed in the order of succession in preference to male collateral heirs. Several watans had gone out of the Watan family and fresh stocks had grown. This was checked.

Takshims in the watan do not constitute separate watans, because they are attached to the office only. *Ramangouda, Vs. Shivapagauda, 22 Bom. 601.* By partition, a watan is not split up into two distinct watans; a holder of a share is a watandar of the same watan. *Yeshvant Vs. Satyanna, 2 Bom. L. R. 420.*

The term watandar does not include a mortgagee or a lessee from a watandar. *Ganpatrao Vs. Ganesh, 28 Bom. L. R. 305.*

Cash allowance granted to Kulkarnis in commutation of their Kulkarni watan services belong to the entire family like watan. It cannot be claimed exclusively by the Representative Watandar. *Waman Vs. Jagannath, 28 Bom. L. R. 556.*

Sec. 2
Watan
Act.

102. Succession of females to a Watan.

Every female member of a watan family, other than widow, mother or paternal grand-mother of the last male owner, and every person claiming through any female, shall be postponed in the order of succession to any watan or part thereof, or interest therein, devolving, by inheritance after the date when this Act comes into force, to every male member of the family qualified to inherit such watan, or part thereof or interest therein.

The interest of a widow, mother or paternal grand-mother in any watan or part thereof shall be for the term of her life or until her marriage only.

Males are preferred to females and also females are to be preferred to outsiders to prevent *escheat*; the object is to keep the watan in the family. The mother or paternal grand-mother is the member of the family as much as the widow of the last male holder and can perform the service through a deputy as the widow does.

In Bai Laxmi Vs. Maganlal, 19 Bom. L. R. 780, it is laid down that the female heir of the same branch is entitled to inherit in preference to a remoter male heir of another branch.

A daughter who inherited a watan property before 1886 became a fresh watandar and hers will be a watan family under Sec. 2. But brothers' sons

are entitled to succeed to watan property in preference to a daughter, *Ramahai Vs. Rangrao P. J. 1894, 287.*

A widow of the Officiating Wataundar appointed to succeed with the consent of the representative of the other branches has a right to the watan property, as she is the widow of the last male owner. *Shankar Vs. Lazmibai, 28 Bom. L. R. 740.*

An adoption by a widow other than the widow of the last male owner is invalid. *Krishnaji Vs. Tarawa 24 Bom. 484.*

On the adoption of a son, the rights of the widow to the estate of her husband are divested.

In *Pratapsing Vs. Agarsing, 43 Bom. 778*, it has been held by the Privy Council recently that the right of a Hindu widow to make an adoption to her husband is not dependent on her inheriting his estate.

In G. R. No. 1171 dated 5th November 1919 it is laid down that the adoption made by the mother of the last male holder does not affect the Watan property.

In *Huchangouda Vs. Kallava, 30 Bom. L. R. 38*, it was held that it was not sufficient to show that there was a common ancestor from whom both the families were descended; but it must be shown that the common ancestor was the holder of the watan lands and that the defendants having failed to prove that both the plaintiffs and the defendants were descended from a common wataundar, the plaintiffs were not excluded by Sec. 2.

There has been in the September 1932 Session of the Council, a recent amendment of the Watan Act. Prants can decide the succession cases.

103. Classes of Watan.

There are four kinds of service Inams as follow :—

(i) Holdings of the old hereditary district officers such as Deshmukhs, Deshpandes and Desais.

(ii) Holdings of village servants who are now useless both to Government and to the village community Viz: Potdar, Mukadams, Mahajans.

(iii) Holdings for service not useful to Government but useful to the Community Viz: Kazi, Joshi, Sutar, Lohar, Nahvi, Parit.

(iv) Holdings for service useful both to the Government and to the Community and directly concerned with the administration, Viz: Patel, Kulkarni, Mahar, Ramoshi, Walekar, Sanadi, Rakhavaldar, Changula, Chaudari, Koli.

Under the provisions of the Settlement Acts, all service lands are excluded from the operation of these Acts and are subject to such rules as Government may make regarding their continuance or resumption.

Rules for
the Manage-
ment of
the service
lands.

The revised rules made by Government for the management of these lands were published in the Government Gazette under Notification No. 10336 of 12th October 1908 and are as follows :—

(1) An enquiry into the title, by which any land held for service is enjoyed, may be instituted from time to time by such officer as Government may direct.

(2) Lands originally held for service, which have been continued or may hereafter be continued, under section 15, Bombay Act III of 1874, on condition of payment of a certain portion of the assessment thereof in commutation of service, shall continue to be held in accordance with the terms of the Sanads issued or hereafter to be issued in confirmation of the said commutation settlement.

(3) Service lands, in respect of which no such commutation settlement has been effected and which have been already declared, by Government or by any officer acting under the orders of Government, to be resumable on the demise of certain persons or on the extinction of certain families or lines of descent, shall be resumed accordingly.

(4) Service lands, which do not fall under No. 2 or No. 3 of these rules, shall be continued, subject to the provisions of the Bombay Act III of 1874 and of any other law for the time being in force relating thereto, to the heirs of the present holders or, in the event of the same being at any time lawfully alienated, to the heirs of the alienees without restriction as to adoption or female or collateral succession; but such lands shall be resumed in default of any heir in whom, in the ordinary course of descent, the deceased holder's private property would vest, and shall not be liable to be dealt with under the ordinary law for the time being in force relating to intestate property.

Provided that, if the Collector is at any time satisfied that the service in respect of which any such lands are held is no longer performed, or that its

performance is no longer necessary, or that for the service performed the remuneration derived from the profits of the enjoyment of such lands is unnecessarily high, or, in the case of service lands to which the provisions of Bombay Act III of 1874 do not apply, if it shall appear that the holder has been guilty of any serious offence or misconduct, or that such lands or any part thereof or any of the profits thereof have or had by succession, or otherwise, come into the possession of a female or of any person other than the person who for the time being is duly authorized to perform and does actually perform the service in respect of which such lands are held, the Collector may in his discretion direct either (1) the resumption of such lands, or (2) the continuance of the same subject to such new conditions, as he shall deem fit to impose or (3) the resumption of a portion of such lands and the continuance of the rest thereof, subject to such conditions as aforesaid.

(5) When the Sanad issued in confirmation of any service commutation settlement, expressly authorises the alienation or transfer of the service lands, the same shall be continued without question to any lawful holder thereof on fulfilment of the terms of the Sanad. In every other case contemplated by No. 2 of these rules, and in every case contemplated by Nos. 3 and 4 of these rules, if any land held for service or any of the profits thereof shall at any time be, or become alienated, contrary to the provisions of Bombay Act III of 1874, or, of any other law for the time being in force, or, in the case of land to which the provisions of Bombay Act III of 1874 do not apply if the same or any of the profits thereof shall be alienated or in any way encumbered without the previous sanction of Government, the said land shall, if the Collector deems fit, be forth-with resumed, anything in the said rules to the contrary notwithstanding.

(6) It shall be lawful for the Collector, whenever it may be necessary, in carrying out any of the provisions of No. 4 or No. 5 of these rules,

(a) summarily to evict any person wrongfully in possession of any land, or

(b) to levy any rent due by any person in the manner that may be prescribed in any law for the time being in force for the levy of a revenue demand.

Explanation :—For the purposes of this rule any person in possession of land, the resumption of which has been directed under No. 4 or No. 5 of these rules shall be deemed to be a person wrongfully in possession thereof.

Holdings
of the
Hereditary
District
Officers.

(i) These holdings depend on the terms of their settlement and the sanad issued thereunder.

Gordon and
Pedder
Settlements.

These Deshmukhs and Deshpandes were the chief District hereditary officers responsible for the collection of land revenue. For the purpose of settlement of the cases of these officers, a Commission presided over by Mr. S. Gordon in the Deccan, Konkan and Southern Maratha Country and a corresponding Commission under Mr. W. G. Pedder were appointed. The agreement come to was that, in consideration of paying to Government 5 or 6 annas in the rupee of the assessment of the holdings, Government would disclaim all future rights to their services. The amount of judi (quit-rent) differed in various districts. According to the Gordon Commission's recommendations, those who desired should be allowed to convert their watans into private property by the annual payment of an additional anna in the rupee or Nazarana. In a few cases abolition of service was not viewed favourably by these watandars but subsequently a non-service settlement was made.

Village
Servants
useless
both to
Government
and
Community.
Vide
P. 2028,
Standing
Orders.
R. D.

In the Deccan, Konkan and Southern Maratha Country a large majority of these holdings were subject to the Gordon settlement, and generally unalienable beyond the term of life of the holder for the time being, except to the watandar of the same watan. In Gujarat under the Pedder Settlement, many of these holdings were made transferable private property. All these holdings are governed by the above rules, and Part II of Act III of 1874 is applicable to those which by the terms of their sanads are inalienable.

(ii) These holdings of such servants, Viz: Potdar, Mukadam, Mahajan, etc., have been subjected to an 8 anna settlement and are now transferable private property

(iii) Holdings for service not useful to Government but useful to the Community are of two classes:

Servants
useful to
Community
but useless
to Govern-
ment.

(a) Kazi	Jangam
Joshi	Muzavar
Mulla	Khatib.
Gurav.	

Holdings of these kinds have been subjected to a 4 anna settlement. They are liable for the service to the village Community for which they are held, though they be in the hands of anybody. They are, under the terms of their sanads, not transferable. The rules apply to them; but Act III of 1874 does not apply to them.

(b) Sutar	Nahvi	Mali
Lohar	Parit	Gandi.
Chambhar	Shimpi	Kasar
Kumbhar	Teli	Pinzari.

Holdings of these kinds have been subjected either to a 4 anna or an 8 anna settlement, according to their particular circumstances. Where they have been subjected to a 4 anna settlement, their position is identical with that of those mentioned above in classes (iii) (a). Where they have been subjected to an 8 anna settlement, their position is identical with that of those mentioned in class (ii).

For rules as to the resumption of lands of class (iii), see Government Resolution Nos. 4250 of 28th April 1908 and 847 of 11th January 1908.

(iv) Holdings for service useful to Government and directly concerned with the administration, viz.—

Patel	Ramoshi	Walekar	Servants useful to Government and directly concerned with ad- ministration. Vide Standing Orders, R.D., P. 2028.
Kulkarni	Chaugula	Rakhawaldar	
Mahar	Chaudhari	Koli	
		Sanadi.	

The Judi payable on Patel and Kulkarni holdings has been settled in different districts according to certain principles, so as to provide the pay of these appointments, which is now fixed and paid from the Taluka Treasury. Mahars, Ramoshis and other inferior village servants pay on their holdings a judi based on the old Mamul or customary rates, but the Commissioner may reduce the judi payable if the remuneration is insufficient.

All the holdings of this class are subject to the rules. Act III of 1874 also applies to watans of this class. Section 4 of Act III of 1874 restricts the operation of the Act to such watans as are connected with the public revenue, the village police or the civil administration, in other words, to the classes (i) and (iv) of the service Inams as given above.

104. Alienation and Resumption.

This resumption may be either :—

- (1) a resumption merely of the right to exemption from full assessment, or

G.R.
No. 2785 of
23-7-64.

Wingate's
Scale.

G.R.
No. 6241 of
16-8-1895.

(2) a resumption of the lands themselves.

As a rule, however, holdings of class (iv) which have been unauthorizedly alienated are resumed on behalf of the watandar, under the provisions of part II of Act III of 1874 which provides for the resumption of such lands. Absolute resumption is not often resorted to.

**Sec. 5
Watan Act.** This is an important section on the law of alienation. Alienations of a Watan or portion thereof excepting only the rights with which a representative watandar as such is invested by the Act, are allowed to any person for any period not exceeding the natural life of the alienor; and to the watandar of the same watan without any restriction as to time. A representative watandar cannot alienate without Government's sanction.

**Resumption of Service Inam under Part II of the Watan Act,
Sec. 8-11 Watan Act.**

**Sec. 8-11
Watan Act.** In these four sections it is laid down in detail, what action should be taken in each case. These sections are not easily understood being somewhat complicated, and they have been considerably modified by the rules made under the Act and by the executive orders of the Government. However, an endeavour has been made below to simplify the procedure and to show the different cases.

I. In the cases of watan lands assigned for the remuneration of the officiator, Viz: Mahar, Ramoshi, Chaudari, Chaugula and Rakhawaldar watan land, and of the watan land of Patels and Kulkarnis in unsurveyed villages,

**Rule under
Sec. 12,
Watan Act.**

(i) When the alienation has been made by the watandar before 1843, The alienation should not be interfered with in any case, but a contribution on the profits of the land may be levied under section 28, Watan Act, to remunerate the officiator.

**Sec. 9
Watan Act
and rule
under
Sec. 12.**

(ii) Alienation made between 1848 and 1874:—

(a) If alienated, without authority, to a person not a watandar of the same watan, and either fraud is apparent or the consideration that was given was inadequate, section 9, clause (1) or (2) is applicable, and either the land

should be restored to the officiator or the profits of the land should be yearly paid to him. If the alienee has spent much capital on the land by sinking a well or other improvements, the second alternative seems preferable.

(b) If the land is alienated to a person who is not a watandar of the same watan, but where no fraud is apparent and reasonable consideration was given, the alienation should not be interfered with; but only the remuneration for the officiator should be fixed, which should be levied annually from the holder of the land under Sec. 28, Watan Act.

Rule under
Sec. 12
Watan Act.

(c) If the alienation is from one Watandar to another of the same watan or to an outsider by an order of the Civil Court, contribution for the remuneration of the officiator should be levied under Sec. 8, Watan Act.

(iii) When the alienation is made after 1874:—

(a) If the land has passed or is about to pass into the hands of any person other than the officiator by an order of the Civil Court, the Prant Officer can issue a certificate under Sec. 10, Watan Act, and the Court will then cancel the order.

G.R.
No. 2549 of
10-3-1908.

(b) If it passes into the hands of any person other than the officiator, otherwise than by an order of the Civil Court, the Prant Officer can restore the land to the officiator.

Section 11,
Watan Act.

It may be noted that no action is to be taken in these two cases during the life-time of the alienor.

II. In the cases of Watan land not assigned for the remuneration of the officiator *e.g.* Deshpande and Deshmukh watan lands and the watan lands of Patels and Kulkarnis in all villages into which a survey settlement has been introduced,

(i) Alienations made before 1843.

No action to be taken.

(ii) Alienations made between 1843 and 1874.

Same as in I (ii) (a). In other cases no action to be taken.

(iii) Alienations made after 1874.

(a) If alienated to a person not a watandar of the same watan by order of Civil Court, the Prant Officer can issue an order under Sec. 10, and the Civil Court will cancel its order.

(b) If alienated to a person not a watandar of the same watan, otherwise than by an order of the Civil Court, the Prant Officer can restore the land to the watandar previously entitled to it (Sec. 11).

Sec. 11,
Watan Act.

N.B.—Alienations to other members of the Watan family of watan land not assigned for the remuneration of the officiator are not to be interfered with, whatever the date of the alienation.

The following particulars may be noted for all cases under Part II of the Watan Act:—

Sec. 5.
Prohibition
of alienation
without
Govern-
ment's
sanction or
Commis-
sioner's in
case of 30
years.

Section 5 prohibits a watandar from alienating his watan land beyond the term of his natural life except to a watandar of the same watan, whether the land is assigned for the remuneration of the officiator or not.

Section 7 is intended to prevent the watandar from alienating the watan land assigned for remuneration, even within these limits. However, Government have ordered that no action shall be taken to restore alienated watan land to the watandar during the life-time of the alienor.

G.R.
No. 8190 of
9-10-85 and
G.R.
No. 2917 of
28-4-91.

Explanation is also called for on Sec. 9. It was once the practice to hold that the words, "it shall be lawful" in clause (2) of Sec. 9 were mandatory and not merely permissive, and the Collector had no authority to restore the land itself but could levy only a contribution on it. G. R. No. 9198 of 21-11-1895, however, cancels all former orders on this subject and lays down that even in the case of land the Collector may act on clause (1) of Sec. 9.

If there is, at any time, any difficulty experienced in ascertaining what is a fair "full rent" to be assigned under Sec. 9, clause (2), the principle laid down in G. R. No. 3969 of 15-6-1898 will often afford a useful guide. In this G. R. it is mentioned that an annual payment of $2\frac{1}{2}$ times the full assesment may be taken as fairly representing the value of service watan land to the watandar.

Leading cases on alienation of Watan lands.

In *Radhabai 9 Bom. 199*, it was held that if there is a family custom prohibiting alienation, an alienation though sanctioned by Government, if opposed to that custom, would be legally inoperative; but in a recent Privy

Council case, *In Madhavrao Vs. Raghunath* 25 Bom. L. R. 1005, it was held that there cannot be adverse possession against the landlord, so long as, the relationship of landlord and tenant is kept up and also title to a permanent tenancy by adverse possession as against Watandar from whom they hold the lands.

Estoppel, and *res judicata* apply to watan. Time begins to run from the death of the alienor: *Shivappa Vs. Aвали* 26 Bom. L. R. 314. Lapse of 12 years bars his immediate as well as subsequent succession for filing a suit; *Rodhabai Vs. Anantrao*, 9 Bom. 198. But there is no adverse possession in respect of service. *Shrinivas Vs. Secretary of States*, 24 Bom. L. R. 214.

Raghunath Vs. Purnanand, 25 Bom. L. R. 207. The surrender was invalid. The duties of the office and the emoluments remained within the family of the original grantee. The members who wished to retain office were entitled to do so. If one member wished to get rid of his duties and leave his rights, he could do so only in favour of the remaining members.

In *Shivram Vs. Mahadeo* 14 Bom. L. R. 797, it was held that the land as watan did not lose its character as such, merely because the Collector levied full assessment or altered the mode of remuneration, that the defendant's interest in the land as the vendor of the right, title and interest of the plaintiff's father ceased on the latter's demise, and that, it was then only that the plaintiff, as the next holder of the Watan, became entitled to the land, and his suit was in time.

No limitation applies to the Collector's proceedings under Sec. 9 to 11, *Bai Shivaganga Vs. Secretary of State* 7 Bom L. R.

The Collector cannot authorise a Watandar to recover possession from a non-watandar and the order would be *ultra vires*, *Vide Maganchand Vs. Vithalrao*, 14 Bom. L.R. 799.

When the Collector has once passed the order assessing the land at full rent, the Watandar's remedy for possession in the Civil Court is barred. *Dattatraya Vs. Lazman* 23 Bom. L.R. 561.

105. Commutation of Watan.

The Collector is authorized by Sec. 15 to dispense with the services of a watan by effecting a commutation, whenever there is no need of the Watandar's services and there is also provision to validate settlements made before the Act. "The section empowers the Collector, with written consent of the holder or holders of a watan for the time being, to dispense with the watan services in perpetuity on such terms as may

Sec. 15
Watan Act.

be mutually agreed upon, whether those terms be consistent with the provisions of this Act or not. The settlement thus effected is binding both on the Government and the holder and his successors. Cash allowances granted by Government in commutation of Kulkarni watan services belong, like the watan, to the whole family. It cannot be claimed exclusively by the Representative Watandar and members of his family. *Waman Vs. Jagannath*, 28 Bom. L.R. 556.

"The explanation of the word holder may be noted; it means any sole owner or the whole number of joint owners or any person dealt with as representative of the persons beneficially interested or entered as such in the Government records at the time of the settlement. A widow even who as the sole owner or a joint owner of a watan is the representative watandar, is a holder within the meaning of the section. *Bhikaji Vs. Secretary of State*, 49 Bom. 504.

"All questions with respect to watans coming under this section should be decided on the terms of the settlement in each case and in accordance with the terms of the Sanad, whether they be consistent with the provisions of this Act or not; but anything beyond or not covered by those terms would be regulated by the provisions of this Act."

"The general provisions of the Indian Contract Act, 1872, cannot supersede the provisions of a special later enactment *s. g.* the Hereditary Offices Act, 1874. *Lingo Raoji Vs. Secretary of State*, 30 Bom. L. R. 570.

A representative watandar who is disqualified under Sec. 45 (c) of this Act, is competent to give his consent to the commutation of his watan under Sec. 15 (1) of the Act. Such consent of his is binding on his sons, heirs and successors.

The Collector, in accepting commutation under Sec. 15 (2) of the Act, should record his decision in his own handwriting. The order so passed is not invalid under Sec. 78 of this Act, merely because he has omitted to record in his own handwriting the reasons for his decision. *Secretary of State Vs. Yello Ramchandra*, 30 Bom. L. R. 581."

A flexible adjustment is provided for relieving the watandars of their liabilities to perform service to the State. The adjustment so effected is called "Commutation" only with the consent in writing of the holder of the watan to relieve him and his heirs in perpetuity of their liability to perform service upon such conditions, as may be agreed between the Collector and the holder. The relation between the watandar and Government is thenceforth governed

according to the terms and conditions of the settlement. The watandar though relieved of his liability to perform the service to the State, is not exempted from rendering his customary services to the village Community.

If the right of alienating the watan without the sanction of Government is conferred upon the watandar by the terms of the Commutation settlement the restriction regarding alienation will not apply, Sec. 5 (2).

Service lands become alienable when the services are abolished except where there is a family custom to the contrary or there is a special contract and terms.

Panchayat of five persons, 2 appointed by the villagers and 2 by the watandars and one Sar Panch by the Collector, will determine the rights and duties of watans of degrees lower than the Patil or Kulkarni watans. Sec. 18.

The amount of payments cannot be higher than what would be under the customary scale in force in the case of neighbouring villages. *Anantacharya Vs. Secretary of State, 19 Bom. 581.*

The rights of individuals to exact customary services from village servants such as barbers, parits, carpenters are not interfered with; they are relieved from performance of service to the State under Sec. 16, but are not exempted from their liability to serve the village community.

106. Adoption.

If the adoption is before the Act III of 1874, notice of it must be given to the Collector by or on behalf of the adopted heir within 12 months of the Act coming into force. Sec. 33-35.

If the adoption is after the Act, the registered Watandar or his widow who adopts or, in case of their death, the adopted heir or his guardian must report within 3 months.

The names of the heirs are registered but the names shall be cancelled off the register, if such adoptions are set aside by the decree of a competent court.

"Adoption of a person not a member of that watan family is not necessarily invalid, if the Sanad does not prohibit it. *Baleji Vs. Datu, 27 Bom. 27.*

If the necessary notice or report is not sent, the adoption is not to be recognized as valid unless the person produces a certificate of heirship or decree of a competent Court establishing his adoption.

Sec. 35 contemplates the intervention of a Civil Court for the purpose of establishing the right of the claimant to be registered as the adopted son of a representative watanदार. When the claimant's suit is not limited to that object, the suit is beyond jurisdiction. The adopted son must pray only for a declaration of his adoption. *Balkrishna Vs. Baba'i*, 9 Bom. 25."

107. Succession of Representative Watanदार.

Sec. 36
Watan Act.

The Patel and the Kulkarni have to report the death of a representative Watanदार to the Collector. When the Collector is convinced of the truth of the report, he will register the name of the eldest son and nearest heir in place of the deceased. The rule of primogeniture shall be presumed to prevail. The declaration is put in the form of a presumption to safeguard other rights, it can be rebutted by a custom to the contrary. When, out of several Takshims, the representative watanदार of one Takshim dies, his share shall be divided among the representative watanदारs of the remaining Takshims who are descended from the same original watanदार as the deceased. If the remaining representative watanदार be only one sole representative watanदार, then the whole share of the deceased will go to him. If, there are more than one such representative watanदारs, the share of the deceased would be divided amongst the representative watanदारs.

If a person produces the certificate of heirship or decree or order of the Civil Court to the effect that he is the nearest heir in preference to the one whose name is already registered, the Collector may cause the entry in the register to be amended. The Collector has discretionary powers to accept the certificate and to act on it or not.

A sole representative watanदार died without leaving any male member of his family qualified to inherit, the female and other members were postponed by Sec. 2 of Act V of 1886, who, but for such postponement, would have succeeded, there being no male members. Daughters and sisters among these postponed heirs took the watan inherited by them from males absolutely. Such a watan

was their *Streedhan* and passed on their death to their husbands or their heirs *Gulappa Vs. Tayawa*, 9 Bom. L. R. 334.

In cases of direct or collateral succession no descendant of a younger branch can take until all the oldest branches are exhausted.

When the representative watandar is under 18 years his guardian may, subject to the provisions of Sec. 51, exercise all powers and perform all duties conferred and imposed by the Act III of 1874. Sec. 37.

108. Periods of Service.

"In the case of a representative watandar who is the sole representative watandar entitled to perform the services, the period of service will be for life; in cases of more than one representative watandars, who are entitled to perform the services contemporaneously, the period of service will be for life. Sec. 38.

But when the representative watandars are required to perform the services in turn, the period will be for 5 or 10 years as the Collector shall determine.

It shall be noted that these provisions are subject to sections 45 and 46. In the event of an officiating watandar's death before the expiration of his fixed period of service, his heir shall, subject to the provisions of Part VIII of this Act, be entitled to officiate for the remainder of that period (Sec. 39).

Section 40 fixes the rotation once for all in the case of rotation watans *i. e.* where duties are performed by representative watandars in successive periods. The Collector has to issue a notice to the whole body of registered representative watandars to appear at the election of an officiator or officiators as required.

If they appear (and the number being not less than $\frac{2}{3}$ of them) and unanimously nominate a fit person or persons

being watandar of the same watan, the person or persons so nominated shall be entitled to officiate in the place of the representative watandar whose turn it is to officiate.

If they do not appear as required by Sec. 40 or are not unanimous, the provisions of Chapter VIII apply (Sec. 41).

Every representative watandar whose duty it is to officiate, shall, if a fit and proper person, perform the duties himself but may with the Collector's permission appoint a deputy. The Collector is to determine the number of officiators required for the discharge of the duties, and for this purpose he may call upon the representative watandar to appoint a sufficient number of fit and proper persons as deputies or may direct service in successive periods by representative watandars who have hitherto served or are serving contemporaneously (Sections 42 and 43) (Section 44 repealed).

Sardars of higher rank are exempted from personal service. Deputies have to be members of the watan family except in certain cases. A person in jail is unfit to serve. The mere fact that he is heavily burdened with debt is not sufficient. A watandar who takes side with party factions or shows a partizan spirit in criminal cases in the village is unfit to officiate. The Collector is given the discretion. Even if a person is not disqualified under Sec. 45, the Collector can refuse to accept service from him if he is otherwise found unfit by the Collector.

In the Central and Southern Divisions, most of the Patels and Kulkarnis are hereditary, but a certain number, specially in the cases of lapsed watans is stipendiary.

In the Konkan and Gujarat most of the Patels are hereditary, while the village accountants (Talatis) are stipendiary. In some parts of Gujarat, however (i.e. Surat), the majority of the Patels are stipendiary. In Ratnagiri both the Patels and Kulkarnis are stipendiary.

I. Stipendiary village officers are appointed under Sec. 16 of the Land Revenue Code, and are therefore Revenue Officers. They are appointed by the Prant Officers. Land Revenue Code Sec. 3 (1).

They can be fined, reduced, suspended or dismissed under the provisions of sections 32-36 of the Land Revenue Code.

The maximum fine permitted is two months' pay. The maximum period for which a village officer may be suspended, as a punishment, is six months. Fining of low-paid officer is a very unsatisfactory form of punishment and should, as far as possible, be avoided. Land Revenue Code Sec. 34.

This rule does not apply to the case of suspension pending enquiry; but such enquiry should ordinarily be completed within six months from the date of suspension. G.R. No. 9981 of 19-12-1884.

109. II. Procedure of Appointment.

In the Watan Register the rotation of service is written,

(1) The representative watandar whose turn of service it is to serve is called upon to make an appointment in the presence of the Prant Officer.

(2) The representative watandar should either serve in person or he might be allowed to appoint a deputy. Watan Act Sec. 42.

(3) The representative watandar loses his right to appoint in the following cases and the appointment has to be made by the Prant Officer on behalf of Government:—

(a) When the representative watandar fails to appoint any person within two months of receipt of the notice to appoint. Watan Act Sec. 44.

(b) When the representative watandar is a lunatic. Watan Act Sec. 46.

(c) When the representative watandar has been rejected as a general bad character or has previously been dismissed from service for grave misconduct.

(4) Appointments made by the Prant Officer Watan Act Sec. 54.

Watan Act. on behalf of Government are made for a period of 5 years.
Sec. 45.

(5) The following persons are not accepted as officers:—

(a) If the representative watandar or person nominated:—

(i) Is under eighteen years of age;

(ii) Has not passed such educational test, if any, as Government think fit from time to time to prescribe in this behalf;

(iii) Has attained sixty years of age, except when such person's appointment or continuance in this office is specially permitted by the Collector;

(iv) Is in the opinion of the Collector disabled by lunacy or imbecility of mind, or by deafness, or other permanent infirmity of body;

(v) Has been adjudged by the Collector after a summary enquiry held in accordance with the provisions relating to summary enquiries contained in the Bombay Land Revenue Code, 1879, to be of general bad character;

(vi) Is considered by the Collector to be unfit for office on the ground that, he is a wilful defaulter in respect of land revenue or any sum expressly declared by any law for the time being in force to be recoverable as an arrear of land revenue.

(vii) Has been sentenced by a criminal Court to imprisonment or whipping for an offence punishable with imprisonment for a term exceeding six months, or to transportation; such sentence not having been subsequently reversed or quashed, and whose disqualification on account of such sentence has not been removed by an order which the Commissioner is hereby empowered to make, if he shall think fit, in this behalf;

(viii) Declines to forsake, whilst officiating, some other employment which is in the opinion of the Collector incompatible with the due discharge of the duties of the office.

(ix) Has been removed from office or declared to be ineligible for re-employment under Sec. 58 unless his re-employment is expressly sanctioned by the Commissioner.

(b) The near relative of a village officer who has been dismissed after being convicted of a crime in the conduct of his duties. G.L.J.D.
No. 692 of
28-2-60.

(6) When the representative watandar or Prant Officer on behalf of Government appoints a deputy, the members of the takshim who are members of the same family and whose turn it is to serve have a first claim on the appointment, if fit and willing to serve. Watan Act
Sec. 53.

(7) The members of the other takshim have no such claim as against complete outsiders. G.R.
No. 7590 of
17-10-93 and
G.R.
No. 802 of
31-1-95.

It may be noted that in Sec. 53, Watan Act, the word "family" - takshim - branch of the family admitted to separate right of registration, is used in a different sense from that borne by it in other parts of the Act, where it is used as defined in section 4, Watan Act.

(8) Probationary appointments are not to be made. G.R.
No. 4433 of
3-6-85.

(9) When a representative watandar is dismissed, while serving his turn ends at once, and the turn of the next takshim begins. G.R.
No. 1692 of
23-3-81.

(10) Deputies may be removed for good reasons by the Prant Officer at the request of the representative watandar. Watan Act
Sec. 46.

The Collector appoints the deputy instead of the representative watandar in the following cases:— Watan Act
Sec. 51.

(a) where the representative watandar is disabled by lunacy or imbecility of mind from appointing a deputy:

(b) where the representative watandar is disqualified under clause (e), (f) or (h) of section 45, whether or not he was a representative watandar at the time of his incurring such disqualification;

(c) where the representative watandar fails to comply with any requisition of the Collector to serve in person or to appoint a deputy under sections 42, 43, 47 or 48, - within two months from the date thereof;

(d) where the first person nominated by the representative watandar is rejected under section 45 and the second person nominated is also rejected under that section;

(e) where the representative watandar declines to appoint a person as his deputy in accordance with section 53;

(f) where a deputy appointed by the Collector under any of the above clauses dies or resigns.

Females cannot officiate, but if a representative watandar or a guardian of a representative watandar, a female may appoint a deputy. During suspension or illness the temporary vacancy can be filled up by a substitute by Mamlatdar until the Collector makes an appointment.

Watan Act
Sec. 47
and 54.

(11) Sections 47 and 54 are worth noting. They allow a representative watandar Patel who comes of age, or a representative watandar Kulkarni who passess his examination, to serve in supersession of any deputy previously appointed on his behalf.

110. Punishment

(1) The Assistant or Deputy Collector can exercise the powers conferred by Sec. 57.

Watan Act
Sec. 84

(2) Mamlatdars and Mahalkaris may be authorised to fine the hereditary village officers up to Rs.2/-.

(3) The sanction of Government is required for the dismissal of a watandar village officer. Watan Act
Sec. 58.

(4) The sanction of the Commissioner is required for the prosecution of a watandar Patel or Kulkarni for an offence committed in his capacity as a Patel or Kulkarni.

When the Prant Officer submits a report to the Collector recommending the dismissal or prosecution of a village officer, the following particular points are to be noted:—

(i) The enquiry should be made either by the Assistant or Deputy Collector himself or by the Mamlatdar in person.

(ii) A clear statement of the incriminating evidence, verbal and documentary, should be given.

(iii) The delinquent village officer should be given full opportunity to explain matters and to cross examine the witnesses.

(iv) The opinion of the officer who held the enquiry should be clearly expressed. If possible, the opinion of the Government Pleader may be called for to ascertain whether a criminal case would stand or only a departmental enquiry will do.

(v) It should also be stated what share (if any) of the watan the delinquent holds.

Forfeiture of Watan.

Government alone can forfeit the watan. The forfeiture Watan Act
Sec. 60. may be absolute or only for a short period of the whole or part of the watan. It can be in case of conviction of the representative watandar himself or his deputy and the convicting Court not below the Court of Sessions. The conviction must not have been reserved or quashed in appeal, and it must be for an offence mentioned in Schedule 2 or

the abatement thereof under Sec. 121, 121-A, 122-136, 201, 212, 213, 216 I. P. C., while in the discharge of his duties. For the default of the deputy the life interest of the representative watandar can be forfeited in cases coming under Sec. 58. When the deputy is appointed by the Collector there is no forfeiture. Forfeiture of interest in a watan included forfeiture of the right to service. In case of conviction the Collector has to report the case to Government.

CHAPTER V.

III. Hereditary Village Officers in Gujarat.

111. Part II, VII, VIII and IX of the Watan Act have been largely superseded by the Matdar's Act Bom. VI of 1887; so far as Ahmedabad, Kaira, Broach, Surat and certain villages (only) of the Panch Mahals are concerned.

Matadar's Act Sections 1, 3 and 4.

In these districts the appointments of Patelships are made in accordance with Mata registers, which give all the necessary particulars as to the custom of the Matas, the number of recognized Matadari families, the number entitled to officiate and so on.

Matadar's Act Sec. 5.

The important rules as to the appointments in Matadari villages are:—

(1) In villages where the right to serve has been decided to certain Matadari families, the representative matadar serves.

Matadar's Act Sec. 14-17.

(2) In other villages the right vests in each of the Matadari families in rotation, but the actual officer is elected by vote from the family, whose turn it is to serve, by the representatives of all the matadar families. If they fail to elect or if their nominee is disqualified for office, the right to serve vests in the representative Matadar of the said family.

Matadar's Act Sec. 17.

(3) The Collector may allow a representative matadar to appoint a deputy; but if a sole representative matadar declines to serve, when called upon to do so, or fails to appoint a deputy, when given permission to do so, then, the Collector himself will appoint a deputy.

Matadar's Act Sec. 21 and 20.

Deputies shall ordinarily be members of Matadari families of the village.

Matadar's Act Sec. 21 and 22.

If a representative Matadar, in whom the right vests in consequence of the failure of an election, is required to serve in person and fails to do so, or fails to appoint a deputy when given permission, then the right to serve passes to matadari family next in the settled order of rotation.

Matadar's Act Sec. 19.

(4) In cases not met by the above rules, the Collector can make a temporary appointment, and in that case he can appoint any fit person as a stop-gap arrangement.

Matadar's Act Sec. 22.

(5) Deputies must be appointed within twenty (or in special cases 30) days of receipt of the written notice.

Matadar's Act Sec. 21.

(6) Sole representative matadars serve for life.

Matadar's Act Sec. 24. Elected officiators serve for five years or such longer periods as the majority may at the time of election approve.

Matadar's Act Sec. 25 When an election fails, the term is to be five, seven or ten years according as the number of representative matadars exceeds 9, exceeds 4 or does not exceed 4.

Matadar's Act Sec. 26 and 27. Deputies serve for the full term of their principals and, if a deputy dies or resigns, a new deputy may be appointed. A deputy may be removed, if the representative matadar wishes to or becomes qualified to serve in person, but no new appointment whatsoever is to be made on behalf of the officiating family in the last year of its turn. The result of such a vacancy is that the turn passes.

Matadar's Act Sec. 20 and 21. (7) The final removal of an officiator (other than a deputy) requires the sanction of Government.

Government may at the same time—

(i) deprive him for the rest of his life of his right to vote or to appoint a deputy;

(2) direct the forfeiture of his life interest in the Mata.

PART IV.

Village Administration.

112. In ancient days every village from which the King drew a share, had a headman, called the "Patil" or "Gramadhikari" (head of the village), or "Pradhan." The Head-man needed the assistance of a person who could write, do sums and keep the accounts of collection and register facts regarding the lands and cultivators. He was called the "Kulkarni" or Gramalekhak (Village writer). The natural land unit of the revenue system was the village. By the term village was meant a group of land holdings with (usually) a central aggregate of residences, the inhabitants of which had certain relations, and some kind of union or bond of common Government. The administration of the village furnished the pattern for all the rest. In *Manu* mention is made of "a lord over 1000 villages," and traces of ancient districts are found in the word "Sardeshmukh" (Chief of a desh or country). Pargana meant a Taluka consisting ordinarily of 84 villages. This word is still used in the villages. The Deshmukh was the headman of the Pargana. The Desai or Deshpande was the Taluka Accountant. Under the earlier Hindu and Rajput systems of Government, there were Deshmukhs, Desais and Deshpandes who were retained under the Moguls. The Deccan was equal to what is now called a Presidency; its old designation was "Suba." The "Suba" was divided into Sirkars and Sirkars into Parganas. The district was then called a Sirkar, later it was known as a "Zila." For each Pargana there was a District Accountant or Registrar named "Kanungo" (one who declares the rate standard or measure in revenue matters).

Ancient
administra-
tion.

The Maratha Chieftains steadily suppressed the local hereditary middleman. In the village the Patil was the

During the
Maratha
Days.

most important officer and at the Head Quarteas there was a Secretariat.

The Maratha Secretariat.

1. The Diwan — (now we call Diwans Ministers).
(Sachiv was minister for war and Mantri was foreign minister.)
2. Fard-navis—Finance Minister.
3. Mazum-dar—Registrar.
4. Chitta-navis—Secretary to Government.
5. Pot-navis—Accountant General and Treasury Officer.
6. Sikka-navis—Private Secretary to the Governor or Ruler.

113. The Present Scheme of Administration.

Divisions
Districts
Talukas
Villages.

The area of the Presidency is about 1,24,000 square miles and the population according to the latest census is 2,18,03,388. For the purpose of revenue administration the Bombay Presidency is divided into districts, each in charge of a Collector. The districts in the Presidency proper are grouped into three Divisions, each under a Commissioner. There is a separate Commissioner in Sind. Under each Commissioner there are six or seven districts. A district comprises 5 to 12 Talukas. Dharwar and Satara have the largest number of Talukas. In a Taluka there are from 100 to 300 villages, the size of the Taluka and also of the villages varies in different districts.

114. Superior Revenue Officers.

The Commissioner.

The Commissioner exercises control over all the revenue officers and revenue courts in his division. He not only discharges the duties conferred under the Land Revenue Code but also under any other laws, and so has all such powers, or duties of appeal, superintendence and control. The general superintendence of all the administration of the

The Commissioner's duties and functions may be considered under the following heads:

- (1) As controlling, supervising and co-ordinating officer.
- (2) As appellate authority. He hears appeals against Collectors decision (Sec. 211 L. R. C.) and powers of revision.

The Commissioner has to see that the policy of Government and their orders are properly carried out in the actual administration of the districts committed to his charge. In this regard his duty towards

Land Revenue Code is entrusted to the Commissioner. He can revise the limits of sub-divisions of districts. Over the progress of revenue collections and in regard to suspensions, remissions and collection of arrears, he has the greatest control. He sanctions the grant of revised or renewed Sanads for land or Cash allowances (R. 4941 (10)-02) and sanctions alternations in Sanads for alluvial and diluvion (R. 8885 (13)-10). As regards reduction of assessment there is general delegation to the Commissioner in G. 7569-07 R. 6490-10 and 4164-16 which extends to the annual assessment of Rs. 20 (20x25 years= 500) (R. 4495-26) vide L. R. Rules page 4. Nonagricultural or miscellaneous revenue or judi on inam land exceeding Rs. 100 (R. 6862-83) can be remitted only by the Commissioner. The appointments of Mamlatdars are made by the Commissioner. There are at present two Assistants to each Commissioner; one is in charge of the English Branch who looks after Municipal, Local Board, Political, Educational, Medical, Magisterial, Police and Forest matters, the other in charge of the Vernacular Branch of the office attends to Revenue, Watan, Survey, Settlement and Establishment matters. Under the Assistant Commissioner, in charge of the English Branch, there is a Head Clerk, and the Chitnis is under the Assistant Commissioner in charge of the Vernacular Branch. The Commissioner has a wider experience than most of his Collectors, some of whom are likely to be junior officers. The charge of a division changes far less than that of districts. The Commissioner is able to supply ripe judgment and even local knowledge which a new Collector is likely to lack, as the Commissioner probably was a Collector before in some districts of the division. He is the only officer who can report to Government upon the work, efficiency or otherwise of the Collectors, Assistant and Deputy Collectors as he knows their work personally on tours. In connection with the appointment of nominated members to the

Section 5
Land
Revenue
Code.

Section 6
Land
Revenue
Code.

The Collectors and other subordinate officers is to control and supervise their work and at the same time to work as a sort of liaison officer between Government and the Collectors.
Improved methods and new ideas proved successful in one district are extended to the others.
Faulty procedure which has crept in anywhere is eliminated.
This co-ordination extends to the inter-relation of the various departments with the Revenue Department and to some extent with each other. In this matter of co-ordination the Commissioner holds a unique position. It is detached and at the same time not so detached as to render him incapable

correcting the mistakes in the proceedings under the Land Revenue Code, Watan Act, Forest Act, Land Acquisition Act and Court of Wards Act. (6) as Head of the Police (7) as Returning Officer during elections.

The vicissitudes of trade, administration of justice, progress of public works, working of the local bodies like Municipalities and Local Boards, affect materially the interests of the classes of whom he is the constituted guardian. Officious interference in matters beyond his immediate control must be avoided, but in a temperate mode intelligent suggestions against anything he sees wrong may be made. If he shows tact and discretion, and cultivates personal relations with officers of other departments in his district, he will find they are ready to any reasonable representation which he finds it necessary to make to them.

It is not easy to find in a single person such qualities which are required to manage a district successfully. No Collector who is lacking in sympathy can properly represent Government to the people. Inability to converse with the people of the villages in their own tongue is a great handicap. In the Collector there must be patience and promptitude, tact and firmness, accessibility without familiarity, a shrewd appreciation of character with readiness to repose confidence where it is due, a thorough knowledge of the details of all branches of his duty and great capacity for personal exertion, a willingness to hand over to his trustworthy assistants a large share of the work; while maintaining a complete control over the machinery of administration. One great key to success is the capacity to make full use of all his Assistants, Deputies and Mamlatdars. The Collector who insists on doing every thing himself is sure to leave many things undone, and to fritter away, on small details, time that should be devoted to

more important matters. He must have a thorough acquaintance with every branch of the district work. When handing over charge, he has to keep for his successor a memorandum calling his successor's attention to the most important features of the district administration. The Collector is also the District Magistrate. As the District Magistrate, he is the head of the Police and the District Superintendent of Police has to carry out his orders. The Sub-Divisional Magistrate, the City Magistrate, Special First Class Magistrate, Cantonment Magistrate and all other Magistrates in the district are under him. The Collector is responsible for the conduct of elections and for the preparation of voters' lists. He is the Returning Officer for several constituencies. The concentration in a single hand of both the executive and judicial functions has been the subject of controversy for many years. The advantages resulting from the present system may be thus set forth:—

The influence and the opportunity of great benefit result from this. It is necessary for the advancement of the public interests entrusted to the Collector that complete security of life and property should exist throughout the district. For the development of commerce, education and industry, it is essential that all lawlessness and violence should be checked, and so checked as to least to interfere with the comfort and welfare of the peaceful and well disposed. The Collector has open to him channels of information and sources of influence which, when properly improved, cannot fail to exercise the most beneficial influence. The Collector has a personal knowledge of the conditions of the people and places in villages and towns which a purely judicial officer lacks.

The result of the Rules of the Collector with respect to his Assistant Magistrate and Justice of a special character. The

Taluka and District Local Boards, the Town and City Municipalities, the Commissioner has much to say, as also with respect to the appointment of Honorary Bench Magistrates. He is the Head of the Forest Administration in the division, the Conservator being the Technical head. The Commissioner has to deal with all important questions of Forest administration. The diaries of the District Superintendent of Police and those of his Assistant or Deputy go through the Commissioner who sees whether the work is up to the mark or not. The diaries of Collectors and Assistant or Deputy Collector are submitted to him. From each district a large number of cases, under the Land Revenue Code, the Watan Act, the Forest Act, the District Municipal Act and various Miscellaneous Acts, in which the orders of the Commissioner are necessary, is disposed of by him. Many cases in which orders of Government are required are invariably submitted through the Commissioner whose opinion, knowledge, experience and recommendations are of great value to Government while arriving at the decisions. The Commissioner's opinion is called for by Government on all important matters connected with administration.

As regards the conduct of elections to the Bombay Legislative Council, the Legislative Assembly, the Council of State, the Commissioner is the Returning Officer for the divisional constituencies and certain special constituencies.

There is no Board of Revenue in Bombay like Madras. The work done by the Commissioner both in the office as well as outside inspection is very heavy and responsible, and is ever increasing both in volume and complexity. The Commissioner is the channel of communication between the district and the Government. He exerts his influence to

of appreciating properly the point of view of the local officer without losing sight of the proper perspective. The Commissioner exercises control and supervision also by means of periodical returns and reports and by calling for special reports regarding any particular matter that comes to his notice. He is the Chief Controlling authority for purposes of section 46 (refund of penalties and excesses) and section 57 (certifying the statement of a case to the High Court) of the Stamp Act. The Commissioner is also the appellate authority in respect of the orders of the D. M. with respect to the maintenance of a and order under the District Police Act,

ensure that the policy pursued in different districts, where similar conditions exist, shall follow broadly the same lines. The most picked and the best and senior officer is selected Commissioner from the most senior Collectors. The work done by the Commissioners is invaluable both for the public and the State and they are absolutely necessary in the raiyatwari land-system. They are required for (a) maintaining and improving the standard of work among the Collectors and the Collectors' Assistants and Deputies by frequent inspection, (b) keeping Government well acquainted with rural needs and village conditions by touring. They will be a valuable source of information when rural problems come up for consideration and will enable the new Government, under the Reforms, to take stock of the situation year by year and so it will be necessary to continue the Commissioners by promoting the most deserving and experienced Collectors.

115. The head of the Revenue Administration of the district is the Collector. He is not a mere rent collector as is supposed by some, but his position is that of the Steward of a very great Land Owner, the State, which is not only the supreme land owner of the soil generally, but also the sole owner of a considerable part of it, and it is the duty of this head to administer the property, so that it may be profitable to the State and beneficial to the people whose prosperity is the first care of a Government. The Collector has to keep himself informed of every thing that passes in the district. His functions may be described briefly in several capacities (1) as a Collector of the land revenue, (2) as a custodian of the State property, (3) Recorder of statistics, (4) as a judge between the superior and inferior holders, (5) Controlling Officer directing the action of his subordinates and

The
Collector.

Assistant Collector or a direct recruit of the Provincial Civil Service, a Deputy Collector, is mostly a "young" and inexperienced officer. The Assistant Collectors in a few years time, 8 to 10 are placed in charge of districts. It is, therefore, a matter of great importance that they should, during their apprenticeship, receive a thorough training in all the branches of the district administration and that they should be gradually invested with a certain amount of independent authority. Much depends also on the manner in which the Collector conducts himself with his subordinates, the clerks. Excessive suspicion of subordinates is as fatal as excessive confidence. He has to consult those who are able to give the best advice, but he must weigh their opinions impartially and dispassionately. As a Collector cannot manage with success a district without an intimate personal knowledge of the villages, in the cold and fair season he is expected to be on tour from 4 to 6 months. He has to get acquainted with the people and to give the people an opportunity to become acquainted with him. It is desirable to see the villagers in their own village, encourage their visits, and talk with them frankly to ascertain their thoughts and feelings and the matters in which they are interested. It is advisable to decide many revenue cases on the spot. He has also to test the accuracy of the Record of Rights and other village registers and Account Forms. He makes the Jamabandi (audit and inspection) of one taluka in each sub-division and the villages in it. The principal points for enquiry on tour are (a) crops and their condition, annewari, previous harvests, (b) cultivation and irrigation, (c) people's health, public feeling, prosperity and their difficulties, (d) Live stock whether increasing or diminishing, (e) Land Revenue collection—Is the assessment collected promptly and punctually—any suspension or remission enquiry, (f) visiting schools, giving advice,

(g) state of crime, whether proceedings under Chapter VIII of Criminal Procedure Code are called for in any village, (h) as the District Magistrate grants gun licenses, he has to enquire regarding the applicant's status, he renews gun licenses (i) he also sees how the Police and Excise Departments are working, (j) he visits dispensaries of the Local Board or Municipalities, to see if the stock is adequate, the instruments are clean and all in order, (k) he has to see the condition of the roads, Chavdis, Dharamshallas and Military camping grounds. When he halts at the Head Quarters of a Taluka, he has to inspect the Mamlatdar's office, the Sub-Registrar's office, the Police Sub-Inspector's Office, the Rain Gauge and count and verify the Sub-Treasury. The Mamlatdar's office is to be thoroughly overhauled and all the questions given at the end of the Revenue Manual are to be gone through. The causes of all outstanding balances should be traced. Irregularities and errors which can be set right on the spot should be put right instead of calling for written explanations which involve waste of time and energy. A perfunctory inspection is worse than useless. The halt at Head Quarters is generally from 8 to 10 days. The Land Revenue Code declares that certain things must be done by the Collector and that other things may be done by "a Revenue Officer." Civil Courts have no jurisdiction in respect of such matters of which the Revenue Officers alone are empowered to dispose of. Legal Practitioners may appear in proceedings before Revenue Officers. Though a person may choose to be represented by a pleader still his own attendance may be required.

The orders empowering the Collector to remit and suspend ordinary agricultural land revenue are given in Chapter XVI of the Rules, but non-agricultural or miscellaneous revenue and judi on inam land exceeding Rs. 100-

(one hundred) can be remitted by the Commissioner. The Collector can remit quarry fees when stone, etc., is wanted for religious or charitable purposes G.R. 5295 dated (115)—1911. He can remit the assessment on land assigned or acquired (see page 4 of L.R. Rules) for public purpose G. R. R., D., 9193 of 1911. He can also remit sale expenses under sec. 183 (R 6775-00 and 5295 (81)-11). But Grazing fees under the pass system can be remitted only by the Commissioner G. R. R. D., 9084 of 1906, who also makes grants of timber for certain prescribed objects from non-forest waste land up to Rs. 250, G. R. R., D., 8811 of 1907. The Collector upto Rs. 50 (R. 3736-09) The Collector may remit fines under Section 61, G. R. R. D., 4347-21 of 1902 and the imposing officer, (Collector or Deputy Collector) may remit fines under section 48 (chouthai) vide page 4 of L.R. Rules.

While the Code gives almost all executive powers in the first place to the Collectors a few are reserved to the Commissioner. Within the maximum sanctioned by Government, the Collector fixes irrigation rates under section 55. The Collector has appellate powers under section 50-A, District Municipal Act. Reductions for diluvion can be made by the Collector G. R., R. D., 1369 of 1916. With the Commissioner's sanction he can postpone instalments. He can make all assignments under section 38 of (Act IV of 1905). He hears appeals from Survey Officers under Sec. 37 (2) R 6884-15. The Collector makes all appointments to sanctioned posts on the district staff, except Mamlatdars and Head Accountants, he may in certain cases create and fill temporary appointments. Discretion to appointment of non-qualified men of backward classes is given, G. R., F. D., 2610 of 17-9-1923. The Collector can write off amounts of irrecoverable revenue of all kinds not exceeding Rs. 100/-

in each case without reference to higher authorities provided there is no serious negligence or defect of procedure. He can write off without limit irrecoverable dues for boundary marks repairs and all kinds of revenue and tagai without limit G. R., R. D., 1704 of 1904 and irrecoverable value of stores and public money upto Rs. 500.

In the Collector's office, there are two branches, the English Branch is under the Head Clerk and the Vernacular Branch under a Chitnis, both of these are of the Mamlatdar's grade. The Chitnis looks after all Revenue, Watan, Inspection and Establishment matters, the Head Clerk sees to the Municipal, Local Board, Health and other matters. The Deputy Chitnis is in charge of the Magisterial compilation, criminal returns; gun licenses correspondences are dealt with by him; there are clerks for each compilation.

The Collector being the District Registrar, there is a registration clerk who accompanies the Collector on tour and assists him when inspecting offices of Sub-Registrars. The Account and Treasury Offices are part of the Collector's office. There is a Huzur Deputy Collector or Huzur Mamlatdar (since the retrenchment proposals) or Huzur Accounts Officer under the Collector. He is also called the Treasury Officer. In the Account Office, there is a Head Accountant whose status is equal to that of a Mamlatdar and who looks after all account matters and deals with correspondences with the Accountant General; the Treasurer is in charge of the cash, currency chest, stamps, opium. For Court of Wards work, there is a clerk or Manager appointed and he works under the Collector in the office.

116. The Collector has, under him, an Assistant or a District Deputy to assist him in the district work. The Assistant Collector, when first placed under a Collector, is called a Supernumerary Assistant Collector. To prepare

Assistant or
District
Deputy
Collector or
The Sub-
Divisional
Officer.

for the Lower and Higher Standard Examinations, the Collector leaves him sufficient time; also to study the vernacular of the district, time is given. The Supernumerary Assistant Collector has to undergo training for three weeks under the Superintendent of Land Records in Survey and Settlement matters, for a few weeks he has to work as a Treasury Officer in order to get an insight into the working of the Treasury Office, he has to attend the Sessions Judge's Court to see the trial of criminal cases. The Probationary Deputy Collector has to undergo similar training as well as training in equitation as it is likely he did not know horse-riding before. (The Assistant Collector has to pass in horse-riding in England before coming out to India.)

The Assistant or District Deputy Collector who is called the Prant Officer, is in charge of a Prant (Sub-division) comprising of 2 to 4 Talukas. (The Personal Assistant to the Collector has generally one). The Prant Officer is expected to spend not less than seven months on tour in the fair season during the year. He has to send his programmes of tour to the local officials and the local newspapers and the bar. All the powers of the Collector under the Land Revenue Code or any other law are also exercised, under section 10, by the Prant Officer in respect of the Talukas in his charge. The Collector may reserve any power he thinks fit. Powers under Rules 81 and 82 of the Land Revenue Code Rules are not ordinarily delegated, G. R. 3459 of 1908. But there should be no unnecessary reservations, G. R., R. D., 7048 of 1903. The power of arrest of defaulters of revenue is especially delegated and cannot be used by a Prant Officer unless so empowered, G. R. 1743 of 1883. The Prant Officer can execute certain contracts and leases and sanads given for tree planting. He may fine watandar village officers, G. R., R. D. 10431 of 1912. The Mamlatdar is responsible primarily for keeping the current

work of the Taluka Kutchery upto date and for the prompt execution of orders sent to him. A great deal depends on the Prant Officer, whether he is keen or not, to detect delays, set right the errors and get the omissions supplied. The Assistant or the District Deputy Collector is also the Sub-Divisional Magistrate; he can transfer cases from one court to another; if he has appellate powers, he hears appeals from the criminal cases tried by II and III Class Magistrates. He has a Sheristedar with 3 or 4 clerks under him. After passing the Lower Standard Examination, the Supernumerary Assistant Collector is given the revenue charge of one Taluka. This affords him an opportunity of gaining knowledge of every branch of his duty which fits him to manage a full Sub-division (Prant) as soon as he passes the Higher Standard Examination. The Assistant or District Deputy Collector in charge of a Prant is subject to the control of the Collector in all his work. An Assistant Collector after some years' experience is sometimes appointed as a Settlement Officer for the revision Settlement work of a Taluka. While on tour he has to inspect the Record of Rights, inspect crops, verify Land Revenue Receipts, inspect Boundary Marks, encroachment sites, and do similar other inspections as detailed above for the Collector when on tour. His chief duty is to test the work done by Mamlatdar, Circle Inspectors and Village Officers, put right the errors and give instructions to these officers. The appointment of Patils, Kulkarnis or Talatis is made by the Prant Officer.

117. In the Taluka, the Mamlatdar is the most hard-worked officer. He has to perform manifold duties. His revenue duties are important. His efficiency depends on his capacity for revenue work. He is also a Magistrate and tries a number of cases. He has to direct the Village Officers

The
Mamlatdar
and Taluka
Officers.

and Circle Inspectors in the work of Record of Rights and village accounts. He is responsible for the collection of the revenue punctually. He is to report promptly to the Prant Officer and the Collector any failure of crops, any calamity which renders suspension and remissions necessary, to report when there is any epidemic, fire, flood, riots or disturbance. He is to carry out all the duties of land administration as described in the Land Revenue Code. The Mamlatdar has to be on tour for a fortnight in each month. He must visit a great number of villages in the taluka. He is required to have a very thorough knowledge of the villages in the taluka. He is liable to many unexpected calls upon his time. He has to render assistance to officers of other departments as well. The Mamlatdar, when on tour, is expected to carry a Note-Book for entering briefly the particulars which call for attention. He has to attest the mutations and test the Record of Rights, crops, check Land Revenue Receipts, he has to inspect village sites and encroachments. He sees works for which Tagai is given. The Mamlatdar exercises such powers as the Collector may delegate to him by name. The powers which may be delegated are:—

Section.	Extent of power.	Authority.
25, 26.	All.	R. 5295 (9)-11.
32 and Watan Act.	To fine hereditary or Stipendiary village revenue officers.	R. 2116 and 4100-83, 1953 93, 5891-03, 5595-03.
42, 43, 70.	All.	R. 4347 (17)-02.
48(4), 61(6), 79A and 203.	To sign eviction notices approved by the Assistant or Deputy.	R. 5295 (85)-11.

Section.	Extent of power.	Authority.
80, 86.	All (Mukhtyarkars in Sind included. R. 8048 (1)-08.)	R. 2598 and 6024-83, 9901-06.
90.	To sanction sale of movables in alienated villages.	R. 5295 (47)-11.
91.	To accept security from defaulting inferior holders.	<i>Under this order.</i>
117B.	All.	<i>Under this order.</i>
135F.	Upto a limit of Rs. 15.	R. 7623-9-4-24 and 13-4-24.
135H (3).	All.	<i>Under this order.</i>
141-143, 145.	All.	R. 8046-08, 7773-13.
148.	All.	R. 7176-12.
149.	To issue certificates direct to other Mamlatdars (apparently in the same or other districts of the Presidency).	R. 5295 (71)-11.
152.	To issue notices and remit notice fees levied by mistake.	R. 5295 (73)-11.
153 pro- viso(a).	To issue notices threatening forfeiture.	R. 5295 (74)-11.
154.	To distrain and sell movables in un- alienated villages.	R. 5954-91.
156.	To determine what property is exempt.	R. 4347 (17)-02.
155, 166(3).	All, in respect of such sales as he has himself power to make.	R. 5295 (78-9)-11.
181.	To put in possession and give certificate	R. 5295 (80)-11.
186.	All.	R. 8785-89.
190(3).	All.	R. 5295 (83-84)-11.
L. R.		
Rules—		
Rule 41 and Sec. 68.	All (eksali sales).	R. 5295 (36)-11.

Section.	Extent of power.	Authority.
Rule 58.	Permit tree cutting in watan land.	R. 5295 (22)-11.
80 (and Sec. 65).	To specify selected Mamlatdars.	R. 3459-08, 5295 (32)-11.
37, 42, 64, 65, 66, (and Sec. 170).	To confirm sale at any auction when the Collector has previously fixed (Rule 128) an upset price which is realized. (For powers as to auctions, see Chapter XVIII.)	R. 3520-12.
Revised Rule 81 (and Sec. 65).	All Mamlatdars and Mahalkaris grant permission in II Class Villages subject to conditions.	B. No. 6406/28 of 11-11-81.

Taluka
Establish-
ment.

The Mahalkari is in charge of an area smaller than the Mamlatdar's. A Mahal consists of 30 to 80 villages. Generally there is no sub-treasury in mahals. Under the Mamlatdar there is a Head Karkun or Aval Karkun, who is also a Magistrate, he is in charge of the Sub-Treasury and also tries Third Class and, in some places, Second Class Magisterial cases. When there is heavy work or more Record of Rights work and out-door work, an Extra Aval Karkun is appointed. An Aval Karkun can exercise in the absence of the Mamlatdar any powers specially given by the rules to Mamlatdars. Vide Rules 54, 67-69, 74, (2). The Aval Karkun can try rent suits up to Rs. 100/-. The Aval Karkun is called in the vernacular, in the Central Division, "Fadnis" and in the Southern Division, he is called "Sheristedar." When the Mamlatdar is on tour, he runs the office. He is generally responsible for sub-treasury and account work. In the Mamlatdar's office, the Second Karkun or Treasurer writes the Day Book and subsidiary registers and conducts correspondence relating to them. The *Shroff Karkun* receives and makes payments, keeps the stamp register and conducts correspondence relating to them, he generally assists the Second Karkun. The *Mulki Jamabandi Karkun* examines the village accounts at the time of

Jamabandi, keeps an eye on revenue collections, execution of assistance orders and is responsible for Taluka Forms. The *Record Karkun* is responsible for the sorting and arranging of the Taluka and village records and supplying true copies to parties and applicants applying for them. The *Mulki Jababi Karkun* looks after matters relating to the appointment and punishments of village officers and miscellaneous revenue work. The *Magisterial Clerk* looks after criminal cases, Vahiwat cases, Criminal Returns and registers, cattle pound, unclaimed property. From the executive point of view, the Jamabandi and the Jababi Karkuns are the two most important.

118. To aid the Collectors and Commissioners in the work of the maintenance of the Record of Rights and revenue registers and to check the Settlement work and to advise Government on technical matters of Survey and Settlement, a Director of Land Records and Settlement Commissioner who was also the Inspector General of Registration was appointed. At present, as a measure of retrenchment, the post of the Settlement Commissioner and Director of Land Records is held in abeyance. There is a Superintendent of Land Records for each division. In each District, there is a District Inspector of Land Records. When the old Survey Department was abolished in 1890, the land records were transferred to the Collectors and the District Inspectors of Land Records were appointed to hold charge of them. The District Inspector is of the same status as the Mamlatdar, but does not exercise magisterial powers. The immediate superior of the District Inspector, in all technical matters, is the Superintendent of Land Records. In 1895, the appellation of Divisional Inspectors was found unsatisfactory as liable to be compared with that of the District Inspector. The title "Superintendent of Land Records and Registration" was adopted. Assistant Collectors were appointed Superintendents of Land Records from 1904.

Settlement
Commissioner and
Director
of Land
Records.

Superintendents of
Land
Records.

In the letter of the Director, written in the year 1905 regarding the advisability of the retention of the Superintendent, is found the detailing of the work of the Superintendents.

1. Record of Rights, inspection.
2. Survey Training. Formerly Training Classes for Village Accountants were held. There were 500 Village Accountants in S. D. to be trained.
3. Training of Circle Inspectors.
4. Preservation of the Survey Records.
5. Calculation of the revised rates of assessment.
6. Miscellaneous Settlement questions.
7. Original Survey work.
8. Revision Settlements.

It was necessary to maintain an officer whose experience was not confined to one district only, so that uniformity of decisions on special questions might be observed throughout the division. Although the Superintendent is relieved of the settlement work of talukas, he is still responsible for the correction of the records and settlement of Inam villages.

At present, the work of the Superintendent Land Records has grown much in volume and complexity; the method of survey is now upto date and the old system is obsolete, there have arisen new problems since the introduction of City Survey and Inam and Hissa Surveys which the Superintendents have constantly to solve and on which they have to advise the subordinates. The knowledge, which is required to cope successfully with the problems of survey in the present times is nothing short of a life knowledge, gained by work in the open field from morning till late in the noons and founded upon unintermittent and daily contact with the villagers and land.

The Superintendent is an Assistant to the Commissioner generally in matters relating to Land Records and measurement work and the maintenance of the Record of Rights. In all matters relating to the Survey Record, he is the Assistant to the Collector. His test work is a superior check over the test taken by the District Inspector of Land Records of the measurement and classification work done by the Measurers, Surveyors and Classers. He makes a thorough periodical inspection of each District Survey Office. He examines and countersigns all Akarbands and Kamjasti Patraks. He has to satisfy himself that the scrutiny done by the District Inspector was thorough and according to departmental rules and orders. He has to see that the rules for the conduct of the work at the District Survey Office are uniform in the division and in accordance with the recognized practice of the Survey Department and, that the members of the office are competent. He has personally to test all important classification cases and boundary dispute and measurement cases which need special technical knowledge and errors in which may involve loss of lacs of rupees to the State. He has to give instructions to Measurers, Surveyors, and Circle Inspectors not sufficiently trained. For three weeks he has to train the Junior Civilians in Survey and Settlement matters. The Superintendent has to do multifarious and responsible duties.

The District Inspector of Land Records is a Revenue Officer and is subordinate to the Collector in revenue matters, but for all technical matters his direct superior is the Superintendent Land Records. His duties are (1) to supervise and be responsible for the measurement and classification work done by the Surveyors by taking regular field tests. (2) He is responsible for the correctness and punctuality of the work of the District Survey Office. (3) He has to take a small test of the work of as many Circle Inspectors and Measurers as possible with the object of

The District
Inspector
of Land
Records.

satisfying himself that they understand the duties. (4) He has to compile the Statistical A Forms (agricultural returns). (5) He has to see that the Kamjasti Patrahs prepared in the District Survey Office are correct and that Survey Records are duly and correctly altered to show the change. (6) In all cases of doubt and difficulty he must refer to the Superintendent Land Records, for advice in technical matters.

The Circle Inspector.

The Circle Inspector is the supervisor under the orders of the Mamlatdar or Mahalkari of the Revenue Administration and Land Records of every village in his Circle. There are 30 to 70 villages in the charge of one Circle Inspector, the number of villages depends on the size in area and population. Either a senior Talati or Kulkarni is promoted to work as Circle Inspector or a Karkun from the Collector's, Prant's or Mamlatdar's Office is deputed to do this work. The Circle Inspector has to inspect every village repeatedly during the year and make himself acquainted with the qualifications and conduct of the Village Officers, the state of the crops and condition of the village and of the people, and to report promptly to the Mamlatdar any matter requiring orders of the Superior Officers and to see that effect is promptly and expeditiously given to the orders. He must check and test the village estimates of the areas under various crops. When preparing the Annewari Statement, he has to see that the opinion of the Committee or Panchas is carefully recorded and the procedure is correctly followed. He has to inspect the boundary marks, effect their repairs, more especially those of Government waste, and check the encroachment register. He checks the returns of population and of agricultural stock. He checks all records of vital statistics, the record of water supply. He has to inspect the Tagai works in order to ascertain that the advance has been usefully and honestly spent, and that it has been recorded in the Record of Rights. He must enquire into the collection of Government revenue and ascertain the

cause of any arrears. He must examine the Village Accountant's balance and verify that remittances to the Treasury are duly made. It is his duty to test a reasonable number of raiyats' receipts by oral examination of the raiyats and compare them with the Ledger. He is expected to examine the diary of the Village Accountant, make remarks regarding the adequacy of the work or otherwise. He must supervise the work of preparation and maintenance of the Record of Rights, he is expected to examine and initial each entry in the Diary of Mutations. He must supervise the carrying out of all circular and other orders issued to the village by the Mamlatdar or Mahalkari. When the travelling season ends, he compiles Taluka statistical returns. Within his sphere the Circle Inspector is expected, not merely to point out what is wrong, but to put matters right on the spot. When the Prant Officer's camp arrives in his Circle, the Circle Inspector is to work under the Prant Officer's direct orders until his departure, and accompany him when required on village inspection. In times of famine, the Circle Inspector is *Ex-officio* Relief Inspector. It is an essential part of his duty to watch the season so as to detect very early signs of coming distress, and to be ready to report, whenever called upon, the condition of the circle. The Circle Inspector is the right hand man of the Mamlatdar and, as he is constantly on tour in villages, he is expected to know the condition very intimately. The appointment and transfer of the Circle Inspector are made by the Collector. A Circle Inspector is not confirmed in his appointment until he has passed the examination in the revenue subjects.

CHAPTER II.

Village Officers.

The Patel.

119. In the previous chapter the Superior Government Servants of whom the head is the Collector and District Magistrate have been described; it is a powerful piece of administrative machinery, but, as links between the higher officers and the village communities for whose welfare they are responsible, its members have the defects which belong to purely official agency. They have therefore, been supplemented by representatives of the land-owners in the shape of village headman, Patel. It is convenient, obviously, for the State to deal with bodies like the village communities through the Patels. The internal affairs of the village communities used to be, and in some places in a measure are, managed by informal councils called Village Panchayats.

In the village, the Patel was the most important functionary. He held his office by a grant from Government, and was entitled to land and fees and had many privileges and distinction. His office and emoluments were hereditary. He was head of the administration of his village and was head of the Police. As a Revenue Officer, he performed in his village on a small scale what the Mamlatdar did on a big in the Pargana (Taluka). He allotted lands and fixed the rents. He collected revenues. He strove to promote cultivation in the village and to increase the prosperity of the villagers. Though an agent of the Government, he was also regarded as a representative of the people and was useful in executing the orders of Government and in asserting the rights of the people and making the wrongs known.

The Patel is the head of the village organization. In many big villages there are two Patels—one is called the

Mulki (Revenue) Patel and the other Police Patel. The Patel who is appointed under the Hereditary Officers Act may have his watan and the family share in the land and privileges and one member who receives remuneration (Mushahira) officiates. Though originally an agent of Government, he is now looked on as equally the representative of the raiyat and is not less useful in executing the orders of Government than in asserting the rights or making known the wrongs of the villagers. The Patel has to attend when summoned by Government Officers, and aids them in the execution of their public duties. The important functions as Village Police with respect to the prevention and detection of crimes are given in the Village Police Act. Whenever an offence is committed, it is his duty to report the matter to the Fouzdar (Sub-Inspector of Police). When any encroachment is made on Government land, he must report to the Mamlatdar. Some experienced, competent and influential Patels are invested with special powers under Sec. 15 Village Police Act for trying petty offences of theft and mischief in the villages. He can fine upto Rs 5 and confine in a village Chavdi an accused for 48 hours. Under sec. 16, he can prevent and punish offences such as nuisance, depositing dirt etc. He holds inquests in cases of sudden or unnatural death. The Patel's duties in connection with Revenue Administration may be summarized as under:—

A. Duties to Government:—

1. Collection of revenue from the raiyats. The Patil receives the assessment in the Chavdi and, after collecting from several Khatedars, sends it to the Taluka Sub-Treasury with the Mahar.
2. To report to the Mamlatdar any injury to Government land, encroachments and every thing necessary to the Taluka Officials.
3. To aid in carrying out crop inspections, Record of Rights work. He must sign each entry of the Diary of Mutation and do other revenue business, such as helping the Village Accountant in the realization of arrears and recovery of Tagai dues.

4. On payment to provide supplies or means of transport for Government Officers and Military troops. To look after the camping grounds. The Patel is indirectly responsible for the preservation of forests, a big property of the Government.

B. Duties to the Public:—

1. He is to manage the common village fund and account for all receipts and expenditure.
2. To interpret and communicate the wishes of the people on their behalf to the Government Officers.
3. To help the villagers, in times of exceptional difficulties, in the Gaathan to assemble the villagers in the Chavdi and explain matters to them and obtain their opinion on questions affecting the village community such as Jatras (fairs) Hagamas, etc.

Section 16
Land
Revenue
Code.

The mode of appointment of the Patel and the regulations regarding his dismissal and punishment etc., are described fully in the Chapter IV on Watans Part III. Much depends on the personal character and ability of the Patel. For rendering meritorious services, selected Patels are given rewards in the shape of turbans, swords, etc. Stipendiary Patels are appointed under section 16, Land Revenue Code, where there are no hereditary officers. In the Ratnagiri District, there are no Watandar Patels, but stipendiary Patels who are called "Fouzdars." In Kanara there are no hereditary village officers.

The Patel is in charge of certain registers which he must keep in his daftar. He is responsible for the Birth and Death Register. Whenever anybody dies in the village, he must cause enquiries to be made regarding the age of the deceased and the name of the disease. He has to keep

the Small-pox and Plague Registers and assist the Vaccinator when he comes on his rounds. The Cattle Pound Register is maintained by the Patel, and the number of cattle impounded, fines levied are entered, also a list of bullock carts and where the Criminal Tribes Act is applicable, a list of the members of the Criminal Tribes is kept by him; these registers are produced for inspection when officers visit the village.

120. The Kulkarni is the Village Registrar or Accountant. The hereditary Village Accountant is called Kulkarni and the stipendiary one is called Talati. In many districts in the Deccan and Southern Maratha Country, the hereditary Kulkarnis are replaced by Talatis by compensating their rights by allowances, which is called Kulkarni Commutation. Vide G. R., R. D., No. 2659 dated 19th March 1913. In Gujarat, village accountants are generally Talatis. In the Kanara District, the village accountant is called "Shanbhog." The immediate Superior of the Village Accountant is the Circle Inspector. The appointments and transfers of Talatis and Kulkarnis are made by the Prant Officer. No efficient administration of a district is possible unless the staff of Kulkarnis or Talatis is strong, trained and strictly supervised by the Circle Inspector, Mamlatdar, the Prant and the Collector. Some years ago the Talati staff was not paid so much as now. The Talati gets from Rs 20/- to Rs. 40/-. Exceptionally good Talatis or Kulkarnis are promoted to the posts of Circle Inspector. The Talati is required to pass the Vernacular School Final Examination before he is appointed, there is a separate examination for Kulkarnis. A Talati is generally in charge of 3 to 8 villages according to the size of the villages. This bunch of villages is called a "Saja."

The
Kulkarni
or the
Talati.

The duties of the Kulkarni or Talati are:—

1. Maintenance of the Record of Rights upto date by punctually recording mutations.

2. Write all crops grown in the village, Kharip as well as Rabi.
3. To prepare all the statistical and fiscal returns. All the village forms are to be written and completed. Agricultural, Economic and Vital statistics are to be prepared periodically.

In the early days, the Kulkarni also kept the accounts of all the cultivators with one another and with their creditors. He acted as a notary public in drawing up all their agreements and conducted even their private correspondences. He had lands from Government and received some remuneration as well.

The Village Accountant has to write numerous registers and returns. In some places where the Sajas are too large or the Kulkarni is lazy, the crop inspection is done in the village chavdi instead of right in the fields; consequently the crop inspection is found inaccurate and entries in the village registers are simply repeated from the previous years and some Circle Inspectors who are no more than 'glorified' Talatis are apt to write "Tapasle" (examined) for each entry without going into the details. The Village Accountant receiving payment of land revenue is bound to tender a receipt for the same under section 58, Land Revenue Code. Every Village Accountant who receives, on behalf of a Superior holder of an alienated village or of an alienated share of a village, any rent or land revenue from an inferior holder, shall give to such inferior holder a written receipt for the same. A copy of such receipt shall, in every case, be sent to the Superior holder by the Village Accountant.

121. Inferior Village Servants.

Chougulas
or Sanadis.

In the Deccan there are Chougulas,—who assist the Village Officers in the village administration. In the Karnatak, there are Sanadis under the Revenue Patel and

Police Patel to help the Village Officers in the discharge of their duties. The Sanadis have their Watan lands.

The "Mahar" in the Deccan and Southern Maratha Country is the village servant, he is the messenger and is under the Patel. A Mahar who has to attend before the Chavdi is called a "Bashya." In the Southern Maratha Country, there is another menial called "Talwar." The Mahar carries the revenue and Patil's papers and reports to the Taluka Kutchery. When field Inspection is made by Officers, the Mahar carries the Village Registers, Maps and calls and assembles the Kabjedars. The Mahar is a very old and faithful servant in the village administration who has much tradition behind him. The Mahar has a very keen affinity to his Watani lands because he has inherited them from his ancestors from ancient times. He is a very trusted messenger, the Mahar carries thousands of rupees from the long distanced village to the Taluka Head Quarters and I have not heard of a single case where the revenue collections were stolen or misappropriated. He is very useful when various Taluka and District Officers are camped at the village. In some parts, there is a village watchman called the "Jaglia," in the Southern Maratha Country he is called "Ramoshi" and much help is rendered to the Police in patrolling on night duty and in the arrest of criminals.

The Mahar
or Jaglia.

Other Departments.

In the Taluka Head Quarters, there are several officers who are also responsible for the village administration. The Sub-Inspector of Police known as "Fouzdar" has to tour in the villages and visit scenes of offences, and out-posts. The Sub-Registrar registers all documents and deeds such as sale-deeds, mortgages, leases, conveyances, bonds, partitions. In important Talukas, there is a Sub-Judge, who decides Civil Suits upto a certain limit. There is a Medical Officer in charge of the Taluka Dispensary and also a Veterinary

Assistant for treating sick animals. The Excise Sub-Inspector or Inspector inspects liquor and toddy shops to see if the stock is good both in quality and quantity and the shop clean. He also inspects Ganja and Opium Shops and watches if any illicit distillation is going on and brings the culprits to book. In some Taluka towns the Over-Seer or the Assistant Engineer of the P. W. D. or, if the roads are provincialised, of the Local Board, in charge of the roads or buildings, holds his office. In villages or Taluka towns which are City Surveyed, the Maintenance Surveyor holds his office either in some room in the Mamlatdar's Kutchery or somewhere in the town in a suitable place to facilitate the taking of copies or maps from the City Survey Office.

Village Panchayats

The management of the Co-sharing body and its concerns was originally effected by a Panchayat or Council of the heads of house-holds.

The object of the Bombay Village Panchayat Act of 1920 was for giving "the inhabitants of certain villages the opportunity of providing for the requirements of the villages in respect of water-supply, sanitation and other works of public utility, with the object that they may be encouraged to take interest in local Self-Government." A panchayat consists of 5 to 7 elected members, and the Revenue Patel who is nominated. By the Act No XXI of 1932 the Panchayats will be invested with certain judicial and quasi-judicial powers, vide Chapter VI, VII sec. 39, 41 for trying civil and criminal cases of a petty nature, section 78 is important as it gives finality to the decrees and orders except in the manner provided in Sec. 86. The panchayats are empowered to levy a house-tax, a pilgrim tax, or any other tax from owners of houses and lands sec. 87 to 89. The District Local Board

shall assign to the panchayat not less than one-fifth of the local fund cess realized within the limits of the village. The franchise is extended to women. The administrative powers and duties are described in sec. 26. It is hoped the utility of panchayats will be greatly increased and there will be real development of local-Self-Government in villages where reforms are urgently needed. The villagers will be trained in the art of administration, and citizenship and their sense of self-help for solving the manifold problems will be increased.

CHAPTER III.

Revenue Accounts.

The first Manual of the Revenue Accounts was prepared by Mr. (afterwards Sir) Theodore Hope. It was revised by Mr. W. P. Symonds in 1887. By 1914 the problems relating to Revenue Accounts had grown immensely in volume and intricacy; so the Manual was in that year recast by the Director of Land Records to meet upto date requirements.

The question of Revenue Accounts as kept according to the present Manual is very complicated; and unless one has practical knowledge, it will not be easy to follow it, because it contains too many details; but the general plan can be made simple enough. In this Chapter attempts are made to simplify this. We are concerned not with all the complications of detail but with general ideas only. Any one who wants to study the details will have to read the Revenue Accounts Manual very often, as one reading will not suffice for the minute particulars to be remembered.

The Manual divides itself into three sections Viz; (1) the Village, (2) the Taluka (3) the District Accounts. The number of forms in which these accounts have been maintained is 8, 23 and 7 respectively. Some of these forms have sub-divisions or abstracts.

The Village Forms.

Village Form No. I 122. No. 1. is the Land Register. This is the starting point of all Land Revenue Accounts and exhibits all the lands of the village, Survey Number by Survey Number and the fixed agricultural revenue derived therefrom. The area and the assessment of the different kinds of land

such as dry-crop, rice, garden etc., and details of the water share (included in the assessment) and the public rights of way and easement are given. In the case of the Inam Survey Numbers, the full assessment is shown and not that part of it only which is payable to Government.

The abstract at the end is very important. It divides the lands of the village into two broad sections Viz: A—land for cultivation and B—land not available for cultivation. Under A are given the area and assessment of the total area of land under the various tenures, the unassessed area being shown at the close. Under B, three sub-sections are made showing the area (1) under Pot Kharab and rivers and Nallahs; (2) assigned for public or special uses and (3) granted for N. A. uses.

No. II.—This form contains 3 sections—one showing the N. A. revenue from village site areas, another showing the same from areas out of survey numbers granted for N. A. uses and the third showing the agricultural assessments on special—termed survey numbers. If the N. A. leases are for 5 years or more, then only the N. A. assessments find a place as fixed revenue in this form, otherwise they are accounted for as Miscellaneous Revenue in form No. IV.

No. III.—This is a register of Inam lands showing the kinds of Inam, the area survey number by survey number under each kind and the amount of the assessment on each survey number payable to Government (or judu), as also the balance remaining with the Inamdar. The abstract at the end gives the area, the amount payable to Government and the Inamdar's Napha (or Government's Nuksan) under each kind of Inam. The Inams are starred or unstarred.

No. IV.—This shows the miscellaneous revenue derived from leases for periods less than 5 years. For each item of revenue, there is a case and, as these items vary from year

to year, it is the duty of all Revenue Authorities to see that no source of miscellaneous revenue escapes notice.

Local Fund is payable on the whole of the fixed revenue and on part of the miscellaneous revenue. Which items of miscellaneous revenue bear Local Fund and which do not, have been detailed at pages 41-43 of the Revenue Account Manual. It is necessary to note that Local Fund is payable on the full assessment of Inam Survey Numbers and not on that part of it only which is payable to Government.

No. V.—This is the Tharavband, it sums up the total demand of Land Revenue, both fixed and fluctuating (miscellaneous), and accounts for all changes in fixed revenues and for noteworthy ones in miscellaneous revenues. It starts from the grand total area and assessment of the village, as shown at the close of the abstract of Village Form I, and ends with the grand total consolidated land revenue and areas yielding revenue. In order to get at these latter areas which yield no revenue, such as uncultivable areas of the 3 kinds detailed under B of the abstract of Village Form I, unassessed areas and unoccupied assessed areas are deducted from the grand total area of the village. And in the case of revenue, the balance remaining with the Inamdar and the Land Revenue due on unoccupied assessed land are deducted. If any areas out of assessed and unassessed land have been granted on reduced terms, both the area so granted and the revenue fixed thereon are added to find the total fixed revenue and the area for which it is derived. Miscellaneous items of revenue are then added, and then the Local Fund on that part of miscellaneous land revenue which bears Local Fund and the Local Fund on fixed revenues. As already noted, Local Fund is calculated on the full assessment of Inam lands and not on the judi only.

This is a very important form and deserves close study. At the time of audit, the Revenue Officers are required

to examine it and sign it. Specially during the Jamabandi the last column has to be carefully seen so that no changes escape the notice.

Nos. VI and VV-XII.—These constitute the Record of Rights and are dealt with in Part I of this Book.

Nos. VIII-A and B.—A kabjedar is expected to keep a copy of the holding sheet with him in order to know the extent of his land and the assessment he pays and other particulars. VIII-A is the holding sheet of each Khatedar, showing survey numbers and hissas, their area, their assessment or judi, Local Fund thereon and the consolidated Land Revenue. It can be given to the kabjedar on payment of the fee of one anna. To facilitate the calculation of Local Fund, Nuksan is shown above it in side brackets in the case of Inam lands. In the sheet, khalsa lands are shown first, then the Inam lands, and lastly N. A. areas. VIII-A does not show the miscellaneous land revenue due from each kabjedar, VIII-B shows khata by khata, the gross demand—areas, fixed revenue and fluctuating revenue—due from each khatedar and the number of instalments and the amounts of each instalment. If there are any suspensions or remissions, then from the gross demand, the amounts suspended or remitted are deducted and then the net demand and then the amounts payable at the 1st and subsequent instalment (or instalments) are fixed. Then follow the credits made, date by date, and towards the end of the form the figures of suspended or unsuspended balance are given. The final khata is called the Mukta (Ijara) khata opened in the name of persons who are no longer khatedars.

No. IX is the receipt book. The Village Accountant must give a receipt to the khatedar. Prants and Mamlatdar verify the receipts.

No. X is the chalan; form No. X-A being used for revenues other than land revenue.

No. XI is the Trial Balance Sheet. This is a very important form and is intended to prove the accuracy of calculations in the previous village forms. This is based on the Tharavband (V. F. V.) and the summary of V. F. IX.

In the first 5 village forms, the unit of area for account purposes is the survey number and in the next 5, the unit is the khatedar. As every piece of land, from which revenue is derived, must be in the possession of a khatedar and as every khatedar must have in his possession some area of land, either a whole survey number or a hissa or several survey numbers and hissass, the accounts arrived at with the survey numbers as the unit must tally with those calculated with a khatedar as the unit. This form proves that the 2 sets of account agree.

The form is further useful as it enables the Revenue Officers to keep separate details by years of authorised and unauthorised arrears.

No. XII is the Crop and Tenancy Register described in Part I.

No. XIII.—This shows the area under the different kinds of crops. This has two abstracts added at the close, one the Irrigation abstract showing the sources of irrigation and the areas irrigated and the other the abstract of fruit trees showing the different kinds of fruit trees, their number and whether Government or private.

No. XIV.—There are four miscellaneous registers.

No. XV.—Is the statement on cattle and resources.

No. XVI.—Is the register of water supply.

No. XVII.—Is the Barnishi.

No. XVIII.—Is the Library List.

123. Taluka Forma.

T. F. No. I.—This is the detailed receipt book of land revenue. This is a Treasury Form and gives, date by date and village by village, the credits made into the treasury under (1) future payments, (2) past arrears and current year's (3) fixed revenue and (4) fluctuating revenue. Credits of Non-tharavband items are separately shown. Monthly totals are struck and, at the close of the year, the gross collections of the Taluka against the current year's demands are ascertained. This figure does not include over collections and the collections made in the Taluka under consideration for other Talukas but contains collections made for this Taluka at other Talukas.

Two terms deserve to be noted Viz: the kitta kalam items and non-Tharavband items. The words kitta kalam mean extra-territorial. The kitta kalam items consist of (1) fixed items such as land revenue from land in Indian states which have lapsed to Government; charges such as chouth, Sardeshmukhi levied at 10% on the land revenue of the States and miscellaneous items such as the price of grazing monopoly in Government waste land throughout the Taluka. As there is no particular village to which such revenue relates, they are accounted for as kitta kalam items. They are sometimes entered against "Taluka village." The other term Viz: "Non-Tharavband" items which belong to no village and so do not occur in the Tharavband (V. F. V) but are collected at the Taluka. They are detailed at page 199 of the Revenue Accounts Manual.

T. F. Nos. II and III.—Correspond to V. F. II and III.

T. F. No. IV.—This is the Wasul Baki Ledger and consists of the Demand and the Collection side, each side showing the demand (or collection) date by date under (1) Arrears, (2) fixed and (3) fluctuating. The first entry on the demand side is the arrears of past years and the next is the

demand as per last year's tharavband. Then follow demands on account of miscellaneous land revenue with the authority therefor. The amounts collected are entered date-wise on the collection side. Totals are struck at the close of every 4 months. Amounts suspended or remitted or written off are then deducted from the demand. At the close of the 2nd and 3rd periods of 4 months total upto-date demand and collection figures are arrived at and not merely totals for that period only. At the close of the year, the difference between the last year's tharavband figures (from which the demand side started this year) and the actual tharavband figures as actually ascertained from the village is either added or deducted. Then from the year's net demands under arrears, fixed and fluctuating, are deducted collections during the year, under these heads. The result gives the unauthorised balance to which the suspended balances are then added on to find the gross arrears.

T. F. No. V.—Is the Wasul Baki Patrak (Periodical summary of T. F. IV). A separate column (8) is provided for amounts out of current year's demand collected as over collection or credited in advance in past years. Land Revenue collected at the Talukas or for other Talukas has to be adjusted. Agreement of T. F. No. V with T. F. IV, foot notes would be necessary. Each return covers a period of 4 months. It is essential that in the Huzur Treasury Accounts, the Taluka figures should be posted by Talukas, otherwise the Collector cannot locate any discrepancy which the Commissioner discovers between the Accountant General's figures and the departmental figures in T. F. V.

T. F. No. VI (a) and (b) deal with minor and major coercive processes. This form serves three purposes (1) compilation of District Form VI, (2) check over Miscellaneous Revenue and (3) facilitates Mamlatdar's check over the processes.

T. F. No. VII.—Is the statement of authorised arrears. They are then classed as Irrecoverable, doubtful and recoverable. This is compiled from Abstract of V. F. XI and gives expansion of T. F. V (7) authorised, (12) unauthorised balances (6) remissions.

T. F. No. VIII-A and B. (Maujekar Terij), the first (A) gives summation of village areas and the 2nd (B) that of revenues. Totals of tharayband are collected into Taluka totals by groups of villages.

T. F. No. IX A and B.—This is the proof sheet of decreases and increases in area (A) and revenues (B) and taleband. This is a summation of T. F. VIII and explains increases and decreases, one is for acres and the other is for rupees.

T. F. No. X.—Is the Local Fund calculation sheet. Calculation of Local Fund due to the Board is made thus. Take the gross collections of consolidated Land Revenue including over collections. Deduct collections made for another Taluka, add collections received elsewhere for this Taluka. Exclude items of Miscellaneous Land Revenue which are free of Local Fund including extra-territorial items. The remaining amount is net divisible amount of consolidated Land Revenue. Add total net Nuksan. 1/17 is the Local Fund.

T.F. No. XI.—Is the ledger of instalments and relates to items of revenue other than land revenue. The purely Local Fund items are (1) Sand, Kankar, Lime stone, Quarry fees levied for Government waste land, (2) Sale of grass, dead wood, trees and fruits on Local Board roads, tanks, (3) Proceeds of ferry fares, (4) License fee for possession of drugs.

T.F. Nos. XII. to XIV.—Deal with cash allowances, No. XIII. being Peta Khatewahi.

T.F. No. XV.—Is the Daily Detail Book of Bhatha.

T.F. No. XVI.—Is the permanent Advance Register.

T.F. No. XVII.—A. Deals with deposit Accounts case
by case.

” B. The Day Book of Deposits.

” C. Is the Alahida Wahi.

” D. Is the Deposit account of Criminal
and Revenue Departments.

T.F. No. XVIII.—The Price Register.

T.F. No. XIX.—Rainfall Register.

T.F. No. XX.—Agricultural Return No. 1, corresponds
to V. F. XIII.

T.F. No. XXI.—Vital Statistics, corresponds to XIV-C.

T.F. No. XXII.—Summation of V. F. XV.

T.F. No. XXIII.—Summation of V. F. XVI.

These are Quinquennial forms.

A register is kept of Rent Suits in the Taluka Office. There is also a Boundary Mark Form VII. It is a ledger of expenditure and of recoveries from landholders on account of Boundary Marks.

124. District Forms.

District Form No. I is the statement of areas in the Collectorate, it is compiled from T.F. IX-A. In it can be seen how many kinds of changes have taken place.

District Form II shows the gross and nett Land Revenue of the District. From this form how the gross demand of any one year was collected or remitted in subsequent years can be ascertained. It gives the particulars of authorised and unauthorised balances. It gives also Non-Tharavband items such as capitalised land revenue.

District Form III is compiled from T. F. III.

District Form IV gives the incidence of the land revenue assessment or area and population of the District. It is prepared quinquennially. It is required for Table VI of the Government of India.

District Form V is the quinquennial statement of Holdings in Government Raiyatwari area.

District Form VI is compiled from totals of T. F. VI (a) (b), omitting in (a) columns 12, 7, 11, 14 and in (b) columns 1, 2, 4, 8, 12, 18, 22, 26. This return has to accompany the Annual Administration Report.

District Form VII is the decennial statement of Non-Raiyatwari tenures. It is compiled for the tenure sub-groups in T. F. VIII A and B.

The Agricultural Return is to be sent to the Director of Agriculture by 1st July. The District Inspector Land Records, must arrange for its preparation. Figures of uncropped area are given as they stood at the close of last July, for cropped area the figures show what was found between November and March. It is a compilation by Tenure groups from T. F. XX.

The Administration Report.

The Administration reports are prepared by the Commissioner for each Division and by the Director of Agriculture and Director of Land Records, as there is no Board of Revenue in Bombay.

The reports required are:—

(1) Season and Crop report with agricultural statistics due to Government of India. October 15th.

(2) Land Records and Survey and Settlement due to Government of India May 1st.

(3) Agricultural report due to Government of India November 1st.

(4) Land Revenue, settlements, statistics and Administration due to Government of India May 1st.

The reports of the three Commissioners on Part (4) are consolidated for the Presidency proper. The Commissioners exclude Survey Settlement and Land matters from their reports. The reports must be brief and written by the officer himself. They should be a record of work done; questions and suggestions are to be avoided.

The Basic Industry of India.

Some Important Aspects and a few Suggestions for its Improvement.

125. There is an old and well-known proverb in India; "Uttam Sheti, Madhyam Vyapar, Kanistha Noukri," that is, best of all is agriculture, commerce or trade is middle and lowest is service. In the ancient days, the proverb was much in use and was undoubtedly a true saying, because in those days, the best intelligence and energy were obviously devoted to agriculture and not so much to the other two pursuits of life. The impression in our days generally is that commerce and trade require more intelligence and diligence than cultivation of land. The goal of education is only to obtain "Some Service." If the majority of students who annually pass the Matriculation (School Leaving Examination) are asked "What are you going to be," the answer generally received is, "I want to get into some service." Numerous graduates who pass out of our University have the one common ambition of only "Some Service." Although a graduate of the Bombay University starts on Rs. 50/-, a graduate of the Madras University can be had on Rs. 35/- or even less, because his mode of living is very frugal, and since it is hard to get employment in Madras, he is willing to accept Rs. 35/- and is quite contented with this salary. It is surprizing to find that Bachelors of Agriculture, instead of taking to agriculture, often seek jobs in offices where they have nothing further to do with agriculture. When any vacancy occurs in an office, piles of applications pour in, with the inevitable bother to officers of interviews and the reading of several certificates and chits. It is first of all absolutely necessary

Necessity of
Intelligence
and Hard
Work.

to impress on the minds of the public that agriculture requires as much intelligence and hard work as the other two Viz: commerce and service. It is owing to the lack of intelligence and to idleness that the agriculturist of the present time is lagging behind. Educated men are drawn primarily to service and secondarily to trade; and agriculture has fallen to the lot of the illiterate and the indolent. The agriculturist has queer notions about the administration of his country. But has got to gain some true knowledge of the administration of his own village, how it is conducted and by whom, and what his rights and liabilities are. If he wants to be successful, he must have some elementary knowledge of science such as botany, to know what seeds are to be sown, how and when they grow; of astronomy for noting the changes in the sky, instead of merely gazing at the sky awaiting the approach of the monsoon, as if agriculture were only a game of chance or gamble; some knowledge of banking, so that he should not be at the mercy of the Savkar, of marketing so that the middleman may not reap undue advantage; of book-keeping and accounting to prevent frauds and mutation of figures—that is, some practical knowledge for his every day life, though it may not be bookish or literary, is necessary. He cannot say what total amount he has spent on cultivation and how much profit he has realized. If the crops are bumper in a particular year, he is under the hallucination that he has gained much money, though, as a matter of fact, he might have actually spent more that year than usual. He never cares to bother about his budget and takes things as they come. Keeping regular written accounts is as essential for him as for the ordinary shop-keeper. His idea of the seasons, rainfall, kinds of crops to be grown is always rigid and scanty, and he never adjusts himself nor changes it along with the changing seasons and surrounding atmosphere.

126. From 2/3rd to 3/4th of the total revenue of the State is provided by the rural areas and the tendency of the City is to profit at the expense of the Village. Strenuous efforts are needed to redress the balance by launching a vigorous campaign for the improvement of agriculture and rural development. A wise investment in rural areas will prove the more advantageous investment, for the State or the investors from the public. There is ample scope for irrigation on the banks of so many rivers in the Presidency *e. g.* the Krishna, Bhima, Malaprabha, Godavri, and the village is really more attractive than the city. But it is just the reverse now. The villagers go to the Taluka town or the Head Quarters town as often as possible.

The agriculturists now leave the villages and go to the towns either to see the Cinema shows or some Natak (drama). When some famous Natak Mandali comes to the Head Quarters, the villagers flock to the city not minding travelling long distances of 40 to 60 miles. Specially, those who had gone to Bombay to work as coolies in the docks or is mill-hands cannot do without these luxuries, as they cannot remain without tea and biddies with the result that not only is much time wasted in going to and fro frequently, but also more money than a prudent man can afford to spend on motor buses, theatres and cinemas in which the films exhibited hardly show anything relating to village life but only such stuff as the types of Zigomar and Eddy Polo, abounding in fighting and killing, dacoities and ingenious murders. Motor buses have no doubt, greatly revolutionized transport and afford great facilities for rapid development of traffic, but to the villagers it has been costing more than what it costs the city people. Formerly the villagers easily walked the distances of 10 to 15 miles to the bazar village or the Taluka town but now they would not go even a few

City V
Village.

miles, as motor buses are daily plying on hire. He would borrow or even mortgage his wife's ornaments but he must have a ride in the bus.

Extravagance.

Restrictions on Transfer.

127. The root cause of many evils is the extravagance of the cultivators. They are still labouring under the time honoured social customs. On such occasions as births, marriages and deaths large expenses are incurred. Unnecessary expenses are undermining the economic structure of the people. Perhaps legislation will be one of the means which can remove these defects. There is not a single village where there is no Savkar. The cultivating classes are backward, conservative and illiterate. Looking to these facts and the general indebtedness of the agriculturists, some provision which would withdraw the right of mortgage which the cultivating classes have so long enjoyed seems eminently desirable. The Royal Commission on Agriculture has opined, "It may be said with confidence that mortgage credit is rarely used to finance improvements on agricultural land," and further they observe "The rapid development of commerce and trade, the introduction of established law and permanent Civil Courts and the enactment of such measures as the Contract Act have strengthened the position of the money lender. Throughout these developments the cultivator has continued in the main illiterate, he keeps no accounts and makes no distinction between the sums expended or the needs of his industry and those expended on the requirements of himself or his family. For generations he has been accustomed to a ceaseless struggle to extort a bare livelihood from an insufficient holding and has been subject to disaster from draught, flood, epidemic. Causes which he seldom understands and cannot influence have endowed him with a credit which he did not formerly possess, and he has found it

difficult to resist the temptation to relieve present necessities by mortgaging his future income and even his capital . . . No one denies the service rendered by the money lender, the charge against him is that these services are rendered at too great a price and are accompanied by practices which result in great evils. The system is injurious; the ready lending for unproductive purposes leads to poverty and economic servitude." *

The Royal Commission made no recommendations for improving the existing system of ownership and tenancy. In the Province of the Punjab the occupancy tenant is debarred from alienating, there he not only enjoys all the credit he needs, but he is also more prosperous than the cultivators elsewhere.

The policy of "agricultural land for the agriculturist" is worth trying, so that agricultural land will be held alone by those who take personal interest in its cultivation and make the most efficient use of it. Agricultural
land for the
Agricultur-
ist.

The word agriculturist is nowhere yet clearly defined so as to convey adequately its exact meaning. A big merchant in Bombay dealing in cloth and cap business and earning huge profits has a piece of land in Malwan of the Ratnagiri District, he hardly visits his land except for a week or so once a year as a change, but his servants or tenants always look after it. Yet he can call himself an agriculturist if he wishes to get the concession given to an agriculturist. The definition given in the Deccan Agriculturists' Relief Act is too wide and runs as follows:—

An agriculturist is one who by himself or by his servants or tenants earns his livelihood wholly or principally by agriculture carried on within the limits of a district to which the Act is extended or even one who ordinarily engages

* Royal Commissioner's Report para 352.

personally in agricultural labour within those limits." Sec. 2 Deccan Agriculturists' Relief Act.

He does not cease to be an agriculturist merely because, without any intention of changing his status as such, he temporarily ceases to earn his livelihood by the above means or to engage personally in agricultural labour on account of age, bodily infirmity, or absence on military service.

Correct
Meaning.

An agriculturist is one who solely depends on agriculture and earns his livelihood and all his income from agriculture and also personally engages himself in agriculture and no other trade.

There is much commercial exploitation of the land by non-agriculturists. In villages many kabjedars, as will be seen from the holding sheet Form VIII-A, are money lenders or grocers and literate people who have other businesses. Agricultural land is held as an investment or speculation for simply appropriating the difference between the lenient assessment imposed by the State and the full commercial rent which can be extracted from the tenants. Undue advantage is taken by the literates of the village and the Taluka towns, of the illiteracy, and the former class of people are now the owners of most land which once belonged to the illiterate classes. This has been a great impediment in the way of the improvement of the land in this country with the result that the peasantry is not prosperous and contented. It should be the intention of the legislation to stop such transfers except between *bonafide* cultivators and to contemplate definite regulation of leases and sales. In 1900, the Famine Commission remarked. "In Bombay the unrestricted right was accentuating cause of indebtedness, and that it invariably happens, when an ignorant and impoverished peasantry can dispose, without restriction, of valuable rights in land, the cultivators sink deeper into debt, and their property begins to pass out of their hands." This

is what has actually happened, the lands have passed out of the hands of the real agriculturist. There is much evil that attends the exercise of the right of mortgage by the small cultivators. The argument strongly advanced is that mortgages are necessary to maintain the credit of the cultivating classes but the point whether the maintenance of the cultivators' credit by such means will be really to the ultimate advantage or disadvantage is not sufficiently considered.

When once the principle of the State's universal ownership is admitted, then the logical outcome will be the restrictions on sale and mortgage. If the State, in other words the general public, and the cultivators are to derive the full advantage to which they are entitled, agricultural land must remain in the hands of those directly interested in its use. The non-agricultural intermediaries should have no place in the Raiyatwari land-system.

When the State's fundamental right of universal ownership is over-looked, it is likely that the welfare of the agricultural classes will be greatly jeopardised. Mr. Baden Powell wrote, "It may seem strange, in the progress of ideas regarding the State's dealing with land in India, it never occurred to any one to utilize, rather than abandon, the State-ownership of the land. It might have occurred to some one in authority to think that the State ownership should be formally retained for beneficial purposes, to prevent the ignorant agricultural classes from losing their lands. The State would, in fact, have retained the *Nuda proprietors* the bare ownership of the soil—while giving all the practical benefits to the village co-sharer or the raiyat cultivator, and the effect would have been that the holder could not sell the land which was not his; and, moreover, by express enactment it might have been provided that he should not sell (beyond his own life time) the occupancy or cultivating right in the

holding. The raiyat is free to lose his right by mortgaging and ultimately selling it. Thus many agriculturists have gone into debt."

Although these words were written forty years ago, the principle may yet be utilised in a new enactment to prevent agricultural classes from losing their lands.

On the other hand I am aware of the fact that there are others who condemn restrictions on alienation of land and they assert that there is essential need of free trade in land (see paras 13 to 16 of Commissioner Townshed's review of the Joint Report.) However, experience as well, the existing lamentable state of the cultivators have shown us the evil effects of the principle of *laissez-faire* and of the doing away of restrictions proper to the khalsa system but the remedy is to return once more to the right course and the principle of restriction may be again applied. Transfers of land may be allowed only between bonafide cultivators. Previous sanction and payment of fees may be imposed as conditions precedent on all transfers of land.

Modern
Implements.

128. Large areas are ploughed with the antediluvian wooden Nangars (ploughs) that leave unploughed ridges and do not remove the roots and weeds. The roots of the previous year's crops and the luxurious growth of weeds suck up the little moisture left in the soil. A smaller area if ploughed properly is better than large areas irregularly ploughed. The iron plough has been tried and found very useful and in many places it is much in demand, though there are vast tracts still where it is not yet used owing to the wrong conservative opinion prevailing, as it is said that it costs more and requires more bullocks to drag than the old fashioned one, but this misapprehension is groundless. Shortage of labour is being felt day after day, and is increasing. Consequently there is urgent need of labour-saving-machinery, such as tractors, iron notes in place of the old

leather notes. It is gratifying to find that iron ploughs, harrows, chaff-cutters, sugar-cane iron mills, iron notes are getting popularized. But a vigorous campaign and incessant propaganda is needed so that all the cultivators may use the best implements.

Two good bulls are better than four bad ones. A few Good Cattle. good cattle will bring more profits than many bad and useless cattle. Fine bulls of the khillari or Bhimthadi type and selected cows for breeding purposes must be used and bad bulls eliminated. On an inspection of the bullocks used for agricultural purposes in a village, it was found that only 1/3 of the number was really physically fit, the remaining were either old, lean and sickly, but any how employed with the hope of getting the maximum agricultural work. Bullocks used for labour and carting purposes are again yoked to the plough and the result is naturally unsatisfactory. The Stud bulls kept by Government are of much advantage. It is necessary to encourage the villagers to set apart pastures and maintain fodder reserves. People will get more milk and butter from good cattle than from poor animals who eat as much as the good ones but whose output is unsatisfactory. Cattle-fairs and shows are very helpful to improve marketing of spare cattle and to demonstrate to the villagers how good cattle can be obtained and kept. If the cultivators could take to poultry on an extensive scale as a side industry, it would greatly benefit them. At present this industry is very much neglected. This industry is in the hands of a section of people. A few Kunbis and Mahars keep fowls. By bringing selected hens, the quality of eggs can be improved. There is much demand for eggs in big towns, in hotels and restaurants. The villagers themselves do not eat eggs as they should for their food; besides eggs will increase their vitality.

In every village strenuous efforts should be made to Good Seeds. popularise, in each sowing season, the best available seeds.

The Government rice seed farm at Karjat is a great boon and has supplied a long felt want. For sugar-cane cultivation good cane seeds can be had from the Ahmednagar or Poona Districts or from Coimbatore. In many villages, the cultivators do not know the names of places from where they can order the best seeds. If this information is regularly supplied to them, it will greatly facilitate better cultivation and help to obtain improved varieties of crops.

Manure.

Without manure land will not yield good results. But it is costly to get manure in the villages. What is not wanted in the village and is dirt and a menace to the village is gold for the farm and very useful for the crops. Pitting of manure is not done carefully and in many places it is simply wasted and scattered over or thrown broadcast. When it is taken to the field the field has to be ploughed the same day and only so much should be carted daily as will be required for that day. Heaps of manure are seen lying on the surface of fields for days together. Just as cattle require feeding and fodder, so also land needs food and the food of the land is cattle dung and village sweepings.

Banks.

In some big villages there are banks, but many villages are without them. A bank in each village is a necessity to finance the farming to facilitate the marketing of crops, and the villagers must be encouraged to be members of the bank.

Tals and Embankments.

Much of the rain which falls during the monsoon is wasted away because there are no "tals" in every field. If the fields are properly embanked and levelled so as not to lose the rain water, the rain water from the hills and surrounding higher places can be turned to profit. Also erosion and sand deposits can be prevented by the erection of the bands. Bands can be built by the villagers themselves by co-operation. This is one of the works which the Taluka Development Association can well take up. From

reservoirs formed by bands on the nallahs flow irrigation can be easily developed. Accurate grading and heavy manuring is necessary for improving dry cultivation. Little attention is given to dry farming and this is one of the most important matter which demands urgent attention and great emphasis must be placed on its adaptation to suitable fields and the condition of the farming. What is required is the scientific use to man's advantage, of nature's inherent productivity. Irrigation facilities are being provided and yet much remains to be done. But if the average cultivator is required to pay heavier assessment than he can afford, he will fight shy of irrigation.

If one farmer sows ground nuts or cotton, others also do the same. If he repeats these crops others also grow the same without considering whether the land is suitable or not for growing the same crop year after year. Regular rotation of crops should be worked out for all kinds of soils. By growing money crops such as cotton, year after year, many farmers neglect to raise fodder crops; and consequently, their cattle do not get sufficient supply; the land could be better utilized by sowing another variety of crops, but, as has been pointed out before, it is the lack of ordinary scientific knowledge that is at the bottom of such a state of affairs.

Rotation of
Crops.

Fencing of fields is noticeable only for a few fields. In Ratnagiri it is largely resorted to. Fencing of fields must be largely encouraged, as also the destruction of harmful animals. Man, who tills the land by the sweat of his brow and also cultivates and raises the crops, is entitled to the first share of his produce, whereas the wild pig, the rats, the deer, and monkeys get the first share and sumptuously enjoy the crops before the land-holders. Fencing of fields, destruction of wild pigs and rats is one of the first duties of a cultivator.

Fencing and
keeping out
obnoxious
animals.

After visiting numerous villages in the two divisions of the Presidency, I observed that good many farmers seem to pay little attention to horticulture and growing of flowers. Fruits are needed for human use and health, there is great demand for fruits but they are not grown on as large a scale as the demand. Orange groves are found only in a few places. Oranges and sweet limes are so valuable and can be grown in several villages in which the soil is quite suitable, as well as the water supply adequate; but nobody ventures because "Others don't do this." In Bagayat fields some varieties of flowers can grow well and, if the supply will be more the prices in the markets of the cities will go down and a large number of people will be able to buy cheap fruits and flowers for daily use. If horticulture is resorted to on a large scale, there will be demand for pickles and fruit preserves, jams and jellies which are required to be bought at present from countries long way off, and thousands of miles away from India.

Agriculture should be made one of the compulsory subjects in every High School. It should be one of the subjects in the Curriculum of the University for the School Leaving Examination. It would be better if the High School boys knew something of botany than their learning by heart the importance of New Castle upon Tyne, the wives of Henry VIII and his career or the binomial theorem. I was delighted to find a Model High School in Rajapur, District Ratnagiri. In this High School boys from each class have to undergo compulsory agricultural or manual training. The boys appeared all fit and cheerful. I found such beautiful flowers and attractive fruits grown in the school farm; also the boys had prepared in the work-shop-Carpentry room, admirable designs and joints and could do ordinary repairs to chairs and boxes, and the local citizens had sent their old furniture for repairs and placed orders for

new one as well. In spite of the compulsory agricultural and manual training, the school had maintained a high reputation for its efficiency as could be found from the 90 to 95 per cent of success in the School Leaving Examination for the past five years. There is no reason why the other schools in the Presidency should not imitate this example and why these subjects should not be made compulsory in each school by the school authorities or the University. One of the charges levelled against the Modern Educational system and secondary education is that the net result of the present education is that mere clerks who rub paper with ink and servants are manufactured. Manual training and agriculture will undoubtedly provide the students better careers than quill-driving.

In a book of this nature it is not possible to deal exhaustively with this interesting subject. All that can be done is to touch the important points which need attention; however actually to bring the suggestions into practice is one of the most difficult and urgent tasks before those to whose charge the work of reforms is committed. It is for them to find out the ways and means of carrying out the suggestions in the best practical manner at a very early date; and on this depends largely the solution of the problem of unemployment which stares the country in the face.

There is no better way of increasing the wealth of India and the standard of living than by investing capital in the improvement of agriculture and on adopting better methods of cultivation. If raw materials will be abundant, industries will be more. The relation between industries and agriculture is reciprocal.

CHAPTER V.

Agricultural Indebtedness.

Causes of
Indebted-
ness.

129. Speculation in cotton and in other similar money crops has brought many cultivators to the verge of bankruptcy. Sufficient attention is not given to the nature of the soil and the means at his disposal by the peasant. He looks at the field of another villager growing sugar-cane and, irrespective of his own liability or the capacity of his farm, he too grows the same crop. In good years the farmer makes no provision for the bad years which are likely to follow, though he is accustomed to the vagaries of the Monsoon. The present generation of farmers live less industrious lives than their fore-fathers. Their tastes and habits are more expensive than those of the previous generation. They have no hesitation to go to the Savkar when they do not find any money in the home. High cost of living and habits of luxury such as tea, cigarettes, are partly responsible for this. Formerly ordinary cloth was considered quite suitable; now they cannot do without the cloth of a fine texture and upto date tailoring; they would go all the way to the Head Quarter's tailor or the tailors in the District town in order to get the shirts and coats sewn according to the fashion. Simple shirts used to suffice but now in the case of many a farmer the waist coat or coat seems indispensable. In former days the Jwar grown locally in the village, or the rice grown in the field and some dal and gul were found sufficient for daily food, but now they need imported rice, or Rangoon rice, vegetables from outside instead from their own fields, and refined sugar. As often as they visit towns they must have sweetmeats, very few can pull on without Pan Supari and bidis. American

watches and Japanese Lanterns are seen in many houses. Extravagant expenditure is incurred on house buildings. Although Mangalore tiles and stones are now used, the size of the rooms and the construction inside have not altered, the rooms are still built without windows large enough to admit sufficient light and ventilation; instead of erecting the houses outside in healthy localities, the old Gaathan is still preferred, however much the cost of buildings may have gone up. Unnecessary expenditure is incurred on ornaments. Those who have constantly visited villages will agree that in the villages the woman-folk have not the same rights and privileges as the men-folk, consequently the former demand jewellery. Even on field work the jewellery is worn all the time. The best Sunday Suit is never worn on ordinary working days. By daily wear the ornaments get worn out. Besides one woman seeing the jewellery worn by another naturally wants to have the like for herself and insists on the husband or any other male managing member to provide for her a similar thing. The main object of wearing ornaments and costly jewellery is to look beautiful. But those who are clean, tidy and happy naturally look beautiful and do not really need ornaments to beautify them artificially. Kalidas, the famous poet and the Shakespeare of India has said "Jatichya Sunderana Kahihi Shobhate" (anything adorns them who are naturally beautiful). There is a great need of propaganda for inculcating the principle of simple living and plain clothing; clean and tidy habits will lessen the want of ornaments. If children are kept clean and tidy, they will not need any ornaments to adorn them. Flowers round about the house, artistic setting of the home, will make the women folk look better and graceful than loads of ornaments. Costly weddings in which big dowries are given are arranged in order to get a big name or

popularity. Money is borrowed at a high rate of interest and dinner parties are given both at the weddings and at funerals. Expensive Saris and silk turbans are purchased, tom tom and fire works are invariably arranged and in some families the people, the bridegroom's as well as the bride's indulge freely in drink at the cost of the guardians. Instead of one, many dinner parties are given for several days together. Money is spent in engaging conveyances to carry relations and friends all the way to distant villages. Expenditure on this item can be easily curtailed by limiting the dinners and the number of the invited guests. Litigation on small matters, and on small pieces of lands which could be settled amicably is largely swallowing the agricultural income. Petty quarrels are protracted and animosity not quenched till the parties finally approach the Highest Courts in appeal. Even for drafting applications and ordinary deeds a sum of money is paid both to the writer as well as to the person who arranges the writer, as the parties are illiterate and are ignorant of the ordinary procedure. Many a time the total cost of litigation exceeds the price of the land in dispute. With arbitration and common-sense, disputes of this sort can be settled out of Court and Panchayats if comprised of proper men, can easily decide such simple matters. A few educated men exploit the many uneducated. In such a matter as the writing of a letter or of a post card, the services of a writer are requisitioned. The educated who are conversant with the laws and procedure take advantage of the ignorance of the peasants; the Savkars who are generally literate have no scruples in manipulating the figures and fabricating documents; after some years the farmer wakes up suddenly when the Savkar lays claim to the field as his own. The remedy for mitigating this evil is more education. Each villager must be compulsorily

educated, at least upto the vernacular IV or V Standard, so that he can understand and read a document; time will come when the necessity will be felt of a High School in every village with a population of 2000 and a College in every District Head Quarters town. Apart from extravagance and incontinence, there has been a marked rise in the standard of living but proportionately no increase of agriculture. Profits from agriculture have not kept pace with the expenditure incurred and the standard of living. It is only when farming becomes more profitable than now that the expenditure and income will balance. A careful observance of the state of the farms in over 500 villages of different districts has shown that a very large percentage of the farmers is in debt, and indebtedness is a chronic disease from which the villagers are suffering. The reforms will be of little use to the villagers unless speedy measures are taken to relieve the cultivators. For this purpose debt Redemption Societies must be started in each village. Relief must be given to the farmers against illegal and injurious exactions. The interest charged varies from 15 to 25 per cent. Some measures to protect the farmers from future victimisation by money lenders are necessary and a scheme devised to enable the farmers to meet their present liabilities.

130. As the prevailing land tenure is raiyatwari, parcels Tagavi. of land held by the peasants are not as big as those of the Zamindars. Improvements involving large expenditure are made generally at the cost of the State. In this presidency there are large canals constructed by the State for irrigation. Some raiyats at their own cost have improved their lands in many ways and especially by the construction of wells and the erection of embankments (tals). The State has to see that the improving of land brings owners a proper return for their expenditure. When the kabjedars find it hard to raise loans for this purpose in the open market, then the State advances loans. Particularly in precarious tracts where

the rainfall is meagre and unsteady, these loans are largely advanced. It is common knowledge that cultivators can obtain private loans from local Savkars on an exorbitant rate of interest which goes up to 25 per cent. Government offers loans for agricultural improvements at a very moderate rate of interest not with a view to bringing profit to the Treasury but merely to securing it against the risk of loss. The State loans are called Tagavi or Tagai. One of the special features of the Tagai loans is that the period of repayment is spread to some years, 20 years or so. Instalments of principal and interest which are over due may be realized from the borrower or his surety as if they were arrears of land revenue. The Collector may order suspension of instalments in consequence of the failure of crops or any other serious calamity such as flood or fire, reporting the action to the Commissioner. Works which are constructed with the aid of Tagai loans are to be inspected by revenue officers, the Mamlatdar or the Prant Officer when on tour from time to time in order to see that the money is not misappropriated for purposes other than those for which the amount was borrowed.

Co-operative
Credit
Societies.

131. The indebtedness of the agriculturists in India has been a great evil, as it has been in few parts of Europe. Hence the question of providing cheap and safe credit had arisen in Italy, in Germany, and in other European countries, a system of Co-operative Credit Societies, known as "Village Banks" has done much to solve the problem. An account of these European Associations which were slowly developed by the efforts of men like Luzzate in Italy and Raiffeisen in Germany will be found in Sir. Nicholson's "Report regarding the possibilities of introducing Land and Agricultural Banks into the Madras Presidency." Self-help is far better than outside aid. The Italian and German banks had done for their members far more than any system of State's Loans to Agriculturists. A rural bank is a voluntary association of

respectable agriculturists dwelling in the same locality formed for the purpose of lending money on reasonable terms to its own members. It affords to give its shareholders advances at a lower rate than the money lenders. The joint credit of the members of such an association is much greater than the credit of any single member. It borrows at a lower rate and can lend at a slightly higher rate, but still a moderate rate, and the Managing Committee has the exact knowledge of the character, needs, resources and capacity to repay of the borrower. The Society is not intended for the capitalists nor for those who are hopelessly involved, but for the very large class which, though it has some credit, has to pay exorbitant interest on its loans. Act II of 1912 (The Co-operative Societies Act) was passed in order to make it easy for persons of small means to continue together for mutual assistance, so that those who are in need of small sums of money for short periods can obtain them more easily at a lower rate of interest on their joint security than they could separately. Also those who save small sums can invest them more safely and more profitably than they do in other ways. The agriculturists are the persons who will derive much benefit as they need small sums of money, often to buy seeds, cattle, manure and implements. In order to produce his crops, a farmer has to incur expenditure 5 or 6 months and even upto a year, before the crop is harvested and sold. If at harvest time, he could borrow money for necessary expenditure and hold over his grain for 2 or 3 months, he would get a larger price for his grain. The members of the society must see that only respectable persons well known to them are admitted members, otherwise they will themselves have to make good any default. On their joint security loans at moderate rate of interest are raised. Some who are able to save make deposits for a fixed term. The remainder of the necessary capital is borrowed from local merchants or the

Central Co-operative Bank. This money the members lend out among themselves at a slightly higher rate. The profits which accrue belong to the Society and are carried to the reserve fund to improve the credit of the Society. When it is contemplated to start a Society, the first enquiry should be regarding the rate of interest paid by the agriculturists in the neighbourhood. If it is $6\frac{1}{2}$ per cent, or less, it is improbable that a Society can be successfully organized. Where the rate is higher, a few respectable persons should be collected to discuss the plan. Honorary Organizers have been appointed in all districts.

The important points of Co-operation are described below:—

1. The object of co-operation is to lay by some savings, to grant loans at reasonable terms of interest and to enable the agriculturists to get rid of the debt.
2. Members being expected to know each other better should not admit a bad character or one not acquainted with the rest.
3. All members are jointly and unlimitedly liable for all sums borrowed by the Society either from depositors or outside sources. They are, therefore, all interested in seeing that the loans are granted prudently and that no member is allowed to default.
4. The business of raising capital is done by the Managing Committee, which also sanctions loans to members, watches over the recovery and sees that accounts are properly and regularly kept.
5. All loans must be used only for the purpose for which they are advanced. They may be granted for one year for current agricultural expenses, for 2 or 3 years for the purchase of cattle or implements, or for domestic expenses, and for 5 years for the payment of old debt or for land improvement.
6. All repayments must be made on the date fixed by the Managing Committee and in cash, not by book adjustment.
7. The General Meeting appoints a Managing Committee and a Secretary annually; it considers the balance sheet and the audit notes, asks the Committee questions about the work and passes orders on any faults that may come to its notice.

8. Profits are carried to the reserve fund; it protects the members from the enforcement of unlimited liability. It is the property of all members jointly.

9. Capital is obtained from deposits or persons from the neighbourhood or the Central Co-Operative Bank. The Central Bank is controlled by its share holders, and if Societies buy shares in it, they will have a voice in its control.

If members are really to co-operate, they must thoroughly understand what "Co-operation" means.

Many Societies have lost their unity and become inefficient because they have allowed their membership to become too unwieldy or because the members themselves have failed to carry out their responsibility or because they borrowed money for themselves in the name of others as has happened frequently. The success of the Society depends largely on the way in which it is started, organized and worked by the members.

A Case for Tenancy Legislation.

Land holder
gains but
tenant loses.

132. The great freedom at present enjoyed of letting is undermining the raiyatwari tenure by bringing in the capitalists, money lenders, grocers and others who are not really agriculturists but who exploit the land for commercial purposes and invest money in it merely to get the unearned increment from the cultivators who are no longer the owners of the lands which once belonged to them. In order to earn high rents they speculate in land, taking advantage of the keen demand for it and of competition in rental values. In a true Raiyatwari system such middlemen should have found no place. On the one hand the Government assessment is very low, on the other the value of lands and the rents obtained on them are very high, the rents ranging from 4 to 20 times the assessment (some typical illustrations are given below) with the result that the villager who actually cultivates the land, the tenant, practically gets no profit on agriculture but gets even less than the cooly wages which he would have got, had he gone to Bombay or elsewhere as a labourer.

Absentee
landlords.

In a large number of villages the majority of land owners are absentee landlords. They do not care to live on the land but prefer to live in big villages or towns. Their main object is to get the maximum rent with the minimum of expenditure. They are very chary of spending money on the improvement of lands their connection with which is mainly confined to receiving rent. They do not care to improve the land by erecting embankments, tals, levelling or manuring, removing of weeds. It is the common experience of those who live in the city that the landlords do not carry out the repairs to the houses, though repeatedly reminded by the tenants, because they wish to evade as much expenditure as

possible on their houses, unless compelled by the tenants or the local authorities. The landowners behave in a worse manner than the city landlords, because the tenant class is mostly illiterate and can have no other recourse unlike the town tenants. Most of the tenants being annual tenants, their interest is naturally transient. They too do not bother to improve the land beyond what is required to get the maximum out-turn with the minimum expenditure. The land remains unimproved, as neither the landlord nor the tenant is interested in its improvement. These absentee landlords can only be eliminated if agricultural land is reserved by legislation for those personally and wholly dependent on agriculture.

138. It is curious to find that two fields adjoining each other of the same kind and of the same quality both as regards soil and situation do not show the same rent. The rents of similar lands also show great diversity. Also the rent of one year differs considerably from that of the past years. The figure put down as rent either in the Kabulayat or in the tenancy register is not the actual figure realized by the superior holder. Even in cities the rent receipts are not true. Once in Poona, in the Cantonment, there was a bungalow to be let. On enquiry I learned that the owner was a Marwari. I went to the Marwari who told me that the rent was Rs. 90 and he showed me the receipts of the previous tenants. I replied that the rent was too high but I could take it at Rs. 70. Thereupon he asked me to make a lease for a year, but to enter in the lease Rs. 90. On further enquiry I learned that the former tenant had paid only Rs. 70 but the landlord had actually mentioned in the receipts Rs. 90 as the rent per month. The Marwari later confessed that in order to get better tenants and higher rents he had to adopt that procedure. I got another better house. Similarly, the actual rent paid by the tenant is not entered in the kabulayat or the tenancy register.

Rental
figures not
truly given
by landlords

If true rents are not shown, the land owners themselves ultimately are likely to lose; as the revision settlements are mainly based on actual rents. It will be one of the most difficult tasks to make the kabjedars or the tenants to give the true figures of rents and legislation is called for to remedy the present state of affairs regarding these entries. The farmers do not keep any accounts and are illiterate, consequently much undue advantage is taken of by the wily money lenders in fabricating the Kabuliyats. In a case in the Sub-Judge's Court instituted by a Bunya against the tenant, it was stipulated orally that the tenant was to give the landlord Rs. 50 rent; the poor tenant who was formerly the owner of the land but who had lost it owing to debt incurred for his daughter's wedding and son's extravagant habits had great affinity for the particular piece of land. Somehow, the Bunya induced the cultivator to put his thumb-mark on the Kabuliyat and also got the writers to put their marks. When the time of recovery came, the Bunya insisted on getting the full pound of flesh Viz: the rent of Rs. 150 as entered in the written lease. The Bunya in the Civil suit cited witnesses who were supposed to have made their thumb impression, but, as a matter of fact, the witnesses cited were quite different persons, who stated that the thumb marks were made by them, and another man admitted the attestation of the thumb-marks. A Pleader who was not briefed by either party but who happened to be in the Court room found that the actual witnesses were not at all cited but some others who admitted the thumb-marks made by others. This is a typical example how Kabuliyats are prepared and how exorbitant rents are extracted. What is urgently required is legislation to ensure that the rents charged are (1) fair, (2) true. Until tenancy legislation is undertaken the condition of the agriculturists will not improve; they will continue to be at the mercy of the landlords and the rents charged will continue to be

unreasonably high. On account of these middlemen who charge exorbitant rents there has been no encouragement to agriculture and incentive for betterment of the soil.

Below are given three illustrations to show how the owners receive high rents. The land owner gets the most and the cultivator the least. The proportion of the rent to the assessment is very high; the rents shown are actual, they are typical of three sorts of lands, and range from 4 times to 18 times the assessment. The assessment is low which the land owner can easily pay but the rents are too high for the tenant.

Vide statement No. 1 for Belgaum District appended herewith.

Village:—Hirehonnihalli (Taluka Kalghatgi, District Dharwar).

Date 15-8-1992.

Rice Land.

Area.	Assessment.	Name of kabjedar.	Tenant.	Rent.	Case No. 1. S. No. 167.
9-2 Khushki.	8-11-0	Krishnaji Yello.	Gadigeppa	150	
7-0 Tari.	11-7-0	Patil Kulkarni.	Bharamappa		
16-2	15-2-0				

(Assessment by kabjedar).

Details of crops grown are:—

Rice	6 - 20	} Rice area has not a good water supply.
Vari	...	...	1 - 9
Kulthi	...	...	0 - 5
Wal	...	...	0 - 2
Udid	...	...	0 - 2
Chillies	...	...	0 - 4
Fallow (Grass)	8 - 0	
			16 - 2	

The cost of cultivation and harvesting as given by the tenant is mentioned below:—

Ploughing the land twice	...	...	...	Rs. 15-0-0
Harvesting and levelling	...	...	...	" 6-0-0
Manure for 6 acres of rice land	...	...	...	" 10-0-0
Seed (including all kind)	...	...	...	" 18-0-0
Sowing and inter-culture	...	...	...	" 10-0-0
Picking weeds	...	...	...	" 16-0-0
Reaping	...	...	...	" 20-0-0
Harvesting	...	...	...	" 9-0-0
Marketing	...	...	...	" 20-0-0
				<u>Total Rs. 124-0-0</u>

Most of the field labour was supplied by the tenant and the members of his family and so he gets the labour charges included in the expenditure.

The tenant got 46 bags of paddy and 4 bags of other miscellaneous corn as total yield for the year, the price of which at the present market rate comes to about Rs. 250/-. He got about Rs. 25 worth of fodder, and the value of grazing in the fallow land was estimated at about Rs. 25. Thus the total value of the gross yield works out to Rs. 300/-.

Inam Land.

Case No. 2

Name of kabjedar:—Shyamanna Naik and Wasappa Naik jointly.

Name of tenant:—Doddafakirappa Kannappa Arabagoudar.

S.No.	Area.	Assessment.	Judi.	Rent.
391/2	8-0 0-0 Kharab	7-3-0	2-8-0	} Rs. 125.
404/1	5-10 0-0 Kharab.	12-1-0	...	

Yield in a good year.

Calculated at the average rates.

1 Jowari	1 Khandaga or 340 Chitties	} Price at Rs. 200 * a Khandaga on an average.	Rs. 200
2 Kadbi.			" 20
			<u>Total Rs. 220</u>

* The rate now prevailing in the market is Rs. 100 per Khandaga; but there is general depression of prices; so the average rate of Rs. 200 is taken for calculation.

Or

If sown with cotton : 100 maunds at Rs. 2-4-0 a maund	Rs. 225
(average rate).	
Fuel obtained from cotton crop, etc.	8
	<hr/>
	Total Rs. 233

Cost of Cultivation: in case of Jowari.

1. Ploughing (at 1 plough with 2 bullocks and one man per acre, per day. Re.1/- per plough plus 0-4-0 wages of the man for 8 days.	Rs. 10- 0- 0
2. Weeding (with the plough) at one Kunti with one man for every 2 acres; wages at charges as above for 4 days.	5- 0- 0
3. Levelling the ploughed land, at 2 Kuntis with 2 men for 8 acres.	2- 8- 0
4. Sowing. (i) Charges for 4 Kurgis with 4 men and 8 bullocks for 8 acres at Rs. 1-4-0 per Kurgi with 2 bullocks and one man.	5- 0- 0
(ii) Seed charges. Jowari 5 seers at 2 annas a Seer.	0-10- 0
Togari (Pigeonpea) 3 Chitties at Re. 1/- per Chittie.	3- 0- 0
Hurli (Horse gram) 6 Seers at 0-1-6 a Seer.	0- 9- 0
	<hr/>
	Rs. 9- 8- 0
5. Harrowing. 12 men at 0-4-0 each and two bullocks.	5- 0- 0
6. Cutting and reaping. 40 men at 1 Chitty per day for 8 acres. (1 Chitty = 4 annas.)	10- 0- 0
7. Carting to the threshing floor. 12 carts at 0-8-0 each and 9 coolies at 0-4-0 each.	8- 4- 0
8. Cutting the ears of corn. 12 women at 3 Seers per day = 36 Seers = 9 Chitties = Rs. 2-4-0 at 0-4-0 a chitty.	2- 4- 0
9. Stacking the Kadba. 4 coolies at 0-4-0 = 1-0-0 and one expert coolie (Storer) at 0-6-0.	1- 6- 0
10. Winnowing and storing in pits. 8 coolies at 0-4-0.	

11.	Removal of Hurli crop (mixture crop). 20 women	...	..	2-0-0
	at 2 Seers at 0-1-0 a Seer.	...	..	2-8-0
12.	Removal of Togari (mixture crop).	...	..
	6 coolies for cutting.	...	..	1-8-0
	3 carts for carting.	...	..	1-8-0
	3 coolies	...	..	0-12-0
13.	Manure charges*	...	..	15-0-0
14.	Miscellaneous charges.			
	Carpentry	1-4-0	}	3-12-0
	Smithy.	1-4-0		
	Aya to the Balutedars.	1-4-0		
		Grand total	...	Rs. 85-9-0

Cost of Cultivation: in case of cotton.

1.	The first five items of expenditure correspond to those of Jowari i. e. it will come to	Rs. 86-11-0	
	Deduct price of Jowari seed etc.	.. 4-3-0	
		Rs. 82-8-0	Rs. 85-0-0
	Add price of cotton seed of 2 maunds at Rs. 1-4-0 per maund.	Rs. 2-8-0	
		Rs. 85-0-0	
2.	Picking of cotton. 100 coolies at 3 annas per day per every 4 acres, for 8 acres, it is 200 coolies.	...	Rs. 37-8-0
3.	Removal of cotton trees. 6 Kuntis at Rs. 1-4-0 each per Kurgi of 4 acres.	...	Rs. 15-0-0
4.	Manure.	...	Rs. 15-0-0
		Total	Rs. 102-8-0

When the rent consists of a portion of the produce either Ardhali (half) or Tizai (one third) which is taken by division (batai), the tenant cannot remove any portion unless the land owner turns up. Delay in dividing a garnered crop may result in very serious loss from the sprouting or rotting

* Manure if put ordinarily every two years at the time of Jowari crop. The cost will come to Rs. 80 and it will last for one Jowari crop and one cotton crop i. e. 2 years.

of the grain. It is necessary that the land owner or tenant who is injured by the failure of the other party to attend should be able to apply to the Mamlatdar for the appointment of a referee to divide or appraise the produce. If there are two or more persons as land-lords in respect of a single tenancy, the tenant should not be bound to pay a part to one and a part to another. Again a tenant may occasionally be in doubt who the person is who is entitled to the rent. It may be made possible for him to apply to the Taluka Official to accept the rent as a deposit and pay it to the person whom he considers entitled to receive it.

Tenants-at-will usually hold by the year only, leases for a term of years are not common, agreements as a rule are made for the agricultural year, the outgoing tenant gives up the land after the spring crops are harvested. The law must provide that neither party to a contract of letting shall be able to put the other in a difficulty by failing to give a timely notice of his intentions regarding the next agricultural year, which means 1st August. A tenant who wishes to quit his holding after the Rabi harvest must inform his landlord before the 1st of March. A tenant may be enabled to give the notice through the Taluka Office or the Village Officers. If a landlord proposes to eject a tenant, he should apply to the Mamlatdar, so that the tenant gets notice before ploughing for the harvests of the next agricultural year begins. If for any reason, the tenant disputes his liability to ejection, he should bring a revenue suit for that purpose within 2 months from the date of service. When the tenant has any crops standing on any part, he must not be ejected till they ripen and he has an opportunity to harvest them. On the application of the landlord the Revenue Officer may be empowered to fix a fair rent to be paid by the tenant

for his extended use of the land. When the tenant has prepared the land for sowing, but has not sown, he may be enabled to ask the Revenue Officer to determine what amount is due to him from the land-lord on that account. These are some of the instances in which hardship is caused to the tenants, but the tenants have no means to remove their difficulties until tenancy legislation comes to their aid.

Improvement by tenants.

134. Some difficulty is occasionally experienced with respect to the question of "improvements" in tenants' holdings. No very broad line of distinction can be drawn between the "Simple improvements" and some of the operations carried out by tenants in the ordinary course of tillage. The point to be borne in mind is that the work must be one by which "the value of the tenancy has been and continues to be increased," that is, such an operation which is outside the every day course of husbandry, and possesses a greater or less degree of permanency. The sinking of a well and building it in masonry to irrigate a field hitherto dry crop depending on rainfall is an "improvement." But the digging of a shallow "Kacha" well of the ordinary type, either in the field or on the bank of nallahs, which waters a few gunthas of crop in the Summer and falls down in the Monsoon is not an "improvement." A tenant can make an improvement only with the assent of the land owner. But assent can be assumed from circumstances. If a piece of waste land is given out for cultivation, it is taken for granted that the tenant must do all that is necessary to make it fit for cultivation. the tenant is entitled to a compensation from disturbance as well as compensation for any substantial and lasting improvement. The rent of the land should be governed by the rent in the vicinage and should not be

liable to enhancement in consequence of improvement. A landlord must not be improved out of his estate, but a tenant with a right of occupancy has a right to improve. Similarly the landlord has a right to improve the land and demand an enhanced rent. In order to regulate the rents and to ensure that they are fair and reasonable and truly agreed upon tenancy legislation is called for.

Statement Showing the Area, Assessment, etc., of the 2 Villages in Chikodi Taluka of the Belgaum District.

Name of village	S. No. or hissa dry crop or Bagayat.	Area.	Assessment.	Name of owner or landlord.	Tenants' name he pays Assessment or not.	Amount of rent.	Price of produce realized at	Cost of agricultural operations.								Remarks.
								Ploughing.	Seed.	Weeding.	Harvesting and Reaping.	Manure.	Marketing.	Total.	Rate per acre.	
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15	16	17
1. Shirguppi.	94/3. (Dry Crop.)	A. G. 1-36	3-6-0	Sadashiv Govind Joshi.	Rama Yasaba Kapsh. No.	60-0-0 (18 times the assessment.)	80-0-0	25/-	1/-	10/-	2/-	15/-	2/-	55/-	29-0-0	The rent ranges from 9 to 15 times the assessment. The agricultural operations are done by the tenants themselves. The rate usually paid in the case of hired labour is taken as the basis for cultivation. The cost of the agricultural labour is paid from the tenant's pocket.
2. Do	151 and 165. (Dry Crop.)	10-9 3-25	14-2-0 4-6-0	(Sadashiv Gundbhat. etc.	1. Ganu, 2. Dhondi bin Sambha Hajare. No.	175-0-0 (9 times the assessment.)	137-0-0	75/-	20/-	50/-	5/-	25/-	3/-	178/-	13-0-0	
3. Nippani	279/1 and 279/5 (Dry Crop.)	1-29 2-26	3-12-0 2-1-0	(Subabhat Gundabhat Joshi.	Sakharam. Shidu Jadhav. No.	60-0-0 (10 times the assessment.)	56-0-0	15/-	1/-	8/-	2/-	5/-	1/-	32/-	9-8-0	
4. Do	200/1. (Dry Crop.)	4-30	20-6-0	Javaki bai Bhratar Shivaram Dixit.	1. Laxman Girippa. 2. Mallappa Bhimappa Chandrakondi No.	325-0-0 (16 times the assessment.)	279-8-0	32/-	12/-	70/-	4/-	30/-	2/-	150/-	31-8-0	

1.	15	Maunds of tobacco	=	Rs. 75-0-0
		Grass	=	" 5-0-0
		Total	Rs.	80-0-0
2.	8	Maunds of tobacco	=	Rs. 40-0-0
	9	" of jowari	=	" 96-0-0
	1½	" of pulse	=	" 8-0-0
	9	" of groundnuts	=	" 20-0-0
		Fodder	=	" 18-0-0
		Grass, etc.	=	" 15-0-0
		Total	Rs.	187-0-0

3.	5	Maunds of jowari	=	Rs. 20-0-0
	1½	" of pulse	=	" 8-0-0
	8	" of tobacco	=	" 18-0-0
	1½	" of groundnuts	=	" 3-0-0
		Fodder and grass	=	" 7-0-0
		Total	Rs.	56-0-0
4.	42	Maunds of tobacco	=	Rs. 278-0-0
	1½	" of groundnuts	=	" 1-8-0
		Grass	=	" 5-0-0
		Total	Rs.	279-8-0

Small Holdings and Excessive Fragmentations.

135. A Survey Number was originally the division of land. It was a holding which a man could cultivate with one pair of bullocks and it roughly measured 30 acres of Jirayat (dry crop) land. When the area of the Survey Number was first recognized, the population was not so much as now. During the last hundred years there has been more cultivation than in the century previous to this. Much of the waste land and Warkas land has been brought under cultivation. But owing to the growth of population, the law of inheritance, succession and of partitions, a holding is as small as even one guntha, that is one-fortieth part of an acre. The increase of population and of the profits derived from agriculture leads in time to the common land being broken up by individual share holders, and a demand arises for partition. Family quarrels and the restraints and the inconveniences which spring from common ownership make those interested anxious to divide the land. The land hunger is great and there is much clamour for partitions. In Konkan the most minute sub-divisions are found. In Kharepatan of the Deogad Taluka, the Talati had informed the Superintendent, Land Records, that he had to collect three pies from several khatedars and for the sake of the remaining amount of two annas he had to walk six miles, ten times; at last he paid the amount from his own pocket! There are many sub-divisions also in the areas under command of canals in the Deccan. The holdings are unsuitably shaped and are narrow strips and do not get the

Small Holdings.

benefit from the irrigation schemes. A Survey Number may consist of sixty hissas or even more. These hissas constantly change. They may for some years run from North to South or again be further sub-divided and run from West to East, since there are no Boundary Marks prescribed for the hissas, they are frequently subject to alterations. It is possible that a man in the aggregate may hold many acres, but instead of holding them in one block and continuously, they may be scattered in 60 parcels of 2 gunthas each in different directions in the village. A fragment can then be said to be a small piece of land which cannot be cultivated without loss. The villagers have such a keen affinity for land, that they would rather have a tiny bit of land than be without it. If a person, who is a neighbour and whose land immediately adjoins the fragment, cultivates it, his land will be increased and his profit will be more than that of the small holder. The Bombay Small Holdings Bill (1927) aimed at preventing this neighbour from abusing his preemptive right by unfair offers. The areas of small fragments are not worth cultivating and worth owning, and the bill sought to cure this evil by turning the losses into gains and preventing separate uneconomic cultivation. It is important to note that the distribution of profits was in no wise affected by the provisions of this Bill. Let us take an example. A field measuring 30 acres was owned by one man, then the cost of ploughing, manuring, harrowing, seeds, watching, harvesting, marketing and for rent was Rs. 60/-, but when his heirs, 4 sons, separated, each got his share partitioned, consequently, each had to spend separately for the various agricultural operations enumerated above, with the result that the total cost amounted to more than Rs. 80/-. Consequently the margin of profit was nil, owing to sub-divisions, the land became unprofitable.

Unfortunately the villagers, being illiterate, do not keep accounts; they cannot say what was the cost of cultivation and what was the income derived and hardly realize that they got nothing from the land and that they had to incur debt to pay the rent to the Superior Holder. When the scattered holdings are joined, the cost of cultivation becomes comparatively low. The modern agricultural implements can be conveniently used when the holding is not small, rotation of crops can be practised and crops raised according to the suitability of the soil. A raiyat cannot live on an acre of dry crop land, frugal and industrious though he may be. An average farmer, his wife, and two or three children, two bullocks, a cow or a buffalo require at least 15 to 20 acres of dry crop land for decent living. When the holding is too small, it is best either to sublet it or sell it to the neighbour who can conveniently cultivate it. Most of the so-called kabjedars are practically labourers or part time tenants. The object of the bill was to turn some of these as real kabjedars with sufficient land at their disposal.

136. The evils of excessive fragmentations may be described as follows:—

Evils of
Excessive
Fragmenta-
tions.

(i) Cultivation is greatly impeded, it is difficult to use modern implements for the small pieces and it costs more in proportion to the expected out-turn. If labour saving implements and modern machinery is to be used, small scattered pieces will not do.

(ii) Permanent improvement to land cannot be undertaken as the hissas are constantly undergoing changes and are often cultivated by tenants who have no more than annual interest and who only try to get the maximum out of the land within the year.

(iii). Labour and capital are not properly organized and agricultural land is needlessly wasted as well as time.

(iv) The cultivator does not live on the land as the holding is uneconomic. There is a considerable difference when the kabjedar himself resides on his land as he can look to all the details and various agricultural operations himself, instead of depending on others.

(v) Irregularly shaped minute sub-divisions are difficult to be dealt with for administrative purposes; they increase the work of Taluka and Village Officers considerably and are a serious obstruction to agricultural development and destroy all hope of the introduction of manufacturing or planting interests.

There are three ways of getting rid of the evils and these remedies will be efficacious for giving speedy relief to the existing agricultural conditions,

(a) All future sub-divisions which will be uneconomic holdings should be prohibited.

(b) All future transfers of lands should be towards consolidation.

(c) Plots which are no longer worth cultivating should be redistributed and readjusted by transfer of rights, contribution, compensation; and a tribunal of arbitration. Agricultural holdings are more liable to sub-divisions than the building sites. It would be of little use if the agricultural holdings were consolidated only now, but hereafter they should again be subjected to the vicious degree of sub-division which has upto now done so much harm. Any scheme, if it is to be of real benefit and permanent use, must be able to prevent and control future sub-divisions.

After full consultations by expert agriculturists the limit below which a parcel becomes a fragment is fixed for each locality.

Part I.

Standard units shall be selected by the Committee and the neighbour will be given the first right of refusal. The neighbour can enforce the right of pre-emption. As regards the new fragments that will be formed after the Bill is passed into an Act, the occupant can transfer the land only to the contiguous holder Sec. 18, and under Sec. 19 cultivation of a fragment is prohibited unless it is combined with the adjoining plot. It would be necessary to amend Sec. 117-A and 117-B of the Land Revenue Code which relate to the division of a Survey Number into sub-divisions and to prevent sub-divisions by the Courts by partitioning off portions below the standard units. Revenue Courts and Civil Courts shall not recognize a partition of less than a standard unit. Tagai may be granted and stamp and registration fees exempted.

Part II.

The second part deals with consolidation. Scattered and fragmented holdings in certain selected and specified villages can be consolidated. If there are scattered holdings and if $\frac{2}{3}$ holders agree, a consolidation scheme will be prepared and the land redistributed, the area will be the same as well as the kind and quality of land of each sort; any debt shall be paid by or go with the land. The new holdings will be laid out and half the assessment would be remitted for three years.

In France, Germany, Italy and other European Countries as also in the Punjab considerable areas have been consolidated. Such an act is already in force in the Baroda

State. The Bill does not apply to Inam lands on account of the inherent rights therein. The second part is on the lines of the Bombay Town Planning Act of 1915.

If we refer to Sec. 4, it will be seen that the personnel of the Committee consists of three non-official members who are to be members of the District Local Board. Now it is possible that the three members may hail from the City or District Head Quarters town who will be not quite familiar with agricultural conditions and it is a well known fact that City people are not well acquainted with agricultural problems; moreover, the Local Board members may be considered semi-officials. It would be desirable to elect the members from the locality concerned such as will be purely agriculturists. Care should, however, be taken to see that the consolidated land does not fall into the hands of non-agricultural capitalist companies.

The Bill was introduced in 1927 by the then Revenue Member of the Bombay Executive Council, one of the most brilliant and distinguished member of the Council the Bombay Presidency has had the good fortunate to have. The Bill is of great magnitude and epoch-making in the Bombay Presidency. If the Bill is passed in the near future, it will be of invaluable benefit to the agriculturists and is bound to improve the existing deplorable state of agriculture. Legislation in this direction is long over due and the passing of the Bill is urgently called for. If the agricultural condition and the Land System is carefully studied, it will convince all those, on whom the responsibility lies, of the necessity for introducing the measures. It is hoped that one of the most urgent reforms the New Reforms Council will undertake will be to pass the Bill into an Act.

CHAPTER VIII.

Rural Re-Construction.

I have already dealt with the methods of farming which are bad at present and which need improvement. Also there are separate chapters on the excessive fragmentations and agricultural indebtedness. These two chapters form a part of the subject of Rural Re-Construction.

Sanitary habits should be inculcated, and the village should be cleaned by removing disease; vitality of the men and women must be increased to resist the ordinary ailments; the villagers should be advised to eat wholesome food which has vitamins, drinking of milk should be encouraged. Drinking water must be pure, when worms are found in water it should invariably be boiled; the houses should admit plenty of fresh air and sun light.

Improve-
ment of
Sanitation
or Hygiene

After having visited over a thousand villages, I can say from experience that the sanitary and hygienic condition of the villages is exceedingly unsatisfactory. When one passes on the borders of a village, the stink, that usually emanates is offensive and, as one approaches the village, it goes on increasing. This is due to allowing the sweepings, the rubbish, dung, ashes, broken vessels, rotten straw and grass, to be thrown wherever there is open space in the village site. These open spaces are really meant to be the lungs of the village but they are choked with such obnoxious accumulations. These accumulations are allowed to continue for years. For want of general latrines or special privies as are found in some big towns, villagers answer the call of nature anywhere and everywhere. Children are seen squatting for this purpose just opposite the doors of houses.

What is required in villages are pits for throwing all the rubbish and also privies. Every-body who owns a building should have a pit sufficiently away from the village and at the same time near enough for the members of his family. The contents of the pits and privies will be of great advantage for manuring the crops. It is difficult to get manure and it costs a good deal, these days, to get it. The manure which a cultivator can get for himself is unnecessarily and carelessly wasted away, which does him no good, but on the contrary harm to himself and to others.

Causes of diseases.

Most of the houses are badly constructed and do not admit sufficient air, sun-shine and light so very essential for life. The houses are dark cells, the rooms are too narrow and the plinth very low or none. In the front or in the square place called "Chouk," cows, buffaloes and other cattle are generally kept., outside the house dung and rubbish accumulated, in the adjacent rooms dry grass, straw and bags of corn are stored and the sullage water is allowed to stagnate just near the entrance; consequently the following creatures are invariably found Viz: mosquitoes, fleas, flies, rats, bugs, lice, cockroaches, black ants, red ants, frogs, lizards; and since these are also the occupants of the house, they are the cause of the following diseases which claim a very heavy toll in Indian villages.

- Viz: (1) Fevers, typhoid, malaria,
 (2) Smallpox, measles,
 (3) Plague,
 (4) Cholera.

When the villagers sleep in dark rooms without sufficient light and ventilation, their vitality naturally gets lowered and the diseases spread. They only care for some sort of food and water but forget that light and air are equally essential for life.

Houses should be built in such a way so as to have a sufficient number of windows which will allow the sun's direct rays; whenever new houses are built there should be a good high plinth of stone walls and some open space in front and behind; latrines and wells should not be close to the dwelling houses. The floors should invariably be paved as sweeping the floor with cow-dung is always injurious. All cattle must be kept separately, sullage water must not be allowed to stagnate in front or behind houses and if there are no cess pools, it should be sprinkled abroad and not allowed to accumulate in one place. Mosquitoes will then be less and also less fever. Straw and grain must not be kept near sleeping rooms as rats frequent such places.

Vaccination is now fairly popular though there are still some old fashioned folks who object to it. It has now been realized that the surest precaution against smallpox is vaccination; and after the third vaccination there is usually perfect immunity. Inoculation is also now resorted to, though it is the towns and the city people who have taken to it more than the villagers. When plague breaks out, the villagers must be persuaded to get themselves inoculated as inoculation has proved to be the best possible prophylactic against plague. Rat killing campaign should be undertaken when rats begin to fall; there will be again the old conservative people who will oppose this measure but their number is small and their opposition need not be minded. When there are any cases of cholera, all the wells and tanks should be treated with permanganate of potash and people advised to drink boiled water. When there are steps to the wells of drinking water, arrangements should be made for drawing water with clean vessels and step-wells should be discouraged. Even when there is no epidemic, the wells should be cleaned as often as possible.

Remedies.

Precautionary Measures.

Illiteracy and Ignorance.

Village
Schools.

138. After having visited over 500 schools in the villages during the last fifteen years, I can say from personal experience that the state of many a school house is deplorably bad. The accommodation is inadequate, the rooms are ill ventilated with the result that the eye-sight of many children is impaired. In many schools the attendance is not upto the mark. The attendance ought to be at least 5% of the total population of the village. After the 3rd or 4th standards, boys seldom care to continue their studies, and those who ought to send their children to school send them to tend the cattle or help them in labour work. Also there is a lack of a sufficient number of trained teachers. Those who cannot get employment in other lines take to teaching without any aptitude or training, and some of these untrained teachers are worse than useless. The general standard and progress of the school for this reason is unsatisfactory. I am glad to say that more trained teachers are now forth-coming than in the last decade; but I am afraid one year's training is hardly sufficient. Enough attention is not given to the sports; outdoor games are played in very few schools. I think each boy must be compulsorily made to take part in some game. It is time that special play grounds were set apart in each village, Indian games such as Atyapatya, Hutututoo introduced and encouraged. Hockey is now the most popular game in India, it does not cost much and can be played throughout the year, it gives good exercise to the lungs and all the other parts of the body. In some places like Belgaum, the public are very keen on Hockey and the Annual Armistice Celebration District Hockey Tournament is a great event of attraction. Drill is not taught in every school. I wish drill was taught daily in all schools. I think, it is time that proper attention was given

to physical culture in our schools. If the school is a small one, the teacher should be given the additional charge as the Physical Director, otherwise a special full time Physical Director should be employed in each school. One of the most important items of rural reconstruction is better school houses and better teachers, on which depends the better living of the next generation.

The proportion of girls to the population of women in a large majority of schools is small, in some schools nil; because girls are married too soon, and women require the assistance of their girls for making Gawaryas (cow-dung cakes). Much time is wasted in making these cow-dung cakes instead of using fuel or coal; the cow-dung cakes when used as fuel produce smoke and spoil the eyes. Much time is wasted in grinding corn instead of taking it to a grinding mill; grinding flour mills are now visible in some of the big villages. If the women were relieved of the task of making Gawaryas and grinding corn, much of their time could be devoted to other home industries, and only when the girls in a village are educated like the boys, that the village will improve. The boys who pass out from the village school proceed to the Taluka towns, if there is a High School there; and some of them, after completing their High School education and after passing the School Leaving Examination, proceed to the Presidency towns for higher studies. After they pass the B.A. degree examination or the examination for the adegree of M.A., they dislike to get back to their villages and reside there. Mr. F. L. Brayne, M.A., I.C.S., has well asked, "How can a B.A. live with a woman whose chief occupation is making dung-cakes and grinding corn?"

Education
of girls.

All our work centres round the home; the centre of the home is the mother. Train her in her childhood to be fit to be a mother and run a home. Save the girls. It is more

important to send the girls to school than the boys".† I should like to quote this author again. "There are four things to teach the villager and to teach the worker who is to go to the villages:—

- (1) The dignity of labour.
- (2) The dignity of woman.
- (3) The dignity of cleanliness.
- (4) The dignity of service."

If the education given in our schools is to be of any value, it must teach the villager how to improve his house, his surroundings and his village.

Important
Amenities.

139. In many villages there are no roads even to go from one lane to another, the roads are uneven, rough stones and boulders are lying scattered over the uneven surface, small pits and ditches are not uncommon. If one is not accustomed to walk through a village Gaathan, one is likely to fall into the small ditches or get one's knee sprained unless one is very careful. During the off season, villagers are seen chatting together and idling away their time. If they co-operatively undertake to improve the roads in the village site by levelling the roads and removing loose stones or pave the streets year after year, they will be much benefited. The improvements of the paths and roads in the Gaathan, as also of the branch roads leading the main trunk roads is a great necessity. In most of the villages there are no latrines, and the need of providing latrines or popularising the use of septic tanks can hardly be over-emphasized. At present little effort seems to be made in this direction. It is hoped that early attention will be given to this matter and a long felt need supplied.

Water
supply.

The question of the drinking-water-supply on which so much of life depends is very sadly neglected. In some

† Village up-lift in India by Mr. Brayne.

places turbid and muddy water from wells and tanks, in appearance whitish and black, in taste brackish, is drunk by the villagers. Those who have spent some time in the Navalgund Taluka will remember the colour of the water which resembles the cess-pool water of the cities. In the villages, half of the diseases are water-borne. More deaths occur in the villages than in towns and most of the causes can be ascribed to the foul water that is drunk. The villagers have leisure in the off season; if they endeavour together, the wells can be cleaned regularly and new wells sunk, silt from tanks and other reservoirs of water can be removed. In some tracts of precarious rain-fall and dry zones, the villagers are seen engaged from early morning till late in the after-noon in no other occupation than that of fetching water from distances of 2 to 4 miles. The improvement of the drinking water supply of a village is one of the very urgent reforms called for. In big cities like Bombay and Poona, there are regulations with respect to the grocery shops, confectionaries and grain-shops, whereas in the majority of villages, there are no Municipalities or similar other local authorities to control them, nobody can dispute the right of the shop-keepers and they are really monarchs of all they survey. The sweets, groceries and grains are all the day long exposed to the dust of the road, the swarms of flies which sit on these articles are a great pest, below the stalls is the stagnated dirty sullage water and in the absence of gutters, this dirty water harbours innumerable mosquitoes, and then one can imagine the result of swallowing the stuff sold by the shop-keepers! There is no wonder that dysentery, cholera, typhoid fever prevail during each year. In order to prevent the high mortality in villages, early steps ought to be taken to regulate these shops and improve the insanitary surroundings.

Amuse-
ments.

140. There are no Quadrangular Cricket Matches, Tennis and Hockey Tournaments or such other attractive games in villages. In some villages, Annual Fairs (Jatras) are held in honour of the local deity or a temple. Some of the villagers who can afford to go do visit Jatras of other villages. In a few villages *e.g.* in the Ahmednagar District, Jeur, Rahuri, Sonai, next day after the Jatras, the Hagama is held. Hagama is a wrestling Tournament in which the Pahlwans of the village and neighbouring villages take part, the wrestling competitions are very attractive. Contributions are collected from the villagers and prizes are distributed to the winners in the shape of turbans, silver armlets, Rumals etc. The farmers are very fond of wrestling Tournaments and greatest enthusiasm prevails on the Hagama Day. It would be advantages if such "Kustis" (wrestling matches) were held in every village. Annually the District or Presidency Wrestling Tournament can be organized. For two years such Presidency Wrestling and Sports Tournaments were organized in Poona in 1919-20 and 1922-23. In the absence of costly games, wrestling matches will promote healthy competition and enthusiasm for physical development. All that is needed is proper organization.

If travelling cinemas are started, perhaps the villagers will not leave their villages too frequently merely to see the shows in big villages or towns. The time saved can be utilized in the off season for the home and cottage industries or other useful pursuits. Very few take interest in reading. Those who can read have nothing to read there being no libraries and no books worth reading.

Is the common villager engrossed in the problems enumerated above? Does he care to find out the solution? Does he not think it is not his business but somebody else's?

He is thinking of how to put down his hereditary enemy or how to get money for the criminal and civil cases filed by him or how he must finance the marriages and other ceremonies, and his wife may be thinking of nothing else but of her ornaments and cakes. It is only by vigorous individual work as well as by co-operative efforts that rural reconstruction can be achieved, such as will bring about the advancement of the village. Until there is first rural reconstruction and real progress in the village, all reforms will be only for the intelligentsia and the townspeople; they will be of little use in the villages.

PART V

The Bombay Land Revenue Code, 1879.

CONTENTS

CHAPTER I

PRELIMINARY.

SECTION.

	Page
1. Short Title. Local Extent:	1
2. (Repealed).	2
3. Interpretation Section.	
"Survey Officer."	"Revenue Officer."
"Land."	"Tenant."
"Estate."	"Landlord."
"Survey Number."	"Occupant."
"Sub-division of a Survey Number."	"To occupy land."
"Chavdi."	"Occupation."
"Building-site."	"Alienated."
"Boundary-mark."	"Village."
"To hold land," "land-holder," "holder."	"Revenue year," "year."
"Holding."	"Joint holders," "joint occupants."
"Superior holder."	"Land records."
	"Certified copy."

CHAPTER II

CONSTITUTION AND POWERS OF REVENUE OFFICERS.

4. Chief controlling authority in revenue matters. Extent of territories under the Commissioners. The territories under a Commissioner to be a division.	7
5. Appointments and duties of Commissioner.	8
6. Assistants to Commissioners.	8
7. Division to be divided into districts.	8
A district to consist of talukas comprising such mahals and villages as Government may direct.	

SECTION.	Page.
8. Collector of the district	9
9. Assistant and Deputy Collectors : to be subordinate to the Collector.	9
10. Their duties and powers.	10
11. Collector of the district in case of temporary vacancy.... ..	11
12. The Mamlatdar ; his appointment ; his duties and powers.	11
13. Mahalkari ; his duties and powers.	12
14. Mamlatdar or Mahalkari may depute subordinates to perform certain of his duties.	12
15. Mamlatdar or Mahalkari in case of temporary vacancy.	13
16. Stipendiary Patel and Village Accountant to be appointed where no hereditary Patel or Village Accountant exists. Saving the rights of holders of alienated village.	13
17. Village-Accountant to keep such records as he may be required to keep by the Collector ; and to prepare public writings.	14
18. Survey Officers ; their duties and powers.	14
19. Combination of offices.	15
20. Certain officers' appointments to be notified. Acting appointments.	15
21. Establishments.	15
22. Seals.	16

CHAPTER III

OF THE SECURITY TO BE FURNISHED BY CERTAIN REVENUE OFFICERS AND THE LIABILITY OF PRINCIPALS AND SURETIES.

23. Governor in council to direct what officers shall furnish security and to what amount.	16
--	----

SECTION.	Page.
24. Fresh or additional security.	19
25. Demands for money, papers, etc., to be made known in writing to the person concerned who may be arrested and confined in jail if he fail to produce them : Provided that no person shall be kept in confinement for more than a month.	19
26. Public moneys may also be recovered as arrears of revenue; and search warrant may be issued for recovery of papers or property. Persons in possession of public moneys, etc., bound to give them up.	20
27. Surety to be liable in the same manner as principal. Extent of liability. Sureties not liable to imprisonment, if penalty be paid.	21
28. An officer or surety in jail, may, by furnishing certain security, obtain his release.	21
29. Liability of surety not affected by death of principal or by his taking a different appointment. Liability of heirs of deceased officer.	21
30. How surety may withdraw from further liability.	22

CHAPTER IV.

OF CERTAIN ACTS PROHIBITED TO REVENUE OFFICERS AND OF THEIR PUNISHMENT FOR MISCONDUCT.

31. Prohibited acts. Not to trade. Not to purchase at public sale. Not to be concerned in the revenue. Not to make private use of public money or property. Not to make or receive undue exactions or presents.	22
32. Power of fining, reducing, suspending and dismissing in whom to vest. A revenue officer whose monthly salary exceeds Rs. 250 to be fined, etc., only by order of the Governor-in-Council.	24

SECTION.	Page.
33. All such orders to be made in writing. ...	25
34. Fine not to exceed two months' pay; how recovered. ...	25
35. Appeals. ...	26
36. An officer's liability to criminal prosecution not affected by this Act. Officer may be suspended during trial, and subsequently suspended, reduced or dismissed. ...	26

CHAPTER V.

OF LAND AND LAND REVENUE.

37. All public roads, etc., and all lands which are not the property of others, belong to Government. ...	27
38. Lands may be assigned for special purposes and when assigned shall not be otherwise used. ... Without sanction of the Collector. ...	32
39. Regulation of use of pasturage. ...	33
40. Concession of Government rights to trees in case of settlements completed before the passing of this Act. ... Ditto in case of land taken up after completion of settlement. ...	34
41. Government trees and forests. ...	35
42. Road-side trees. ...	37
43. Recovery of value of trees, etc., unauthorizedly appropriated. ...	37
44. Regulation of supply of fire-wood and timber for domestic or other purposes. ...	38
45. All land liable to pay revenue unless specially exempted. ... And special exemption may in case of necessity be over-ruled for a time. ...	38
46. Liability of alluvial lands to land revenue. ...	39
47. Assessment of land revenue in cases of diluvion. ...	39
48. Manner of assessment and alteration of assessment. ... Prohibition of use of land for certain purposes. ...	40

SECTION.

Page.

49.	Commuted assessment of land indirectly taxed to the State.	42
	And of land liable to occasional assessment.	
50.	Superior holder may recover commuted assessment from inferior holder.	43
51.	Excess of assessment may be laid on land inadequately assessed held with it.	43
52.	Assessment by whom to be fixed.	
	Proviso.	43
53.	Register of alienated lands.	44
54.	Settlement of assessment to be made with the holder directly from Government.	44
55.	Rates for the use of water.	44
56.	Land revenue to be a paramount charge on the land.	45
57.	Forfeited holdings may be taken possession of and otherwise disposed.	47
58.	Receipts.	47
59.	Penalty for failure to grant receipts.	48

CHAPTER VI

OF GRANT, USE AND RELINQUISHMENT OF
UNALIENATED LAND.

60.	Written permission of Mamlatdar or Mahalkari required previous to taking up unoccupied land ...	48
61.	Penalties for unauthorized occupation of land. ...	49
62.	Unoccupied land may be granted on conditions. ...	51
63.	Grant of alluvial land vesting in Government. ...	61
64.	Temporary right to alluvial lands of small extent. ...	62
65.	Uses to which occupant of land for purposes of agriculture may put his land.	63
	Procedure if occupant wishes to apply his land to any other purpose.	
	Fine to be levied for such use in addition to special assessment.	

SECTION.	Page.
66. Penalty for so using land without permission.	65
Tenant responsible to occupant for damages.	
67. Permission may be granted on terms.	66
68. Occupant's rights are conditional.	67
Proviso.	
69. Reservation of right of Government to mines and mineral products. Proviso... ..	67
70. Occupancy when not liable to process of Civil Court; the Court to give effect to Collector's certi- ficate.	70
71. (Repealed).	71
72. Intestate occupancy or holding to be sold.	71
73. Occupancy to be transferable and heritable.	71
73-A. Power to restrict right of transfer.	72
74. Relinquishment.	73
75. (Repealed).	75
76. Relinquishment of land described in paragraph 1 of section 49.... ..	75
Relinquishment of land described in section 51.	
77. Right of way to relinquished land.	75
78. Saving of operation of section 74 in certain cases.	75
79. (Repealed).	76
79.-A. Summary eviction of person unauthorizably occupying land.	76
80. To prevent forfeiture of occupancy, certain persons other than the occupant may pay the land revenue. Collector may assist such persons in recovering the revenue from other parties liable therefor ...	76
Proviso.	
81. (Repealed).	77
82. Governor in Council empowered to suspend opera- tion of section 60 or 74.	77

CHAPTER VII

OF SUPERIOR AND INFERIOR HOLDERS.

SECTION. . .	Page.
83. Amount of rent payable by tenant.	78
Duration of tenancy.	
Presumption as to tenure.	
Saving clause.	
84. Annual tenancy terminates on the 31st March.	80
Three months' notice of termination of tenancy to be given to land-lord by tenant, or <i>vice versa</i> ,	
84-A. Order granting suspensions or remissions to inferior holders.	81
Such order not to be questioned in any Court.	
Consequences following on such order.	
Crop-share fixed by custom or agreement.	
Meaning of assessment.	
Sind excluded.	
85. Recovery of superior holder's dues.	83
86. Superior holders entitled to assistance in recovery of dues from inferior holders, etc.	84
But application must be made within the revenue year or within the year of tenancy.	
87. The Collector how to proceed on such application being made.	85
Assistance may be refused or granted to a limited extent only.	
Civil Suit not to be barred.	
88. Commissioner may, by commissions, confer certain powers on holders of alienated lands.	86
89. Form of such commission.	87
90. Reference must be made by holder of commission to the Collector in certain cases.	87
91. When compulsory process shall cease.	87
Penalty for continuing compulsory process.	
92. Power under Commission to extend to current and previous year's arrears.	88

SECTION.	Page.
93. Holder of commission not to enforce any unusual or excessive demand.	
Penalty for doing so.	83
94. But holder of commission may establish his right to enhanced rent in Civil Court.	89
94.-A. Recovery as revenue demand of dues of certain superior holders for specified period....	89
 CHAPTER. VIII. OF SURVEYS ASSESSMENTS AND SETTLEMENTS OF LAND REVENUE.	
95. Revenue survey may be introduced by Governor in Council into any part of the Presidency.	
Control of revenue survey.	90
96. Survey officer may require, by general notice or by summons, suitable service from holders of land, &c.	91
97. Assistance to be given by holders and others in the measurement of classification of fields. ...	91
98. Survey numbers not to be of less than a certain extent.	
Exception.	92
99. (Repealed).	92
100. Officer in charge of survey to fix assessments.	
Regard to be had to Proviso to section 52.	
Proviso.	92
101. The assessment so made may be on land, or on means of irrigation, etc.	93
102. Assessments so made not leviable without the sanction of Government.	94
But may be fixed, with or without modification, by the Governor in Council for a term of years.	
103. Introduction of settlements.	94
104. Excess assessment not to be levied in the year in which a survey settlement is introduced. ...	95
Nor in the following year if the number is resigned that year....	

SECTION.	Page.
105. The fixing of assessment under section 102 limited to ordinary land revenue.	96
106. Government may direct a fresh survey and revision of assessment.	96
107. Conditions applicable to revisions of assessment.	97
108. Preparation of statistical and fiscal records.	98
109. (Repealed).	98
110. (Repealed).	98
111. Revenue management of villages not belonging to Government, that may be temporarily under Government management.	98
112. Maintenance of existing settlements of land revenue.	99
113. Partition.	99
114. Partition of certain estates by the Collector on application by co-sharers.	100
115. (Repealed).	100
116. Division of survey numbers into new survey numbers.	100
117. Bombay Act V of 1862 not affected.	101
117-A. Division of survey numbers into sub-divisions.	101
117-B. Provisions applicable on relinquishment or forfeiture of a sub-division.	101

CHAPTER IX.

THE SETTLEMENT OF BOUNDARIES AND CONSTRUCTION AND MAINTENANCE OF BOUNDARY MARKS.

118. Determination of village boundaries.	106
Village boundaries may be settled by agreement.	
Procedure in case of disagreement or dispute.	
119. Determination of field boundaries.	107
120. Settlement of boundary disputes by arbitration.	
When award may be remitted for re-consideration.	108
121. If arbitration fail, survey officer to settle dispute.	108

SECTION.	Page.
121. Effect of the settlement of a boundary. ...	109
122. Construction and repair of boundary marks of survey numbers and villages. ...	110
Requisition on land-holders to erect or repair boundary marks.	
A general notification to be good and sufficient notice of requisition. ...	
Description of Boundary marks. ...	
123. Responsibility for the maintenance of boundary marks. ...	111
124. Collector to have charge of boundary marks after introduction of the survey settlement. ...	111
125. Penalty for injuring boundary marks. ...	112

CHAPTER X.

OF LANDS WITHIN THE SITES OF VILLAGES, TOWNS AND CITIES.

126. Limits of sites of villages, towns and cities how to be fixed. ...	112
127. Act XI of 1852 and Bombay Acts II and VII of 1863 how far applicable to lands in such sites. ...	112
128. Existing exemption when to be continued in case of certain lands in towns and cities in which Bombay Act III of 1868 has been in operation. ...	112
129. Right to exemption to be determined by the Collector. ...	113
130. Occupancy price payable, in addition to assessment in certain cases. ...	113
131. Survey of land in such sites how to be conducted. Proviso. ...	113
132. In certain cases a survey fee to be charged. ...	114
133. Sanad to be granted without extra charge, Proviso. ...	114
134. Assessment of lands hitherto used for purpose of agriculture only used for other purposes. ...	115
135. (Repealed) ...	115

CHAPTER X-A
OF THE RECORD OF RIGHTS.

SECTION.	Page.
135-A. Exemption from provisions of this chapter.	115
135-B. The record of rights.	116
135-C. Acquisition of rights to be reported.	116
135-D. Register of mutations and register of disputed cases.	117
Entries in register of mutations how to be certified.	
Tenancies.	
135-E. Obligation to furnish information.	118
135-F. Penalty for neglect to afford information.	118
135-G. Requisition of assistance in preparation of maps.	119
135-H. Certified copy of record to be annexed to plaint or application.	119
135-I. Refusal of assistance under section 87.	121
135-J. Presumption of correctness of entries in record of rights and register of mutations.	121
135-K. Certified copies.	121
135-L. Bar of suits and exclusion of chapter XIII.	
Appeal.	122

CHAPTER XI

**OF THE REALIZATION OF THE LAND REVENUE AND
OTHER REVENUE DEMANDS.**

136. Liability for land revenue.	122
137. Claims of Government to have precedence over all others.	123
138. The liability of the crop for the revenue of the land.	123
139. Land revenue may be levied at any time during the revenue year.	123
140. Removal of crop which has been sold, etc., may be prevented until revenue is paid.	123

SECTION.	Page.
141. In order to secure the land revenue the Collector may prevent the reaping of crop, or the removal thereof, or place watchmen over it.	124
142. Collector's orders under last section how to be made known.... ..	124
Penalty for disobedience of order.	
143. Reaping, etc.,...not to be unduly deferred. Crop when to be released.	125
144. Temporary attachment and management of village or share of a village. Powers of manager, and disposal of surplus profits:	125
145. Precautionary measures to be relinquished on security being furnished.	
146. Government to determine the dates, etc.,...on which land revenue shall be payable.	126
147. Arrear. Defaulters.	126
148. Liabilities incurred by default.	126
149. Certified account to be evidence as to arrears. Collectors may realize each other's demands.	126
150. Process of recovery of arrears.	
151. Revenue demands of former years how recoverable. Proviso.	128
152. When notice of demand may issue.	129
153. The occupancy or alienated holding for which arrear is due may be forfeited. Proviso.	129
154. Distraint and sale of defaulter's movable property. By whom to be made.	130
155. Sale of defaulter's immovable property:	131
156. Exemption from distraint and sale.	131
157. Arrest and detention of defaulter. Imprisonment in Civil Jail.	131
Defaulters not to be detained in custody longer than debtors may be detained by the Civil Court.	

SECTION.	Page.
158. Power of arrest by whom to be exercised. ...	132
159. Power to attach defaulter's village, and take it under management.	132
160. Lands of such village to revert free of encumbrances; power of manager.	132
161. Application of surplus profits.	133
162. Restoration of village so attached. Disposal of surplus receipts.	133
163. Village, etc., to vest in Government, if not redeemed within twelve years.	134
164. But all processes to be stayed on security being given. Or an amount demanded being paid under protest.	134
165. Procedure in effecting sales, Proclamation of sales.	135
166. Notification of sales.	135
167. Sale by whom to be made. Time when sale may be made. Postponement of sale.	135
168. Sale of perishable articles.	136
169. When sale may be stayed.	136
170. Sales of movable property when liable to confirmation.	136
171. Mode of payment of movable property when sale is concluded at once.	137
172. Ditto when sale is subject to confirmation.	137
173. Deposit by purchaser in case of sale of immovable property.	137
174. Purchase-money when to be paid.	137
175. Effect of default.	137
176. Liability of purchaser for loss by re-sale.	138
177. Notification before re-sale.	138
178. Application to set aside sale.	138
179. Order confirming or setting aside sale.	138
180. Refund of deposit or purchase money when sale set aside.	139

SECTION.	Page
181. On confirmation of sale purchaser to be put in possession. Certificate of purchase.	13
182. Bar of suit against certified purchaser. ...	13
183. Application of proceeds of sale. Expenses of sale how calculated.	13
184. Surplus not to be paid to creditors, except under order of Court.	139
185. Certified purchaser liable only for land revenue subsequently due.	140
186. Claims to attached movable property how to be disposed of.	140
187. What moneys leviable under the provisions of this Chapter. Sureties liable as revenue defaulters. On resumption of a farm, no payment made to contractor in advance to be admitted. The recovery of free grants as arrears of revenue in case of misuse.	140

CHAPTER XII.

PROCEDURE OF REVENUE OFFICERS.

188. Subordination of revenue officers.	145
189. Power to summon persons to give evidence and produce documents.	147
190. Summons to be in writing, signed and sealed; how to be served. Service in district other than that of issuer.	147
191. Mode of serving notices. Notice not void for error.	148
192. Procedure for procuring attendance of witnesses. ...	148
193. Mode of taking evidence in formal enquiries. ... Taking evidence given in English. Translation to be on record.	148
194. Writing and explanation of decisions.	149

SECTION.	Page
195. Summary enquires how to be conducted. ...	149
196. Formal and summary enquiries to be deemed judicial proceedings.	149
Hearing and decisions.	
Notice to parties.	
197. Ordinary enquiries how to be conducted ...	149
198. Copies and translations, etc., how to be obtained. ...	150
199. Arrest of a defaulter to be made upon a warrant. ...	150
200. Power of revenue officer to enter upon any lands or premises for purposes of measurement, etc. ...	151
Proviso.	
201. The Governor in Council to determine the language of a district.	151
202. Collector how to proceed in order to evict any person wrongfully in possession of land. ...	151

CHAPTER XIII.

APPEALS AND REVISION.

203. Appeal to lie from any order passed: by revenue officer to his superior.	152
204. Appeal when to lie to the Governor in Council. ...	153
205. Periods within which appeals must be brought. ...	153
206. Admission of appeal after period of limitation. ...	153
207. Provision where last day for appeal falls on a Sunday or a holiday	153
208. Copy of order to accompany petition of appeal ...	153
209. Powers of appellate authority.	152
210. Power to suspend execution of order of subordinate officer.	154
211. Power of the Governor in Council and of certain revenue officers.	154
to call for and examine records and proceedings of subordinate officers.	
And to pass orders there upon.	
212. Rules as to decisions or orders expressly made final.	155

CHAPTER XIV.

MISCELLANEOUS.

SECTION.	Page.
213. Maps and land records open to inspection. ... Extracts and copies shall be given.	156
214. Rules.	160
215. Penalty for breach of rules.	161
216. Chapters VIII to X how far applicable to alienat- ed villages.	162
217. Holders of land in alienated villages. ...	163
218. Construction of this Act.	164

The Bombay Land Revenue Code, 1879.

BOMBAY ACT NO. V OF 1879.

17th July 1879.

(As amended and modified upto date).

An Act to consolidate and amend the law relating to Revenue Officers, and the Land Revenue in the Presidency of Bombay.

Whereas it is expedient to consolidate and amend the law relating to Revenue Officers, and to the assessment and recovery of Land Revenue, and to other matters connected with the Land Revenue Administration; it is hereby enacted as follows:—

Preamble.

CHAPTER I.

Preliminary.

1. (1) This Act may be cited as "The Bombay Land Revenue Code, 1879."

Short title.

(2) Save as otherwise provided by Chapter X-A, this Act extends to the whole of the Presidency of Bombay, except the City of Bombay, Aden, and the Scheduled District of the Mehwassi Chiefs' villages as defined in the Scheduled Districts Act, 1874.

Extent.

(3) Provided that Chapter III also extends to the City of Bombay, subject to the modification that the expression "Revenue officer" means every officer of any rank whatsoever appointed under section 5 or 6 of the Bombay City Land Revenue Act, 1876, and employed in or about the business of the land revenue in the City of Bombay, or of the surveys, assessment, accounts or

records connected therewith, instead of as defined in clause (1) of section 3 of this Act.

Scheduled Districts:—The following are the Scheduled Districts in the Bombay Presidency:—

1. The Province of Sind.
2. Aden.
3. The villages belonging to the following Mehwasssi Chiefs:—
 1. The Parvi of Kathi.
 2. The Parvi of Nal.
 3. The Parvi of Singpur.
 4. Walvi of Gaohalli.
 5. Wassawa of Chikhli.
 6. The Parvi of Navalpur.

The Proceeds of all fees for permission to remove sand or to quarry are to be credited to the Local Fund constituted by the Bombay Local Boards Act, 1923 (Bom. Act VI of 1923) S. 75.

G. N. No. 5730 P. D., dated 9-12-1879. Code was extended to the Jat State.

G. N. 5728 P. D., dated 9-12-1879. Provisions were applied to the Akalkot State.

The rules and orders under the sections 213, 214 do not apply to Khoti and Talukdari villages. Rules 7 to 10 inclusive, 21 clause (2), 23, 25 to 27 inclusive, 38, 70 shall not apply to Sind.

2. *Repealed by Bom. Act IV of 1918, s. 5.*

3. - In this Act, unless there be something repugnant in the subject or context:

Interpretation clause.

(1) "revenue officer" means every officer of any rank whatsoever appointed under any of the provisions of this Act, and employed in or about the business of the land revenue or of the surveys, assessment, accounts or records connected therewith and for the purposes of sections 25 and 26 includes a village-officer appointed or officiating under any of the provisions of the Bombay Hereditary Officers Act or the Matadars Act, 1887.

Forest Officer not a revenue officer:—A Forest Officer is not a revenue officer and does not become one merely by being placed under a revenue officer for purposes of control (*Narayan V. Secretary of State*, 2 Bom. 803);

(2) "Survey officer" means an officer appointed under "Survey officer." or in the manner provided by, section 18;

(3) (*Definition of "Collector"*)—*Repealed by Bom. Act IV of 1913, s. 6 (a)*;

(4) "*land*" includes benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory;

"Land." attached to the earth, or permanently fastened to anything attached to the earth and also shares in, or charges on, the revenue or rent of villages, or other defined portions of territory;

(5) "*estate*" means any interest in lands and the aggregate of such interests vested in a person or aggregate of persons capable of holding the same;

"Estate." of such interests vested in a person or aggregate of persons capable of holding the same;

(6) "*survey number*" means a portion of land of which the area and assessment are separately entered, under an indicative number in the land records; (a)

"Survey number;"

(a) Words repealed by Bom. Act IV of 1913, S. 6 (b), are omitted.

(7) "*sub-division of a survey number*:" means a portion of a survey number of which the area and assessment are separately entered in the land records under an indicative number subordinate to that of the survey number of which it is a portion;

"sub-division of a survey number;"

(8) (a) "*chavdi*" means, in any village in which there is no chavdi, such place as the Collector may direct shall be deemed to be the chavdi for the purposes of the Act;

(a) This definition was added by Bom. Act IV of 1913, S. 6 (d).

(9) "*building site*" means a portion of land held for building purposes, whether any building be actually erected thereupon or not, and includes the open ground or court-yard enclosed by, or adjacent to, any building erected thereupon;

"Building site;"

(10) "*boundary-mark*" means any erection, whether of earth, stone or other material, and also any hedge, unploughed ridge, or strip of ground, or other object whether natural or artificial, set up, employed or specified by a survey officer, or other revenue officer

"Boundary-mark."

having authority in that behalf, in order to designate the boundary of any division of land;

(11) "to hold land", or to be a "land-holder" or "holder" "To hold land" of land means to be lawfully in possession "land-holder" of land, whether such possession is actual "holder"; or not;

The rights of tenants of rice lands over adjoining waste land of their superior holder are, by custom in the Thana District, confined to the use of portions of the waste for obtaining the manure without which the rice lands could not be cultivated or the assessment on the rice land earned and paid (*Vasudeo V. Govind*, 36 Bom. 315.)

Holder:—The term "holder," as defined in this clause, is wide enough to include even a tenant who has entered into possession under an occupant. Mere user by rice lands tenants of adjoining waste land with the leave and permission of Inamdar does not make them holders of warkas lands (*Nanabhai V. Collector of Kaira*, 34 Bom. 686).

(12) "holding" means a portion of land held by a "Holder;" holder;

(13) "superior holder" means a landholder entitled to receive rent or land revenue from other landholders (hereinafter called "inferior holders"), whether he is accountable or not for such rent or land revenue, or any part thereof, to Government: provided that where land has been granted free of rent or land revenue, subject to the right of resumption in certain specified contingencies, by a Jagirdar, Inamdar or other such holder of alienated land whose name is authorizedly entered as such in the land records, such Jagirdar, Inamdar or holder shall, with reference to the grantee, be deemed to be the superior holder of land so granted by him and the grantee shall, with reference to the grantor, be deemed to be the inferior holder of such land and for the purposes of section 8 of the Bombay Local Funds Act, 1869, shall, notwithstanding anything hereinafter contained in the definition of the word "tenant," be deemed to be the tenant of such grantor.

Defendants were liable to pay the assessment and local fund to the plaintiff, who held a sanad under the Summary Settlement Act, 1863,

the lower Court came to the conclusion that the relationship of landlord and tenant was not created between the parties; it was held that the plaintiff was a superior holder within the meaning of this sub-clause and that the defendants were in law the tenants of the plaintiff, whatever the nature of their holding might have been (*Surshangi Naran*, 2 Bom. L. R. 355).

(14) "tenant" means a lessee, whether holding under an instrument or under an oral agreement, and includes a mortgagee of a tenant's rights with possession; but does not include a lessee holding directly under Government;

(15) "landlord" means a lessor;

(16) "occupant" means a holder in actual possession of unalienated land, other than a tenant: provided that where the holder in actual possession is a tenant, the landlord or superior landlord, as the case may be, shall be deemed to be the occupant;

Difference between "holder" and "occupant".—'Holder' signifies a person holding any land alienated or unalienated, whereas 'occupant' means a holder of unalienated land.

A permanent tenant under S. 83 of the Code becomes, on the introduction of the survey settlement into the village, entitled to the rights and affected with the responsibilities of the holder in an alienated village, by virtue of S. 217. He remains what he ever was, a tenant, and does not become an occupant. He is liable, therefore, to pay enhanced rent to his landlord (*Kondi Ramji V. Vishalrao*, 50 Bom. 155).

(17) "occupancy" means a portion of land held by an occupant;

Occupancy:—It is subject to modification when applied to any estate in the districts of Ahmedabad, Kaira, Broach and Panch Mahals to which the Gujarat Talukdars' Act, 1888, extends. See Bom. Act VI of 1938, Ss., 1 and 33).

(18) "to occupy land" means to possess or take possession of land;

(19) "occupation" means possession;

"Occupation;"

(20) "alienated" means transferred in so far as the rights of Government to payment of the rent or land

"Alienated;" revenue are concerned, wholly or partially, to the ownership of any person;

Though the grant of a land to an Inamdar was of the entire property in the soil, the lands were 'alienated' within the meaning of this sub-clause, and the defendants were entered in the register as khatedars who cultivated the lands and paid to the plaintiff only a sum equivalent to the annual assessment, they were entitled to the rights of occupants in unalienated villages by virtue of S. 217 (*Dadoo V. Dinkar*, 43 Bom. 77).

(21) "village" includes a town or city and all the land belonging to a village, town or city;

(22) the words "revenue year" or "year" mean the period from, and exclusive of, the thirty-first July "Revenue year", or "year" of one calendar year until, and inclusive of, the thirty-first July in the next calendar year;

(23) (Definition of "section") :— Repealed by Bom. Act III of 1886, Sch. B.

(24) (Definition of "this chapter").—Repealed by Bom. Act. III of 1886, Sch. B.

(25) the term "joint holders" or "joint occupants" means holders or occupants who hold land as co-sharers "Joint holders", in a family undivided according to Hindu law "Joint occupants;" or otherwise, and whose shares are not divided by metes and bounds; and where land is held by joint holders or joint occupants, "holder" or "occupant," as the case may be, means all the joint holders or joint occupants;

(26) "land records" means records maintained under the provisions of, or for the purpose of, this "Land records;" Act;

(27) "certified copy" or "certified extract" means a copy "Certified copy;" or extract, as the case may be, certified in the manner prescribed by section 76 of the Indian Evidence Act, 1872;

(28) In Sind the word "Mukhtyarkar" shall be deemed to be substituted for the word "Mamlatdar" wherever it occurs in this Act.

Appointment :—District Inspectors of Land Records are Revenue Officers. G. R., R. D., No. 1327, dated 25-2-1902.

Retired Survey Officer is not a Revenue Officer though employed by the State authorities under an arrangement made between him and the State. G. R., R. D., No. 4523, dated 23-6-1893.

Theodolite stones are not boundary marks within the definition of section 3 (10). G. R., R. D., No. 4960/28, dated 14-7-1930.

"Mamlatdar" includes Mahalkari and (in Sind) "Mukhtyarkar."

"Public Document" has the same meaning as in section 74 of the Indian Evidence Act 1 of 1872.

"Chavdi" in Sind includes a Tapedar's Dera.

CHAPTER II.

Constitution and Powers of Revenue Officers.

4. The chief controlling authority in all matters connected with the land revenue is vested in the Commissioner, subject to the Governor in Council.

Chief controlling authority in revenue matters.

There shall be one or more Commissioners as the Governor in Council, subject to the orders of the Government of India, may direct; and the Governor in Council shall prescribe what territories are to be under the control of each, whether generally or for any specific purpose, and may from time to time alter the limits of such territories, all orders made on this behalf being duly notified.

Extent of territories under the Commissioners.

The territories under each Commissioner shall form, and be called, a division, and for the purposes of this Act the territories comprised in the Province of Sind shall be deemed to form a division and the Commissioner in Sind shall be deemed to be the Commissioner of that division.

The territories under a Commissioner to be a Division.

As regards Administrative Orders Chapter 11, Part II may be seen.

5. The Commissioners shall be appointed by the Governor in Council, and shall exercise the powers and discharge the duties conferred and imposed on a Commissioner under this Act, or under any other law for the time being in force, and so far as is consistent therewith all such other powers or duties of appeal, superintendance and control within their respective divisions, and over the officers subordinate to them as may from time to time be prescribed by Government.

Appointment and duties of Commissioners.

6. Each Commissioner shall have such number of assistants as the Governor in Council may from time to time sanction, their appointment being made by the Governor in Council. Assistants so appointed shall perform such duties as the Commissioners, to whom they are respectively subordinate, may from time to time direct.

Assistants to Commissioners.

G. R., F. D., No. 1894, dated 15-5-1918.

Post abolished—One post of the Assistant Commissioner, C. D., was abolished temporarily but now there are two Assistants in each Division.

7. Each division, under the control of the Commissioner, shall be divided into such districts with such limits as may from time to time be prescribed by a duly published order of the Governor in Council.

Division to be divided into districts.

And each such district shall consist of such talukas and each taluka shall consist of such mahals and villages, as may from time to time be prescribed in a duly published order of the Governor in Council.

A district to consist of talukas comprising such mahals and villages as Government may direct.

In the Southern Division, the Murgod Mahal and Nagothana Peta are abolished.

G. R., R. D., No. 6474, dated 10-6-1884:—

Conversion of hamlets into villages. The Superintendent, Land Records should confer with the Collector before submission of the proposals.

G. O., R. D., No. 11677, dated 4-11-1919 :—

Draft notifications under section 7 of the Bombay Land Revenue Code, 1879, are to be submitted to Government.

G. R., R. D., No. 571/28, dated 16-9-1931 :—

Creation of the Dadu District on the right bank of the Indus.

8. The Governor in Council shall appoint in each district an officer who shall be the Collector and who shall be subordinate to the Commissioner of his division and may exercise, throughout his district, all the powers and discharge all the duties conferred and imposed on a Collector or an Assistant or Deputy Collector by this Act, or any other law for the time being in force, and in all matters not specially provided for by law shall act according to the instructions of Government.

9. The Governor in Council may appoint to each district so many Assistant Collectors and so many Deputy Collectors as he may deem expedient; the Assistants shall be called "First," "Second," "Supernumerary," etc., as may be expressed in the order of their appointment.

All such Assistant and Deputy Collectors and all other officers employed in the land revenue administration of the district shall be subordinate to the Collector.

Personal Assistants—The Collectors of Poona, Satara, Dharwar and Thana are each given a Personal Assistant (G. R., No. 1018, dated 3rd October 1903, R. D.)

Superintendent, Mahabaleshwar, to be Deputy Collector—The Superintendent of Mahabaleshwar, in the Satara Collectorate, is appointed a Deputy Collector under the provisions of Act XX of 1852 and invested with the powers exercised by a Mamlatdar under Bombay Act V. of

1864 (now Act II of 1906) (B. G. G., 1871 Pt. I, p. 424). In practice there are no First and Second Assistant Collectors now.

Appointment:—The Divisional Forest Officer, N. K. Division was appointed Ex-officio Assistant Collector for the Akrani Mahal of the Taloda Taluka. (G. R., R. D. No. 12020, dated 24-11-1908.)

10. Subject to the general orders of Government, a Collector may place any of his assistants or deputies in charge of the revenue administration of one or more of the talukas in his district, or may himself retain charge thereof.

Their duties and powers.

Any Assistant or Deputy Collector thus placed in charge shall, subject to the provisions of Chapter XIII, perform all the duties and exercise all the powers conferred upon a Collector by this Act or any other law for the time being in force, so far as regards the taluka or talukas in his charge.

Provided that the Collector may, whenever he may deem fit, direct any such Assistant or Deputy not to perform certain duties or exercise certain powers, and may reserve the same to himself or assign them to any other assistant or Deputy subordinate to him.

To such Assistant or Deputy Collector as it may not be possible or expedient to place in charge of talukas the Collector shall, under the general order of Government, assign such particular duties and powers as he may from time to time see fit.

Prant Officer:—An Assistant or Deputy Collector may exercise visionary powers, conferred on Collector under S. 23 of the Mamlatdars, Courts Act, 1906 (*Ibid*). But the Collector may always reserve any power he thinks fit. The power of arrest is to be exercised only when specially delegated. The Collector will delegate by name the power to write off irrecoverable revenue upto Rs. 25 (*Vide G. R., No. 1467, dated 26th May 1921.*)

Powers of Collector:—The powers conferred upon the Collector under the Bombay Irrigation Act are to be exercised by an Assistant Collector according to this section (*Nawaz Ali Shah Pir Ali Gohar Shah v. Rustomali Shah, 14 S. L. R. 53*).

The Powers of Collector under section 154 of this Code can be delegated to Extra Head Karkun. He is not a Mamlatdar or Mahalkati

within the meaning of section 13. The powers of a Collector cannot be delegated to him. R. 6315 of 17-11-30.

Exercise of the powers. The Personal Assistant can exercise the power of the Collector delegated to him by the Commissioner under the Court of Wards Act. (G. R., R. D., No. 2839, dated 26-3-1913.)

There should be no unnecessary reservation under this section (G. R., No. 7048, dated 8th October 1903.)

11. If the Collector is disabled from performing his duties, or for any reason vacates his office or leaves his office, his Assistant of highest rank present in the district shall, unless other provision has been made by Government, succeed temporarily to his office, and shall be held to be the Collector under this Act until the Collector resumes charge of his district, or until the Governor in Council appoints a successor to the former Collector and such successor takes charge of his appointment.

An officer whose principal office is different from that of an Assistant Collector, and who is an Assistant Collector for special purposes only shall not be deemed to be an Assistant for the purposes of this section.

The powers and duties of a Collector may not be conferred by a Collector on any Assistant or Deputy Collector who has not passed the Departmental Examination according to the higher standard. This order does not refer to Deputy Collectors appointed before the issue of the Government Order of the 10th April 1866, directing Deputy Collectors to undergo Departmental Examinations (B. G. G. 1868, Pt. I. p. 1196).

12. The chief officer entrusted with the local revenue administration of a taluka shall be called a Mamlatdar. He shall be appointed by the Commissioner of the division in which his taluka is situated.

The Mamlatdar; his appointment.
His duties and powers, as may be expressly imposed or conferred upon him by this Act, or by any other law for the time being in force, or as may be imposed upon, or delegated to him by the Collector under the general or special orders of Government.

Delegation of Powers by Collector to Mamlatdar—A Collector can delegate certain powers to a Mamlatdar only for his own district and such powers can be exercised only in the Talukas of that District (*Gangaram V. Dinkar, 37 Bom. 542*).

Chitnises to Collectors and Head Clerks to Collectors—are Mamlatdars (G. R. No. 8881, dated 23rd December 1891, R. D., and G. R. No. 249 F. D., dated 26th March 1920).

13. Whenever it may appear necessary to the Governor in Council, the Collector may appoint to a taluka one or more Mahalkaris; and, subject to the orders of Government and of the Commissioner, the Collector may assign to a Mahalkari within his local limits such of his duties and powers as he may from time to time see fit, and may also from time to time direct whether the Mahalkari's immediate superior shall, for the purposes of section 203, be deemed to be the Mamlatdar or the Assistant or Deputy Collector, or the Collector in charge of the taluka; when a defined portion of a taluka is placed in charge of Mahalkari, such portion shall be called a mahal.

Mahalkari—A Mahalkari may perform the clerical work of preparing the Irrigation Record of Rights, but cannot be appointed a Canal Officer under s. 76 (1) of the Irrigation Act (Bom. Act VI of 1879) (Vide G. R., No. 7418 of 1918).

Superiority—Assistant or Deputy Collector in charge of the talukas was declared to be the immediate superior of the Mahalkari. (G.R., R. D. No. 4258, dated 1-5-1906.)

14. It shall be competent to a Mamlatdar or Mahalkari, subject to such general orders as may from time to time be passed by the Commissioner or by the Collector, to employ any of his subordinates to perform any portion of his ministerial duties; provided that all acts and orders of his subordinates when so employed shall be liable to revision and confirmation by such Mamlatdar or Mahalkari.

15. If a Mamlatdar or Mahalkari is disabled from performing his duties, or for any reason vacates his office,

Mamlatdar or Mahalkari in case of temporary vacancy.

or leaves his taluka or Mahal, or dies, such subordinate as may be designated by the orders to be issued from time to time on this behalf by the Collector shall succeed temporarily to the said Mamlatdar's or Mahalkari's Office and shall be held to be Mamlatdar or Mahalkari under this Act until the Mamlatdar or Mahalkari resumes charge of his taluka or mahal, or until such time as a successor is duly appointed and takes charge of his appointment.

Karkun temporarily doing the work of a Mamlatdar—A Karkun temporarily doing Mamlatdar's work during the absence of the Mamlatdar on casual leave is not a revenue officer. He is an officer exercising on an extraordinary occasion some such powers under this section (*Ningapa V. Dodapa*, 21 Bom. 558).

A substitute designated under section 15 is not competent to exercise powers of Mamlatdar (*Debrao V. Narayandas*, 25 Bom. 318; *F. B.*). See also 36 Bom. 277.

16. In villages where no hereditary Patel or Village Accountant exists, it shall be lawful for the

Stipendiary Patel and Village Accountant to be appointed where no hereditary Patel or Village Accountant exists.

Collector, under the general orders of Government and of the Commissioner, to appoint a stipendiary Patel or Village Accountant who shall perform respectively all the duties of hereditary Patels or Village Accountants as hereinafter prescribed in this Act or in any other law for the time being in force, and shall hold their situations under the rules in force with regard to subordinate revenue officers.

Nothing in this section shall be held to affect any subsisting

Saving the rights of holders of alienated villages.

rights of holders of alienated villages or others in respect of the appointment of Patels and Village Accountants in any alienated or other villages.

G. N., No. 10, P. W. D., dated 11-5-1887:—

Village Officers: Investment of powers to.—Village Officers are invested with powers under section 9 of the Bombay Irrigation Act.

G. R., R. D., No. 5062, dated 19-7-1899 :—

Responsibility of Village Officers—They are to preserve forests and to submit a report on the condition and state of trees to Assistant Collector.

G. R., R. D., No. 9540, dated 1-11-1909 :—

Powers of Collector—Talatis' charges can be modified by the Collector without reference to Government.

G. R., R. D., No. 2659, dated 19-3-1913 :—

Commutation—It was contemplated to replace Kulkarnis by Talatis by compensating their rights. Many Kulkarnis in Central Division and some parts of Belgaum and Dharwar have commuted their watans.

17. Subject to the general orders of Government and of the Commissioner, the Collector shall prescribe the Village Accountant to keep from time to time what registers, accounts and records as may be required to be kept by the Village Accountant. Collector.

It shall also be the duty of the Village Accountant to prepare, whenever called upon by the Patel of his village, And to prepare public writings, or by any superior Revenue or Public Officer of the taluka or district to do so, all writings connected with the concerns of the village which are required either for the use of Government or the public, such as notices, reports of inquests, and depositions and examinations in criminal matters.

18. For the purposes of Chapters VIII, IX and X Survey Officer, the Governor in Council may appoint such officers as may from time to time appear necessary. Such officers shall be designated "Commissioners of Survey," "Superintendents of Survey," "Survey Settlement Officers" and "Assistant" or otherwise as may seem requisite, and shall be subordinate the one to other in such order as the Governor in Council may direct.

Subject to the orders of the Governor in Council, the officers so appointed are vested with cognizance of all Their duties and powers, matters connected with survey and settlement, and shall exercise all such powers and perform all such duties as may be prescribed by this or any other law for the time being in force.

19. It shall be lawful for the Governor in Council to appoint one and the same person, being otherwise competent according to law, to any two or more of the offices provided for in this chapter, or to confer upon an officer of one denomination all or any of the powers or duties of any other officer or officers within certain local limits or otherwise as may seem expedient.

Note:—The Mamlatdar of Poona City is authorized to exercise the powers of a Mamlatdar in the Haveli Taluka of the Poona District for the purposes of section 86 and 87 of the Code (B. G. G. 1898, Pt. I, p. 1058).

G. R., R. D., No. 8833, dated 18-8-1915. The offices of the Settlement Commissioner and Director of Land Records and the Inspector General of Registration are combined.

The post of the Director of Land Records is held in abeyance as a measure of retrenchment and the office of the Inspector General of Registration is now held by the Commissioner of Excise.

The Prant Officer exercises the powers of a City Survey Officer. See G. N. No. 1368 of 9th February 1909.

20. The appointment of all officers mentioned in sections 4 to 13 and 18 and 19 shall be duly notified.

Certain officer's appointments to be notified.

Any officer appointed to act temporarily for any such officer shall exercise the same powers and perform the same duties as might be performed or exercised by the officer for whom he is so appointed to act.

Acting appointments.

21. Subject to rules made under section 214, the appointment of all members of the establishments of the undermentioned officers shall, unless otherwise directed by Government, be made by those officers respectively, viz:—

the Commissioners,
the Collectors,
the Commissioner of Survey,
the Superintendent of Survey,
the Survey Settlement Officer.

The appointments of all members of the establishments of all other officers mentioned in the foregoing sections of this chapter shall be made in their respective departments by the Collector and the Superintendent of Survey: provided that it shall be lawful for them to delegate such portion of this power as they may deem fit to any subordinate officer, but subject to the retention of a right of revision at any time of the appointments that may be made by such subordinate officers.

Note:—As regards the Survey Department see Part II

22. The Governor in Council shall from time to time by notification prescribe what revenue officers shall use a seal, and what size and description of seal shall be used by each of such officers.

Metal seals may be used for merely sealing purposes, i. e. when wax is to be impressed, and for all other purposes rubber seals may be used. The present practice of using metals for all purposes should continue (G. R. No. 4764-24, dated 23-12-1925).

CHAPTER III.

Of the Security to be Furnished by Certain Revenue Officers and the Liability of Principals and Sureties.

23. It shall be lawful for Government to direct that such revenue officers as it deems fit shall previously to entering upon their office, furnish security to such amount as Government may in each case deem expedient, either by deposit of Government-paper duly endorsed, accompanied by a power to sell, or in the form contained in Schedule B.

The amount for which such security shall be furnished may be varied, from time to time, by order of Government, which shall also determine the number of sureties to be required when security is taken in the form of Schedule B.

Security—The revenue officers hereinbelow mentioned shall, previously to entering upon their office, furnish security, according to this section, to the following amounts:—

	Rs.
1. Head Accountants.	5000
2. Mamlatdars.	5000
3. First Karkuns to Mamlatdars.	3000
4. Special Head Karkuns for payment of Military pensions.	1000
5. Treasury Nagdi Karkuns (to Mamlatdars and Mahalkaris).	500
6. Mahalkari with Treasury.	3000
7. First Karkun to Mahalkari with Treasury.	1000
8. Shroff Karkuns to Mahalkari of Kohistan and Keti Bandar.	1000
9. Mahalkari without treasury.	500
10. Treasurer at Poona.	80000
11. Treasurer at Kanara, Kolaba and Ratnagiri.	20000
12. All other Treasurers.	40000
13. First Karkuns to Treasurers of Kanara, Kolaba and Ratnagiri.	1000
14. All other First Karkuns to Treasurers.	2000
15. Second Karkun to Poona Treasurer.	2000
16. Karkuns other than any of the foregoing employed in Huzur Mamlatdars' or Mahalkaris' offices on shroffs' work.	1000
17. Karkuns for payment of Military pensions.	500
18. Supervising Tapedars in Sind.	1000
19. Tapedars in Sind.	1000
20. Stipendiary Patels or Village Accountants appointed under sec. 16, and Japtidars appointed by the Collector to manage attached Khoti villages.	200
21. Karkuns or clerks who write the registers of copying, comparing, search and inspection fees and of bhatta and permanent advances and take charge of moneys deposited for those purposes in Revenue Courts.	200
22. Head-Quarter Assistants in Survey Offices.	200
23. Accountant in the office of the Commissioner in Sind.	1000
24. City Maintenance Surveyors.	200

Provided that in the case of the officers specified in Nos. 3 and 15 the amount of security to be furnished may be raised by the Commissioner to such amount not exceeding five thousand rupees as he thinks fit; and in No. 20, he may exempt in special cases, e. g. Khoti villages.

After the issue of Resolution No. 4418 of 1916 all powers of Government under section 23 are delegated to the Commissioner in Sind under Act V of 1868.

Security to be furnished before entering on appointment.—When any person is appointed to any office specified in the Order, whatever may be the probable duration of his tenure thereof, he shall, before entering thereon, furnish security to the amount specified or to such smaller amount as the Collector may, in the particular case, deem reasonable and sufficient.

Number of sureties.—Where he executes a bond, the number of sureties shall be one or more, at his option, if the amount of security does not exceed one thousand rupees; and otherwise shall be not less than two.

Duties of Heads of offices in respect of sureties. (1) Heads of offices in which any officer required to furnish security is serving will be held responsible for seeing that the necessary security is duly furnished, and that it is good and sufficient both at the time it is first furnished and thereafter, until it is no longer required.

(2) For this purpose Heads of offices shall carefully scrutinize the security and satisfy themselves as to its sufficiency both when it is first offered and also once a year after it has been accepted, and if they deem it insufficient, shall require the officer concerned to furnish additional or fresh security.

(3) Care must be taken that no one person is accepted as surety on behalf of a disproportionately large number of officers whether such officers belong to the same office or department or not.

(4) No Karkun should ordinarily have in his custody more than the amount for which he has given security; the surplus should be placed in the treasury.

A register of securities to be kept by the Collector.—(1) The Collector shall keep a register of all securities furnished by each officer in his district in accordance with Order 13 for scrutiny by the Commissioner during his tour, and shall submit annually to Commissioner, on 1st October, a certificate that all such securities are good and sufficient.

(2) This register shall contain such particulars as the Commissioner may from time to time direct. A column must be added in all

cases in which to record, immediately on receipt, notices of withdrawal sec. 39) of a surety.

(3) For the purposes of sec. 31 (2) an annual declaration of all landed property is required from all officers.

Watandar Village Officers are not Revenue Officers, Talatis are executive and not ministerial officers for the purpose of C. S. R. 459 (a).

One Government servant should not be allowed to stand as security for another for the purpose of sec. 23, Land Revenue Code. R. 6064-28, dated 1st November 1930.

G. R., R. D., Nos. 1671, dated 6-6-1885 and 3378 dated 9-12-1885. *Security Bonds*.—Prescribed form to be taken from Treasurers when Promissory Notes are tendered as security.

G. R., R. D., No. 7522, dated 26-10-1882.—The Form prescribed by section 23 to be used when personal security or securities are given.

24. The Collector or the Superintendent of Survey may, at any time after security has been given by a revenue officer subordinate to him, if it appears to him that the security taken is unsatisfactory, or if the officer is transferred to an office for which large security is required, or for other sufficient reason, demand fresh or additional security, and, in case of the officer failing to give such security within one month after its being required of him, may suspend or dismiss him: provided always that no greater security shall be demanded than is required by the orders of Government under the last preceding section.

25. The Collector or the Superintendent of Survey or any other officer deputed by the Collector or the Superintendent of Survey for this purpose shall in all cases in which he may have a claim on any revenue officer or on any person formerly employed as such in his department or district for public money or papers or other Government property, by writing under his official seal, if he use one, and signature, require the money, or the particular papers or property detained, to be delivered either immediately to the person bearing the said writing, or to such person on such date and at such place as the writing may specify.

Demands for money, paper etc., to be made known in writing to the person concerned.

If the officer or other person aforesaid shall not discharge the money, or deliver up the papers or property as directed, he may cause him to be apprehended and may send him with a warrant, in the form of Schedule C, to be confined in the civil jail till he discharges the sums or delivers up the papers or property demanded from him:

Who may be arrested and confined in jail if he fail to produce them.

Provided that no person shall be detained in confinement by virtue of any such warrant for a longer period than one calendar month.

Limit of confinement.

Revenue Officers.—For the purposes of sections 25 and 26 only village officers are revenue officers. Vide section 3 (1).

The Collector cannot forfeit land but can sell the right, title and interest of the defaulting revenue officer under section 155.

G. R., R. D., No. 5295, dated 1st June 1911, serial No. 9. *Issue of warrants and notices.*—Mamlatdars and Mahalkaris can issue warrants under sections 25 and 26.

26. The Collector of his own motion, if the officer or other person is or was serving in his department and district, and upon the application of the Superintendent of Survey, if such officer or person is or was serving in the survey department in his district, may also take proceedings to recover any public moneys due by him in the same manner and subject to the same rules as are laid down in this Act for the recovery of arrears of land revenue from defaulters, and, for the purpose of recovering public papers or other property appertaining to Government, may issue a search warrant and exercise all such powers with respect thereto as may be lawfully exercised by a Magistrate under the provisions of Chapter VII of the Code of Criminal Procedure, 1872.

Public moneys may also be recovered as arrears of revenue ;

and search warrant may be issued for recovery of papers or property.

It shall be the duty of all persons in possession of such public moneys, papers or other property appertaining to Government to make over the same forthwith to the Collector, and every person knowing where any such property is concealed shall be bound to give information of the same to the Collector.

27. The surety or sureties of such officer or other person as is aforesaid, who may enter into a bond, in the form of Schedule B, shall be liable to be proceeded against jointly and severally in the same manner as his or their principal is liable to be proceeded against, in case of default, and notwithstanding such principal may be so proceeded against:

Provided always that, in any case of failure to discharge or make good any sum of money due to Government or to produce any property of Government of ascertained value, no greater sum than is sufficient to cover any loss or damage which the Government may actually sustain by the default of the principal, shall be recovered from the surety or sureties as the amount which may be due from such surety or sureties under the terms of the security-bond executed by him or them.

And provided also that the said surety or sureties shall in no case be liable to imprisonment in default of producing public papers or property, if he or they pay into the Government treasury the whole or such part of the penalty named in the bond as may be demanded.

28. If an officer or other person as aforesaid, or his surety or sureties against whom a demand is made, shall give sufficient security in the form of Schedule D, the Collector shall cause such officer or surety if in custody to be liberated, and countermand the sale of any property that may have been attached and restore it to the owner.

29. The liability of surety or sureties shall not be affected by the death of a principal, or by his appointment to a situation different from that which he held when the bond was executed, but shall continue so long as the principal occupies any situation in which security is required under section 23 and until his bond is cancelled.

The heirs of a deceased officer shall be liable by suit in the Civil Court for any claims which Government may have against the deceased, in the same ways as they would be for similar claims made by an individual.

Liabilities of heirs of deceased officer.

30. Any surety whether under a separate or joint bond, may withdraw from his suretyship at any time on his stating in writing, to the officer to whom the bond has been given, that he desires so to withdraw, and his responsibility under the bond shall cease, after sixty days from the date on which he gives such writing, as to all demands upon his principal concerning moneys, papers, or other property for which his principal may become chargeable after the expiration of such period of sixty days, but shall not cease as to any demands for which his principal may have become liable before the expiration of such period, even though the facts establishing such liability may not be discovered till afterwards.

CHAPTER IV.

Of Certain Acts Prohibited to Revenue Officers, and of their Punishment for Misconduct.

31. No revenue officer shall, except with the express permission of Government, or of the Collector or Superintendent of Survey to whom he is subordinate,—
- Prohibited Acts.
- (1) engage in trade, or be in any way concerned, directly or indirectly, either as principal or agent, in any commercial transaction whatever;
 - (2) purchase or bid, either in person or by agent, or in his own name or in the name of another, or jointly or in shares with others, for any property which may, under the provisions of this Act or of any other law for the time being in force, be sold by order of any
- Not to trade.
- not to purchase at public sale.

revenue or judicial authority in the district in which such officer is at the time employed;

(3) hold directly or indirectly any farm or be in any way concerned on his private account in the collection or payment of revenue of any kind in the district in which he is at the time employed; and no revenue officer shall—

Not to be concerned in revenue;

(4) derive either for himself or for any other individual any profit or advantage beyond his lawful salary or emolument from any public money or property with the collection or charge of which he is entrusted or connected; or

not to make private use of public money or property.

(5) demand or receive under the colour or by the exercise of his authority as such revenue officer, or by way of gratification or otherwise, or knowingly permit any other person to demand or receive on his behalf, any sum or any consideration whatever over and above what he is legally entitled to demand or receive under the provisions of this Act or of any other law for the time being in force.

not to make or receive undue exaction or presents.

Talatis not to act as money lenders—Talatis detected to be engaged as money-lenders in their villages should at once be dismissed (G. R. No. 4120, dated 15th August 1878).

G. R., R. D., No. 158, dated 12-1-1860. This section does not apply to hereditary village officers, but the Collector can deal with instances of bad conduct.

G. R., R. D. No. 5635 or 31-7-1883 Stipendiary village Accountant not to hold land other than hereditary.

G. R., R. D., No. 10396, dated 2-11-1906 lays down that Government servants are whole time employees.

Order No. 10 of statement accompanying G. R., R. D., No. 6453, dated 19th November 1908. Commissioners of Divisions are authorized to re-employ Government pensioners who are non-Gazetted officers and who are in receipt of a pension of not more than Rs. 100 a month.

G. R., R. D., No. 49, dated 6th January 1909. Declaration of loyalty is to be taken as a condition of entrance into Government service. This declaration is to be made by all superior servants on their appointments

and by those already in service on their promotion as Mamlatdars and similar appointments.

G. R., R. D., No. 778, dated 14-2-1910. Government servants are prohibited from taking any part in the election of members to the Legislative Councils or Assembly. No officer shall interfere directly or indirectly with the free choice of a candidate or influence or direct the action of the elective bodies in any way and even no indication is to be given of how he votes. Any infraction of this order will be viewed with great displeasure.

G. R., R. D., No. 3772, dated 20-6-1911. In the case of temporary appointments declaration should be taken if the appointment will last for three months or more.

G. R., R. D., 6275, dated 26-8-1913. Government officers should display courtesy, tact and good temper while dealing with the people with whom they come in daily contact. Any manifestation of grave defects of temper and repeated loss of self-control shall be regarded as constituting inefficiency.

32. Subject to rules made under section 214, all revenue officers may be fined, reduced, suspended or dismissed for any such offence as is described in the last preceding section, or for any breach of departmental rules or discipline, or for carelessness, neglect of duty or other misconduct, by the authority by whom such officer is appointed; or by any authority superior to such authority; and this power may be delegated by such first-mentioned authority, in whole or in part, to any subordinate officer on the same condition that the power of appointment may be delegated under section 21.

Provided that, excepting Mamlatdars, no revenue officer whose monthly salary exceeds Rs. 250, shall be fined, suspended, reduced or dismissed except by order of the Governor in Council.

A revenue officer whose monthly salary exceeds Rs. 250, to be fined, etc., only by order of the Governor in Council.

Maximum period of suspension from office for misconduct:—The maximum period for which suspension from office should be awardable as a specific punishment under this section should be fixed at six months (G. R. No. 9881, dated 19th December 1884).

Mamlatdars are empowered to fine hereditary village officers (G. R. No. 410, dated 30-5-1883).

Mahalkari can fine village officers if powers are delegated to him by the Collector (G. R. No. 5991, dated 25-8-1903).

The punishment of dismissal should in future be considered a bar to re-employment in Government service and should be resorted to in serious cases. The order of dismissal must be in writing and must contain a clear statement of the reasons for the order. In less serious cases the term "removal" or "discharge" should be used.

A report should be made to Government in each case of dismissal as these notifications have to be issued by Government (G. R. No. 589, dated 19-10-1910).

33. When any revenue officer passes an order for fining, reducing, suspending or dismissing any subordinate officer, he shall record such order or cause the same to be recorded, together with the reasons therefor, in writing under his signature in the

All such orders to be made in writing.

language of the district or in English.

G. R., R. D., No. 1549, dated 9-5-1883. *Procedure.* The dismissing authority should record in English under his own hand-writing a statement showing briefly but clearly the charges, the evidence, the motives and the opinion of the dismissing authority on each charge. All evidence which conduces to moral conviction should be admitted. But in whatever form recorded it should be explained to the person charged. He should be given opportunity to explain and cross-examine and call his own witnesses. In General Department Circular No. 2749 of 19th May 1905, the full procedure to be adopted when instituting enquiries into charges of misconduct is given.

G. R., R. D., No. 3780, dated 20-5-1904. Grant of letters is open to objection. An accused person need not be granted copies of letters.

34. No fine inflicted under the foregoing provisions shall

Fine not to exceed two months' pay of the office held by the offender at the time of the commission of the offence.

All fines inflicted under this chapter may be recovered from the officer's pay or if necessary, may be realised

How recovered. in the same way as arrears of land revenue are recoverable under this act.

35. If the Collector or Superintendent of Survey, of his own motion or on appeal from a subordinate officer's order, pass an order for fining, reducing, suspending or dismissing any revenue officer subordinate to him whose monthly salary does not exceed thirty five rupees, or

if any authority superior to the Collector or Superintendent of Survey pass any such order against a revenue officer whose monthly salary does not exceed ninety nine rupees, no appeal shall lie against such order, except and provided always that at least one appeal shall lie against every order made, of his own motion, by any authority other than Government, for dismissing an officer whose monthly salary exceeds thirty five rupees.

And no appeal shall lie against any order for inflicting a fine not exceeding one rupee.

G. R., R. D., No. 3872, dated 24-7-1880, and G. R. No. 611 dated 27-1-98:—

Modification of order—No order passed by a Collector of the nature referred to in clause (1) of this section should be reversed, modified or interfered with by the Commissioner. The object is to preclude all appeals to the Commissioner when the subordinate involved gets Rs. 35 or less. It is subject to revision by Government.

36. Nothing in this chapter shall affect any officer's liability to criminal prosecution for any offence with which he may be charged.

An officer's liability to criminal prosecution not affected by this Act.

Any officer subjected to such prosecution may be suspended pending the trial, and at its close may, upon a consideration of the circumstances brought to light during its course, be suspended, reduced or dismissed by any competent authority, whether he has been found guilty or not.

Officer may be suspended during trial, and subsequently suspended, reduced or dismissed.

CHAPTER V.

Of Land and Land Revenue.

37. (1) All public roads, lanes and paths, the bridges, ditches, dikes and fences, on, or beside, the same, the bed of the sea and of harbours and creeks below high-water mark, and of rivers, streams, nalas, lakes and tanks and all canals, and water-courses and all standing and flowing water, and all lands, wherever situated, which are not the property of individuals or of aggregates of persons legally capable of holding property, and except in so far as any rights of such persons may be established in or over the same, and except as may be otherwise provided in any law for the time being in force, are and are hereby declared to be, with all rights in or over the same, or appertaining thereto, the property of Government, and it shall be lawful for the Collector subject to the orders of the Commissioner, to dispose of them in such manner as he may deem fit, or as may be authorized by general rules sanctioned by Government, subject always to the rights of way, and all other rights of the public or of individuals legally subsisting.

(2) Where any property or any right in or over any property is claimed by or on behalf of Government, it shall be lawful for the Collector or a survey officer, after formal enquiry of which due notice has been given, to pass an order deciding the claim.

(3) Any suit instituted in any Civil Court after the expiration of one year from the date of any order passed under sub-section (1) or sub-section (2), or, if one or more appeals have been made against such order within the period of limitation, then from the date of any order passed by the final appellate authority, as determined according to section 204, shall be dismissed (although limitation has not been set up as a defence) if the suit is brought to set aside such order or if the relief claimed is consistent with such order, provided that, in the case of an order under sub-section (2) the plaintiff has had due notice of such order.

(4) Any person shall be deemed to have had due notice of an enquiry or order under this section if notice thereof has been given in accordance with rules made in this behalf by the Governor in Council.

Explanation :—In this section “high-water-mark” means the highest point reached by ordinary spring-tides at any season of the year.

The Collector can only dispose of lands which are not the property of individuals. This section cannot be construed as conferring upon the Collector the power to determine whether the land is the property of Government or not (*Fokir V. Secretary of State*, 6 S. L. R. 210).

Streets—Under section 50 (2) of the Bombay District Municipal Act, 1901, streets vest in municipalities, i. e., the ownership of the soil does not so vest, but the surface and so much of the sub-soil as may be necessary for the purpose of the street does vest, the municipality being in the position of a trustee (G. R. No. 2640, dated 7th March 1924).

Collector's action—Where the Collector, acting under the provisions of this section, purports to deal with land which is *prima facie* the property of an individual who has been in peaceable occupation thereof and not of Government, and passes an order with reference thereto, he is not dealing with that land in his official capacity, but is acting *ultra vires* (*Malkajappa V. Secretary of State*, 36 Bom. 325).

Title of Government—This section does not confer title on Government and there is no presumption of title in favour of Government even as to village sites (*Sultan Muhammad V. Secretary of State*, 8 S.L.R. 331).

Sub-sections (2) and (3)—In its original form section 37 only provided for the disposal by the Collector of Government property, and did not provide for any enquiry where there was a dispute as to whether property belonged to Government or not. This is now provided for in the new sub-section (2). In the new sub-section (3) the provisions of section 135 (which is now repealed) are included in an amplified form so as to cover all descriptions of property on which orders may be passed under sub-section (1) or (2). This extension is necessitated by the uncertainty whether the period of limitation prescribed in Art. 14 of the first Schedule of the Limitation Act applies to cases not covered by the original section 135 (*Statement of Objects and Reasons*).

Section 37 is the only law by which revenue officers holding enquiry into claims of sites can be guided.

G. R., R. D., Nos. 3361 of 12-6-1873, 4239 of 24-7-1873 and 5292 of 22-9-1873. *Vesting of right*.—According to custom of the country the

proprietary right in all village sites vests in Government unless it has been clearly purchased.

G. R. No. 1604 of 10-3-1877. The property in the beds of navigable rivers as in the sea shore and the bottom of the sea belongs to the Crown. Also see 8 Bom. H. C. R. 87.

G. R. 2493 of 4-5-1881. Waste-lands belong to the State and a private right cannot be implied from the levy of a rate on a casual and desultory use of the soil.

G. R. No. 7996 dated 9-10-1884. Act XI of 1852, Bombay Act-II of 1863 and section 128 of the Code would only affect claims to exemption from land revenue, not claims to proprietary rights.

G. R. No. 5963 dated 20-8-1886. In case of improvement of the line of any public street a Municipality can sell the portion of a public street. Where there exists no Municipality, this right vests in Government.

G. R. No. 3815 dated 23-6-1887. Right to open ground not forming part of public streets :—

If any person is in possession of land to which he has no right, the law should be enforced against him with a view of ousting him, or if that is found inexpedient, he may be given the right of occupancy on his giving *kabulayat* and paying the usual occupancy.

G. R. No. 1697 of 13-3-1888. Meaning of the clause "except in so far." It has the effect of precluding partial proprietorship and of throwing the burden of establishing private rights on the persons who assert them.

G. R. Nos. 728 dated 28-1-1891 and 3274 dated 12-5-1891. *Adverse possession*. 60 years of continuous possession of an adverse title is a bar to the Secretary of State to recover possession.

G. R. No. 1890 dated 13-3-1891. *Rights to town walls*. Municipalities have no right to the sites of town walls or bastions. Municipalities have no control over provincial high roads or trunk roads.

G. R. No. 3864 of 6-6-1891. *Easement*. No Government officer can make any grant of an easement in respect of Government land in the absence of Government sanction.

G. R. No. 4803 of 3-6-1892. *Notice to Government*. A notice published in a news paper should not be accepted by the Collector as sufficient for the purposes of the Civil Procedure Code.

G. R. No. 9661 of 1-12-1896. When revenue officers intend to evict persons in unauthorized possession, they must give evidence of Government title (a) documentary or (b) oral, that the land in dispute had

been some time or other within 60 years unoccupied, that is not in the juridical possession of any private person; stacking of wood or grass is not tantamount to juridical possession.

G. R. No 3169 of 22-5-1900. *Adverse possession*. When a person is in possession of land it must be presumed that he has a title, unless and until it can be shown that at some time within 60 years he did not and could not claim the land as of right with power to exclude all other possession.

G. R. No. 8413 of 27-5-1907. *Village sites*. Abandoned village sites vest in Government as waste land.

G. R. No. 11506 dated 6-12-1911. Submission of appropriation annual statements discontinued.

G. R. No. 721/28 of 16-7-1928. When roads vesting in Local Boards cease to be used, the property reverts to Government.

G. R. No. 284/24 of 19-4-1927. The bar of section 11 of the Revenue Jurisdiction Act should not ordinarily be pleaded in suits under section 37 (3) of the Land Revenue Code.

The institution of appeals against orders passed by Collectors under section 37 (2) is not compulsory before suits are filed in Civil Courts.

G. R. No. 2640 of 28-4-1931 refers to the leases of street lands by Municipalities and G. R. No. 2640 of 10-8-1931 pertains to sub-soil of street lands in Municipalities and their rights regarding sales and leases. With the Commissioner's permission, the words "for more than 7 years" can be omitted.

The Municipality cannot legally sanction the sale of plots on which encroachments have been erected, as streets are vested in them as trustees (section 50 (2) of the Bombay District Municipal Act). Only the surface of a street vests in the Municipality and the sub-soil remains with the owner. When the owner is Government, the land below the surface may be vested in the Municipality who may sell it to the encroacher, (G. R. No. 2640 of 20-10-1921).

Non-irrigation tanks which are not constructed by Local Boards do not vest in them and trees standing in such tanks cannot be sold by them. (G. R. No. 311-B. of 7-9-1922).

Government have sub-soil and reversionary rights in public streets. The question is whether, in suits relating to streets, Government is a necessary party. The ruling of the High Court is that Government is not a necessary but a proper party in such cases as relate to street lands. In the case of public streets, Government interests are safeguarded as it is open to them to intervene when necessary.

The rights of Government can be asserted and rent levied on lands encroached upon, if the Municipality does not claim it for use as street land or for disposal under section 90 (1) of the District Municipal Act and unless the title of the Municipality to such lands has become extinct by adverse possession after a lapse of 30 years under Article 146-A of the Limitation Act. (G. R. No. 1788 dated 25-8-1924).

Non-irrigational village tanks and wells in the Presidency proper in charge of the Revenue Department have been transferred on certain conditions to District Local Boards concerned for maintenance, etc., for a period of five years. (G. R. No. 4649-24 dated 20-3-1926).

In the case of public streams or rivers which do not vest in any other individual or a body of individuals but in Government, the owner of the land adjoining such river or stream has an ordinary right to the flow of water flowing past his land. He has also a right to the extraordinary use thereof, provided he does not thereby interfere with the rights of other riparian owners either above or below him. Subject to this condition he may dam a stream. (I. L. R. 18, Mad. 320: 24 Cal. 865).

(1) (a) Before an enquiry under section 37 (a) written notice in form B of the proposed enquiry and of the time and place and subject-matter thereof shall be affixed not less than ten days before the enquiry at the Chavdi or some other public place in the village in which the property is situate; and in a conspicuous position upon the property with respect to which the enquiry will be held.

(b) A copy of the notice shall also be served not less than ten days before the enquiry on all persons who are known or believed to have made any claim to the subject-matter of the enquiry, and every such notice shall be served in the manner provided in section 190 for the service of a summons.

(2) (a) Written notice in form C of any order passed under section 37, specifying briefly the subject-matter, contents and date of the order passed, shall be served in the manner specified in clause (b) sub-rule (1) upon the persons referred to in that clause.

(b) Such written notice shall also be affixed in the places specified in clause (a) of subrule (1).

Where the right of any piece of ground is in dispute between a Municipality and Government, the Collector shall endeavour to decide the dispute with special regard to L. R. Rule 53. Where the Collector is in doubt or the Municipality does not accept his decision, the case shall be referred to the Commissioner. To secure finality the ultimate order should be made under section 37.

Questions of rights between Government and Municipality how to be dealt with.

The right of Government to mines and mineral products which are reserved by section 69 shall not be disposed of without the sanction of Government, and in all grants of land the right of mines and mineral products and full liberty of access for the purpose of working and searching for the same shall be deemed to be reserved unless Government direct to the contrary and unless such right and liberty are expressly granted.

No land situate within port limits shall be disposed of without the written concurrence of the Collector of Salt Revenue, and without the reservation as to the tree-growth provided for in Rule 58 (d).

In all grants and disposals of land the right of occupation and use only subject to the provision of the Code shall be granted, and not the proprietary right of Government in the soil itself.

38. Subject to the general orders of Government, it shall be lawful for survey officers whilst survey operations are proceeding under Chapter VIII and at any other time for the Collector to set apart lands the property of Government and not in the lawful occupation of any person or aggregate of persons, in unalienated villages or unalienated portions of villages, for free pasturage for the village cattle, for forest reserves, or for any other public or municipal purpose; and lands assigned specially for any such purpose shall not be otherwise used without the sanction of the Collector; and in the disposal of land under section 37 due regard shall be had to all such special assignments.

Lands may be assigned for special purposes, and when assigned shall not be otherwise used without sanction of the Collector.

G. R. No. 2347 of 16-3-1896. *Burial grounds.* Portion of Service Inam land can be assigned for a burial ground the judi being reduced.

G. R. No. 6881 of 16-9-1897. *Camping grounds for troops.* Curtailment of camping grounds is not allowed.

G. R. No. 4347 of 25-6-1902. Assignments are apparently no more than "licenses" and confer no right to hold land as against Government.

G. R. Nos. 5319, dated 12-7-1904, 10078 dated 6-10-1908 and 12447 dated 7-12-1908. *Open Air Spaces.* Conditions are attached to the grant of land for open air spaces.

G. R. No. 4306 dated 27-4-1907. Government sanction is necessary for assigning an open air space to a Municipality.

G. R. No. 5295 dated 1-6-1911. Entry No. 16. *Village Sites*. A Collector can appropriate lands for village sites.

G. R. No. 9193 dated 29-9-1911. *Village Sites*. Collectors may grant sites revenue free outside a village where the assessment capitalised at 4 per cent. does not exceed Rs. 100.

G. R. No. 4748 of 18-5-1912. Government can provide villagers with land required for Khalavadi (*Threshing floors*) by acquiring it under the Land Acquisition Act at the cost of the villagers.

Closing of streets in whole or in part.—Government have no powers to close a public street or to lease out a part of it (Section 37, Land Revenue Code). G. R. R. D. No. 2558/28 of 20-8-1931 (*Ardesir, Ai Mat 53 Bom, 187*).

On the abolition of a cantonment, the tenures of lands are determined in accordance with the rule in force at the time of the grant where there are no leases, or in accordance with the terms of the lease.

Grant of lands within cantonments and for transfer of such lands to Civil authorities will be regulated by the Cantonment Land Administration Rules and the Complementary rules to these rules and by the Cantonment Property Rules under Cantonment Act, 1924.

Municipalities can permit lands assigned as air spaces to be used for temporary purposes with the approval of the Collector or the local revenue officer in charge of the city survey. Half the proceeds derived from such use should be paid to Government. (G. R. No. 125/24 dated 7-2-1925).

Government land should not ordinarily be given free in future to local bodies for use as air spaces, unless the want of it would endanger public health. In submitting proposals for such assignment, Collectors should furnish information about the market value of the land. (G. R. No. 125/24 dated 15-4-1926).

39. The right of grazing on free pasturage lands shall extend only to the cattle of the village or villages to which such lands belong or have been assigned and shall be regulated by rules to be from time to time, either generally or in any particular instance prescribed by the Collector with the sanction of the Commissioner. The Collector's decision in any case of dispute as to the said right of grazing shall be conclusive.

G. R. No. 5312 dated 28-6-1882. *Grazing on sides of roads*. The right of grazing on road sides should not be sold.

40. In villages, or portions of villages, of which the original survey settlement has been completed before the passing of this Act, the right of Government to all trees in unalienated land, except trees reserved by Government, or by any survey officer, whether by express order made at, or about the time of such settlement, or under any rule, or general order in force at the time of such settlement, or by notification made and published at, or at any time after such settlement, shall be deemed to have been conceded to the occupant. But in the case of settlements completed before the passing of Bombay Act I of 1865 this provision shall not apply to teak, black-wood, or sandal-wood trees. The right of Government to such trees shall not be deemed to have been conceded, except by clear and express words to that effect.

In the case of villages or portion of villages of which the original survey settlement shall be completed after the passing of this Act, the right of Government to all trees in unalienated land shall be deemed to be conceded to the occupant of such land, except in so far as any such rights may be reserved by Government, or by any survey officer, on behalf of Government, either expressly or at about the time of such settlement, or generally by notification made and published at any time previous to the completion of the survey settlement of the district in which such village or portion of a village is situate.

When permission to occupy land has been, or shall hereafter be, granted after the completion of the survey settlement of the village or portion of a village in which such land is situate, the said permission shall be deemed to include the concession of the right of Government to all trees growing on that land, which may not have been, or which shall not hereafter be, expressly reserved at the time of granting such permission, or which may not have been reserved, under any of the foregoing provisions of this section, at or about the time of the original survey settlement of the said village or portion of a village.

G. R., Nos. 2564, dated 17-4-1903 and 5033, dated 22-7-1902 *Trees*. Trees should be reserved when land is sold on restricted tenure.

G. R. No. 795, dated 20-11-1909. *Trees*. A Maktedar of a village has no property whatever in the soil and consequently none in the trees planted by him, when the makta or lease expires.

41. The right to all trees specially reserved under the provision of the last preceding section, and to all trees, ^{Government} brushwood, jungle or other natural product growing on land set apart for forest reserves under section 32 of Bombay Act I of 1865 or section 38 of this Act, and to all trees, brushwood, jungle or other natural product, wherever growing, except in so far as the same may be the property of individuals or of aggregates of individuals capable of holding property, vests in Government; and such trees, brushwood, jungle or other natural product shall be preserved or disposed of in such manner as Government may from time to time direct.

G. R. N. 6550, dated 3-11-1881. *Trees in Government lands*. If a person plants a tree in Government land the tree becomes the property of Government and the planter has no right. Enjoyment of the produce of trees on Government waste land by custom or under a tax system of administration does not amount to recognition by Government of a right. The exception in favour of private rights in the section extends to lands set apart for forest reserves under section 38.

G. R. No. 649, dated 30-1-1882. *Trees in occupied Survey Numbers*. Trees grown on occupied land belong to the occupant. If they grow in the dry beds of streams, they are to be treated as Government property.

G. R. Nos. 6282, dated 5-8-1884 and 2384, dated 26-11-1884. *Special concession*. In case of babul cultivation it can be encouraged by Government which is prepared to grant any reasonable concessions which may be considered necessary in each case.

G. R. No. 237, dated 11-1-1890 and G. R. No. 9313, dated 18-12-1883. All trees unless reserved inside a Railway fence are the property of Railway Company.

G. R. No. 4118, dated 14-6-1901. The Mamltdars were informed that the Commissioner will make a favourable record of efforts to promote arboriculture. (Babul cultivation).

G. R. No. 8966, dated 27th December 1901. *Special concessions* allowed for planting of trees in open spaces in villages.

G. R. No. 8811 dated 4-9-1907. Commissioners are empowered to make free grants of timber from Government waste lands.

G. R. No. 3736, dated 14-6-1909. Free grant of timber. Collectors can make free grants of timber from Government waste lands upto the value of Rs. 50.

G. R. No. 2289, dated 26-10-1910 and 60 dated 13-1-1911. *Trees Planting*. Government of India requested the Bombay Government to take measures for the promotion of arboriculture in the Bombay Presidency.

G. R., R. D. No. 9424, dated 6-9-1918. *Trees*. Concessions about rights granted should be continued to holder's legal heirs.

G. R. No. 3535-24 dated 26-4-1926. The right of Government to reserved trees is confined to those reserved trees which exist at the time of the settlement. All subsequent growth belongs to the occupant.

G. R. No. 7491-24, dated 29-4-1929. Government have a right over sandal-wood trees except where the right has been conceded.

G. R. No. 4622-28, dated 23-6-1930. *Disposal of Government Sandal-wood trees growing in lands outside forest*. Disposal of sandal-wood trees belonging to Departments other than the Forest Department to be effected by the Divisional Forest Officer whenever he finds it convenient and advisable.

G. R. No. 4622-28 of 23-6-30. *Sandal-wood trees*. The Forest Department should dispose of sandal-wood trees growing in land outside a forest.

The produce of trees belonging to Government may be sold by auction annually or for a period of years.

Sale of produce
of Government
trees

Where any such trees are sold under section 4I, the sale shall be by auction or otherwise as the Collector may direct. (L. R. R. 64)

The grazing or other produce of all unoccupied land vesting in Government whether a survey settlement extends to such land or not, and whether the same is assessed or not and of all land specially reserved for grass or for grazing (except land assigned to villages for free pasturage) may be sold by public auction or otherwise, as the Collector deems fit, year by year, or for any term not exceeding five years, either field by field or in tracts, and at such time as the Collector shall determine.

Provided the purchaser's rights over such land shall entirely cease on the dates respectively fixed in the following table, unless under

special circumstances, the Collector deems it necessary to alter the time so fixed—

Collectorates.	Waste assessed Dry-crop land.	Waste assessed Rice land.	Reserved Kurans and un-assessed waste.
All in Sind.	31st July.	31st July.	31st July.
Thana.	31st March.	31st March.	31st December.
Dharwar.	31st March.	31st December.	1st May.
All others.	31st March.	31st March.	1st May.

(L. R. R. 65) For further rules on trees please see Chapter VIII.

42. All road-side trees which have been planted and reared by, or under the orders of, or at the expense of Government, and all trees which have been planted and reared at the expense of Local Funds by the side of any road, which vests in Government, vest in Government. But in the event of such trees dying, or being blown down, or being cut down by order of the Collector, the timber shall become the property of the holder of the land in which they were growing; and the usufruct, including the droppings of such trees, shall also vest in the said holder: provided that the trees shall not be lopped except under the orders of the Collector.

43. Any person who shall unauthorizedly fell and appropriate any tree or any portion thereof or remove from his holdings any other natural product of value of trees, etc., unauthorizedly appropriated, whether of the like description or not which is the property of Government, shall be liable to Government for the value thereof, which shall be recoverable from him as an arrear of land revenue, in addition to any penalty to which he may be liable under the provisions of this Act for the occupation of the land or otherwise; and notwithstanding any criminal proceedings which may be instituted against him in respect of his said appropriation of Government property.

The decision of the Collector as to the value of any such tree, or portion thereof, or other natural product, shall be conclusive.

44. In villages or lands in which the rights of Government to the trees have been reserved under section 40 subject to certain privileges of the villagers or to certain classes or persons to cut fire-wood or timber for domestic or other purposes, and in lands which have been set apart under section 38 for forest reserves subject to such privileges, and in all other cases in which such privileges exist in respect of any alienated land, the exercise of the said privileges shall be regulated by rules to be from time to time, either generally or in any particular instance, prescribed by the Collector or by such other officer as Government may direct. In any case of dispute as to the mode or time of exercising any such privileges the decision of the Collector or of such other officer shall be conclusive.

45. All land, whether applied to agricultural or other purposes, and wherever situate, is liable to the payment of land revenue to Government, according to the rules hereinafter enacted except such as may be wholly exempted under the provisions of any special contract with Government or any law for the time being in force.

But nothing in this Act shall be deemed to affect the power of the Legislature to direct the levy of revenue on all lands under whatever title they may be held whenever and so long as the exigencies of the State may render such levy necessary.

And special exemption may in case of necessity be over-ruled for a time.

Assessment of revenue:—Strict proof must be given of any right set up in derogation of the inherent right of the sovereign to assess the land at his discretion; and the facts that the lands in question were waste lands reclaimed from the sea, which the inhabitants were invited to cultivate, or that a very small rent has been paid for many years do not show that the Government has forfeited its right to enhance the assessment in respect of such lands (*Shapurji V. The Collector of Bombay*, *Bom. 435*).

G. R. No. 4729-24, dated 2-5-1927. Government reserve the right to levy land revenue under section 45 of the Land Revenue Code in the case of city surveyed sites not hitherto assessed to land revenue.

The fact that the land has not been assessed in the last 60 years does not bar the right to assess it now (L. L. R. 27 Madras, p. 17). (G. O., B. D., No. 714, dated 1st March 1920).

46. All alluvial lands, newly-formed islands, or abandoned river-beds which vest, under any law for the time being in force, in any holder of alienated land, shall be subject in respect of liability to the payment of land revenue to the same privileges, conditions or restrictions as are applicable to the original holding in virtue of which such lands, islands or river-beds so vest in the said holder, but no revenue shall be leviable in respect of any such lands, islands, or river-beds until or unless the area of the same exceeds half an acre and also exceeds one-tenth of the area of the said original holding.

When a holding is bounded on any side by the bank or shore of a river, creek or nala or of the sea, the holder will be permitted, subject to the provisions contained in sections 46, 47, 63 and 64, to occupy and use the land up to such bank or shore, notwithstanding that its position may shift from time to time. (L. R. R. 71).

Holders of land with shifting boundaries may occupy up to such boundaries.

Claims to decrease of assessment on account of diluvion under section 47 shall be disposed of by the Collector.

The Collector to dispose of claims under section 47.

It shall be the duty of the village officers to ascertain and to record the increases due to alluvion and losses due to diluvion in every holding subject to such changes. They shall also report to the Mamlatdar for orders when the area of any newly formed alluvial land or island, or of any abandoned river bed, or land lost by diluvion exceeds the limits prescribed in section 46, 47 and 64. (L. R. R. 72).

47. Every holder of land paying revenue in respect thereof shall be entitled, subject to such rules as may be from time to time made in this behalf by the Governor in Council, to a decrease of assessment if any portion thereof not being less than half an acre in extent, is lost by diluvion.

G. R. No. 1369, dated 4-2-1916. *Reduction of assessment.* Collectors can reduce assessment due to diluvion.

48. (1) The land revenue leviable on any land under the provisions of this Act shall be assessed, or shall be deemed to have been assessed, as the case may be, with reference to the use of the land—

Manner of assessment and alteration of assessment.

Prohibition of use of land for certain purposes.

(a) for the purpose of agriculture,
 (b) for the purpose of building, and
 (c) for a purpose other than agriculture or building.

(2) Where the land assessed for use for any purpose is used for any other purpose, the assessment fixed under the provisions of this Act upon such land shall, notwithstanding that the term for which such assessment may have been fixed has not expired, be liable to be altered and fixed at a different rate by such authority and subject to such rules as the Governor in Council may prescribe in this behalf.

(3) Where land held free of assessment on condition of being used for any purpose is used at any time for any other purpose, it shall be liable to assessment.

(4) The Collector or a survey officer may, subject to any rules made in this behalf under section 214, prohibit the use for certain purposes of any unalienated land liable to the payment of land revenue, and may summarily evict any holder who uses or attempts to use the same for any such prohibited purpose.

In the case of building sites held on renewable cantonment tenure, the abolition of a cantonment or the relinquishment of control by the military to the civil authorities will not affect the tenure of the holder. He continues to be a licensee (lessee) of the land as before, and will be liable to pay rent demanded. Unless there is anything to show that the land was brought under survey and settlement, the holder does not obtain permanent occupancy rights on the land. The rent leviable would be fixed by the Collector under the rules. (G. O. No. 662, dated 26-2-1920.)

Altered assessment on lands used for non-agricultural purposes is leviable according to the rules current at the time of conversion. Such land is assessable therefore at the standard rate in force when the use was altered. If the non-agricultural user is brought to notice subsequently but before the standard rates are revised, the liability to pay

agricultural assessment can only be according to the old rate, in accordance with the principle that the imposition of revised assessment cannot ordinarily have retrospective effect. (9, Bom. 493), (G. R. No. 8418, dated 18-7-1923).

While lands occupied by municipalities for their water and drainage works yield a return, they do not unless in very exceptional cases, yield a profit. Accordingly, in the case of mofussil municipalities no assessment should be levied on lands occupied by water and drainage works.

2. No assessment, either agricultural, or non-agricultural, should be levied on lands so occupied by public bodies in the Bombay Suburban District. (G. R. No. 3586-24, dated 29-11-1926).

Non-agricultural land falls into the following categories:—

A.—Occupied, but according to custom not subjected to taxation; though not necessarily exempt if Government choose to assess under section 45, 52 (see Note 27) (iii).

B.—Occupied upon leases entered into in past years, under Rules or Orders not now in force.

C.—Occupied and assessed on ordinary N. A. tenures and agreements according or approximating to Rules now in force. This class requires no special discussion.

D.—Unoccupied and at the disposal of Government;

E.—Alienated under some grant or title to exemption, whole or partial (not the same as B. which is merely exempt by custom and sufferance),

F.—Occupied land which was converted from agriculture but before its change of use,

(i) was assessed for agriculture;

(ii) was exempt or omitted from assessment in respect of agriculture (whether as ordinary S. N. or as Pardi, Udafa or Wada Nos.) (Note 27 (x) and R. 616-59 or as Pot-Kharab);

After its change of use (iii) was assessed for agriculture (by mistake) by a Survey Officer, and its assessment guaranteed prior to the issue of R. 4267-96 (R. 5344-93); (R. 1395-17 which contains Adv. General's opinion upon the effect of the settlement guarantee notification).

Mountstuart Elphinstone in his report (as Commissioner) of 25-10-1819 (Vide Bom. Judicial Selection, p. 164, Secretariat file of 1826, Vol. IV) after referring to the "Ain Jama" mentions another regular source of revenue "Shiwai Jama"; Viz: some 30 different taxes levied on almost every conceivable object some falling on the cultivators only, some on the traders, and some on both indiscriminately. Among the

latter he mentions the Gharpatti or Ambersaree, a house-tax, levied on all but village officers.

However this policy of exempting village house sites has been followed during British rule subject always to the consistent reservation (until R. 10347-09) of the right of levying such taxation. For declaration by Government of their intention to reserve this right, see R. 858-72, 5413-76. ("It is most important to assert this right on all occasions") (R. 3042-83; 4090-84 and 4511-00).

Both these questions are answered substantially by the rule laid down by Lord Stowell (quoted in I.L.R. 9 Bom. 483) "that the prerogatives and rights and emoluments of the Crown being conferred upon it for great purposes and for the public use, it shall not be intended that such prerogatives, rights and emoluments are diminished by any grant beyond what such grant by necessary and unavoidable construction can take away." It is further laid down in the same case that "the expenses incurred as well as the benefits conferred by Government increase with the progress and development of the community and, it is not only legal, but politic and just, to increase assessments in accordance with the increased value of the land, so far as that increase is caused, not by the exertions of the holders, or the improvements made by them, but by the growth of general prosperity under the influence of good administration." In fact it is the economic doctrine of Henry George.

Specially favourable rules originally devised for Salsette were subsequently extended to some other places where it was considered advisable to encourage building development and the provision of open spaces around buildings. They now continue in Bombay Suburban District only.

49. When it has been customary to levy any special or extra cess, fine or tax, however designated, from any holder of land, which though nominally, wholly or partially exempt from the payment of land revenue, has by the exaction of such cess, fine or tax been indirectly taxed to the State, or when any land ordinarily, or under certain circumstances, wholly or partially exempt from assessment, is subject occasionally, or under particular circumstances to the payment of assessment, or of any cess or tax however designated, and of land liable to occasional assessment, the said assessment, cess, fine or tax may be commuted into an annual assessment on the land to be paid under all circum-

ances, but such commuted assessment shall not exceed such amount as the Commissioner shall deem to be fair equivalent of the assessment, cess, fine or tax for which it is substituted, and shall not be in excess of the assessment to which the land would be ordinarily subject, if no right to exemption existed in respect thereof.

50. Whenever any such cess, fine or tax hitherto payable by an inferior holder shall be made leviable from the superior holder, it shall be lawful for such superior holder to recover from such inferior holder the amount of the commuted assessment fixed in lieu of such cess, fine or tax.

Superior holder may recover commuted assessment from inferior holder.

51. When it has been customary to levy a larger revenue, under the name of "*veta*" or any other designation, upon any portion of land than such portion would ordinarily be liable to in consideration of other land being held with it which is wholly or partially exempt from payment of revenue, the excess of revenue payable on the said portion of land may be charged upon the land hitherto held wholly or partially exempt.

Excess of assessment may be laid on land inadequately assessed held with it.

52. On all lands which are not wholly exempt from the payment of land revenue, and on which the assessment has not been fixed under the provisions of section 102 or 106, the assessment of the amount to be paid as land revenue shall, subject to rules made in this behalf under section 214, be fixed at the discretion of the Collector, for such period as he may be authorized to prescribe, and the amounts due according to such assessment shall be levied on all such lands:

Assessment by whom to be fixed.

Provided that in the case of lands partially exempt from land revenue, or the liability of which to payment of land revenue is subject to special conditions or restrictions, respect shall be had in the fixing of the assessment and the levy of the revenue to all rights legally subsisting, according to the nature of the said rights.

G. R. No. 3773, dated 30-9-1864. No guarantee was given against alteration when general revision of the land assessment was determined.

A Pot Kharab land used for non-agricultural purpose by erection of a building was left unassessed at the time of both the original and revision surveys. It is liable to assessment under section 45 unless a special contract granting exemption is produced. Only non-agricultural assessment is leviable on it but not a fine under section 66. (G. R. No. 3490/24 dated 11-5-1925).

53. A register shall be kept by the Collector in such form as may from time to time be prescribed by the Governor in Council of all lands, the alienation of which has been established or recognized under the provisions of any law for the time being in force; and, when it shall be shown to the satisfaction of the Collector that any sanad granted in relation to any such alienated land has been permanently lost or destroyed, he may, subject to the rules and the payment of the fees prescribed by Governor in Council under section 213, grant to any person whom he may deem entitled to the same a certified extract from the said Register, which shall be endorsed by the Collector, to the effect that it has been issued in lieu of the sanad said to have been lost or destroyed, and shall be deemed to be as valid a proof of title as the said sanad.

Register of alienated lands.

A duplicate sanad can be granted in cases in which a sanad has been lost or destroyed (such a copy would not be good secondary evidence in a court of law). (G. R. No. 1245/24, dated 4-2-1925).

54. The settlement of the assessment of each portion of land, or survey number, to the land revenue, shall be made with the person who, under section 136, is primarily responsible to Government for the same.

Settlement of assessment to be made with the holder directly from Government.

55. The Governor in Council may authorize the Collector or the officer in charge of survey, or such other officer as he deems fit, to fix such rates as he may from time to time deem fit to sanction, for the use, by land holders and other persons, of water, the right to which vests in Government, and in respect of which no rate is leviable under the Bombay Irrigation Act, 1879. Such rates shall be liable to revision at such periods as Government shall

Rates for the use of water.

from time to time determine, and shall be recoverable as land revenue.

Maximum water rates for Thana, Kolaba, Dharwar and Belgaum.

Maximum water rates have been sanctioned for the following districts:—

District.	Rate per acre.
Thana	5
Kolaba	5
Dharwar	8
Belgaum	{ 12 perennial crops. 8 other crops.

All Collectors in the Presidency, other than Collectors in the Province of Sind, are authorized to fix such rates as they may from time to time deem fit to sanction for the use, by landholders and other persons, of water within the limits of their respective districts, in all cases in which the right to such water vests in Government, and no rate in respect thereof is leviable under the Bombay Irrigation Act, 1879 (B. G. G. 1896. Part I, p. 583):

G. R. No. 1546, dated 26-3-1878. *Payment of water rate by Inamdars.* The holders of Inam lands who use water for irrigation purposes from tanks constructed by Government are to pay water rate.

G. R. No. 4347, dated 25-6-1902. *Maximum rate.* Maximum rates for each district should be reported to Government for sanction.

G. R. No. 2407, dated 6-3-1908. *Pumping installations.* Any person willing to erect a mechanical pumping installation on a river or stream should apply to the Collector. The Collector should consult the Superintending Engineer. If there is no objection from that Department, permission may be granted.

56. Arrears of land revenue due on account of land by any landholder shall be a paramount charge on the land revenue holding and every part thereof, failure in payment of which shall make the occupancy or alienated holding, together with all rights of the occupant or holder over all trees, crops, buildings and things attached to the land or permanently fastened to anything attached to the land, liable to forfeiture, whereupon the Collector may levy all sums in arrear by sale of the occupancy or alienated holding, or may otherwise dispose of such occupancy or alienated holding under rules made in this behalf under section 214, and such occupancy or alienated holding when disposed of, whether by sale as aforesaid, or by restoration to the

defaulter, or by transfer to another person or otherwise howsoever, shall, unless the Collector otherwise directs, be deemed to be freed from all tenures, rights, incumbrances and equities therefore created in favour of any person other than Government in respect of such occupancy or holding.

Retrospective effect.—This section, as amended by Bombay Act of 1901, has retrospective effect and empowers the Collector to transfer a forfeited occupancy freed from all liens, whether such occupancy was validly forfeited under the Code prior to the Amending Act or was forfeited in compliance with the provisions of section 153 as amended by Bombay Act VI of 1901 (*Gangadas V. Yusif*, 8 S. L. R. 233).

Applicability of this section.—This section does not apply where there has been no forfeiture under section 153 (*Chitta Bhulla V. Bai Janmai*, 40 Bom. 486).

Mortgagor's right to redeem.—The plaintiff's grand-father mortgaged his lands in 1872 and placed the mortgagee in possession. There was default in payment of assessment as the result of which the property was forfeited by Government under section 56 of the Bombay Land Revenue Code as it stood before its amendment in 1901. Government resold the property to the mortgagee in 1884 and transferred its khata from the name of the mortgagor to that of the mortgagee. In 1921 the plaintiff sued to redeem the mortgage.

Held that the right to redeem was lost owing to the forfeiture of the land under the original section 56 of the Land Revenue Code and that, before the plaintiff could succeed, he must show that the forfeiture and the revenue sale were due to the default of the mortgagee in not paying the assessment and that the income of the land was sufficient to pay the assessment or that in some way the mortgagor had put the mortgagee in funds wherewith to pay the assessment (*Abdul Rahmas V. Vinayak Jaywantrao*, 29 Bom. L. R. 1056).

Re-grant if free from incumbrances.—Where a land vests in the original tenure-holder under a new tenure created by this section as amended by Act VI of 1901, the land vests free from all incumbrances and from all previous equities. The fact that default in the payment of revenue was made is immaterial (*Vedu Shivalal V. Kalu*, 37 Bom. 692).

Arrears of assessment.—Forfeiture ordinarily implies the loss of a legal right by reason of some breach of obligation. When arrears of assessment are levied by sale, then this section, in pursuance of an obvious policy, empowers the Collector to sell "freed from all tenures, incumbrances and rights created by the occupant.....or any of the predecessors in-title or in any wise subsisting as against such occupant."

Should the Collector otherwise dispose of the occupancy, this section affords no such protection; and the legal relations must be determined by reference to the ordinary law. So judged, the effects of a forfeiture and subsequent acquisition of the forfeited property are subject to the control of equities arising out of the conduct of the parties (*Amolat Banachand V. Dhondi Khandu Bhosale, 80 Bom. 486*). (See also *Balkrishna V. Madhavrao, 5 Bom. 73*).

G. R. No. 9109, dated 7-10-1910. Tagai under Agriculturists' Loan Act. Sections 56 and 153 do not apply to recovery of loans under D. R. Act.

57. It shall be lawful for the Collector, in the event of the forfeiture of a holding through any default in payment or other failure occasioning such forfeiture under the last section or any law for the time being in force, to take immediate possession of such holding, and to dispose of the same by placing it in the possession of the purchaser or other person entitled to hold it according to the provisions of this Act or any other law for the time being in force.

Forfeited holdings may be taken possession of and otherwise disposed of.

58. (1) Every Revenue Officer and every hereditary patel and every hereditary village accountant receiving payment of land revenue shall give a written receipt for the same.

(2) Every superior holder of an alienated village or of an alienated share of a village who is entitled to recover direct from an inferior holder any sum due on account of rent or land revenue shall give to such inferior holder a written receipt for the same.

(3) Every hereditary patel or hereditary accountant who receives, in behalf of a superior holder of an alienated village or of an alienated share of a village, and rent or land revenue from an inferior holder shall give to such inferior holder a written receipt for the same. Such receipt shall be a full discharge to such inferior holder for such rent or land revenue as against such superior holder. A copy of such receipt shall in every case be sent to the superior holder by such patel or accountant.

Village accountant bound to give receipt:—The village accountant receiving a payment of land revenue is bound to tender a receipt for the same in some form, and if a receipt book is not produced by a rayat,

the accountant has no choice but to prepare and tender it to the rayat on a separate paper (*G. R. No. 3661, dated 7th May 1884*).

59. Any person convicted of a breach of the provisions of the last preceding section after summary enquiry before the Collector shall be liable to a fine not exceeding three times the amount received for which a receipt was not duly granted, and one-half of the fine may, at the discretion of the Collector, be paid to the informer, if any. Such enquiry may at any time be instituted by the Collector of his own motion without any complaint being preferred to him.

CHAPTER VI.

Of the Grant, Use and Relinquishment of Unalienated Land.

60. Any person desirous of taking up unoccupied land which has not been alienated must, previously to entering upon occupation, obtain the permission in writing of the Mamlatdar or Mahalkari required previous to taking up unoccupied land.

Note.—Sections 60 to 67 (both inclusive) do not apply to any estate in the districts of Ahmedabad, Kaira, Broach or Panch Mahals to which the Gujarat Talukdars Act, 1888, extends (*See Bom. Act VI of 1888, ss. 1 and 33*).

The sale of unoccupied land held by Mamlatdars under section 62 and permission to occupy such land given under this section are within the scope of section 211 proceedings, which the Commissioner has justification to call for and revise and wherein to pass such orders as he deems fit and no suit would lie against Government on account of that officer exercising his legal powers under that section (*Paraga V. The Secretary of State P. J. 1891, p. 230*).

61. Any person who shall unauthorizedly enter upon occupation of any land set apart for any special purpose, or any unoccupied land which has not been alienated, and any person who uses or occupies any such land to the use or occupation of which by reason of any of the provisions of this

Penalties for unauthorized occupation of land.

Act he is not entitled or has ceased to be entitled shall,

if the land which he unauthorizedly occupies forms part of an assessed survey number, pay the assessment of the entire survey number for the whole period of his unauthorized occupation, and

if the land so occupied by him has not been assessed, such amount of assessment as would be leviable for the said period in the same village to the same extent of similar land used for the same purpose;

and shall also be liable, at the discretion of the Collector, to a fine not exceeding five rupees, or a sum equal to ten times the amount of assessment payable by him for one year, if such sum be in excess of five rupees, if he have taken up the land for purposes of cultivation, and not exceeding such limit as may be fixed in rules made in this behalf under section 214, if he have used it for any non-agricultural purpose.

The Collector's decision as to the amount of assessment payable for the land unauthorizedly occupied shall be conclusive, and in determining its amount occupation for a portion of a year shall be counted as for a whole year.

The person unauthorizedly occupying any such land may be summarily evicted by the Collector, and any crop raised on the land shall be liable to forfeiture, and any building or other construction erected thereon shall also, if not removed by him after such written notice as the Collector may deem reasonable, be liable to forfeiture, or to summary removal.

Forfeitures under this section shall be adjudged by the Collector, and any property so forfeited shall be disposed of as the Collector may direct and the cost of the removal of any encroachment under this section shall be recoverable as an arrear of land revenue.

Object of amending para (1).—The object of amending paragraph 1 is to make it clear that this section applies to a case where a person having been lawfully in occupation of land unauthorizedly continues to hold over.

Application of this section:—This section applies only to roads which are the property of Government in unalienated villages or unalienated portions of villages and not to roads of alienated villages unless the right of Government, to the ownership of such roads has been reserved (G. R. No. 3130, dated 12-11-1920).

Application of this section to cases of unauthorized occupation which commenced subsequent to this Act.—The use of the word "shall" in the first clause of this section does not restrict the application of this section to cases of unauthorized occupation which began subsequent to this Act coming into force. Although the assessment may not be leviable for a period anterior to the date of the enactment, an occupation is a continuous act (*Pranlal V. Secretary of State, P. J. 1827, p. 366*).

Encroachment on Inam Gurcharan land:—This section is not applicable to alienated villages or lands. The Inamdar's proper remedy in such a case as that of encroachment on gurcharan in a surveyed alienated village is a suit in the Civil Court (G. R. No. 5205, dated 25th July 1885).

The section applies only to lands, the property of Government in unalienated villages:—The lower Appellate Court held that this section applied. The Higher Appellate Court held, that this section did not apply. This section relates back to section 38 and both refer only to lands, the property of Government in unalienated villages or unalienated portions of villages. They do not empower the Government to confiscate any land belonging to an Inamdar and to confer it on the persons living in his villages (*Vinayakrao V. Secretary of State, 25 Bom. 39*).

Encroachment on public road:—Under section 37 *ante* all public roads being the property of Government, it must be taken that the public road encroached, upon by the accused is in the possession of the Local Government officers on behalf of the Government. Hence a person who encroaches on such a road is guilty of criminal trespass, if the encroachment is made with such intent as is contemplated in section 441 of the Penal Code (*Fakirgavda, Cr. Rg. 49 of 1888*).

G. R. No. 5205, dated 25th June 1885. Applicability. Section 61 not applicable to alienated villages or lands.

G. R. No. 6111, dated 9-9-1887. Encroachment on tanks in Municipal limits. The Collector should decide whether the disused tank belongs to Government.

G. R. No. 1697, dated 13-3-1888 reaffirmed by G. R. No. 3554 of 10-5-1895. The procedure is strictly the same as is stated in section 202.

G. O., R. D., No. 3141, dated 26-3-1919. *Occupation.* The act of putting up a balcony amounts to occupation within the meaning of section 61 of the Bombay Land Revenue Code,

G. O., R. D., No. 7057, dated 12-7-1919. Fines recovered under section 61 should be credited to Miscellaneous Land Revenue.

G. R. No. 1134-24, dated 4-5-1927. *Projections of Balconies.*—Prescribes the form of license to be used by Municipalities in cases of projections over Municipal lands. These projections can be allowed on payment of rent.

Railway Lands :—The G. I. P. Railway is Government property and lands belong to Government. When encroachments are made on these lands, sections 61 and 202 of the Land Revenue Code are of universal application. (G. O., R. D., No. 175, dated 12-6-1920).

Quarrying without permission.—The fine levied under section 61 of the Bombay Land Revenue Code 1879, for unauthorized occupation of land by quarrying it need not, on the one hand, be confined to the bare area of the pits, nor on the other, can it be extended to the entire area of the survey number. Occupation in the sense of the amount of area which has deteriorated for the purposes of cultivation or for quarrying is the area contemplated by the Code as being occupied (*Suleman Aba V. The Secretary of State, 30 Bom. L. R. 431*)

62. It shall be lawful for the Collector subject to such rules as may from time to time be made by the Govern-

Unoccupied land may be granted on condition. nor in Council in this behalf, to require the payment of a price for unalienated land or to sell the same by auction, and to annex such conditions to the grant as he may deem fit, before

permission to occupy is given under section 60. The price (if any) paid for such land shall include the price of the Government right to all trees not specifically reserved under the provisions of section 40, and shall be recoverable as an arrear of land revenue.

Grant of unoccupied land.—On application made by the plaintiff, the Collector made a grant of land to him free from payment of occupancy price and free of assessment till the land was brought into cultivation. On July 10, 1919, the plaintiff signed a kabulayat for the land, went into occupation, and spent money in developing the land. On December 6, 1921, the Commissioner passed an order under section 211 of the Land Revenue Code calling upon the plaintiff to pay the occupancy price at the date of the grant and also to pay land revenue for the land from that date. The order was not served on the plaintiff but on December 15, he

was called upon to pay the occupancy price and the arrears of the land revenue. The plaintiff did not appeal from the Commissioner's order, did not pay the occupancy price but paid under protest the land revenue. On August 29, 1922, the Assistant Collector forfeited the land for non-payment of occupancy price. The plaintiff appealed to the Collector against the order of forfeiture but the appeal was dismissed. The plaintiff having been dispossessed of the land sued to recover possession from the Secretary of State and defendant 2, to whom the land was granted after dispossession. It was objected that plaintiff not having appealed from the Commissioner's order of December 6, 1921, the cognizance of the suit was barred by section 11 of the Bombay Jurisdiction Act 1876.

Held that the order of the Commissioner under section 211 of the Bombay Land Revenue Code was in no sense a modification of the Collector's order but was a new order beyond the powers of the Commissioner imposing upon the plaintiff terms which he had no opportunity to refuse.

(2) that the order was therefore invalid and *ultra vires*. (*Anant Krishnuji v. the Secretary of State, 38 Bom. L. R. 218.*)

G. R. No. 6210, dated 22-8-1883. Grant of land to Kolis. The concession given by G. R., R. D., No. 1044, dated 19-2-1875 should be confined to Kolis and other wild tribes.

G. R. No. 2682, dated 15-3-1909. Building sites. There is no objection to grant building sites on restricted tenure in suitable cases.

G. O., R. D., No. 12176, dated 11-12-1916. Grant of lands to criminal tribes. Revised forms are introduced for such grants.

(L. R. Rule 30.) (a) The right of Government to mines and mineral products which is reserved by section 69 shall not be disposed of without the sanction of Government, and in all grants of land the right to mines and mineral products and full liberty of access for the purpose of working and searching for the same shall be deemed to be reserved unless Government direct to the contrary and unless such right and liberty are expressly granted.

(b) No land situate within port limits shall be disposed of without the written concurrence of the Collector of Salt Revenue, and without the reservation as to the tree-growth provided for in rule 58 (d).

(c) In all grants and disposals of land the right of occupation and use only subject to the provisions of the Code shall be granted; and not the proprietary right of Government in the soil itself.

(L. R. Rule 31.) Land may not be granted free of land revenue without the sanction of Government except as hereinafter provided.

(L. R. Rule 32.) (1) Land may be given free of price and free of revenue, whether in perpetuity or for a term, for any purpose hereinafter mentioned by the authorities, and to the extent specified in this table:—

Limits of revenue free grants for different purposes.

Purpose.	Estimated revenue-free value.		
	By the Governor in Council	By the Commis- sioner	By the Collector.
(1) For sites for the construction at the cost of Local or Municipal Funds, of— (a) Schools or Colleges, (74) (b) Hospitals, (c) Dispensaries and (d) Other public works from which no profit is expected to be derived.	10000	5000	250
(2) For sites for the construction at the cost of other than Local or Municipal Funds, of any of the works referred to in item (1) above and for religious use.	1000	500	50
(3) To any private individual for Service to be performed or already rendered to the State	1000	...	...
to be performed to the community.	500	...	...

Provided that land in the neighbourhood of railway stations shall not be granted for dharamshalas under head (2) in the table, unless when erected, they are to be in the charge of the Local Board or Municipality concerned.

Proviso as to land near railway stations.

(2) Such gifts shall ordinarily be made in form D.

(74) All applications to Government for lands for educational uses must be submitted through the Director of Public Instruction (Circular R. 1786-99). When grants are made for educational purposes as a part of grant-in-aid for a building, a Trust deed under the Grant-in-aid Code is also required. When grants are for Military services (Mily. Dept. G. of I. 867-B-27-2-93) the value of the occupancy price and of the L. R. exempted is debited to the Mily. Dept. through the exchange Acct. and credited to Provincial V.L.R. Cash grants are paid by Military disbursers. (F. 2060-6-7-24).

(L. R. Rule 33.) (1) When it is clear that such a sale is preferable to any other course on grounds of obvious convenience to Government no less than to the parties concerned:—

(a) any land wherever situate, of which the estimated revenue-free value does not exceed one hundred rupees, and

(b) with the previous sanction of Government, any land included in a village site of which the estimated revenue-free value does not

exceed five hundred rupees may be sold revenue-free by the Collector to a private person for a private purpose.

(2) The previous sanction of the Government of India is required to the sale of land revenue-free to a private person for a private purpose in any case not provided for by this rule or by Rule 49.

(L. R. Rule 34.) (1) In the district of Dharwar whenever unoccupied land is available for the purpose, the Collector may give Grants in the Dharwar District to shetsanadis for remuneration. such land to any shetsanadi who is willing to accept remission at the rate of one rupee of the assessment in exchange for two rupees of the usual annual cash remuneration:

Provided that no such land shall be given if the estimated occupancy value thereof exceeds five hundred rupees.

(2) Where a grant is made under this rule no sanad need be issued to the grantee, but it is to be a condition of this tenure that the land is granted revenue-free to the agreed extent only in consideration of the Shetsanadi's service, and that it is resumable at the pleasure of Government.

(L. R. Rule 35.) (1) The Collector may exempt from payment of land revenue without any limit lands used for sites of hospitals, dispensaries, schools and for other public purposes, so long as such lands are used for such purposes and yield no return to private individuals or local bodies.

(2) Lands used for sites of buildings solely devoted to religious or charitable purposes may be exempted from payment of land revenue by the authorities and to the extent specified below, so long as such lands are used for such purposes and yield no return to private individuals or local bodies;—

By the Collector—Upto an amount of Rs. 10.

By the Commissioner—Upto an amount of Rs. 50.

By the Governor-in-Council—Upto any amount.

(3) Such exemptions shall ordinarily be made in form E. Alienations sanctioned in Bombay are:—

- (1) All proceeds of quarries, lime-stone, sand, etc., to the Local Board (R. A. M., p. 214).
- (2) Mahableshwar Station Fund gets all receipts (except Income Tax) from houses and lands in its limits including grass and timber (R. 687, 688-62), and the sale price of occupancy rights (R. 1319-63) and fees for renewal of leases (R. 1194-65, 2265-65 and 3269-65).
- (3) Matheran Municipality gets revenue fines, proceeds of sales of maps, notice fees, and half the forest revenue (R. 2166-05, 5389-05) and all ground rents of Bazar plots, and sale proceeds of plots less the cost of administration (F. 112-10).

(4) Panchgani Municipality gets the rents and assessment of all Government lands (G. 392-10).

(5) It follows that no Municipality is exempt for sites vesting in them under section 50 (2) Mupl. Act as markets, etc., and used for profit R. 9202-24-5-9-27 over-ruling R. 2579-15-3-18.

(L. R. Rule 36.) (1) Every grant under rule 32 or 34 shall be made expressly on the following conditions in addition to any others that may be prescribed in particular cases, namely:—

Conditions attached to grants under rules 32, 34 or 35.

(a) that the land with all fixtures and structures thereon shall be liable to be resumed by Government if used for any purpose other than the specific purpose or purposes for which it is granted, or if required by Government for any public purpose, and that a declaration under the signature of the Commissioner that the land is so required shall, as between the grantee and Government, be conclusive;

(b) that, if the land is at any time resumed by Government under condition (a), the compensation payable therefor shall not exceed the amount (if any) paid to Government for the grant, together with the cost or value at the time of resumption, whichever is less, of any building or other works authorizedly erected or executed on the land by the grantee.

(2) Where exemption from revenue is granted under rule 35 on land already occupied by the grantee, the following condition shall be imposed, in addition to any others that may be settled in particular cases, namely, that, if the land is used for any purpose other than the specific purpose or purposes for which exemption is granted, it shall, in addition to the assessment to which it becomes liable under section 48, become liable to such fine as may be fixed in this behalf by the Collector under the provisions of section 66, as if the land having been assessed or held for the purpose of agriculture only had been unauthorizedly used for any purpose unconnected with agriculture.

(L. R. Rule 37.) (1) Any unoccupied survey number not assigned for any special purpose may, at the Collector's discretion, be granted for agricultural purposes to such person as the Collector deems fit, either upon payment of a price fixed by the Collector, or without charge, or may be put up to public auction and sold subject to his confirmation to the highest bidder.

(2) In the case of such grants an agreement in Form F shall ordinarily be taken from the person intending to become the occupant.

(3) When the land is granted on inalienable tenure the clause specified in form I shall be added to the agreement.

(4) The declaration below the agreement shall be subscribed by at least one respectable witness and by the patel and village accountant of the village in which the land is situate.

(L. R. Rule 38.) When any survey number disposed of under rule 37 has not already been assessed, it shall be assessed by the Collector (after reference to the Superintendent of Land Records) at the rates placed on similar soils in the same or neighbouring villages; and the assessment so fixed shall hold good for the period for which the current Settlement for the village in which the land is situated has been guaranteed, and shall be liable thereafter to revision at every general settlement of the said village.

(L. R. Rule 39.) Where it appears that the bringing of any survey number under cultivation or its reclamation for other purposes will be attended with large expense, or where numbers may be for other special reasons it seems desirable, it shall be lawful for the Collector (with the previous sanction of the Commissioner, in cases where the assessment on the land included in the total grant exceeds one hundred rupees) to grant the survey number revenue-free or at a reduced assessment for a certain term, or revenue-free for a certain term and at a reduced assessment for a further term, and to annex such special conditions as the outlay or other reasons aforesaid may seem to him to warrant, and to cancel the grant or levy full assessment on breach of these conditions.

Provided that, on the expiry of the said term or terms, the survey number shall be liable to full assessment under the rules then in force for lands to which a settlement for agricultural use has been extended or which are assessed for other uses.

(2) Form G1 may generally be used in cases under this rule.

(L. R. Rule 40.) Salt land or land occasionally overflowed by salt-water, which is not required or likely to be required for salt manufacture, may, after consultation with the Commissioner of Salt, be leased for purposes of reclamation by the Collector, subject to the confirmation of the Commissioner in particular cases as may be deemed fit:—

- (a) no rent shall be charged for the first ten years;
- (b) rent at the rate of four annas per acre shall be levied for the next twenty years on the whole area leased, whether reclaimed or not;
- (c) After the expiry of 30 years the lease shall be continued in the case of re-claimed lands at the rate at which they would be assessed to land revenue from time to time if they were subjected to survey settlement; and in the case of unreclaimed

lands, if any, at the average rate of the reclaimed lands (Notification No. 372-B. of 17th April 1923).

- (d) any portion of the land used for public roads shall be exempt from the payment of rent ;
- (e) if the reclamation is not carried on with due diligence within two years, or if half the area is not reclaimed so as to be in a state fit for use for agricultural purposes at the end of ten years, and the whole at the end of twenty years, or if any land once reclaimed as aforesaid is not maintained in a state fit for use for agricultural purposes, the lease shall be liable to cancel ation at the discretion of the Collector ;

Provided that the lessee shall be at liberty during the first ten years to relinquish any area which he cannot reclaim.

- (f) if the land reclaimed is used for any non-agricultural purpose its rent shall be liable to be revised according to the rates under whichever of rules 81 to 85 has been applied to the locality notwithstanding that any of the periods specified above may not have expired.

(g) Form G2 may generally be used in cases under this rule.

(L. R. Rule 41.) Land situated in the bed of a river and not included in a survey number shall, save as otherwise provided

Land in beds in sections 46 and 64, ordinarily be leased annually by of river auction to the highest bidder for the term of one year or such further period as the Collector thinks fit. The accepted bid shall be deemed to be the land revenue chargeable on such land. But in Sind the Collector may grant it for cultivation to those holders who have lost land by erosion.

(L. R. Rule 42.) Unoccupied land required or suitable for building sites or other non-agricultural purpose shall ordinarily

Disposal of land be sold after being laid out in suitable plots by auction for building and to the highest bidder whenever the Collector is of other purposes. opinion that there is a demand for land for any such purpose; but the Collector may, in his discretion, dispose of such land by private arrangement, either upon payment of a price fixed by him, or without charge, as he deems fit.

(L. R. Rule 43.) (1) Save in special cases in which the Collector with the sanction of Government otherwise directs, or in

Conditions of localities falling under rule 44, land for building sites grants for build- shall be granted in accordance with the following ing. provisions :-

(a) The land shall be granted in perpetuity subject to the provisions of the first paragraph of section 68, and shall be transferable.

(b) Where the land has already been assessed for agriculture, the assessment shall be altered under whichever of rules 81 to 85 has been applied to the locality.

(c) Where the land has not been assessed the Collector shall fix the assessment in accordance with the principles laid down for alteration of assessment in rules 81 to 85 and the provisions of the said rules shall, as far as may be, apply.

(d) All such assessments shall be fixed for the period specified in rule 87 (a) and may be commuted when they do not exceed one rupee in accordance with the provisions of rule 88.

(2) In the case of such grants an agreement in form F or form H, as the Collector may deem fit, shall ordinarily be taken from the person intending to become the occupant, and in the case of land in development schemes undertaken by Government in the Bombay Suburban District an agreement shall be taken in form HH.

(3) When the land is granted on inalienable tenure, the clause specified in form I shall be added to the agreement.

(4) When the land is granted on impartible tenure an agreement in form F (1), and, when it is also granted on inalienable tenure, an agreement in Form I (1), shall ordinarily be taken from the person. (R. 4702/24, III of 12-3-31).

(5) The declaration below the agreement shall be subscribed by at least one respectable witness and by the patel and village accountant of the village in which the land is situate.

(L. R. Rule 43-A.) Terms on which land intended for future building sites may be temporarily disposed of:—Unoccupied lands which are eventually intended for building sites within the Bombay Suburban District or any other area, to which Government may by notification in the Bombay Government Gazette, extend this rule but of which the immediate disposal for the said purpose appears to the Collector to be undesirable, may be let under written leases in a form approved by Government for short terms not exceeding in any case seven years at a ground rent equal to double the standard rate of non-agricultural assessment in force in the locality, or at a ground rent which may in special cases or localities be fixed with the sanction of the Commissioner.

(L. R. Rule 44.) In hill stations and such other localities as Government may direct land shall not be granted for building in hill stations, except on such conditions as are considered desirable regarding the style of building, the period of construction and the observance of municipal or sanitary regulations. Such conditions should be embodied in the instrument (Form H).

(L. R. Rule 45.) Where an entirely new village site is established, or an addition is made to an existing site, the disposal of Establishment the lots therein shall be made under such of the rules of entirely new 42, 43, 44 as may be applicable. village site.

(L. R. Rule 46.) Where a new village site is established, in lieu of a former one which it is determined for any reason to abandon, an agreement shall be taken in form J, from each occupant before he is permitted under section 60 to enter into the occupation of any lot.

(L. R. Rule 47.) Where unoccupied land is granted for non-agricultural purposes other than building sites, the Collector shall annex such conditions to the grant as may be directed by Government or, in the absence of any order of Government, may annex such conditions thereto as he thinks fit, subject to the control of the Commissioner; and where the land has already been assessed for the purpose of agriculture, the assessment of such land shall, in the absence of any order of Government to the contrary, be altered in accordance with the provisions of rules 81 to 85. Where it has not been assessed, its assessment shall be fixed by the Collector, as far as may be in accordance with the principles laid down for alteration of assessment in the said rules.

(L. R. Rule 48.) Except as may be otherwise specially directed by Government, nothing in rules 37 to 47, both inclusive, shall be applicable to the grant of any lands to which for the sites of a City Survey has been extended under Bombay Act IV of 1868 or under section 131 and which do not vest in Ahmedabad, Broach, Surat, the municipality within the sites of the towns and cities of Ahmedabad (inclusive of its suburbs of Saraspur, Rander, Bulsar, Godhra, and Dariapur, Kajipur, Rajpur, Hirpur, Asarwa, Kochrab, and certain other places), Broach, Surat, Rander, Bulsar, Godhra, Igatpuri, Bandra-Danda and Ahmednagar, Tando Adam (Nawabshah) (R. 7080-B. 24-27th November 1926). Satara City (R. 311-24-7th June 1924) or of any other town or city to which Government may by notification in the official Gazette extend this rule; and nothing in rules 81 to 85 shall apply to any agricultural land lying within the same sites, but to which a City Survey cannot by law extend. (57 (1) and (2)).

The granting of such lands for building sites, and the granting of permission to use such lands (when assessed for agricultural use) for non-agricultural purposes, shall be regulated by the following rules 49 to 52.

(L. R. Rule 49.) Whenever the holder of a building site desires any small strip of ground belonging to Government which is adjacent to his site and which could not reasonably be disposed of by the Collector as a separate site, the Collector may, if he thinks fit and notwithstanding anything to the contrary contained in rule 33, sell such strip to the said holder on the same tenure to existing buildings.

on which he holds the said site, and on payment of ground rent or assessment at the same rate, if any.

(L. R. Rule 50.) (1) Any unoccupied land to which rule 49 does not apply and which is not assigned for special purposes

Mode in which may be granted to such person as the Collector other lands may deems fit either for purposes of agriculture only or be disposed of. for other purposes.

(2) Any such land shall ordinarily be sold by auction to the highest bidder; but the Collector may in his discretion

Lands to be ordinarily sold by auction. Lands to be ordinarily sold by auction. sell the same by private agreement.

(L. R. Rule 51.) (1) Unoccupied land shall be granted for building sites and permission under section 65 to use for non-

Terms on which agricultural purposes lands occupied and assessed building sites may for agriculture shall be given by an instrument in a be disposed of. form approved by Government, for terms expiring on the date fixed in this behalf by Government, as for each city or town, at a rent or altered assessment, as the case may be, of two pies per square yard per annum, or such other rate and as Government may prescribe for any particular site or portion thereof:

Provided that no such grant shall be made and no such permission shall be given for an area of less than 200 square yards, except in Ahmednagar. (36-IV-53).

(2) Unoccupied lands which are eventually intended for building sites but of which the immediate disposal for

Terms on which the said purpose appears to the Collector to be undesirable, may be let under written leases in a form approved by Government for short terms not exceeding in any case seven years at a ground rent of one anna per square yard per annum which rate may in special cases or localities be raised with the sanction of the Commissioner.

(L. R. Rule 52.) Unoccupied lands may be leased for purposes of agriculture for terms of one year. An agreement in

Terms on which lands may be disposed of for agricultural purposes only. form F, with such modification as may be necessary, shall be taken from every person who is to become an occupant of land under this rule, and the provisions of sub-rule (2) to (4), inclusive of rule 37 shall be applicable to every agreement so taken. (36-VI).

(L. R. Rule 53.) (1) In municipal districts, building sites and plots of open ground, which have not been dedicated to public use or already transferred to the municipality, building sites, are hereby declared to be specially reserved by etc., within Government within the meaning of sub-section (2) municipal limits of section 50 of the Bombay District Municipal Act, to be distinguished from lands forming part of public streets.

This reservation does not apply to small pieces of ground lying between the houses and the road-way in an irregular street or road of varying width, which should be recognized as forming part of the street and vesting in the municipality unless private individuals have rights thereto. But separate vacant sites between houses do not vest in the municipality even though they are unenclosed unless they have been transferred to the municipality by Government. (35).

(L. R. Rule 54.) The permission in writing to be given by Mamlatdar under section 60 to enable an intending occupant to enter upon occupation shall be in form K, or form KK. Form of written permission to occupy under section 60. (34.)

(L. R. Rule 55.) Unalienated land to which none of the foregoing rules is applicable and concerning which no other rules have been framed by Government, shall be disposed of in such manner for such period and subject to special conditions, if any, as the Collector, subject to the control of the Commissioner, deems fit. (29)

63. When it appears to the Collector that any alluvial land which vests under any law for the time being in force in Government, may with due regard to the interests of the public revenue be disposed of, he shall offer the same to the occupant (if any) of the bank or shore on which such alluvial land has formed.

The price of the land so offered shall not exceed three times the annual assessment thereof.

If the said occupant shall refuse the offer, the Collector may dispose of the land without any restrictions as to the price to be asked.

For the purposes of this section, notwithstanding anything contained in section 3, if the bank or shore has been mortgaged with possession, the mortgagor shall be deemed to be the occupant thereof.

G. R. No. 6201, dated 31-7-1905. *Sale of an alluvial land.* The sale of an alluvial land to a stranger was set aside.

G. O., R. D., No. 744, dated 24th January 1919. Government rejected the prayer of an occupant of a survey number portion of which was lost by diluvion who claimed an alluvial land on payment of the ordinary assessment. G. R. 3010/24 dated 11-9-25. The Collector cannot make any claim on the alluvial land until the area subtending each separate holding exceeds one acre.

The temporary use of the alluvial land allowed by section 64 is not liable to assessment.

G. R. No. 7533/28, dated 19-9-1931. The word "land" in section 63 includes trees also. When alluvial land is sold, the trees cannot be separately charged for.

Disposal of alluvial land by the Collector.—In 1911, the plaintiffs alleging that certain lands were alluvial applied to the Collector under section 63 of the Land Revenue Code to obtain the lands, but the Collector negated the claim and disposed of the occupancy of the lands under section 37 of the Code. The plaintiffs sued in 1923, for a declaration that the Collector's order was null and void and that they were entitled to the occupancy of the lands under section 63 of the Land Revenue Code and to recover possession.

Held that the suit was barred under Article 120 of the Indian Limitation Act 1908, and that Article 144 of the Act did not apply, because assuming the lands to be alluvial still it would not be possible for the plaintiffs to get an order for the recovery of the lands but they would at the most get a declaration that the case fell under section 63 of the Bombay Land Revenue Code and an injunction to restrain the Collector from otherwise dealing with the lands. (*Damodar Narayan v. S. of State Page 772 Vol. XXXIII*).

64. When alluvial land forms on any bank or shore, the occupant, if any, of such bank or shore shall be entitled to the temporary use thereof, unless or until the area of the same exceeds one acre. When the area of the alluvial land exceeds the said extent, it shall be at the disposal of the Collector, subject to the provisions of the last preceding section.

Temporary right to alluvial lands of small extents.

Non-riparian owner—Right to water:—The plaintiff who owned non-riparian lands, used from times immemorial to irrigate his lands by river water which he took through the paddy fields belonging to defendants. The water did not flow in a definite channel but spread over the whole of the defendant's lands till it overflowed into the plaintiff's lands. The defendants having obstructed the passage of water through their lands, the plaintiff sued to establish his right to the enjoyment of the river water. *Held*, that the plaintiff, having acquired the right and enjoyed it from time immemorial, was not prevented from enforcing it by any provision of the Easements Act by virtue of section 2 (c) of the Act (*Janardhan v. Ravji*, 20 Bom. L. R. 398, s. c. 42 Bom. 288).

A suit to recover possession of lands forming a river bed leased by the Collector:—is barred, if brought after a year of the date of the order of the Collector under section 37 *ante* by which the Collector refused to entertain the plaint. Prior to the Bombay Act XII of 1912 the starting point of limitation is the date of the order (*Chhotubhai v. Secretary of State*, 22 Bom. L. R. 146).

Interpretation:—(a) Is the Collector competent to dispossess the occupants on a bank or a shore, where alluvial accretion exceeds one acre in the aggregate of portions adjoining their occupancies, although such portions may be separately less than one acre in extent? The present practice in the Bombay Presidency (proper) is that the Collector does not interfere to make any claim upon alluvial land until the area subtending each separate holding exceeds one acre. This practice is in consonance with the interpretation of this section supported by legal rulings.

(b) Whether an occupant enjoying temporary use of such alluvial formation under section 64 is liable to be assessed, or whether he is entitled to the free use thereof if the alluvial is less than one acre? Alluvial land attached to unalienated land is neither a holding nor the occupancy of an occupant. The person who is entitled to the temporary use thereof is not liable to land revenue, nor any land revenue can be made a charge thereon. The practice at present followed in the Presidency proper of allowing the temporary use of the alluvial free of any charge is consistent with the law. (G. R. No. 3010/24, dated 11-9-1925).

65. An occupant of land assessed or held for the purpose of

agriculture is entitled by himself, his servants, tenants, agents, or other legal representatives, to erect farm-buildings, construct wells or tanks or make any other improvements thereon for the better cultivation of the land, or its more convenient use for the purpose aforesaid.

Uses to which occupant of land for purposes of agriculture may put his land.

But, if any occupant wishes to use his holding for any part thereof for any other purpose the Collector's permission shall in the first place be applied for by the occupant.

Procedure if occupant wishes to apply his land to any other purpose.

The Collector, on receipt of such application, (a) shall send to the applicant a written acknowledgment of its receipt, and

(b) may, after due enquiry, either grant or refuse the permission applied for:

Provided that, where the Collector fails to inform the applicant of his decision on the application within a period of three months, the permission applied for shall be deemed to have been granted; such period shall, if the Collector sends a written acknowledgment within seven days from the date of receipt of the application, be reckoned from the date of the acknowledgment, but in any other case it shall be reckoned from the date of receipt of the application.

Unless the Collector shall in particular instances otherwise direct, no such application shall be recognized except it be made by the occupant.

When any such land is thus permitted to be used for any purpose unconnected with agriculture, it shall be lawful for the Collector, subject to the general orders of Government, to require the payment of a fine in addition to any new assessment which may be leviable under the provisions of section 48.

Fine to be levied for such use in addition to special assessment.

Long possession and user without assessment:—In 1907 the District Collector ordered the Mamlatdar to cause the building and the wood to be removed forthwith from a graveyard of which plaintiff had been in possession for 50 years without assessment and the order was confirmed on appeal by the Commissioner in April 1909. On the 22nd February 1910 the plaintiffs sued the Secretary of State for a declaration that they were the owners of the land, for a cancellation of the order and for a permanent injunction. *Held* that as the land in dispute was not used for the purpose of agriculture, neither this section nor section 66 *infra* applied to the case and that in view of the long and undisturbed

possession of the plaintiffs, the order of eviction was *ultra vires* (*Rasulkhan V. Secretary of State, 39 Bom. 494*).

Payment of fine and assessment:—It does not follow, from this section, that the payment of fine and assessment is a preliminary condition without which no agricultural land can be appropriated for the building purposes. It is clear that this Code contemplates appropriation both with and without permission, the fines in the one case being larger than in the other (*Bhujabalappa V. Collector of Dharwar, 1 Bom. L. R. 464*).

G. R. No. 8633, dated 3-11-1892. Municipality cannot be granted any concessions when they acquire agricultural land for non-agricultural purposes.

G. R., R. D., No. 3459 dated 2-4-1908 and 5295 of 1-6-1911. Delegation of power. The powers may be delegated to the Assistant or Deputy Collectors.

G. R. No. 1483/28, dated 16-11-1928. *Kouli Katuban Tenure at Malwan*. Sections 65 and 66 apply to these tenures. Collector to evict under section 66 and take formal possession and then grant to each present occupant N. A. occupancy at N. A. rates under Land Revenue Code. (Lands were allowed to be built on).

G. R. No. 6406/28, dated 11-11-1931 authorizes Mamlatdars and Mahalkaris to grant permission in unimportant II class villages to use lands for N. A. purposes.

G. R. No. 8478/24, dated 27-6-1930. *Quarries*. Concession of removing stones for public purpose from Government forest extended to village Panchayats constituted under Village Panchayat Act, provided the Collector recommends it.

Collectors should see that before permission is granted to any individual or body for the use of any land for water storage purposes of any magnitude, it is ascertained from Government in the Revenue Department or the Public Works Department whether any special conditions as regards the right of supervision and inspection should be imposed. (G. O. No. 5855/24, dated 26-2-1926).

66. If any such land be so used without the permission of the Collector being first obtained or before the expiry of the period prescribed by section 65, the occupant and any tenant or other person holding, under or through him, shall be liable to be summarily evicted by the Collector from the land so used and from the entire field or survey number of which it may form a part, and the occupant shall also be liable to pay, in addition to the

Penalty for so using land without permission.

new assessment which may be leviable under the provisions of section 48 for the period during which the said land has been so used, such fine as the Collector may, subject to the general orders of Government, direct.

Any tenant or any occupant or any other person holding under or through an occupant, who shall without the occupant's consent use any such land for any such purpose, and thereby render the said occupant liable to the penalties aforesaid, shall be responsible to the said occupant in damages.

Tenant responsible to occupant in damages.

Building of a residential house on a portion of land :—Where a portion of land for purposes of agriculture is used, without the permission of the Collector, for any purpose other than that of agriculture, e. g., for building a residential house on it, the fine leviable for such user, under this section, is to be calculated with reference to the actual area built upon and not to the area of the entire holding. Section 148 *post* has no application to such a case (*Secretary of State V. Abdul Husen, 29 Bom. L. R. 1860*).

Period runs from the date of acknowledgment:—In order that a person can appropriate a land to a non-agricultural purpose without incurring the penalty of the fine provided by this section, it is necessary that he must wait for three months from the date of the acknowledgment of the application required to be given by the Collector by section 65. It is no defence to plead that the Collector, though he received the application, omitted to send an acknowledgment (*Nawak Purushottam V. Secretary of State, 1 Bom. L. R. 689*).

G. R. No. 679, dated 22-1-1896. *Misappropriation by strangers.* The Collector should issue a notice to the occupants to show cause within 3 months why they should not be dealt with under section 66 for unauthorized misappropriation.

67. Nothing in the last two preceding sections shall prevent the granting of the permission aforesaid on such terms or conditions as may be prescribed by the Collector, subject to any rules made in this behalf by the Governor in Council.

Permission may be granted on terms.

G. R. No. 2926, dated 23-3-1909. Registration of standard assessments. These documents are not leases within the meaning of section 105 of the Transfer of Property Act. They should therefore be registered.

68. An occupant is entitled to the use and occupation of his land for the period, if any, to which his tenure is limited, or if the period is unlimited, or a survey settlement has been extended to the land in perpetuity conditionally on the payments of the amounts due on account of the land revenue for the same, according to the provisions of this Act, or of any rules made under this Act, or any other law, for the time being in force, and on the fulfilment of any other terms or conditions lawfully annexed to this tenure :

Provided that nothing in this or any other section shall make it, or shall be deemed ever to have made it, unlawful for the Collector at any time to grant permission to any person to occupy any unalienated unoccupied land, for such period and on such conditions as he may, subject to rules made by the Governor in Council in this behalf, prescribe, and in any such case the occupancy shall, whether a survey settlement has been extended to the land or not, be held only for the period and subject to the conditions so prescribed.

Occupancy, grant of, subject to prohibition of alienation.—Where a grant of occupancy was made to the plaintiff subject to restrictions prohibiting alienation and a few years afterwards he made an application for transfer of the occupancy to the 2nd defendant, *held* that the application amounted at most to an attempt to transfer which was never carried into effect, that there was no alienation and no breach of the conditions of the grant, that the order of the District Deputy Collector for summarily evicting the plaintiff was a nullity and that the officer cannot be said to have acted in his official capacity (*Dhanji Jairam V. Secretary of State for India, 45 Bom. 920.*)

G. R. No. 5295, dated 1-6-1911, item No. 36. Delegation of powers. Mamlatdars and Mahalkaris may grant Government waste lands for one year for temporary cultivation.

69. The right of Government to mines and mineral products in all unalienated land is and is hereby declared to be expressly reserved :

* Reservation of right of Government to mines and mineral products.

Provided that nothing in this section shall be deemed to affect any subsisting rights of any occupant of such land in respect of such mines or mineral products.

Proviso.

For power of free grant see Order II. For free removal by Government contractors from lands in Government possession see R. 2382-12, partially modified by K. 8478-24 of 14th June 1929. Village Panchayats are exempted from payment of fees for removal of stones for public purpose from quarries situated in Government forest (R. 8478-24 of 27th June 1930).

All quarry fees for earth, stone, sand (even when realized from Revenue Forests, R. 5042-89) are allotted to the Local Funds (R. 4550-74, 376-87, 1057-90, 7251-90); but if realized within municipal limits from land vesting in the Municipality, they are kept by the Municipality. A Municipality has no power to levy fees on land which does not vest in itself, even though it may be in municipal limits (R. 4225-88, 2743-94).

Therefore, no fee is charged to a Local Fund (or village Panchayat R. 8857-12-4-24) for direct departmental extraction.

This primary assignment is again subject to the secondary distribution of all Local Fund revenue realized in municipal limits to the Municipality (R. 1026-84).

These rules affect the destination of the proceeds after Government have collected them; N. W., G. I. P., and B. B. and C. I. State Railways and their branches are entitled to these materials free. But if quarries are made over to them, they may not allow material to be sold, and will pay royalty if it is used for Native State branches (R. 5141-15). Except for such royalty, no Local Body can claim any part, but the Collector or Conservator of Forests must first give permission for removal (P. W. 1337.Ry. 02), State-managed Railways and the B. B. and C. I. Railways shall be charged the usual Royalty for the extraction of mineral products from land included in reserved forests. (8478-24 of 14th June 1919). A scale of charges for the M. and S. M. Railway is sanctioned in R. 6262-2-86 and 844-87. Other companies' Railways would probably be charged similar rates. In the case of private individuals, the Collector's power to enhance these rates to meet special cases remains unrestricted, as provided by this Rule. (R. 2334-20). Special rates for Matheran are in R. 4920-12.

Sanctioned rates per 100 cubic feet (not applicable to G. I. P., B. B. & C. I., or N. W. B.—R. 844-87):

(All as measured on delivery, unless otherwise stated)

	Rs. A. P.
(i) Building stone by cubic measure in the actual building. ...	1-0-0
(ii) Surplus stone removed from quarry but not consumed (125 c. ft. reckoned as 100). ...	1-0-0
(iii) Ballast, or concret.	0-8-0
(iv) Special stone used for pitching; measured as arranged by the Collector. ...	0-4-0
(v) Kankar from cultivated land.	0-3-0
(vi) Sand.	0-2-0
(vii) Surface boulder stones.	0-2-6
(viii) Kankar in unassessed waste.	0-4-0
(ix) Muram or white earth.	0-2-0

R. ... 2334-20. (G. R., R. D., No. 195-B of 14th February 1931).

The Forest and Revenue Departments charge even other departments for material of all sorts extracted from the unoccupied lands in their charge, except for mineral products extracted by departmental agency (with the assent of the officer in charge) (R. 5792-97). This order has been modified by R. 8478/24 of 14th June 1929. For extraction by contractors and levy of fees from them see R. 8824-05. Contractors for Railways other than State Railways are similarly charged, and the fees are credited to the Local Fund. But if the Railway is entitled to free material, Government then repays the Company (? by debit to 11-Subsidised Companies) (P. W. 1629-Ry.-82, R. 2503-83). Since it is very difficult to make sure that a contractor allowed to extract and remove metal or stone free would not subsequently sell it for private works, the Surat method of first charging the royalty in full on all extractions and then refunding it on evidence of delivery on public works or other exempt municipal or Local Fund (or Village Panchayat, R. 8857-24) works is commended for general adoption (5141-15). Rules for Railway Companies are in R. 5939-17. But in case of quarries allotted to Railway Companies, the Company (1) may not allow contractors to sell to outsiders, (2) must pay royalty for all they use for Native State Railways. A system of check must be devised (R. 5939-17).

In some Malki villages the Malaks are entitled to seven annas of all mineral income; therefore Government can hand over only nine annas to the Local Fund and if any contractor or Department is given "free" material, this is valid only as to nine annas of the whole royalty value, and P. W. D. should not give contracts based on free stone (R. 8951-10-1-24, and 13-2-28).

(Rule 77.) Save as provided in section 65 and rule 76, no occupant of land assessed or held for purposes of agriculture

Removal of only, and no person claiming under or acting by earth, stones, etc., authority of any such occupant, shall excavate or prohibited, if in- remove earth, stone other than loose surface stones, jurious to cultivation and for purposes of trade, in the opinion of the Collector, thereby to: destroy or etc. kankar, sand, muram or any other material of the soil thereof, or make any other use of the land (a) so as, materially injure the land for cultivation or (b) for purposes of trade or profit, or any other purpose except his own domestic or agricultural purposes.

(Rule 78.) No holder of land assessed or held as a building site, or no lease-holder of a building site in a hill station, and Removal of no person claiming under any such holder or lease- earth, stone, etc., holder, shall, subject to any special provision in the from building conditions annexed to his holding under section 62, site prohibited section 67 or otherwise, as prescribed by his lease, ex- except on certain cavate or remove for any purpose whatever earth, conditions. stone other than loose surface stones, kankar, sand, muram or any other material of the soil thereof, except

with the previous permission in writing of the Collector, and in accordance with such terms (including the payment of fees for any such excavation or removal) as the Collector in each case thinks fit to prescribe.

(Rule 79.) (1) No unalienated land within the site of any city, town or village shall be excavated without the previous written permission of the Collector, for any unalienated land purpose except the laying of foundations for buildings, the sinking of wells and the making of grain-village, town or pits. city prohibited except for certain purposes.

(2) When permission is granted by the Collector to excavate any such land as aforesaid for any purpose other than those above mentioned, such excavation shall not be made otherwise than in accordance with such terms (including the payment of fees for any such excavation) as the Collector in each case thinks fit to prescribe.

70. In any case where an occupancy is not transferable without the previous sanction of the Collector, and such sanction has not been granted to a Occupancy when not liable to process of Civil Court; the Court to give effect to Collector's certificate. transfer which has been made or ordered by a Civil Court or on which the Court's decree or order is founded,

(a) such occupancy shall not be liable to the process of any Court, and such transfer shall be null and void, and

(b) the Court, on receipt of a certificate under the hand and seal of the Collector, to the effect that any such occupancy is not transferable without his previous sanction and that the sanction has not been granted, shall remove any attachment or other process placed on, or set aside any sale of, or affecting, such occupancy.

71. *Repealed by Bom. Act IV of 1918, s. 29.*

72. If an occupant who is either a Hindu, a Muhammadan or a Buddhist dies intestate and without known heirs, the Collector shall dispose of his occupancy by sale, subject to the provisions of this Act or of any other law at the time in force for the sale of forfeited occupancies in realization of the land revenue, and the law at the time in force concerning property left by Hindus, Muhammadans or Buddhists dying intestate and without known heirs shall not be deemed to apply to the said occupancy but only to the proceeds of such sale after deducting all arrears of land revenue due by the deceased to Government and all expenses of the said sale.

Intestate occupancy or holding to be sold.

Entry of name in Collector's books.—Proof of title:—The Collector's book is kept for purposes of revenue, not for purposes of title, and the fact of a person's name being entered in the Collector's book as occupant of land does not necessarily of itself establish that person's title, or defeat the title of any other person (*Falma V. Darayasaheb, 10 Bom. 187, See also Collector of Poona V. Bhavanrao, 10 Bom. 192, Sangapa V. Bhimangouda, 10 Bom. 194 and Bhagoji V. Bapuji, 13 Bom. 76*).

73. An occupancy shall, subject to the provisions contained in section 56, and to any conditions lawfully annexed to the tenure, and save as otherwise prescribed by law, be deemed an heritable and transferable property.

Occupancy to be transferable and heritable.

G. R. No. 5024, dated 21-7-1902. Applicability. Sections 68 and 73 both in their original and amended form affect only unalienated land.

73 A (1) Notwithstanding anything in the foregoing section, in any tract or village to which Government may, by notification published before the introduction therein of an original survey settlement under section 103, declare the provisions of this section applicable, occupancies shall not after the date of such notification be transferable without the previous sanction of the Collector.

Power to restrict right of transfer.

(2) Government may, by notification in the Bombay Government Gazette, from time to time, exempt any part of such tract or village or any person or class of persons from the operation of this section.

Scope:—The prohibition contained in this section is not confined to an absolute and out and out transfer of an occupancy, but that it includes the transfer of an interest in the occupancy without the sanction of the Collector. A mortgage, therefore, of a share in land, held on restricted tenure, without the sanction of the Collector, is void and conveys no right to the mortgagee (*Dharamdas Thawerdas V. Sorabji, A. I. R. 1930, Sind 75*).

Effect of granting sanction under this section:—The effect of the sanction of Collector under this section is only to authorize a particular transfer of the land and not to remove the character of restricted tenure impressed upon the land so as to render it transferable at will (*Ismail-Khan Mir Azam Khan V. Official Receiver, A. I. R. 1928, Sind 65*).

Notification declaring this section applicable to certain villages.

Clause (1) of this section has been declared applicable to the following villages in the District of West Khandesh.

(a) 79 villages in Nandurbar Taluka, and

66 villages in Navapur Peta of Khandesh district

(Notification No. 1116A).

(b) 17 villages in Shirpur in do. do. (Notification No. 1116B).

(c) 42 villages in Taloda in do. do. (Notification No. 1116C.)

(d) 11 villages in Shahada in do. do. (Notification No. 1116D.)

B. G. G. 1902, Pt. I, p. 298.

All Brahmins and Banias (Wanis) holding lands in the villages of the Shirpur Taluka of the West Khandesh District (to which the provisions of this section, sub-section 1, were declared to be applicable by Government Notification R. D. No. 1116B, dated 18th February 1902 (B. G. G. 1902, Pt. I, p. 290) are exempted from the operation of this section (B. G. G. 1908, Pt. I, p. 1897).

Marwadis, Kshatrias, Parbhuis, Kayasthas, Bobris and Parsis are exempted from the operation of Cl. (1) of this section in the 17 villages of the Shirpur Taluka mentioned in G. N. No. 1116B quoted above (G. R. R. D. No. 3875, dated 22nd April 1909).

G. R. No. 5964, dated 23-6-1911. Restriction. Land on restricted tenure should be sold on restricted tenure.

74. The occupant may relinquish his land, that is, resign it in favour of Government, but subject to any rights, tenures, incumbrances or equities lawfully subsisting in favour of any person (other than Government or the occupant), by giving notice in writing to the Mamlatdar or Mahalkari before the 31st March in any year or before such other date as may from time to time be prescribed in this behalf by the Governor in Council; and such relinquishment shall have effect from the close of the current year:

Relinquish-
ment.

Provided that no portion of land which is less in extent than a whole survey number or sub-division of survey number may be relinquished.

Tenant remaining in occupation after passing rajinama was held, that the plaintiff was entitled to the land. The Rajinama operated as a relinquishment of the tenancy by defendant under this section. Held also that the plaintiff was entitled to sue in ejectment, although he had not been put in possession of the land (*Bhutia V. Ambo*, 13 Bom. 294).

Rajinamas and kabulayats-Registration if necessary.—It was held in the case of *Narso V. Nagwa* (42 Bom. 359) that rajinamas and kabulayats, though in themselves documents of transfer, are fairly conclusive evidence that a transfer has in fact been made and as between the mortgagor and mortgagee, extinguish the equity of redemption without the necessity of registration. An Inamdar can receive notices of relinquishments under this section only where the survey settlement has been introduced or when the powers under section 88 *post* have been given to him. These notices are exempt from registration under section 90 of the Registration Act (*Shidraj Bhajraj Desai V. Dary Santram Mali*, 45 Bom. 398.)

A Rajinama by a Khatedar of unalienated lands, subject to this section, abandoning his rights to another, subject to the payment of revenue, need not be registered under section 90 of the Registration Act (*Motibhai V. Desai*, 41 Bom. 170).

(L. R. Rule 74.) (1) Every notice given under section 74 shall be in Form L and the declaration below the notice shall be subscribed by two respectable witnesses. Endorsement as to identity required below rajinamas.

(2) The Mamlatdar who receives any such notice will be held responsible for exercising due care in ascertaining the identity of the person who has signed the same, notwithstanding that such notice has been duly endorsed as hereinbefore required.

(Order XXVII.) All notices received under section 74 shall be kept in the records of the village accountant until the expiry of one year after the end of the year in which they were given and afterwards in the records of the Mamlatdar for at least 12 years. Entry will at once be made in the Diary of Mutations and certified in due course: this will ensure resufficient record.

G. R. No. 3009, dated 10th June 1880. The notice is exempt from court fee by section 19 clauses XI of Act VII of 1870.

G. R. No. 3439, dated 15-6-1881. Relinquishment and agreements in alienated villages. When a survey settlement has been introduced into an alienated village neither section 74 nor any other section which relates to the rights and responsibilities of occupants in unalienated villages has any force in it.

G. R. No. 7045, dated 23-11-1881. When a survey settlement has been introduced into an alienated village section 74 is made applicable to it by section 217. But section 88 (e) empowers the Governor in Council to authorize the Inamdar to receive notices of relinquishment.

G. R. No. 7074, dated 11-10-1882. Relinquishment of minors' lands.—Friends or relatives are not legally constituted administrators and managers of estates of minors or lunatics and have no power to act and the Collector should not accept a notice of relinquishment or agreement to occupy from such friends or relatives.

G. R. No. 7152, dated 8-10-1890. Occupancy defined. Partial relinquishment not allowed. A transfer of portion only of such rights is not a transaction of the kind the section contemplates.

Payment of assessment after relinquishment:—A plaintiff held for a number of years past, certain land forming part of Talukdari lands rent free and without payment of assessment and local fund but the latter two were paid by the Talukdar to the Government in the form of "Jama." In 1911, the Talukdar relinquished the land in favour of Government and since then the Collector recovered the assessment and local fund for the land direct from the plaintiffs. The plaintiffs having sued

to claim exemption from the payment of assessment and local fund, held, that whatever rights the plaintiff might have against the Talukdar they were liable after the relinquishment to pay the assessment and local fund to Government under section 74 of the Land Revenue Code as it stood in 1911.

75. *Repealed by Bom. Act IV of 1918 section 33 (1).*

76. The provisions of the last section shall apply, as far as may be, to the holders of alienated land: provided that,
 Relinquishment of land described in paragraph 1 of section 49.

(a) it shall not be lawful to relinquish, as aforesaid, any portion of any land held wholly or partially exempt under the circumstances described in the first paragraph of section 49 until the commuted assessment payable in respect of such portion of land has been determined under the provisions of the said section; and that

(b) if any person relinquish land on which, under the circumstances described in section 51, a larger revenue is levied than would ordinarily be leviable on such land, he shall be deemed to have relinquished also the land held with it which is wholly or partially exempt from payment of revenue.
 Relinquishment of land described in section 51.

77. If any person relinquishes land, the way to which lies through other land which he retains, the right of any way through the land so retained shall continue to the future holder of the land relinquished.
 Rights of way to relinquished land.

78. Nothing in section 74 shall affect—

Saving of operation of section 74 in certain cases.

the validity of the terms or conditions of any lease or other express instrument under which land is, or may hereafter be, held from Government.

79. Repealed by Bom. Act. IV of 1913, section 35.

79-A. Any person unauthorizedly occupying, or wrongfully in possession of any land

Summary eviction of person unauthorizedly occupying land.

(a) to the use or occupation of which by reason of any of the provisions of this Act he is not entitled or has ceased to be entitled or

(b) which is not transferable without previous sanction under section 73-A or by virtue of any condition lawfully annexed to the tenure under the provisions of section 62, 67 or 68 may be summarily evicted by the Collector.

Scope of this section :—This section refers to unauthorized occupation or wrongful possession of land. The question is whether the person was in wrongful occupation of land at the date of notice (*Bhaiji Ishawardas Shah V. Talukdari Settlement Officer*, 22 Bom. L. R. 906).

Possession under decree of Civil Court :—The powers given to the Collector by this section can be exercised only in cases of wrongful possession. It does not extend to cases where possession is obtained under the decree of a Civil Court. The Collector has, for the exercise of the power, to form his own opinion and decide whether in any particular case the possession is wrongful; but there is no provision in the Code which gives finality to the Collector's order of eviction so as to exclude the jurisdiction of a Civil Court to decide that the person evicted by that order was in rightful occupation (*The Talukdari Settlement Officer V. Umishankar*, 35 Bom. 72).

Interference of the Collector :—Under this section supplemented by section 33 (2), Cl. (c) of the Gujarat Talukdars' Act, the Collector can interfere only where the occupation is wrongful or in contravention of the provisions of the Act (*Talukdari Settlement Officer V. Rikhandas*, 15 Bom. L. R. 378).

80. In order to prevent the forfeiture of an occupancy

under the provisions of section 56 or of any other law for the time being in force through non-payment by the occupant of the land revenue due on account thereof, it shall be lawful for any person interested to pay on behalf of such occupant all sums due on account of land

To prevent forfeiture of occupancy certain persons other than the occupant may pay the land revenue.

revenue, and the Collector shall on due tender thereof receive the same. And in any such case the Collector may under section 86

Collector may assist such persons in recovering the revenue from other parties liable therefor. give to the person who has paid the land revenue as aforesaid aid for the recovery of any portion of such land revenue which he may consider to be properly payable by other persons:

Provided that nothing authorized or done under the provisions of this section shall affect the rights of the parties interested as the same may be established in any suit between such parties in a Court of competent jurisdiction.

Proviso.

Occupancy :—Vide note under the heading "occupancy" under section 73.

Payment of land revenue by khatedar creates no charge:—An unsolicited expenditure in respect of the property of another, even if made for the purpose of its preservation, gives no lien over the property, outside maritime law. Hence, a payment of land revenue by a person of property belonging to another but included in his khata, does not create any charge over the property (*Shivrao V. Pundalik*, 26 Bom. 437).

81. Repealed by Bom. Act IV of 1913, section 38.

82. It shall be lawful for the Governor in Council by Notification in the Bombay Government Gazette

from time to time:—
Governor in Council empowered to suspend operation of section 60 or 74.

(a) to suspend the operation of section 60 or 74, or of both within any prescribed local area, either generally, or in respect of cultivators or occupants of a particular class or classes, and

(b) to cancel any such notification.

During the period for which any notification under the above clause (a) is in force within any local area, such rules shall be substituted for the provisions of which the operation is suspended as the Commissioner shall from time to time direct.

CHAPTER VII

Of Superior and Inferior Holders.

83. A person placed, as tenant, in possession of land by another, or, in that capacity, holding, taking or retaining possession of land permissively from or by sufferance of another, shall be regarded as holding the same at the rent, or for the services, agreed upon between them; or in the absence of satisfactory evidence of such agreement, at the rent payable or services renderable by the usage of the locality, or, if there be no such agreement or usage, shall be presumed to hold at such rent as, having regard to all of the circumstances of the case, shall be just and reasonable.

Amount of rent payable by tenant.

And where, by reason of the antiquity of a tenancy, no satisfactory evidence of its commencement is forth-coming, and there is not any such evidence of the period of its intended duration, if any agreed upon between the landlord and tenant, or those under whom they respectively claim title, or any usage of the locality as to duration of such tenancy, it shall, as against the immediate landlord of the tenant, be presumed to be co-extensive with the duration of the tenure of such landlord and of those who derive title under him.

Duration of tenancy.

And where there is no satisfactory evidence of the capacity in which a person in possession of land in respect of which he renders service or pays rent to the landlord, receives, holds or retains possession of the same, it shall be presumed that he is in possession as tenant.

Presumption as to tenure.

Nothing contained in this section shall affect the right of the landlord (if he gave the same either by virtue of agreement, usage or otherwise), to enhance the rent payable, or services renderable by the tenant, or to evict the tenant for non-payment of the rent or non-remission of the services, either respectively originally fixed or duly enhanced as aforesaid.

Saving clause.

Tenancy hundred years old.—In the case of a document 30 years old the genuineness of which is disputed it is necessary for the Court to consider the evidence external and internal of the document in order to enable the Court to decide whether in any particular case it should or should not presume proper signature and execution. Under section 90 of the Indian Evidence Act the Court may, but is not bound, to make the presumption merely because of the alleged age of the document.

Where there is no evidence of the origin of the title of the Landlord nor of the commencement and intended duration of the tenancy of the tenant, and the tenancy is shown to be nearly a hundred years old prior to the suit and there is no demand throughout the period for enhancement of rent and no attempt to eject the tenant or put in any other tenant has been made a presumption of permanent tenancy under the second clause of section 83 of the Land Revenue Code can be made. (*Mansukh Panchand V. Trikambhai Ichhabhai*, 31 Bom. L. R. 1279).

Where a tenancy is shown to have originated at some time between 1758 and 1857, a presumption can arise, under this section that the tenancy is permanent. The period of a century is too long and indefinite a period to constitute satisfactory evidence of the commencement of a tenancy within the meaning of this section (*Shripadbbhat V. Rama*, 29 Bom. L. R. 274.)

Antiquity of tenancy—presumption of duration.—It is the tenant, who alleges that he is a permanent tenant, who in the first instance has to prove that, and if he has got no document which gives him a right on the land as a permanent tenant, the presumption is that he is an annual tenant. But if he can show that he has been on the land so long that the commencement of his tenancy cannot be ascertained, then the presumption under para 2 of this section arises. Even although it is proved that the origin of the tenancy was of a later date than the lessor's tenure, still the presumption would arise provided that the actual date of the origin was not known.

Right of Inamdar to enhance rent.—Mirasdars in a village cannot always claim to hold at a fixed rent. An Inamdar can enhance their rents within the limit of custom (*Vishwanath Bhikaji V. Dhondappa*, 17 Bom. 475).

Right of landlord to evict on tenant's denying his title.—A tenant repudiating the title under which he entered, becomes liable to immediate eviction at the option of the landlord (*Vishnu V. Balaji*, 12 Bom. 352).

The Bombay Regulations XVI of 1827 sections 19 and 20 of which prohibited alienation of service watan lands, was applied to the Satara District in 1863. The defendants were in possession of watan lands in Satara district as tenants long prior to 1863, when watan lands were

alienable. In a suit by the watandars to eject the defendants the latter relied on the presumption of permanent tenancy under section 83 of Land Revenue Code.

Held that the defendants were entitled to rely on the presumption raised under section 83 of the Land Revenue Code and that they could not be ejected from the land. (*Govind Vithu Mali V. Vithal Laxman*, 33 Bom. L. R. 210).

In a suit for ejectment in 1925 the defendants showed that they were in possession as tenants from 1860, and that there was nothing to show how long they were in possession before that date. The plaintiffs adduced evidence to show that in that year 1758 another person was in possession of the land as tenant. A question having arisen whether a presumption of permanent tenancy under section 83 of the Bombay Land Revenue Code could be made in favour of defendants. Held that the presumption could be raised in favour of defendants in as much as there was neither any evidence of the period of the intended duration of the tenancy, if any, agreed upon between the land-lord and the tenant, nor was there any evidence of any usage of the locality as to the duration of such tenancy. (*Janardhan Narayan Dhapre V. Lakhaman Mahadeo Deshpande*, 33 Bom. L. R. 551).

Grantee of Royal share of revenue or of soil :—A grant to an Inamdar may be either of the Royal share of revenue, or of the soil; but ordinarily it is of the former description. The burden rests on the Inamdar to show that he is an alienee of the soil (*Rajya V. Balkrishna*, 29 Bom. 415).

Enhancement of rent—Usage of the locality :—In cases where enhancement of rent by an Inamdar is sought to be sanctioned by usage, the test is, whether there has been any and what enhancement according to the usage of the locality in respect of land of the same description held on the same tenure (*Ibid*).

84. An annual tenancy shall, in the absence of proof to the contrary, be presumed to run from the end of one cultivating season to the end of the next. The cultivating season may be presumed to end on the 31st March.

An annual tenancy shall in the absence of any special agreement in writing to the contrary, require for its termination a notice given in writing by the land-lord to the tenant or by the tenant to the land-lord, at least three months before the end of the year of tenancy at the end of which it is intima-

Three months' notice of termination of tenancy to be given by landlord to tenant, or vice versa.

ted that the tenancy is to cease. Such notice may be in the form of Schedule E, or to the like effect.

The object of this section:—is to define the nature of contract of tenancy; but the landlord's right of forfeiture arising from denial of his title is no part of the contract of tenancy, but is a right which the law implies in all cases from the relationship of landlord and tenant.

Annual tenancy, determination of:—An annual tenancy to which this Code applies, cannot be determined without a notice in writing by the landlord (or by the tenant) *Ochhalal V. Gopal, 32 Bom. 78*).

The notice under this section ought to be of three months:—One of 17th March 1887 to enhance the assessment for the year 1887-88 is insufficient (*Bahiru V. Vinayak, P. J. 1892, p. 298*).

When notice to quit is not necessary:—Where the tenants agreed by their Kabulayat to give up the land in Kartik and where no subsequent tenancy was created either by agreement or by the acceptance of rent, held, that no notice to quit was requisite, that this section did not apply and that the plaintiff was entitled to recover the land immediately after Kartik (*Dattatraya V. Lukshman, P. J. 1894, p. 218*). An annual tenancy, under this section, is determined by the tenant's disclaimer of the landlord's title even where the Transfer of Property Act does not apply; and no notice to quit is necessary to determine the tenancy (*Vidya-varadhak Sangh Co. V. Ayyapa, 49 Bom. 342*).

84.—A. (1) Whenever from any cause the payment of the whole or any part of the land revenue payable to Government by a superior holder in respect of any land is suspended or remitted, the Collector, acting under the general or special orders of Government, may suspend or remit, as the case may be, the payment to such superior holder or the rent or land revenue of such land by the inferior holder of holders to an amount which,

(a) in the case of land in respect of which full assessment is payable to Government, shall not exceed double the land revenue of which the payment by such superior has been suspended or remitted by Government, and,

(b) in the case of land in respect of which land revenue less than the full assessment is payable to Government, shall not exceed double the amount which, in the opinion of the Collector, would have been suspended or remitted by Government in favour

of the superior holder if the full assessment had been payable to Government in respect of such land.

(2) In the case of land in respect of which no land revenue is payable to Government by a superior holder, whenever from any cause the whole or any part of the land revenue payable to Government in respect of any other land in the same neighbourhood has been suspended or remitted, the Collector, acting under the general or special orders of Government, may suspend or remit, as the case may be, the payment to such superior holder of the rent or land revenue of the first-mentioned land by the inferior holder or holders to an amount which shall not exceed double the amount which, in the opinion of the Collector, would have been suspended or remitted by Government in favour of the superior holder if the full assessment had been payable to Government in respect of such land.

(3) An order passed under sub-section (1) or under sub-section (2) shall not be questioned in any Court,
Such order not to be questioned by any Court.

(4) If the superior holder collects any rent or land revenue of which the payment has been remitted, or before the expiration of the period of suspension collects any rent or land revenue of which the payment has been suspended in favour of an inferior holder or holders, the whole of the land revenue remitted or suspended in favour of such superior holder shall, without prejudice to the rights of the inferior holder to recover the rent or land revenue so collected, become immediately payable by the superior holder.

Consequences following on such order.

(5) No application for assistance under sections 86 and 87 shall be entertained, no suit shall lie, and no decree of a Civil Court shall be executed, for the recovery by a superior holder of any rent or land revenue of which the payment has been remitted, or during the period of suspension of any rent or land revenue of which the payment has been suspended in favour of an inferior holder or holders; but, where the payment of rent or land revenue by an inferior holder or holders has been suspended, the

period during which the suspension has continued shall be excluded from the period of limitation prescribed for a suit for the recovery of such rent or land revenue.

(6) Nothing in this section shall make it unlawful for the superior holder to take the crop-share fixed by custom or agreement in respect of any land on which rent is payable in whole or in the part in the form of a share of the crop.

Crop-share fixed by custom or agreement.

(7) Explanation—

In respect of land which has not been assessed under the provisions of Chapter VIII or under any survey settlement confirmed by section 112, the term assessment, for the purposes of this section, includes the rent or land-revenue payable by custom or by the usage of the locality.

Meaning of assessment.

(8) Nothing in this section shall apply to any land situated in the Province of Sind.

Sind excluded.

G. R. No. 5506/24, dated 6-3-1931. Under section 84-A, Government can remit water-share in Inam villages.

85. (1) Every superior holder of an alienated village or of an alienated share of a village, in which there are a hereditary patel and a hereditary village accountant, shall receive his dues on account of rent or land-revenue from the inferior holders through such patel and accountant.

Recovery of superior holder's dues.

(2) Where such patel and accountant fail to recover in behalf of such superior holder any sum due and payable to him on account of rent or land-revenue, such superior holder shall, with the previous consent of the Collector, be entitled to recover his dues direct from the inferior holders.

(3) Where any such patel or accountant has recovered any sum in behalf of such superior holder and fails to account to him for the same, the Collector shall, on written application from the superior holder, recover such sum from such patel or accountant as an arrear of land revenue.

(4) Where any such superior holder demands or receives any rent or land revenue from any inferior holder otherwise than

through such patel or accountant, he shall, on conviction on a summary enquiry before the Collector, be liable to a fine not exceeding three times the amount of the sum so demanded or received.

Suit by superior holders to recover dues from inferior holders:—This section does not bar the jurisdiction of Civil Courts to try suits by superior holders to recover the arrears of their dues from inferior holders (*Vishwanath V. Kondaji*, 42 Bom. 40).

Enhancement of rent:—A grant to an Inamdar may be either of the Royal share of Revenue, or of the soil; but ordinarily it is of the former description. The burden rests on the Inamdar to show that he is an alienee of the soil. Where an Inamdar is an alienee only of the land revenue, then his relations towards those who hold land within the area of the Inam grant, vary according to certain well-recognized conditions.

G. R. No. 7591, dated 2-8-1907. Interpretation: Section 85. It should continue to be interpreted as at present i. e. that an Inamdar is prohibited from collecting direct when both the Patel and Village Accountant are hereditary.

G. R. No. 1425, dated 5-2-1913. Sheri lands in alienated villages. This section does not apply to the lands held as Sheri by an Inamdar.

86. Superior holders shall, upon written application to the Collector, be entitled to assistance, by the use of. Superior holders entitled to assistance in recovery of dues from inferior holders, etc. precautionary and other measures, for the recovery of rent or land-revenue payable to them by inferior holders, or by co-sharers in their holdings under the same rules, except that contained in section 137, and in the same manner as prescribed in Chapter XI for the realization of land revenue by Government:

Provided that such application be made within the revenue year or within the year of tenancy in which the said rent or land revenue became payable. But application must be made within the revenue year or within the year of tenancy.

Inamdar's remedy for arrears of rent:—Inamdars can only obtain a money decree for arrears of assessment in the Civil Court. Relief by forfeiture and sale of the tenant's lands must be had, in fact all, through the Collector under this section (*Ratanji V. Sakharam*, P. J. 1884, p. 68).

Municipality deemed to be a superior holder:—A Municipality is deemed to be a superior holder within the meaning of this and the following section (*Vide section 186 of the Bombay District Municipal Act (III of 1901)*).

87. (1) On application being made under section 86 to the Collector, he shall cause a written notice thereof to be served on the inferior holder or co-sharer fixing a day for enquiry into the case.

The Collector
how to proceed on
such application
being made.

(2) On the day so fixed he shall hold a summary enquiry and shall pass an order for rendering assistance to the superior holder for the recovery of such amount, if any, of rent or land revenue as appears to him upon the evidence before him to be lawfully due.

(3) But, if it appears to the Collector that the question at issue between the parties is of a complicated or difficult nature, he may in his discretion either refuse the assistance asked for, or, if the land to which the dispute relates, has been assessed under the provisions of Chapter VIII or any survey settlement confirmed by section 112, grant assistance to the extent only for the assessment so fixed upon the said land.

Assistance
may be refused
or granted to a
limited extent
only.

(4) Nothing in this section shall prevent either party from having recourse to the Civil Courts to recover from the other such amount as he may deem to be still due to him, or to have been levied from him in excess of what was due, as the case may be.

Civil suit not to
be barred.

(5) One appeal only shall lie from an order passed under this section.

Mamlatdar's order does not bar Civil suit.—A Mamlatdar's order under this section does not preclude the parties from having recourse to the Civil Court, if dissatisfied with it (*Ganesh V. Mehta, 8 Bom. 188*).

Suit for arrears of assessment.—An Inamdar suing for arrears of assessment is not entitled to a charge on the lands of, but only to a money decree against, the occupants; hence no personal decree can be passed against an occupant in respect of assessment for the years previous to his coming on the holding (*Vinayak V. Lazman, 28 Rom. 92*).

G. R. No. 2818, dated 4-6-1874. Application for assistance.

G. R. No. 4931, dated 16-7-1901. *Prompt Assistance*. Local officers should aid in the recovery of revenue of alienated villages, and their duty is not less binding than the duty of collecting the Government revenue.

88. It shall be lawful for the Commissioner at any time to issue a commission to any holder of alienated lands, conferring upon him all or any of the following powers in respect of the lands specified in such commission (namely),

Commissioner may, by commissions, confer certain powers on holders of alienated lands.

(a) to demand security for the payment of the land revenue or rent due to him, and if the same be not furnished, to take such precautions as the Collector is authorized to take under sections 141 to 143;

(b) to attach the property of persons making default in the payment of such land revenue or rent, as aforesaid;

(c) to fix from time to time the times at which, and the instalments in which, the land-revenue or rent due to him shall be payable 122;

(d) to exercise the powers of a Collector under sections 65 and 66;

(e) to receive notices of relinquishment under section 74, and to determine the date up to which such notices shall be received as in that section provided:

(f) to take measures for the maintenance and repair of boundary marks in the manner provided for survey officers in section:

Provided that the powers contemplated in clauses (c) to (f) shall be conferred only on holders of lands to which a survey settlement has been extended under the provisions of section 216.

G. R. No. 106, dated 6-1-1883. Inamdars may be invested with powers to take precautionary measures but cannot inflict punishment.

G. R. 1843/28, dated 14-11-1919. The concession regarding the composition of petty sums of land revenue, judi or local fund less than 4 annas shall be withdrawn. The concession was granted in G. R. No. 13741, dated 23-12-1915.

G. R. No. 3776/28, dated 8-3-1930. *Interpretation of sections 88 (b) and 60.*—The word "property" in these two sections includes immovable property. But Government have ordered that it should be made clear in the commissions issued to Inamdars under section 88 that the power under clause (b) relates only to movable property.

89. Every such commission shall be in the form of Schedule F, and shall be liable to be withdrawn at the pleasure of the Commissioner; and a commission may, if the Commissioner see fit be issued to one or more agents of a holder of alienated lands as well as to the holder in person.

G. R. No. 4150, dated 18-7-181. *In villages whether surveyed or, unsurveyed*, holders of alienated villages are entitled to have assistance for the recovery of their dues from their tenants under this section whether a survey settlement has been introduced or not,

G. R. No. 5630, dated 31-7-1883. Decisions in assistance cases are not decrees. Orders passed by a Revenue Officer under section 87 of the Bombay Land Revenue Code are not decrees or orders having the force of a decree.

G. R. No. 3727, dated 8-5-1885. *Questions not governed by practice to be decided by Civil Courts*. Such questions should be decided by Civil Courts.

G. R. No. 1279, dated 21-2-1898. No assistance for recovery of interest should be given.

Government officers should not permit misapplication of the powers given to them by the law in giving assistance for rent in the guise of interests.

90. If the holder of any such commission attach a defaulter's property, he shall make an immediate report to the Collector of his having done so. Should the demand on account of which the attachment has been made, appear to the Collector, after such enquiry as he may deem fit to make, to be just, he shall give orders for the sale of the property, and the sale shall be conducted agreeably to the provisions of sections 165 to 186.

But if the holder of the commission is invested, under Regulation XIII of 1830, with civil jurisdiction and with power to execute his own or his agent's decrees, the sale shall be conducted by him and not by the Collector and his subordinates.

91. All compulsory process shall cease:

When compulsory process shall cease.

on the defaulter's paying or tendering the amount demanded of him under protest, or

on his furnishing either to the holder of the commission or his agent or agents, or to the Collector, satisfactory security in the form of Schedule D, or to similar effect.

And any holder of any such commission aforesaid, by himself or his agents, proceeding with any compulsory process after payment made, or tendered as aforesaid, or after the furnishing of such security as aforesaid or after tender thereof, shall be liable on conviction in a summary enquiry before the Collector, to a penalty not exceeding three times the amount of the revenue sought to be recovered by such compulsory process.

92. The power conferred by any such commission shall extend to the enforcement of the payment of the revenue or rent of the current year and of the year next immediately preceding, but not to that of former years.

93. The holder of any such commission shall not enforce a demand for revenue or rent in excess of what any inferior holder has paid, previously to the date of such demand, or of what he may have contracted in writing to pay. In the event of a dispute the Collector shall hold a summary enquiry and decide what is just, and the holder of a commission shall not enforce a demand for more than what is so decided to be just.

The person against whom any demand shall have been enforced in excess of the amount of which payment is lawfully enforceable shall be entitled to recover, on conviction of the holder of the commission in a summary enquiry before the Collector, three times the amount of any such excessive demand by way of damages, and the sum so due by the holder of the commission shall be leviable from him as an arrear of land revenue.

94. Nothing in the last section shall be deemed to prevent a holder of alienated land from instituting a suit in any Court of competent jurisdiction for the purpose of establishing his claim to re-assess the lands or resettle the revenue of any inferior holder paying less than the full sum to payment of which he deems him to be justly liable, or the sum ascertained to be due in accordance with the decree in any such suit in the manner hereinbefore mentioned.

But holder of commission may establish his right to enhanced rent in Civil Court.

from levying the sum ascertained to be due in accordance with the decree in any such suit in the manner hereinbefore mentioned.

94-A. (1) The superior holder of an alienated village or of an alienated share of a village, in which there are a hereditary patel and a hereditary village accountant and to which a survey settlement has been extended under section 216, may by application in writing to the Assistant or Deputy Collector in charge of the taluka request that the rent or land revenue due to such superior holder may during a period named in the application be recovered as a revenue demand.

Recovery as revenue demand of dues of certain superior holders for specified period.

(2) The Collector may in his discretion sanction the application for a period not exceeding that named by the applicant, and in such case the following provisions shall apply:—

(a) Any rent or land-revenue that accrues or has accrued due to the superior holder during the sanctioned period or a period of six years previous thereto shall, to an extent not exceeding the assessment fixed on the land, be recoverable under the order of the revenue authorities as a revenue demand during the sanctioned period.

(b) Where any proportion of the land revenue that accrues or has accrued due to Government in respect of unalienated land in the same neighbourhood during the said sanctioned or previous period has been suspended or remitted by proper authority, the Collector may suspend or remit an equal or lesser proportion of the rent or land-revenue that accrues or has accrued due to the superior holder during the corresponding period. Any such suspension or remission shall, notwithstanding anything in

the Bombay Revenue Jurisdiction Act, 1876, be binding upon the superior holder in any subsequent proceedings in any Civil Court between the superior and inferior holders or their legal representatives, and any proceedings pending at the date of such suspension or remission shall abate to the extent of any claim that may be inconsistent therewith; and no Civil Court shall entertain any suit against the Secretary of State or Government in respect of any such suspension or remission.

(c) Where any such suspension or remission has been granted to an inferior holder, the land-revenue (if any) payable by the superior holder be suspended or remitted, as the case may be to a proportionate extent.

(d) The balance of any sum recovered under clause (a) shall be paid to the superior holder after deduction of the costs, if any, of recovery and of any sum lawfully chargeable upon the sum recovered.

G. R. No. 3334, dated 19-3-1915. This section is inserted to save In-
-amdars from the trouble and expenses of filing assistance suits.

G. R. No. 8783, dated 12-9-1916. Government are not disposed to extend section 94-A to all surveyed villages which have no hereditary village officers.

CHAPTER VIII.

Of Surveys, Assessments and Settlements of Land Revenue.

95. It shall be lawful for the Governor in Council, when
Revenue survey ever it may seem expedient, to direct the survey
may be introduced of any land in any part of the Presidency, with
by Governor in a view to the settlement of the land-revenue and
Council into any part of the Presidency, to the record and preservation of rights connect-
ed therewith, or for any other similar purpose
and such survey shall be called a revenue survey.
Such survey may extend to the lands of any village, town or city
generally, or to such land only as the Governor in Council may

direct; and subject to the orders of the Governor in Council shall be lawful for the officers conducting any such survey to except from the survey settlement any land to which it may not seem expedient that such settlement should be applied.

The control of every such revenue survey shall vest in and be exercised by the Governor in Council.

Control of revenue survey.

For the purpose of introducing Record of Rights Kadiam Inam lands can be surveyed (G. O., R. D., No. 6392, dated 10th June 1918).

96. It shall be lawful for the survey officer deputed to conduct or take part in any such survey, to require by general notice or by summons, the attendance of holders of lands and of all persons interested therein, in person, or by legally constituted agent duly instructed and able to answer all material questions and the presence of taluka and village officers, who in their several stations and capacities are legally, or by usage, bound to perform service in virtue of their respective offices and to require from them such assistance in the operations of the survey and such service in connection therewith, as may not be inconsistent with the position of the individual so called on.

After a Cadastral Surveyor had measured the land and fixed the boundaries of two neighbouring owners, and, whilst his servant was digging a hole for fixing a stone boundary the accused snatched the crow-bar and prevented the servant from doing the work. On a prosecution of the accused for an offence under section 186 of the L. P. C.,

Held, that the accused was guilty of the offence charged, for the surveyor was performing his legitimate functions under the Bom. L. R. O. and the obstruction offered to the servant was tantamount to obstruction to the surveyor. (*Emperor V. Limba Taty, 31 Bom. L. R. 300*).

97. It shall be lawful for the survey officer to call upon all holders of land and other persons interested therein to assist in the measurement or classification of the lands to which the survey extends by furnishing flag-holders, and in the event of a necessity for employing hired labour for this or other similar object, incidental to survey

Assistance to be given by holders and others in the measurement or classification of lands.

operations, it shall be lawful to assess the cost thereof, with all contingent expenses on the lands surveyed, for collection as a revenue demand.

G. R. No. 3639, dated 21-4-1910. Expenses incurred in hiring labourers to act as flag-holders or for other similar purposes, can be recovered but not expenses of supervision and of clerical labour. These latter can be recovered under section 135 (G) in connection with preparation of maps of survey numbers.

98. Except as hereinafter provided, no survey number comprising land used for purposes of agriculture not to be of less than a certain extent. only shall be made of less extent than a minimum to be fixed from time to time for the several classes of land in each district by the Commissioner of Survey, with the sanction of Government. A record of the minima so fixed shall be kept in the Mamlatdar's office in each taluka, and shall be open to the inspection of the public at reasonable times.

Exception. These provisions shall not apply to survey numbers which have already been made of less extent than the minima so fixed, or which may be so made under the authority of the Commissioner of Survey given either generally or in particular instance in this behalf; and any survey number separately recognized in the land records shall be deemed to have been authorizedly made whatever be its extent.

99. *Repealed by Bom. Act IV of 1913, section 44.*

G. R. No. 4314, dated 25-7-1881. *Pardi Numbers.* The provisions of this section are not intended to apply to Pardi numbers.

100. Subject to rules made in this behalf under section 214, the officer in charge of a survey shall have authority to fix the assessment for land revenue at his discretion on all lands within the local operation of an order made under section 95 not wholly exempt from land revenue, and the amounts due according to such assessment shall, subject to the provisions of section 102, be levied on all such lands.

In fixing such assessment, regard shall be had to the requirements of the proviso to section 52.

Regard to be had to proviso to section 52.

But nothing in this section shall be deemed to prevent the survey officer aforesaid from determining and registering the proper full assessment on lands wholly exempt from payment of land revenue or on lands especially excepted under section 95 from the survey settlement, or from dividing all such lands to which the survey extends into survey numbers.

Proviso.

G. R. No. 5314/28, dated 6-8-1931 regarding calculation of assessment over minute sub-divisions, lays down that assessments of less than 3 and 6 pies may be retained and that every fraction of a pie shall be regarded as one pie.

At present the maximum of the assessment to which the State is entitled is recognized to be 50 per cent. of the rental value. (G. R. No. 1790/24, dated 13-5-1927).

101. The power to assess under the preceding section shall in the case of lands used for purposes of agriculture alone, include power to assess, whether directly on the land, or in the form of a rate or cess upon the means of irrigation in respect of which no rate is levied under section 55 or under the Bombay Irrigation Act, 1879, or in any other manner whatsoever that may be sanctioned by Government.

The assessment so made may be on land or on means of irrigation, etc.

G. R. No. 13614, dated 24-12-1918. *Water rate.* Levy of water rate on old well is inadmissible.

G. R. No. 1506, dated 23rd March 1870 on page 1392 S. O. R. D. Where payment for water as a part of the land revenue is compulsory, it should be held as land revenue.

G. O., R. D. No. 6261, dated 20-6-1919. Government does not notice any reason to modify the orders declaring that the occasional assessment was open to objection and approving of the permanent abolition of Patasthal assessment in precarious areas.

G. R. No. 6840/24, dated 9-8-1928. Collector's permission is required for construction of bandharns and Budkis in precarious tracts and for constructing a dam Superintending Engineer's consent is necessary.

G. R. No. 6449/21, dated 6-5-1930. *Levy of water rate* for water taken in river beds vesting in Government by Railway Companies and other bodies. Rate to be Rs. 1 per 10000 cubic feet if no Government construction; Rs. 4 per 10000 cubic feet if there is. In case of other bodies other rates are prescribed.

102. The assessment fixed by the officer in charge of a survey shall not be levied without the sanction of Government. It shall be lawful for the Governor in Council to declare such assessments, with any modifications which he may deem necessary, fixed for a term of years not exceeding 30 in the case of lands used for the purposes of agriculture alone, and not exceeding ninety-nine in the case of all other lands.

Assessment so made not leviable without the sanction of Government. But may be fixed, with or without modification, by the Governor in Council for a term of years.

G. R. No. 6593, dated 19-10-1900. When rates remain unaltered announcement sufficient, and in all other cases an announcement of the new assessment must be made number by number.

G. R., R. D., No. 345/24, dated 1st May 1924. Introduction of Revision Settlement into an Inam village. Unless consent of all sub-sharers in the Inam is obtained previously, there can be no introduction.

G. R., R. D., No. 3937, dated 14th June 1924. *Settlement Report*. A short version of the important portions of the Settlement Report in the vernacular of the District should be kept at the Taluka Office for inspection by the public.

In the case of temporary revision settlements of inam villages, the period of guarantee is fixed for four years, to permit the survey being taken up. (G. R. No. 9727, dated 8-7-1926).

103. When the levy of the assessment fixed under sections 100 and 101 upon any land has been sanctioned under section 102, and notice of the same has been given in accordance with rules made by the Governor in Council in this behalf, the settlement shall be deemed to have been introduced with respect to the lands of which the assessments have been sanctioned.

Introduction of settlements.

Introduction of a survey settlement.—Held, (1) that the introduction of survey settlement in the village of Jamsande was valid, since, first, sanction of Government under section 102 of the Bombay Land Revenue Code was accorded and, secondly, notice was given in accordance with rules made by Government under section 103 of the Code was given.

(2) That the mere fact that certain formalities which were required to be observed under a Government Resolution, were not observed, did not nullify the introduction of the survey settlement under section 103 of the Bombay Land Revenue Code.

(3) That the necessity of a fresh sanction and a fresh notification under rule 18 in the event of Government raising the rates proposed by the Settlement Officer was not prescribed by any section of the Land Revenue Code or by any rules made thereunder.

(4) That even if the notification of July 24, 1926, applied to Jam-sande, non-observance of the procedure prescribed therein did not nullify the effect of the introduction of a survey settlement under section 103 which was completed by the sanction accorded by Government and notification under rule 18.

(5) That the revision survey settlement having been validly introduced in the year 1925-26, the levy of the increased assessment for the year 1926-27 was not illegal. (*Emperor V. Moreskwar Janardan Gogate, 80 Bom. L. R. 1264*).

104. In the year in the course of which a survey settlement, whether original or revised, may be introduced

under the last preceding section, the difference between the old and new assessment of all lands on which the latter may be in excess of the former shall be levied only from the next following year.

In the year next following that in which any original or revised survey settlement has been introduced, any occupant who may be dissatisfied with the increased rate imposed by such new assessment on any of the survey numbers or sub-divisions of survey numbers held by him shall on resigning such number or sub-divisions in the manner prescribed by section 74 on or before the 31st March, receive a remission of the increase so imposed.

The year of introduction is not the year of levy. The year of announcement is the year of introduction. Assessment is levied from the next following year. The year of introduction of original or revised rates is an intermediate year between the expiry of the last settlement and the beginning of the new guarantee. A revised settlement is to be introduced in the last year of the former settlement and, if an excess is collected in

the last year, the amount should be deducted from the assessment due in the following year (G. R. No. 8324, dated 12th September 1916.)

If the old settlement expired on 31st July 1904 new settlement must be introduced on 1st July 1904 and the revised rates would be levied from 1st August 1905 (G. R. No. 2973, dated 5-5-1903.)

G. R. No. 8057, dated 22-12-1900. Year of introduction. Revision. Survey Settlement should be held to have been introduced in the year in which the provisionally sanctioned assessments were announced under section 103 and not the year in which the modifications are brought into operation.

The Igatpuri Concessions do not apply to the Konkan districts of Thana, Kolaba and Ratnagiri to which the Bhiwandi concessions are applicable. The scale of enhancement is 33 per cent. for the first 3 years, 66 per cent. for the second 3 years and 99 per cent. for the third 3 years. For Kanara a separate scale has been prescribed (Vide page 203 of the Survey and Settlement Manual, 1917.)

105. The fixing of the assessment under the provisions of section 102 shall be strictly limited to the assessment of the ordinary land revenue, and shall not operate as a bar to the levy of any cess which it shall be lawful for the Governor in Council to impose under the provisions of any law for the time being in force for purposes of local improvement, such as school, village, and district roads, bridges, tanks, wells, accommodation for travellers, and the like, or of any rate for the use of water which may be imposed under the provisions of section 55 or of the Bombay Irrigation Act, 1879.

106. It shall be lawful for the Governor in Council to direct, at any time, a fresh revenue survey or any operation subsidiary thereto, but no enhancement of assessment shall take effect till the expiration of the period previously fixed under the provision of section 102.

Government may direct a fresh survey and revision of assessment.

Provided that when a general classification of the soil of any area has been made a second time, or when any original classification of any area has been approved by the Governor in Council as final, no such classification shall be again made with a view to the revision of the assessment of such area.

G. R. No. 5098, dated 22-6-1905. The triplicate classification. It should be retained unchanged in the records though in course of time the character of the cultivation of particular fields may change.

G. R. No. 14632, dated 4-12-1917. No land should be classified third time in view of the 2nd paragraph of section 106 of the Land Revenue Code.

107. In revising assessments of land-revenue regard shall be had to the value of land, and in the case of land used for the purposes of agriculture, to the profits of agriculture:

Conditions applicable to revisions of assessment.

Provided that if any improvement has been effected in any land during the currency of any previous settlement made under this Act, or under Bombay Act I of 1865, by or at the holder thereof, the increase in the value of such land or in the profit of cultivating the same, due to the said improvement, shall not be taken into account in fixing the revised assessment thereof.

Rent cannot be regarded as part of the costs of cultivation. (It is a share of the profits). G. R. No. 1446/24, dated 27-8-1925.

In order to take its share in the unearned increment derived from land, the State should limit at the time of revision settlement the pitch of enhancement to 25 per cent. in the case of all talukas that have already undergone a second revision. It is proposed to embody this limit in law. (G. R. No. 1790/24, dated 13-5-1927).

Rental value is the sole basis for fixing the assessments, and all other considerations, viz., proximity of markets, trend of prices, etc., are subsidiary factors.

G. R. No. 5739, dated 29-10-1874, and G. R. No. 2619, dated 28-3-1884 lay down limits of 33 per cent. in the case of taluka, 66 per cent. in the case of a single village and 100 per cent. on individual holding.

G. R. No. 3541, dated 4th May 1885. *Remission in case of excess increases.* Government have issued orders to remove the hardships resulting from the revised rates (Akarband should be in all cases made according to the full sanctioned rates). It should be notified that enhancement in excess of 4 annas in the rupee of the assessment on a holding will be remitted for the first two years of the revised settlement, enhancement in excess of 8 annas in the rupee for the 3rd and 4th years and enhancement in excess of 12 annas in the rupee for the 3rd and 6th years of the revised assessment.

G. R. No. 2981, dated 28th April 1886. *Extension.* The above system of revision has been extended to all revision settlements.

G. R. No. 2619, dated 26-3-1884. *Taxing improvements.* To obviate the least possibility of improvements effected by the occupants at the expense of their private capital being taxed, Government have laid down that land which though arable was at the first survey included in survey numbers as unarable and was left unassessed shall be left unassessed at the Revision Settlement for the benefit of the occupant.

G. R. No. 6556, dated 16-9-1890. *Extension.* This system of remission is not intended to be extended to alienated villages.

Improvements by wells and Budkis worked as auxiliaries to the flow supply and effected at the cost of the rayats are not liable to taxation. G. R. Nos. 3880, dated 4-6-1891 and 3205 dated 5-4-1892.

G. R. No. 346, dated 13-1-1903. Government retain the option of imposing more than 100 per cent. enhancement for good reasons shown; when remissions are recommended reasons for and against should be discussed.

G. R. No. 1790/24, dated 13-5-1927. *Rental value.* It is proposed in this G. R. to amend section 107 of the Land Revenue Code so as to make rental value, the main if not the sole basis for fixing the assessments and to make all other considerations viz: proximity of markets, level of prices etc., subsidiary factors.

108. It shall be the duty of the survey officer, on the occasion of making or revising a settlement of land revenue, to prepare a register, to be called "the Settlement Register," showing the area and assessment of each survey number, with any other particulars that may be prescribed and other records, in accordance with such orders as may from time to time be made on this behalf by Government.

Preparation of statistical and fiscal records.

G. R. No. 3292, dated 23-5-1877. *Supply of village maps.* When village maps are destroyed by neglect or carelessness within five years of being supplied, new copies are to be paid for by those who have caused this loss.

109, 110. *Repealed by Bombay Act IV of 1913, section 49.*

111. In the event of any alienated village or estate, coming under the temporary management of Government officers, it shall be lawful for the Collector to let out the lands thereof, at rates determined by means of a survey settlement or at such other fixed rates as he may deem to be reasonable, and to grant unoccupied lands on lease and otherwise to conduct the revenue management thereof under the rules for the management of unalienated

Revenue management of villages or estates not belonging to Government that may be temporarily under Government management.

ed lands, so far as such rules may be applicable, and for so long as the said village or estate, shall be under the management of Government officers: provided, however, that any written agreements relating to the land, made by the superior holder of such village or estate, shall not be affected by any proceedings under this section in so far as they shall not operate to the detriment of the lawful claims of Government on the land.

Powers of Talukdar Settlement Officer.—A Government officer in the temporary management of a talukdar's estate has, under section 33 of the Gujarat Talukdar's Act the same powers which the Collector has in an alienated village, to recover arrears of revenue inclusive of rent (*Jinabhai V. The Collector and Talukdari Settlement Officer, 28 Bom. L. R. 417*).

112. Existing survey settlements of land-revenue made,
 approved and confirmed under the authority of the
 Maintenance of existing settle- Governor in Council shall be, and are hereby
 ments of land re- declared to be in force subject to the provisions
 venue. of this Act.

113. Expenses properly incurred in making partition of
 estates paying revenue to Government shall be
 Partition. recoverable as a revenue demand in such pro-
 portions as the Collector may think fit from the shares at whose
 request the partition is made, or from the persons interested in the
 partition.

The Civil Court has no jurisdiction to reopen a partition made by the Collector under section 54 of the Civil Procedure Code (Act 5 of 1908).
I. L. R. 43 Bombay 689.

Where the whole of the property which is the subject matter of a suit for partition consists of landed property assessed to revenue, the suit would be governed by the provisions of order XX, rule 18, clause (1), and section 54 of the Code of Civil Procedure, and all that a Civil Court can do is to give a decree declaring the amount of the plaintiff's share as against the defendant and leaving the plaintiff to take any steps he may think proper for the actual partition of his share in the Revenue Code. (*I. L. R. 41 Allahabad, page 207*).

G. R. No. 1993, J. D., dated 14-4-1890. Collectors can use their powers under the Bombay Land Revenue Code for the levy of the costs of the partition execution of a Civil Court's decree of estates paying revenue to Government.

G. R. No. 2053, J. D., dated 17-4-1890. *Other Government servants.* Government servants, accepting commissions issued by Civil Courts are required to pay into the Treasury, sums which they may receive as fees for their services.

G. R. No. 4873, dated 14-7-1890. L. R. No. 870 dated 23rd June 1890. The duty of the Collector to whom a decree has been referred under section 265 of the Civil Procedure Code for partition is not confined to a mere division of the lands declared to be divided but includes delivery of the shares to their respective allottees.

114. Whenever any one or more co-sharers in a khoti estate, into which a revenue survey has been introduced, or in a talukdari estate, consent to a partition of the said estate, it shall be lawful for the Collector, or for any other officer duly empowered by him in this behalf, to divide the said estate into shares, according to the respective rights of the co-sharers, and to allot such shares to the co-sharers.

Partition of certain estates by the Collector on application by co-sharers.

Provided that no such partition shall be made, unless :

(a) all the co-sharers are agreed as to the extent of their respective rights in estate, and,

(b) the assessment of the share or shares of the sharer or sharers consenting to such partition exceeds one-half of the assessment of the entire estate.

In such cases the expenses of partition shall be recovered as a revenue demand from all the co-sharers in the estate divided.

115. *Repealed by Bombay Act IV of 1913, section 53.*

116. When any portion of cultivable land is permitted to be used under the provisions of section 65 or 67 for any non-agricultural purpose or when any portion of land is specially assigned under section 38, or when any assessment is altered or levied on any portion of land under sub-section (2) or sub-section (3) of section 48 such portion may, with the sanction of the Collector, be made into a separate number at any time notwithstanding the provisions of section 98.

Division of survey numbers into new survey numbers.

117. Nothing in section 116 shall affect the provisions of Bombay Act V of 1862 not affected.

117 A. (1) Survey numbers may from time to time and at any time be divided into so many sub-divisions as may be required in view of the acquisition of rights in land or for any other reason.

Division of survey numbers into sub-divisions.

(2) The division of survey numbers into sub-divisions and the fixing of the assessment of the sub-divisions shall be carried out and from time to time revised in accordance with rules made by the Governor in Council in this behalf:

Provided that the total amount of the assessment of any survey number or sub-division shall not be enhanced during any term for which such assessment may have been fixed under section 102, unless such assessment is liable to alteration under section 48.

(3) The area and assessment of such sub-divisions shall be entered in such land records as the Governor in Council may prescribe in this behalf.

117-B. If any sub-division of a survey number is relinquished under section 74 or is forfeited for default in payment of land revenue, the Collector shall offer such sub-division at such price as he may consider it to be worth to the occupants of the other sub-divisions of the same survey number in such order as in his discretion he may think fit; in the event of all such occupants refusing the same, it shall be disposed of as the Collector shall deem fit:

Provisions applicable on relinquishment or forfeiture of a sub-division.

Provided that until the said sub-division shall be occupied or until the entire survey number shall be relinquished, whichever event may first occur, the assessment of the said sub-division shall be levied from the occupants of the other sub-divisions of the survey number in proportion to the amount of assessment due from such occupants on account of their sub-divisions.

For the purposes of this section, notwithstanding anything contained in section 3, if any of the other sub-divisions have been mortgaged with possession, the mortgagors shall be deemed to be the occupants thereof.

(Rule 3 (1)). Every holding not less in area than the minimum fixed under section 98 shall be separately measured, classified, assessed and defined by boundary marks, and entered in the land records as a survey number.

(Rule 4). All measurement shall be recorded in a book or embodied in a plane table map kept in such form as shall be prescribed by the Commissioner of Survey for each survey. The said books or maps shall be preserved as a record of the survey.

(Rule 5). The original measurements made by the subordinate survey officers employed for the purpose shall be tested by the officers in charge of measuring establishments in such manner and to such extent as the Commissioner of Survey shall deem sufficient.

(Rule 6). Village maps shall be prepared under the orders of the Commissioner of Survey showing each survey number and its boundary marks.

(Rule 7). For the purposes of assessment all land shall be classed with respect to its productive qualities. The number of classes and their relative value reckoned in annas shall be fixed under the orders of the Commissioner of Survey with reference to the circumstances of the different tracts of country to which the survey extends and to the nature of the cultivation.

(Rule 8). Every classer shall keep a field-book and record therein the particulars of his classification of each survey number and sub-division and the reasons which led him to place it in the particular class to which in his estimation it should be deemed to belong. Such field-books shall be preserved as permanent records of the survey.

(Rule 9.) A test of the original classification made by the subordinate officers employed for this purpose shall be taken by the officers in charge of classing establishments, in such manner and to such extent as may be directed by the Commissioner of Survey.

(Order No. XVII). The said test shall be an independent test, that is to say, it shall be made by the testing officer in entire ignorance of the

original classer's proceedings or record until it has been completed and its results have been finally determined, when only the original classing valuation and the test valuation shall be compared and their separate results recorded.

(Order No. XVIII.) When any classing operations are undertaken, notice shall be given to the rayats to enable them to represent defects and point out their own improvements.

(Rule 10.) When rates of assessment have been sanctioned by Government, the assessment to be imposed on each Assessment survey number or sub-division shall be determined according to the relative classification value of the land comprised therein.

(Order No. XIX.) In order to afford the people an opportunity of knowing and filing their objections to his proposals, the Settlement Officer shall publish a notification in the vernacular in Form O-B (R. 7447-86, 12161-14, 344-15 and 8914-16), in which the proposed increase or decrease in rates in annas and pies per rupee is stated with a short abstract of his reasons translated into the vernacular; also a copy of his report is deposited for inspection at the Taluka Office. Petitions of objection received by the Collector within two months are submitted to Government for consideration with his proposals. If Government raise (or in an inam village lower) the rates proposed by the Settlement Officer, a fresh notice issues and a fresh opportunity of objection is afforded before the orders become final (R. 6141-03, 15544-17).

(Rule 10-A.) All agricultural assessment (or Judi) shall be calculated out to the nearest pie at the rate (per acre or otherwise) sanctioned upon the area chargeable and rounded off in the following manner (19a);—

When the assessment (or Judi)

(a) does not exceed one rupee the nearest half anna shall be taken neglecting 3 pies and under and counting 4 pies and 5 pies as 6 pies, in case of all districts except the Konkan and below-ghat talukas of Kanara, where the nearest 3 pies shall be charged. For example, in the Thana, Kolaba, Ratnagiri districts and the below-ghat talukas of Kanara an assessment of Re. 0-10-4 shall be taken as Re. 0-10-3; an assessment of Re. 0-10-5 shall be taken as Re. 0-10-6; an assessment of Re. 0-2-2 shall be taken as Re. 0-0-3.

Elsewhere.

an assessment of Re. 0-8-3 shall be taken as Re. 0-8-0;
an assessment of Re. 0-9-4 shall be taken as Re. 0-9-6.

(b) exceeds one rupee—

the nearest anna shall be taken in all cases, neglecting 6 pies and under and counting 7 and 11 pies as one anna, for example—an assessment of Rs. 1-3-6 shall be taken as Rs. 1-3-0;

an assessment of Rs. 1-3-7 shall be taken as Rs. 1-4-0:

Provided that—

(1) when the calculation results in the sum total of the new assessments (or Judi) of all sub-divisions of a survey number being greater or less than the whole assessment (or Judi) of that number, the difference shall be equitably distributed over the sub-divisions by deduction or addition in the largest shares, so as to make the total equal to the assessment (or Judi) on the survey number;

(2) subject to proviso (1) no new assessment (or Judi) on a survey number or sub-division shall be less than 3 pies in Thana, Kolaba, and Ratnagiri districts and below-ghat talukas of Kanara, or less than 6 pies elsewhere. (R. 5387-10-25).

(Rule 11 (1)). Any survey number or sub-division of a survey number may be amalgamated with any other coterminous Amalgamation, survey number with the sanction of the Collector and upon the application of the holder, whenever all the parcels of land proposed for amalgamation are held by the same holder upon the same tenure.

(Rule 14). The Collector on receipt of a schedule of the lands referred to in rule 13 (2) shall assess them at the same rate and Assessment of for the same period as if he were altering an agricultural non-agricultural assessment under whichever of Rules 81 to 85 has been land. applied to the locality:

Provided that land wholly or partially exempt from assessment under the proviso to section 52 or under section 128 or otherwise shall not, so far as it is so exempt, be assessed.

And also provided that land held under unexpired leases shall become liable to the rate of assessment in force for the locality only upon the expiry of those leases.

(Rule 15). For all lands which have in the past been surveyed or assessed, or which shall be hereafter surveyed or settled Maintenance of under the provisions of the Code and these rules, it shall records. be the duty of the Director of Land Records—

(1) to cause to be corrected any arithmetical or clerical error whenever discovered;

(2) to cause to be incorporated punctually in the land records all changes in boundaries, areas, tenures and assessments either of survey numbers or of their sub-divisions which are made under orders of competent authority as defined in the Code and these rules or any other Act:

Provided that where the assessment of any survey number has been fixed by a declaration under section 102, such assessment shall not be raised upon the discovery of any mistake in classification until the term of such declaration expires.

(Rule 17 (1)). Where the assessments have received the sanction of Government under section 102, a notification shall be published in the district or portion of the district to which the Settlement extends in form A, and when the Governor in Council has, under section 102, declared such assessments, with any modifications which he may deem necessary, fixed for a term of years, such declaration shall be notified in the official *Gazette*.

(Rule 20.) Before field operations a notice shall be issued by the Mamlatdar and posted in the village chavdi and proclaimed by beat of drum, stating that the sub-divisions of survey numbers in the village are about to be measured according as they have been divided by the holders, and daily notices shall be given as far as possible specifying the numbers or parts of numbers which are to be measured next day and warning landholders to be present.

(Rule 21.) When there is no dispute the boundary of each sub-division shall be laid down according to the statements of the holders.
Boundaries to be laid down.

(3) Where there is any dispute, the boundary to which the dispute relates shall be measured and mapped in accordance with the claims of both disputants, and the dispute entered in the register of disputed cases. After the dispute has been settled under sections 37 and 119-120, or Rule-108 as the case may be, the map shall be corrected accordingly and the areas finally entered into the land records.

(Rule 22.) The fees to be recovered for making sub-divisions in cases to which section 135G (b) applies shall, unless Government in any case otherwise direct, be such as will cover the entire cost of measuring, assessing and mapping the sub-division; they shall be assessed by the Collector.

(Rule 23.) The proportionate assessment of sub-divisions to the land revenue settled upon the survey number shall be calculated subject to the proviso to section 117A (2) according to the relative classification value of the several parts of the survey number as directed in rule 10. Detailed instructions shall be prescribed by the Commissioner of Survey subject to the approval of Government and may provide for the rounding off of fractions of annas.

CHAPTER IX.

The Settlement of Boundaries and the Construction and Maintenance of Boundary-Marks.

118. The boundaries of villages situated in British territory shall be fixed, and all disputes relating thereto shall be determined by survey officers, or by such other officers as may be nominated by Government for the purpose, who shall be guided by the following rules:—

Rule 1.—When the patels and other village officers of any two or more adjoining villages, and, in the case of an alienated village the holder thereof or his duly constituted agent shall voluntarily agree to any given line of boundary as the boundary common to their respective villages, the officer determining the boundary shall require the said parties to execute an agreement to that effect, and shall then mark off the boundary in the manner agreed upon. And any village boundary fixed in this manner shall be held to be finally settled, unless it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means.

Rule 2.—If the patels and other village officers, and in the case of an alienated village, the holder thereof or his duly constituted agent, do not agree to fix the boundaries of their respective villages, in the manner prescribed in the preceding rule, or if it shall appear to the said officer that the agreement has been obtained by fraud, intimidation, or any other illegal means or if there be any pending dispute, the said officer shall make a survey and plan of the ground in dispute, exhibiting the land claimed by the contending parties, and all particulars relating thereto, and shall hold a formal enquiry into the claims of the said parties, and thereafter make an award in the case. If either of the villages concerned be alienated, an award made by a survey officer shall, unless the officer making it be the Superintendent of Survey, be subject to his confirmation, and an award made

by any other officer shall be subject to confirmation by such other officer as Government may nominate for the purpose.

Court has no power to fix boundaries:—When the assistance of the Court is sought for the purpose of ascertaining the boundaries, which the plaintiff himself is unable to point out, by reason of some confusion in them, and to recover possession, when those boundaries have been ascertained by the Court, it was held, that the Court has no power to fix the boundaries of legal estates, unless some equity is superinduced by the act of the parties as some particular circumstance of fraud or confusion (*Kavasji V. Hormusji*, 29 Bom. 73).

G. R., P. D., No. 8820, dated 21-12-1891 and G. R., P. D., No. 1640, dated 9th March 1893. Where large rivers of which the bed is fairly full throughout the year divide the States, the rule of mid-channel is adopted; where the rivers run very dry and shift their channels but leave the banks as a permanent boundary, the rule of mid-bed is preferred. But where the banks are subject to erosion and shifting as the channel, the rule of mid-channel is reverted to.

119. If, at the time of a survey, the boundary of a field or holding be undisputed, and its correctness be affirmed by the village officers then present, it may be laid down as pointed out by the holder or person in occupation, and, if disputed, or if the said holder or person in occupation be not present, it shall be fixed by the survey officer according to the land records and according to occupation as ascertained from the village officers and the holders of adjoining lands, or on such other evidence or information as the survey officer may be able to procure.

If any dispute arise concerning the boundary of a field or holding which has not been surveyed, or if at any time after the completion of a survey a dispute arise concerning the boundary of any survey number, or subdivision of a survey number it shall be determined by the Collector, who shall be guided by the land records if they afford satisfactory evidence of the boundary previously fixed and if not, by such other evidence as he may be able to procure.

What is a 'dispute'.—The word "dispute" in the second part of section 119 of the Bombay Land Revenue Code means a dispute between two neighbouring owners and not a dispute between the Collector and the owner.

In a dispute between the Collector and the owner of land abutting on a public road as to whether there was encroachment on the public road the Collector went into the question of boundary between the land of the owner and that of his neighbour. The owner filed a civil suit for declaration of his title to the land so ordered to be given up when it was contended that the decision of the Collector was final under section 119 of the Land Revenue Code and that the Civil Courts had no jurisdiction to interfere.

Held that there was no such dispute as was necessary for the application of section 119 and that the Civil Courts had jurisdiction to go into the question of title to the land which the plaintiff was ordered to give up to his neighbour. (*Malkarjunappa V. Anandrao*, 31 Bom. L. R. 957.)

120. If the several parties concerned in a boundary dispute agree to submit the settlement thereof to an arbitration committee, and make application to that effect in writing, the officer whose duty it would otherwise be to determine the boundary shall require the said parties to nominate a committee of not less than three persons, within a specified time, and if within a period to be fixed by the said officer the committee so nominated or a majority of the members thereof arrive at a decision, when confirmed by the said officer or if the said officer be a survey officer lower in rank than a Superintendent of Survey, by the Superintendent of Survey, shall be final:—

When award may be remitted for reconsideration. Provided that the said officer, or the Superintendent of Survey, shall have power to remit the award, or any of the matters referred to arbitration, to the consideration of the same committee, for any of the causes set forth in paragraph 14 of the Second Schedule to the Code of Civil Procedure, 1908.

If arbitration fail, survey officer to settle dispute. If the committee appointed in the manner aforesaid fail to effect a settlement of the dispute within the time specified, it shall be the duty of the officer aforesaid, unless he or, if the said officer is a survey officer lower in rank than a Superintendent of Survey, the Superintendent of Survey, see fit to extend the time, to settle the same as otherwise provided in this Act.

121 (1) The settlement of a boundary under any of the foregoing provisions of this chapter shall be determinative:

Effect of the settlement of a boundary.

(a) of the proper position of the boundary line or boundary marks, and

(b) of the rights of the landholders on either side of the boundary fixed in respect of the land adjudged to appertain, or not to appertain, to their respective holdings.

(2) Where a boundary has been so fixed, the Collector may at any time summarily evict any landholder who is wrongfully in possession of any land which has been adjudged in the settlement of a boundary not to appertain to his holding or to a holding of any person through or under whom he claims.

Settlement of boundary dispute by Collector.—This section must be read along with sections 119 and 120 of this Code. It is only when a boundary dispute arises between the owners of adjoining lands, and the Collector is called upon to determine the dispute, that his determination becomes final under this section so as to oust the jurisdiction of the Civil Court (*Lakshman V. Antaji*, 25 Bom. 312).

Decisions of revenue officers as to boundaries are final.—In 1887 a dispute arose between plaintiffs and defendant as to boundaries of certain land, being survey numbers 88 and 87 of which the plaintiffs and the defendant were respectively occupants under Government. In 1879 the boundaries were fixed by a revenue officer under the orders of the Collector and the piece of land in dispute was found to belong to the plaintiffs as occupants of survey number 88. Subsequently the defendants having encroached upon it and dispossessed the plaintiffs the present suit was filed. The Court of first instance awarded plaintiff's claim, holding that the decision by the revenue officer was conclusive as to the boundary. The defendant applied, and the lower Appellate Court reversed the lower Court's decree. On appeal by the plaintiffs to the High Court, *held*, that under the provisions of this section the decision of the Collector as to boundaries was conclusive and that the plaintiffs were entitled to possession (*Bai V. Valji*, 10 Bom. 456).

Jurisdiction of Civil Court:—The Civil Court has jurisdiction to entertain a suit for settlement of boundaries of fields, where subsequent to the filing of the suit the boundaries have been determined by revenue officers (*Kanhailal V. Ismailbhai*, 28 Bom. L. R. 1498).

Boundaries fixed by the Collector:—The fixing of boundaries by the Collector, of survey numbers under this section, has the same effect merely of showing what lands belong to the persons in whose names the survey numbers are registered. It does not affect the right of any one of those persons to show in a Civil Court that he has acquired a title by adverse possession against a registered occupant (*Manak V. Narayan*, 22 Bom. L. R. 114, foot-note).

Settlement of boundary:—It is not determinative of any rights which the holder of one number can claim to exercise over the land belonging to the holder of the adjoining-number. This section does not give jurisdiction to the enquiry officer to decide, e. g., that a broad strip of land lying between two numbers is common to both the adjoining owners. This section applies to agricultural lands as also to the survey of land in a town (*Ganesh V. Ramchandra*, 23 Bom. L. R. 1200).

122. It shall be lawful for any survey officer, authorized by a Superintendent of Survey, or Settlement Officer to specify or cause to be constructed, laid out, maintained or repaired, boundary marks of villages or survey numbers or sub-divisions of survey numbers whether cultivated or uncultivated, and to assess all charges incurred thereby on the holders or others having an interest therein.

Such officer may require landholders to construct, lay out, maintain or repair their boundary-marks, by a notification which shall be posted in the chavdi or other public place in the village, to which the lands under survey belong, directing the holders of survey numbers or sub-divisions, to construct, lay out, maintain or repair, within a specified time, the boundary-marks of their respective survey numbers or sub-divisions and on their failure to comply with the requisition so made, the survey-officer shall then construct, lay out or repair them and assess all charges incurred thereby as hereinbefore provided.

A general notification, issued in the manner aforesaid, shall be held to be good and sufficient notice to each and every person having any interest in any survey numbers or sub-divisions within the limits of the lands to which the survey extends.

A general notification to be good and sufficient notice of requisition.

The boundary-marks shall be of such description, and shall be constructed, laid out, maintained or repaired in such manner and of such dimensions and materials as may, subject to rules made in this behalf under section 214, be determined by the Superintendent of Survey, according to the requirements of soil and climate.

G. R. No. L. C. 1831, dated 11-9-1925. Unploughed boundary strips are not boundary-marks as defined in section 3 (10) unless they are declared to be such by the Survey Officer or Collector. If they are so declared, then only landholders will be responsible to maintain or keep them in good repair.

123. Every landholder shall be responsible for the maintenance and good repair of the boundary marks of his holding, and for any charges reasonably incurred on account of the same by the revenue officers in cases of alteration, removal or disrepair. It shall be the duty of the village officers and servants to prevent the destruction or unauthorized alteration of the village boundary marks.

124. When the survey settlement shall have been introduced into a district, the charge of the boundary marks shall devolve on the Collector, and it shall be his duty to take measures for their construction, laying out, maintenance and repair, and for this purpose the powers conferred on survey officers by section 122 shall vest in him.

G. R. No. 7169, dated 24-7-1909. The Collector can take action under section 124 in alienated villages in which survey and settlement has been introduced.

125. Any person convicted after a summary enquiry before the Collector, or before a survey officer, Mamlatdar or Mahalkari, of wilfully erasing, removing or injuring a boundary mark, shall be liable to a fine not exceeding fifty rupees for each mark so erased, removed or injured.

One-half of every fine imposed under this section may be awarded by the officer imposing it to the informer, if any, and the other half shall be chargeable with the cost of restoring the mark.

CHAPTER X

Of Lands within the Sites of Villages,
Towns and Cities.

126. It shall be lawful for the Collector, or for a survey officer, acting under the general or special orders of Government, to determine what lands are included within the site of any village, town or city, and to fix, and from time to time to vary the limits of the same, respect being had to all subsisting rights of landholders.

127. Act XI of 1852 and Bombay Acts II and VII of 1863, shall be deemed to be applicable, and to have always been applicable, in the territories to which they respectively extend, to all lands within the limits of the site of any town or city in which an enquiry into titles has been made under the provisions of Bombay Act IV of 1868 which have been hitherto ordinarily used for agricultural purposes only; but the provisions of the said Acts shall not be deemed applicable to any other lands within the limits of the site of any such town or city.

128. The existing exemption from payment of land revenue of lands other than lands which have hitherto been ordinarily used for purposes of agriculture only, situate within the sites of towns and cities in which an enquiry into titles has been made under the provisions of Bombay Act IV of 1868, shall be continued:

1st—if such lands are situated in any town or city where there has been in former years a survey which Government recognize for the purpose of this section, and are shown in the maps or other records of such survey as being held wholly or partially exempt from the payment of land revenue;

2nd—if such lands have been held wholly or partially exempt from the payment of land revenue for a period of not less than 5 years before the application of Bombay Act I of 1865, or IV of 1868 to such town or city ;

3rd—if such lands, for whatever period held, have been held wholly or partially exempt, from payment of land revenue under a deed of grant or of confirmation issued by an officer whom Government recognize as having been competent to issue such deed.

129. (1) Claims to exemption under the last preceding section shall be determined by the Collector after a summary inquiry, and his decision shall be final.

Right to exemption to be determined by the Collector.

(2) Any suit instituted in a Civil Court to set aside any order passed by the Collector under sub-section (1), in respect of any land situate within the site of a village, town or city, shall be dismissed (although limitation has not been set up as a defence), if it has not been instituted within one year from the date of the order.

130. In towns and cities to which section 128 applies, the holders of any lands other than lands which have

Occupancy price payable in addition to assessment in certain cases. hitherto been used for purposes of agriculture only, which have been unauthorisedly occupied for a period commencing less than two years

before Bombay Act I of 1865 or IV of 1868 was applied to the town or city in which the said lands are situate, shall be liable to pay a price for the said lands in addition to the land revenue assessed thereupon.

The said price shall be determined according to the provisions of section 62.

131. If the Governor in Council shall at any time deem it expedient to direct a survey of the lands other

Survey of lands in such sites how to be conducted. than those used ordinarily for the purposes of agriculture only within the site of any village, town or city, under the provisions of section 95, or a fresh survey thereof under the provisions of section 106, such

survey shall be conducted, and all its operations shall be regulated, according to the provisions of chapters VIII and IX of this Act: Provided that nothing contained in sections 96, 97, 101, 104,

or 118 thereof shall be considered applicable to
 Proviso. any such survey in any town or city containing more than two thousand inhabitants.

132. When a survey is extended under the provisions of the last preceding section to the site of any town or city containing more than two thousand inhabitants, each holder of a building-site shall be liable to the payment of a survey fee to be assessed by the Collector under such rules as may be prescribed in this behalf from time to time by Government, provided that the said fee shall in no case exceed ten rupees for each building site or any portion thereof held separately. The said survey fee shall be payable within six months from the date of a public notice to be given in this behalf by the Collector after the completion of the survey of the site of the town or city or of such part thereof as the notice shall refer to.

(Rule 19.) (1) Where a survey is extended to the site of a town or city, the survey fees payable under section 132 shall Survey fees in ordinarily be so fixed that the total sum payable in towns and cities. respect of such site shall cover the cost of the survey and preparation of the Record of Rights thereof.

(2) In fixing the fees for each building site or any portion thereof held separately the Collector shall have regard to the provision of sub-rule (1) and to the position, value (or rental), and area of such building-site or portion thereof, but such fee shall not exceed ten rupees.

133. Every holder of a building-site as aforesaid shall be entitled, after payment of the said survey fee to receive from the Collector without extra charge one or more sanads, in the form of Schedule H, or to the like effect specifying by plan and description the extent and conditions of his holding :

Sanad to be granted without extra charge.
 Provided that if such holder do not apply for such sanad or sanads at the time of payment of the survey-fee or thereafter within six months from the date of the public notice issued by the Collector under the last preceding
 Proviso.

section, the Collector may require him to pay an additional fee not exceeding one rupee for each sanad.

Every such sanad shall be executed on behalf of the Secretary of State for India in Council by such officer as may from time to time be lawfully empowered to execute the same.

Sanad, a document of title.—A sanad given under this section, after due enquiry, in the form in Schedule H, is itself a document of title (*Ulawappa V. Gadigawa*, 27 Bombay L. R. 948.)

134. If any land within the site of any village, town, or city, hitherto ordinarily used for agricultural purposes only, with respect to which a summary settlement has been made between Government and the holder under the provisions of any law for the time being in force, be used for any other purposes, it shall be liable to payment of one-eighth of the rate fixed for unalienated land used for similar purposes in the same locality, in addition to the quit-rent payable under the terms of such summary settlement.

Assessment of lands hitherto used for purpose of agriculture only used for other purposes,

135. Repealed by Bom. XI of 1912, S. 3.

CHAPTER X—A.

Of the Record of Rights.

Note:—Chapter X—A applies also to alienated villages. Government is, therefore, entitled to maintain the Record of Rights in alienated villages without the consent of the Inamdar (*Raghavendra V. Secretary of State*, 28 Bom. L. R. 559).

135—A. The Governor in Council may, by notification in the Bombay Government Gazette, direct that this chapter, or any specified provisions thereof, shall not be in force in any specified local area, or with reference to any lands or any class of villages or lands or generally.

Exemption from provisions of this chapter.

135—B. (1) A record of rights shall be maintained in every village and such record shall include the following particulars:—

(a) the names of all persons (other than tenants) who are holders, occupants, owners or mortgagees of the land or assignees of the rent of revenue thereof;

(b) the nature and extent of the respective interests of such persons and the conditions or liabilities (if any) attaching thereto;

(c) the rent or revenue (if any) payable by or to any of such persons;

(d) such other particulars as the Governor in Council may prescribe by rules made in this behalf:

(2) Provided that the said particulars shall be entered in the record of rights with respect to perpetual tenancies, and also with respect to tenancies of any other classes to which the Governor in Council may, by notification in the Bombay Government Gazette, direct that the provisions of this section shall apply in any local area or generally.

135—C. Any person acquiring, by succession, survivorship, inheritance, partition, purchase, mortgage, gift, lease or otherwise, any right as holder, occupant, owner, mortgagee, landlord or tenant of the land, or assignee of the rent or revenue thereof, shall report orally or in writing his acquisition of such right to the village accountant within three months from the date of such acquisition, and the said village accountant shall at once give a written acknowledgment of the receipt of such report to the person making it:

Provided that where the person acquiring the right is a minor or otherwise disqualified, his guardian or other person having charge of his property shall make the report to the village accountant.

Provided further that any person acquiring a right by virtue of a registered document shall be exempted from the obligation to report to the village accountant.

Explanation I—The rights mentioned above include a mortgage without possession, but do not include an easement or a charge not amounting to mortgage of the kind specified in section 100 of the Transfer of Property Act, 1882.

Explanation II—A person in whose favour a mortgage is discharged or extinguished, or lease determined, acquires a right within the meaning of this section.

G. R. No. 5366/28, date 30-8-1930. Report regarding acquisition of right under section 135—C is not liable to court fee stamp.

135—D. (1) The village accountant shall enter in a register of mutations every report made to him under section 135—C and shall also make an entry therein respecting the acquisition of any right of the kind mentioned in the first paragraph of section 135—C which he has reason to believe to have taken place and of which a report has not been made to him under the said section.

(2) Whenever a village accountant makes an entry in the register of mutations he shall at the same time post up a complete copy of the entry in a conspicuous place in the chavdi, and shall give written intimation to all persons appearing from the record of rights or register of mutations to be interested in the mutation, and to any other person whom he has reason to believe to be interested therein.

(3) Should any objection to an entry made under subsection (1) in the register of mutations be made either orally or in writing to the village accountant, it shall be the duty of the village accountant to enter the particulars of the objection in a register of disputed cases.

(4) Orders disposing of objections entered in the register of disputed cases shall be recorded in the register of mutations by such officers and in such manner as may be prescribed by rules made by the Governor in Council in this behalf.

(5) The transfer of entries from the register of mutations to the record of rights shall be effected subject to such rules as may be made by the Governor in Council in this behalf: provided that an entry in the register of mutations shall not be trans-

ferred to the record of rights until such entry has been duly certified.

(6) Entries in the register of mutations shall be tested and if found correct, or after correction as the case may be, shall be certified by a revenue officer of rank not lower than that of a Mamlatdar's first Karkun.

Entries in register of mutations how to be certified.

(7) The provisions of this section shall apply in respect of perpetual tenancies and also in respect of any Tenancies. tenancies mentioned in the notification under sub-section (2) of section 135-B, but the provisions of this section shall not apply in respect of other tenancies, which shall be entered in a register of tenancies in such manner and under such procedure as the Governor in Council may prescribe by rules made in this behalf.

135.—E. (1) Any person whose rights, interests or liabilities are required to be, or have been entered in any record or register under this chapter shall be bound, on the requisition of any revenue officer or village accountant engaged in compiling or revising the record or register, to furnish or produce for his inspection, within one month from the date of such requisition, all such information or documents needed for the correct compilation or revision thereof as may be within his knowledge or in his possession or power.

Obligation to furnish information.

(2) A revenue officer or village accountant to whom any information is furnished or before whom any document is produced in accordance with a requisition under sub-section (1) shall at once give a written acknowledgment thereof to the person furnishing or producing the same and shall endorse on any such document a note under his signature, stating the fact of its production and the date thereof.

135.—F. Any person neglecting to make the report required by section 135-C, or furnish the information or neglect to afford produce the documents required by section 135-E information. within the prescribed period shall be liable at the discretion of the Collector, to be charged a fee not

Penalty for neglect to afford information.

exceeding twenty-five rupees, which shall be leviable as an arrear of land revenue.

135.—G. Subject to rules made in this behalf by the Governor in Council—

Requisition of assistance in preparation of maps.

(a) any revenue officer or village accountant may for the purpose of preparing or revising any map or plan required for or in connection with any record or register under this chapter, exercise any of the powers of a survey officer under sections 96 and 97, except the power of assessing the cost of hired labour under section 97, and

(b) any revenue officer of a rank not lower than that of an Assistant or Deputy Collector or of a survey officer may assess the cost of the preparation or revision of such map or plan and all contingent expenses, including the cost of clerical labour and supervision, on the lands to which such maps or plans relate, and such costs shall be recoverable as a revenue demand.

135.—H. (1) The plaintiff or applicant in every suit or application as hereinafter defined relating to

Certified copy of record to be annexed to plaint or application.

land situated in any area to which this chapter applies shall annex to the plaint or application a certified copy of any entry in the record of rights, register of mutations or register of tenancies relevant to such land.

(2) If the plaintiff or applicant fails so to do for any cause which the Court or conciliator deems sufficient, he shall produce such certified copy within a reasonable time to be fixed by the Court or conciliator, and if such certified copy is not so annexed or produced the plaint or application shall be rejected, but the rejection thereof shall not of its own force preclude the presentation of a fresh plaint in respect of the same cause of action or of a fresh application in respect of the same subject-matter, with a certified copy annexed.

(3) After the disposal of any case in which a certified copy of any such entry has been recorded, the Court shall com-

communicate to the Collector any error appearing in such entry and any alteration therein that may be required by reason of the decree or order, and a copy of such communication shall be kept with the record. The Collector shall in such case cause the entry to be corrected in accordance with the decree or decision of the Court, so far as it adjudicates upon any right required to be entered in the record of rights, register of mutations or register of tenancies. The provisions of this sub-section shall apply also to an appellate or revisional court: provided that, in the case of an appellate or revisional decree or order passed by the High Court or the Court of the Judicial Commissioner of Sind, the communication shall be made by the Court from which the appeal lay or the record was called for.

(4) In this section—

(a) "suit" means a suit to which the provisions of the Code of Civil Procedure, 1908, or of the Mamlatdars' Courts Act, 1906, apply;

(b) "application" means an application,

(i) for the execution of a decree or order in a suit;

(ii) for the filing of an agreement stating a case for the opinion of the Court under the Code of Civil Procedure, 1908;

(iii) for filing of an agreement to refer to arbitration under paragraph 17 of the Second Schedule to the said Code;

(iv) for the filing of an award under paragraph 20 of the said Schedule;

(v) to a conciliator under section 39 of the Deccan Agriculturists' Relief Act, 1879;

(vi) of any other kind to which the Governor in Council may, by notification in the Bombay Government Gazette, direct that this section shall apply;

(c) an application shall be deemed to relate to land if the decree or other matter relating to land shall, without prejudice to the generality of the expression, be deemed to include a suit, decree or other matter relating to the rent or tenancy of land.

135—L. Notwithstanding anything in section 87, the Collector shall refuse assistance to any superior holder under the said section, if his claim to such assistance is not supported by an entry or entries duly made in the record of rights, register of mutations or register of tenancies.

135.—J. An entry in the record of rights and a certified entry in the register of mutations shall be presumed to be true until the contrary is proved or a new entry is lawfully substituted therefor.

Refusal of assistance under section 87.

Presumption of correctness of entries in record of rights and register of mutations.

Entries in record of rights.—Held that (1) the importance of revenue records as evidentiary value on title varied with circumstances and as entries in Record of Rights and Mutation Registers, in the present case, were made after a most careful public enquiry (as required by Bom. Act IV of 1903) and there were provisions in the act for the periodical checking of the correctness of such entries, those entries, though not in any way conclusive were cogent evidence of the facts recorded therein (namely the partition and the separation).

(2) That there was no proof whatever that the above entries in the Record of Rights were made by the Village Accountant in collusion with B, mere suggestion of fraud or collusion based on suspicion without any evidence to support the same being insufficient for the purpose.

(3) That in any case as these entries in the revenue records were prepared by public servants in the discharge of their official duty, they were relevant evidence of the facts recorded therein under the provisions of the Indian Evidence Act, 1872, section 35.

(4) That in respect of such of the entries as were made after the year 1913 section 135-J of the Land Revenue Code (added by Bom. Act, IV of 1913) applied under which "an entry in the Record of Rights and register of mutations is presumed to be correct until the contrary is proved or a new entry is lawfully substituted therefor" and accordingly the entries recording B's widow as the owner of the lands in village H were presumptive evidence of her separate title (*Gangabai Basawantrao Vs. Fakirgoda Somappa Gowda, 32 Bom. L. R. 383*).

135—K. Applications for certified copies of entries in the record of rights, the register of mutations and the register of tenancies may be made to, and such copies may be given by, the village accountant, Mahalkari or Mamlatdar,

135—L. (1) No suit shall lie against the Secretary of State or Government or any officer of Government in respect of a claim to have an entry made in any record or register that is maintained under this chapter, or to have any such entry omitted or amended, and the provisions of Chapter XIII shall not apply to any decision or order under this chapter.

(2) The correctness of the entries in the record of rights and register of mutations shall be enquired into and the particulars thereof revised, by such Revenue officers and in such manner and to such extent and subject to such appeal as the Governor in Council may from time to time by rules prescribe in this behalf.

CHAPTER XI.

Of the Realization of Land Revenue and other Revenue Demands.

136. (1) In the case of unalienated land the occupant, and in the case of alienated land the superior holder, shall be primarily liable to Government for the payment of the land revenue, including all arrears of land revenue, due in respect of the land. Joint occupants and joint holders who are primarily liable under this section shall be jointly and severally liable.

(2) In case of default by any person who is primarily liable under this section, the land revenue, including arrears as aforesaid, shall be recoverable from any person in possession of the land :

Provided that where such person is a tenant, the amount recoverable from him shall not exceed the demands of the year in which the recovery is made :

Provided further that, when the land revenue is recovered under this section from any person who is not primarily liable for the same, such person shall be allowed credit for any pay-

ments which he may have duly made to the person who is primarily liable, and shall be entitled to credit, for the amount recovered from him, in account with the person who is primarily liable.

G. R. No. 1493, dated 24-2-1904. Chapter XI when applicable to inam villages.—The Collector cannot use any of the powers under Chapter XI of the Code in realizing Inamdars' dues from their inferior holders except upon application under section 86 from the Inamdar who is the holder of a commission under section 88.

137. The claim of Government to any moneys recoverable under the provisions of this chapter shall have precedence over any other debt, demand, or claim whatsoever, whether in respect of mortgage, judgment-decree, execution, or attachment, or otherwise howsoever, against any land or the holder thereof.

138. In all cases the land revenue for the current year of land used for agricultural purposes, if not otherwise discharged, shall be recoverable, in preference to all other claims, from the crop of the land subject to the same.

139. The land revenue shall be liable on or at any time after the first day of the revenue year for which it is due; but, except when precautionary measures are deemed necessary under the provisions of sections 140 to 144, payment will be required only on the dates to be fixed under the provisions hereinafter contained.

140. When the crop of any land or any portion of the same is sold, mortgaged or otherwise disposed of, whether, by order of the Civil Court or other public authority or by private agreement, the Collector may prevent its being removed from the land until the demands for the current year in respect of the said land have been paid, whether the date fixed for the payment of the same under the provisions hereinafter contained has yet arrived or not.

But in no case shall a crop or any portion of the same, which has been sold, mortgaged or otherwise disposed of, be detained on account of more than the demands of the year in which the detention is made.

The powers contained in this section and the following do not authorize the detention of anything but the crops of the land or the seizure of the crop or any other goods after removal from the lands (*Gangaram V. Dinkar, 37 Bom. 542*).

141. It shall be lawful for the Collector, in order to secure the payment of the land revenue by enforcement of the lien of Government on the crop—

In order to secure the land revenue the Collector may prevent the reaping of the crop, or

(a) to require that the crop growing on any land liable to the payment of land revenue shall not be reaped until a notice in writing has first been given to himself or to some other officer to be named by him, in this behalf, and such notice has been returned endorsed with an acknowledgment of its receipt;

(b) to direct that no such crop shall be removed from the land on which it has been reaped, or from any place in which it may have been deposited, without the written permission of himself or of some other officer as aforesaid;

the removal thereof, or

(c) to cause watchmen to be placed over any such crop to prevent the unlawful reaping or removal of the same and to realize the amount required for the remuneration of the said watchmen, at such rate not exceeding the rate of pay received by the peons on his establishment as he may deem fit, as an arrear of land revenue due in respect of the land to which such crop belongs.

place watchmen over it.

142. The Collector's orders under either clause (a) or clause (b) of the last preceding section may be issued generally to all the holders of land paying revenue to Government in a village, or to individual holders merely.

Collector's orders under last section how to be made known.

If the order be general, it shall be made known by public proclamation to be made by beat of drum in the village and by affixing a copy of the order in the chavdi or some other public building in the village. If it be to individual holders, a notice thereof shall be served on each holder concerned.

Any person who shall disobey any such order after the same has been so proclaimed, or a notice thereof has been served upon him, or who shall, within the meaning of the Indian Penal Code, abet the disobedience of any such order, shall be liable, on conviction after a summary enquiry by the Collector, to a fine not exceeding double the amount of the land revenue due on the land to which the crop belongs in respect of which the offence is committed.

G. R. No. 5968/28, dated 31-10-1930. Fine under section 142 is not an arrear of land revenue in respect of the occupancy and so forfeiture of the land under section 153 is not lawful.

Removal of crops, though the removal is prohibited, does not become theft.—If a person removes his wheat, the removal of which is prohibited and over which watchmen have been placed under section 141, he cannot be convicted of theft under section 379 of the Penal Code, but can be dealt with under this section (*Daya Karson, 1 Bom. L. R. 315*).

143. The Collector shall not defer the reaping of the crop, nor prolong its deposit unduly, so as to damage the produce; and if within two months after the crop has been deposited the revenue due has not been discharged, he shall either release the crop and proceed to realize the revenue in any other manner authorized by this chapter or take such portion thereof as he may deem fit for sale under the provisions of this chapter applicable to sales of movable property in realization of the revenue due and of all legal costs, and release the rest.

Reaping, etc., not to be unduly deferred.

Crop when to be released.

144. If owing to disputes amongst the sharers, or for other cause, the Collector shall deem that there is reason to apprehend that the land revenue payable in respect of any holding consisting of an entire village or of a share of a village will not be paid as it falls due, he may cause the village or share

Temporary attachment and management of a village or share of a village.

of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

The provisions of section 160 shall apply to any village or share of a village so attached, and all surplus profits of the land attached, beyond the cost of such attachment and management, including the payments of the land revenue and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111, shall be kept in deposit for the eventual benefit of the person or persons entitled to the same, or paid to the said person or persons from time to time as the Collector may direct.

145. The precautionary measures authorized by the last five sections shall be relinquished if the person primarily responsible for the payment of revenue or any person who would be responsible for the same if default were made by the person primarily responsible shall pay the costs, if any, lawfully incurred by the Collector up to the time of such relinquishment, and shall furnish security satisfactory to the Collector for the payment of the revenue, at the time at which, or in the instalments, if any, in which it is payable under the provisions hereinafter contained.

146. Land revenue, except when it is recovered under the provisions of the foregoing sections 140 to 144, shall be payable at such times in such instalments to such persons and at such places as may from time to time be determined by the orders of Government.

147. Any sum not so paid becomes thereupon an arrear of land revenue, and the persons responsible for it, whether under the provisions of section 136 or of any other section, become defaulters.

148. If any instalments of land revenue be not fully paid within the prescribed time, it shall be lawful for the Collector to impose as a penalty or as interest such charge on such instalments, and on the

arrears, if any, of former years, as may be authorized according to a scale to be fixed from time to time under the orders of the Governor in Council, and further to proceed to levy at once the entire balance of land revenue due by the defaulter for the current year :

Provided that no such charge shall be imposed on any instalments, the payment of which has been suspended by order of Government, in respect of the period during which the payment remained suspended.

G. R. No. 194, dated 9-1-1884. Interest or penalty under section 148 of the Land Revenue Code should be levied only in cases of proved contumacy.

(1) For default in payment of land revenue or rent due to superior holders, interest not exceeding 9 per cent. may be levied in assistance suits and it will be handed over to the superior holders concerned. The interest becomes due from the date the decretal amount is due.

(2) In the case of contumacious default, penalty in lieu of interest, not exceeding 25 per cent. of the arrears due may be levied, and the whole of it should be paid to the superior holder.

(3) The 25 per cent. limit is the maximum rate and the actual amount should correspond to the wilful and persistent character of default. (G. R. No. 2693/24, dated 13-3-1926, 17-4-1926 and 22-10-1926).

149. A statement of account, certified by the Collector or by an Assistant or Deputy Collector, shall, for the purposes of this chapter, be conclusive evidence of the existence of the arrear of the amount of land revenue due, and of the person who is the defaulter.

On receipt of such certified statement, it shall be lawful for the Collector of one district to proceed to recover the demands of the Collector of any other district under the provisions of this chapter as if the demand arose in his own district.

Collectors may realize each other's demands.

A similar statement of account certified by the Collector of Bombay may be proceeded upon as if certified by the Collector of a district under this Act.

150. An arrear of land revenue may be recovered by the following process :—

Process for recovery of arrears.

(a) by serving a written notice of demand on the defaulter under section 152 ;

(b) by forfeiture of the occupancy or alienated holding in respect of which the arrear is due under section 153 ;

(c) by distraint and sale of the defaulter's movable property under section 154 ;

(d) by sale of the defaulter's immovable property under section 155 ;

(e) by arrest and imprisonment of the defaulter under section 157 and 158 ;

(f) in the case of alienated holding consisting of entire villages, or shares of villages, by attachment of the said villages or shares of villages under sections 159 to 163.

Recovery of arrears of land revenue.—An arrear of land revenue may be recovered by the several processes mentioned in this section. With regard to the process of sale of the defaulter's immovable property other than the land on which the arrear is due, it should be noted that the sale is subject to all encumbrances, or tenures or alienations effected by the occupant before the sale. The sale is just like the sale in execution of a money decree of a judgment-debtor's immovable property and the purchaser acquires only what the occupant could have honestly disposed of on the date of the sale. In this case the rights of encumbrancers are not touched (*See Venkatesh V. Mhal Pai, 16 Bom. 67*). The surplus after deducting the expenses of the sale and the arrears due shall be paid to the occupant whose property is thus sold, as required by section 183 *post*.

151. The said processes may be employed for the recovery of arrears of former years as well as of the current year, but the preferences given by section 137 and 138 shall apply only to demands for the current year :

Revenue demands of former years how recoverable.

Provided that any process commenced in the current year shall be entitled to the said preferences, notwithstanding that it may not be fully executed within that year.

Proviso.

in that year.

152. A notice of demand may be issued on or after the day following that on which the arrear accrues.
 When notice of demand may issue.

The Commissioner may from time to time frame rules for the issue of such notices, and with the sanction of the Governor in Council shall fix the costs recoverable from the defaulter as an arrear of revenue, and direct by what officer such notices shall be issued.

153. The Collector may declare the occupancy or alienated holding in respect of which an arrear of land revenue is due, to be forfeited to Government, and sell or otherwise dispose of the same under the provisions of sections 56 and 57, and credit the proceeds, if any, to the defaulter's accounts.
 The occupancy or alienated holding for which arrear is due may be forfeited.

Provided that the Collector shall not declare any such occupancy or alienated holding to be forfeited.
 Proviso.

(a) unless previously thereto he shall have issued a proclamation and written notices of the intended declaration in the manner prescribed by sections 165 and 166 for sales of immovable property, and

(b) until after the expiration of at least fifteen days from the latest date on which any of the said notices shall have been affixed as required by section 166.

Forfeiture not followed by sale.—A declaration of forfeiture under this section of the interests of a lessee holding under a permanent lease not followed by a sale, but by an order transferring possession of the holding to the lessor under section 57, has not the effect of defeating prior encumbrances created by the lessee in favour of third persons (*Narayan V. Purshottam*, 22 Bom. 308).

When a registered occupant's tenancy is forfeited under section 56 ante, and that forfeiture is not followed by sale of the occupancy (the Collector allowing the person actually in possession to be registered as occupant on his paying up all arrears of Government revenue due on the land), the lease by which the person actually in possession was

holding from the former registered occupant is not destroyed by the forfeiture and the lessee is still under liability to his landlord (*Ganparshibai V. Timaya*, 24 Bom. 34.)

Declaration of forfeiture before sale.—A sale of a holding for default of payment of assessment is not invalid, although prior to the sale there has been no declaration of forfeiture by the Collector. The declaration is not so essentially a necessary preliminary of a sale that without it the sale is illegal and invalid. The fact that a sale has taken place is *prima facie* evidence that forfeiture had been declared (*Ganpati V. Gangaram*, 21 Bom. 381).

G. B. No. 3016, dated 10-6-1880. Forfeiture of watan land. The Collector can declare watan-land or alienated land forfeited.

154. The Collector may also cause the defaulter's movable property to be distrained and sold.

Distrain and sale of defaulter's movable property.

Such distrainments shall be made by such officers or class of officers as the Commissioner under the orders of Government may from time to time direct.
By whom to be made.

Distrain of chattels how effected.—A seizure for distrain of chattels may be either actual or constructive. It is not necessary that the goods must be actually touched or handled (*Emperor V. Lallu Waghai* 43 Bom. 550).

Seizure of account books.—An attachment of account books by an officer acting under this section is illegal, and the officer is liable to damages for doing so (*Daluchand V. Gulabai*, 18 Bom. L. R. 323).

Cash and notes.—Under this section cash and particularly currency notes (being movable property and liable to sale) may be distrained and sold (*Emperor V. Gulabai*, 33 I. C. 899).

Illegality of breaking open the outer doors of the house of a defaulter for the purpose of distraining goods for the recovery of arrears of land revenue :—

Having regard to the legal opinions recorded in G. R. R. D. No. 11240 dated 11th December 1923, Government do not sanction the application of section 62 (2) of the Civil Procedure Code to the recovery of arrears of land revenue, the word 'defaulter' being substituted for 'judgment-debtor'. (G. R. R. D. No. 7673, dated 24th July 18.)

G. R. No. 4949, dated 18-9-1880. Eviction for non-payment not to be enforced. It is not the wish of Government to enforce provisions of forfeiture where there is reason to believe that if the people have given time they will not fail to discharge.

G. R. No. 7858, dated 23-12-1881. Taluka Karkuna, Kulkarnis, Talatis and Patels. Distraint under section 154 of the Land Revenue Code should be executed by them.

G. R. No. 7726, dated 17-10-1883. Government is against enforcing the penalty when failure to pay is due to inability on account of loss of crops or other calamity.

155. The Collector may also cause the right, title and interest of the defaulter in any immovable property other than the land on which the arrear is due to be sold.

Sale of defaulter's immovable property.

156. All such property as is by the Civil Procedure Code exempted from attachment or sale in execution of a decree, shall also be exempt from distraint or sale, under either of the last two preceding sections.

Exemption from distraint and sale.

The Collector's decision as to what property is so entitled to exemption, shall be conclusive.

Exemption.—The proviso to section 60 (1) of the Civil Procedure Code (Act V of 1908) exempts certain articles from attachment or sale.

Exemption from attachment and sale of houses and buildings occupied by agriculturists.—The expression "materials of houses and other buildings belonging to, and occupied by, agriculturists" used in section 266, clause (c) (now section 60 (c) of the new Code of 1908) of the Civil Procedure Code, is intended to exempt from attachment and sale the house dwelt in by an agriculturist as such and the farm buildings appended to such dwelling, (*Radhakisan V. Balaant*, 7 Bom. 530).

157. At any time after an arrear becomes due, the defaulter may be arrested and detained in custody for ten days in the office of the Collector or of a Mamlatdar or Mahalkari, unless the revenue due together with the penalty and interest and the costs of arrest and of notice of demand, if any, have issued and the cost of his subsistence during detention is sooner paid.

Arrest and detention of defaulter.

If on the expiry of ten days the amount due by the defaulter is not paid, then, or if the Collector deem fit on any earlier day, he may be sent to the Collector with a warrant, in the form of Schedule C, for imprisonment in the civil jail of the district:

Imprisonment
in Civil Jail.

Provided that no defaulter shall be detained in imprisonment for a longer period than the time limited by law in the case of the execution of a decree of a Civil Court for a debt equal in amount to the arrear of revenue due by such defaulter.

Defaulters not to be detained in custody longer than debtors may be detained by the Civil Court.

Period of detention.—Every person detained in the civil prison in execution of a decree shall be so detained:—(a) Where the decree is for the payment of a sum of money exceeding fifty rupees, for a period of six months, and (b) in any other case, for a period of six weeks (Civil Procedure Code (Act V of 1908), section 58 (1)).

158. The Commissioner may, with the sanction of the Governor in Council, from time to time, declare by what officers, or class of officers, the powers of arrest conferred by section 157 may be exercised and also fix the costs of arrest and the amount of subsistence-money to be paid by Government to any defaulter under detention or imprisonment.

159. If the holding, in respect of which an arrear is due, consists of an entire village or of a share of a village, and the adoption of any of the other processes before specified is deemed inexpedient, the Collector may, with the previous sanction of the Commissioner, cause such village or share of a village to be attached and taken under the management of himself or any agent whom he appoints for that purpose.

160. The lands of any village or share of a village so attached shall revert to Government unaffected by the acts of the superior holder or of any of the sharers, or by any charges or liabilities subsisting against such lands, or against such superior holder or sharers as are interested therein, so far as

Power to attach defaulter's village, and take it under management.

Lands of such village to revert free of encumbrances.

the public revenue is concerned, but without prejudice in other respects to the rights of individuals;

and the Collector or the agent so appointed shall be entitled to manage the lands attached, and to receive all rents and profits accruing therefrom to the exclusion of the superior holder or any of the sharers thereof, until the Collector restores the said superior holder to the management thereof.

Powers of manager.

Right of Khot to sue for possession of Khoti Nisbat lands.—A watandar Khot whose lands are under attachment by Government under section 160 of the Bombay Land Revenue Code is competent to sue for possession of his Khoti Nisbat lands which are forfeited to him on account of their alienation by the tenant without his consent.

The temporary attachment of a village by Government does not affect the rights which the Khot has independently of the right of management such as the giving of the consent to alienation of Khoti Nisbat lands by tenants.

There is presumption that the Khot's permission to alienation of Khoti Nisbat lands is necessary in any khoti village in the Kolaba district. The onus of proving that there is a custom of unrestricted alienation of such lands is on him who asserts it. (*Purshottam Khushal-shet V. Ganpati Gopal 28 Bom. 750*).

161. All surplus profits of the lands attached, beyond the cost of such attachment and the management, including the payment of the current revenue, and the cost of the introduction of a revenue survey, if the same be introduced under the provisions of section 111 shall be applied in defraying the said arrear.

Application of surplus profits.

162. The village or share of a village so attached shall be released from attachment, and the management thereof, shall be restored to the superior holder on the said superior holder's making an application to the Collector for that purpose at any time within twelve years from the first of August next after the attachment:

Restoration of village so attached.

if at the time that such application is made it shall appear that the arrear has been liquidated;

or if the said superior holder shall be willing to pay the balance, if any, still due by him, and shall do so within such period as the Collector may prescribe in that behalf.

The Collector shall make over to the superior holder the surplus receipts, if any, which have accrued in the year in which his application for restoration of the village or share of a village is made after defraying all arrears and costs; but such surplus receipts, if any, of previous years shall be at the disposal of Government.

163. If no application be made for the restoration of a village or portion of a village so attached within the said period of twelve years, or if after such application has been made, the superior holder shall fail to pay the balance, if any, still due by him within the period prescribed by the Collector in this behalf, the said village or portion of a village shall thenceforward vest in Government free from all encumbrances created by the superior holder or any of the sharers or any of his or their predecessors-in-title, or in anywise subsisting as against such superior holder or any of the sharers, but without prejudice to the rights of the persons in actual possession of the land.

164. Any defaulter detained in custody, or imprisoned, shall forthwith be set at liberty, and the execution of any process shall, at any time, be stayed, on the defaulter's giving before the Collector or other person nominated by him for the purpose, or if the defaulter is in jail, before the officer in charge of such jail, security in the form of Schedule D, satisfactory to the Collector, or to such other person or officer.

And any person against whom proceedings are taken under this chapter may pay the amount claimed under protest to the officer taking such proceedings, and upon such payment the proceedings shall be stayed.

165. When any sale of either movable or immovable property is ordered under the provisions of this chapter, the Collector shall issue a proclamation, in the vernacular language of the district, of the intended sale, specifying the time and place of sale, and in the case of movable property whether the sale, is subject to confirmation or not, and when land paying revenue to Government is to be sold, the revenue assessed upon it, together with any other particulars he may think necessary.

Such proclamation shall be made by beat of drum at the head quarters of the taluka, and in the village in which the immovable property is situate, if the sale be of immovable property; if the sale be of movable property the proclamation shall be made in the village in which such property was seized, and in such other places as the Collector may direct.

166. A written notice of the intended sale of immovable property, and of the time and place thereof, shall be fixed in each of the following places, viz.:

Notification of sales. the office of the Collector of the district, the office of Mamlatdar or Mahalkari of the taluka or mahal in which the immovable property is situate, the chavdi or some other public building in the village in which it is situate, and the defaulter's dwelling place.

In the case of movable property, [the written notice shall be affixed in the Mamlatdar's or Mahalkari's office, and in the chavdi or some other public building, in the village in which such property was seized.

The Collector may also cause notice of any sale whether of movable or immovable property, to be published in any other manner that he may deem fit.

167. Sales shall be made by auction by such persons as the Collector may direct.

Sale by whom to be made.

No such sales shall take place on a Sunday or other general holiday recognized by Government, nor until after the expiration of at least thirty days in the case of immovable property, or seven days in the case of movable property, from the latest date on which any of the said notices shall have been affixed as required by the last preceding section.

The sale may from time to time be postponed for any sufficient reason.

Postponement
of sale.

168. Nothing in the last three sections applies to the sale of perishable articles. Such articles shall be sold by auction with the least possible delay, in accordance with such orders as may from time to time be made by the Collector either generally or specially in that behalf.

169. If the defaulter, or any person on his behalf, pay the arrear in respect of which the property is to be sold and all other charges legally due by him at any time before the day fixed for the sale to the person appointed under section 146 to receive payment of the land revenue due, or to the officer appointed to conduct the sale or if he furnish security under section 164, the sale shall be stayed.

170. Sales of perishable articles shall be at once finally concluded by the officer conducting such sales. All other sales of movable property shall be finally concluded by the officer conducting such sales, or shall be subject to confirmation, as may be directed in orders to be made by the Collector, either generally or specially in that behalf. In the case of sales made subject to confirmation, the Collector shall direct by whom such sales may be confirmed.

Sales of movable property when liable to confirmation.

171. When the sale is finally concluded by the officer conducting the same, the price of every lot shall be paid for at the time of sale, or as soon after as the said officer shall direct, and in default of such payment the property shall forthwith be again put up and sold. On payment of the purchase-money the officer holding the sale shall grant a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

172. When the sale is subject to confirmation, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum of the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold. The full amount of purchase-money shall be paid by the purchaser before sunset of the day after he is informed of the sale having been confirmed, or, if the said day be a Sunday or other authorized holiday, then before sunset of the first office-day after such day. On payment of such full amount of the purchase-money, the purchaser shall be granted a receipt for the same, and the sale shall become absolute as against all persons whomsoever.

173. In all cases of sale of immovable property, the party who is declared to be the purchaser shall be required to deposit immediately twenty-five per centum on the amount of his bid, and in default of such deposit the property shall forthwith be again put up and sold.

174. The full amount of purchase-money shall be paid by the purchaser before sunset of the fifteenth day from that on which the sale of the immovable property took place, or, if the said fifteenth day be a Sunday or other authorized holiday, then before sunset of the first office day after such fifteenth day.

175. In default of payment within the prescribed period of the full amount of purchase-money, whether of movable or immovable property, the deposit, after defraying thereout the expenses of the sale,

shall be forfeited to Government, and the property shall be re-sold, and the defaulting purchaser shall forfeit all claim to the property or to any part of the sum for which it may be subsequently sold.

176. If the proceeds of the sale, which is eventually made, be less than the price bid by such defaulting purchaser, the difference shall be recoverable from him by the Collector as an arrear of land revenue.

Liability of purchaser for loss by re-sale.

177. Every re-sale of property in default of payment of the purchase-money, or after postponement of the first sale, shall, except when such re-sale takes place forthwith, be made after the issue of a fresh notice in the manner prescribed for original sales.

Notification before re-sale.

178. At any time within thirty days from the date of the sale of immovable property application may be made to the Collector to set aside the sale on the ground of some material irregularity, or mistake, or fraud, in publishing or conducting it;

Application to set aside sale.

but except as is otherwise provided in the next following section, no sale shall be set aside on the ground of any such irregularity, or mistake, unless the applicant proves to the satisfaction of the Collector that he has sustained substantial injury by reason thereof.

If the application be allowed, the Collector shall set aside the sale, and direct a fresh one.

179. On the expiration of thirty days from the date of the sale, if no such application as is mentioned in the last preceding section has been made and rejected, the Collector shall make an order confirming the sale: provided that, if he shall have reason to think that the sale ought to be set aside notwithstanding that no such application has been made, or on grounds other than those alleged in any application which has been made and rejected, he may, after recording his reasons in writing, set aside the sale.

Order confirming or setting aside sale.

180. Whenever the sale of any property is not confirmed, or is set aside, the purchaser shall be entitled to receive back his deposit or his purchase-money, as the case may be.

Refund of deposit or purchase-money when sale set aside.

181. After a sale of any occupancy or alienated holding has been confirmed, in manner aforesaid, the Collector shall put the person declared to be the purchaser into possession of the land, and shall cause his name to be entered in the *Record* as occupant or holder in lieu of that of the *previous* occupant.

On confirmation of sale, purchaser to be put in possession.

and shall grant him a certificate to the effect that he has purchased the land to which the certificate refers.

Certificate of purchase.

182. The certificate shall state the name of the person declared at the time of sale to be the actual purchaser; and any suit brought in a Civil Court against the certified purchaser on the ground that the purchase was made on behalf of another person not the certified purchaser, though by agreement the name of the certified purchaser was used, shall be dismissed.

Bar of suit against certified purchaser.

Bar of suit against certified purchaser.—The provisions of this section and sections 317 (now section 66) of the Civil Procedure Code are to be construed strictly and they do not bar a suit where the plaintiff, although originally a benamidar, came honestly into possession (*Ragho V. Vishnu*, 5. Bom L. R. 329).

183. When any sale of movable property under this chapter has become absolute, and when any sale of immovable property has been confirmed, the proceeds of the sale shall be applied to defraying the expenses of the sale and to the payment of any arrears due by the defaulter at the date of the confirmation of such sale, and recoverable as an arrear of land revenue, and the surplus (if any) shall be paid to the person whose property has been sold.

Application of proceeds of sale.

The expenses of the sale shall be estimated at such rates and according to such rules as may from time to time be sanctioned by the Commissioner under the orders of Government.

Expenses of sale how calculated.

184. The said surplus shall not, except under an order of a Civil Court, be payable to any creditor of the person whose property has been sold.

Surplus not to be paid to creditors, except under orders of Court.

185. Notwithstanding anything in section 136, the person named in the certificate of title as purchaser shall not be liable for land revenue due in respect of the land for any period previous to the date of the sale.

Certified purchaser liable only for land revenue subsequently due.

186. If any claim shall be set up by a third person to movable property attached under the provisions of this chapter, the Collector shall admit or reject claim on a summary enquiry held after reasonable notice. If the claim be admitted wholly or partly, the property shall be dealt with accordingly. Except, in so far as it is admitted, the property shall be sold and the title of the purchaser shall be good for all purposes, and the proceeds shall be disposable as hereinbefore directed.

Claims to attached movable property how to be disposed of.

187. All sums due on account of land revenue, all quit-rents, nazaranas, succession duties, transfer duties and forfeitures, and all cesses, profits from land, emoluments, fees, charges, penalties, fines, and costs payable or leviable under this Act or under any Act or Regulation hereby repealed, or under any Act for the time being in force relating to land revenue ;

What moneys leviable under the provisions of this Chapter.

and all moneys due by any contractor for the farm of customs-duties, or of any other duty, or tax, or of any other item of revenue whatsoever and all specific pecuniary penalties to which any such contractor renders himself liable under the terms of his agreement ;

and also all sums declared by this or by any other Act or Regulation at the time being in force or by any contract with the Secretary of State for India in Council to be leviable as an assessment, or as a revenue demand or as an arrear of land revenue :

shall be levied under the foregoing provisions of this chapter and all the foregoing provisions of this chapter shall, so far as may be, be applicable thereto.

And any money ordered by a liquidator appointed under section 42 of the Co-operative Societies Act, 1912, to be recovered as a contribution to the assets of a society or as the costs of liquidation may, notwithstanding anything contained in sub-section (5) of section 42 of the said Act, be levied under the foregoing provisions of this chapter and all the foregoing provisions of this chapter shall, so far as may be, be applicable thereto.

Provided that every application for recovery in such manner of any such sum shall be accompanied by a certificate signed by the Registrar appointed under section 3 of the Co-operative Societies Act, 1912, that the amount may be recovered as an arrear of land revenue.

And all persons who may have become sureties under any of the provisions of this Act or of any Act or Regulation hereby repealed, or for any such contractor as aforesaid for any sum of money shall on failure to pay the amount or any portion thereof for which they may have become liable under the terms of their security bond, be liable to be proceeded against under the provisions of this chapter as revenue-defaulters and all the foregoing provisions of this chapter shall, so far as may be, be applicable to such persons.

And in the event of the resumption of any such farm as is aforesaid, no person shall be entitled to credit for any payments which he may have made to the contractor in anticipation.

On resumption of a farm no payments made to contractor in advance to be admitted.

And any person who has received from Government a free grant of money for any agricultural purpose, subject to the proviso that he shall refund the same on failure to observe any of the conditions of the grant, shall, on failure to observe any such condition and to repay the said sum to-

The recovery of free grants as arrears of revenue in case of misuse.

Government, be liable to be proceeded against under the provisions of this chapter as a revenue defaulter; and all the foregoing provisions of this chapter shall, so far as may be, be applicable to such person.

(Rule 114.) All payments of land revenue shall be made to the officers of the village in which such revenue is due:

Land revenue provided that, with the sanction of the Collector, such where and to a payment may in special cases be made into a Government Treasury within the district to which the payment appertains.

(Rule 115.) Except in Sind, Ratnagiri, Kolaba, Kanara and Thana, Collectors shall, with the sanction of the Commissioner, classify the villages in their districts into the following three classes:—

Class I:—kharip villages in ghat districts and elsewhere where it is necessary that the revenue be secured specially early;

Class II:—kharip villages in Gujarat and elsewhere where no such special provision is necessary;

Class III:—rabi villages generally.

(Rule 116.) (1) The land revenue payable in respect of lands assessed for purposes of agriculture only shall be paid in equal or nearly equal instalments on the following dates:—

(a) in Sind—for kharip cultivation the 15th February and the 15th April, and for rabi cultivation the 15th May and the 15th June, notification 6961/24 19th July 1927.

(b) in Thana district—the 1st January and the 16th February;

(c) and in villages classified under rule 115 in—

Class I,—on the 5th December and the 5th January;

Class II,—on the 5th January and the 5th March;

Class III,—and the whole of the district of Ratnagiri, Kanara and Kolaba the 5th February and the 5th April:

(2) Provided that—

(i) in any district or in any part of a district where the dates above specified are found unsuitable, the Collector may, with the sanction of the Commissioner, fix such other dates as he may deem expedient according to the circumstances of the season and of the villages concerned and the character of the crops generally sown therein;

(ii) Where the annual amount of the revenue is five rupees or under, it shall be payable in a lump sum at the date of the first instalment;

(iii) if the person from whom the year's revenue is due so wishes, he may in any case pay the whole amount at once instead of by instalments.

(Rule 117.) Land revenue, other than that due upon agricultural land, shall ordinarily be paid in one instalment, at the time of the first instalment of agricultural land revenue or on such other date as the Collector thinks fit in any case to prescribe; but in special cases the Collector may in his discretion allow the payment to be made in two or more instalments on dates which shall be fixed by him.

(Rule 118.) The notice of demand to be issued under section 152 shall be in form S.

Form of notice of demand.

(Rule 120.) Where the Collector thinks it advisable that the holding of a defaulter should, after forfeiture, be either restored to the defaulter or given out with or without grant on inalienable tenure. any occupancy price to any other person, subject to the condition that he shall not transfer it in any way to another person without the previous sanction in writing of the Collector, the Collector, after having declared such holding to be forfeited to Government, may, without having resort to any of the other means provided in the Code for the recovery of an arrear of land revenue, restore, or give it out (as the case may be) accordingly, and shall take an agreement in form T.

(Rule 121.) Where the land in respect of which an arrear is due consists of two or more sub-divisions of survey numbers or of two or more estates separately assessed, and could be realized by the sale of less than all of such survey numbers, portion or estates, he shall restrict forfeiture to such one or more survey numbers or the sub-divisions as prove sufficient to realize the arrears.

(Rule 123.) Forfeited land shall not be put up for sale in the following cases, but shall be disposed of in the manner hereinafter prescribed for the particular case under which it falls, namely:—
Disposal of forfeited land otherwise than by sale in certain cases.

(a) Where the Collector thinks that, owing to general agricultural depression or to the want of demand for such land, or to a combination of the neighbouring land-holders, or for any other special cause, there will be no bidders at the sale, or that the highest amount bid will be considerably below the reasonable value, he shall cause the land to be entered in the land records as unoccupied.

(b) Where the Collector finds that the land is likely to be required either immediately or within a reasonable time, for any of the purposes described in section 38, he shall take steps at once to assign it for such purpose.

(c) In the case of a forfeited alienated holding, where the Collector considers it expedient to allow the land to continue in the possession of its actual holder or tenant, as an occupant of unalienated land, annulling the alienation, he shall pass orders accordingly for its continuance.

(d) In the case of an inferior holding forfeited on account of an arrear of rent or land revenue due to a superior holder, for the recovery of which assistance is being rendered under sections 86 and 87, the Collector may in his discretion transfer the holding to the superior holder thereof, subject to such tenures, rights, encumbrances or equities (if any) as he may direct under section 56.

(e) In any other case, where the Collector considers it expedient that the disposal of forfeited holding should be otherwise than by sale, and obtains the sanction of Government thereto, he shall dispose of it in accordance with the particular orders for its disposal passed or sanctioned by Government.

(Rule 124.) In cases not falling under rule 120, 121, 122 or 123, forfeited land shall, subject to the provisions of rule 126, be put up for sale for recovery of the arrears to be sold for re- due.
covery of arrears
in other cases.

(Rule 125.) (1) Every sale of forfeited land shall be made subject to the same rules as are applicable to the sale of Rules and orders unoccupied unalienated land so far as the same are applicable to sales consistent with the provisions of chapter XI. of forfeited land.

(2) The Collector should ordinarily set aside the sale under section 179, if in his opinion,

(a) the bidding at such sale has not been *bona fide*; or

(b) there has been collusion to recover the holding without payment in full of the arrears and charges due to Government or the superior holder; or

(c) there has been some material irregularity or mistake or fraud, in publishing or conducting such sale, which is likely to have affected the amount of the highest bid or otherwise to have caused substantial injury to any person.

(Rule 126.) (1) It shall be the discretion of the Collector to restore any forfeited land at any time previous to any sale or other disposal under these rules on payment of the arrear in respect of which the forfeiture was incurred together with all costs and charges lawfully due by the defaulter, or on security being given to his satisfaction for the payment of the said arrear, costs and charge within a reasonable period:

Restoration of forfeited land. Provided that no forfeited alienated holding, which is not held for service, shall be restored as alienated land without the previous sanction of—

- (a) the Commissioner if it is assessed at more than Rs. 20;
- (b) Government if it is assessed at more than Rs. 50.

(2) Where in the case of a forfeited alienated land held for service by a watandar the Collector is satisfied that the failure to pay the land revenue due thereupon arose solely from the inability of the defaulter to meet the demand, he may deduct from the forfeited land a portion of which the price would be likely to equal the amount of the arrear recoverable, and deal with such portion in accordance with such of rules 122 to 125 as are applicable, and restore the remainder of the forfeited land to the defaulter, or may restore the entire forfeited land to the defaulter, and either remit the arrear of land revenue due, or make such arrangements for its being paid in the future as he thinks fit.

(Order No. XLVI.) Where the land which has been forfeited for default in payment of the land revenue is not sold, the arrear payable by the defaulter shall ordinarily be remitted without having recourse to further compulsory process against him. But it is not intended that the right of recovering arrears from defaulters by other means, notwithstanding that their holdings have been forfeited, and disposed of without being sold, should be altogether relinquished; in special cases the Collector may, with the sanction of the Commissioner, enforce that right.

(Rule 127.) Auctions held under rules 37 (1), 41, 42 and 50 (2) shall ordinarily be conducted in the town or village Auction sales in which the land is situated, under rule 42 where to be held.

(Rule 128.) Where any land or other property is sold by public auction, an upset price shall, if the Collector thinks Upset price may fit, be placed thereon. be fixed.

(Rule 129.) (1) Every sale by auction, under these rules, or in pursuance of any of the provisions of the Code, shall Sales how to be conducted, so far as may be, in accordance with be conducted. sections 165, 166, 170 to 177 both inclusive and 180. The proclamation and written notice of sale required to be issued under section 166 shall be in one of the forms U or W, with such modifications, if any, as may be necessary :

(2) Provided that, in conducting the following sales, namely:—

(a) sales of the right of grazing and of the right to take or cut grass in waste lands,

(b) sales of the right to take the fruit of specified Government trees for a specified period, and

(c) sales of dead-wood, the procedure shall be in accordance with such orders as may from time to time be made by the Collector either generally or in a particular case instead of the procedure prescribed in sections 165 and 166.

CHAPTER XII.

Procedure of Revenue Officers.

188. In all official acts and proceedings a revenue officer shall, in the absence of any express provision of Subordination of revenue officers. law to the contrary, be subject as to the place, time, and manner of performing his duties to the direction and control of the officer to whom he is subordinate.

189. Every revenue officer not lower in rank than a Mamlatdar's first karkun, or an Assistant Superintendent of Survey in their respective departments, shall have power to summon any person whose attendance he considers necessary either to be examined as a party or to give evidence as a witness, or to produce documents for the purposes of any enquiry which such officer is legally empowered to make. A summons to produce documents may be for the production of certain specified documents, or for the production of all documents of a certain description in the possession of the person summoned.

All persons so summoned shall be bound to attend, either in person or by an authorized agent, as such officer may direct: provided that exemptions under sections 132 and 133 of the Code of Civil Procedure, 1908, shall be applicable to requisitions for attendance under this section;

and all persons so summoned shall be bound to state the truth upon any subject respecting which they are examined or make statements,

and to produce such documents and other things as may be required.

G. R. No. 1327, dated 25-2-1902. District Inspectors of Land Records can exercise all the powers under this section.

190. Every summons shall be in writing, in duplicate, and shall state the purpose for which it is issued, and shall be signed by the officer issuing it, and if he has a seal shall also bear his seal;

and shall be served by tendering or delivering a copy of it to the person summoned, or, if he cannot be found, by affixing a copy of it to some conspicuous part of his usual residence.

If his usual residence be in another district, the summons may be sent by post to the Collector of that district, who shall cause it to be served in accordance with the preceding clause of this section.

Summons to be in writing, signed and sealed;
how to be served.
Service in district other than that of issuer.

THE BOMBAY LAND SYSTEM

191. Every notice under this Act, unless it is otherwise expressly provided, shall be served either by tendering or delivering a copy thereof to the person on whom it is to be served or to his agent, if he have any;

or by affixing a copy thereof to some conspicuous place on the land, if any, to which such notice refers.

No such notice shall be deemed void on account of any error in the name or designation of any person referred to therein, unless when such error has produced substantial injustice.

Notice not void for error.

192. In any formal or summary enquiry if any party desires the attendance of witnesses, he shall follow the procedure prescribed by the Code of Civil Procedure, 1908, for parties applying for summonses for witnesses.

Procedure for procuring attendance of witnesses.

Procedure for procuring attendance of witnesses.—The procedure for parties applying for summonses for witnesses is given in Order XVI of the Code of Civil Procedure (Act, V of 1908).

193. In all formal enquiries the evidence shall be taken down in full, in writing, in the language in ordinary use in the district, by or in the presence and hearing and under the personal superintendence and direction of, the officer making the investigation or enquiry, and shall be signed by him.

Mode of taking evidence in formal enquiries.

In cases in which the evidence is not taken down in full, in writing by the officer making the enquiry, he shall, as the examination of each witness proceeds, make a memorandum of the substance of what such witness deposes; and such memorandum shall be written and signed by such officer with his own hand, and shall form part of the record.

If such officer is prevented from making a memorandum as above required, he shall record the reason of his inability to do so.

When the evidence is given in English, such officer may take it down in that language, and an authenticated translation of the same in the language in ordinary use in the district shall be made and shall form part of the record.

Taking evidence given in English. Translation to be on record.

194. Every decision, after a formal enquiry, shall be written by the officer passing the same in his own hand-writing, and shall contain a full statement of the grounds on which it is passed.

Writing and explanations of decisions.

195. In summary enquiries the presiding officer shall himself, as any such enquiry proceeds, record a minute of the proceedings in his own hand in English or in the language of the district, embracing the material averments made by the parties interested, the material parts of the evidence, the decision, and the reasons for the same:

Summary enquiries how to be conducted.

Provided that it shall at any time be lawful for such officer to conduct an enquiry directed by this Act to be summary under all, or any, of the rules applicable to a formal enquiry, if he deem fit.

196. A formal or summary enquiry under this Act shall be deemed to be a "judicial proceeding" within the meaning of section 193, 219 and 228 of the Indian Penal Code, and the office of any authority holding a formal or summary enquiry shall be deemed a Civil Court for the purposes of such enquiry.

Formal and summary enquiries to be deemed judicial proceedings.

Every hearing and decision, whether in a formal or summary enquiry, shall be in public, and the parties or their authorized agents shall have due notice to attend.

Hearing and decisions. Notice to parties.

197. An enquiry which this Act does not require to be either formal or summary, or which any revenue officer may on any occasion, deem to be necessary to make, in the execution of his lawful duties, shall be conducted according to such rules applicable thereto, whether general or special, as may have been prescribed by the Governor in Council, or an authority superior to the officer conducting such enquiry, and, except in so far as controlled by such rules, according to the discretion of the officer in such way

Ordinary enquiries how to be concluded.

as may seem best calculated for the ascertainment of all essential facts and the furtherance of the public good.

Absence of judicial proceeding.—Where the entry in the revenue registers was due to a misunderstanding of a certain order, it was held that the cause of the error being of the same nature with "oversight" falling within the description of errors in section 109 of this Code, the rectification of the Register so as to bring it in accord with the order made after hearing both the parties was not contrary to natural justice. It was a case in which the Revenue concerned was authorised under this section to dispense with any judicial or quasi-judicial enquiry (*Vasudeo V. Govind*, 36 Bom. 315).

Mamlatdar-Revenue Court.—A Mamlatdar holding an enquiry relating to Record of Rights, under chapter XII of this Code, is a revenue Court within the meaning of section 195 (1) (c) of the Criminal Procedure Code (*Emperor V. Narayan*, 16 Bom. L. R. 678).

198. In all cases in which a formal or summary enquiry is made, authenticated copies and translations of decisions, orders, and the reasons therefor, and of exhibits, shall be furnished to the parties, and original documents used as evidence shall be restored to the persons who produced them or to persons claiming under them on due application being made for the same, subject to such charges for copying, etc., as may, from time to time, be authorized by Government.

Government of India Notification No. 2111 dated 22nd April 1887.—Applications for return of documents filed are exempted from court fees stamps.

G. R. No. 4492 dated 9-7-1898. Return of documents produced. In all cases under the Land Revenue Code, the documents produced in evidence whether they are in original or certified copies shall be returned to the person entitled to receive them.

199. Whenever it is provided by this Act that a defaulter, or any other person may be arrested, such arrest shall be made upon a warrant issued by any officer competent to direct such person's arrest.

Arrest of a defaulter to be made upon a warrant.

200. It shall be lawful for any revenue officer at any time, and from time to time, to enter, when necessary, for the purposes of measurement, fixing, or inspecting boundaries, classification of soil or assessment, or for any other purpose connected with the lawful exercise of his office under the provisions of this Act, or of any other law for the time being in force relating to land revenue, any lands or premises, whether belonging to Government or to private individuals, and whether fully assessed to the land revenue or partially or wholly exempt from the same: Provided always that no building used as a human dwelling shall be entered, unless with the consent of the occupier thereof, without a notice having been served at the said building not less than seven days before such entry; and provided also that, in the cases of buildings of all descriptions, due regard shall be paid to the social and religious prejudices of the occupiers.

Power of revenue officer to enter upon any lands or premises for purposes of measurement, etc.

Proviso.

201. The Governor in Council may declare what shall, for the purposes of this Act, be deemed to be the language in ordinary use in any district.

Governor in Council to determine the language of a district.

202. Whenever it is provided by this, or by any other Act, for the time being in force, that the Collector may or shall evict any person wrongfully in possession of land, such eviction shall be made, in the following manner, viz:—

Collector how to proceed in order to evict any person wrongfully in possession of land.

by serving a notice on the person or persons in possession requiring them within such time as may appear reasonable after receipt of the said notice to vacate the land, and,

if such notice is not obeyed, by removing or deputing a subordinate to remove any person who may refuse to vacate the same, and,

if the officer removing any such person shall be resisted or obstructed by any person, the Collector shall hold a summary enquiry into the facts of the case, and if satisfied that the resistance or obstruction was without any just cause, and that such

resistance and obstruction still continue, may, without prejudice to any proceedings, to which such person may be liable under any law for the time being in force for the punishment of such resistance or obstruction, issue a warrant for the arrest of the said person, and on his appearance commit him to close custody in the office of the Collector or of any Mamlatdar or Mahalkari, or send him with a warrant, in the form of Schedule I, for imprisonment in the civil jail of the district for such period not exceeding thirty days, as may be necessary to prevent the continuance of such obstruction or resistance.

CHAPTER XIII

Appeals and Revision.

203. In the absence of any express provision of this Act, or of any law for the time being in force to the contrary, an appeal shall lie from any decision or order passed by a revenue officer under this Act, or any other law for the time being in force, to that officer's immediate superior, whether such decision or order may itself have been passed on appeal from a subordinate officer's decision or order or not.

Orders passed by Collector in execution proceedings transferred to him under section 320, C. P. C.—Under this section the Revenue Commissioner or the Government are vested with the appellate power in respect of orders passed by Collector in execution proceedings transferred to him under section 320 of the U. P. Code, 1882 (*Mancherji V. Thakurdas*, 7 *Bom. L. R. 682*).

Pleaders.—Government officers may allow representation by lawyers, whenever such a course is likely to be helpful in appeal under (1) the Land Revenue Code, (2) Watan Act. (*Bombay Government Gazette, Part V of 1920 page 23*.)

G. R. No. 8915, dated 8-12-1897. Pleader may not be allowed.

G. R., P. W. D. No. 83 W. I. 934, dated 20-6-1897. Commissioner's powers: Commissioners are empowered to take action in appeal or revision as regards any orders passed by Collector.

204. An appeal shall lie to the Governor in Council from any decision or order passed by a Commissioner or by a Survey Commissioner, except in the case of any decision or order passed by such officer on appeal from a decision or order itself recorded in appeal by any officer subordinate to him.

205. No appeal shall be brought after the expiration of sixty days if the decision or order complained of have been passed by an officer inferior in rank to a Collector or Superintendent of Survey in their respective departments; nor after the expiration of ninety days in any other case.

In computing the above periods, the time required to prepare a copy of the decision or order appealed against shall be excluded.

206. Any appeal under this chapter may be admitted after the period of limitation prescribed therefor, when the appellant satisfies the Officer or the Governor in Council to whom he appeals, that he had sufficient cause for not presenting the appeal within such period.

No appeal shall lie against an order passed under this section admitting an appeal.

207. Whenever the last day of any period provided in this chapter for the presentation of an appeal falls on a Sunday or other holiday recognized by Government, the day next following the close of the holiday shall be deemed to be such last day.

208. Every petition of appeal shall be accompanied by the decision or order appealed against or by an authenticated copy of the same.

209. The appellate authority may either annul, reverse, modify or confirm the decision or order of the subordinate officer appealed against, or he may direct the subordinate officer to make such fur-

ther investigation or to take such additional evidence as he may think necessary, or he may himself take such additional evidence.

210. In any case in which an appeal lies, the appellate authority may, pending decision of the appeal, direct the execution of the decision or order of the subordinate officer to be suspended.

Power to suspend execution of order of subordinate officer.

211. The Governor in Council and any revenue officer, not inferior in rank to an Assistant or Deputy Collector or a Superintendent of Survey, in their respective departments, may call for and examine the record of any enquiry or the proceedings of any subordinate revenue officer, for the purpose of satisfying himself as to the legality or propriety of any decision or order passed, and as to the regularity of the proceedings of such officer.

Power of the Governor in Council and of certain revenue officers to call for and examine records and proceedings of subordinate officers;

The following officers may in the same manner call for and examine the proceedings of any officer subordinate to them in any matter in which neither a formal nor a summary enquiry has been held, namely—a Mamlatdar, a Mahalkari, an Assistant Superintendent of Survey, and an Assistant Settlement Officer.

If in any case, it shall appear to the Governor in Council, or to such officer aforesaid, that any decision or order or proceedings so called for should be modified, annulled or reversed, he may pass such order thereon as he deems fit:

and to pass orders thereupon.

Provided that an Assistant or Deputy Collector shall not himself pass such order in any matter in which a formal enquiry has been held, but shall submit the record with his opinion to the Collector, who shall pass such order thereon as he may deem fit.

Revision by Commissioner under this section.—The sale of unoccupied lands held by Mamlatdars under section 62, and permission to occupy such lands given under section 60 are within the scope of this section as proceedings which the Commissioner has jurisdiction to call for and revise and to pass such orders thereon as he deems fit, and no suit would lie against Government on account of that officer exercising his legal powers under the section (*Paraga V. The Secretary of State, P. J. 1891, p. 230*).

Finality.—The reference to “finality” in this section refers to “finality” under this Code, for there are no words excluding the jurisdiction of the Civil Courts in the sections of the Act framed to that end (*Dattatraya V. Secretary of State, 31 Bom. L. R., 1235*).

Revisional jurisdiction of Collector.—Certain “Sheri” lands were lent by Government to the plaintiff on a lease for 30 years expired in 1913. In view of a Government resolution issued in October 1912 a District Deputy Collector looked into the matter and directed that the land should be given to the lessee on full occupancy tenure on his paying twenty times the annual assessment of the occupancy price and that the tenants were to be given by the lessee the rights of permanent tenancy on the basis of a rent payable by them amounting to three times the assessment of the land they held. This order was subsequently reversed by the Collector who directed that the tenants should be given occupancy rights on the usual terms. The plaintiff filed a suit for declaration that the Collector's order was illegal and unlawful and that he was the full owner of the land and for recovery of actual possession of the land as the permanent tenancy of the tenants had been extinguished by their acting contrary to the plaintiff's rights.

Held on the merits (1) that the Collector's order was correct and that of the District Deputy Collector was wrong.

(2) That under section 211 of the Bombay Land Revenue Code the Collector had revisional jurisdiction over the orders passed by the District Deputy Collector and that no period of limitation was laid down for the making of an order under the section.

(3) That the agreement by the tenants to pay rent to the plaintiff at the rate of three times the assessment could not avail him for his lease had expired and in the absence of a final order he had no right or title left in the land. (*Dattatraya Jayaram V. The Secretary of State, 31 Bom. L. R. 1235*).

212. Wherever in this Act it is declared that a decision or

order shall be final, such expression shall be, Rules as to decisions or orders expressly made final. deemed to mean that no appeal lies from such decision or order.

The Governor in Council alone shall be competent to modify, annul, or reverse such decision or order under the provisions of the last preceding section.

CHAPTER XIV.

Miscellaneous.

213. Subject to such rules and the payment of such fees as the Governor in Council may from time to time prescribe in this behalf, all maps and land records shall be open to the inspection of the public at reasonable hours, and certified extracts from the same or certified copies thereof shall be given to all persons applying for the same.

Maps and land records open to inspection. Extracts and copies shall be given.

Survey records.—Survey records are open to inspection and copies are available under this section (*Aludomal V. Ali, 5 S. L. R. 49*).

G. R. No. 5138 dated 14-7-1893. The inspection, extracts or copies of Preliminary records cannot therefore be claimed as a matter of right.

G. R. No. 2581/28 dated 18-4-1929. *Inspection of village records.* A fee of 12 annas per hour per applicant subject to a minimum of Rs. 1-8-0 is prescribed for inspection of village records by the public.

G. R. No. 6997/28 dated 21-5-1931. *Court fees.* Court fee stamps to be levied on extracts from Record of Rights produced in assistance suits. The whole document put in as required by section 135 (i) is one statement to be charged with court fees according to the number of words it contains.

(Rule 142 (a)). The following fees shall be levied in cash under these rules :—

- Fees.
- (1) For an inspection granted under Rule 135 for each day on which inspection is made. Twelve annas an hour for each applicant subject to a minimum of Rs. 1-8-0, to be paid in advance.
 - (2) For every certified copy of a public document not falling under Articles 3, 4 and 5 of this table,—
 - (a) if the original be in English, for every twenty-five words or fraction of 25 words: Nine pies.
 - (b) if the original be in the vernacular, for every 33 words or fraction of 33 words: Nine pies.

- (c) (i) for examining or comparing 100 words or fraction of 100 words, whether the original be in English or the vernacular : Nine pies.
- (ii) for comparing copies of maps, etc., under Articles (5), (6) and (7), out of the copy fee there will be credited as comparing fee : One-fourth.
- (d) if the original be in a tabular form, whether in English or the vernacular : Twice the rates, respectively, named in clauses (a) and (b).
- (e) if the copy be given on a printed form, for every sheet or page of forms used : Three pies plus the fees at the rates herein prescribed for the manuscript additions made on the form.
- (f) For each form of extract of a City Property Register. Two annas.
- (g) When no printed form is supplied or available, for each sheet of foolscap paper used in preparing the copy other than that of map or plan under Articles (5), (6) and (7) : Six pies.
- (3) For every certified extract from a register of alienations granted under section 53 : One anna for every rupee of the amount of alienated revenue, or if the sanad lost or destroyed had been granted under Bombay Act IV of 1868 or under section 133, a sum equal to one-half of the survey fee which the holder of the building site included in the sanad would be liable to pay under section 132 if not exempted by the second paragraph of that section : provided that the fee shall in no case exceed Rs. 10 or be less than 8 annas.

- (4) For every certified copy of a serial number (or entry) in the record of rights, register of mutations, or register of tenancies and for every Holding Sheet in V. F. VIII-A (including the printed form), and in villages to which rule 137 (2) applies for every certified copy of each entry in the forms named, or for each khata in V. F. VIII-B: provided that there shall be no charge for correcting the Holding Sheet at any time during the 5 years for which it is current : One anna.
- (4-A) (i) For every certified copy of the tabular annewari statement of a village with the annewari decision worked out therein. Five annas.
- (ii) For every certified copy of the decision of the Collector or Mamlatdar not embodying such a form, or of the opinion of the village committee as to the anna valuation (R. 4966/24 of 19-6-1931.) Two annas.
- (5) For every certified copy of map of a survey number or sub-division of a survey number or of any (uncoloured) map of any immovable property prepared under clause (a) of section 135-G, or of an entry in a City Property Register. Two annas.
- (6) Subject to proviso (a) to rule 139 for every other certified copy of a map of a survey number or of a subdivision or of a field or of any ordinary (uncoloured) map or plan of any immovable property, or extract of City Survey map, for each field or plot: Eight annas.
- (7) For every certified copy of a map or plan or of any portion of a map or plan not falling under Article (5) or Such fee not exceeding fifteen rupees, and not less than one rupee, as the offi-

(6) of this table.

cer who certifies the copy shall determine: provided that no fee exceeding Rs. 5 shall be charged by any officer subordinate to a Collector except with the permission of the Collector, or by an officer of the Land Records Department except with the permission of the Superintendent of Land Records, to whom he is subordinate.

(8) For every search.

One rupee for each year of which the records are searched.

(9) For every authenticated translation of orders, and the reason therefor, and of exhibits in formal or summary enquiries under the Code:—

(a) for the first 100 or fraction of 100 words: Eight annas.

(b) for every subsequent 100 or fraction of 100 words. Four annas.

Provided that—

(a) when any fee is required to be recovered through the agency of the value payable post, postage and postal commission shall be levied in addition, and when the total amount of fee together with postage and commission includes a fraction of an anna a whole anna shall be levied in place the fraction:

(b) any revenue officer shall be entitled to receive free of any charge a certified copy of the final order recorded in his own case under section 33.

(Rule 142 (b)). While recovering copying and comparing fees, any amount less than six pies shall be remitted, and six pies or more shall be rounded to the extent of whole anna. (R. 762/28 of 23rd April 1930).

(Rule 143.) Every fee payable in accordance with the foregoing table shall either be paid in advance or recovered in

Fees how to be paid. pursuance of a specific request through the agency of the value payable post.

(Rule 144.) Every application under rules 135 to 143 (except an application under rule 135 to a village accountant) must be made in writing, duly stamped, and may request that the copy, extract, or translation be forwarded by value payable post (unregistered book packet) to any Post Office which is also a Money Order Office.

(Rule 145.) Nothing in these rules affects the provisions of the Stamp Act (II of 1899) or Court Fees Act (VII of 1870). The Stamp duty or court-fee with which an application, copy or extract made or furnished under these rules may be chargeable is in addition to the fees prescribed herein and care is to be taken that the requirements of the Stamp Act and Court Fees Act are properly fulfilled in respect of every such application, copy or extract.

214. (1) The Governor in Council may, by notification published in the Bombay Government Gazette, make rules not inconsistent with the provisions of this Act to carry out the purposes and objects thereof and for the guidance of all persons in matters connected with the enforcement of this Act or in cases not expressly provided for therein.

Rules.

(2) In particular, and without prejudice to the generality of the foregoing power, such rules may be made—

(a) regulating the appointment of revenue officers and the exercise by them of their powers and duties;

(b) regulating the assessment of land to the land revenue and the alteration and revision of such assessment and the recovery of land revenue;

(c) prescribing the notice to be given in the case of enquiries and orders under section 37;

(d) prescribing the purposes for which unalienated land liable to the payment of land-revenue may or may not be used, and regulating the grant of permission to use agricultural land for non-agricultural purposes;

(e) regulating the disposal of land and other property vesting in Government;

(f) regulating the disposal of forfeited land;

(g) prescribing the terms and conditions on which and the periods for which, unoccupied unalienated land may be granted.

(h) fixing the maximum amount of fine leviable under section 61;

(i) regulating the conduct of surveys and settlements of land revenue, and prescribing the notice to be given under section 103 before the introduction of settlement;

(j) regulating the division of survey numbers into sub-divisions and the fixing of the assessment of sub-divisions under section 117—A;

(k) regulating the construction, laying out, maintenance and repair of boundary marks;

(l) regulating the compilation, maintenance and revision of the record of rights and the registers of mutations, disputed cases and tenancies and prescribing the forms in which they are to be compiled and the officers by whom the said records and registers are to be tested and revised;

(m) regulating the exercise by village accountants and revenue officers of the powers of a survey officer and the assessment of costs and expenses under section 135—G;

(n) prescribing the mode, form and manner in which appeals under Chapter XIII shall be drawn up and presented;

(o) prescribing the records, registers, accounts, maps, and plans to be maintained for the purposes of this Act and the manner and forms in which they shall be prepared and maintained.

(3) The power to make rules under this section shall be subject to the condition of previous publication.

215. It shall be lawful for the Governor in Council, in making any rule under section 214, to prescribe that any person committing a breach of the same shall on conviction by a Magistrate be punished with imprisonment for a term not exceeding one month or with fine not exceeding five hundred rupees, or with both, in addition to any other consequences that would ensue from such breach.

216. (1) The proviso of Chapters VIII to X shall be applicable to

Chapters VIII to X how far applicable to alienated villages.

(a) all unalienated lands situated within the limits of an alienated village;

(b) unalienated shares of villages of which a definite share defined by metes and bounds is alienated;

(c) alienated villages the holders of which are entitled to a certain amount of the revenue, but of which the excess above such amount belongs to Government.

(2) Save as is otherwise provided in section 111 and in this section, no provision of the said Chapters shall be applied to any other alienated village except for the purposes of fixing its boundaries and of determining any disputes relating thereto, unless the extension of the provision is authorized by the Commissioner acting on the written application of the sole holder, or, if there be more than one holder, of the holder or holders representing in the aggregate not less than one-half of the total interests in the village in respect of its alienated revenue. If any share of the village is unalienated the prescribed proportion of one-half shall be reckoned as if the village were wholly alienated, Government being considered as the holder in respect of the unalienated share.

(3) In any case in which action under sub-section (2) is taken lawfully by the Commissioner on the application of some only of the holders of the village any covenant or agreement, relative to the extension of the said Chapters or incidental thereto, entered into by such holders shall also be binding on the remaining holders of the village in respect of their shares in the revenue village as if such covenant or agreement had been entered into by them.

(4) All survey settlements heretofore introduced in alienated villages shall be valid as if they had been introduced in accordance with the provisions of this section.

Power to recover the mamool rates.—Where the plaintiff Inamdar got a decree for the mamool rates for the years 1888–1890 in the year 1892 against the defendant's khots and where Survey Settlement was introduced in the village in 1885–1886 and where he filed a suit in 1917 for those dues for the years 1915 and 1916, it was held, that though the proper construction to be placed on this section was not strictly speaking *res judicata*, still on the principle of *stare decisis* the previous construction should be adhered to. (*Sitaran V. Lacman*, 45 Bom. 1200).

217. When the survey settlement has been introduced, under the provisions of the last section or of any law for the time being in force, into an alienated village, the holders of all lands to which such settlement extends shall have the same rights and be affected by the same responsibilities in respect of the lands in their occupation as holders of land in unalienated villages have, or are affected by, under the provisions of this Act, and all the provisions of this Act relating to holders of land in unalienated villages shall be applicable, so far as may be, to them.

Scope of this section.—This section embraces not only registered occupants of land in unalienated villages but also the holders of lands in alienated villages with the same rights and responsibilities in respect of those lands. The words in this section "so far as may be" do not limit the plain meaning of the first part (*Nanabhai V. Collector of Kaira*, 34 Bom. 686).

Right of Inamdar to enhance rent.—An Inamdar, to whom the Government has granted all its rights in the soil in a village as well as its other pecuniary interests is entitled even after a Survey Settlement had been introduced to raise the rents of the permanent tenants even when such permanent tenancies commenced before the alienation (*Pandu Bala Jagtap V. Ramchandra*, 42 Bom. 112; s. c. 20 Bom. L. R. 16).

Permanent tenant—Liability to pay enhanced rent.—A person holding lands in an alienated village as a permanent tenant under section 83 *ante* becomes, on the introduction of the survey settlement into the village, entitled to the rights and affected with the responsibilities of a holder in an alienated village by virtue of this section. He remains what he ever was, a tenant, and does not become an occupant. He is liable, therefore, to pay enhanced rent to his landlord (*Kondi Ramji V. Vitthalrao*, 50 Bom. 155).

Kadim Haks.—Kadim haks are grants made prior to the grant of a village in favour of an Inamdar and independently of him (*The Secretary of State for India V. Indoorai Bhaurai*, 28 Bom. L. R. 1308).

Record of Rights in alienated villages.—The provisions of Chapter VIII of the Code do not apply to the maintenance of the Record of Rights (*Raghavendra Balasaheb V. The Secretary of State for India*, 28 *Bom. L. R.* 559).

Expiry of the period of guarantee.—In 1870, survey settlement was introduced into an inam village under Bombay Act I of 1866, on the application of the Inamdar, who held the village under a Sanad granted under the Summary Settlement Act (Bombay Act II of 1863). The period of the settlement expired in 1888. From 1895 to 1910, the plaintiff recovered, with the concurrence of the Collector, higher assessment than that allowed under the survey settlement. The Commissioner having objected to the Inamdar doing so in 1910, the Inamdar sued to establish his right to charge higher assessment:—

Held that the Inamdar had no right to enhance the assessment, because section 217 of the Bombay Land Revenue Code, 1879, applied when a survey settlement had been introduced into an alienated village with the consent of the alienee under Bombay Act I of 1865 and when the period of the settlement had expired after the Land Revenue Code of 1879 came into force.

Clause 3 of the sanad given to the Inamdar is as follows:—If in any case the existing assessment of occupied lands has been guaranteed by the Revenue Survey, such guarantee shall be respected in its integrity until the expiration of the period of the guarantee, after which the holders of the village shall be at liberty to revise the assessment, all lawful rights and privileges of minor Inamdars, cultivators, sub-tenants or others, being maintained.

If section 217 applies, the Inamdar cannot levy rates higher than those which are lawfully leviable from the holders of the lands subject to the provisions of section 217. All the lawful rights of the holders of lands are expressly saved by the clause. The Inamdar's contention on this point must be disallowed. (*Dhondo V. S. of State* 22 *Bom. L. R.* 247).

Kadim Inamdar.—The plaintiff R was a kadim Inamdar holding certain lands in Kenjal, a Dumala village. R was a grantee of the soil and not merely of the royal share of the revenue. The rest of the village was held by Rastes, the Inamdars. On the application of Rastes survey settlement was introduced into the village some years ago. R never suggested that the introduction in respect of his kadim lands was invalid for want of his consent. P, defendant, was a mirasdar tenant of a portion of R's kadim lands; he used to pay Rs. 5-15-3 as rent every year. R sued to recover from P an enhanced rent of Rs. 24/.

Held that R, equally with Rastes, is precluded by section 217 of the Land Revenue Code from enhancing the rent of his mirasdar tenant

beyond the amount of land revenue fixed by the survey settlement. (22 Bombay Law Reporter, 665).

The usual practice in the case of inam villages is that when the settlement is introduced, they should be assessed at the same rates as the neighbouring villages except in so far as it is necessary to ensure justice to the Inamdar. The raiyat of an inam village deserves the same protection as the raiyat of a Government village, and if the rates are the same as in adjoining similar Government villages, the Inamdar can have no cause of complaint. (G. O. No. 1540 dated 3-6-1921).

If the consent of a sharer of an inam village to the introduction of revision settlement is not obtained and if the person interested objects to its introduction on a subsequent date, the objection cannot be held time-barred under the Limitation Act, and the introduction of the revision settlement into an inam village will not be legal. (G. R., No. 345/24 dated 1-5-1924).

An inam village was settled before Act I of 1865. The settlement was subsequently validated by section 3 of the Act and its provisions extended by section 31. The settlement expired in 1882-83 and no revision settlement has thereafter been introduced. The relations between the Inamdar and tenants will however continue to remain as they were during the currency of the survey settlement introduced in 1860-61.

G. R. No. 2579, dated 6-7-1868. No survey should be commenced in any Native State without the special sanction of Government.

G. R. No. 373, dated 21-1-1875. As regards Jahagirdars or estates held on political tenure Government can no longer bear the cost.

G. R. No. 1243 dated 26-2-1887. Inamdar's consent is not necessary in the case of a Sharakati village.

G. R. No. 623 dated 28-1-1883. Effect of extension of chapters VIII and IX. When the provisions of Chapters VIII and IX are extended to an inam village by notification, the Inamdar is precluded from levying more than the rates fixed by the Survey Department.

G. O., R. D., No. 339 dated 13-1-1919. The Udtara system is to be made applicable when the survey of the unsettled inam villages is to be carried out.

G. R. No. 9529 dated 12-11-1923, delegates to Settlement Commissioner and Director of Land Records power to sanction *temporary Revision Settlements in Inam villages*.

218. Nothing in this Act, which applies in terms to unalienated land or to the holders of unalienated land only, shall be deemed to affect alienated land, or the rights of holders of alienated land or of Government in respect of any such land, and no presumption shall be deemed to arise either in favour, or to the prejudice, of any holder of alienated land from any provision of this Act in terms relating to unalienated land only.

SCHEDULE A.

Repealed by Bom. IV of 1913, section 81.

SCHEDULE B.

FORM OF BOND TO BE REQUIRED UNDER SECTION 23.

WHEREAS I,

inhabitant of

have been appointed to the office of

and have been called upon to furnish security under the provisions of section 23 of the Bombay Land Revenue Code for the due discharge of the trusts of the said office, or of any other office to which I may be hereafter appointed, and for the due account of all moneys, papers and other property which shall come into my possession or control by reason of any such office, I hereby bind myself to pay to the Secretary of State for India in Council the amount of any loss or defalcation in my accounts, and to deliver up any papers or other property within such time, and to such person as shall be demanded by the person at the head of the office to which I belong, such demand to be in writing and to be left at my office or place of residence, and in case of my making default therein I bind myself to forfeit to the Secretary of State for India in Council the sum of _____ rupees.

Provided always that nothing herein contained nor the security hereby given shall be deemed to limit my liability in respect of the matters aforesaid to the forfeiture of the said sum of _____ rupees only, and that should that sum be insufficient to

recoup the Secretary of State for India in Council in full for any loss or damage sustained by him in respect of the matters aforesaid I agree to pay to him on demand such further sum as shall be deemed by the person at the head of the said office necessary in addition to the said sum to cover such loss or damage as aforesaid.

Dated

(Signature).

FORM OF SECURITY TO BE SUBJOINED TO THE BOND
OF THE PRINCIPAL

WE

herely declare ourselves sureties for the abovesaid

that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of rupees, in which the abovesaid has bound himself, or such smaller sum as shall be deemed sufficient by the to cover any loss or damage which the Government may sustain by reason of such default.

Dated

(Signature).

SCHEDULE C.

FORM OF WARRANT TO BE ISSUED BY THE COLLECTOR
UNDER SECTION 25 OR 157.



Seal.

TO

THE OFFICER IN CHARGE OF THE CIVIL JAIL AT

WHEREAS A. B. of was on the day of 187 ,
ordered by to (here state the substance of the demand

made); and whereas the said *A. B.* has neglected to comply with the said order, and it has therefore been directed, under the provisions of section _____ of the Bombay Land Revenue Code, that he be imprisoned in the Civil Jail until he obey the said order or until he obtain his discharge under the provision of section 25 or 28 (or section 157 or 164 as the case may be) of the said Code; you are hereby required to receive the said *A. B.* into the Jail under your charge and to carry the aforesaid order into execution according to law.

Dated this _____ day of _____ 187 .

(Signature of Collector).

SCHEDULE D.

FORM OF BOND TO BE REQUIRED UNDER SECTION 28 OR 164.

WHEREAS I,

have been ordered by

to (*here state the nature of the demand*) and whereas I dispute the right of the said _____ to make the said order, I hereby bind myself to file a suit within fifteen days from the date of this bond in the District Court of _____

to contest the justice of the demand, and do agree that in the event of a decree being passed against me I will fulfil the same and will pay all amounts, including costs and interest, that may be due by me, or that if I fail to institute a suit as aforesaid, I will, when required, pay the above-mentioned amount of _____

rupees (or will, deliver up the above-mentioned papers or property, as the case may be), and in the case of my making default therein, I hereby bind myself to forfeit to the Secretary of State for India in Council the sum of _____ rupees.

Dated _____

(Signature).

FORM OF SECURITY TO BE SUBJOINED TO THE BOND
OF THE PRINCIPAL.

WE

hereby declare ourselves securities for the abovesaid

that he shall do and perform all that he has above undertaken to do and perform, and in case of his making default therein we hereby bind ourselves to forfeit to the Secretary of State for India in Council the sum of rupees.

Dated

(Signature).

SCHEDULE E.

(See section 84.)

I.—FORM OF NOTICE TO BE GIVEN BY LANDLORD
TO TENANT TO QUIT.

To

A. B.

I do hereby give you notice that I do intend to enter upon and take possession of the land (*here give the description*) which you now hold as tenant under me, and you are therefore required to quit and deliver up possession of the same at the end of this current year, terminating on the

of 187 .

(Signed) C. D.

Dated this

day of

187 .

II.—FORM OF NOTICE TO BE GIVEN BY TENANT TO
LANDLORD OF HIS INTENTION TO QUIT.

To

C. E.

I do hereby give you notice that I shall quit and deliver up to you, at the end of this current year terminating on the
of 117 , the land (*here give the description*) which I hold from you.

(Signed) A. B.

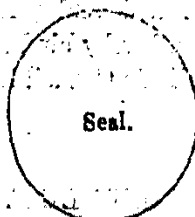
Dated this

day of

187 .

SCHEDULE F.

FORM OF COMMISSION TO BE ISSUED TO A HOLDER OF
ALIENATED LANDS OR VILLAGES OR HIS
AGENT UNDER SECTION 89.



The Commissioner, by virtue of the powers vested in him by the Bombay Land Revenue Code, is pleased to confer on you (Jagirdar, etc., or Agent, etc., as the case may be), power to in (or in respect of) the villages and lands specified in this Commission, in the manner prescribed in (or in section of) the said Code.

The villages and lands over which the power thus conferred upon you extends are as follows:—

(Here enter the description.)

The within delegated power is vested in you during the pleasure and subject to the recall of the said Commissioner.

(Signed).

SCHEDULE H.

(See section 133.)

FORM OF SANAD FOR BUILDING SITES.

(Royal Arms.)

THE SECRETARY OF STATE IN COUNCIL.

TO

WHEREAS His Excellency the Governor of Bombay in Council, with a view to the settlement of the land revenue, and

the record and preservation of proprietary and other rights connected with the soil, has under the provisions of the Bombay Land Revenue Code, directed a survey of the lands within the

of
and ordered the necessary inquiries connected therewith to be made, this sanad is issued under section 133 of the said Code to the effect that:—

There is a certain plot of ground occupied by you in the
division of the
of register No. in
the map marked sheet No.
and facing towards the the road
leading from to
containing about

square yards, and of the following shape and about the following dimensions:—

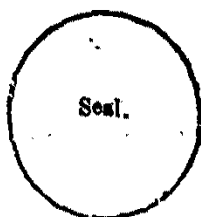
You are hereby confirmed in the said occupancy exempt from all land revenue (or subject to the payment of Rs. per annum to the land revenue).

The terms of your tenure are such that your occupancy is both transferable and heritable, and will be continued by the British Government, without any objection or question as to title, to whosoever shall from time to time be its lawful holder (subject only to the condition of the payment annually of the above land revenue according to the provisions of the Bombay Land Revenue Code or of any other law for the time being in force, and to the liability to have the said rate of assessment revised at the expiration of a term of years reckoned from the and thereafter at successive periods years in perpetuity, and to the necessity for compliance with the provisions of the law from time to time in force as to the time and manner of payment of the said assessment, and to the liability of forfeiture of the said occupancy and of all rights and interests connected therewith in case of your failure to pay the said assessment as required by law).

This sanad is executed on behalf of the Secretary of State for India in Council by order of the Governor in Council of Bombay, by and under the hand and seal of this
 day of one thousand
 eight hundred and A. D.

(Signed.)

SCHEDULE I.

FORM OF WARRANT TO BE ISSUED BY THE
COLLECTOR UNDER SECTION 22.

To the Officer in charge of the Civil Jail at

WHEREAS *A. B.* ofhas resisted (or obstructed) *C. D.* in removing *E. F.*

(or himself, that is, the said *A. B.*) from certain land in the village of _____ in the _____ taluka, and whereas it is necessary, in order to prevent the continuance of such obstruction (or resistance), to commit the said *A. B.* to close custody; You are hereby required under the provisions of section 202 of the Bombay Land Revenue Code to receive the said *A. B.* into the Jail under your charge, and there to keep him in safe custody for _____ days. Dated this

day of

187

(Signature of Collector)

PART VI

Explanations of Technical Terms and Vernacular Expressions.

A

- Adalabadal**—Exchange.
- Adhikari**—An officer having authority.
- Afaratafar**—Misappropriation of money; confusion in accounts.
- Agri-Bagayat**—Land situated in the vicinity of salt water, river and creeks and on the coast, producing coconuts and suparis in alluvial and sandy soils with little or no irrigation owing to its large store of natural moisture. Land producing grafted mangoes, fruit trees, sugar-cane, &c.
- Ahawal Patrak**—Statement giving particulars (about land).
- Ain**—The exact thing itself e. g. ain akar; original thing.
- Ain Jamma**—Collections proper.
- Akar**—Assessment of land.
- Akarband**—Village Form No. I i. e. a statement showing area and assessment of each survey number in the village as fixed by the Land Records Department.
- Akarphod-patruk**—A statement showing the distribution of assessment over sub-divisions of survey numbers.
- Akasia**—Water rate, this term is applicable in Gujrat.
- Alahida**—Separate.
- Alahida wahi**—Register for undischarged pay, etc., T. F. XVII-C.
- Aldade**—A sighting rule of the plane table with slits horizontal at two ends and a horse hair or thin string at the end.
- Alienation**—Transference of ownership.
- Alienation Office**—An office in which the records relating to grant of Inams etc., are lodged. The Alienation Office is in Poona under the control of the Commissioner, C. D.
- Allience**—One to whom transfer of property is made.
- Alluvion**—Formation of new land by the action of water.
- Altamgha**—“The seal”, A grant of land conveying property to a man and his heir in perpetuity.
- Altered assessment**—Assessment fixed under section 48 of the Land Revenue Code.
- Amaldar**—An Officer.
- Amals**—Fluctuating cash allowance charged upon the revenues of villages.
- Amil**—Land Revenue Officer during the Mohal period.
- Amins**—Officers appointed for the administration of justice; also officers of the measuring establishment.
- Andaz-Nakasha**—A rough sketch of the land or the house or any other property.
- Ank**—Number.
- Ankur**—Sprout.
- Anna**—Sixteenth part of a rupee, sixteenth part of a linear measurement chain (called link).
- Anna valuation**—Determination of the valuation of the crops of a village. These are different from bhag annas.
- Anukram**—Serial.
- Aunsh**—Fraction; portion.
- Area Book**—A book containing the detailed calculation of the areas of

the survey numbers in acres, gunthas and annas.

Area-comb—An open frame of thin and stout card-board perforated on two of its opposite sides at distances equal to the sides of the squares of 'area square' and having lines of fine silk or thread stretched between the holes across the frame.

Area square—A transparent graph paper to be used for calculating the area of the field.

Atlas—Volume of maps-village map.

B

Badshahi—Royal, belonging to former Emperors.

Bagayat—There are two kinds, Agri bagayat near the sea-shore in Konkan villages, Dongri bagayat is on the slopes of hills in the interior in Konkan villages where cocoanut trees and Supari trees grow.

Bagayat Takta—Register of garden land showing information regarding the area irrigated, the crops raised in the irrigated portions, the sources of water supply and all other information necessary for the rating of Motasthal and Patasthal land.

Bakshish Patra—Gift-deed.

Baluta—Perquisite.

Balutedars—There are Balutedars who render service and receive balutas from the village community. There are Bara (12) Balutedars.

Bandhara—A dam used for irrigating lands.

Bandhmap—The length of the boundary of a field between any two corners.

Baridar—One whose turn comes.

Barmaha—Perennial: all throughout the year.

Base line—A line correctly measured horizontally about the centre of the field to be surveyed, on which the system of triangles forming the skeleton survey is constructed and developed.

Bashya—The village Mahar who attends the chavdi.

Batai—Rent taken by division of produce on the threshing floor.

Baval-rice land—Rice land formed from the accumulation of soil in the natural hollows existing in the laterite plateaux.

Bechirak—Village without gaathan or inhabitants.

Betta land—Land out of the forest area.

Bearings—Inclination to the direction of the true meridian.

Bhag-anna—Classification average annas of the survey number. This term is used in classification work. The Prati book shows the bhag annas.

Bhata land—Rich class of garden land which is composed of the silt deposits left by the over-flow of rivers and streams.

Bhatle land—Varkas land with good depth of soil, usually cultivated regularly every year, and capable with little labour of being made into rice land.

Bhaubandas—Men belonging to the same family.

Bigha—2½ acres; it varies in different localities; in C. D. it varies from 26 gunthas, (39 in Khandesh) to 3 acres.

Bighoti—Per bigha, the rate assessed on land.

Botkhat—Holder's sheet, a record showing the name of holder and assessment used in Ratnagiri Khoti villages.

C

- Cash allowance**—An allowance paid in cash.
- Chad**—Addition.
- Chain**—Linear measurement, 33 feet make one chain.
- Chahur**—200 acres make one chahur.
- Chak**—A block of land, a tract.
- Chakbandi**—Shewing the directions and surrounding boundaries.
- Chakari Inam**—Service Inams such as Saranjam, watan, Devasthan etc.
- Chalta number**—Number given according to the order in which the fields were measured in the original survey; running number.
- Chawdi**—The village hall; common meeting place for villagers where village officers do their work.
- Choudhari**—A rural notable.
- Chougula**—Village servant under the Patil.
- Chouthai**—One-fourth.
- Chunkhad**—A deteriorating factor or fault. The description of this is a mixture of minute fragments of nodules of lime-stone.
- Classer's register**—A register showing the survey numbers, Pot numbers, the tenure on which they are held, their total area, and the nature of the land, whether dry crop or rice, or garden, with the classification on valuation per acre of each kind.
- Classification Book**—Vide definition of Fra. Book.
- Cross-staff**—A survey instrument with a staff and on the top two cross slits.
- D
- Dag**—Name of a field, a tract of land, villagers call their fields e. g. Ambhyache dag or Thikan.
- Daftar**—Records.
- Dakhala**—A receipt, documentary proof.
- Dakshin**—South.
- Damdapat**—Two fold, 100 p.c.
- Darbar**—A levee.
- Darkhast**—Judicial proceedings for the execution of the decree.
- Darwari**—A statement in which the survey numbers of the villages are arranged in groups according to their classification value.
- Dastur**—Signature.
- Deodar**—Wood of the tree, *Cedrus deodara*.
- Deshmukh, Deshpande**—The old district hereditary officials who were the chief instruments for the collection of revenue under the Peshwas.
- Devasthan Inam**—Grant of land for the performance of Puja, etc., of a village deity.
- Dhangar**—A shepherd, the Dhangars mainly attend the sheep and at times also do agriculture.
- Dhara**—Assessment.
- Dharamshalla**—A caravansary; Rest House by road sides for travellers.
- Dharsod**—Elimination of fractions.
- Dongri-Bagayat**—Land producing cocoanuts and suparis, or grafted mangoes, fruit trees, sugar-cane, vegetables etc., situated in land on varkas soil on high situated mals or hill slopes.
- Dosh**—Faults.
- Dukul Patti**—A tax of one year's revenue in ten, on the lands of Deshmukh and Deshpande.
- Dumala**—Inam.
- Dhupan**—A fault in land classification. The land having this fault is liable to be swept over by running water.
- Durusti Kshetra Book**—Corrected area book.

Dhurusti Nakasha Patrak—Map or register on which all corrections are entered.

Dusota land—Land where a second crop can be raised after rice owing to the advantage of its situation.

E

Eksali—Yearly.

Eksali-tenant—Yearly tenant.

F

Fakir—A religious mendicant, usually a Muhammadan; the Hindu saint is called a Sadhu or Sanyasi.

Fair field book—A book containing the sketches of survey numbers drawn to scale and also the details of area calculation.

Faisal Patrak—A statement to be prepared by the Settlement Officer showing the area and assessment of each survey number together with the name of the registered occupant of such survey number.

Fala—Assessment.

Farak—Difference.

Faranavis or Fadnis—Keeper of Registers.

Fazil—Excess.

Fouzdar—A man of army; now generally indicating the Sub-Inspector of Police. However, in Konkan-Ratnagiri there are no hereditary Patils, so the stipendiary Patil is called Fouzdar.

Fouzadari—Criminal case.

G

Gadde-lands—Lands lying more or less low and growing rice.

Gaddi Ran—Rice land.

Gadkari—Watchman.

Gairan—Lawns around villages on which the village cattle graze.

Gairsista—Improper.

Gaothan—Village site.

Garkhed—The holding of a chief, his personal property.

Gazal land—Land liable to over-flow by salt water and growing only salt rice.

Ghalkadi register—Register showing papers taken out and papers received, slips are inserted showing to what officer the papers are issued.

Gharbasti Nakasha—A map of the houses in the village.

Ghar-patti—A house-tax.

Girania—Mortgage of land as security for land revenue default.

Giras—The allowance paid in cash.

Gochu—A fault in the classification of land. When the land contains mixture of minute fragments of nodules of lime stones of larger size, this fault is assigned.

Gol—A number of polygons in a traverse.

Gonagheri—A kind of fine.

Gotraj—Belonging to the same family—Gotra.

Gudasta—Last year.

Guna—Advantage.

Gunakar—The calculation of the area of a field.

Gunakar Book—Area Book.

Guntha— $1/40$ th of an acre.

Gurcharan—Land assigned for the grazing of the village cattle.

H

Hakka—Right.

Hakka-chauthal—A fourth of the fees leviable every year.

Hakkadar—Holder of rights.

Hangam—Season

Hangamj—Temporary,

Harkat—Obstruction.

Hazeri—Roll call.

Himayat—Water rate.

Hoka Yantra—North pointer in theodolite.

Hukum—Order.

Huzarya—A servant present before the Huzur, Officer.

I

Ilakhesaheb—Used in the Southern Division and means a Prant Officer.

Inam—Land and rights thereon granted in alienation for a specific purpose.

Inam Tijal—A payment to Inamdars of a third of the Government share of their lands yearly.

Uzafat—A kind of tenure in Maharashtra.

J

Jabab—Statement.

Jadid Inam—Inam granted after the advent of British rule. (Jadid-new).

Jaglya—Watchman, responsible for night rounds in a village.

Jahagir—A grant by the State for the performance of civil or military duties or for the maintenance of the personal dignity of nobles and high officials.

Jahagirdar—A holder of a Jahagir.

Jama—Land Revenue.

Jamabandi—Audit of Revenue accounts.

Jangam—A Priestly class amongst Lingayats; a movable property (in Deccan).

Jantri—Ready reckoner.

Jasti patti—Extra assessment.

Jirayat—Dry crop.

Judi—Government charge on the watan. Quit-rent imposed on free holdings.

Judi tharay—Fixing of judi.

K

Kabjeddar—Occupant of the land.

Kabulayat—An acceptance; form of lease and transfer of land.

Kacha—Not permanent.

Kacha Nakasha—Rough village map.

Kacha book—Rough field book.

Kadim Inam—Inam granted before the advent of the British rule. (Kadim-old).

Kall land—Black soil.

Kamal—Maximum; total assessment.

Kamavidar—Mamlatdar.

Kamgar—Officiating.

Kamjasti patrak—A statement showing the alteration in area and assessment of the survey numbers. This statement is to be prepared by the Survey Department when the change takes place.

Kankar—Nodules of lime.

Kanungo—Supervisor.

Kanango Establishment—The establishment on which the Circle Inspectors are borne.

Karal—Clayey soil, which when dry turns very hard which does not easily absorb water.

Karda—Tenant.

Kasar—Tank.—Increase in soil valuation owing to water advantage.

Kasba—A term prefixed to the name of a big village.

Kaunsa Book—Is a register in which City Survey angles, distances and the theodolite stations and some points are given on a scale.

Kayam—Final and settled.

Kerki—Congratulatory offering.

Khalsa—Lapsed, State land as opposed to Inam.

Khand—Rent.

Kharab—Unculturable land.

Khar—Saltish land
Kharip crop—Autumn crop. First crop.
Khari rice land—Land formed on laterite plateau, either naturally by the accumulation of soil or artificially by hollowing out the laterite rock or surrounding small areas with stone walls and filling up the interior with soil brought from elsewhere.
Khas—Certainly; expressly; very same.
Khatavani—Village Form VIII-A. (or VIII-B) Holding Sheet.
Khatedar—Holder of a land whose name is entered in the khatvani, V. F. VIII-A. (Holding Sheet).
Kherij—Besides, except.
Khichaddi—Mixed tenures.
Khot—Originally a farmer of revenue, the tenure is Khoti. The private land of the Khot is called khoti khasgi as distinguished from khoti Nisbat belonging to all khots.
Khoti tenure—A kind of tenure existing both in the northern and southern Konkan.
Khuski land—Dry crop land.
Kist—Instalment of the assessment.
Kittakalam Tharavband—A tharavband for the items of revenues and areas of land which do not fall within the boundary of any particular village but falling in the limits of the Taluka.
Kshetra—The measurement sketch of a survey number drawn to a scale. Sometimes it also means the area of the field.
Kshetra book—The measurement book containing such kshetra.
Kulargi—Lands held by Dharekari's tenants at fixed rents.
Kul—Tenant

Kulkarni—Village Accountant.
Kulwar Yadi—Tenant's list.
Kumariland—Pcorer land cultivated at long intervals by allowing the scrub to grow, cutting and burning it, and then sowing the crop.

L

Laggna-Takka—A tax on marriages.
Lago—The cess received by the Jamindar Chief.
Lagwad or Lagan—Cultivation.
Lagu-prat—Classification of land according to the value of the classification of the adjoining survey numbers.
Lambi—The base line.

M

Mahal—A defined portion of a Taluka placed in charge of a Mahalkari.
Mahalkari—An officer in charge of a Mahal whose jurisdiction is less than that of a Mamlatdar; but who exercises most of the powers. The Mahalkari's appointment is made by the Collector, but that of the Mamlatdar by the Commissioner.
Mahar—Village watchman and messenger; inferior village servant. The Maharki watan is generally held by him.
Mahar-Maharki—A particular tax on the Inams of the Mahars.
Majare—Hamlet or wadi.
Maji—Old.
Makki lands—Lands consisting of high level lands which are less easy to cultivate on account of the height and irregularity of their terraces and capable of growing only inferior varieties of rice by reason of their failure to retain moisture.

- Maliki**—A term in Bombay; also a tenure.
- Malaki land**—As opposed to khalsa, belonging to the Inamdar.
- Maliki**—Ownership.
- Mal-land**—Level land with or without small round stones, destitute of good fine soil.
- Mamul assessment**—The assessment levied by the Inamdar before the survey and settlement are introduced in the village; the customary dues to the Inamdar. (Mamul a Persian word meaning usual or customary).
- Matadar**—A person in Gujarat who has the right and obligation to assist the Patel in the execution of his duties and has a share in the emoluments of his office. In common use Matadar is a voter.
- Maujewar Terij**—Taluka Form VIII.
- Maximum rate**—Rates sanctioned by Govt. for groups of villages. The rate multiplied by soil valuation gives the assessment rate per acre of a S. N.
- Mirasdar**—A person having a mirasli right under a grant or otherwise; (miras meaning inherited in Persian).
- Mithagar land**—Land used for salt pans.
- Mohterfa**—A tax on shop-keepers.
- Mekasa**—Share; rent.
- Motasthal land**—Land irrigated by "Mot"; i. e. a lift.
- Mouze**—A Persian term meaning a village.
- Mojuidar**—A measurer.
- Mukadam**—Head of the labourers.
- Mulgenidar**—A hereditary tenant, specially in Kanara, like the Mirasdar. The tenant who has only rights to fruits of trees is called Nadgenidar.
- Mushahira**—Remuneration in cash; an allowance paid to watandar servants.

N

Nala-chad—Addition to be made to the soil classification value on account of the advantage derived by the field by the inundation and silt deposit from the Nala.

Nalakandi—A hollow cylindrical tin case to keep the maps etc.

Nakra—Land free from taxes.

Nangar—Plough.

Naokird—Newly cultivated or newly brought under cultivation. There is a position class warkas land, newly converted to rice which is treated as an improvement. Not classed according to rice land but position, class is applied to soil valuation.

Nazarana—Amount paid to the State or the Jahagirdar or the Inamdar on succession etc.

Nazul—Land or buildings in or near towns, or villages which have escheated to Government.

Nimtana—Test; inspection by a superior officer.

Nukasan—Balance with the Alienee.

O

Occupant—The person upon whom rests the primary liability for the payment of the land revenue. Kab-jedar. The term "Holder" has a wider meaning than this. A holder may hold both alienated or unalienated land; he may also hold in any capacity either on his own account or for some other person; but occupant is a holder in actual possession of unalienated land.

Oghal—A streamlet or small nallah.
Ohati—Ebb tide, opposite of Bharti, high tide.
Os or Osad—Uninhabited; deserted.
Osari—Verandah or platform.
Otta—Platform or raised plinth in front of houses in the villages or towns.

P

Pacca—Permanent.
Pachotra—Five per cent.
Pahani sud—A paper showing the details of area for every field, together with the old and new numbers attached to each and also the names of the occupants.
Palmath—Survey or measurement.
Pakka Book—A fair field book.
Pakka Nakasha—A fair village map.
Palaki—Palanquin.
Pali—Turn.
Paragana—Now known as Taluka.
Pardi land—A cultivated or cultivable land surrounding the house in the village site.
Pashchim—West.
Patali—A vernier.
Patasthal land—Land irrigated by 'Pats'.
Patrak—Form.
Patti—A portion of a field; also a tax.
Patwari—A village Registrar or an Accountant.
Peta—A portion of a Taluka, Mahal, also a sub-division.
Phani number—Sub-division of a survey number.
Phani System—A system of measurement employed in the measurement of lands with a measuring rod; now obsolete.
Pot Kharab—Uncultivable land. This is of two kinds: (1) unfit for agriculture at the time of survey, including farm buildings and three-

shing floor; (2) not assessed because it is reserved or assigned for public purposes, or occupied by a road, or tank, stream, or used for burial or burning grounds, or assigned for village potteries. (1) may be brought under cultivation at any time and no additional assessment is charged; cultivation of (2) is prohibited, but it should not apply in the case of tanks or streams for irrigation and in which privilege to use is given. Vide Rule 75.

Potnavis or Potnis—Cash accountant.

Pot number—A portion of land included in a survey number which was too small to be made a survey number.

Prakar—Kind.

Prant Officer—An Assistant or Deputy Collector in charge of one or more talukas; a Sub-Divisional Officer.

Prati suna—Multiples of annas.

Prati Book—A book containing sketches of survey numbers with compartments in which the survey numbers are divided, for the purpose of classification with the details of soil and water classification and the culturable and kharab area of each description of cultivation and the total culturable area of the survey numbers as finally fixed.

Pulan land—The soil of such level sandy plains as are in the immediate neighbourhood of the sea and the earthy soil formed by alluvial deposit, such as flat level plains in the vicinity of rivers or islands in rivers.

Purva—East.

Q

Quadrant—A quarter of the circumference of a circle.

Quasi Dharekari—Half Dharekari; one who pays assessment to the Khot in Ratnagiri.

Quazi—A Muhammadan religious dignitary like a magistrate.

R

Rab—Manure for the cultivation of rice.

Rabi—Spring harvest ripens from February to March.

Rabi crop—Spring crops.

Raiyat—The cultivator; a villager who lives in a village and tills land.

Ramoshi—A particular community in Satara and Sholapur, as Berads in Bijapur and Belgaum. Also village watchman.

Ran—The field.

Rajinama—Resignation.

Resha or Regha—A line.

Reva—Sand and stones from the creek or river.

Resvat—Soil wanting in cohesion among the constituent particles.

Roz kird—Day Book.

Roz-nama, Roznishi—Diary.

Rumal—The bundle in which books and registers are bound and kept in the record room.

Rundi—An offset.

S

Salami—The Marathas levied quit-rent on land formerly free.

Salt rice land—Land liable to overflow by salt water and growing only salt rice.

Sanad—A deed of grant.

Sanadi—An inferior village servant; he works under the Patel.

Sapinda—Belonging to the same paternal line.

Saranjam—Vide Jahagir.

Sarakati—Half Inam and half Government.

Saras niras—Superior and inferior land.

Savkash—Slowly.

Sadilwar—Fixed contingency.

Sarbarai—Making bandobast; making arrangements to supply provisions etc., to officers touring, on payment.

Sardar—A title of honour; a chief.

Sarras—Taken same way; on the whole.

Sawai-Jamma—Extra collections.

Sawakar—A money-lender.

Sheri land—Land in the inam village the occupancy of which rests with the Inamdar.

Shilotra—Land reclaimed from sea.

Shrimant—A rich man; also used while speaking of Chiefs.

Sparsha screw—Tangent screw.

Sub-soil water class—In garden land the amount of moisture and duration is taken into account. In Gujerat an addition is made and the soil valuation of dry crop.

Swar—A horseman.

Sweet rice land—Land situated above the sea-level, in which the rice crop is grown by means of the moisture offered by the rain-fall and drainage from the higher lands.

T

Taba—Possession.

Tafawat—Difference.

Tagavi or Takavi—A loan given by the State for agricultural purposes.

Tahsil—Assessment or sub-division of a district.

Takshim—Branch of the family.

Takrar—A complaint or a dispute.

Talati—A stipendiary village accountant.

- Taleband**—Village Form XI.
- Tali**—Lower plate.
- Talwar**—An inferior village servant.
- Tankha**—Assessment fixed on lands in the time of Peshawa. It also means remuneration in cash as opposed to payment in crop share.
- Tar**—Ferry crossing.
- Taraf**—A portion of a village.
- Tarf**—Belonging to a village; near.
- Taram**—Guarantee period of 30 years of settlement rates.
- Taruf**—Division of a territory composed of an indefinite number of villages.
- Tasalmat**—Permanent Advance.
- Tahsildar**—Mamlatdar
- Thal**—Land between hills which retains moisture.
- Thana**—Head quarter station.
- Thana Amaldar**—A Police officer in the Head Quarter Station.
- Tharavband**—Village Form V.
- Tippan**—The measurement sketch of a survey number not drawn to scale but showing the measurements.
- Tippan Book**—The measurement book containing such tippans.
- Tisali land**—Land which is cultivated by short fallows with nachani from seedlings raised in a rap seed bed.
- Toda Giras**—A kind of political pension paid to certain families. Formerly to secure land against the terror of free-booters a customary payment was made.
- Tukkaza**—One of the modes of enforcing a decree in the time of Peshwa. Now we call it Tagada.
- U
- Uadafa**—Isolated. Not continuous.
- Udhad-Jamabandi**—A fixed tribute.
- Udtara system**—System of surveying unsurveyed and unsettled Inam villages i. e. Minor Triangulation method of survey.
- Upalwat**—Land having excess of moisture from surface springs.
- Upris**—Tenants-at-will cultivating Government lands at a yearly rental.
- Utara**—Copy.
- Utarvat**—Land having sloping surface.
- Uttam Bagayat**—Land possessing both the peculiar soil and also irrigational facilities of sweet water obtainable at a depth of not more than 30 feet.
- Uttam Prakar**—Land possessing a peculiar soil but with a water supply obtainable at depths below 30 feet or not perfectly sweet.
- Uttar**—North Direction—Answer.
- V
- Vaingan**—A second crop of summer rice produced by the aid of irrigation from streams or water courses where the natural moisture is insufficient.
- Valsar**—Land having mixture of sand.
- Vanta tenure**—A kind of tenure prevailing in the Gujarat districts.
- Varga mul**—The ready reckoner of squares and square roots based on the wellknown theorem that the square on the hypotenuse is equal to the sum of the squares on the other two sides of a right angled triangle.
- Varkas**—Poor and shallow kind of dry crop land situated in the hilly country which is only cultivated at intervals of several years.
- Vasla**—The triangles and trapezia into which the survey numbers are divided.

Vaslewar book—Area Book. Give 3 areas of triangles.

Vasti—Dwelling houses.

Vazal vasla—A vasla due to an offset passing outside the survey number and which has to be deducted in calculating the area.

Vibhag—Division.

Wyas—Diameter.

W

War—For each e. g. Khatewar Tarikhwar.

Wasulbaki Ledger—Taluka Form No. IV.

Wasulbaki Patrak—Taluka Form No. V.

Wat—Total.

Watan—Grant of land and certain rights and perquisites for remunerating the local Revenue Officers.

Watandar—A person having a hereditary interest in a watan.

Wes—The village gate.

Y

Yama—Night. (also a Hindu god of death.)

Yanda—This year.

Yantra—Machine.

Yatra—A fair.

Yatrik—A pilgrim.

Z

Zadache Patrak—A statement of trees.

Zadmall—A sweeper of gardens.

Zahirnama—Notice.

Zamin—Land.

Zamiindar—A landed proprietor.

Zenana—Part of a house in which ladies of high caste families reside and generally are in Pardah.

Zenda (Nishan)—Flag; flag-holders are required when a field is measured.

Zenith—The highest point.

Zinda—Living.

Zindagi or Zindagani—Property.

Table of Government Resolutions, Notifications, Orders etc.

(Figures in bold type indicate references to pages in
Part V. L. R. C.)

Date.	No. of G. R.	Page.	Date.	No. of G. R.	Page.
1860			18th Sept.	4949	131
12th Jan.	158	23	30th Oct.	5841	34
1864			1881		
23rd July	2785	181	23rd March	1695	193
30th Sept.	3773	43	4th May	2493	29
1868			15th June	3439	74
6th July	2579	165	25th July	4314	92
1869			3rd Nov.	6550	35
29th May	2161	126	10th Nov.	6682	139
1870			23rd Nov.	7045	74
23rd March	1506	93	23rd Dec.	7858	131
1872			1882		
11th Nov.	5594	126	30th Jan.	649	35
1873			25th June	4347	80
12th June	3361	28	28th June	5312	33
24th July	4239	G. D. cir. 145,28	10th July	4464	81
22nd Sept.	5292	Do	11th Oct.	7074	74
1874			26th Oct.	7522	19
4th June	2818	85	1883		
29th Oct.	5739	97	6th Jan.	106	86
1875			1st March	1743	212
21st Jan.	373	165	31st March	2598	33
19th Feb.	1044	R. D. 52	9th May	1549	25
1877			30th May	4100	25
10th March	1604	29	31st July	5680	87
23rd May	3292	98	Do	5635	23
1874			15th Aug.	6924	33
26th March	1546	94	22nd Aug.	6210	R. D. 52
15th Aug.	4120	23	17th Oct.	7726	131
1879			18th Dec.	9313	35
9th Dec.	5728	G.N.P.D.2	1884		
Do	5730	Do	9th Jan.	194	127
1880			26th March	2619	R. D. 98
10th June	3016	130	28th March	2619	97
Do	3009	74	7th May	3661	48
24th July	3872	26	10th June	6474	R. D. 9
20th Aug.	4379	34	18th June	4344	88
			5th Aug.	6282	35

Date.	No. of G. R.	Page.	Date.	No. of G. R.	Page.
9th Oct.	7996	29	3rd June	4803	29
26th Nov.	2384	35	3rd Nov.	8633	65
19th Dec.	9981	24	1893		
1885			9th March	1640	P. D. 107
28th Jan.	727	30	23rd June	4523	7
4th May	3541	97	14th July	5138	156
8th May	3727	87	17th Oct.	7590	193
3rd June	4433	193	1894		
6th June	1671	19		2743	68
11th June	4788	77	1895		
25th June	5205	50	31st Jan.	802	193
9th Dec.	3378	19	10th May	3554	50
1886			16th Aug.	6241	181
28th April	2981	97	21st Nov.	9198	184
20th Aug.	5963	29	1896		
2nd Sept.	6262	77	22nd Jan.	679	66
1887			16th March	2347	31
26th Feb.	1243	165	13th Oct.	8071	126
22nd April	2111	G.L.N. 150	1st Dec.	9661	29
11th May	10	G.N.F.D. 13	1897		
23rd June	3815	29	20th June	83 W.I. 934	P.W.D. 152-
9th Sept.	6111	50	16th Sept.	6881	31
23rd Dec.	8721	33	8th Dec.	8915	83, 152
1888			1898		
13th March	728	29	27th Jan.	611	26
Do	1697	29, 50	21st Feb.	1279	87
12th Oct.	6883	77	5th May	2674	P. D. 164
1889			15th June	3969	184
14th Jan.	309	74	9th July	4492	150
23rd Dec.	8881	12	1899		
1890			19th July	5062	14
11th Jan.	237	35, 75	1900		
14th April	1993	J. D. 99	22nd May	3169	30
17th April	2053	" 100	19th Oct.	6593	94
14th July	4873	" 100		4511	42
16th Sept.	6556	98	22th Dec.	8057	96
8th Oct.	7152	74	1901		
	7251	68	14th June	4118	35
	8027	33	16th July	4931	85
12th Nov.			20th July	5084	84
1891			9th Dec.	8573	31
28th Jan.	728	29	27th Dec.	8966	35
13th March	1890	29	1902		
12th May	3274	29		1116-B	G.N.R.D. 72
4th June	3880	98	18th Feb.	1327	R.D. 7, 147
6th June	3864	29	25th Feb.	4347	31, 44
21st Dec.	8820	P.D. 107	25th June	4347/21	210
1892				5024	71
5th April	3205	98	21st July		

Date.	No. of G.R.	Page.	Date.	No. of G.R.	Page.
22nd July 1903	5033	35	1909		
13th Jan.	346	98	6th Jan.	49	23
17th April	2564	35	18th Jan.	511	33
5th May	2973	96	9th Feb.	1368	15
25th Aug.	5991	25	15th March	2682	52
3rd Oct.	7018	9	22nd March	2263	169
8th Oct.	7048	11,212	23rd March	2926	66
1904			22nd April	3875	R. D. 73
24th Feb.	1493	123	14th June	3736	36
7th March	1788	79	24th July	7167	R. D. 73
14th April	2847	80	Do	7169	111
20th April	2986	80	1st Nov.	9540	14
	1704	211	20th Nov.	795	35
27th April	652	80	1910		
7th May	3416	73	14th Feb.	778	24
20th May	3780	25	21st April	3639	92
25th May	3969	80		6412	60
	263	57	19th Oct.	589	25
12th July	5319	32	26th Oct.	2289	36
1905			21st Nov.	10524	105
19th May	2749	G.D. cir 25	1911		
22nd June	5098	97	13th Jan.	60	36
31st July	6201	62	1st June	5295	20,32,60,65
16th Aug.	6577	126	20th June	3772	24
1906			23rd June	5964	73
1st May	4258	12	29th Sept.	9193	33,210
2nd Nov.	10396	23	5th Oct.	A-1970	R. D. 75
6th Nov.	10527	73	6th Dec.	11506	30
	9084	210	1912		
1907			18th May	4748	33
27th April	4306	32	25th Aug.	8011	53
27th May	8413	30	14th Nov.	10431	212
16th July	6984	33	1913		
2nd Aug.	7591	84	5th Feb.	1424	84
4th Sept.	8811	35,210	19th March	2659	14,225
1908			26th March	2839	11
11th Jan.	347	181	26th Aug.	6275	24
6th March	2407	44	1914		
10th March	2549	183	18th Aug.	7671	R. D. 72
2nd April	3459	R.D. 65,212	22nd Aug.	7807	139
28th April	4250	181	1915		
27th May	5324	79	18th Aug.	8633	15
6th Oct.	10078	32	23rd Dec.	13741	86
19th Nov.	6453	23		4136	57
24th Nov.	12020	10		2172	84
2nd Dec.	12302	163	1916		
7th Dec.	12447	32	4th Feb.	1369	39,210
			12th Sept.	8824	96

Date.	No. of G. R.	Page.	Date.	No. of G. R.	Page.
11th Dec. 1917	12176	G.O.R.D. 52	1925		
	9787	91	4th Feb.	1245/24	44
4th Dec. 1918	14632	97	7th Feb.	125/24	33
15th May	1894	F. D. 8	20th April	1834/24	B. D. 93
10th June	6392	G.O.R.D. 91	21st April	2429/24	Do 93
	7418	12	11th May	3490/24	Do 93.44
24th July	7673	R. D. 130	27th July	1446/24	97
6th Sept.	9424	R. D. 36	11th Sept.	3010/24	62.63
24th Dec. 1919	13614	G. O. 93,140	Do	1831	L. C. 111
			23rd Dec. 1926	4764/24	16.
13th Jan.	339	G.O.R.D.	19th Jan.	5053/24	92
		165 113	26th Feb.	5855/24	G. O. 65
24th Jan.	744	G.O.R.D. 62	13th March	2693/24	127
	9402	40	20th March	4649	31
	15159	92	15th April	125/24	33
26th March	3141	G.O.R.D. 51	17th April	2693/24	127
14th June	8478/24	68	26th April	3535/24	36
20th June	6261	G.O.R.D. 93	8th July	9727	94
12th July	7053	Do 51	16th Sept.	8616	119
4th Nov.	11677	Do 9	22nd Oct.	2693/24	127
5th Nov.	1171	177	13th Nov.	2032	R. D. 93
14th Nov. 1920	1483/28	86	29th Nov.	3586/24	94
			Do	3584/24	41
26th Feb.	662	G. O. 40	1927		
1st March	714	G.O.R.D. 39	19th April	284/24	30
26th March	249	F. D. 12	2nd May	4729/24	38
12th June	175	G.O.R.D. 51	4th May	1134/24	51
22nd Nov. 1921	3130	50	13th May	1790/24	R. D. 23, 93- 97, 98..
			24th June	1145-B	L. C. 47
26th May	1457	10	5th Sept.	9202/24	55
3rd June	1540	G. O. 165	1928		
20th Oct. 1922	2640	30	3rd Jan.	9113/24	92
			5th Jan.	B-463	94
7th Sept. 1923	311-B	30	13th Feb.	8951	69
			26th March	2619	R. D. 28
23rd Feb.	7240	101	18th May	9575/24	Do 22
18th July	8418	R. D. 93, 41	2nd June	144/24	91, 93
17th Sept.	2610	F. D. 210	7th June	6887/24	89
12th Nov. 1924	9529	165	9th June	6840/24	93
			16th July	721/28	30
10th Jan.	8951	69	22nd Oct.	8693-B/24	G. N. 91
7th March	2640	28	16th Nov.	1483/28	65, 94
12th April	8857	68	1929		
1st May	345/24	R. D. 94, 165	19th Jan.	10-23/24	89
25th Aug.	1788	31	Do	1-231/24	91

Date.	No. of G. R.	Page.	Date.	No. of G. R.	Page.
14th March	9598/24	94	1st Nov.	6024/28	19
18th April	1996/28	94	17th Nov.	6315	11
Do	2581/28	156	1931		
29th April	7491/24	36	2nd Feb.	6365	R. D. 47
1st May	4966/24	R. D. 40	6th March	5506/24	83
18th May	4649/24	94	12th March	4702/24 ^{III}	58
14th June	8478/24	68	28th April	2640	30
23rd Dec.	2535/28	94	7th May	6234/28	95
1930			21st May	6997/28	156
8th March	3776/28	86	18th July	4150	87
23rd April	762/28	159	24th July	6235/28	95
6th May	6449/24	94	6th Aug.	5314/28	93, 107
2nd June	4999/24	94	10th Aug.	2640	30
19th June	4866/24	49	20th Aug.	2558/28	R. D. 33
23rd June	5202/28	95	16th Sept.	571/28	R. D. 9
Do	4622/28	36	19th Sept.	7533/28	62
27th June	8478/24	65, 68	11th Nov.	6404/28	94
14th July	4960/28	7	Do	6406	63
30th July	9598/24	94	1932		
30th Aug.	5366/28	117	5th Feb.	7321/28	95
10th Oct.	141/28	94	9th June	2558/28 ^{II}	95

Table of Cases.

(Figures in bold type refer to pages in Part V L. R. Code.)

A	Page	F	Page
Abdul Rahman V. Vinayak	46	Fakir V. S. of State	28
Aludomal V. Ali	156	Fatma V. Daryasaheb	71
Amolak Bhanechand V. Dhondi Khandu	47	G	
Anantacharya V. S. of State	187	Ganesh V. Mehta	85
Anant Krishnaji V. S. of State	52	Ganesh V. Ramchandra	110
B		Gangadas V. Yusuf	46
Bai V. Valji	109	Gangaram V. Dinkar	124
Bai Laximi V. Maganlal	176	Gangabai V. Kalapa	159
Bai Shivganga V. S. of State	185	Gangabai Baswantrao V. Fakirgauda	121
Balkrishna V. Babaji	188	Gangaram V. Dinkar	124
Bhagoji V. Bapuji	71	Ganpati V. Gangaram	130
Bhaji Ishwardas V. Talukdari Settlement Officer	76	Ganparshbai V. Timaya	130
Bhairu V. Vinayak	81	Ganpatrao V. Ganesh	175
Bhikaji V. S. of State	186	Ganpatrao Trimbak V. Ganesh Babaji	37
Bhujangrao V. Malojirao	166	Govind Vithu V. Vithal Laxman	80
Bhujbalappa V. Collector of Dharwar	65	Govindrao V. Dinkar	167
Bhutia V. Ambu	73	Gulabdas V. Collector of Surat	167
C		H	
Chandrappa V. Bhima	158	Hanuman Prasad V. Babooee	162
Chidambara V. Keerama	164	Huchangauda V. Kalawa	177
Chittra Bhula V. Bai Janmai	46	I	
Chotubhai V. S. of State	63	Ismailkhan V. Official Receiver	72
Collector of Poona V. Bhawanrao	71	J	
D		Jaikrishna V. Lakshmanrao	37
Dadu V. Lalbi	175	Janardan V. Raoji	63
Dadoo V. Dinkar	6	Janardan V. Lakshman	80
Dalechand V. Gulabai	130	Jinabhai V. Collector and Taluk- dari Settlt. Officer	99
Damodar Narayan V. S. of State	62	K	
Daryan Karson	125	Kalidas Laldas V. Bhaiji Naran	36
Dattatraya V. Laxman	185, 81	Kali Prasanna V. Mathuranath	38
Dattatraya V. S. of State	155	Kanbailal V. Ismailbhai	109
Decrao V. Narayandas	13	Keshavji V. Hormasji	107
Dhanji Jairam V. S. of State	67	Kondi Ramji V. Vithalrao	5, 163
Dharamdas V. Sorabji	72	Krishnarao V. Rangrao	167
Dhondo V. S. of State	164	Krishnaji V. Tarava	177
Dosibai V. Ishwardas	167	L	
E		Lashmangauda V. Keshav Annaji	158 73, 109
Emperor V. Narayan	82	Laxman V. Antaji	159
" V. Limba Taty	91	Laxman V. Govind	186
" V. Moreswar Janardan	95	Lingo Raoji V. S. State	
" V. Lulu Waghai	130		
" V. Gulsbai	130		
" V. Narayan	150		

M	Page	S	Page
Madhavrao V. Raghunath	185	Sangappa V. Bhimangauda	71
Maganchand V. Vithalrao	185	S. of State V. Abdul Husen	64
Malkajappa V. S. of State	28	" V. Indoorai Bhaurai	163
Malkarjunappa V. Anandrao	108	" V. Bai Kuvarbai	89
Manak V. Narayan	110	" V. Bai Laxmibai	164
Mancharji V. Thakurdas	152	" V. Girijabai	165
Maniklal V. Bai Amba	36	" V. Yello Ramchandra	187
Manohar V. Chotubhai	143	Shapurji V. Bharucha	38
Mansukh Panchand V. Trikamdass	79	Shidharaj V. Dary Santaram	73
Mohanchand V. Modi Kekhushru	38	Shivarsao V. Pundalik	77
Motibhai V. Desaibhai	73	Shenkar V. Laximibai	177
N		Shivappa V. Avli	185
Nanabhai V. Collector of Kaira	4,163	Shivalpalsing V. S. of State	89
Narayan V. Pandurang	38	Shrinivas V. "	185
Narayan V. Purushottam	129	Shrinivas V. Mahadeo	185
Narayan V. S. of State	2	Shripad Bhat V. Rama	38,79
Narendra V. Acchaibai	53	Sitaram V. Laxman	163
Narso V. Narayan	73	Sidhanath V. Chiko	36
Nathuram V. S. of State	84	Sitabai V. Sambu	38
Nawaz Ali V. Rustom Ali	10	Sultan Mohad V. S. of State	28
Nawak Purushottam V. S. of State	66	Suleman Aba V. "	51
Ningappa V. Dodappa	13	Surshangi Naran	5
O		Suryanarayan V. Pattanna	164
Ochhavlal V. Gopal	81	T	
P		Talukdari Settlement Officer V. Umiashankar	76
Pandu Bala V. Ramchandra	163	" V. Rikhadas	76
Parappa V. S. of State	84,48,154	U	
Pranlal V. S. of State	50	Ulappa V. Gadgawa	115
Pratapsing V. Agarsing	177	V	
Prosanna Kumari V. Golabchand	162	Vaman Janardan V. Collector of Thana	165
Purushottam V. Ganpat	133	Vasudeo V. Govind	4, 150
Q		Vedu Shivalal V. Kalu	46
Queen Empress V. Vidyadhar	82	Venkatesh V. Ramchandra	164
R		Venkatesh V. Mhal Pai	128
Radhabai V. Anantrao	185	Vinayakrao V. S. of State	50
Radhakishna V. Balwant	131	Vinayak V. Laxman	85
Raghunath V. Laxman	38	Vidya Vardhak Sangh V. Ayyappa	81
Ragho V. Vishnu	139	Vishnu V. Balaji	79,37
Raghunath V. Furnanda	186	Vishwanath Bhikaji V. Dhodappa	37,79
Raghwendra V. S. of State	115,164	Vishwanath V. Taty	37
Rajya V. Balkrishna	80	Vishwanath V. Kondaji	84
Rajaya Walad V. Balkrishna	38	Vishwanath V. Mahadaji	38
Ramangauda V. Shivapagauda	176	Vithaldas V. S. of State	37
Ramabai V. Rangrao	177	Vyasacharya V. Vishnu	38
Ramchandra V. Vyankatrao	164	W	
Rasulkhan V. S. of State	65	Waman V. Jaganath	176,186
Ratanji V. Sakharam	84	Y	
		Yashwant V. Satyanna	176

General Index.

(The page nos. in bold type refer to pages in Part V L. R. C.)

A			
Act,		Excess of—	40
construction of—	166	Excess when to be levied	43
Administration report	239	Settlement with whom to be made	44
Adverse possession		—when fixed by collector	43
against Govt.	29, 30	Assistant and Deputy collectors	9
Air spaces	32, 33	Duties and powers of—	10, 211
Alienated, defined	6	Assistant to Commissioner	8
Alienated lands,		B	
register of—	44	Balconies,	
Alienated village,		projections of—	51
attachment of—	132	Bandharas	93
Survey of—	162, 163	Bhiwandi concessions	21
—under Govt. management	111	Boundary,	
—when revenue recovered by collector	89	determinations of	106
Alluvial land,		village—and—field	107, 72
grant of—	51, 61	Settlement of dispute	108
temporary right of—	62	effect of—	109
Annewari,		Do-by Collector	110
what is—	46	Boundary mark,	
Procedure for making—	47	defined	3
Appeals	26, 152, 82	Theodolite stones are not—	7
Arboriculture	35	functions of—	69
Arrear,		Authorised—	70
meaning of—	126	—out of repair	71
process for recovery of—	128	Determination of responsibility for maintenance of—	71, 111
Assessment,		One mark system	72
ancient system of—	1	Construction and repair of—	110
Method of levying—	6	Collector to have charge of—	111
Pringle's system of—	7	Building site,	
New system of—	8	defined	3
Unit of—	11	Disposal of land for—	57
Basis of—	23	Burial ground	32
Commuted—	42	C	
—distinguished, from cess	95	Camping grounds	22
Altered—	43		

Measurements	33	Diluvion,	
Made	249	reduction of assessment in cases	
Misfoats of purchase	139	of--	52, 39
Mutated copy, defined	6	Dismissal and discharge	24
Mhavadi, defined	3	Procedure for--	25
Circle Inspector, duties of--	220	Distrain,	
City survey		exemption from--	131
law of--	113	--of movables	130
Objects of--	114	District Forms	238
Procedure for introducing--	114	District Inspector of Land Records	
Enquiry in--	116	is a revenue officer	7
Tenures generally found in--	118	Duties of--	219
Sanads, a document of title 120,	115	District Survey Office,	
Maintenance of--	120	Working of--	128
Classification		Drainage works	41, 94
what is--	12		
Faults in--	136	E	
Coercive processes		Earth,	
for recovery of arrears	128	removal of--stone etc.	70, 76
Collection		Easement,	
procedure for--	30	grant of	29
Collector		Encroachments penalties for	49
appointment of--	9	--in alienated villages	50
Functions and powers of-- 205,	10	--in Municipal limits	50
Temporary vacancy of	11	Establishments	15
Commissioner	7	Estate, defined	3
Duties and functions of-- 8, 202		Eviction	151
Commission		F	
to holder of alienated lands	33, 86	Farming system	5
Form of--	87	Farm buildings	63
Concession		Fees, for inspection and copies of	
system of--	22	records	156
Criminal prosecution,		Fines,	
liability to--not affected	26	limit of--	25
Crop		--for permitting N. A. use	64
when liable for land revenue	123	Firewood,	
Reaping and removal of--when		regulation of supply of	38
prohibited	124	Forest officer	
Object of--inspection	46	--not a Rev Officer.	2
D		Forfeited holdings	
Defaulters,		how disposed	47, 143
meaning of--	126	Forfeiture,	
Consequences of being--	32, 127	by whom to prevent	76
Arrest of--	131	Fragmentation of holdings	
		Evils of excessive	275

G		L
Government		Land, defined 3
—claim when to have precedence	123	Alluvial 39
Government Servants—		Assignment of—for special purposes 32
prohibited acts	22	Limits of revenue-free grants of 52
Government		—unoccupied, condition of grant of 51
notice to—	29	Use for N. A. purpose 63, 88
H		—When liable to pay full revenue 38
Hereditary village officers	177	Acquisition of for public purposes 84
—in Gujrat	197	—which is not the property of others belongs to Govt. 27
Punishment of—	195	Landlord, defined 5
Holder, defined	4	—and tenant 78
I		Land records, defined 6
Igatpuri concession	20	—open to inspection 156
Improvements		Land Revenue Code,
Non-taxation of—	27	Local extent of— 1
Inam,		Extension to Native States 2
creation of—	15	Land revenue
Kadim and Jadid—	152	Different processes of recovering arrears of 128
Extinction of—	156	Liability for— 122
Resumption of—	157	—paramount charge 45
Inams,		—when leviable 123
Classes of—	162	—where and to whom to be paid 2
—Commission	160	
Partition of—	166	Mahalkari
Alienations of—	167	Appointment of— 12
Inamdar,		Duties and powers of— 12, 216
recovery of dues of—	155	Mamlatdar
Right of—to enhance the rent.	156	appointment of— 11
Indebtedness,		Duties and powers of— 11, 213
causes of agricultural—	254	Temporary vacancy of... 13
Inferior holder	78	Manure 250
Irrigation,		Maps
by lift, by flow etc.	79	sale of— 124
Intestate occupancy	71	—open to inspection 156
J		village—supply of 98
Joint holder, defined	6	cost for the preparation of— 119
Joint occupancy, defined	6	Maximum rate 17
K		Mines and minerals 67
Kulkari,—		Minor triangulation,
Commutation	14	—survey 108
Duties of—	225	

Money,		Patasthal,	
demand on Rev. Officers	19	Abolition of-in precarious tracts	99
what—leviable under Chapter		Patel,	
XI L. R. C.	140	stipendiary	31
Mortgage,		Duties of—	221
of lands on restricted tenure	72	Penalty,	
Mukhtyarkar,		for land using without permission	65
defined	7	Pensioners,	
Municipality,		re employment of	23
no concession for N. A. purpose	65	Pigeon hole system	134
Rights of—	29, 30	Pot kharab,	
		used for N. A. purpose	44
N		Prat Phalni	134
Non-agricultural,		Rule of three in—	135
purpose	64	Precautionary measures	123-26
Altered rates for—	80	—to be relinquished when security	
Notice,		is furnished	126
—of enquiry	31	Public streets,	
—of decision	31	Right of Govt. in—	30
Mode of serving—	148	Right of Municipalities in—	29, 30
—to Govt.	29	Pumping installation	45
		Q	
Occupancy,		Quarries,	
defined	5	—in occupied lands	70
—transferable and heritable	71	—in Govt. forest	65
—when not transferable without			
the sanction of collector	72	R	
—when not liable to process of		Railway lands	57
civil court	70	Receipts,	
Occupant,		—for land revenue	47
defined	5	Penalty for failure to give—	48
Rights of—	67	Record of rights,	
Difference between holder and—	5	what is—	55
Rights and liabilities of—	148, 149	Re-copy and re-writing of—	64
Occupation,		Relinquishment	73
defined	6	Form of notice of—	74
Officers,		Rent,	
combination of—	15	payable by tenant	78
Ownership,		Rents,	
State Vs. Proprietorship	144	Tests of true—	26
		Restricted tenure	72
P		Revenue court	81
Papers,		Revenue officer,	
demand on Rev officers	19	defined	2
Pasture lands,			
regulation of—	33		

Power to summon—	147	Survey officer	
Prohibited acts by—	22	Appointment of—	14
Revenue year,		Suspensions and remissions	39
defined	6,87	—to inferior holders	81
Revision	84, 152		
Revision survey	97	T	
River beds,		Tab system	182
land in	57	Tagal	257
Rules	160	Talaties,	
		duties of—	225
S		Taluka Forms	235
Sale,		Tanks	
of alluvial land to a stranger	62	Non-irrigational—	30, 31
—of perishable articles	136	Tenancy,	
procedure in effecting	135	what is a—	35
Seals	16	Annual—	80
Securities,		Duration of—	78
to be furnished	16	A case for—legislation	262
Amount of—	17	Tenant, defined	8
Settlement,		Improvement by	270
what is a—	15	Tenure,	
Introduction of—	94	meaning of	143
Settlement report	19	Rayatwari—	146
Summary eviction	76	Old and New—	147
Superintendent Land Records	217	Talukdari—	169
Superior holder,		Gujrat—	168
defined	4	Konkan—	170
—when to recover commuted		—Mirasi and Upri—	171
assessment—	43	Threshing floors	33
Sureties,		Timbar,	
liabilities of—	21*	for domestic purposes	38
—when liable	141	Trees	
Survey Number,		Cultivation of Babul—	33
defined	8	—Illegally cut	37
Division of—	100, 101	Rights of—	75, 34
Minimum area of—	125, 92	Road-side—	37
Sub-division of—	3	U	
Survey,		Unoccupied land,	
when introduced	90	—grant of	51
Instruments of—	97	Unoccupied building,	
Cadastral—	100	—sites	81
Hissa—	105		
—of Inam villages	111	V	
—by plane table compared with		Village Administration	201
cross-staff	110		

